



12 August

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary

Aged Care Amendment (Implementing Care Reform) Bill 2022 [Provisions]

National Seniors Australia welcomes the opportunity to make a submission to the inquiry into the Aged Care Amendment (Implementing Care Reform) Bill 2022 [Provisions].

As the peak consumer body for older Australians, National Seniors Australia has long advocated for improvements to aged care services and, as such, we support the intent of proposed amendments.

Schedule 1

We strongly support moves, outlined in Schedule 1, to enshrine within the Aged Care Act an obligation to always have a registered nurse on site and on duty in the residential care settings.

National Seniors Australia has heard directly from older Australians, recounting situations where a registered nurse was not available during evening shifts, and this led to negative health and wellbeing outcomes. This includes the unnecessary and costly movement of residents to hospital because there wasn't timely nursing care available at the aged care home. The Royal Commission also heard of many cases where poor care was a direct result of lack of trained staff, and where lack of nursing and medical care led to neglect, suffering and preventable deaths.

There must always be qualified nursing staff available to tend to the needs of aged care residents, given the increasing proportion of people with severe frailty, dementia and high care needs.

While we acknowledge there will be exceptional circumstances where an exemption to the requirement to have a nurse on duty at all times could be justified, we would be concerned if this exemption was used as a means to avoid providing adequate care to older Australians in residential care. We would not accept this in a hospital and aged care homes as stated earlier are becoming more and more high care, dealing with end-of-life issues requiring skilled medical care on site.

As such, it is vital the parameters of any exemption set out in delegated legislation is not open to misuse. The needs and care of the residents must be paramount. Adequate funding for aged care providers under exceptional circumstances should be provided to ensure nursing care is available.

Schedule 2

National Seniors Australia strongly supports banning home care exit fees. Exit fees are not in the spirit of home care. Exit fees are used in commercial contracts to recover the costs of breaking a contract, however it is widely recognised they curtail consumer choice. They are often regulated in areas, such as banking, in recognition of their anti-competitive nature.

Older Australians who are sensitive to cost pressures would likely view exit fees as a barrier to moving to another provider, even where they are unhappy with the services being offered. They are therefore totally unacceptable in public service delivery settings such as home care.

National Seniors Australia also supports placing restrictions on home care charges, to ensure that older Australians are not charged excessive and unconscionable fees far in advance of cost of service.

We are concerned some home care providers are acting in their own profit motivated interests and not in the best interests of care recipients. Many have inflated prices due to poor management; or are using higher fees to obtain excessive profits or dividends to cross subsidise other parts of their business. This should not happen in a publicly subsidised service setting.

However, given that the amendment relies on delegated legislation to cap charges, there must be adequate scrutiny of the *User Rights Principles* under which this will be set. Under the current User Rights Principles the wording is undefined and inadequate. An approved provider of home care must only charge prices that are “reasonable”:

“21L Prices and business costs to be kept to reasonable amounts

- (1) An approved provider of home care must not charge a care recipient to whom the approved provider provides home care a price that is more than a reasonable amount for a matter mentioned in paragraph 19B(1)(b), (c) or (d) (certain travel, subcontracting arrangements and package management).*
- (2) An approved provider of home care must not charge a care recipient to whom the approved provider provides home care more than a reasonable amount for business costs that are part of the price that the approved provider charges the care recipient for providing care or services.”*

For the amendment to be effective, there will need to be stronger guidance within the User Rights Principles in relation to the price caps, including the role of the new Independent Health and Aged Care Pricing Authority in setting caps on charges.

It is vitally important the processes used to set caps on home care charges are transparent and robust. We would be concerned if the processes used to set caps on home care charges were open to undue influence.

Equally, we are conscious of the need to ensure a degree of flexibility to account for circumstances of market failure, such as in regional, rural and remote areas where service delivery costs are often higher. These circumstance should be adequately accounted for when setting price caps.

Schedule 3

National Seniors Australia supports introducing a requirement for the Secretary of the Department of Health and Aged Care to publish information in relation to aged care services.

Transparency is critical to public trust and the promise to “restore faith” in aged care services.

During the Royal Commission, we argued strongly for greater transparency. It is essential older Australians, and their families can make informed choices and advocacy organisations, the public and media can independently scrutinise provider activities. Taxpayers need to know the bulk of the billions allocated is spent on care and are not syphoned off to provide undue profits or cross subsidise other activities undertaken by providers.

Delegated legislation

Each of the amendments rely on delegated legislation to enact the obligations set out in the amendments.

It is concerning there will be no parliamentary oversight over the details used to: set the exemptions to registered nurses (Schedule 1), determine caps on home care charges (Schedule 2), or the detail the types of information required to be made publicly available (Schedule 3).

Each rely on the quality of delegated legislation - Quality of Care Principles (Schedule 1), User Rights Principles (Schedule 2) and Information Principles (Schedule 3).

The Information Principles, for example, do not currently specify a provider must make its financial affairs public. We believe aged care providers, as recipients of public funds for the care of older Australians, must be fully transparent about how they spend the public money they receive.

Thank you for the opportunity to make this submission.

Yours sincerely

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