



Submission to the Senate Standing Committee on Community Affairs Inquiry changes into Aged Care Legislation

The Office of the Health Services Commissioner (OHSC) was created by the *Health Services (Conciliation and Review) Act 1987* (Vic) (HSCRA).

The OHSC is established to:

- Deal with users' complaints; and
- Suggest ways in which the guiding principles may be carried out; and
- Help service providers to improve the quality of health care.

The Guiding Principles promote:

- Quality health care, given as promptly as circumstances permit; and
- Considerate health care; and
- Respect for the privacy and dignity of persons being given health care; and
- The provision of adequate information on services provided or treatment available, in terms which are understandable; and
- Participation in decision making affecting individual health care; and
- An environment of informed choice in accepting or refusing treatment or participation in education or research programmes.

The OHSC also administers the health privacy legislation in Victoria, the *Health Records Act 2001* (Vic) (HRA). The HRA promotes fair and responsible handling of health information by –

- (a) protecting the privacy of an individual's health information that is held in the public and private sectors; and
- (b) providing individuals with a right of access to their health information; and
- (c) providing an accessible framework for the resolution of complaints regarding the handling of health information.

The OHSC promotes the parties to a grievance resolving the complaint between them by mediation and conciliation.

Introduction:

Thank you for the opportunity to respond to these important reforms. I am particularly grateful for the extension of time granted to me. I limit my comments to sections of the Aged Care (Living Longer Living Better) Bill 2013, the Australian Aged Care Quality Agency (Transitional Provisions) Bill 2013 and the Australian Aged Care Quality Agency Bill 2013 relevant to complaints resolution.

Aged Care (Living Longer Living Better) Bill 2013

- I note the terms and conditions of the Aged Care Commissioner have been modernised and made consistent with terms and conditions of the proposed Aged Care Pricing Commissioner. This is a sensible approach. I am aware the Aged Care Commissioner will gain the capacity to direct the Complaints Scheme to conduct a new resolution process and require the Complaints Scheme to take into account certain matters. This is a welcome addition to the Aged Care Commissioner's powers and one for which I have advocated for some time. Including this information in the annual reporting cycle would

assist in the transparent operation of the Aged Care Commissioner and be a quality lever to assist in better decision making by the Scheme.

- The inclusion of the roles and functions into the Act rather than regulatory principles would reflect the important role the Aged Care Commissioner and the proposed Aged Care Pricing Commissioner play in protection of consumer rights, resolving complaints and ensuring consumers have a voice in the quality of health services they receive.
- It is unclear how complaints about accommodation payments or extra fees will be handled under the new arrangements. Some clarity around whether the Complaints Scheme or the new Aged Care Pricing Commissioner will handle complaints about these matters from consumers would be a useful addition to the proposed legislation.

Australian Aged Care Quality Agency (Transitional Provisions) Bill 2013 and the Australian Aged Care Quality Agency Bill 2013 and matters pertaining to the Aged Care Quality Agency

- Changes to the current Aged Care Standards and Accreditation Agency (ACSAA) are welcome. Transferring ACSAA from a company limited by guarantee to a Commonwealth Government Agency will facilitate greater and necessary accountability mechanisms while maintaining a level of independence from the Department of Health.
- The Office of the Aged Care Commissioner receives very few complaints about ACSAA's processes or the conduct of its assessors. Agency staff will be subject to the requirements of the *Public Service Act 1999* so the necessity for the Aged Care Commissioner to have jurisdiction over the conduct of assessors has been removed. This is a sensible change and one I support.
- Quality review of home care services is a welcome addition to the scope of the new Agency. It is logical the Aged Care Commissioner has jurisdiction over process complaints in this area in addition to jurisdiction over process complaints in residential care.
- Importantly, the Chief Executive Officer of the new Agency will be able to release protected information to the Aged Care Commissioner and the Aged Care Pricing Commissioner. This has been a source of considerable difficulty over many years and is a welcome change.

I have no further comment on these documents. Thank you for the opportunity to comment.

Dr Grant Davies
Acting Health Services Commissioner

15 May 2013