



13 March 2023

By email to: anaccoperations@health.gov.au

RE: Exposure Draft of the Aged Care Legislation Amendment (Registered Nurses) Principles 2023

Thank you for providing the opportunity to respond to this important matter.

No exemptions to the registered nurse 24/7 requirement

As consumer facing organisations, in principle we do not support exemptions to the requirement to provide a registered nurse 24/7. As evidenced through the Royal Commission, there is already insufficient nursing care available for residents in nursing homes.

Whilst we recognise the overall shortage of workers to fill skills shortages, residents requiring residential aged care require more, not fewer nurses to care for them. The focus of government reform must also be to strengthen the available workforce by providing incentives to attract workers to the sector such as decent workloads, pay and conditions.

Notwithstanding the shortage of available workers, we are concerned that there is little provision in the principles to require providers to continue efforts to recruit nurses whilst an exemption is in place. We believe this is vital to ensuring any exemption is not used as rationale to operate below required standards as a cost cutting measure.

Proposed solutions – incentives to attract and retain staff

The focus of government reform must also be to strengthen the available workforce by providing incentives to attract and retain workers to the sector, practical solutions could include (but are not limited to):

- Financial incentives such as tertiary education fee waivers, or debt forgiveness to attract more nurses into Bachelor of Science Nursing programs, or as incentive to serve fixed terms in rural and remote areas.
- Provide good quality free or heavily discounted accommodation and travel expenses to staff prepared to relocate to rural and remote areas.
- Establishment and/or extension of existing programs to support transition to practice and ongoing educational support for nurses in rural and remote areas.

Exemption inconsistent with a human rights-based approach

We believe the criteria of 30 beds or less, in MM5-7 areas is inconsistent with a human rights-based approach. Only considering exemptions for rural and remote areas perpetuates the concerning divide between the quality of care older people living in the bush receive, compared to those in metro areas. There is already a lack of locally available health care in these areas, removing a registered nurse from nursing homes will only put further pressure on rural hospitals and GPs.



In addition, we believe these proposals are not resident centred, since people living in a smaller place (30 beds or less) can still require the same high levels of nursing care as those in larger facilities. It would also be a disincentive for people to seek care in smaller, more homely nursing homes which are far more desirable living environments than larger institutional places.

Informed choices – transparency

Under 15S providers are only required to notify the Secretary, through application. Section 15S *Conditions that apply to exemption* should therefore contain an additional condition to require providers to notify existing and prospective residents of the exemption in a way that is culturally appropriate. For example, making this information available in different languages. This is to ensure consumers of care can make informed choices about whether they choose or continue to live in that nursing home.

The provisions in 44B(3) *report about registered nurse responsibility at residential facility* are to be made to the Secretary. We suggest this information must also be made available to residents and their family/representatives as key stakeholders in their care. Many family/representatives live some distance away and may not be aware of gaps in staffing rosters, and residents may lack capacity to keep them informed. We believe it is vitally important that any gaps in the provision of nursing care are transparently reported.

Compliance concerns

The legislation in its current form will rely on the Aged Care Quality and Safety Commission (the Commission) to ensure ongoing compliance and oversight of exemptions. We are concerned this will not be a sufficient safeguard for residents, since the Commission is itself, subject to a capability review the outcome of which is yet to be determined. We know there have been periods of up to four years between site audits and we are concerned the Commission does not have the resources required to effectively operate these additional functions.

Consultation

In addition, we believe there is a strong case for embedding consultation with workforce and consumers (or their representatives) as an additional measure of whether the clinical needs of residents are being sufficiently met where an exemption is in place.

Finally, we do not believe granting of further extensions to exemptions will drive higher quality aged care and provides a pathway for providers who would prefer to employ cheaper unregulated workers.



Our recommendations are as follows:

1. The principles must require providers to continue efforts to recruit nurses whilst an exemption is in place.
2. Exemptions must not apply to any facility where residents require high levels of nursing care.
3. Under 15S *Conditions that apply to exemption*, there should be an additional condition to require providers to notify existing and prospective residents of the exemption in a way that is culturally appropriate.
4. Consumer and workforce engagement must be an additional measure of whether the clinical needs of residents are being met where an exemption applies.
5. Extensions to exemptions currently proposed under 15S(3) must not be included.
6. The provisions in 44B(3) *report about registered nurse responsibility at residential facility* must also be made available to residents and their family/representatives as key stakeholders in their care.