



LASA SUBMISSION TO THE PROPOSED HEALTH TRANSPARENCY BILL AND REGULATION 2019

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Leading Age Services Australia

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LEADING AGE SERVICES AUSTRALIA (LASA)

Leading Age Services Australia (LASA) is the national association for all providers of age services across residential care, home care and retirement living/seniors housing.

Our purpose is to enable high performing, respected and sustainable age services that support older Australians to age well by providing care, support and accommodation with quality, safety and compassion - always.

We are dedicated to meeting the needs of our Members by providing:

- a strong and influential voice, leading with authority on issues of importance; and
- access to valuable and value-adding information, advice, services and support.

LASA's membership base is made up of organisations providing care, support and services to older Australians. Our Members include not-for-profit, faith-based, private and government operated organisations providing age services across residential aged care, home care and retirement living. 10 per cent of our Members are government providers, 57 per cent are not-for-profit and 33 per cent are for-profit providers. Our diverse membership base provides LASA with the ability to speak with credibility and authority on issues of importance to older Australians and the age services industry.

KEY POINTS

LASA supports the goal of providing consumers with better information to support their choice of residential care services.

However, appropriate indicators need to be considered comprehensively through an evidence based process. LASA also believes that outcome based indicators (particularly where they are directly based on the views of residents) are likely to be more useful to consumers than input measures such as staffing.

In relation to the particular proposal put forward by the Queensland Government, LASA is concerned that:

- the policy was announced with no consultation, and very little time has been given to consult on implementation details;
- requiring private residential care services to respond to requests from the Queensland Government appears contrary to 23a of the 2012 National Partnership Agreement on Transitioning Responsibilities for Aged Care and Disability Services, which gives the Commonwealth responsibility for regulating residential care;
- most of the general information about residential care services that is requested is already requested and published by the Commonwealth;
- the staffing information requested will not give consumers a meaningful indication of the level of care that is available, because an overall staffing ratio:
 - does not indicate whether the appropriate mix of staff are available at the appropriate time, and

- does not account for key drivers such as the staffing needs of residents.
- assessments of the adequacy of staffing undertaken by the Aged Care Quality and Safety Commission do already take into account this complexity, and this information is already publicly available;
- the Commonwealth Government is currently considering the recommendation of a Parliamentary report that would directly overlap with this proposal;
- it would be more straightforward to allow residential care services to not respond to the request for information rather than requiring them to respond, but allowing them to refuse to provide the information;
- the number of consumers that are likely to view the proposed website is fairly limited – however there is a risk that the information disclosed will be misrepresented for sensationalist purposes or to push a particular medically based care model (which may be contrary to the preferences of residents);
- responding to requests for information and helping residents and their families to understand what is reported will divert resources away from service delivery; and
- the proposed changes have been introduced at a time when the residential care sector is experiencing increasing financial strain. Both the Aged Care Financing Authority¹ and StewartBrown² have undertaken analysis of the financial performance of residential care services, indicating increasing financial strain with near 50 per cent of these services operating at a loss and this proportion increases to over 60 per cent of residential care services in regional and rural communities.
- Funding arrangements from the State government to State-funded residential care services is different to that of private residential care services and that this is not transparent and does not represent a 'level playing field' relative to the disclosure of information within the draft Bill.

SURVEY RESPONSES

LASA has collated information comprising survey responses from twenty-four residential care services drawn from its Queensland membership, noting the short turn around period to inform this submission on the proposed Health Transparency Bill 2019. Key findings include:

- Over **95 per cent** of survey respondents reported that they do not support the proposed Bill and Regulation;
- Over **90 per cent** of survey respondents reported not seeing any benefit in providing residential care information to Queensland Health;
- Although, over **70 per cent** of survey respondents indicated their concern with the possibility of being “named and shamed” through the making available of public information consistent with the draft Bill and Regulation, nearly **80 per cent** of survey

¹ <https://agedcare.health.gov.au/news-and-resources/enewsletter-for-the-aged-care-industry/aged-care-financing-authority-acfa-letter-to-providers/2019-acfa-annual-report-on-funding-and-financing-of-the-aged-care-sector>

² <http://www.stewartbrown.com.au/news-articles/26-aged-care/181-march-2019-aged-care-sector-financial-performance-survey>

respondents indicated that they would not be willing to provide the data or information requested;

- Near **80 per cent** of survey respondents did not support providing general information to Queensland Health as outlined under Clause 8, which requires general information about a public sector health service facility, private health facility, State aged care facility or private residential aged care facility;
- Over **95 per cent** of survey respondents did not support providing residential care information to Queensland Health as outlined under Clause 10, which requires residential care information about a State aged care facility or private residential aged care facility;
- Over **95 per cent** of survey respondents did not support Clause 16, whereby the Chief Executive of Queensland Health may publish information about response to notice; and
- Over **90 per cent** of survey respondents did not agree with the requirements listed under Clause 3, to have the average daily resident care hours prescribed.

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A summary of feedback from survey respondents in response to the draft Bill and Regulation is included in the Addendum to the LASA Submission.

ADDENDUM – SUMMARY OF SURVEY RESPONDENT FEEDBACK

Duplicative Regulatory and Administrative Burden Imposed on Providers

The draft Bill and Regulation will impose increasing regulatory and administrative burden upon residential care providers in their having to provide the required information to Queensland Health and maintain its integrity with account for the dynamic and fluid nature of care provision relative to changing care needs. Survey respondents expressed a strong view that the draft Bill is duplicative of Commonwealth regulatory processes.

In the Commonwealth system, there is extensive information reporting, including accreditation and compliance reports available to consumers through Commonwealth websites.³ The Commonwealth Government also continues to invest considerable amounts of funding to improve the usability of the My Aged Care website for both consumers and providers. This referenced information is readily available in the public domain for State Governments to access.

The **National Quality Indicator Program**⁴ transitioned from a voluntary program to a mandatory program for ALL residential aged care services as of 1 July 2019. Data is being collected around Pressure Injuries, Physical Restraint and Unplanned Weight loss, with the intent to add Falls/Fractures and Medication Issues in July 2020. Data is due to be reported quarterly to the Commonwealth through the My Aged Care Portal with the first report due to the Commonwealth by the 21st October 2019. Quality indicator reporting through this national program will enhance community understanding of quality in residential care services, and provide more information to prospective consumers and residential care recipients to assist with their choices and decision making about residential care services.

In conjunction with this, the **Royal Commission into Aged Care Quality and Safety**⁵ will likely further address any recommended regulatory changes, after significant consultation throughout Australia.

Impacts on Provider Branding and Reputation

The type of information to be made publically available through the draft Bill may suggest that staffing numbers equate to a blunt measure of quality in residential care services.

The information does not take into account resident acuity, building layout, staff experience, mix or qualifications. All of these result in making the data non-specific, unreliable and difficult to interpret. Staffing levels are also based on the accumulative demand for responding to care needs of a facility's resident population not simply the number of residents. Higher care needs/acuity across a facility's resident population demand more

³ <https://agedcare.health.gov.au/ensuring-quality/residential-aged-care-sanctions/aged-care-sanctions-and-notice-of-non-compliance>

⁴ <https://agedcare.health.gov.au/quality/quality-indicators/guidance-for-the-national-aged-care-mandatory-quality-indicator-program>

⁵ <https://agedcare.royalcommission.gov.au/Pages/default.aspx>

targeted health staff expertise hours overall to attend to clinical care. Lower care needs/acuity across a facility's resident population will not demand such an intensive health staffing presence in the absence of clinical care needs.

The end result of publishing simple ratios would be a collection of numbers without much industry or care relevance.

Staffing numbers and mix would only become meaningful if examined within the context of a whole host of inter-related indicators highlighting the multifactorial nature of achieving quality outcomes in residential care services – as per the assessment methodology assigned for accreditation against the ***Aged Care Quality Standards***.⁶

The Commonwealth Government's quality accreditation framework, co-designed with the aged care industry, comprises eight inter-related Standards and over 40 specified requirements for which examples of quality evidence are provided.⁷ It reiterates the multifactorial nature of achieving quality outcomes in residential care services. With the new Standards, and a strong focus on consumer choice and experience, any deficiencies in staffing will be revealed at the facility level through the assessment methodology assigned for quality accreditation and that draws heavily on resident experience.

Some survey respondents have indicated that they expect that there will likely be no direct adverse impact on their branding and reputation through publishing the requested information, if they are already open and transparent with staffing expertise and levels and responsive to care needs relative to the resident case mix at any given point in time.

There is concern, however, with regard to misrepresentation and sensationalising of published information to impose a specific clinical-based staffing model on residential care services. This model does not adequately account for the multitude of innovative care models provided across the residential age care sector, which is a key for establishing a market based aged care system where resident choices drive quality.

Impacts on Current and Future Residents and Families

The impacts of the draft Bill and Regulation on current and future residents and families may include:

- A potential decrease in customer focused care and continuous improvement within residential care services that will result from providers having to allocate resources to attending to the duplicative regulatory and administrative demands of the Bill.
- Increased staff engagement with residents and families in responding to negative public perceptions and views based on the publishing of a 'blunt' indicator of staffing levels that will require qualification by providers.

⁶ <https://www.agedcarequality.gov.au/resources/regulatory-bulletin-2019-5>

⁷ <https://www.agedcarequality.gov.au/providers/standards>

- Demand for current and future residents/families to understand the complexities of how aged care is staffed and funded in response to misinformed public perceptions that may emerge from the introduction of a 'blunt' staffing indicator.
- Fixed staffing ratios will create issues for the redeployment of skilled staff to undertake duties outside their scope of practice or these staff may be underutilised contributing to inefficiencies that adversely impact on quality of care for the resident population.
- With the residential care funding model currently under-review⁸ the introduction of the draft Bill may further complicate resident and family discussions concerning staffing levels and mix relative to any changing funding parameters. This will add to the confusion surrounding the value of publishing information in isolation of broader quality reforms in residential care.

Information Disclosure

The disclosure of information as proposed in the draft Bill, on its own, fails to explain the acuity levels of residential care facilities and the associated funding which otherwise determines staffing arrangements. It also focuses on 'average' daily resident care hours which does not take into account times of the day or night where staffing is available (including night duty where staffing levels are lower due to changes in the care requirements of residents), geographical layout of facilities, age of facilities, rural/remote workforce challenges and funding arrangements.

Additionally, if the general public does not understand that staffing levels are based on the resident care needs across a facility's resident population and not the number of residents, disclosing this information will only cause confusion and disadvantage to residential care services through increasing public misperception. Disclosing this information will do nothing to improve the financial sustainability and quality of outcomes in residential care services. In many cases it may adversely impact an already strained financial position of residential care services.

Noting the substantial financial strain evident across residential care services, Members believe it is important to disclose that any financial loss associated with the operation of State funded residential care services in Queensland is supplemented by additional Queensland Government funding, generally from funds provided to the State for health care through the Commonwealth/States Medicare Agreement.

On this point, it would be appropriate for the Queensland Government to disclose to the public the extent with which supplementary funding is directed into State-funded residential care services in Queensland to support operations and alleviate financial strain over and above those funds provided directly to these services by the Commonwealth Government and those fees and charges collected from the residents.

⁸ <https://agedcare.health.gov.au/reform/resource-utilisation-and-classification-study-rucs-overview-and-reports>

LASA Members have reported that Minister Miles has previously stated: **“It makes sense that public and private facilities are on the same playing field when it comes to transparency and accountability!”**

Best approach to determining the right number and mix of staff

There are a range of factors that would influence the best approach to determining the right number and mix of staff in a residential care service, including acuity and geographical layout of facilities, the age of facilities, rural/remote workforce issues and funding arrangements. Controlling for these factors, the best approach would then be likely based on the clinical, social and personal care and support needs of the individual residents that are in care at any given time. If the needs are of a higher clinical nature then you would expect sufficient hours would include qualified nurses and allied health staff, whereas if the support needs are more around responsive behaviour management you may require more well trained carers. There is a diversity of care need scenarios that need to be accounted for in staffing decisions, and operational management within a facility is best placed to make staffing roster decisions relative to changing resident acuity and care needs, consistent with the organisation’s governance and human resourcing requirements subject to meeting the Commonwealth’s Aged Care Quality Standards.

The draft Bill needs to account for the reality that residential care services represent a resident’s home with quality care operating under a social care model with account for fluctuating clinical care needs relative to the resident population at any given point in time. This demands a focus on the individual needs and choices of residents.

Some Members state that the State Government could better focus its efforts to assist aged care providers by providing an exemption to payroll tax for private aged care services. This would further support all residential care services to operate on an equal playing field with regards to expenses. That is, not-for-profit and State funded residential care services do not pay payroll tax which is an extra burden on for-profit residential care services at a time when funding is at its lowest and a number of facilities are reporting a loss.