



**LHMU**

LIQUOR HOSPITALITY AND MISCELLANEOUS UNION  
SUBMISSION TO THE COMMUNITY AFFAIRS COMMITTEE  
INQUIRY

THE AGED CARE AMENDMENT (SECURITY AND  
PROTECTION) BILL 2007

February 2007

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**Attention: Senate Community Affairs Committee**

**1.0 Investigation Principles**

1.1 Section 94A-1 of the Aged Care Amendment (Security and Protection) Bill 2007 states what 'Investigation Principles' may make provision for, but does not state what the Investigation Principles will be, with a note saying that "The Investigation Principles are made by the Minister under section 96-1." The Explanatory Guide to the Bill states that Investigation Principles "can only be made following the passage of the Bill".

1.2. The LHMU finds it unacceptable that Investigation Principles for Compulsory Reporting are not stated clearly as part of the Bill outlining the Compulsory Reporting framework. It is incredibly difficult to comment on a compulsory reporting regime without being advised of the principles for investigation under that regime.

1.3 Investigation principles will guide how the rights of aged care residents and aged care staff will be upheld throughout investigations of elder abuse, and should be clearly stated as part of the Aged Care Amendment (Security and Protection) Bill 2007.

1.4 The LHMU submits that clear Investigation Principles be included in the Aged Care Amendment (Security and Protection) Bill 2007. Investigation principles should outline:

- A commitment to independent and well-resourced investigation of all complaints of alleged or suspected abuse
- The specific training that will be required of investigators charged with detecting the complex symptoms of suspected abuse
- The timeframe for investigation of complaints
- Guidelines for lodging complaints against the Aged Care Commissioner
- Training requirements for aged care staff obligated to report under compulsory reporting

**2.0 Staff Training**

2.1 There is nothing in the Aged Care Amendment (Security and Protection) Bill 2007 outlining government commitment to ensuring staff in aged care facilities are appropriately trained to meet their obligations under compulsory reporting.

2.2 Elder abuse takes many forms. It may leave visible injuries, such as cuts and bruises, or less visible emotional scars.<sup>1</sup> Symptoms of assault and ongoing abuse are complex. A compulsory reporting system will do nothing to stop the incidence of abuse against elders if aged care staff members are not trained to detect symptoms of abuse, and contend with the difficult discussions with residents, providers, staff and families that could follow detection of abuse.

2.3 Suspected abuse could be particularly difficult to detect where residents suffer from dementia or other cognitive impairments. Aged care staff working with residents with dementia will need specific, specialist training to protect residents suffering dementia and cognitive impairments from assault and abuse.

2.4 The LHMU submits that the Aged Care Amendment (Security and Protection) Bill 2007 should contain clear guidelines for training requirements for staff that are obligated to report suspected assault under compulsory reporting.

2.5 While some stakeholders may be of the opinion that training requirements are an implementation matter that need not be set out in legislation, the LHMU argues that training is so pivotal to the success of compulsory reporting, that any compulsory reporting bill that does not address staff training will provide an insufficient grounding for a compulsory reporting regime.

### **3.0 The cost of training**

3.1 There is a significant wage disparity between nurses working in aged care and nurses working in the acute care sector. Personal care workers in aged care are among the lowest paid workers in Australia.

3.2 The LHMU submits that the Aged Care Amendment (Security and Protection) Bill 2007 should clearly state that the Commonwealth will take full responsibility for planning and funding aged care staff training under compulsory reporting.

### **4.0 Mandated minimum staffing levels**

4.1 The LHMU submits that compulsory reporting will do little to reduce abuse of elders in aged care if it is not accompanied by the introduction of mandated minimum staffing levels for residential aged care facilities.

4.2 A compulsory reporting regime assumes a witness or 'reporter'. LHMU members report that it is common practise for one personal care worker to be left alone on night shifts to care for up to fifty residents.

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<sup>1</sup> Gail Hendrickson, University of Illinois Medical Center, 2006.

4.3 Where staffing levels are this inadequate, there will be no staff present to report witnessed abuse, and personal care shift workers will have little time between care tasks to detect the more complex, emotional symptoms of assault.

### **5.0 Protection for whistleblowers**

5.1 The LHMU notes that the Aged Care Amendment (Security and Protection) Bill 2007 includes provisions for protecting the identity of whistleblowers, and reinstating or compensating any staff member who is terminated as a result of reporting suspected assault of elders. (63-1AA (6)(7)(8) and 96-8).

5.2 The LHMU submits that provisions for termination should be extended to protect whistleblowers who have their hours cut or established work tasks altered as a result of reporting suspected abuse.

### **6.0 The Aged Care Commissioner**

6.1 The LHMU notes that the Aged Care Amendment (Security and Protection) Bill 2007 allows for the creation of the position of Aged Care Commissioner to examine decisions made by the new Office of Aged Care Complaints. (Part 6.6).

6.2 The LHMU supports the creation of a formal authority to hear complaints about investigations by the Office of Aged Care Complaints, but submits that the office of Aged Care Commissioner should exist outside of both the Office of Aged Care Complaints and the Department of Health and Ageing.

6.3 An Aged Care Commissioner appointed by and answerable to the federal Minister for Health and Ageing will not be sufficiently separate to the Department of Health and Ageing to conduct fully independent investigations of complaints against the Office of Aged Care Complaints.