

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Advisory Report on the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018

House of Representatives Standing Committee on Health, Aged Care and
Sport

December 2018
CANBERRA

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Chair's Foreword

In recent times, instances of mistreatment have brought attention to the quality of care provided in residential aged care facilities. The need to ensure that older Australians have access to high-quality residential care prompted the Committee to undertake an inquiry into Australian aged care facilities. This inquiry culminated in the recent release of the *Report on the Inquiry into the Quality of Care in Residential Aged Care Facilities in Australia*.

The inquiry highlighted that the provision of an appropriate number of staff is a critical component of the delivery of quality aged care and the Committee recommended the introduction of mandatory minimum staffing levels.

The Committee, therefore, also supports the passage of the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018, as it will increase consumers' access to information on staffing at aged care facilities.

The publication of staffing ratios is the focus of this advisory report. This alone, however, will not provide sufficient protection for older Australians living in aged care facilities. Other critical issues relating to the provision of quality care in aged care facilities are discussed in detail in the Committee's Aged Care Inquiry Report.

During the inquiry many submitters raised concerns that the publication of staffing ratios without contextual information and other quality measures would not provide consumers with a reliable or useful tool to assess different facilities. The Committee agrees contextual information should be developed by the Department however this should not become a hindrance to more transparency and greater consumer information.

The Committee welcomes the Government's recent establishment of the Royal Commission into Aged Care Quality and Safety. I anticipate the outcomes of the Royal Commission should provide an opportunity to strengthen safeguards and

result in an overall enhancement of the quality of care provided to older Australians.

There have been many recent inquiries into the aged care sector and so I would particularly like to thank the organisations and individuals who provided evidence to this inquiry. The continued engagement of so many organisations and individuals is a testament both to the importance of this issue and of the passion and commitment of those who seek to improve Australia's aged care system.

Finally, I would like to thank my fellow Committee Members, including Ms Rebekha Sharkie MP, whose bill is the subject of this report and who joined the Committee as a Supplementary Member for the course of the inquiry. The Committee is also exceptionally grateful to our Committee staff who bring a high degree of professionalism and dedication to the work of our Committee.

Mr Trent Zimmerman MP
Chair

Contents

Chair's Forewordiii

Membersvii

Committee Secretariat..... ix

Abbreviations..... xi

List of Recommendationsxiii

The Report

1 Introduction.....1

 Background..... 1

 Summary of Key Provisions 1

 Proposed Section 9-3C..... 2

 Proposed Amendments to Subsection 86-9 4

 Purpose of the Bill 4

 Other Issues Underpinning the Bill 5

 Recent and Ongoing Complementary Inquiries and Reviews 8

 About the Inquiry..... 10

 Objectives and Scope..... 10

 Inquiry Conduct..... 11

 Report Structure..... 11

2 New Reporting Regime13

 Introduction 13

Transparency of the Aged Care System	13
Meaningful Quality Indicators for Aged Care	15
Government Standards and Indicators	15
Staffing Ratios as a Quality Indicator.....	17
Contextualising Information for Consumers	19
Acuity of Care	20
Calculating Staff Numbers	21
Financial and Regulatory Impacts	23
Monitoring and Improvement	24
Committee Comment	25
Recommendations.....	27
3 Mandating Minimum Staffing Levels.....	29
Overview	29
Models of Care.....	30
Funding and Delivery of Care	31
Minimum Staffing Levels.....	33
Staff Skill Mix.....	35
Staffing Categories in the Bill.....	36
International Benchmarking.....	40
Committee Comment	41
Appendix A. Submissions	45
Appendix B. Exhibits	47
Appendix C. Hearing and Witnesses	49

Members

Chair

Mr Trent Zimmerman MP

Deputy Chair

Mr Steve Georganas MP

Members

Mr Tony Zappia MP

Mrs Lucy Wicks MP

Hon Damian Drum MP (from 10.09.2018)

Dr Mike Freeland MP

Mr Andrew Laming MP

Ms Michelle Landry MP (until 26.08.2018)

Mr Tim Wilson MP

Supplementary Member

Ms Rebekha Sharkie MP (from 20.09.2018)

Committee Secretariat

Ms Stephanie Mikac, Secretary

Mr Timothy Brennan, Inquiry Secretary (from 5.11.18)

Ms Caitlin Cahill, Inquiry Secretary

Mr Raqeeb Bhuyan, Research Officer

Ms Carissa Skinner, Office Manager

Abbreviations

ACFI	Aged Care Funding Instrument
ACIA	Aged Care Industry Association
ACQA	Aged Care Quality Association
ACSA	Aged and Community Services Australia
ACW	Aged Care Workforce
AHPA	Allied Health Professions Australia
AMA	Australian Medical Association
ANMF	Australian Nursing and Midwifery Federation
ANZSGM	Australian and New Zealand Society for Geriatric Medicine
CHA	Catholic Health Australia
COTA	Council on the Ageing
DoH	Department of Health
EM	Explanatory Memorandum
FECCA	Federation of Ethnic Communities' Councils of Australia
LASA	Leading Age Services Australia
NMA	Nurses and Midwives' Association
NSA	National Seniors Australia
NSW	New South Wales
OPAN	Older Persons Advocacy Network
QACAG	Quality Aged Care Action Group

QIP	Quality Indicator Program
QNMU	Queensland Nursing and Midwives' Union
UK	United Kingdom of Great Britain
USA	United States of America
WA	Western Australia

List of Recommendations

Recommendation 1

- 2.66 The Committee recommends that the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 be passed by the Parliament.

Recommendation 2

- 2.67 The Committee recommends that the Department of Health publish the staffing ratio data specified in the Bill in a form that allows consumers to consider resident acuity levels when comparing facilities.

Recommendation 3

- 2.68 The Committee recommends that, should the proposed Bill be passed, that for twelve months following the implementation of the Bill, the Department of Health monitor (and make legislation and other adjustments where necessary), the effectiveness of:
- subsection 9-3C(4) with a view to whether there is a need to report on staffing ratios at night and on weekends; and
 - subsection 9-3C(9) with a view to whether this clause creates an unnecessary reporting burden, particular for smaller facilities.

Recommendation 4

- 2.69 The Committee reiterates the recommendation from its *Report on the Inquiry into the Quality of Care in Residential Aged Care Facilities in Australia* that: the National Aged Care Quality Indicator Program:

- be made mandatory for providers of Australian Government-funded residential aged care services; and
- be expanded to include a broader range of key indicators, to be determined with the involvement of the aged care sector and consumer groups.

Recommendation 5

3.55 The Committee reiterates the recommendation from its *Report on the Inquiry into the Quality of Care in Residential Aged Care Facilities in Australia*, which is that the Australian Government:

- legislate to ensure that residential aged care facilities provide for a minimum of one Registered Nurse to be on site at all times; and
- specifically monitor and report on the correlation between standards of care (including complaints and findings of elder abuse) and staffing mixes to guide further decisions in relation to staffing requirements.

Recommendation 6

3.56 The Committee recommends that, twelve months after implementation, the Australian Government review the effectiveness of publishing staffing ratios in improving transparency and consumer choice. This should include consideration of whether amendments are needed to the ten staffing categories outlined in subsection 9-3C(5).

1. Introduction

Background

- 1.1 On 22 August 2018, the House of Representatives Selection Committee¹ referred the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018² (the Bill) to the Standing Committee on Health, Aged Care and Sport (the Committee) for inquiry.³ The Committee subsequently adopted the inquiry into the proposed Bill on 13 September 2018.
- 1.2 The Bill proposes to amend the *Aged Care Act 1997* (Cth) (the Act) by inserting a new section 9-3C and amending subsections 86-9(1) and 86-9(2).

Summary of Key Provisions

- 1.3 Proposed section 9-3C creates an obligation to notify the Secretary of the Department⁴ of Health (the Secretary) of the staff to residential care service⁵ recipient ratio.

¹ Pursuant to Standing Order 222(f) as deemed to be referred by the House of Representatives.

² The Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 (Private Members Bill) was introduced into the House of Representatives on 20 August 2018 by Ms Rebekha Sharkie MP, House of Representatives Votes and Proceedings No. 129, Monday, 20 August 2018, p. 1733.

³ House of Representatives Selection Committee, Report No. 29, 22 August 2018, p. 12.

⁴ As defined in Schedule 1 Dictionary of the Aged Care Act 1997 (Cth) (the Act).

⁵ Meaning 'an undertaking through which residential care is provided.' Schedule 1 Dictionary of the Act.

- 1.4 Proposed subsection 86-9(1A) requires the Secretary to 'make publicly available any information about'⁶ the staff to residential aged care recipient ratio, as notified under proposed section 9-3C.⁷
- 1.5 Proposed amendment to subsection 86-9(2) has the effect of requiring only the name of the aged care provider, including the names of: directors or management committee of the aged care providers to be disclosed under proposed subsection 86-9(1A).⁸

Proposed Section 9-3C

- 1.6 **Proposed subsection 9-3C(1)** creates a requirement for an 'approved aged care provider'⁹ to notify the Secretary of the ratio of care¹⁰ recipients to staff members, in regard to each residential care service they operate.'¹¹
- 1.7 **Proposed subsection 9-3C(2)** creates a requirement for a ratio to 'be broken down into ratios for each category'¹² of staff member as provided for in proposed subsection 9-3C(5).¹³
- 1.8 **Proposed subsection 9-3C(3)** creates a requirement for part-time staff¹⁴ to be counted 'as an appropriate fraction of a full-time equivalent.'¹⁵
- 1.9 **Proposed subsection 9-3C(4)** provides for the time period for reporting of ratios to the Secretary (in reference to proposed subsection 9-3C(1)) as the

⁶ Explanatory Memorandum (EM) to the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 (the Bill), p. 3.

⁷ EM, p. 3.

⁸ EM, p. 4.

⁹ A person or body in respect of which an approval under Part 2.1 is in force, and as provided for in section 8-6 including any State or Territory, *authority of a State or Territory or *local government authority. Schedule 1 Dictionary of the Act.

¹⁰ Services, or accommodation and services provided to a person whose physical, mental or social functioning is affected to such a degree that the person cannot maintain himself or herself independently. Schedule 1 Dictionary of the Act.

¹¹ EM, p. 3.

¹² Category of staff member is described in paragraph pertaining to proposed subsection 9-3C(5).

¹³ Bill and EM, p. 3.

¹⁴ Bill, p. 3.

¹⁵ EM, p. 3.

annual days as specified in the regulations. Where there are no days specified in the regulations, the annual reporting dates will be: 1 January, 1 April, 1 July and 1 October.¹⁶

- 1.10 **Proposed subsection 9-3C(5)** lists the categories of staff member referred to in proposed subsection 9-3C(2).¹⁷ These are: registered nurse levels 1 to 5, enrolled nurse, nurse with a certificate IV or equivalent, personal care attendant, allied health staff, and other staff.¹⁸
- 1.11 **Proposed subsection 9-3C(6)** requires that a notification made under proposed subsection 9-3C(1) 'be made as soon as practicable after the day to which the notification relates.'¹⁹
- 1.12 **Proposed subsection 9-3C(7)** requires 'the notification' made under proposed subsection 9-3C(1) 'be in the form approved by the Secretary.'²⁰
- 1.13 **Proposed subsection 9-3C(8)** enables a notification to be made under proposed subsection 9-3C(1) which may include an explanation of no more than 250 words in total, by the approved provider in relation to the notified ratio.²¹
- 1.14 **Proposed subsection 9-3C(9)** creates a requirement that where there is a change of more than 10 per cent in a notified ratio, the approved provider must, within 28 days notify the Secretary of the change.²²
- 1.15 **Proposed subsection 9-3C(10)** provides that the definition of 'staff member' be the same as the definition in section 63-1AA of the Act.²³

¹⁶ Bill, p. 3.

¹⁷ Bill and EM, p. 3.

¹⁸ Bill, pp 3 and 4.

¹⁹ EM, p. 3.

²⁰ Bill, p. 4.

²¹ Bill, p. 4.

²² Bill, p. 4.

²³ Under the Act, a staff member of an approved provider is defined as 'an individual who is employed, hired, retained or contracted by the approved provider (whether directly or through an employment or recruiting agency) to provide care or other services.' Section 63-1AA, the Act.

Proposed Amendments to Subsection 86-9

- 1.16 **Proposed subsection 86-9(1A)** requires the Secretary to ‘make publicly available any information about’ the notified²⁴ ratio.²⁵
- 1.17 **Proposed amendment to subsection 86-9(2)** would require that ‘information disclosed under new subsection 86-9(1A) must not include personal information about a person, except the name of the approved provider of the service and the names of directors, or members of the committee of management, of the approved provider (as per subsection 86-9(1)(g)).’²⁶

Purpose of the Bill

- 1.18 The purpose of the proposed Bill is to:
- ...effect the quarterly publication of ratios of aged care recipients to staff members for each residential care service operated by approved providers, with the aim of creating greater public transparency in the provision of residential care services and informing members of the public in any choice they may make regarding residential care services.²⁷
- 1.19 The proposed Bill effects this outcome by putting in place a requirement for residential care service providers to notify the Secretary ‘of the ratios’, who must then arrange for this information to be made public.²⁸
- 1.20 These ratios are required to be reported for ‘separate categories of staff member, and ... non-full-time staff members’ (counted as an appropriate fraction of full-time equivalent).²⁹
- 1.21 As part of this reporting process, the residential care service provider may include ‘an accompanying explanation’ of 250 words or less, which (when included) must also be published with the reported ratio information.³⁰

²⁴ Pursuant to proposed section 9-3C.

²⁵ Bill, p. 4.

²⁶ EM, p. 4.

²⁷ EM, p. 2.

²⁸ EM, p. 2.

²⁹ EM, p. 2.

³⁰ EM, p. 2.

- 1.22 Should there be a change in the ratio of aged care recipients to staff member of more than 10 per cent between quarterly reporting requirements, then the aged care provider ‘must...notify the Secretary within 28 days’ of the event having occurred.³¹
- 1.23 In accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth), the statement of compatibility with human rights included as an appendix to the Explanatory Memorandum provides that ‘the bill is compatible with human rights as it does not raise any human rights issues.’³²

Other Issues Underpinning the Bill

- 1.24 The proposed Bill was introduced as a mechanism to assist in better-informing the public about which aged care facility to select, which is usually undertaken during ‘trying circumstances’. In introducing the Bill, Ms Rebekha Sharkie MP stated:

Ageing Australians and their families should not be kept in the dark...This bill would shine a light upon residential aged-care facilities by requiring them to publish their staffing ratios by qualification, and an optional accompanying explanation. There is no cost to government for this transparency.

The reality is that most elderly Australians who move into nursing homes are making their last move in their living circumstances, and it is certainly not a decision that older Australians or their families take lightly. It is a difficult and extremely important decision, all too often made under trying circumstances, and currently those decisions are not being fully informed because important information about the level and quality of expert care that they can expect is being kept from them. ... A better informed public is a more discerning public; they have a right to know what they are signing up for.³³

- 1.25 In addition, the proposed Bill is seeking to partly address community concern about the absence of a mandatory minimum staffing number per resident in residential aged care facilities. In the proposed Bill’s first reading speech, it was explained that:

There was a repeated and insistent call for mandatory minimum staffing ratios for residential aged-care facilities, echoing the sentiments the community has

³¹ EM, p. 2.

³² EM, p. 5.

³³ House of Representatives, *Official Hansard*, No. 11 2018, Monday, 20 August 2018, p7673-7675.

expressed... the contrast is often made ...in our community that we have staffing ratios in child care but we [do not] have them in aged care, and why is it that ratios are applied to child care, but not to aged care? There is no good answer to that question.³⁴

1.26 Another piece of proposed legislation has sought to mandate minimum staffing ratios. Prior to the introduction of the proposed Bill, on 6 September 2017, Senator Derryn Hinch introduced into the Senate, the Aged Care Amendment (Ratio of Skilled Staff to Care Recipients) Bill 2017 (the Senate Bill) in his capacity as a private senator.³⁵

1.27 The Senate Bill was introduced taking into consideration that:

International research suggests that higher Registered Nurse staffing levels, higher total staffing levels and a high skills mix (ratio of Registered Nurses to other nursing staff) are associated with better quality care...The majority of aged care staff in Australia are personal care attendants or community care workers, with a declining share of Registered Nurses over the last decade or more. In 2016, the average total care hours worked per resident per day were 2.9 hours.³⁶

1.28 The purpose of the Senate Bill is to:

...introduce the concept of a mandated ratio of skilled staff to care recipients in Australia's aged care residential facilities... The passage of the Bill would require the Quality of Care Principles to mandate a minimum adequate and safe ratio of appropriately skilled staff to care recipients. This ratio should take into account the number of care recipients receiving care through the aged care service at that time, the type of care and level of care provided.³⁷

1.29 The Senate Bill is currently before the Senate.

1.30 On 13 September 2018, the Minister for Senior Australians and Aged Care³⁸, launched the *Aged Care Workforce Strategy* (the ACW Strategy)³⁹. The ACW Strategy was the result of a six month consultation and engagement process

³⁴ House of Representatives, *Official Hansard*, No. 11 2018, Monday, 20 August 2018, p7673-7675.

³⁵ The Senate, *Official Hansard* No. 10. 2017, Wednesday, 6 September 2017, p. 6533.

³⁶ EM to the Aged Care Amendment (Ratio of Skilled Staff to Care Recipients) Bill 2017, p. 1.

³⁷ EM to the Aged Care Amendment (Ratio of Skilled Staff to Care Recipients) Bill 2017, p. 1.

³⁸ The Honourable Ken Wyatt AM MP.

³⁹ The strategy was published by the Aged Care Workforce Strategy Taskforce.

undertaken by the Aged Care Workforce Strategy Taskforce (the Taskforce). The purpose of the Taskforce 'was to develop a strategy for growing and sustaining the workforce that provides aged care services and support for older people to meet their care needs in a variety of settings across Australia.'⁴⁰

1.31 The resulting report, *A Matter of Care – Australia's Aged Care Workforce Strategy*, was delivered to the Minister for Senior Australians and Aged Care on 29 June 2018 and included 14 recommendations (strategic actions).⁴¹

1.32 There were a number of recommendations which dealt with staffing. Recommendation 6 provided for the establishment 'of a new standard approach to workforce planning and skills mix modelling.'⁴² Specifically recommendation 6 states:

With aged care organisations required to demonstrate that the workforce is planned and the number and mix of staff deployed enables the delivery and management of safe and quality care and services, a standard approach to the fundamental elements of workforce planning is needed. The elements are: an organisation's business model (including model of care offered); profiles of each consumer; development and updating of holistic care plans; organisation of work (staff numbers, composition and skills); reporting and accountability to consumers, including provision for an integrated care and clinical governance committee for coverage of care delivered.⁴³

1.33 The Department of Health stated that the ACW Strategy 'recommended an industry-led approach to transparency about staffing levels'.⁴⁴

1.34 Further, the Department of Health stated that the ACW Strategy:

...also recognises that the care needs of older Australians are growing increasingly complex, with a high incidence of multiple chronic conditions, including dementia and changing community expectations.⁴⁵

⁴⁰ The Taskforce was announced by the Minister for Senior Australians and Aged Care on 1 November 2017 with Professor John Pollaers appointed as the independent chair of the taskforce, Department of Health, Aged Care Workforce Taskforce, www.agedcare.health.gov.au, accessed 9 November 2018.

⁴¹ Department of Health, www.agedcare.health.gov.au, accessed 15 November 2018.

⁴² Australia's Aged Care Workforce Strategy, *At a Glance – the fourteen Strategic Actions, Recommendation 6*, September 2018.

⁴³ Australia's Aged Care Workforce Strategy, *At a Glance – the fourteen Strategic Actions, Recommendation 6*, September 2018.

⁴⁴ Department of Health, *Submission 23*, pp 4-5.

- 1.35 Notwithstanding the acute state of the current and estimated future demand being placed on aged care, the ‘Taskforce did not support the introduction of legislated staff ratios.’⁴⁶
- 1.36 Specifically in regard to staffing levels and mix the ACW Strategy stated:
- There is no single optimum number of staff, or combination of staff qualifications, that will result in quality aged care in all circumstances. Rather, the number of staff required will change according to the varying needs of those individuals; the service or facility size and design; the way work is organised, including the extent to which services are outsourced; and, ultimately, the business model.⁴⁷
- 1.37 Following the Taskforce recommendation, the Department of Health stated, ‘the Government is supporting Professor John Pollaers OAM, former Chair of the Taskforce, to facilitate sector implementation of the Strategy.’⁴⁸
- 1.38 Discussion about staffing is contained in Chapter 3 of this report.

Recent and Ongoing Complementary Inquiries and Reviews

- 1.39 On 22 October 2018, the Committee presented its *Report on the Inquiry into the Quality of Care in Residential Aged Care Facilities in Australia* in the House of Representatives (the Aged Care Inquiry Report).⁴⁹
- 1.40 The Aged Care Inquiry was conducted over a ten month period, received 123 submissions with seven public hearings held across Australia. The Aged Care Report includes 14 recommendations made by the Committee which encompass how the aged care system operates, its mechanisms for identifying, reporting and addressing failings, and proposed reforms for improving the experience of those who do and will access aged care services.

⁴⁵ Department of Health, *Submission 23*, p. 4

⁴⁶ Department of Health, *Submission 23*, p. 5

⁴⁷ Report of the Aged Care Workforce Strategy Taskforce, *A Matter of Care – Australia’s Aged Care Workforce Strategy*, June 2018, pp 39-40.

⁴⁸ Department of Health, *Submission 23*, p. 5

⁴⁹ House of Representatives, *Votes and Proceedings No.145*, Monday, 22 October 2018, p. 1909.

- 1.41 The Committee's Aged Care Inquiry Report provided a detailed examination of issues around aged care including funding, policy frameworks, reporting, complaints mechanisms and crucially, staffing and associated issues. As a result, recommendations of that report are reiterated where appropriate.
- 1.42 The Aged Care Inquiry was conducted at the same time as the Senate's Standing Committee on Community Affairs inquiry on 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.
- 1.43 The Senate Community Affairs Committee inquiry is ongoing.
- 1.44 Other significant recent inquiries and reviews into aged care include the:
- Australian Law Reform Commission Report: *Elder Abuse – A National Legal Response*, May 2017
 - Australian Government's: *Aged Care Legislated Review* (Tune Review), September 2017
 - Productivity Commission Report: *Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services*, October 2017
 - Australian Government's: *Review of National Aged Care Quality Regulatory Processes* (Carnell-Paterson Review), October 2017
 - South Australian Independent Commissioner Against Corruption: *Oakden: A Shameful Chapter in South Australia's History*, February 2018.⁵⁰
- 1.45 These reviews and inquiries have culminated in the recently announced request by the Australian Government for a Royal Commission into Aged Care Quality and Safety (the Royal Commission)⁵¹.
- 1.46 The Royal Commission was formally established on 8 October 2018 with the Honourable Justice Joseph McGrath and Ms Lynelle Briggs AO appointed as Commissioners.⁵²

⁵⁰ House of Representatives Standing Committee on Health, Aged Care and Sport, *Report on the Inquiry into the Quality of Care in Residential Aged Care Facilities in Australia*, October 2018, pp 5-11.

⁵¹ Prime Minister, Minister for Health, Minister for Senior Australians and Aged Care, *Media Release*, 16 September 2018.

⁵² Royal Commission into Aged Care Quality and Safety, <http://agedcare.royalcommission.gov.au>, accessed 15 November 2018

- 1.47 The Royal Commission will be based in Adelaide and conducted over an 18-month period, with an interim report due by 31 October 2019 and a final report expected by 30 April 2020.⁵³
- 1.48 The Royal Commission will have the powers bestowed to it under the *Royal Commissions Act 1902* (Cth), which broadly are to summon witnesses and compel the production of documents, with penalties attached for those who fail to do so.⁵⁴
- 1.49 Witnesses will be required to give evidence under oath regardless of exposure to criminal prosecution or civil penalties, and while claims may be made for legal professional privilege, these claims will have to be substantiated and accepted by the Commissioners.⁵⁵

About the Inquiry

Objectives and Scope

- 1.50 The majority of submissions and evidence received in reference to the inquiry supported the premise of the Bill. While complementary policy issues were raised during the course of the inquiry, the focus of the inquiry has been on the practicality of the components of the proposed Bill.
- 1.51 Regardless of the ongoing inquiry into aged care (which the committee was undertaking at the time), a number of community advocacy organisations strongly urged the Committee to conduct a thorough inquiry into the Bill. In this respect, taking into consideration ongoing community concern about various policy aspects arising from the proposed Bill (and other recent inquiries and reviews into aged care), this report also includes evidence received in relation to principal policy issues and concern pertaining to the proposed Bill.
- 1.52 Issues raised in relation to the policy context of the Bill included aged care industry-wide considerations such as:

⁵³ Royal Commission into Aged Care Quality and Safety, <http://agedcare.royalcommission.gov.au>, accessed 15 November 2018

⁵⁴ A penalty of 2 years imprisonment may be applied for failure of witnesses to attend, produce documents or give information or statements to a Royal Commission. Section 3, *Royal Commissions Act 1902* (Cth).

⁵⁵ Section 6AA, *Royal Commissions Act*.

- The practicality and usefulness of gathering statistical information with respect to: uniformity, timing and meaningfulness of trend information;
 - Arriving at and reporting meaningful performance indicators, including application of a detailed star-rating type system to better inform consumer choice;
 - Using the Aged Care Funding Instrument to mandate minimum staffing numbers and staffing profile based on resident acuity and care need; and
 - Delivering and measuring quality outcomes in aged care and the impact of staffing (including rostering considerations) in these areas.
- 1.53 Importantly, the majority of evidence to the Committee suggested that there is solid in principle community support for greater transparency, accountability, and comparability around the publication of statistical information pertaining to staffing levels in aged care.
- 1.54 In addition, the majority of advocacy organisations were of the view that the Bill would provide for a practice of recording and reporting on staffing in aged care which could be further developed over time.
- 1.55 While the majority of evidence to the Committee either makes the case in support of, or in opposition to, minimum mandated staffing levels in aged care, this inquiry is focused on the publication of staffing levels in aged care, in line with the purpose of the Bill.
- 1.56 Discussion on these issues is included in Chapters 2 and 3 of this report.

Inquiry Conduct

- 1.57 On 14 September 2018, a media release was issued announcing the inquiry and called for submissions to be received by 4 October 2018.
- 1.58 The Committee received 48 submissions and three exhibits to the inquiry, which are listed at Appendixes A and B respectively.
- 1.59 A roundtable public hearing was subsequently held in Canberra on 26 October 2018.
- 1.60 Witnesses who appeared before the committee at public hearing are listed at Appendix C. A transcript of the evidence provided at the public hearing is available on the committee's website at www.aph.gov.au/health.

Report Structure

- 1.61 Chapter 1 outlines the components and the purpose of the proposed Bill.

- 1.62 Chapter 2 discusses issues raised in evidence which relate to the new reporting regime under the proposed Bill and associated issues.
- 1.63 Chapter 3 discusses issues raised in evidence to the proposed Bill which relate to mandating minimum staffing levels.

2. New Reporting Regime

Introduction

- 2.1 The Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 (the Bill) aims to increase the availability of information to consumers by publishing staff to resident ratios (staffing ratios) for residential aged care facilities.
- 2.2 Having a sufficient number of well trained staff is a crucial element in the provision of quality care in aged care facilities. In addition, there are other factors that are also important to consumers and these are not included in the reporting requirements outlined in the Bill. The publication of staffing ratios may be more beneficial to consumers if the numbers are contextualised with additional information and explanation.
- 2.3 The preparation of staffing ratio reports may involve additional administration for providers. It is therefore important that any information collected from providers will assist consumers to make informed choices regarding aged care options.

Transparency of the Aged Care System

- 2.4 The Bill will require residential aged care facilities to report information on staffing ratios. Specifically, the aim of the Bill is to create:
 - ... greater public transparency in the provision of residential care services and informing members of the public in any choice they may make regarding residential care services.¹

¹ Explanatory Memorandum to the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018, p. 2.

- 2.5 The Aged Care Guild suggested that ‘transparency is about providing access to meaningful information that gives clarity on the quality of care provided, assisting consumers to make informed decisions’. The Aged Care Guild added that the Bill was a ‘positive step forward in transparency in the sector’.²
- 2.6 The Quality Aged Care Action Group considered that the amendments proposed in the Bill ‘will empower the community to make decisions about which services provide better staffing and skills mix.’³ In a similar vein, the Queensland Nurses and Midwives' Union stated that the Bill is ‘an opportunity to provide greater disclosure in aged care’, and will ‘increase transparency of practice and provide public accountability in residential aged care services.’⁴
- 2.7 The Australian Nursing and Midwifery Federation added that the Bill would also increase ‘transparency concerning how government funding is spent by aged care providers’.⁵
- 2.8 In contrast, the Aged Care Quality Association (ACQA) was of the view that ‘the Bill does not create greater public transparency in the provision of residential care.’⁶ Leading Age Services Australia (LASA) similarly questioned whether the Bill would ‘support more informed choice for older Australians when considering their care options’, as ‘every individual’s needs are different and every facility is different’.⁷
- 2.9 The Australian Physiotherapy Association described the Bill as ‘one component of enhancing quality and transparency in residential aged care facilities.’⁸ Similarly, the Australian Medical Association (AMA) suggested

² Mr Matthew Richter, Chief Executive Officer, Aged Care Guild, *Official Committee Hansard*, Canberra, 26 October 2018, p. 5.

³ Quality Aged Care Action Group, *Submission 2*, p. 3.

⁴ Queensland Nurses and Midwives' Union, *Submission 11*, p. 3.

⁵ Ms Annie Butler, Federal Secretary, Australian Nursing and Midwifery Federation, *Official Committee Hansard*, Canberra, 26 October 2018, p. 8.

⁶ Aged Care Quality Association (ACQA), *Submission 44*, p. 6.

⁷ Mr Sean Rooney, Chief Executive Officer, Leading Age Services Australia (LASA), *Official Committee Hansard*, Canberra, 26 October 2018, p. 4.

⁸ Australian Physiotherapy Association, *Submission 35*, p. 1.

that this Bill should only be the first step in reforming the aged care sector. The AMA stated:

... whilst we are very supportive of this Bill, we see it as only the first small step to reforming our aged care system. It lays down the basic groundwork. But we need to pay attention to training, pay, morale, appropriate regulation and not just red tape, supporting adequate medical care, quality end-of-life care and minimising unnecessary trips to the hospital.⁹

Individual Experiences of Transparency in Aged Care

- 2.10 Some inquiry participants provided personal accounts of their experiences of the difficulties in making informed decisions about the quality of care in aged care facilities. Mrs Hariklia Nguyen stated that she had ‘never experienced a system so complex and difficult to access consumer related information ... in a timely manner as the aged care system’.¹⁰
- 2.11 Similarly, Ms Liz Turner provided an example of the impact that a lack of transparency can have on aged care residents and their families. Ms Turner stated that she is:

... about to move my mother, a frail, vulnerable 94-year-old with advanced dementia, to her third [aged care facility]. If I’d had the relevant information, [for example] staff ratios, on the two facilities where she received poor care, I would not be in this position.¹¹

Meaningful Quality Indicators for Aged Care

Government Standards and Indicators

- 2.12 The Department of Health highlighted a number of government measures, both existing and in development, that are intended to assist consumers in making decisions relating to residential aged care facilities. In August 2017, the Australian Government announced it would begin publishing Consumer Experience Reports for residential aged care facilities.¹² The reports are

⁹ Dr Simon Torvaldsen, Chair, Australian Medical Association (AMA) WA Council of General Practice; Member, AMA Council of General Practice, *Official Committee Hansard*, Canberra, 26 October 2018, p. 3.

¹⁰ Mrs Hariklia Nguyen, *Submission 27*, p. 1.

¹¹ Ms Liz Turner, *Submission 13*, p. 1.

¹² Australian Aged Care Quality Agency, ‘New report focuses on the resident experience in aged care’, *Media Release*, 18 August 2017.

based on a survey of approximately 10 per cent of residents during the re-accreditation process for an aged care facility.

2.13 Consumer Experience Reports provide qualitative information, including if:

- Staff treat residents with respect;
- Residents feel safe;
- Staff meet the health care needs of residents;
- Staff follow up when residents raise things with them;
- Staff explain things to residents;
- Residents like the food at the facility;
- There are staff to talk to when residents are feeling a bit sad or worried; and
- Staff know what they are doing.¹³

2.14 The Department of Health is developing a new Single Aged Care Quality Framework which will include: new Aged Care Quality Standards (the Standards); arrangements for assessing providers against the Standards; a charter of rights for residents; and the publication of information to help consumers choose aged care providers.¹⁴

2.15 The Department of Health advised that the Standards are intended to focus on 'quality outcomes for consumers rather than provider processes.'¹⁵

2.16 From 1 July 2019, the Standards will come into effect and 'providers will be required to demonstrate that their care and services are safe and effective, and delivered in accordance with each consumer's needs'.¹⁶

2.17 From July 2020, the My Aged Care website will publish the performance ratings of residential aged care service providers which will provide a comparison to assist consumers to make more informed choices about

¹³ Department of Health, *Submission 23*, p. 3.

¹⁴ Department of Health, 'Single Quality Framework: focus on consumers', <https://agedcare.health.gov.au/quality/single-quality-framework-focus-on-consumers>, accessed 17 November 2018.

¹⁵ Department of Health, *Submission 23*, p. 3.

¹⁶ Department of Health, *Submission 23*, pp 3-4.

providers.¹⁷ The Department of Health described the publication of these ratings as a 'possible star rating type system'. The measurements devised to assess providers against the Standards are expected to be used in developing this rating system.¹⁸

- 2.18 In addition, the Australian Government's National Aged Care Quality Indicator Program (QIP) tracks three indicators of aged care quality: incidence of 'pressure injuries, the use of physical restraint and unplanned weight loss.'¹⁹
- 2.19 The QIP is a voluntary program with approximately 10 per cent of providers participating.²⁰ The Department of Health stated that:
- Quality indicator data will be published on the My Aged Care website when the data has been established as reliable and accurate and following stakeholder consultation.²¹
- 2.20 The Council on the Ageing (COTA) Australia stated that the Victorian Government uses these three indicators as part of a larger suite of indicators to measure performance in Victorian aged care facilities.²²

Staffing Ratios as a Quality Indicator

- 2.21 Catholic Health Australia (CHA) questioned whether staff ratios provided consumers with any valuable information they could use to make decisions about aged care facilities. The CHA stated that 'staffing ratio data [is] not

¹⁷ Department of Health, 'Better Quality of Care – greater transparency of quality in aged care', <http://health.gov.au/internet/budget/publishing.nsf/Content/budget2018-factsheet84.htm>, accessed 13 November 2018.

¹⁸ Ms Maria Jolly, First Assistant Secretary, Aged Care Reform and Compliance Division, Department of Health, *Official Committee Hansard*, Canberra, 26 October 2018, p. 12.

¹⁹ My Aged Care, 'Quality indicators in aged care', <https://www.myagedcare.gov.au/quality-and-complaints/quality-indicators-in-aged-care>, accessed 13 November 2018.

²⁰ Ms Maria Jolly, Department of Health, *Official Committee Hansard*, Canberra, 26 October 2018, p. 13.

²¹ Department of Health, 'About the National Aged Care Quality Indicator Program', <https://agedcare.health.gov.au/ensuring-quality/quality-indicators/about-the-national-aged-care-quality-indicator-programme>, accessed 13 November 2018

²² Ms Judy Gregurke, National Manager, Aged Care Reform, Council on the Ageing (COTA) Australia, *Official Committee Hansard*, Canberra, 26 October 2018, p. 15.

straightforward for consumers to interpret and, if relied upon, [is] potentially misleading'.²³

- 2.22 Similarly, the Aged Care Industry Association (ACIA) suggested that staff ratio information, on its own, could 'create only the illusion of information, not necessarily actual understanding'. As an example the ACIA highlighted the 'Oakden Older Persons Mental Health Service, which had a very high staffing ratio and lots of qualifications and provided dreadful care'.²⁴
- 2.23 The Older Persons Advocacy Network (OPAN) stated that there was 'limited evidence' that staffing ratios are an effective quality indicator in aged care settings. The OPAN added that 'staffing ratios are a contentious and complex matter and this Bill appears to be premature in proposing a solution before an in-depth exploration into the matter has occurred'.²⁵
- 2.24 Similarly, UnitingCare Australia was concerned that the reporting requirements in the Bill could have the 'effect of legislating particular staffing models by default.' UnitingCare Australia suggested that 'options for independent review of staffing practices by a body such as the Aged Care Quality and Safety Commission or an external financial auditor should be canvassed'.²⁶
- 2.25 The Allied Health Professions Australia (AHPA) expressed concerns with the Bill and stated that staff ratios 'do not necessarily indicate the quality or appropriateness of care provided'. Despite this, the AHPA supported the passage of the Bill through Parliament suggesting that it would increase 'transparency for consumers about the staffing resources within residential aged care services'.²⁷
- 2.26 The Australian Nursing and Midwifery Federation, while acknowledging that other factors were also important, emphasised the significance of

²³ Mr Nicolas Mersiades, Director, Aged Care, Catholic Health Australia, *Official Committee Hansard*, Canberra, 26 October 2018, p. 8.

²⁴ Mr Luke Westenberg, Chief Executive Officer, Aged Care Industry Association, *Official Committee Hansard*, Canberra, 26 October 2018, p. 6.

²⁵ Older Persons Advocacy Network, *Submission 29*, p. 3.

²⁶ UnitingCare Australia, *Submission 39*, p. 6.

²⁷ Allied Health Professions Australia, *Submission 15*, p. 1.

staffing levels, stating ‘numbers do matter ... if you are one registered nurse and you have got 160 residents, numbers matter’.²⁸

Contextualising Information for Consumers

2.27 The LASA and Aged and Community Services Australia (ACSA) both highlighted that there were many factors other than staff numbers that can impact on quality of care. These factors included: resident acuity, models of care, building design, community volunteers, technology, and services provided by external staff.²⁹

2.28 The LASA stated that without additional information a staffing ratio could be difficult to interpret and potentially misleading for consumers if they were unable to easily compare facilities or services.³⁰ The ACSA suggested that ‘a staffing ratio should only be used where it is part of a suite of quality indicators’. The ACSA added:

We recommend Government work with key stakeholders and industry to develop such a suite of quality indicators (that includes a staffing ratio measure) that are evidence based and focus on the quality of care and services that consumers receive.³¹

2.29 The provision of extra information that would assist consumers in making ‘like-for-like’ comparisons between residential aged care facilities was supported by Estia Health and COTA Australia.³²

2.30 Furthermore, the Federation of Ethnic Communities' Councils of Australia (FECCA) suggested that the provision of additional information is particularly important for culturally and linguistically diverse consumers who may have a lower ‘knowledge of the aged care systems in Australia’.³³

²⁸ Ms Annie Butler, Australian Nursing and Midwifery Federation, *Official Committee Hansard*, Canberra, 26 October 2018, p. 16.

²⁹ Mr Sean Rooney, LASA, *Official Committee Hansard*, Canberra, 26 October 2018, p. 4; Ms Patricia Sparrow, Chief Executive Officer, Aged and Community Services Australia, *Official Committee Hansard*, Canberra, 26 October 2018, p. 5.

³⁰ Mr Sean Rooney, LASA, *Official Committee Hansard*, Canberra, 26 October 2018, p. 4.

³¹ Aged and Community Services Australia, *Submission 33*, p. 5.

³² Mr Mark Brandon, Chief Policy and Regulatory Officer, Estia Health, *Official Committee Hansard*, Canberra, 26 October 2018, p. 10; Ms Judy Gregurke, COTA Australia, *Official Committee Hansard*, Canberra, 26 October 2018, p. 9.

³³ Federation of Ethnic Communities' Councils of Australia, *Submission 17*, p. 3.

The FECCA suggested that additional information should include details on how much individual attendance a resident can expect under standard staffing ratios.³⁴

- 2.31 The Department of Health suggested that the information provided to consumers should be easy to understand and that ‘any measurements selected and the way they are communicated [be] chosen carefully’.³⁵
- 2.32 The Australian and New Zealand Society for Geriatric Medicine (ANZSGM) similarly emphasised the importance of how data is presented to consumers and proposed the development of a ‘quality and safety dashboard’. The dashboard could provide information relating to a facility’s:
- Staffing ratio;
 - Skill mix;
 - Access to primary care (both in-hours and out-of-hours);
 - Access to specialist services;
 - Use of hospital admission and ambulances, including out-of-hours; and
 - Number of facility acquired complications.³⁶

Acuity of Care

- 2.33 The AMA stated that a staffing ratio indicator risked being misunderstood if it was not ‘contextualised by data on the level of care needs of the [residential aged care facilities] residents.’ The AMA added that production of information on level of care needs ‘is not an onerous requirement on the industry’.³⁷
- 2.34 Hall and Prior Health and Aged Care Group (Hall and Prior) added that ‘publishing existing staff ratios without context for complexity of the needs of the people they care for will ... drive staffing to the lowest acceptable level to the community’.³⁸
- 2.35 Hall and Prior explained that residents in its facilities require high levels of care and that it therefore invests in ‘highly skilled clinical teams’ that are

³⁴ Federation of Ethnic Communities' Councils of Australia, *Submission 17*, p. 3.

³⁵ Department of Health, *Submission 23*, p. 6.

³⁶ Australian and New Zealand Society for Geriatric Medicine, *Submission 41*, p. 2.

³⁷ AMA, *Submission 20*, p. 1.

³⁸ Hall and Prior Health and Aged Care Group, *Submission 42*, p. 7.

shared across multiple facilities. Hall and Prior was concerned that these staff members would not be captured in staffing ratios for its facilities. By contrast:

... the staffing profile for an aged care home with much lower acuity than ours would be much more represented by direct care workers, service attendants, and people performing social care duties. These types of roles are typically direct-employed by the care home ... and so would be represented in the care ratios, making these ratios appear to be much lower than a more highly acute home [with] a workforce with much higher clinical skills like ours.³⁹

- 2.36 The COTA Australia suggested that the publication of staff ratios should be accompanied by the publication of a resident acuity measure, drawn from Aged Care Funding Instrument (ACFI) data already available to the Department of Health.⁴⁰
- 2.37 The Australian College of Nursing also recommended using ACFI data, describing it as a 'cumulative total measure of resident acuity within a particular facility at a specific point of time'.⁴¹

Calculating Staff Numbers

Reporting Dates

- 2.38 The LASA expressed concerns in relation to the requirement, specified in subsection 9-3C(4) of the Bill, for staff ratios to be reported for four days across the year. The LASA stated that 'staffing levels vary somewhat from day to day' and therefore it proposed that a full time equivalent staff average calculated across a six week period be used for each of the four reporting periods.⁴²
- 2.39 The ACQA highlighted that one of the four dates specified in subsection 9-3C(4) is 1 January and that 'many facilities have residents on social leave for the Christmas or New Year period and therefore will reduce staff'.⁴³ The ACQA explained that this may trigger the additional reporting outlined in subsection 9-3(9), stating that:

³⁹ Hall and Prior Health and Aged Care Group, *Submission 42*, p. 7.

⁴⁰ Ms Judy Gregurke, COTA Australia, *Official Committee Hansard*, Canberra, 26 October 2018, p. 9.

⁴¹ Australian College of Nursing, *Submission 46*, p. 3.

⁴² LASA, *Submission 34*, p. 6.

⁴³ ACQA, *Submission 44*, p. 4.

Routinely reporting staffing levels if they fall on a weekend or public holiday will require numerous unnecessary reports to the Secretary. There will be a deviation in staffing numbers as soon as a 'normal working day' is worked, not necessarily in larger homes but certainly in smaller rural and remote organisations.⁴⁴

- 2.40 The Western Australian Government stated that rather than specifying notification dates a 'more appropriate way' of capturing staff numbers and categories could be through the unannounced audit program.⁴⁵
- 2.41 The Western Australian Government highlighted that the Bill does not account for fluctuations in staffing levels on weekends or during the night. This could have the consequence of aged care facilities reporting 'a high number of [staff] at a certain time of the day but not [having] adequate staff coverage at night or peak times'.⁴⁶
- 2.42 National Seniors Australia (NSA) added that there are different staffing requirements during different parts of the day with 'workloads heaviest in mornings and during meal times when residents require intensive assistance but less at night time'. The NSA added that it was aware 'of instances when low staffing levels in periods of low demand, such as at night, result in substandard care for residents'.⁴⁷
- 2.43 The COTA Australia made a similar point stating that the daytime is 'not the time that consumers are worried about, consumers, particular around high-clinical-care needs, want to know [if] there is a nurse overnight'.⁴⁸

Agency Staff

- 2.44 The ACIA highlighted that the definition of staff in the Bill included short-term agency staff. The ACIA stated that:

... use of large numbers of agency staff in a facility would therefore support high reported staff numbers—but it is conceivable that use of a small number

⁴⁴ ACQA, *Submission 44*, p. 5.

⁴⁵ Western Australian Government, *Submission 43*, p. 2.

⁴⁶ Western Australian Government, *Submission 43*, p. 1.

⁴⁷ National Seniors Australia, *Submission 25*, p. 5.

⁴⁸ Ms Judy Gregurke, COTA Australia, *Official Committee Hansard*, Canberra, 26 October 2018, p. 9.

of long-term staff, who are more familiar with and to residents, would provide improved services and more confidence to residents and families.⁴⁹

Financial and Regulatory Impacts

- 2.45 The AMA cautioned that the Bill should not impose any ‘unnecessary [regulatory] burden upon these already stretched facilities’. The AMA added that any ‘time spent on compliance is time that cannot be spent actually looking after people’.⁵⁰
- 2.46 The Department of Health suggested the requirement under subsection 9-3C(9) of the Bill⁵¹ would ‘increase administrative costs and regulatory burden’ for providers.⁵² Similarly, the New South Wales (NSW) Government stated that quarterly reporting was ‘sufficient to provide a clear view of the staffing ratios in individual facilities’. The NSW Government added that, for small providers, the additional reporting of a 10 per cent staffing change may result in a situation where ‘one or two staff leaving and being replaced could trigger a reporting requirement for an insignificant and temporary situation’.⁵³
- 2.47 The ACQA also questioned the requirements of subsection 9-3C(9). The ACQA suggested that consistent monitoring of staffing ratios to identify changes would be ‘particularly onerous on small rural and remote facilities that do not have [the] economy of scale ... to produce this information on either a daily or weekly basis.’⁵⁴
- 2.48 More broadly, the ACQA stated that the provision of staffing ratio data created an administrative burden because it cannot be completed ‘rapidly from a payroll system, because there would be a lot of service providers who come in on a contract basis or a fee-for-service basis who are not paid directly out of a payroll function.’⁵⁵

⁴⁹ Aged Care Industry Association, *Submission 36*, p. 3.

⁵⁰ Dr Simon Torvaldsen, Chair, AMA, *Official Committee Hansard*, Canberra, 26 October 2018, p. 3.

⁵¹ Subsection 9-3C(9) requires providers to report changes to staffing ratios of greater than 10 per cent that occur between reporting periods.

⁵² Department of Health, *Submission 23*, p. 6.

⁵³ New South Wales Government, *Submission 45*, p. 5.

⁵⁴ ACQA, *Submission 44*, p. 4.

⁵⁵ Mrs Gail Harding, Chairman, ACQA, *Official Committee Hansard*, Canberra, 26 October 2018, p. 6.

- 2.49 In a similar vein, the AHPA suggested that reporting on allied health professionals would be difficult as they are generally ‘either employed by a group of facilities which makes allocation of hours complex, or they are contracted on a sessional or as needed basis’.⁵⁶
- 2.50 In contrast, Mrs Hariklia Nguyen commented that staffing data is ‘already collected and reported regularly’ by aged care facilities.⁵⁷ As such, Mrs Nguyen questioned whether the Bill would create an ‘additional administration cost’.⁵⁸
- 2.51 The Department of Health, considering the regulatory cost to government, stated that:
- ... there will be costs to design and implement the solution to publishing staffing ratios on the My Aged Care website. There are also likely to be ongoing costs for Government and aged care providers in collecting, collating and publishing the information proposed by the Bill.⁵⁹

Monitoring and Improvement

- 2.52 The Australian College of Nursing and COTA Australia both suggested that the Aged Care Quality and Safety Commission should be responsible for checking staffing rosters of aged care facilities to monitor the accuracy of data reported by providers.⁶⁰
- 2.53 The ACQA advised that it had created a ‘quality platform’ that its members could use to benchmark their performance against other facilities with similar levels of ACFI funding. Providers who subscribe to the platform can compare their performance based on criteria such as ‘medication, incidences, falls, skin integrity issues and behaviours of concern’.⁶¹

⁵⁶ Allied Health Professions Australia, *Submission 15*, p. 2.

⁵⁷ For example Mrs Nguyen highlighted data provided to the Aged Care Quality Agency and financial benchmarking data provided to StewartBrown for its quarterly survey of residential aged care providers (see for example: StewartBrown, ‘Financial Benchmarking’, <http://www.stewartbrown.com.au/services/financial-benchmarking>, accessed 14 November 2018).

⁵⁸ Mrs Hariklia Nguyen, *Submission 27*, p. 1.

⁵⁹ Department of Health, *Submission 23*, p. 6.

⁶⁰ Australia College of Nursing, *Submission 46*, p. 3; COTA Australia, *Submission 24*, p. 7.

⁶¹ Mrs Gail Harding, ACQA, *Official Committee Hansard*, Canberra, 26 October 2018, p. 12.

- 2.54 The Department of Health advised that it is developing a risk profiling algorithm that is intended to assist the Government with identifying which services might have higher risk and which services you might visit [for site audits] sooner and more often'.⁶²

Committee Comment

- 2.55 In recent years a number of inquiries, including the Committee's own *Inquiry into the Quality of Care in Residential Aged Care Facilities in Australia*, have shown that there is a pressing need to increase the level of transparency in the aged care system. Increasingly, the experience of deciding to place a family member into residential care is made when the elder person's care needs have become acute. Consumers are often faced with the need to quickly make a difficult decision about the suitability of different care facilities. Yet they have little independently verified information to help them make an informed choice.
- 2.56 Even if a consumer is only looking for a hotel for a single night, each hotel they consider will have many, often hundreds of, reviews as well as ratings against criteria such as 'comfort', 'cleanliness', 'facilities', and 'staff'. Given this, you would expect consumers to have access to ample information to assist them make a decision about where a loved family member will live and who will provide their medical support and care in their later years of life. Unfortunately this is not the case.
- 2.57 From the evidence received, the Committee does not believe that, on its own, the publication of staffing ratios will provide the necessary transparency to enable consumers to make informed decisions or increase the quality of care provided to aged care residents. Indeed, the Committee has previously, in its Aged Care Report, recommended the development of a broad, consumer-oriented, rating system. The Committee reiterates this recommendation and urges the Department of Health to continue to work with the aged care sector to develop a rating scheme for residential aged care facilities.
- 2.58 Despite these limitations, the Committee supports the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 (the Bill) as it will increase the amount of information available to consumers. It may only be a minor step, but it is a first step.

⁶² Ms Maria Jolly, Department of Health, *Official Committee Hansard*, Canberra, 26 October 2018, p. 12.

- 2.59 Consumer advocacy, peak organisations, and individuals (including those that supported the Bill) made suggestions regarding how the Bill could be improved. The Committee agrees that minor modifications to how staffing ratios are reported could significantly improve the quality of information provided to consumers.
- 2.60 A major issue raised is that the proposed method of reporting staffing ratios does not take into consideration differing levels of resident acuity. Facilities that predominantly care for residents with highly acute medical needs may, and usually will, have higher staffing ratios. It does not follow, however, that a potential resident with less acute needs would be best suited to this type of care rather than an aged care home with a greater emphasis on quality of life activities.
- 2.61 The Committee recommends that the Department of Health consider how resident acuity levels can be presented alongside facility staffing ratios when this data is published. The Committee believes that reported staffing ratios need to be accompanied by additional data, in order to enable consumers to make like-for-like comparisons between facilities.
- 2.62 The Bill currently does not account for fluctuations in staffing numbers between day and night or due to weekends or public holidays. Ensuring that residents have access to registered nurses at all times, and especially overnight, is a key concern of many consumers.
- 2.63 Additionally, the requirement for providers to report changes to staffing ratios of greater than 10 per cent between reporting periods may create an unnecessary regulatory burden. This may be particularly likely in smaller rural and remote facilities where a temporary absence of just a few staff members could initiate a reporting requirement.
- 2.64 Given these concerns, the Committee recommends the Department of Health monitors the effectiveness of the Bill in relation to staffing on weekends and at night, and additional reporting requirements. If monitoring shows these sections of the Bill are not operating as intended, the Government should consider further amendments to the *Aged Care Act 1997* (Cth).
- 2.65 The Committee also received evidence that the Government's voluntary National Aged Care Quality Indicator Program is only being used by approximately 10 per cent of providers. The Committee reiterates the

recommendation it made in its Aged Care Report that this program be expanded and made mandatory.

Recommendations

Recommendation 1

- 2.66** The Committee recommends that the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 be passed by the Parliament.

Recommendation 2

- 2.67** The Committee recommends that the Department of Health publish the staffing ratio data specified in the Bill in a form that allows consumers to consider resident acuity levels when comparing facilities.

Recommendation 3

- 2.68** The Committee recommends that, should the proposed Bill be passed, that for twelve months following the implementation of the Bill, the Department of Health monitor (and make legislation and other adjustments where necessary), the effectiveness of:
- subsection 9-3C(4) with a view to whether there is a need to report on staffing ratios at night and on weekends; and
 - subsection 9-3C(9) with a view to whether this clause creates an unnecessary reporting burden, particular for smaller facilities.

Recommendation 4

- 2.69** The Committee reiterates the recommendation from its *Report on the Inquiry into the Quality of Care in Residential Aged Care Facilities in Australia* that: the National Aged Care Quality Indicator Program:
- be made mandatory for providers of Australian Government-funded residential aged care services; and
 - be expanded to include a broader range of key indicators, to be determined with the involvement of the aged care sector and consumer groups.

3. Mandating Minimum Staffing Levels

Overview

- 3.1 Staffing decisions within a residential aged care facility are influenced by a range of factors. This includes the model of care used and level of resident need in a facility, which can impact both the number of staff and mix of skilled and non-skilled employees. The care needs of residents also determine the level of funding provided through the Aged Care Funding Instrument (ACFI), which can affect staffing decisions.
- 3.2 Despite these variances, implementing a mandatory minimum level of staffing and/or skill mix may help to ensure quality and safety across the aged care sector. On the other hand, mandating a set staffing level may stifle innovation, and even lead to some 'high performing' aged care facilities to reduce their staffing levels.
- 3.3 The Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 (the Bill) does not mandate minimum staffing levels or mix of skills. Rather, the Bill seeks to introduce the mandatory disclosure of staff to resident ratios by staff category. These categories provide some information on the range of skills and services available in aged care facilities, although issues were raised about the level of detail needed to ensure consumers could make informed decisions.
- 3.4 Other jurisdictions already have systems in place for the disclosure of information related to residential aged care facilities, including staffing information. This includes the United States of America (USA) and the United Kingdom of Great Britain (UK), both of which could provide useful reporting models for Australia to consider.

Models of Care

- 3.5 The aged care sector employs a range of care models. Hall and Prior Health and Aged Care Group (Hall and Prior), for example, advised that it offers a ‘highly-clinical’ model of care that involves ‘24-hour registered nurse care’ for high acuity resident cohorts.¹ Hall and Prior further stated that the ‘reality is you don’t enter a care home now until you have high care, complex needs.’²
- 3.6 Contrasting care in residential aged care facilities to hospitals, the Australian College of Nursing stated that aged care facilities ‘are homes where people are living.’³ The Aged Care Industry Association advised that non-nursing staff can address quality-of-life and ‘whole person’ needs through work that includes the provision of ‘food, excursions, [and] in-home activities’.⁴
- 3.7 HammondCare was concerned that the Bill could ‘potentially disadvantage’ its ‘dementia-specific cottage model of residential aged care’, which has fewer residential nurses and more personal care attendants, specialised dementia carers and care staff to residents overall than ‘more conventional’ aged care homes.⁵ HammondCare explained that the Bill:
- ... does not clearly show that the cottage model has an overall higher ratio of care staff to residents than most standard aged care homes. This is an important measure that is meaningful to prospective consumers.⁶
- 3.8 As such, HammondCare recommended any publication of staffing ratios ‘consider the overall care staff to resident ratio and give consumers the opportunity to understand more about different models of care and the evidence behind them.’⁷

¹ Hall and Prior Health and Aged Care Group, *Submission 42*, p. 7.

² Mrs Jennifer Grieve, General Manager, Health and Care Services, Western Australia, Hall and Prior Health and Aged Care Group, *Official Committee Hansard*, Canberra, 26 October 2018, p. 20.

³ Ms Susan Emerson, Member Representative, Australian College of Nursing, *Official Committee Hansard*, Canberra, 26 October 2018, p. 17.

⁴ Aged Care Industry Association, *Submission 36*, pp 2-3.

⁵ HammondCare, *Submission 19*, p. 4.

⁶ HammondCare, *Submission 19*, p. 4.

⁷ HammondCare, *Submission 19*, p. 5.

- 3.9 Dementia Alliance International advised that its ‘members generally see the emergence of the “Dementia Villages” as an expensive avoidance of providing best care’.⁸ Similarly, the New South Wales Nurses and Midwives’ Association (NSW NMA) stated that its ‘members are concerned that aged care providers are attempting to introduce non-nursing models into residential aged care facilities as a cost cutting measure.’⁹
- 3.10 Subsection 9-3C(8) of the Bill allows a 250 word ‘explanation by the approved provider in relation to any ratio notified.’¹⁰ Aged and Community Services Australia (ACSA) raised concerns that ‘consumers may not avail themselves of the accompanying text, or that the word limit won’t allow for detailed explanations of all the variables that impact on a provider’s staffing level in a way that will assist consumers’ understanding.’¹¹

Funding and Delivery of Care

- 3.11 Leading Age Services Australia (LASA) advised that staffing allocations in residential aged care facilities ‘are influenced by the levels of funding provided under the ACFI.’¹² Catholic Health Australia outlined the impact of ACFI funding on staffing and stated that ‘a service with an average daily ACFI payment of \$160 per resident per day will have a very different staffing profile to one of a similar size with an ACFI payment of \$190 per resident per day.’¹³
- 3.12 UnitingCare Australia also stated that ‘flexibility around staffing is more limited than services would prefer, being highly dependent on the ACFI model of funding.’¹⁴
- 3.13 Some residential aged care providers indicated that, in addition to ACFI funding, they have relied on their own resources to maintain their staffing levels. UnitingCare Australia stated its current capacity to provide a ‘model

⁸ Dementia Alliance International, *Submission 22*, p. 3.

⁹ New South Wales Nurses and Midwives’ Association (NSW NMA), *Submission 3*, p. 6.

¹⁰ Explanatory Memorandum to the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018, p. 3.

¹¹ Aged and Community Services Australia, *Submission 33*, p. 6.

¹² Leading Age Services Australia, *Submission 34*, p. 4.

¹³ Mr Nicolas Mersiades, Director, Aged Care, Catholic Health Australia, *Official Committee Hansard*, Canberra, 26 October 2018, p. 8.

¹⁴ UnitingCare Australia, *Submission 39*, p. 4.

of quality care ... depends on the draw-down of church and community resources.’¹⁵ Hall and Prior advised it had created ‘efficiencies in non-direct care areas, but this cannot continue indefinitely.’ Hall and Prior further advised that smaller providers cannot achieve these efficiencies as ‘labour is 85 per cent of their costs.’¹⁶

- 3.14 Hall and Prior stated that the Bill may place an expectation on aged care providers to increase their staffing levels, which would require additional government funding. Hall and Prior explained:

[The Government] cannot ask providers on one hand to improve the number of staff on the floor of an aged care home, but then continue to reduce the funding available that would pay for those staff members’ wages and assist us all to attract and retain a motivated workforce.¹⁷

- 3.15 The Council on the Ageing (COTA) Australia considered that an increase in staffing hours would need to be funded by increased ‘government subsidies and consumer contributions.’¹⁸ The COTA Australia highlighted the 2018 Aged Care Workforce Strategy Taskforce report *A Matter of Care–Australia’s Aged Care Workforce Strategy*, which outlined the potential cost:

StewartBrown estimate that the effect of legislating direct care staffing hours to 4.3 hours per resident per day would increase care staffing costs by an overall average of \$53.09 per bed per day (\$19 379 per bed per annum, currently estimated to be a 20 to 25 per cent increase in total costs for organisations).¹⁹

- 3.16 The Australian Nursing and Midwifery Federation (ANMF) suggested that costs associated with additional funding for increased staffing levels could partly be offset by gains from reducing ‘ambulance transfers [and] unnecessary hospital admittance’. In addition the ANMF stated that there is

¹⁵ UnitingCare Australia, *Submission 39*, p. 4.

¹⁶ Hall and Prior Health and Aged Care Group, *Submission 42*, p. 6.

¹⁷ Hall and Prior Health and Aged Care Group, *Submission 42*, p. 6.

¹⁸ Council on the Ageing (COTA) Australia, *Submission 24*, pp 3-4.

¹⁹ COTA Australia, *Submission 24*, p. 3; Aged Care Workforce Strategy Taskforce, *A Matter of Care–Australia’s Aged Care Work Strategy*, June 2018, p. 91.

‘approximately \$400 million of wastage in the system because of staff turnover and related issues’ which could be addressed.²⁰

Minimum Staffing Levels

- 3.17 The Australian Medical Association (AMA) considered that the publication of staff to resident ratios should be accompanied by the introduction of a regulated minimum staff to resident ratio (arrived at through consultation). The AMA stated:
- ... publishing staffing ratios alone may potentially result in setting a ‘poor standard’ of staffing as the commonly accepted ‘minimum’. Whereas a regulated minimum staff ratio, developed in consultation with the medical profession and other key stakeholders, would prevent this ... A regulated minimum will, in our strong opinion, still allow [residential aged care facilities] to find innovative ways to care for their residents, through a different mix of staff, above the minimum ‘safety net’ of staff required.²¹
- 3.18 National Seniors Australia similarly stated that many of its members ‘would like to see minimum staffing ratios instituted within residential aged care.’²² The ANMF also supported mandatory ratios, in part to address its concern that ‘the number of registered nurses and enrolled nurses have noticeably decreased in many aged care facilities’ despite increasing complexity of care requirements among residents.²³
- 3.19 The Australian and New Zealand Society for Geriatric Medicine (ANZSGM) also made the point that ‘numbers do matter’, as there ‘is a minimum level which guarantees safety.’²⁴
- 3.20 Ms Helen Hardy stated that introducing staff ratios (and increasing the number of staff) ‘is not all about extra duties being carried out [by staff], it is about care being carried out appropriately’. Ms Hardy stated that currently, registered nurses are ‘rushed with an impossible workload’, and often

²⁰ Ms Annie Butler, Federal Secretary, Australian Nursing and Midwifery Federation (ANMF), *Official Committee Hansard*, Canberra, 26 October 2018, p. 18.

²¹ Australian Medical Association, *Submission 20*, p. 3.

²² National Seniors Australia, *Submission 25*, p. 1.

²³ ANMF, *Submission 28*, p. 4.

²⁴ Professor Edward Strivens, President, Australian and New Zealand Society for Geriatric Medicine (ANZSGM), *Official Committee Hansard*, Canberra, 26 October 2018, p. 17.

residents are unable to locate a staff member when they need assistance. Ms Hardy further stated that if Australia wants 'to continue to have recognised first class care facilities, we need to improve staff ratios.'²⁵

- 3.21 Hall and Prior supported the development of a mandated staff ratio that reflected acuity of residents and was accompanied by adequate funding. Hall and Prior stated that it would:

... encourage the Government to mandate a researched and thoughtful staffing ratio sensitive to the assessed acuity of residents within the home using the existing [ACFI] tool. This will ensure that adequate care hours are delivered across the appropriate skillsets of staff for the band of acuity that aged care home is assessed to have. ... We make this request in the good faith that the corresponding pool of aged care funding supports the staffing ratio that is mandated after due financial modelling and analysis.²⁶

- 3.22 The ANMF stated that it was aware of concerns that mandated staffing levels may be a 'blunt' instrument, which could have the effect of increasing the number of unqualified staff in aged care.²⁷ The ANMF addressed these concerns by highlighting that any minimum staffing level would need to be applied flexibly, with a staged approach and with an acknowledgement of skill levels and distribution. The ANMF stated:

... [ratios are about] ... setting a mandated minimum staffing level, setting a floor, that can be flexibly and innovatively applied across a facility, or a range of facilities, to ensure care needs are met ... In the jurisdictions in the country where we already have nurse-to-patient ratios they have taken several years to implement. You do it in a particular staged way. You also need to meet workforce supply and development ... With the ratios, there need to be the right qualifications and the right number of staff, appropriately distributed.²⁸

- 3.23 Aged Care Matters highlighted that staff ratios are used in hospitals and child care centres in Australia. In addition, Aged Care Matters highlighted staffing studies from Canada, the UK, Germany, Norway and Sweden which indicated that 'the ratio of registered nurses-to-residents has a positive

²⁵ Ms Helen Hardy, *Submission 12*, p. 1.

²⁶ Hall and Prior Health and Aged Care Group, *Submission 42*, p. 6.

²⁷ Ms Annie Butler, ANMF, *Official Committee Hansard*, Canberra, 26 October 2018, p. 16.

²⁸ Ms Annie Butler, ANMF, *Official Committee Hansard*, Canberra, 26 October 2018, p. 16.

impact on the standards of care in an aged care home', and that 'residents have better outcomes when registered nurses are on duty.'²⁹

3.24 In contrast, the COTA Australia and UnitingCare Australia did not support the introduction of mandated minimum staffing ratios, and stated that the evidence to support this approach was inconclusive.³⁰ The COTA Australia further stated that 'there is evidence that a mandated staff ratio can lead to facilities which have staffing above minimum ratio levels deciding to reduce their staff, thus impacting negatively on residents in other ways.'³¹

3.25 As an alternative to mandatory minimums, the COTA Australia advised that it supported 'a more qualified workforce with the right skills mix', with 'improved training, skills development and remuneration.'³²

Staff Skill Mix

3.26 A mix of skills among the staff of residential aged care facilities was another important consideration for inquiry participants. The Queensland Nurses and Midwives' Union highlighted research which outlined that minimum care requirements in residential aged care facilities should include a 'skill mix requirement of 30 per cent [Registered Nurse], 20 per cent [Enrolled Nurse] and 50 per cent personal care worker.'³³

3.27 The LASA stated that 'the mix of staff is as important to determining the level of care as absolute staffing numbers'.³⁴ The COTA Australia added that the capabilities of staff are important to consumers, as 'staffing skills, levels and qualifications are among the most frequently requested information from consumers about residential aged care facilities.'³⁵

²⁹ Aged Care Matters, *Submission 8*, p. 2.

³⁰ COTA Australia, *Submission 24*, p. 3; UnitingCare Australia, *Submission 39*, p. 3.

³¹ COTA Australia, *Submission 24*, p. 3.

³² COTA Australia, *Submission 24*, p. 3.

³³ Queensland Nurses and Midwives' Union, *Submission 11*, p. 3, referencing E. Willis, K. Price, R. Bonner, J. Henderson, T. Gibson, J. Hurley, I. Blackman, L. Toffoli and T. Currie, *National Aged Care Staffing and Skills Mix Project Report 2016*, Australian Nursing and Midwifery Federation, p. 9.

³⁴ Leading Age Services Australia, *Submission 34*, p. 7.

³⁵ COTA Australia, *Submission 24*, p. 4.

- 3.28 Braemar Presbyterian Care proposed that ‘a regulated minimum staffing mix ... is an important requirement for residential aged care in Australia.’³⁶ The ANMF stated that it had been advocating for legislated minimum staffing levels and mixes.³⁷

Staffing Categories in the Bill

- 3.29 Palliative Care Australia supported the breakdown of staff by categories in the Bill, as ‘the skill mix also is a key consideration.’³⁸ Subsection 9-3C(5) of the Bill outlines ten staff categories to be included in notification of staff to care recipient ratios:

- registered nurses level 1;
- registered nurses level 2;
- registered nurses level 3;
- registered nurses level 4;
- registered nurses level 5;
- enrolled nurses;
- nurses with a certificate IV or an equivalent qualification;
- personal care attendants;
- allied health staff;
- other staff members.

- 3.30 The Department of Health highlighted that the information presented by these ten categories needed to be useful for consumers and stated:

It would need to be considered whether this level of detail would be useful to consumers and, if so, what additional information and context would need to be provided to consumers to assist in their understanding and choice making.³⁹

- 3.31 UnitingCare Australia was of the view that these categories should be flexible enough to account for change within the aged care sector and stated:

... the aged care sector is in a state of flux and increasingly will offer a greater range of options for consumers. To reflect the sector’s desire for innovation, details of any reporting should be enacted through delegated legislation to

³⁶ Braemar Presbyterian Care, *Submission 37*, p. 8.

³⁷ Ms Annie Butler, ANMF, *Official Committee Hansard*, Canberra, 26 October 2018, p. 8.

³⁸ Palliative Care Australia, *Submission 14*, p. 2.

³⁹ Department of Health, *Submission 23*, p. 6.

enable inclusion of new work classifications, rather [than] in the [*Aged Care Act 1997*] itself.⁴⁰

Nurses

- 3.32 A number of additional staffing categories were suggested for inclusion in this list to ensure they continued to be prioritised. The NSW NMA recommended that the position of Director of Nursing be included, as ‘facilities where this level of clinical oversight is lacking tend to have poorer clinical outcomes’.⁴¹ The Quality Aged Care Action Group (QACAG) agreed and added that Assistants in Nursing be included. The QACAG outlined the importance of these categories and stated:

... we note there is no mention of the Director of Nursing title, or Assistant in Nursing. Unless we ensure these roles are acknowledged through legislation we risk losing them. Clinical governance of a residential aged care facility can make the difference between quality care and care failures. We need to ensure the role of the Director of Nursing remains integral to the staffing mix.⁴²

- 3.33 The Royal Australian College of General Practitioners also emphasised the importance of clinical governance within aged care settings and stated:

Appropriate clinical governance, especially appropriately clinically staffed [residential aged care facilities], has the potential to reduce negative health outcomes by focusing on prevention and management rather than escalation to acute settings, especially referrals to ambulance and hospital emergency departments at night.⁴³

- 3.34 The LASA questioned whether the five levels of registered nurses needed to be captured individually and stated that ‘listing registered nurses by the level they are employed under gives consumers very little insight into their actual contribution to care.’⁴⁴ The ANMF recommended that the five levels of registered nurses be removed and replaced with a single ‘registered nurse’ category.⁴⁵

⁴⁰ UnitingCare Australia, *Submission 39*, p. 6.

⁴¹ NSW NMA, *Submission 3*, p. 5.

⁴² Quality Aged Care Action Group, *Submission 2*, p. 3.

⁴³ Royal Australian College of General Practitioners, *Submission 30*, p. 1.

⁴⁴ Leading Age Services Australia, *Submission 34*, p. 7.

⁴⁵ ANMF, *Submission 28*, p. 5.

- 3.35 Another option was put forward by the NSW NMA, which recommended the five registered nurse categories be removed and replaced with the categories: ‘Director of Nursing’ and ‘the number and designation of registered nurses at all levels including specialist nurse and nurse educators’.⁴⁶
- 3.36 Hall and Prior was concerned that the Bill may create a ‘perverse incentive ... that would reduce expensive registered nurse labour hours to have ratios that look better, but care programs that are poorer for this redirection of funds.’⁴⁷ As such, Hall and Prior stated that:
- ... more must be done within the Bill to protect the registered nurse-led care model in care settings that have high acuity as they may not compare favourably to lower acuity aged care homes that are front-loaded with less qualified workers.⁴⁸
- 3.37 The ANMF and COTA Australia recommended the category ‘nurses with a certificate IV or an equivalent qualification’ be removed.⁴⁹ The ANMF stated that inclusion of this category was ‘unnecessary and potentially confusing’, as staff with a certificate IV could be accounted for under either the ‘enrolled nurse’ or ‘personal care attendants’ categories.⁵⁰
- 3.38 The ANMF also recommended that to provide further clarity, the category ‘personal care attendants’ should be amended to read ‘personal care attendants/assistants in nursing (however titled)’.⁵¹

Allied Health Professionals

- 3.39 The AMA considered that more information on the roles and mix of allied health professionals was needed in the Bill to inform consumer decision making. The AMA explained:

Allied health professionals are an essential part of the aged care workforce and their availability is crucial to resident care. The different types of allied health

⁴⁶ NSW NMA, *Submission 3*, pp 6-7.

⁴⁷ Hall and Prior Health and Aged Care Group, *Submission 42*, p. 5.

⁴⁸ Hall and Prior Health and Aged Care Group, *Submission 42*, p. 5.

⁴⁹ ANMF, *Submission 28*, p. 6; COTA Australia, *Submission 24*, p. 5.

⁵⁰ ANMF, *Submission 28*, p. 6.

⁵¹ ANMF, *Submission 28*, p. 6.

professionals should also be categorised, as older people may seek certain types of allied health support when choosing their [residential aged care facility].⁵²

- 3.40 Allied Health Professions Australia (AHPA) was also of the view that a single 'allied health staff' category does not provide transparency for consumers regarding the specific allied health services on offer at a particular facility. The AHPA stated:

The broad term 'allied health' encompasses a number of very diverse professions and its use can act to the detriment of consumers seeking clarity about the services that are available. For example, while a facility might provide good access to physiotherapy staff, it may not have speech pathology services. However, a consumer may simply assume that a broad range of allied health services are available.⁵³

- 3.41 The ANZSGM also made the point that both the 'allied health staff' and 'other staff members' categories covered a diverse range of professions, and that medical professions also needed to be accounted for. The ANZSGM explained:

... not only is that 'other staff' descriptor a problem but so is the descriptor of 'allied health staff' and lumping all allied health staff into one category when you're covering disciplines as diverse as physiotherapy, occupational therapy, speech pathology, nutrition and dietetics. They're all very distinct specialties that do very different things, and I think there are problems with lumping them together. But also, in terms of disclosure of staffing, some recognition of availability of medical professional input as well, whether it be primary care or specialist medical care.⁵⁴

Other Staff Categories

- 3.42 The LASA considered that 'Recreational Activity Officers' or 'Lifestyle Coordinators', which facilitate the participation of aged care residents in activities, should be listed as a separate category. The LASA stated that this would more accurately reflect the 'significant contribution to care recipients' quality of life' that these staff members provide.⁵⁵ UnitingCare Australia

⁵² Australian Medical Association, *Submission 20*, p. 2.

⁵³ Allied Health Professions Australia, *Submission 15*, p. 3.

⁵⁴ Dr Robert O'Sullivan, Treasurer, ANZSGM, *Official Committee Hansard*, Canberra, 26 October 2018, p. 21.

⁵⁵ Leading Age Services Australia, *Submission 34*, p. 7.

similarly suggested a new category be created which would include 'Personal Care workers, Team Leaders, Assistants in Nursing, Therapy assistants, Lifestyle and Recreational staff.'⁵⁶

- 3.43 UnitingCare Australia recommended that the 'other staff members' category be expanded. UnitingCare Australia suggested that this category may include 'chaplains/pastoral care workers, property/maintenance staff and hotel services staff.'⁵⁷

International Benchmarking

- 3.44 Reporting systems for residential aged care sectors that are in place in other countries were highlighted by inquiry participants. HammondCare drew attention to the USA Government's 'Nursing Home Compare' website, which publishes information on staffing levels in individual aged care homes, as well as other factors that influence care. HammondCare stated:

The [Nursing Home Compare] site presents a staffing score for each home, based on comparisons of the ratio of residents to staff in various categories with state and national averages. As well as the staffing score, each care home is also given a score for health inspections, quality measures and an overall rating, providing a broader context for the staffing information ... The US experience makes it clear that staffing levels on their own, provide an incomplete picture of care and must be presented in a broader context.⁵⁸

- 3.45 Aged Care Crisis compared the USA's system to Australia's and stated:

... the USA, which has recommended minimum levels and publishes detailed staffing data, has seen a slow increase in staffing levels so that their average level is now almost equal to their minimum recommended level. This is over an hour (one third) more nursing care than the average resident in Australia gets and double the amount of care by trained nurses.⁵⁹

- 3.46 Aged Care Matters highlighted that 'the USA is the only country that routinely analyses data on staffing and quality indicators.'⁶⁰

⁵⁶ UnitingCare Australia, *Submission 39*, p. 5.

⁵⁷ UnitingCare Australia, *Submission 39*, p. 5.

⁵⁸ HammondCare, *Submission 19*, pp 1-2.

⁵⁹ Aged Care Crisis, *Submission 26*, p. 21.

⁶⁰ Aged Care Matters, *Submission 8*, p. 2.

- 3.47 HammondCare outlined the UK's Care Quality Commission and described it as 'one of the best [rating systems for care homes] in the world.' The UK Care Quality Commission does not publish staff ratios, but instead 'considers staffing among a broader range of safety quality measures.'⁶¹
- 3.48 Estia Health stated that given reporting systems are already in place internationally, 'there doesn't need to be a redevelopment of work that's already been done in other jurisdictions' in Australia.⁶² Estia Health further explained that using these international examples could hasten the development of a system to publish broader measures of quality and care in aged care, as opposed to only publishing the staff to resident ratio measure as proposed in the Bill.⁶³

Committee Comment

- 3.49 Levels of staffing and the mix of staff skills within a residential aged care facility are important aspects of determining the quality and safe care of residents. There are also a range of additional factors that can impact the care provided and the number and mix of staff that is needed. These include: the levels of resident need, the location and layout of a facility, and the model of care being provided.
- 3.50 Given this range of factors, the Committee acknowledges that staff numbers alone are not enough to guarantee quality care. Indeed, the Committee heard that the Oakden Older Persons Mental Health Service, which is well known for its complete failure in the provision of care, had a high staff to resident ratio.
- 3.51 Nevertheless, the Committee is of the view that there is a minimum level of staffing that is required if quality care is to be consistently provided. In its recent *Report on the Inquiry into the Quality of Care in Residential Aged Care Facilities in Australia*, the Committee recommended that a minimum of one Registered Nurse be on site at all times in residential aged care facilities.
- 3.52 The evidence received by the Committee in its current inquiry continues to support this previous recommendation.

⁶¹ HammondCare, *Submission 19*, p. 2.

⁶² Mr Mark Brandon, Chief Policy and Regulatory Officer, Estia Health, *Official Committee Hansard*, Canberra, 26 October 2018, p. 10.

⁶³ Mr Mark Brandon, Estia Health, *Official Committee Hansard*, Canberra, 26 October 2018, p. 12.

- 3.53 The Committee heard concerns from aged care providers that the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 (the Bill) may create consumer expectations that residential aged care facilities will increase their staffing levels. The Committee acknowledges that staffing is highly dependent on funding provided by through the Aged Care Funding Instrument and that this is an important consideration for the Government moving forward.
- 3.54 The Committee was interested to hear about reporting systems in place in the United States of America and the United Kingdom of Great Britain that allow for a broad range of information related to residential aged care facilities to be publicly available for consumers. Australia's reporting system appears to fall short in comparison to these jurisdictions. As such, the Committee considers there is scope to learn from these international examples to improve transparency, competition, comparability and quality within the Australia's aged care system.

Recommendation 5

- 3.55 **The Committee reiterates the recommendation from its *Report on the Inquiry into the Quality of Care in Residential Aged Care Facilities in Australia*, which is that the Australian Government:**
- **legislate to ensure that residential aged care facilities provide for a minimum of one Registered Nurse to be on site at all times; and**
 - **specifically monitor and report on the correlation between standards of care (including complaints and findings of elder abuse) and staffing mixes to guide further decisions in relation to staffing requirements.**

Recommendation 6

- 3.56 **The Committee recommends that, twelve months after implementation, the Australian Government review the effectiveness of publishing staffing ratios in improving transparency and consumer choice. This should include consideration of whether amendments are needed to the ten staffing categories outlined in subsection 9-3C(5).**

Mr Trent Zimmerman MP
Chair

6 December 2018

A. Submissions

- 1 Ms Jayne Bronte
- 2 Quality Aged Care Action Group Inc
- 3 NSW Nurses and Midwives' Association
- 4 Dementia Australia
- 5 Mr David A Lawton
- 6 *Name Withheld*
- 7 Mrs Heather Brown
- 8 Aged Care Matters
- 9 *Confidential*
- 10 *Name Withheld*
- 11 Queensland Nurses and Midwives' Union
- 12 Ms Helen Hardy
- 13 Ms Liz Turner
- 14 Palliative Care Australia
- 15 Allied Health Professions Australia
- 16 Combined Pensioners & Superannuants Association of NSW Inc
- 17 Federation of Ethnic Communities Councils of Australia
- 18 Painaustralia
- 19 HammondCare
- 20 Australian Medical Association

▪ 20.1 Supplementary to submission 20

- 21 Ms Michelle Willems
22 Dementia Alliance International
23 Department of Health
24 COTA Australia
25 National Seniors Australia
26 Aged Care Crisis Inc.
27 Mrs Hariklia Nguyen
28 Australian Nursing & Midwifery Federation
29 Older Persons Advocacy Network
30 Royal Australian College of General Practitioners
31 Mr John Mullen
32 Ms Anne T Tudor
33 Aged & Community Services Australia
34 Leading Age Services Australia
35 Australian Physiotherapy Association
36 Aged Care Industry Association
37 Braemar Presbyterian Care
38 Queensland Government
39 UnitingCare Australia
40 ACT Government
41 Australian and New Zealand Society for Geriatric Medicine
42 Hall & Prior Health & Aged Care Group
43 Western Australian Government
44 Aged Care Quality Association
45 NSW Government
46 Australian College of Nursing
47 Government of South Australia

B. Exhibits

- 1 Australian College of Nursing
International Council of Nurses, Position Statement: *Evidence-based safe nurse staffing*, 2018
 - a) Position Statement: *Assistants in Nursing (however titled)*, March 2016
 - b) Position Statement: *The role of registered nurses in residential aged care facilities*, July 2016
- 2 Catholic Health Australia
The status of the aged care workforce – 2016
- 3 COTA Australia
Project Report: *Measuring Quality and Consumer Choice in Aged Care*, February 2018
 - a) Position Paper: *Keep fixing Australia's aged care system...taking the next steps in tandem with the Royal Commission*, September 2018

C. Hearing and Witnesses

Friday, 26 October 2018 – Canberra ACT

Aged Care Guild

- Mr Matthew Richter, Chief Executive Officer

Aged Care Industry Association

- Mr Luke Westenberg, Chief Executive Officer

Aged Care Quality Association

- Mrs Gail Harding, Chairman

Aged and Community Services Australia

- Ms Patricia Sparrow, Chief Executive Officer
- Mr Mark Sewell, Chief Executive Officer, Warrigal; Chair, Aged and Community Services Australia NSW Divisional Advisory Council

Australian College of Nursing

- Ms Kylie Ward, Chief Executive Officer
- Ms Susan Emerson, Member Representative

Australian Medical Association

- Dr Simon Torvaldsen, Chair, AMA WA Council of General Practice; Member, AMA Council of General Practice
- Dr Kean-Seng Lim, President, AMA NSW; Member, AMA Council of General Practice

Australian and New Zealand Society for Geriatric Medicine

- Associate Professor Edward Strivens, President
- Dr Robert O'Sullivan, Treasurer

Australian Nursing and Midwifery Federation

- Ms Annie Butler, Federal Secretary
- Mr Andrew McCarthy, Acting Senior Industrial Officer

Catholic Health Australia

- Mr Nicolas Mersiades, Director, Aged Care

Council on the Ageing (COTA) Australia

- Ms Judy Gregurke, National Manager, Aged Care Reform

Dementia Australia

- Ms Cristina Giusti, National Policy and Strategy Adviser
- Mrs Kay Barralet, Consumer Representative

Department of Health

- Ms Maria Jolly, First Assistant Secretary, Aged Care Reform and Compliance Division
- Ms Amy Laffan, Assistant Secretary, Aged Care Quality and Regulatory Reform Branch

Estia Health

- Mr Mark Brandon, Chief Policy and Regulatory Officer

Hall and Prior Health and Aged Care Group

- Mrs Jennifer Grieve, General Manager, Health and Care Services
- Mrs Kristine Healy, General Manager NSW

Leading Age Services Australia

- Mr Sean Rooney, Chief Executive Officer
- Mr Nigel McGothigan, Member Advocate

Palliative Care Australia

- Ms Elizabeth Callaghan, Chief Executive Officer
- Professor Deborah Parker, President-Elect, Palliative Care NSW

UnitingCare Australia

- Mr Saviour Buhagiar, Director, Residential Aged Care and Health Care,
Uniting NSW & ACT