

Submission: Aged Care Legislation Amendment (Financial Transparency) Bill 2020

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Thank you for the opportunity to make a submission into the committee's Inquiry into the Aged Care Legislation Amendment (Financial Transparency) Bill 2020.

I am a community member and a family member of a former Residential Aged Care Resident. Additionally in 2018, I submitted my feedback in regards to the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018.

The following reasons are why I fully support this financial transparency bill.

Access to information for consumers

In 2018, part of my feedback in regards to the Aged Care Amendment (Staffing Ratio Disclosure) Bill¹ was the right to access information. It is now 2020 and I still affirm that the fundamental right is public members having access to information in all aspects of life and aged care too.

Proper monitoring of funds and publication of where money is spent will help community members be informed if quality care is provided. This ensures trust and confidence in the aged care system.

Additional cost and work to share the information could be debated. However this would be a baseless excuse as financial data is already collected and reported regularly to the sector.²

When a consumer would like to live in an aged care home their finances are assessed to establish the appropriate payments to be made to the aged care provider.³ Financial information of the consumer is provided to the government as well. Therefore shouldn't it also be expected that aged care providers reveal their financial details where the government's and consumers money is spent?

There may be arguments that more funding is necessary in residential aged care for quality aged care services and supportive incentives for providers to invest in the industry. However the same argument could be made for consumers. What is the incentive for them to choose a specific provider? Having access to information on where the money is spent and how much is an incentive for a consumer to choose a specific provider. I believe then this in turn would be a good incentive for providers.

Transparency of information

As a family member of a former aged care resident, I learnt that it is possible that aged providers may not be disclosing accurate information relating to who is responsible to pay for the aged care services in the home.

Our family member who resided in an aged care home had complex care needs and I was not certain that the provider would cater to their needs.

There was an incident where the provider was insistent that they were not responsible to provide

¹ Submission to Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018: <https://bit.ly/2X9GCFi>

² StewardBrown Financial Benchmarking: <https://bit.ly/2X6Z9BR>

³ My Aged care - Aged care homes: <https://www.myagedcare.gov.au/aged-care-homes>

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and pay for an allied health service the family member was entitled to as specified under Schedule 1 of the Quality of Care Principles 2014.⁴ It wasn't until I took the matter further they provided the necessary service.

Additionally during the years they resided in the home, I noticed that other types of care were not provided or there was insufficient care. This includes adequate food, medical products such as wound or pressure care related items.

This led me to believe that they were pocketing money, instead of giving it towards care. There is some evidence of cost shifting or some form of 'double dipping' of government funds.

Allied Health Professions Australia provided a submission⁵ to the Royal Commission into Aged Care Quality and Safety and reported residential aged care homes frequently argue that they do not have sufficient funding to cover all allied health needs. Instead residents are told they must seek other funding, such as Medicare or paying private rates, for access to a range of allied health services. They mentioned that the ability to cost shift to health and other funding systems is a major issue and one that has been widely reported by allied health professionals and members of the community and that there is a disincentive to pay for allied health services out of aged care funding when other alternatives such as medications and medical treatments are funded through health and when the intersection with health is not clear. The utilisation of Medicare Chronic Disease Management item funding for assessment and other allied health services was cited as a key example of health funding being used inappropriately to balance out gaps in aged care.

This should not be happening. This bill will certainly help in exposing what is hidden. How much is given to care?

In 2018–19 the governments spent \$13.3 billion⁶ on residential aged care alone. In May 2020 it was announced that additional COVID-19 specific support package⁷ will be provided to aged care totalling \$205 million aimed at covering the additional costs of caring for the health and wellbeing of residents during the pandemic.

In May 2020, the Federal Court ordered Bupa Aged Care Australia pay \$6 million in penalties for making misleading representations and wrongly accepting payments for extra services not provided or only provided in part to residents at 20 aged care homes.⁸ This is another example of what can happen when funds are not monitored. Where was the money actually used?

In Senator Griff's speech⁹ for this proposed bill he mentioned in 2019 he moved an amendment for greater financial transparency in the aged sector to the Government's the Aged Care Legislation Amendment (New Commissioner Functions) Bill 2019. This would have required residential aged care providers to give annual financial statements to the Aged Care Quality and Safety Commissioner. One Nation leader, Senator Pauline Hanson, and the Federal Government colluded, after they were heavily lobbied by some aged care providers, to block that game-changing amendment.

⁴ Quality of Care Principles 2014 under section 96-1 of the Aged Care Act 1997: <https://bit.ly/2Xa1ply>

⁵ Royal Commission into Aged Care Quality and Safety - Allied Health Professions Australia Submission <https://bit.ly/3fdyOse>

⁶ Gen Aged Care Data - Government spending on aged care: <https://bit.ly/3fdNIhW>

⁷ New COVID-19 payment to keep senior Australians in residential aged care safe: <https://bit.ly/30bYXn3>

⁸ Court orders \$6m in penalties against Bupa and compensation for consumers: <https://bit.ly/3hR11a8>

⁹ Aged Care Legislation Amendment (Financial Transparency) Bill 2020 – Senator's Griff's Second Speech <https://bit.ly/39FE6LN>

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This amendment would have forced aged care providers to reveal how much they actually spend on food, staff, and other costs of delivering care. Furthermore ironically Senator Pauline Hanson has previously rallied against the aged care sector for "roting and malpractice".

If you take in account with the information provided in this submission there is a very high possibility that there is widespread roting and malpractice!

In 2014 changes were made to the Quality of Care Principles 2014. Under Schedule 1, Care and Services, some of the items were altered or removed.¹⁰

An example is in relation to item 3.7 Basic medical and pharmaceutical supplies and equipment. This has now been deleted and all specified goods to support treatments are now in Item 2.4. Items such as Analgesia, anti-nausea agents and urinary alkalising agents were removed. Now they can charge all residents for any medicines, whether prescription or over the counter.

Changes were made for the financial benefit of the providers, not the recipients and yet providers are continuously voicing more funds are needed to provide. **If this is the case then prove it! Passing this bill gives them this opportunity.**

Funds are streamed into aged care by government and recipients and yet it is not expected that funds or fees paid are monitored. Passing this bill encourages revealing financial data and overall adequate factual information which would be beneficial for consumers, providers and even the government.

Informed decision making

If consumers, their family members or representatives have access to essential financial information it can help choose the appropriate aged care provider and ensure that the needs of resident are met.

When making a chose, it is important to know if an aged care provider is capable of catering to the needs of a recipient from admission to the home and throughout their life.

Furthermore, nil or very limited access to the information takes the choice away from the resident and that means control to the provider. I see this as taking their right away to make an informed choice.

This bill will support informed decision-making now and in the future. It will support a positive change to the aged care industry and help to resolve a lack of transparency in residential aged care as well as provide necessary financial information to allow public to make informed choices.

Resident's Rights

The Charter of Aged Care Rights¹¹ in residential care encourages and stresses the importance that residents have the right to:

1. safe and high quality care and services;
2. be informed about my care and services in a way I understand

¹⁰ Care and services in aged care homes - Information for approved providers: <https://bit.ly/3jTbfsf>

¹¹ Charter of Aged Care Rights (information for providers): <https://bit.ly/2DgFKre>

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3. access all information about myself, including information about my rights, care and services
4. have control over and make choices about my care, and personal and social life, including where the choices involve personal risk
5. have control over, and make decisions about, the personal aspects of my daily life, financial affairs and possessions

Therefore it is within recipients' rights to have access to vital information, including on how money is spent. Additionally an aged care consumer can exercise their rights or ask questions when have access to appropriate and valid financial information.

It is expected that aged care providers comply with the Quality Standards¹² which are made up of the following eight individual standards:

1. Consumer dignity and choice
2. Ongoing assessment and planning with consumers
3. Personal care and clinical care
4. Services and supports for daily living
5. Organisation's service environment
6. Feedback and complaints
7. Human resources
8. Organisational governance.

Examples of actions or evidence must be provided to ensure they are complying with these individual standards and so the proposed bill would be another form of good and valuable evidence.

Australian Consumer Law¹³ does also apply to residential aged care facilities when providing goods and services. Recipients or family members are entitled to know if funds are spent towards care and services because it is within their consumer rights when buying care products or services under the Australian Consumer Law. The fees they pay toward services in aged care must be provided. So it is important to know if you are actually getting what you paid for. The bill supports this and is consistent with this law.

Suggestions to be considered

In the proposed Bill approved providers will have to provide a written report to the Quality and Safety Commission, which will then make them public. It must include the following information:

2 (e) the total cost of direct and indirect care expenditure which includes the aggregated cost of the following:

- (i) food and food supplements;

¹² The Aged Care Quality Standards: <https://www.agedcarequality.gov.au/providers/standards>

¹³ Consumers and the ACL: <https://consumerlaw.gov.au/consumers-and-acl>

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(ii) medical products;

(iii) continence aids

Even though in July 2014 changes were made to the Quality of Care Principles 2014, Schedule 1, Item 3.7 Basic medical and pharmaceutical supplies and equipment was removed. Providers no longer required paying for medications and other certain items. Some medical and wound care products though were still the responsibility of the aged care facility to provide. However what really falls under medical products?

A good example is moisturiser. This item is under Schedule 1, Care and Services also. This product can relate to wound skin care and generally may be considered a medical product and yet it is under Item 1.9 Toiletry goods.

It would be beneficial if '(ii) medical products' is slightly amended to include wound skin care products to help limit the difficulty of providers determining which actual item falls under medical products.

Do air mattresses and air cushions fall under medical products since it may relate to wound prevention and management? Providers may assume the expense amount for these items are excluded as they fall under Schedule 1, Item 3.2 Bedding Materials. It would also be beneficial to include a fourth item - (IV) Bedding materials.

Concluding Comments

The Standing Committee on Health, Aged Care and Sport¹⁴ supported the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 as it will increase the amount of information available to consumers. They stated it was only a minor step, but it would be a first step. Unfortunately this bill was eventually rejected.

In 2019, Senator Stirling Griff moved an amendment for greater financial transparency in the aged sector to the Government's the Aged Care Legislation Amendment (New Commissioner Functions) Bill¹⁵ that would have required residential aged care providers to give annual financial statements to the Aged Care Quality and Safety Commissioner, who would then make them public. This amendment would have revealed how much they actually spent on food, staff and other costs of delivering care. Sadly this amendment was blocked. He said 'it was an important opportunity missed.'¹⁶ **I fully agree with this.**

Now this is the chance to take the step to ensure transparency and leadership in aged care. The community is crying out for it constantly. I am passionately crying out for it. We want you to listen.

Please hear us with passing this bill. It is crucial that it is supported and this is not another opportunity missed.

¹⁴ Advisory Report on the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 - Committee Comments: <https://bit.ly/316gMTx>

¹⁵ Aged Care Legislation Amendment (New Commissioner Functions) Bill 2019: <https://bit.ly/3gbXrHa>

¹⁶ Aged Care Legislation Amendment (Financial Transparency) Bill 2020 – Senator Griff's Speech: <https://bit.ly/2EzjVUw>