New South Wales Nurses and Midwives' Association

Inquiry into the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018

September 2018

The New South Wales Nurses and Midwives' Association (NSWNMA) is the registered union for all nurses and midwives in New South Wales. The membership of the NSWNMA comprises all those who perform nursing and midwifery work. This includes: registered nurses; enrolled nurses and midwives at all levels including management and education, and assistants in nursing/care workers (however titled, who are unregulated).

The NSWNMA has approximately 64,500 members and is affiliated to Unions NSW and the Australian Council of Trade Unions (ACTU). Eligible members of the NSWNMA are also deemed to be members of the New South Wales Branch of the Australian Nursing and Midwifery Federation.

Our role is to protect and advance the interests of nurses and midwives and the nursing and midwifery professions. We are also committed to improving standards of patient care and the quality of services in health and aged care services.

We currently have over 10,500 members who work in aged care. We consult with them in matters that are specific to their practice.

We welcome the opportunity to provide a submission to this Inquiry.

This response is authorised by the elected officers of the New South Wales Nurses and Midwives' Association

Contact details

NSW Nurses and Midwives' Association
50 O'Dea Avenue
Waterloo, NSW 2017

(02) 8595 1234 (METRO)
1300 367 962 (RURAL)
gensec@nswnma.asn.au

Terms of Reference

No terms of reference are stated.

Recommendation

We support the intention of this Bill in that it seeks transparency within the sector. However, in doing so it must not undermine existing staffing structures. It should also ensure it is sufficiently robust to deflect challenge from the sector, and be meaningful for consumers. We therefore make the following recommendation, which we believe will ensure the Bill is fit for its intended purpose.

- The Bill is amended as indicated on p 6-7

Response to the Inquiry

9-3C (1)

This clause requires the approved provider to disclose the ratio of care recipients to staff members. In principle, we support the intention of this amendment, which enhances transparency within the allocation of financial resources. Currently there is lack of transparency not only in the allocation of commonwealth funds, but also in the way private payments are directed. We believe that a proportion of the fees charged by aged care providers should be ring-fenced to provide safe staffing ratios and skills mix. This is both transparent and offers consumers better assurance that their money will be spent on direct care.

We believe that the notification of staffing numbers required in this Bill should provide more detail. Simply stating numbers against numbers could be misleading, since there will be a greater number of registered nurses required dependent on the acuity of residents. Numbers can also be affected by the number of respite services a facility offers, type of services provided and layout of the building. Unless all factors impacting on the staffing structure are considered, a valid picture of the status and sufficiency of the staffing profile cannot be achieved.

Notwithstanding, the principle of offering a simple measure of the status of staffing at any given time is appealing. The *ANMF National Aged Care staffing and Skills Mix Project Report* (ANMF 2016)[1] offers a method of calculating staffing requirements based on acuity and other factors. If used correctly, this, or similar evidence-based models of staffing could be methodology captured through legislation.

9-3C(5)

Categories of staff member omits to identify a person who is responsible for Clinical Governance. This is an essential post to ensure provision of quality care and

[1] Available at: http://www.anmf.org.au/documents/reports/National_Aged_Care_Staffing_Skills_Mix_Project_Report_2016.pdf

supervision of nurses and the nursing team. In NSW Directors of Nursing are an essential component of the staffing team. Facilities where this level of clinical oversight is lacking tend to have poorer clinical outcomes according to our members. Whether or not a Director of Nursing is employed at the facility, can be a good indicator of the aged care providers' commitment to clinical care, and evokes consumer confidence. We believe it is an essential inclusion under 9-3c (5) that is currently absent.

9-3C (a-e)

There are variations in the classification of registered nurses across states and territories. Therefore to classify registered nurses only at levels one to five will potentially exclude those working at higher levels, clinical specialists, clinical educators and nurse practitioners. All of which can contribute to the quality of care provision and would be of interest to consumers and regulators.

9-3C (g)

Registered nurse is a protected title. As such, the entry point at which a person can be referred to as a 'nurse' would be diploma level as an Enrolled Nurse. As such, removal of the term 'nurse' from point (g) is required. A level IV certificate would remain under the classification Assistant in Nursing (or equivalent depending on state and territory classification).

9-3C (5) h

Each state in Australia has different enterprise agreements and classification of aged care workers. This makes any attempt to define categories of staff for the purpose of transparency problematic. For example, states and territories refer to level two to four workers using different titles such as personal care assistants, personal care workers and assistants in nursing (among others). In NSW the term 'Assistant in Nursing' is commonly used, as it is in other states. This recognises the worker is part of a healthcare team, working under the direction of a registered nurse. It also

enables them to access representation from an appropriate Union with a nursing focus.

Our members are concerned that aged care providers are attempting to introduce non-nursing models into residential aged care facilities as a cost cutting measure. This results in re-classification of level two to four workers within social care models of aged care. In this scenario the title 'Assistant in Nursing' is replaced by 'Personal Care Worker' (or similar). It also means a change to their role from purely direct care, to one which requires them to undertake domestic and catering duties. Widening of duties detracts from the time workers can spend with residents providing direct care and is not in the interests of consumers.

The *Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018*, omits the term 'Assistant in Nursing'. A term also omitted in the Aged Care Workforce Taskforce final report '*A Matter of Care*', which similarly promotes models of care that are flexible and care worker led, rather than professionally led by nursing staff. If unchallenged, this could pave the way for non-nursing models favoured by aged care providers.

For these reasons the following amendments would be advised:

9-3C Obligation to notify Secretary of staff to care recipient ratios

(1) An approved provider must, for each residential care service operated by the approved provider and for each day referred to in subsection (4), notify the Secretary of the ratio of:
(a) care recipients to whom residential care is being provided through that residential care service;
(b) staff members of the approved provider who provide a service connected with that residential care service.
(c) the staffing model used to calculate staffing ratios
(d) the level of acuity of care recipients
(e) the type and nature of the services provided by the facility
Note: Approved providers have a responsibility under Part 4.3 to comply with this obligation. Failure to comply with a responsibility can result in a sanction being imposed under Part 4.4. Information notified under this section is made publicly available (see section 86-9).
(2) The ratio must also be broken down into ratios for each category of staff member referred to in subsection (5).
(3) In counting staff members for the purposes of this section, part-time staff members are to be taken into account as an appropriate fraction of a full-time equivalent.
(4) For the purposes of subsection (1), the days are the following:

(a) the 4 days, in each year, specified in the regulations; or
(b) if no days are specified in the regulations for the purposes of paragraph (a)—each 1 January, 1 April, 1 July and 1 October.
(5) For the purposes of subsection (2), the categories of staff member are the following:
(a) ~~registered nurses level 1;~~ Director of Nursing
~~(b) registered nurses level 2;~~ the number and designation of registered nurses at all levels including specialist nurses and nurse educators
~~(c) registered nurses level 3;~~
~~(d) registered nurses level 4;~~
~~(e) registered nurses level 5;~~
(f) enrolled nurses;
(g) ~~nurses with a certificate IV or an equivalent qualification~~;
(h) personal care attendants/ assistant in nursing (however titled) at levels II to IV;
(i) allied health staff;
(j) other staff members.
(6) A notification under subsection (1) must be made as soon as practicable after the day to which the notification relates.
(7) The notification must be in the form approved by the Secretary.
(8) The notification may include an explanation by the approved provider in relation to any ratio notified. The explanation must not exceed 250 words in total.
Note: If an explanation is provided, the explanation will be made publicly available: see section 86-9.
(9) If, between making notifications under subsection (1), there is a change of more than 10% in a ratio notified under that subsection, the approved provider must, within 28 days of that change, notify the Secretary of the change.
(10) In this section:
staff member of an approved provider has the same meaning as in 19 section 63-1AA.
2 After subsection 86