



# australian nursing federation

22 April 2013

Committee Secretary  
Senate Standing Committees

By email: [communityaffairs.sen@aph.gov.au](mailto:communityaffairs.sen@aph.gov.au)

Dear Sir/Madam

## **Aged Care Living Longer Living Better Bill 2013**

Please find attached a submission by the Australian Nursing Federation to the above Inquiry.

ANF would welcome an opportunity to speak to the submission should the Inquiry hold public hearings.

Should you require further information please do not hesitate to contact Nick Blake, Senior Federal Industrial Officer

Yours sincerely

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Encl.

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Aged Care Living Longer Living Better Bill 2013  
Australian Aged Care Quality Agency Bill 2013  
Australian Aged Care Quality Agency (Transitional Provisions) Bill 2013  
Aged Care (Bond Security) Amendment Bill 2013  
Aged Care (Bond Security) Levy Amendment Bill 2013

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## **INTRODUCTION**

The Australian Nursing Federation (ANF) welcomes the opportunity to make a submission to the Senate Community Affairs Legislation Committee inquiry into the:

Aged Care Living Longer Living Better Bill 2013  
Australian Aged Care Quality Agency Bill 2013  
Australian Aged Care Quality Agency  
(Transitional Provisions) Bill 2013  
Aged Care (Bond Security) Amendment Bill 2013  
Aged Care (Bond Security) Levy Amendment Bill 2013

Our submission is confined to the Aged Care Living Longer Living Better Bill 2013.

The ANF supports the Bill subject to the following comments.

## **AGED CARE FUNDING SUPPLEMENTS**

It has been a long standing bipartisan policy that in recognition of the high costs associated with providing certain types of residential aged care, such as respite and dementia care or providing residential aged care in remote and rural areas, the federal government provides supplementary funding to approved providers.

Section 44.5 of the Aged Care Living Longer Living Better Bill 2013 provides for the following supplements:

- The respite supplement;
- The oxygen supplement;
- The enteral feeding supplement;
- The dementia supplement;
- The veterans supplement;
- The workforce supplement.

## **THE WORKFORCE SUPPLEMENT**

The ANF supports the introduction of the Workplace Supplement as a simple, practical and transparent tool to provide additional funding to approved aged care providers to take steps to improve the wages and employment conditions of their workforce.

The aims of the Workforce Supplement are:

- to improve the aged care sectors capacity to attract and retain a skilled and productive workforce;
- to provide funding to assist the aged care sector in delivering fair and competitive wages in the short term and longer term options for meeting the challenges of the sector considered by the Aged Care Financing Authority.

This initiative is in recognition that an appropriately skilled and qualified nursing workforce is fundamental to the delivery of quality aged care across both the residential and home care sectors and the workforce supplement will help providers meet the rising demands of caring for a growing number of older Australians, many with high acuity levels. The scheme also recognises that employees who are responsible for the most frail and dependent in our community are entitled to a decent wage and fair employment conditions.

It is important to note that an application for additional funding under the Workforce Supplement is voluntary and no approved aged care provider is obliged to participate.

Aged care providers who do apply having met the relevant criteria set out hereunder will be eligible for increased funding from 1 July 2013.

Aged care providers who operate establishments of 50 residential aged care beds or more, must have a new or amended enterprise agreement to be eligible to be assessed for the Workforce Supplement. Providers with less than 50 beds or who classify as providers of Veterans and Commonwealth Community Care Programs or Day Therapy Centre Programs will not need to enter into an enterprise agreement but will need to satisfy DOHA that they are meeting the terms and conditions of the Workforce Supplement.

To receive the additional funding the employer must provide through enterprise agreement or relevant commitment, a minimum 2.75% wage increase or the annual Fair Work Commission national wage increase whichever is higher plus a 1% wages supplement to employees covered by the agreement.

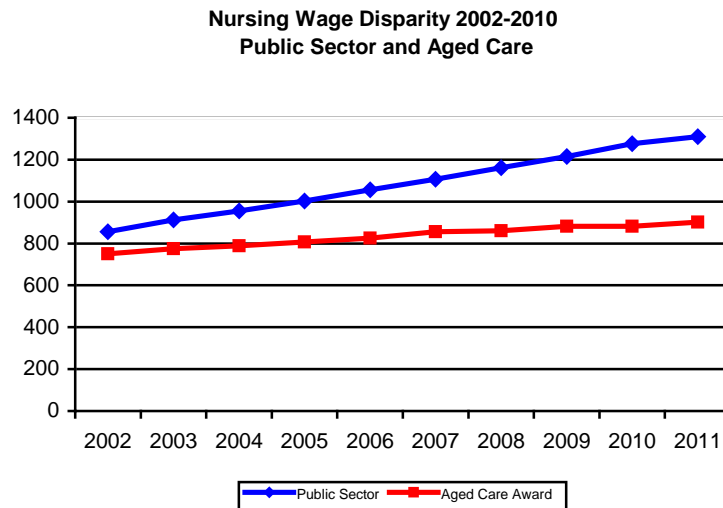
We believe that the inherent strength of linking the Workforce Supplement to enterprise agreement outcomes is that it is the most simple, efficient and transparent way to ensure that the additional funding meets the policy objective: to improve the wages and conditions of employment of aged care workers.

We note that in addition to wages enterprise agreements must also have provisions which are intended to assist aged care providers attract and retain adequate numbers of suitably qualified staff.

The ANF is of the strong view that the government's approach is the best approach in the circumstances and we call on those who publically criticise the Workforce Supplement to abandon their narrow and sectional proposals and embrace an approach that will deliver the government policy outcomes across the aged care sectors.

We also support this approach in the knowledge that there has been a range of funding initiatives over the past decade by government(s) directed at enhancing the capacity of aged care employers to offer competitive wages. These initiatives included \$211 million over 4 years in 2002 and a further \$877.8 million in 2004. Unfortunately these additional amounts were not expressly tied to an industrial instrument and much of the money was used for other purposes.

This is evident when one examines the graph below which tracks the growing disparity in the wages paid to nurses in the public hospitals sector and those employed in aged care



#### MODERN AWARD MARGINS

In addition to be eligible to be assessed for the Workforce Supplement the wage rates in the enterprise agreement must be above the relevant margins in the modern award. The modern award margins are set in Table I and are subject to phasing arrangements over a 2 to 3 year period:

**Table 1**

<b>Classification</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>
Personal and community care workers and other care staff	1.50%	3.00%	3.00%	3.00%
Enrolled nurses	2.50%	5.50%	8.50%	8.50%
Registered nurses	4.00%	8.00%	12.60%	12.60%

The requirement that providers meet the margins in Table 1 has regard to two important issues; firstly that there is capacity in the funding of the aged care system without the workforce supplement to enable employers to contribute to wages outcomes in enterprise agreements and secondly recruitment and retention issues are more acute in enrolled and registered nursing classifications and therefore a higher margin is required.

This is evident when one examines the existing wage rates for enrolled nurses and registered nurses currently covered by enterprise agreement. We attach for the benefit of the Committee, as Appendix 1 to this submission, an analysis of current enterprise agreements (including those that have expired within the last 18 months)

This analysis, which provides national and state/territory data examines the proportion of facilities that have enterprise agreement wage rates as at July 2013 that is less than the modern Nurses award rate adjusted for the margin. The analysis demonstrates that while 90% of aged care facilities have nursing workforce covered by agreements less than 10% of the enrolled nurse workforce and less than 5% of registered nurses are currently paid less than the modern award margin set out in Table 1.

We note that while the percentage of facilities in Victoria and South Australia with enrolled nurse wage rates below the modern award rate margin is 11.2% and 24% respectively this is due to few if any employers engaging enrolled nurses at the entry level wage rate.

#### **ENTERPRISE BARGAINING IN AGED CARE**

The history of bargaining by ANF on behalf of nurses and those employed to assist in the provision of nursing services, is our view relevant to the Committees examination of the Aged Care Living Longer Living Better Bill 2013

The ANF has substantial membership in the aged care sector and has sought to bargain with aged care providers since the late 1990s. However due to the rigid terms of the Workplace Relations Act 1996 agreements were difficult to secure as most employers steadfastly refused to engage with their employees over wages and employment conditions.

The failure of the aged care sector to embrace bargaining had a debilitating impact on the provision of services to the elderly as well as the ability of employers to attract and retain quality staff. Productivity and efficiency improvements were deficient and wages declined

During this period bargaining outcomes, where they did occur could be best described as patchy with collective agreements generally providing remuneration arrangements that fell well short of those provided for in both public and private health settings.

However with the introduction of the Fair Work Act in 2007 employers have progressively embraced enterprise bargaining and have developed agreements which meet both the needs of aged care employers and their workforce

ANF maintains a data base of enterprise agreements and sets out below an overview of the coverage of enterprise agreements in non public residential aged care establishments

As at 28 February 2013, we have identified a total of 772 current or recently expired agreements that operate in the residential aged care sector. The combined total for all States/Territories is 785 – thirteen more than the count for Australia (772) because of 12 multistate agreements (11 covering two States and 1 covering three States/Territories).

**Table 2**

**Count of current or most recent agreements by State/Territory and nationally**

	<b>Count</b>
Australia	772
NSW	172
VIC	307
QLD	70
SA	125
WA	50
TAS	41
NT	5
ACT	15

**Agreement coverage and award reliance**

Across Australia, about 82% of all aged care facilities have their entire nursing workforce covered by single enterprise agreements (2016 out of 2458 facilities). Four in every five of these fully covered facilities are covered by a single agreement setting out wages and conditions for all classifications of nursing staff (RN, EN and AIN/PCW). In a further 6.6% of facilities, nursing classifications are partially covered by agreements and partially covered by award.

Only 11.1 % of facilities are totally award reliant. On a State/Territory basis, the percentage share of facilities that are totally reliant on awards is just 8.9% in NSW; 3.2% in Victoria; 5.7% in Tasmania and 7.7% in ACT.

### **Agreement coverage varies markedly across the States and Territories**

Victoria records the highest rate of complete coverage with 548 out of 566 facilities (almost 97%) completely covered by enterprise agreements. NSW also records a high level of complete coverage - 91% (781 out of 857) of all facilities. In both Queensland and Tasmania roughly 4 out of 5 facilities are fully covered. Almost 83% of all Tasmanian facilities are fully covered (58 out of 70) and 78% in Queensland (354 out of 456) are fully covered.

In South Australia one third of all facilities are fully covered by enterprise agreements. In more than 60% of facilities, AINs/PCWs (and presumably support staff) are not covered by enterprise agreements, while RNs and ENs are covered in 95.7% of facilities.

In our submission these statistics demonstrate; firstly an overwhelming existing coverage of care staff by enterprise agreements means a requirement to enter into an agreement is not onerous and secondly the widespread coverage of agreement supports our view that agreements are the most efficient and transparent vehicle to ensure the funding goes where it is intended.

### **COMMENTS BY TONY ABBOTT**

The ANF also condemns without reservation the small number of public statements that have attempted to link the additional funding for aged care workers to benefit the role and influence of trade unions active in the aged care sector.

One of the worst examples was made by the Leader of the Opposition the Honourable Tony Abbott, in the Australian parliament on 21 March 2013 when he said:



*“..... we had \$1.2B in borrowed money for aged care workers but – this is the interesting thing – no more money for poorly paid workers, which obviously no decent Australian would begrudge. The extraordinary thing is that this turns out to be conditional on an EBA negotiated with the relevant union. In other words, this is a taxpayer funded recruitment drive for the unions that this Prime Minister’s leadership depends upon”.*

(House of Representatives Hansard, 21 March 2013 at page 53).

These comments are not worthy of a leader of a parliamentary party, grossly misinformed and pernicious at best.

In response, ANF would like to make the following points:

- there is no obligation on an aged care provider to sign up to the policy;
- enterprise agreements are not made between a trade union and an employer, but rather between the employees and their employer;
- there is no requirement for an employee to be a union member to participate in enterprise bargaining process or to receive the benefits of the agreement.

### **High Care v. Low Care**

The ANF supports the removal of different treatment for high and low care residents but notes that such changes should not be used by providers for diluting the skill mix of nursing services. The well established ANF position is that all older Australians receiving aged care services are entitled to the same safe and quality care that registered and enrolled nurses provide, regardless of any category of care.

The provision of quality, skilled nursing care to recipients with low care needs on the ACFI tool will have a two-fold benefit. The care recipients will maximise their degree of independence for longer, because quality nursing care will decrease the rate of advancement of disease and frailty associated with old age. The second benefit is a financial one to the Department of Health and Ageing, because decreasing the rate of deterioration will decrease the incidence of, and/or rate of advancement to, high care needs, which of course triggers a higher level of funding and greater cost to the Commonwealth.

The ANF believes that, in concert with the removal of a distinction between low care and high care, a model of care should be developed and implemented which also does not differentiate between approval for low care or high care, but is consistent with the specific care needs identified from the ACFI assessment.

An appropriate model will provide safe and quality nursing care to all residents, improve residents' health and well-being, slow the rate of deterioration, reduce recurrent costs to the Commonwealth and, to some degree, ameliorate the current perverse funding system which rewards providers through higher funding when residents become more frail and dependent.

## **CONCLUSION**

As stated at the outset, this submission focuses on the Aged Care Living Longer Living Better Bill 2013 and, in particular, the introduction of the new Workforce Supplement.

It may be said that as an industrial organisation ANF would focus on those aspects of the Bill that may lead to industrial gains for aged care workers. However, in defense of this approach, we submit that the goal of achieving reasonable wages and employment conditions, in part, recognises that the capacity of the industry to attract and retain reasonable numbers of skilled and committed workers is fundamental to providing the levels of care to our elderly that the community expects. If the industry is unable to compete in the labour market then standards of care will be reduced.

The Bill provides an impetus for real changes that will assist providers in the labour market , but also recognises that substantial increases in public funding is conditional upon a level of transparency and accountability for the monies that in the past has not occurred. While we understand that some aged care providers are disappointed with this approach, we would urge the committee to send a strong signal to the industry that this is the correct policy approach.

The views of our union on these issues are supported by both the United Voice and the Health Services Union as evident in our joint statement which forms Appendix 2 to this submission.

## APPENDIX 1

**Percentage of facilities with July 2013 agreement rate less than the 2012 Nurses Award Rate adjusted for relevant classification margin**

		AIN ENTRY	AIN THEREAFTER	AIN CERT 3 ENTRY	AIN CERT 3 THEREAFTER	EN MIN	EN MAX	RN LEVEL1 ENTRY	RN LEVEL1 THEREAFTER
Aust (n)	Total	1826	1826	1836	1836	2053	2053	2049	2049
	(n)	149	182	415	121	156	59	104	61
	(%)	<b>8.2</b>	<b>10.0</b>	<b>22.6</b>	<b>6.6</b>	<b>7.6</b>	<b>2.9</b>	<b>5.1</b>	<b>3.0</b>
NSW	Total	724	724	725	725	724	724	724	724
	(n)	84	89	285	36	1	24	0	4
	(%)	<b>11.6</b>	<b>12.3</b>	<b>39.3</b>	<b>5.0</b>	<b>0.1</b>	<b>3.3</b>	<b>0.0</b>	<b>0.6</b>
VIC	Total	526	526	526	526	526	526	525	525
	(n)	2	7	20	5	59	12	31	16
	(%)	<b>0.4</b>	<b>1.3</b>	<b>3.8</b>	<b>1.0</b>	<b>11.2</b>	<b>2.3</b>	<b>5.9</b>	<b>3.0</b>
QLD	Total	347	347	347	347	349	349	349	349
	(n)	27	42	41	31	38	12	18	39
	(%)	<b>7.8</b>	<b>12.1</b>	<b>11.8</b>	<b>8.9</b>	<b>10.9</b>	<b>3.4</b>	<b>5.2</b>	<b>11.2</b>
SA	Total	50	50	53	53	208	208	208	208
	(n)	15	28	36	23	50	3	49	1
	(%)	<b>30.0</b>	<b>56.0</b>	<b>67.9</b>	<b>43.4</b>	<b>24.0</b>	<b>1.4</b>	<b>23.6</b>	<b>0.5</b>
WA	Total	131	131	132	132	163	163	160	160
	(n)	0	1	0	0	1	7	0	0
	(%)	<b>0.0</b>	<b>0.8</b>	<b>0.0</b>	<b>0.0</b>	<b>0.6</b>	<b>4.3</b>	<b>0.0</b>	<b>0.0</b>
TAS	Total	26	26	30	30	58	58	58	58
	(n)	12	9	21	21	2	0	5	0
	(%)	<b>46.2</b>	<b>34.6</b>	<b>70.0</b>	<b>70.0</b>	<b>3.4</b>	<b>0.0</b>	<b>8.6</b>	<b>0.0</b>
ACT	Total	20	20	20	20	20	20	20	20
	(n)	10	6	12	9	5	1	1	1
	(%)	<b>50.0</b>	<b>30.0</b>	<b>60.0</b>	<b>45.0</b>	<b>25.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>



**Joint statement by the Australian Nursing Federation, Health Services Union  
and United Voice regarding the Aged Care Workforce Supplement**

- The unions note that the Productivity Commission has recognized that the provision of quality care for older people depends on the aged care sector attracting and retaining sufficient numbers of dedicated, educated and well paid workers.
- The unions note the Living Longer, Living Better Aged Care Reform Package, in part, seeks to assist aged care providers attract and retain adequate numbers of suitably qualified employees and we support the government's decision to make available increased funding to providers to assist them to compete in the labour market.
- The unions endorse the precondition that aged care employers establish or amend enterprise agreements with their workforce to access the supplementary funding.
- Further, the unions strongly support the inclusion of additional funding into enterprise agreements as the most simple, efficient and transparent way of ensuring that the additional funds are acquitted as envisaged under the reform package
- The unions note the Aged Care Reform Package has almost universal support and this is partly due to the long history of productive engagement and consultation with all industry stakeholders. We note the unions represent the interests of the aged care workforce and call on the government to ensure that the ongoing implementation of the reform package is done in a co-operative and consultative manner.