

Submission by the New South Wales Nurses and  
Midwives' Association

Registered nurses in New South Wales nursing homes  
(Inquiry)

July 2015

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 assistants in nursing (who are unregulated), enrolled nurses and registered nurses and midwives at all levels including management and education.

The NSWNMA has approximately 61,000 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 welcome the opportunity to make submission to this important Inquiry and the opportunity for wider discussion that this provides.

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

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## Introduction

As a society, we are living longer and remaining healthier. We are experiencing technological and scientific advances that enable us to experience a good quality of life well beyond retirement age. In Australia it is projected that within the next 40 years there will be around 40,000 people aged over 100 and the number of people aged 65 years and over will double.<sup>1</sup> More people are enabled to remain in their own home with support services and this is likely to continue as the impact of aged care reform is felt. In New South Wales these demographic, political and societal changes will inevitably lead to rising acuity levels in residential aged care facilities. People entering such establishments will have multiple co-morbidities which can only be met by round the clock care and supervision.

Already, deaths occurring in residential aged care facilities account for a significant proportion of the total number reported in Australia and New Zealand.<sup>2</sup> People in the end stages of life often require an increased focus on management of pain, symptom control, psychological and spiritual support.<sup>3,4</sup> We know these symptoms can be alleviated and quality of care enhanced at the end of life through nursing management and oversight in residential aged care facilities.<sup>5</sup>

The Mid-Staffordshire Inquiry in England highlighted that low numbers of registered nurses and poor supervision and training of unregistered care workers in a public hospital contributed to systemic failures at a basic care level.<sup>6,7</sup> We should be mindful of avoiding a similar situation in aged care by ensuring there is no further minimisation and dilution of skill mix in residential aged care facilities. We have a moral obligation to ensure decisions to place our older people within residential aged care facilities are supported by legislation that ensures ongoing access to sufficient numbers of registered nurses, and appropriately trained and regulated care workers to meet their assessed needs.

We welcome the opportunity to have wider debate around this important issue. The testimonials within this submission demonstrate not only the strength of feeling within the community that we have experienced, but also the positive impact that registered nurses have on the quality of life of people living in aged care facilities.

Brett Holmes  
General Secretary  
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## List of Abbreviations:

ACFI	Aged Care Funding Instrument
AiN	Assistant in Nursing
EN	Enrolled Nurse
NHS	National Health Service (UK)
NSW	New South Wales
NSWNMA	New South Wales Nurses and Midwives' Association
RACF	Residential Aged Care Facility
RN	Registered Nurse
UK	United Kingdom

## Summary of Recommendations

1. The Public Health Act 2010 should be amended. Current legislation should be replaced by that which allows for provision of registered nurses at all times in any residential aged care facility where there are people assessed as requiring a registered nurse to meet their needs and where they are funded at that level.
2. The Public Health Act 2010 should be extended to require all assistants in nursing to be licensed and subject to regulation.
3. The Public Health Act 2010 should be extended to include a requirement for a minimum standard of qualification for assistants in nursing.
4. Minimum standards of qualification for assistants in nursing should be linked to the Australian Qualifications Framework and include a requirement for a recognised level of training to at least certificate III level within specified timescales upon induction to the aged care workplace.
5. A comprehensive review of safe staffing levels in aged care facilities should occur to establish a safe nurse to patient staffing ratio. The outcome of which should inform safe staffing levels for the purpose of accreditation of aged care facilities and subsequent quality reviews.
6. The current system for monitoring and regulating quality in residential aged care facilities should be reviewed.
7. A robust system of independent, outcomes based care regulation that is underpinned through legislation should be created. This should incorporate quality outcomes that specifically address the recruitment, qualification, training and supervision of all staff employed in residential aged care facilities.

## Term of Reference 1

The need for registered nurses in nursing homes and other aged care facilities with residents who require a high level of residential care, in particular:

(a) the impact of amendments to the *Aged Care Act 1997* (Cth) by the *Aged Care (Living Longer Living Better) Act 2013* (Cth) on the requirement under s104 of the *Public Health Act 2010* to have a registered nurse on duty at all times in a nursing home, and in particular:

(i) the impact this has on the safety of people in care  
(ii) the possibility for cost-shifting onto other parts of the public health system as a result of any legislative or regulatory change to the current provisions

(b) the requirement for a registered nurse to be on duty in a nursing home at all times, as compared with requirements in aged care hospital wards

(c) the administration, procurement, storage and recording of administration of medication by non-registered nurses in nursing homes and other aged care facilities with residents who require a high level of residential care, as compared with hospital clinical settings

(d) the role of registered nurses in responding to critical incidents and preventing unnecessary hospital admissions

The Aged Care Act 1997 now offers no distinction between high and low care in the classification of RACF's. However, we know that people living in residential aged care still have different needs. The Public Health Act (2010) currently recognises and legislates for this. It ensures that those people who are assessed as having

complex healthcare needs have access to a minimum of one registered nurse at all times. This legislative requirement is neither burdensome nor financially restrictive to providers, considering it only requires them to fund one registered nurse per establishment. Some RACF's accommodate well over 80 people. Comparing this to a rehabilitation ward in a public hospital, this is a very minimalistic staffing requirement and one which already impacts on the quality of life for people living in aged care facilities.

The Public Health Act (2010) has not clearly mandated whether registered nurses are required in RACF's that were formerly categorised as hostels. Therefore providers have been able to opt out of providing a registered nurse at all times in these facilities, even where there are people living in them who have high care needs. To our knowledge, this has not been challenged by the Australian Aged Care Quality Agency.

The issue of people with high care needs living in RACF's that are not legally required to provide registered nurses has needed attention for a significant period. Studies suggest that as long ago as 1995 it was estimated that around 20% of people accommodated in hostels had higher dependency levels than those in nursing homes.<sup>8</sup> In the year 2000/01 18.2% of all admissions to hostels were people who had been classed as having high care needs.<sup>9</sup>

We know this figure is now much higher, with the latest statistics showing that over 80% of all people living in RACF's, regardless of previous classification, are funded at a high care level. Of those, most are classed as having high care needs across all three domains (behaviour, daily living and complex healthcare).<sup>10</sup> However, the latest figures also show that around 50% of RACF's currently operating in NSW are facilities that were formerly classed as hostels.<sup>11</sup> Since there is no clear legal requirement for them to have any registered nurses on duty under the current legislation, it is unsurprising that people from RACF's already account for a significant proportion of emergency department presentations.<sup>12</sup>

General Practitioners rely heavily on the presence of a registered nurse in RACF's due to the large number of patients with multiple care needs they provide services to<sup>5</sup> and it is concerning that there is already emerging evidence that people may be dying prematurely within nursing homes.<sup>13</sup> Removing what is already a minimal requirement on aged care providers could have significant implications for people living in RACF's and the health professionals that visit.

A study has shown that for every 100 beds in a RACF's, there are at least 30 transfers to emergency departments for clinical care per year.<sup>14</sup> It is suggested that many of these are preventable.<sup>14,15,16</sup> Indeed, multiple studies on emergency department presentations from RACF's estimate that between 8% and 44% are inappropriate<sup>12,17,18,19</sup> with symptoms that could easily be managed by registered nurses such as uncomplicated urinary tract infections, mild dehydration and soft tissue injuries.<sup>16</sup> In NSW, it is acknowledged that older patients have higher rates of adverse events in hospitals and prolonged stays could be avoided by reducing the number of inappropriate emergency department attendances and hospital re-admissions, many of which are from RACF's.<sup>20</sup>

Specialist palliative care services are already concerned at the amount of referrals for advice they receive from RACF's regarding symptoms that could be easily managed by staff.<sup>5</sup> There is evidence to suggest that the majority of people dying in hospital could have received their end of life care in the RACF they were admitted from.<sup>21</sup> Registered nurses play a pivotal role in offering palliative care services, including the administration of 'anticipatory' medications to enable people to be comfortable and settled during the end stages of life.<sup>22</sup>

## Testimonials

### **Relative**

*“My dad died recently in a hostel. He suffered for five days before he died. Part of his suffering was that he had to wait for the on call nurse to come (she lived 30 minutes away) and administer the pain relief.”*

### **Registered Nurse – Emergency department, large Public Hospital**

*“If RNs are removed from Aged Care facilities, when residents do deteriorate, the next step would be calling 000 because it was not managed earlier and this would in turn mean that Emergency Dept would be under greater strain!”*

### **AiN – inner regional RACF**

*“On a nightshift ... we came across a resident who was dead on the floor of their room. We were unable to contact the RN on call, an ambulance was called, they in turn called the police ... had there been an RN on duty the whole scenario could have been avoided and this traumatic situation for the staff on duty could have also been avoided.”*

### **Registered Nurse – metro RACF**

*“I work in a facility with high care and hostel section which was low care before. Now the hostel section is full of high care residents ... My assistants are constantly reporting to me the problems they are having and need my opinion and direction ... I have saved many residents lives and trips to the emergency department. Registered nurse also needs to provide pain relief, palliative care, end of life care etc.”*

### **Clinical Nurse Consultant – Public Hospital**

*“Planning quality end of life care for residents in RACF’s is very difficult where the pressure to get people out of hospitals is building but the care they require in their home is not able to be provided. RACF’s continue to tell families they are able to provide Palliative Care but they don’t inform them that the medications they require and the assessment that is vital to competent symptom management are not being provided. Having a RN on-call is not always appropriate as this person may be at home in their bed and have to drive in to the facility, delaying the administration of vital medication. I find that I am unable to facilitate discharge to the RACFs when this is the case as I wouldn’t accept this level of “care” for any family member of mine.”*

### **Enrolled Nurse – large metro RACF**

*“The potential for loss of life or increase in non-essential hospital admissions is significantly increased if lesser trained staff are left in charge of care delivery without ready, on-site support. Many care treatments, e.g. syringe drivers, and medications used in Aged Care require the knowledge and expertise of RN’s.”*

### **AiN – inner regional RACF**

*“To be able to provide proper care to the elderly, be able to keep them comfortable, pain free and deal with any emergent situation during the night, an on call nurse is not the best way to provide proper care. Elderly people need treatment and support immediate, not 15 or 30 minutes later, time is crucial to achieve the best outcome possible.”*

### **Registered Nurse – Public Hospital Emergency Department**

*“Patients are still being sent in to Emergency for unnecessary presentations and this will continue to a greater extent if RN’s are removed. Patient safety must come first.”*

### **Relative**

*“I spent quite a bit of time with my father as he was dying. In fact close to the end he kept on saying in a clear and loud voice: “I want to go home! I want to go home!”.... He was referring to his home of 11 years – the Hostel where he had been a resident. There was no way though that we could get him ‘home’ as the Hostel, though it said it had ‘Ageing in place’, it certainly didn’t have Palliative Care in Place! He was unable to come back to his home – the Hostel – which was a very sad outcome for him and one of his dying requests.”*

### **Nurse Practitioner (Palliative Care) – Public Hospital**

*“From the specialist palliative care perspective, RN’s are vital to the provision of quality end of life care in residential aged care facilities. Residents do not restrict their deterioration or dying process to business hours. RN’s are required round the clock to provide ongoing assessment of symptoms and administer (when required) medications as required for the individual care and comfort of each resident ... Without them, the chance of aged people dying in the place they call home will be greatly diminished.”*

### **Registered Nurse – agency positions in large metro RACF’s**

*“People who have dementia do not necessarily sleep at night, people at end of life don’t pass away during office hours, and syringe drivers dispensing Schedule 8 medications need checking and replacing at all hours. I was very busy on each and every night shift, and the EN on duty relied on me to do things she was not trained or registered to do... To take RNs off shift will inevitably cause deaths, adverse events, and significantly reduce quality of life.”*

### **Registered Nurse – Public Hospital**

*“I work on an acute medical ward. We just recently had a patient who could not go back to their high level care facility as they do not offer palliative care.”*

### **Registered Nurse – large RACF**

*“As they face the end of their life, aged care residents need to know they will not die in pain, will not suffer needless stress of hospital transfers. They deserve the right to quality care by RN’s. It is already hard sometimes to get doctors to attend residential aged care facilities - without RN’s, more of our frail aged will be taking up ambulance time and emergency department time.”*

### **Enrolled Nurse – large metro RACF**

*“I work in an aged care facility that has 24hr RN’s and their knowledge and expertise is invaluable as we have residents who have a wide variety of care needs and knowledgeable decisions may need to be made for them on the spot. An RN has this knowledge and expertise, if they are taken from our facilities the staff will send residents to hospital for these decisions. This will distress residents and their families, overload Ambulance and already overloaded emergency units.”*

The current arrangements for assessing people for eligibility into RACF’s are capable of clearly identifying where people’s needs are at a level where they require a registered nurse to meet those needs. This is an opportunity to put in place a legislative system that no longer associates the provision of registered nurses with the type of care facility, which we know is no longer applicable due to the de-classification of RACF’s in the Aged Care Act 1997. Having legislation that requires registered nurses to be provided to meet the assessed needs of an individual means that person has access to the care they require, where they require it. It gives people greater assurance that regardless of setting, registered nurses will be available to them.

The funding instrument used to assess the level of care funding (high, medium or low) people require also enables identification of nursing needs that should be met by a registered nurse. The funding assessment tool clearly asks the assessor to consider what the person's usual state of health is. It does not account for episodic or temporary care episodes. Therefore the provision of registered nurses on a discretionary basis, or during office hours is inconsistent with current aged care funding. Linking legislation to assessed need would mean that registered nurses are provided at all times, and that staffing costs appropriately equate to the level of care funding a person receives. This would provide for a more transparent, equitable funding system that is consistent with the ethos of 'Ageing in Place'.

### **Recommendation**

The Public Health Act 2010 should be amended. Current legislation should be replaced by that which allows for provision of registered nurses at all times in any residential aged care facility where there are people assessed as requiring a registered nurse to meet their needs and where they are funded at that level.

## Term of Reference 2

The need for further regulation and minimum standards for assistants in nursing and other employees or carers with similar classifications

Evidence from the UK suggests that unregistered workers now deliver more hands on care than registered nurses in RACF's<sup>23</sup> and it is recognised that they play a vital role in aged care and contribute positively to improved care outcomes.<sup>24</sup> However, their ever increasing presence within the workforce means they are often required to undertake roles that are outside of their scope of practice<sup>25</sup> and feel unprepared for the duties they are asked to perform.<sup>26</sup> This is particularly concerning due to the vulnerability of people in aged care and the inherent potential for harm in the delivery of care.<sup>27</sup> In NSW, there are no specific requirements in relation to minimum standards of qualification for assistants in nursing. However, local studies have shown there are improved patient outcomes where assistants in nursing have received additional training in their field of speciality.<sup>28,29</sup>

As a direct result of the systemic failings at basic care level uncovered by the Mid-Staffordshire Inquiry<sup>6</sup> several key recommendations were made in relation to unregistered care workers in England. These called for the registration of healthcare support workers, a national code of conduct for healthcare support workers and a national set of common training standards.<sup>7,24</sup> In response, the Care Quality Commission who is the national care regulator for England requires all unregistered care workers working in RACF's to achieve a minimum standard of qualification upon induction.<sup>30</sup> Having a licensed, regulated and well trained workforce of aged care assistants in nursing would not only provide a career structure for many workers, but would also improve safeguards and raise standards of care for our older population.

## Testimonials

### **Registered Nurse – RACF**

*“I have previously witnessed AIN's who have clearly not treated the elderly with the dignity and respect they deserve and are entitled to. While they may be disciplined and their employment terminated there is no reason why they cannot commence employment immediately at a different facility. I believe accountability would be helpful to ensure the safety and well being of residents in Aged Care facilities.”*

### **Care Service Employee – inner regional RACF**

*“While I was working nightshift ... I was approached by a junior staff member who was panicking in regards to a resident who was having a seizure. While my response was adequate and the resident was OK this incident fell outside my scope of practice and would have been better dealt with by someone with clinical expertise.”*

### **NSW TAFE Educator – aged care**

*“The age care workers I have spoken to say the level of knowledge and skills they have received allow them to provide personal care only. But they are fearful of the consequences regarding increased acute medical needs and the complex care residents require without support from a RN. Also they say wages do not reflect the level of responsibility.”*

### **Relative**

*“As an Enrolled Nurse from many many years ago, I am sorry to say that AIN's do not have ANY qualifications to look after the many health issues that my Mother is facing and I am frightened that they want to take away the RN's 24/7.”*

**AiN – large inner regional RACF**

*“I am currently an assistant in nursing in a nursing home. I believe that if I was working a shift and a patient was to have a myocardial infarction or a stroke we do not have the training that is needed to deal with these situations. We are only trained to recognise the symptoms and inform the RN. By not having an RN who is trained on what to do in these situations this will put residents’ lives at risk.”*

**Relative**

*“When my mother knows that she is most unwell then she makes the decision to call the ambulance so she can go to hospital. She did this yesterday and thank goodness she did because she needed medical intervention and tests fairly urgently... interventions she would not have got if she’d remained at the Hostel with her carers.”*

**Recommendations**

The Public Health Act 2010 should be extended to require all assistants in nursing to be licensed and subject to regulation.

The Public Health Act 2010 should be extended to include a requirement for a minimum standard of qualification for assistants in nursing.

Minimum standards of qualification for assistants in nursing should be linked to the Australian Qualifications Framework and include a requirement for a recognised level of training to at least certificate III level within specified timescales upon induction to the aged care workplace.

### Term of Reference 3

The adequacy of nurse to patient ratios in nursing homes and other aged care facilities with residents who require a high level of residential care

The ratio of a single registered nurse in a nursing home at all times, currently stipulated in the NSW Public Health Act 2010 is a minimum basic requirement. Our members tell us that they are often the only registered nurse on duty for over 80 people with complex health needs. This situation has been exacerbated by 'Ageing in Place' for co-located former hostels and nursing homes. Our members also tell us that in some cases a single registered nurse is now being used to care for people with high care needs across both facilities, since there is lack of legal clarity over whether a registered nurse must be provided in a hostel at all times. This is concerning since statistics tell us that there are people living in these facilities who are receiving funding for high care needs.<sup>10</sup>

Research highlights that to provide good quality care; more rather than less nurses are needed. Registered nurses are often juggling competing demands on their time, with administration duties reducing direct patient contact and impacting on their ability to provide effective palliative care.<sup>5</sup> Low registered nurse to care worker ratios often mean the registered nurse cannot adequately supervise the high numbers of unregulated staff and in turn, the amount of direct patient contact they have also reduces.<sup>31</sup>

Several large international studies have shown a correlation between low nurse to patient ratios and high mortality, morbidity and adverse event rates.<sup>32,33,34,35,36</sup> In particular, one study found that workload of nurses was directly related to the amount of nosocomial infections and registered nurse to patient staff ratios consistently predicted adverse patient outcomes.<sup>36</sup>

We know acuity levels are rising in RACF's. In public hospitals there are well established systems to determine ratios of nurses to patients which ensure that there is at least one registered nurse covering a typical rehabilitation ward, the average size being around 30 beds. This is more than double the number of registered nurses than is currently mandated for in an 80 bed RACF. However, people cannot opt to receive their long term care in public hospitals where there are higher ratios of RN's. We should be looking to establish a needs-based system to determine staffing ratios consistent with those found in public hospitals to ensure our health care system is equitable, and does not discriminate on the basis of age.

## Testimonials

### **Relative**

*“My mum is 96 and has been in a nursing home for the last six years. The care during that time has gone downhill. It seems that there have been staff cuts and there are less RN's around. Even during the day on weekends it is difficult to find the RN in charge. Not long after she first arrived at the nursing home, she almost died when she began to uncontrollably fit. Thanks to the actions of the RN, we have had a wonderful six more years (& still counting). Six years that I didn't expect to get. I have to wonder would we be so lucky if this had happened in recent times.”*

### **Enrolled Nurse – large metro RACF**

*“Our RN's are currently directly responsible for over 150 nursing home and hostel residents. They are on-call for a further 150 self-care residents within the facility. To remove them from being in-duty at all times would defer the responsibility to far lesser trained EN's. These EN's do not have the legal right, or practical training, to perform many procedures which occur in Aged Care and would most likely refuse to accept such responsibilities and leave the industry.”*

**Relative**

*“My mother is frail and prone to falls and is in high support aged care. Although most of the carers are very lovely towards her I know that very few are actually registered nurses. She deserves to have access to quality care 24/7 and a realistic ratio of RN to residents available at all times. Our elderly do not deserve a lower standard of care than the rest of society.”*

**Relative**

*“My grandmother in residential care had no access to an RN or GP and no senior staff to advocate for her last night when she was in severe pain. Ended up in hospital being transferred at 3am, not the best place for someone with dementia! .... Aged care is not just about showering and feeding patients, it is managing all the chronic illnesses and identifying any acute episodes that arise, when and where to seek further medical help, knowing why certain procedures must be followed and having educated knowledge of the many medications these people are prescribed.”*

**Relative**

*“My father is in an aged care facility which does not have 24/7 RN care. I believe his caregivers need additional support from RN's out of hours and have noted that at times his care has been compromised by not having an RN on site at all times.”*

**Relative**

*“My mother doesn't trust the carers when she is sick. There are no permanent RNs in her Hostel, only visiting ones when they come on site. Sometimes the residents get sick at night when there are only two people to care for forty residents ... This is bad because there is no one to contact so any Locums who need to be acquired must be contacted before the evening.”*

## Recommendations

A comprehensive review of safe staffing levels in aged care facilities should occur to establish a safe nurse to patient staffing ratio. The outcome of which should inform safe staffing levels for the purpose of accreditation of aged care facilities and subsequent quality reviews.

## Term of Reference 4

The report by the NSW Health Aged Care Steering Committee

The NSWNMA have been participating in the NSW Ministry of Health Aged Care Steering Committee about possible changes to the Public Health Act 2010 (NSW) regarding the requirement for registered nurses in nursing homes.

We are pleased to have been part of the Steering Committee process. However, we are concerned that the conclusions drawn in the final report of the Committee do not clearly represent our stance in relation to this important issue for our members and the community.

Our position in relation to this important issue is re-stated in this submission:

- We believe that the primary focus of any legislative changes should be on the assessed care needs of the person rather than applying to a specific facility. We believe this allows for greater flexibility in the provision of aged care, promotes consumer choice and is more consistent with the 'Ageing in Place' ethos.
- We consider that the Aged Care Funding Instrument (ACFI) Assessment Tool and Aged Care Assessment Tool (soon to be incorporated within the National Screening and Assessment Form) provide the opportunity for professionals to clearly identify where a registered nurse would be required to meet high level needs.
- Our understanding of the ACFI assessment is that High Complex Needs can only be identified if those needs are ongoing needs rather than temporary care episodes. This means that flexible or episodic staffing arrangements would not be consistent with the funding instrument. Therefore we believe there should be registered nurses on duty at all times in nursing homes and

other facilities with residents who require a high level of care (who are assessed and funded to require a registered nurse to meet that need).

- We suggest there should be a requirement in statute that enables the assessment of needs to determine the provision of registered nurses at all times in all aged care facilities. This will ensure greater accountability and transparency within funding arrangements and ensure that there is meaningful assessment of care needs.
- This would also ensure that the legislation only applies to those people assessed and funded as requiring registered nurses to meet their needs. However, it would need to apply to all aged care facilities to support the ethos of 'Ageing in Place'.

### **Recommendation (as previously stated)**

The Public Health Act 2010 should be amended. Current legislation should be replaced by that which allows for provision of registered nurses at all times in any residential aged care facility where there are people assessed as requiring a registered nurse to meet their needs and where they are funded at that level.

## Term of Reference 5

Any other related matter

The provision of registered nurses at all times in RACF's is essential to enrolled nurse practice. Enrolled nursing practice requires the enrolled nurse to work under the direction and supervision of the registered nurse as stipulated by the Australian Nursing and Midwifery Council.<sup>37</sup> At all times, the enrolled nurse retains responsibility for his/her actions and remains accountable in providing delegated nursing care. If the requirement for registered nurses is removed then there are important considerations for our enrolled nurse workforce in aged care.

Registered aged care providers are suggesting that staffing should be determined by them and regulated by the Australian Aged Care Quality Agency. We consider this to be a reactionary model which potentially relies on crisis management. We are also concerned that this relies upon the Commonwealth legislation which we know does not provide clear guidance on what constitutes adequate staffing. We consider this system could only be effective if there were robust systems of outcomes based care regulation underpinned through legislation such as in operation within England. Whilst we would welcome such legislative reforms we consider it unlikely that these could be effected in a timely manner.

Should there be a future review of aged care quality and regulation at a Federal level we would suggest that consideration is given to work being undertaken by NHS England that seeks to place responsibility for staffing at provider level, or board level depending on the ownership of the facility.<sup>38</sup> Providers (or Boards) take full responsibility for the quality of patient care and could be statutorily required to ensure that the right staff are available when needed. However, this would require a change to the operation of the Australian Aged Care Quality Agency and also robust

statutory instruments to enable them to define what constitutes adequate staffing and provide them with greater powers of enforcement.

We are aware that a recent Senate inquiry into the adequacy of existing residential care arrangements for young people with severe physical, mental or intellectual disabilities in Australia has called for improvements in funding assessments and accreditation of aged care facilities in relation to younger people. It calls for a Federal focus on the assessment and review of younger people entering RACF's, better monitoring of the staffing provided mapped to clinical outcomes and improved training for all RACF staff involved in care.<sup>39</sup> This would seem an opportune time to review the operation of the whole system for assessment, funding and accreditation in RACF's. To bring the states into alignment and to create a transparent equitable outcomes based system.

We acknowledge that under 'Ageing in Place' arrangements aged care providers are concerned that they may have a scenario where only one or two residents require a registered nurse to meet their assessed needs. However, given rising acuity within our older population and greater emphasis on the provision of home based care within the aged care reforms, we consider that this scenario would be the exception rather than the norm in most facilities. This view is supported by our members working within aged care facilities and also by published statistics on the current funding of people in residential aged care.

A report recently published by the Aged Care Financing Authority also supports the view that aged care is a profitable business for all providers, regardless of location and size of service, provided they have forward thinking business models and re-invest finances to improve their facilities. It also shows that very few providers are considering leaving the industry despite aged care reforms.<sup>40</sup> Information from providers tells us that they can command up to \$209 high care ACFI supplement per resident per day. We consider that given most care facilities have a significant proportion of high care funded residents, even for those homes that are smaller than 70 beds, this level of funding would enable staffing at all times by registered nurses whilst still ensuring profitability.

It is of primary importance to us that the assessed care needs of the person are matched by the provision of registered nurses at all times. It is vital that changes at a Federal level do not compromise the strength of the NSW legislation protecting quality of nursing care for older people in residential aged care.

### **Recommendation**

The current system for monitoring and regulating quality in residential aged care facilities should be reviewed.

A robust system of independent, outcomes based care regulation that is underpinned through legislation should be created. This should incorporate quality outcomes that specifically address the recruitment, qualification, training and supervision of all staff employed in residential aged care facilities.

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