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**Residential Care Services**

Bellevue Heights

Leabrook

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Marion

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Westbourne Park

**Community Programs**

Respite Services

Community Aged Care Packages

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Living Alone with Memory Loss

ACHA Program

**Therapy Services**

Northern

Southern

North-Eastern

November 6, 2008

Committee Secretary  
Community Affairs Committee  
Department of the Senate  
Parliament House  
Canberra ACT 2600

Dear Secretary

**Re: Aged Care Amendment (2008 Measures No. 2) Bill 2008 Comments on Proposed Amendments**

In response to the Aged Care Amendment ( 2008 Measures No.2 ) Bill 2008 , I offer the following feedback to the Committee:

**1. Key Personnel (items 3 to 9 pages 21 to 25)**

As identified in Resthaven's original Submission (point 3) it remains unclear whether the issue we raised regarding not requiring the Uniting Church personnel, who have a defined and limited role related to the approval of changes to Rules and Regulations and appointment of new Board Members, will be required to be key personnel. Given we have an independent Board of Management, who are key personnel, and that we are an independently incorporated body from the Church, I see requiring an extension of key personnel to this group as not being appropriate. I am aware this outcome will be considered within the Principles. The proposed Principles have not been provided for us to clarify this matter.

**2. Expansion of Police Check (Second Reading Speech, page 5, "Ensuring the Health, Welfare and Other Needs of Care Recipients are met")**

We assume that this will be an amendment to the Principles which are not available for consideration at this time . What we are concerned about is that the amendment does modify and reduce the police check obligation on contractors who are not involved in direct services to residents (that is, contractors who are not personal carers or providing domestic services) should not be included in this police check process. The risk is minimal compared with the non checking of relatives or acquaintances who visit residents without a police check .

It is logistically very difficult to achieve this level of police check cover with such a wide variety of contractors who interface with a residential facility or in community care (eg lawn mowing), yet are not involved in direct care. Such an expectation will lead to inevitable failure if it is adopted in this standard.

**3. Missing Residents (page 18 under "Other" in the Memorandum)**

We assume this will involve an amendment to the Principles. I see this as quite reasonable if the amended Principle does identify a simple response to this expectation. The risk is an overly defined reporting expectation and unreasonable "red tape". We remain to see whether this involves a simple proposal or one that is unnecessarily complicated.

A very recent experience where we advised the Department of a Flu outbreak at one of our residential sites , as an appropriate level of advice ( as we see the advice of a “missing person” would be ) , we found such matters are dealt with in the “Complaints” section of the Department and this was challenging for us in the principle of the matter ( the person who received this information was very reasonable in their interaction with us ). We believe it inappropriate that advice be received by a complaints section and this only risks a blame culture which we believe exists in aged care and that appears unique to aged care. We believe the constructive encouragement of sharing important public health information is not to assign such advice to a Complaints unit . We believe this should also apply to who ever it is we are asked to advise the Department of regards a missing person. An option is to change the name of the Complaints section .

**4. “Any person who is responsible (or is likely to be responsible) for the nursing services provided by the service. The person must hold a recognised qualification in nursing“.( section 8-3A Meaning of key personnel)**

I cannot recall the sector has been consulted regards this issue being identified for change or that it is a standard currently defined in the Act. I am aware that the Principles define “nursing services” but it is not defined as inflexibly as this proposes and does acknowledge the role of other appropriately qualified staff . I am concerned that such an additional and less flexible level of definition as proposed in this section will effect other areas at a time also where we all understand that there is a critical shortage of nurses . How this proposal relates to various staff within an aged care service, how will this proposal potentially involve significant change to how services are provided and create significant limitation on how services are provided to a specific professional group is unclear , and the extent this becomes a minimal qualification for different roles in an aged care facility or community service , including the manager also raises its head as an indirect risk in this outcome.

I am concerned about any regulatory outcome which implies less flexibility in the employment of different staff, including site managers, at a time when the shortage of nurses is a significant risk in the sector. I recommend the last sentence proposed be deleted , that is, “ This person must hold a recognised qualification in nursing “ , no other such qualification is specified in this key personnel section or the Act that I can recall .

**5. ”The section that defines residential care “page 43, Item 82, and sections 85 -91 (page 44 –45 )**

These sections confuse me regarding their intent. Item 82 implies that the Act is related to people who occupy an approved place, not a person who lives in a non-approved place (notwithstanding the cover of lump sums in non-approved places), which I agree with , whereas Sections 85 to 91 (pages 44 –45) seems to reaffirm and further extend the scope of the Aged Care Act to individuals in non approved places who receive no subsidy support from the Federal Government, hence it seems to contradict the point identified in Section 82 .

I recall when the Aged Care Act was first introduced that there were issues raised that a resident occupying additional capacity in a non-approved bed was technically covered by the Act by way of receiving an Aged Care Assessment Team ( ACAT) approval for residential care. What apparently was implemented in 1997 in the Act was that a resident within the scope of the Act was an individual who had a current ACAT and living in an approved provider service (not whether they occupied an approved and subsidized place). I continue to be concerned that the Act seeks to define its scope to include residents for whom the Federal Government do not offer any residential care subsidy support. I believe such an extension of cover should be restricted so as to ensure there is a limit to the degree the Act extends its scope to residents where the Federal Government offers no subsidy support . Our concern is that this has potential to limit reasonable options that approved service providers should be able to consider in developing a range of services , including providing alternative services to individuals who are prepared to self fund their service and who do not occupy an approved place under the Aged Care Act , as we see in a range of other service types operating outside the Aged Care Act .

Yours sincerely

**Richard Hearn**  
Chief Executive Officer