

# Aged Care Bill 2024

**Response to inquiry by the Community Affairs Legislation  
Committee  
October 2024**

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## About Dietitians Australia

Dietitians Australia is the national association of the dietetic profession with over 8,500 members, and branches in each state and territory. Dietitians Australia is the leading voice in nutrition and dietetics and advocates for the profession, people and communities it serves.

The Accredited Practising Dietitian (APD) program provides an assurance of safety and quality and is the foundation of self-regulation of the dietetic profession in Australia. Accredited Practising Dietitians play an important role in aged care, such as in the assessment and dietary management of clients with chronic diseases and malnutrition, in the planning and coordination of food service within aged care homes and home delivered meal programs, and in the training of aged care sector staff.

Dietitians Australia welcomes the opportunity to provide the Community Affairs Legislation Committee feedback on the provisions of the Aged Care Bill 2024.

## Recommendations

Amend the Aged Care Bill 2024 to:

1. Acknowledge and include the **human right to a standard of food, nutrition and nutritional care that supports health, wellbeing, reablement and quality of life** within the Statement of Rights.
2. Uphold the rights of older people to access **allied health services, on the basis of individual needs**.
3. Require the use of a **nationally consistent, evidence-based, care assessment and planning tool**, to identify, plan for and deliver the clinical and allied health needs (including dietetic needs) of individual aged care residents and consumers receiving home care.
4. **Provide a definition of 'clinical care'**, ensuring it includes/covers the full scope of professions required to meet clinical care needs, including Accredited Practising Dietitians.
5. **Provide a definition of 'allied health profession'** as defined by Allied Health Professions Australia.
6. **Clarify/expand the definition of an 'aged care worker'** by explicitly listing, among others, allied health professionals.
7. **Redefine 'Residential Aged Care'** to acknowledge that not all people enter for reasons of sickness – some people enter for reasons of high functional support needs; and that services other than nursing services, such as allied health services, are important in residential aged care.

## Discussion

### Strengthened focus on food and nutrition

In the 'Key Concepts' for the Aged Care Quality Standards (Chapter 1, Part 2, Division 2), Dietitians Australia welcomes the inclusion of rules that prescribe standards relating to how registered providers must deliver food and drink to meet the nutritional needs and preferences of individuals.

Dietitians Australia considers strengthened quality standards for food, nutrition and the involvement of Accredited Practising Dietitians to be vital in the quest to elevate the quality and safety of food and nutrition delivered within the aged care sector. Food and nutrition have been neglected in the quality standards for too long, so it is extremely pleasing to see a renewed focus to support older people through stronger regulations for food and nutrition.

Despite the heightened focus on food and nutrition in the quality standards, the 'Statement of Rights' in the Bill do not expressly state that an **individual has a right to a standard of food, nutrition and nutritional care that supports health, wellbeing, reablement and quality of life**. Access to a variety of safe and nutritious food/beverages is a fundamental human right and essential for the physical, mental, social and emotional wellbeing of all older Australians receiving residential aged care and in-home aged care services.

'The International Declaration on the Human Right to Nutritional Care'<sup>1</sup> (Vienna Declaration) is a framework document to promote access to nutritional care for all people who are malnourished or at risk of malnutrition, based on a human rights-based approach. It sets a shared vision and five principles for implementation of actions, with one of those being: *'Public health policy must make the fulfillment of the right to nutritional care a fundamental axis in the fight against disease-related malnutrition'*<sup>1</sup>.

Given the plethora of issues identified in the Royal Commission into Aged Care Quality & Safety by older people and their families with regards to food, nutrition and access to nutritional care within residential aged care homes, Dietitians Australia considers it vital that the Statement of Rights within the Aged Care Bill explicitly acknowledge and include the human right to a standard of food, nutrition and nutritional care that supports health, wellbeing and quality of life. These rights must apply to the standard of food, nutrition and nutritional care provided in Commonwealth funded residential aged care homes, as well as apply to community-dwelling older adults receiving home delivered or centre-based meals, as part of Commonwealth Home Support Services.

### Lack of focus on allied health

Dietitians Australia is concerned the Aged Care Bill does not acknowledge or embed the vital role of allied health in supporting the health, wellbeing, reablement and quality of life of older people receiving care. The Bill does not ensure a clear benchmark is set for providers to meet the allied health needs of older people.

The Royal Commission into Aged Care Quality and Safety found that insufficient access to allied health in residential aged care contributes to substandard care and neglect. It made key recommendations to embed allied health care in the aged care system, including for aged care consumers to be provided with allied health services on the basis of individual needs, to be generally

paid for by aged care providers. Yet three years on, the Quarterly Financial Snapshot (QFS) on the Australian aged care sector for the period of Oct-Dec 2023<sup>2</sup> revealed:

- older people in residential aged care received just **4.11 minutes of allied health services per resident per day**;
- **care delivered by dietitians was 0.14 allied health minutes of care per resident per day**, which equates to just 12.78 minutes per resident per quarter.

These findings demonstrate the substantial under provision of allied health and dietetic care received by older people in Australian residential aged care. Timely assessment and treatment of those identified with malnutrition and other nutrition related issues is essential for physical and cognitive health, yet the pricing for care funded through the AN-ACC funding model does not incentivise aged care providers to engage Accredited Practising Dietitians or other allied health professionals as part of their care requirements.

Older people want and need allied health services to support them but are being told these services are not available, or not funded, through the aged care system. This forces older people and their families to privately source allied health at significant financial cost and carer burden, which increases the risk of inequity.

It is important to **uphold the rights of older people to access needs-based allied health care by embedding this right in the Aged Care Bill**. This means giving older people the right to have their care needs assessed and addressed by providing equitable access to evidence-based care from allied health professionals, including Accredited Practising Dietitians.

### **Absence of a national evidence-based, care assessment and planning tool**

It is interesting that the government has adopted the language of 'needs assessment', yet there is in fact no universally consistent needs assessment process for allied health to determine care needs, noting that the 'Integrated Assessment Tool' is more about eligibility for government subsidised aged care.

Allied health service provision should be underpinned by a nationally consistent allied health needs assessment, so that older people actually receive the care they are clinically assessed to need, with those needs translated into an effective care plan, fully funded through the AN-ACC model. It is now very apparent that in the absence of a nationally consistent allied health needs assessment, allied health benchmarks and targeted funding, AN-ACC has the potential to further escalate the gross under-provision of allied health care.

The Aged Care Bill and rules that sit outside of the legislation should require the use of a **nationally consistent, evidence-based, care assessment and planning tool**, to identify, plan for and deliver the clinical and allied health needs of older people receiving residential and home care. We support the call for this tool, as outlined in the submission lodged by Allied Health Professions Australia (AHPA).

### **Registration categories**

Dietitians Australia is supportive of the placement of ‘meals services’ in Registration Category 1. We look forward to engaging with the Department on the category specific obligations that will apply to meal delivery providers and the quality of the meals they provide.

Dietitians Australia is calling for the development of food and nutrition obligations for providers of home-delivered and centre-based meal programs, available to older people under the Support at Home Program. These requirements will help to ensure meals available to older people under the Support at Home Program adequately meet the unique nutrition needs of older people, to prevent malnutrition, promote wellness and support quality of life.

### **The definition of ‘clinical care’**

The term ‘clinical care’ appears in the Aged Care Bill 31 times, yet ‘clinical care’ is not defined in ‘Chapter 1, Part 2, Division 1 – Definitions’. It is important to define clinical care, ensuring it includes/covers the full scope of professions required to meet clinical care needs, including Accredited Practising Dietitians (APDs), given the important role that allied health professionals like APDs play in health, wellbeing, reablement and quality of life.

### **The definition of ‘allied health profession’**

‘Allied health profession’ (unlike other professions such as nursing) only has one mention in the Bill (i.e. in the ‘Appointment of Advisory Council members’ on page 367) and it is absent from the list of definitions in ‘Chapter 1, Part 2, Division 1 – Definitions’. This is a major oversight given the focus of the Commonwealth aged care system is to support the safety, health, wellbeing and quality of life of older people receiving aged care services.

Allied health profession means a health profession other than a medical practitioner, dental practitioner, midwife or nurse. Allied health professionals are university qualified practitioners with specialised expertise in preventing, diagnosing and treating a range of conditions and illnesses. Allied health professionals often work within a multidisciplinary health team to provide specialised support for different patient needs.

Dietitians Australia recommends adding ‘allied health profession’ to the list of definitions of the Aged Care Act, as defined by Allied Health Professions Australia (AHPA).

### **The definition of ‘aged care worker’**

It is only assumed (not stated) that allied health professionals are included in the definition of an ‘aged care worker’, yet this is not explicitly clear. We recommend clarifying/expanding the definition of an ‘aged care worker’ by explicitly listing, among others, allied health professionals. In the absence of an expanded definition, there is scope for misinterpretation and/or confusion as to who falls into the category of an ‘aged care worker’.

### **Residential care homes**

In the 'Key concepts' for where funded aged care services are delivered (Chapter 1, Part 2, Division 2), it states 'A residential care home means a place that (a) is the place of residence of individuals who, by reason of sickness, have a continuing need for aged care services, including nursing services; and (b) is fitted, furnished and staffed for the purpose of providing those services'. Dietitians Australia does not consider the focus on 'sickness' to be adequate given that some people who enter residential aged care are physically well (i.e. not sick) but have entered for reasons of high functional support needs. We also do not consider it adequate to single out 'nursing services' when other services like allied health services are equally important in residential aged care homes.

As such, the statement about residential aged care homes needs to be edited to reflect this important point. Suggested wording is: 'A residential care home means a place that (a) is the place of residence of individuals who, by reason of sickness or high functional support needs, have a continuing need for aged care services, including nursing and allied health services; and (b) is fitted, furnished and staffed for the purpose of providing those services'.

### **References:**

1. Cardenas D, Correia MITD, Hardy G, Gramlich L, Cederholm T, Van Ginkel-Res A, Remijnse W, Barrocas A, Ochoa Gautier JB, Ljungqvist O, Ungpinitpong W, Barazzoni R. The international declaration on the human right to nutritional care: A global commitment to recognize nutritional care as a human right. Clin Nutr. 2023 Jun;42(6):909-918.
2. Quarterly Financial Snapshot – Aged Care Sector – Quarter 2, 2023-24 (October to December 2023). Australian Government, Department of health and Aged Care. <https://www.gen-agedcaredata.gov.au/resources/reports-and-publications/2024/july/quarterly-financial-snapshot-of-the-aged-care-sector-%E2%80%93-october-to-december-2023>