



# Submission to: Aligning regulation across the care and support sector

**DECEMBER 2021**



**NSW NURSES AND MIDWIVES' ASSOCIATION**  
AUSTRALIAN NURSING AND MIDWIFERY FEDERATION NSW BRANCH

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# Foreword

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: registered nurses; enrolled nurses and midwives at all levels including management, research and education, and assistants in nursing and midwifery.

The NSWNMA has approximately 73,000 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.

NSWNMA strives to be innovative in our advocacy to promote a world class, well-funded, integrated health system by being a professional advocate for the health system and our members. We are committed to improving standards of patient care and the quality of services of all health and aged care services whilst protecting and advancing the interests of nurses and midwives and their professions.

We currently have over 10,000 members who work in aged care who are regularly consulted with respect to matters specific to their practice.

We welcome the opportunity to provide a submission to this Consultation.

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

## CONTACT DETAILS

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Whilst we have a number of members working in Veterans Health, Disability Services and Community, the majority of our members to which this consultation applies would be employed in residential aged care facilities. We also note this consultation is primarily concerned with examining the broad regulatory system governing these services, rather than the regulation of individual workers which is also subject to current consultation.

Based on the experiences of our members we perceive any review of regulation to be a positive move, since their experiences under the governance umbrella of the Aged Care Quality and Safety Commission have not been positive. And it must be acknowledged there has been a Royal Commission into Aged Care Quality and Safety<sup>1</sup>, and currently one examining abuse, neglect and exploitation of people living with a disability, including in disability services<sup>2</sup>. Both highlight the current regulatory impact has been negligible in enhancing quality and in residential aged care and found evidence of widespread neglect of aged care residents<sup>3</sup>.

The Australian Government Response to the Final Report of the Royal Commission into Aged Care Quality and Safety<sup>4</sup> failed to adopt recommendation five (Commissioner Pagone) which would have seen a complete overhaul of the existing regulatory body for aged care. As a result, we remain sceptical that meaningful change for our members will arise from any alignment of regulation.

Indeed, the most recent report from the Aged Care Quality and Safety Commission showed an 8% increase in complaints from consumers or their representatives, compared to the previous year. The main themes relating to poor staffing and skills mix and clinical care outcomes<sup>5</sup>. This occurring despite widespread criticism of the sector and its regulatory system by the Royal Commission into Aged Care Quality and Safety throughout that period. Aligning already failing regulatory bodies will seek only to further disrupt the operation of those bodies, creating less opportunity to resolve existing shortfalls.

We believe this significant change needs to be better considered. It comes at a time when multiple structural changes are occurring within already failing ageing and disability sectors and should be delayed until the systemic failings brought out through the Royal Commissions have been resolved with associated reforms embedded. We believe changing regulation in isolation of resolving all other failures in aged and disability care will be futile and will not allow for an informed response to what regulation needs to look like. In the meantime, work should continue to build on existing regulatory capacity.

Workforce is pivotal to the provision of good quality care. Regulation of unlicensed care workers would significantly reduce regulatory burden and enhance protections for people receiving ageing and disability services. Mandating safe levels of staffing and skills mix, including provision of registered and enrolled nurses at all times, not only 16 hours a day as recommended by the Federal Government Response to the Royal Commission into Aged Care Quality and Safety would ensure the top areas of existing complaint by people receiving services could be resolved. These fundamental, yet easily achievable measures would significantly reduce the need to press ahead with aligning regulation and allow space to develop a measured response with less risk of disruption to service delivery.

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<sup>1</sup> <https://agedcare.royalcommission.gov.au/>

<sup>2</sup> <https://disability.royalcommission.gov.au/>

<sup>3</sup> <https://agedcare.royalcommission.gov.au/publications/interim-report>

<sup>4</sup> <https://www.health.gov.au/resources/publications/australian-government-response-to-the-final-report-of-the-royal-commission-into-aged-care-quality-and-safety>

<sup>5</sup> <https://www.agedcarequality.gov.au/sites/default/files/media/acqsc-annual-report-2020-21.pdf>

There is significant evidence that care provided in residential aged care facilities is comparable to that provided in sub-acute hospital wards. People entering aged care are older and frailer with complex co-morbidities that require healthcare to be delivered and are not simply social care environments. We believe existing regulation of the healthcare system provides much greater protections for people in public services and believe these protections must be universally applied to all sectors.

We consider alignment of regulation must consider the broader provision of health and social care across all sectors to ensure a level playing field for everyone. This has the potential to remove perceived discriminatory systems that see aged and disability services falling short of public health services relative to quality care outcomes. It would also facilitate the movement of workers between services to enable expertise to be shared across sectors, thus building capacity in those sectors currently experiencing the most significant recruitment shortfalls.

### Recommendations:

1. Alignment of existing regulatory systems should be delayed and their capacity to deliver effective services reviewed and enhanced.
2. The measured development of a new federal regulator which standardises regulation across all sectors delivering health and social care should occur.
3. In the interim: enhancing staffing and skills mix including 24-hour scheduling of registered nurses and enrolled nurses in the aged care sector; regulation of care workers and resolution of existing regulatory shortfalls and endemic system-wide failures within aged and disability services should occur.



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