



St Paul's Lutheran Homes Hahndorf

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A Senate Committee is reviewing the five pieces of legislation related to the Aged Care Service provision.

The Lutheran Aged Care Residential Network (LACRN) is made up of six Lutheran Aged Care Facilities and Retirement Villages in South Australia and the purpose of the group is to form a network to discuss issues that impact on the operations of those Facilities. In general the Network supports the Aged Care Reform process in line with the Productivity Commission Report, and find it difficult to accept that the Minister of Mental Health and Ageing has added significant layers of administrative responsibility onto providers without due consideration to the impacts, financial and operational.

LACRN have discussed the proposed Aged Care legislation and see very little streamlining of systems in this legislation, but there is a massive amount of additional work required to meet the new requirements and processes. There has been little freeing up of control of facilities and providers by the Department and the principles of a less restrictive and controlled environment is not evident.

Facility Providers are concerned that the Department of Health and Ageing is reducing income through the ACFI review process, changing the ACFI rules and applying a severe claw back process to meet budget estimations. It must be remembered that there were no increases in the Commonwealth Own Payment Outlays (COPO) indexation for 2012/13 and early estimates for 2013/14 is an increase of 1.5%, while general operating costs are increasing at a rate of 3.5% to 10% p.a., which includes the changed Workcover premium in SA, electricity charges, council rates, pay indexation increases, etc.

LACRN has amongst its membership some small country locations that are generally struggling with the current legislative requirements, accreditation, certification and Fair Work Australia, and if the proposed legislation is not enacted with these concerns clearly in the Senator's minds these facilities will not survive in the long term. Housing markets have been suppressed for some time and accommodation bonds and deposits are at the lower end of the scale ensuring that significant refurbishment and replacement of facilities is only a dream.

In an effort to highlight some fine tuning of the legislation, LACRN submits the following points for consideration and action to change the legislative requirements to recognise that the survival of the aged care facilities is an important goal for the future.

General Issues

- Residential Accommodation Deposits (formerly Accommodation Bonds) are the most important capital base for the future viability and development of aged care facilities. Periodic payments must not undermine the capital base of organisations and threaten future aged care developments, particularly in the smaller rural and remote section of the industry. A significant growth factor for residential care services is expected to continue into the future and the capital base must be secure to ensure replacement and additional developments are viable for the care of the elderly.
- The removal of the distinction between High and Low care is supported, along with the option for Residential Accommodation Deposits for all residents. However, there are concerns about the necessity to absorb additional costs in the supply of products to residents that were not applicable to low care residents and staffing issues around drug distribution to residents.



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- The higher consumer co-contributions for care services, means testing and residential accommodation deposits are significant increases in consumers payments aimed to reduce the government's costs of caring for elderly people. The level of complexity for user pay contributions for care provision will cause immense concern to prospective residents and their families who will not understand the difference between care costs, accommodation costs and service costs. There are technological barriers to accessing the Gateway, along with financial barriers and general uncertainty, which will all conspire to delay the elderly establishing contact with service providers. A significant gap has been identified in this process for prospective CALD residents through the use of a call centre and website as the first points of contact to access care services.

As the Gateway has not been subject to copyright, an additional element of confusion is expected for consumers and providers as other organisations use this terminology to further their business aims.

- The complexity of the proposed changes raises expectations amongst the public that the aged care providers will be able to assist people to understand the new system, but there is no additional funding provided to ensure that this can occur. Facilities will be involved with the education of prospective residents and their families and should the Gateway be under resourced then the costs associated with this educational process is bourn by others and facilities at an extra cost. Will the Gateway become loosely like the mental health system and the housing trust where a backlog of clients occurs creating vacancies for aged care providers therefore loss of funding.
- The development of the My Aged Care Website proposals include quality indicators, while this could be considered 'normal business practices', it comes at a time of significant uncertainty within the aged care industry and a new funding environment. There is little additional funding from government or residents to cover the additional costs associated with these changes.
- Security of tenure principles will remain in place, but consideration will need to be given to ageing in place and ageing within the facility to ensure the most appropriate accommodation is available for residents at all times. This inhibits the provider giving the most appropriate care to residents by moving them to other areas – ie going from low care to a secure unit due to care needs etc.

Other Specific Issues

ACFI (Section 25.4)

It is proposed that a provider can be suspended from undertaking ACFI appraisals if there have been two incorrect appraisals submitted. An educative approach would assist staff to undertake ACFI appraisals before the punitive approach is used. This proposal will assist smaller country rural and remote facilities to use the ACFI process appropriately and reduce the number of facilities that cease operating. An appeals process is also needed in this situation so that providers are able to obtain an independent assessment of the situation. The government claw back processes establish an environment of fear and under-claiming for the staff undertaking the ACFI reviews and suspension will drive these people out of the industry, which in the main will be a disaster when considering the adequate staffing and skill levels that are a requirement of aged care services. This is nothing more than the government discovering another way for claw back and penalising providers who are already staff poor and may make errors just because they don't have time for checking or the money to provide a contractor for this.



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Explanatory Memorandum (Page 29 Item 6)

A new Quality agency is proposed along with a significant change process to be undertaken to understand the new requirements and processes for residential aged care and home support services. Establishing a new Quality Agency is unnecessary, along with the expense of dismantling the old one as there are changes that could be made to the existing systems to achieve the outcomes required.

The Administrative Appeals Tribunal will have a role in the reconsideration of accreditation and review of decisions, along with opportunities for providers to seek review by the Tribunal. This is expected to be beneficial to providers by having an appeals process which will enable a challenge to be mounted for inappropriate decisions.

Explanatory Memorandum (Page 33 – Section 95B-11)

The role of the Price Commissioner is to approve extra service fees and accommodation payments that are higher than the amounts determined by the Minister. The delegation of the Price Commissioner's functions (all or in part) is to be given to an employee within the Department of Health and Ageing, with no consideration as to the independence of the position. This delegation does not provide any independence or transparency on the process and creates a conflict of interest within the Department.

Explanatory Memorandum (Pages 50/51/52)

The proposal of a new dementia supplement is supported but the self funding of the supplement by providers with an ACFI reduction of 30 cents per day is difficult to implement from a costing and staffing point of view. The 30 cents per day does not meet the extra care needs of a wandering and confused resident and is an insult to service providers. The Government fails to recognise that the residents who do not have dementia have more care needs. These residents are the ones who may fall into depression due to physical pain or can appear to miss family members who have passed. Aggression from dementia residents poses a threat to staff and workcover claims. Some of these residents require up to four staff to accomplish ADL's to avoid injury etc.

Explanatory Memorandum (Page 52 section 44-5)

The Workforce supplement is listed as a 'primary supplement' in the legislation with the Minister being able to determine by legislative instrument the detail of the supplement.

It must be recognised that the Workforce Compact process adds significant complexity of the industrial relations processes within an aged care facility, which is avoidable. The normal annual wage increases based on CPI will be announced shortly by Fair Work Australia, but aged care facilities must pay a minimum of 2.75% or the higher FWA rate if more than 2.75%. In addition the employer must pay an additional 1.5% in the first year to 3% for Carers and other staff through an Enterprise Agreement. Many facilities will not have an Enterprise Agreement with staff covered under the Aged Care Award 2010, which includes Carers, Hospitality, Laundry and Maintenance workers who all have differing needs adding to the complexity of the negotiations.

While most facilities will have an Enterprise Agreement with the Nursing groups, Enrolled Nurses are expected to be paid 2.5% in the first year to 8.5% above award rates in their enterprise agreements and RN's 4% to 12.6% above award rates.

This is a huge cost for facilities, as mentioned previously, the COPO increases have been zero and estimated to be 1.5% for 2013/14. What income stream is available to fund these additional



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costs, plus on-costs, and what opportunities are there to increase income in a tightly regulated environment? One member has estimated that the additional cost to them will be a net figure of an additional \$240,000 per year. Based on the above information this would only be achieved by a significant reduction in staffing (equivalent to 8 full-time staff). Another member reports the increases will cost a minimum of \$116,000 in the first year and up to \$272,000 p.a. by the fourth year. This proposal alone threatens the whole aged care system, which would appear to be the real objective of government.

The additional non-direct wage conditions associated with the Workforce Supplement eligibility is a significant industrial relations issue for facilities and must be removed so that there is a clear separation of wage and non-direct wage issues. The non-direct wage conditions include:

- Enhanced training and education opportunities,
- Improved career structures, career development, and workforce planning,
- Review part time hours
- Casual staff conversion to part-time
- Workload management
- Work health and safety
- Disciplinary matters.

Though non-direct wage items, all of these do add significant unfunded costs to the facilities operations and the enhanced conditions add another layer of administrative responsibility and costs to each facility.

These matters are currently covered by Accreditation requirements, conditional adjustment payments, industrial awards, Fair Work Australia and work health and safety legislation and add another level of cost and compliance to providers that is not necessary. These matters must be deleted from the requirements of the eligibility of the Workforce Supplement.

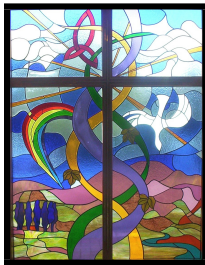
To avoid these increases in compliance to achieve eligibility for the Workforce Supplement, the Aged Care Award could be increased to meet the targets proposed and that the Government provide the necessary funding. The Workforce Compact is obviously a campaign to shift the cost increase associated with the pay and conditions for low paid workers on to the aged care providers with only a token supplement from government which aims to create the impression that the government is providing funding for the increases. The Workforce Compact is a farcical regime to impress staff working in aged care however it doesn't stack up against the funding or constraints within the financial ability of a Provider. The Government also appears to have recognised on costs with any increase in salaries (Workcover, super etc).

Explanatory Memorandum (Page 100 – Items 170 & 171)

Section 66-1 specifies that sanctions may be imposed on an approved provider that has not complied with their responsibilities, relating to accommodation payments, repayment of refundable deposits and other matters be introduced. The imposition of sanctions should follow an educational process to assist providers in this process to ensure that appropriate processes are maintained.

Explanatory Memorandum (Page 106 Items 222/223)

The proposed unrestricted right of entry by Union officials at any time is totally rejected by providers. Facilities are operational 24/7 and the majority of time, due to funding constraints, operates with minimum staff levels. Any visits outside of normal business hours will result in residents being put at risk due to staff being taken away from their normal duties. Emergency situations and genuine concerns about the welfare of a resident aside, there is little justification



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for an unrestricted right of entry into resident's homes. Any concerns about an approved provider's claims for payment or investigation of any concerns can reasonably be done within normal working hours.

Aged Care Bill (Section 52F -3 (2))

A provider cannot accept an amount greater than the amount in the accommodation agreement. This eliminates any financial options for residents in their estate planning processes.