New South Wales Nurses and Midwives' Association

Effectiveness of the Aged Care Quality Assessment and accreditation framework for protecting residents from abuse and poor practices, and ensuring proper clinical and medical care standards are maintained and practised

Supplementary Submission

November 2017

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, Registered Nurses and Midwives at all levels including management and education.

The NSWNMA has approximately 64,500 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 currently have over 10,500 members who work in aged care. We consult with them in matters that are specific to their practice. We wish to acknowledge the contributions made by our members in preparing our comments.

We welcome the opportunity to provide a supplementary submission to this Inquiry.

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

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Terms of Reference

1. the effectiveness of the Aged Care Quality Assessment and accreditation framework for protecting residents from abuse and poor practices, and ensuring proper clinical and medical care standards are maintained and practised;
2. the adequacy and effectiveness of complaints handling processes at a state and federal level, including consumer awareness and appropriate use of the available complaints mechanisms;
3. concerns regarding standards of care reported to aged care providers and government agencies by staff and contract workers, medical officers, volunteers, family members and other healthcare or aged care providers receiving transferred patients, and the adequacy of responses and feedback arrangements;
4. the adequacy of medication handling practices and drug administration methods specific to aged care delivered at Oakden;
5. the adequacy of injury prevention, monitoring and reporting mechanisms and the need for mandatory reporting and data collection for serious injury and mortality incidents;
6. the division of responsibility and accountability between residents (and their families), agency and permanent staff, aged care providers, and the state and the federal governments for reporting on and acting on adverse incidents; and
7. any related matters.

Introduction

Since providing our original submission to this Inquiry the outcome of the Legislated Review of Aged Care 2017[1], Oakden Report[2] and Review of National Aged Care Quality Regulatory Processes[3] have been released. We have also published our report on the findings of a member survey into medication practices in NSW Residential Aged Care Facilities (RACFs).

Due to the significance of findings in these reports, we consider it necessary to make a further supplementary submission to this Senate Inquiry under term of reference 7 – any related matters. We believe that this Inquiry cannot occur without due consideration of this new evidence and wish to make comment in this regard.

Our comments relate to the need for safe staffing methodology to be implemented across all RACFs. There is a wealth of evidence that staffing impacts on quality of care, and was a key contributing factor in the Oakden findings. However, we are disappointed that the subsequent review of quality regulatory processes failed to make commitments in relation to mandating safe staffing levels and skills mix. It is our view that unless safe staffing is quantified and enforced in RACFs, any attempts to improve the quality assessment and accreditation framework will fail to protect the most vulnerable elderly in our society. For this reason, we wish to present additional evidence.

[1] Commonwealth of Australia (2017) *Legislated Review of Aged Care 2017*. Available at: www.agedcare.health.gov.au

[2] Department of Health and Ageing (SA) *The Oakden Report*. Available at: www.apo.org.au

[3] Carnell, K. and Paterson, R. (2017) *Review of National Aged Care Quality Regulatory Processes*. Available at: www.agedcare.health.gov.au

We believe that quality assessment must take account of safe staffing and that any processes, legislation and outcomes measured must be evidence-based and include modelling of what 'adequate and sufficient' staffing looks like.

In September 2017 the Legislated Review of Aged Care Report confirmed that aged care providers did not support mandated staffing requirements, including a mandated 24-hour registered nurse. The main objections being financial viability and lack of evidence linking staffing to improved quality of care. In particular, for rural and remote areas.

We are concerned that such claims are accepted without evidence to support their validity, and in the absence alternative solutions. Conversely there is a plethora of evidence that would support the flexibility that safe staffing methodology allows. Staffing based on acuity and need of residents would provide greater, not less flexibility to determine safe and appropriate staffing and skills mix, if applied correctly.

Concerns over the profitability of the rural and remote aged care sector effectively rubber stamps a postcode lottery in relation to equity of access for people in those areas, to a highly skilled workforce. In particular for the many Aboriginal and Torres Strait Islander communities living in those areas, who are already disadvantaged.

We argue that there has been no modelling undertaken to ensure people in rural and remote areas can have access to registered nurses and skilled care workers. Although the context of their care differs, people's care needs remain the same regardless of location, and Government policy must seek to ensure people living in those areas are not further disadvantaged in its attempt to retain sector profitability.

In providing evidence at the Senate Inquiry into the Future of Australia's Aged Care Sector Workforce, the Department of Health indicated that it was not Government policy to mandate staffing ratios at that time, yet confirmed this decision had been made in the absence of any modelling to investigate whether this would have a demonstrable impact on quality of care outcomes. It also confirmed that two year

funding had been allocated to an industry led taskforce, which was expected to be led by Industry peaks to work out a workforce solution. The Department of Health stated its intention to maintain the status quo of the arms-length regulation of staffing in aged care in making the statement *'It is not up to government in aged care or in many other sectors to dictate what that skill mix should look like for large, small or otherwise employers.'*

The Legislated Review of Aged Care report recognised that correlation between safe care and safe staffing had been raised by consumer advocacy organisations, clinical experts and unions representing the nursing workforce during preceding consultations. The review findings however, failed to make specific recommendations in this regard. The report states that '*Aged care providers are best able to determine their workforce needs and the development of a workforce strategy is best led by the sector with support from government'*.

We would argue that it is absolutely in the interests of public safety that the Government take an active role in determining safe staffing levels, in a similar way to that which it took when establishing minimum ratios for staffing of childcare and schools.

In concluding that the aged care sector, and industry peaks are best placed to determine safe staffing, we draw attention to the findings of the Oakden Report. This suggests that leaving decisions about staffing to providers may not be the most protective response. The Oakden investigation concluded there were insufficient nursing staff and no model of care or staffing methodology to determine an accurate staffing profile. It also cited a heavy reliance on personal care assistants in the absence of sufficient registered nurses, which was detrimental to patient care. The report called for benchmarking of optimum staffing levels.

More generally, the Australian Law Reform Commission Inquiry into Elder Abuse noted there had been several concerns raised throughout their inquiry, about inappropriate levels of staffing and skills mix existing in RACFs. Evidence gathered identified poor staffing as a causal factor in several Coronial Inquires.

The Inquiry concluded that: *'Where staffing numbers are insufficient, or the mix of staffing is inappropriate, there is potential for systemic neglect of residential aged care recipients.'* It recommended determining a clear benchmark for 'adequacy' of staffing to inform quality assessment, following independent evaluation of available research.

The Senate Inquiry into the Future of Australia's Aged Care Sector Workforce consulted widely on this matter and made similar recommendations, including the planning of a minimum nursing requirement.

We believe recommendations of the Review of National Aged Care Quality Regulatory Processes and Legislated Review of Aged Care fail to acknowledge research on safe staffing, and the recommendations of previous Inquires. This year, the Royal College of Nursing (UK) highlighted that enforceable safe staffing levels in every health and care setting must be in place to ensure that people using services are safe, wherever they are[4].

This was a direct response to the public inquiry led by Sir Robert Francis, QC. This concluded that low nurse to patient staffing ratios contributed to the poor care outcomes identified at the Mid-Staffordshire NHS Foundation Trust[5]. A subsequent study by Sir Bruce Keogh into mortality rates at 14 failing Trusts in England found inadequate numbers of nursing staff in a number of ward areas, particularly out of normal working hours during the night and weekends. This was compounded by an over-reliance on unregistered support staff and temporary staff[6].

There is a growing body of evidence within the public hospital sector, that care outcomes are raised when staffing levels are higher. A large-scale study of patients and nurses in the US and 12 European countries (33 659 nurses and 11 318 patients in Europe, 27 509 nurses and more than 120 000 patients in the US)

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4 The Royal College of Nursing (2017) *Safe and Effective Staffing: the Real Picture*. Available at: https://www.rcn.org.uk/professional-development/publications/pub-006195

5 The Mid Staffordshire NHS Foundation Trust (2013) Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, London: Stationery Office (Chairman: R Francis QC). Available at: www.midstaffspublicinquiry.com

6 Keogh B (2013) *Review into the quality of care and treatment provided by 14 hospital trusts in England: Overview report, NHS*. Available from:www.nhs.uk/NHSEngland/bruce-keoghreview/Documents/outcomes/keogh-reviewfinal-report.pdf

consistently rated increased care quality and patient satisfaction where ratios of nurses to patients was higher[7]. A further study identified an increase in a nurses' workload by one patient increased the likelihood of an inpatient dying within 30 days of admission by 7%[8]. Patients in hospitals with the high patient-to-nurse ratio have a 31% greater risk of dying than those in hospitals with half the amount of patients-to-nurse[9]; Findings also show as mean emotional exhaustion levels of physicians and nurses working in intensive care units rise, so does standardised patient mortality ratios[10].

The ANMF Safe Staffing and Skills Mix Project[11] provides clear direction to inform policy in relation to staffing. This research concludes that an optimum skills mix consists of a mix of 30% registered nurses; 20% enrolled nurses and 50% AINs (PCWs) providing 4.18 hours of direct care per resident per day. The causal relationship between registered nurse numbers, the amount of missed care and mortality rates, is clearly evidenced in the findings of research already available[7-11]. We suggest this evidence provides a sound basis to mandate minimum staffing ratios in aged care; and inform future staffing models.

More recently, we surveyed over 700 of our aged care members on medication practices in NSW RACFs. This resulted from widespread concern within our aged care membership, over unsafe medication practices. Findings showed that the presence of registered nurses on site, and improvements in the ratio of registered nurses to assistants in nursing (AINs/PCWs) has the potential to reduce life-threatening medication errors. Facilities that provided registered nurses on site at all times were more likely to be able to provide prompt pain relief and make informed clinical judgments about the appropriateness of medication administration[12].

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[7] Aiken, L. et al. (2012) Patient safety, satisfaction, and quality of hospital care: cross sectional surveys of nurses and patients in 12 countries in Europe and the United States. *British Medical Journal*, available online at: *BMJ* 2012;344:e1717 doi: 10.1136/bmj.e1717

[8] Aiken, L. et al (2014) Nurse staffing and education and hospital mortality in nine European countries: a retrospective observational study, *Lancet*; 383: 1824–30

[9] Aiken, L. et al. (2012) Hospital nurse staffing and patient mortality, nurse burnout and job satisfaction *Journal of the American Medical Association*, Vol. 288, No. 16, October 23–30.

[10] Welp A, Meier LL, and Manser T. (2015) Emotional exhaustion and workload predict clinician-rated and objective patient safety. Front Psychol 15;5:1-13.

[11] ANMF (2016) *National Aged Care Staffing and Skills Mix Project*. Available at: www.anmf.org.au

[12] NSWNMA (2017) The state of medication in NSW residential aged care. Available at: https://issuu.com/thelampnswnma/docs/medication_in_nsw_ras_final_lr

Mandated staffing ratios, offer a basic level of care to people and offer residents a safety net, which does not currently exist in all States and Territories across Australia. To speak about quality of care in terms of profitability clearly misses the mark when determining safe levels of care. Staffing should, and must be determined by care outcomes and not profitability of the sector. This can only be achieved if the quality assessment framework, and supporting legislation provide clear directions in relation to benchmarking of optimum staffing levels and skills mix. We urge this Inquiry to take note of the evidence and consider this in relation to its findings and recommendations.