

New South Wales Nurses and Midwives' Association

**Inquiry into the financial and tax practices of for-profit
aged care providers**

June 2018

The New South Wales Nurses and Midwives' Association (NSWNMA) is the registered union for all nurses and midwives in New South Wales. The membership of the NSWNMA comprises all those who perform nursing and midwifery work. This includes: registered nurses; enrolled nurses and midwives at all levels including management and education, and assistants in nursing/care workers (however titled, who are unregulated).

The NSWNMA has approximately 64,500 members and is affiliated to Unions NSW and the Australian Council of Trade Unions (ACTU). Eligible members of the NSWNMA are also deemed to be members of the New South Wales Branch of the Australian Nursing and Midwifery Federation.

Our role is to protect and advance the interests of nurses and midwives and the nursing and midwifery professions. We are also committed to improving standards of patient care and the quality of services in health and aged care services.

We currently have over 10,500 members who work in aged care. We consult with them in matters that are specific to their practice. We wish to acknowledge the contributions made by our members in preparing our comments.

We welcome the opportunity to provide a submission to this Inquiry.

This response is authorised by the elected officers of the New South Wales Nurses and Midwives' Association

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Terms of Reference

The financial and tax practices of for-profit aged care providers, with particular reference to:

- a) the use of any tax avoidance or aggressive tax minimisation strategies;
- b) the associated impacts on the quality of service delivery, the sustainability of the sector, or value for money for government;
- c) the adequacy of accountability and probity mechanisms for the expenditure of taxpayer money;
- d) whether current practices meet public expectations; and
- e) any other related matters

Introduction

As a society, Australians have always valued and rewarded success. It is part of who we are and speaks to our core values as a nation. However, success must not be achieved at any cost. There is inherent public expectation that companies receiving commonwealth funding, particularly in healthcare industries, display corporate responsibility and accountability for the way funds are allocated. Sadly, it has become increasingly apparent that profitability has been the main driver for providers moving into the residential aged care sector. This has been compounded by a lack of willingness by the government to regulate care outcomes within the sector, with any degree of intent. This has resulted in a care industry that is neither acting accountably, nor responsibly, yet continues to receive commonwealth funding.

Overt profiteering by the for-profit aged care sector has not occurred in isolation. Successive Government policies have enabled a system that allows those who gain the most from staffing and wage cuts, to allocate commonwealth funds in any way they see fit, regardless of whether it is in the public interest. Australia previously had a system that ring-fenced funding for staffing costs, a system that provided some assurance that commonwealth funds would be directed to resident care. Sadly, the push for self-regulation across the sector removed this minimal protection for those most in need of protection, allowing a sustained deluge of funds to be streamed away from direct care.

Aged care nurses and care workers are a hard-working and dedicated workforce, yet amongst the lowest paid for their job role. Many regularly work extra hours for no remuneration in settings where staffing and skills shortages are unrecognised by their employers, and at dangerous levels. This is set within a backdrop of record profits and increasing investment in top management roles that see no benefit to resident care and outcomes. This is not the Australian way. We must act now to ensure taxation, and governance of the sector do not fail those who they were intended to protect, and those workers who care for them.

Brett Holmes
General Secretary

Recommendations

We support the recommendations of the Tax Justice Network report. Additional safeguards could be achieved through these further recommended actions

- The system for ensuring quality in RACFs must provide effective regulation of the way funding is allocated for staffing and basic supplies.
- Greater scrutiny and cross-examination of the way funding claims are matched to resident care and experience
- A system of ring-fenced funding for staffing to ensure funds are directed towards direct resident care
- Enhanced data around avoidable hospital admissions from RACFs, prescribing trends, care outcomes and behaviour management.

Response to the Terms of Reference

- a) the use of any tax avoidance or aggressive tax minimisation strategies;
- c) the adequacy of accountability and probity mechanisms for the expenditure of taxpayer money

As the NSW Branch of the Australian Nursing and Midwifery Federation (ANMF) we support the recommendations of the Tax Justice Network report commissioned by them. We therefore refer the Committee to this document for detail and recommendations as our response to terms of reference a and c.

Tax Justice Network – Australia (2018) Tax avoidance by for-profit aged care companies: profit shifting on public funds. May 2018.

Available at:

http://anmf.org.au/documents/reports/ANMF_Tax_Avoidance_Full_Report.pdf

b) the associated impacts on the quality of service delivery, the sustainability of the sector, or value for money for government

We represent workers employed in many for-profit healthcare settings. Our members have highlighted common concerns in relation to funding shortfalls in aged care facilities operated by large for-profit aged care providers. In recent years they have experienced shorter shifts, reduced staffing and been given additional duties, making workloads problematic and often unachievable. In turn, this creates higher absenteeism such as sick leave, which is not replaced. This compounds the issue. These combined factors create an environment where overworked staff cannot provide the quality of care that residents expect and deserve.

We have been monitoring this situation for a number of years and have consulted our members employed in for-profit residential aged care facilities (RACFs). Since the *Living Longer, Living Better* aged care reforms were rolled out in 2013¹, there has been a higher entry point at which people first seek residential aged care. Around 55% of residents in RACFs are now assessed as having high complex healthcare needs, a rise of over 40% since 2009². However, during the same period there has been a 5% decrease in the number of nurses within the skills mix and 7% increase in personal care workers³. This not only means that nurses have been replaced by care workers, but that numbers are decreasing overall.

The resultant haemorrhage of skills out of aged care directly opposes the plethora of research linking quality patient outcomes to the availability of registered nurses in sufficient numbers^{4,5,6}. Decisions to reduce skills mix directly contravenes not only this research, but the assessment of residents needs required to claim funding against the high complex healthcare domain. It is our opinion this can only be feasibly explained as a cost-saving exercise by for-profit providers.

¹ <https://www.legislation.gov.au/Details/C2016C00170>

² <https://www.gen-agedcaredata.gov.au/Topics/Care-needs-in-aged-care/Explore-care-needs-in-aged-care>

³ <https://www.gen-agedcaredata.gov.au/Resources/Reports-and-publications/2017/March/The-aged-care-workforce.-2016>

⁴ Sasichay-Akkadechanunt, T., Scalzi, C.C. and Jawad, A.F. (2003) The relationship between nurse staffing and patient outcomes. *Journal of Nursing Administration*, 33(9), pp.478-85.

⁵ Needleman, J. et al (2002) Nurse-staffing levels and the quality of care in hospitals, *New England Journal of Medicine*, 346(22), pp. 1715-1722.

⁶ NSWNMA (2018) Ratios save lives. Sydney: NSWNMA. May 2018

This blatant re-direction of funds away from patient care is not only irresponsible, but has the potential to be life threatening. Our members are also concerned about the failure of some for-profit providers to ensure there are enough basic provisions to maintain people's dignity, health and wellbeing. This is a basic human right, and legal requirement under commonwealth legislation.⁷ Our members tell us that in some for-profit RACFs they regularly run out of wound dressings, mouth swabs, clothes protectors, continence pads and wipes.

Although we receive regular member feedback about this issue, it appears to circumnavigate the Australian Aged Care Quality Agency (AACQA) quality framework, despite it being a regulatory requirement for accreditation. This does not offer public assurance and is an unacceptable oversight. The newly proposed draft *Aged Care Quality Standards*⁸ do little to address this, as they provide auditors with little direction in relation to the monitoring of supplies or systems for infection control.

When I approached management regarding residents care or concerns I was told "I care too much and am too honest". I find this very distressing and disgraceful. These people deserve the best care possible. Lack of supplies, faulty equipment, poor quality food is just not good enough. I feel being a dedicated nurse you are abused, bullied, disrespected.

Assistant in Nursing, For-Profit RACF

⁷ Quality of Care Principles (2014) Available at: <https://www.legislation.gov.au/Details/F2014L00830>

⁸ <https://consultations.health.gov.au/aged-care-access-and-quality-acaq/single-quality-framework-draft-standards/>

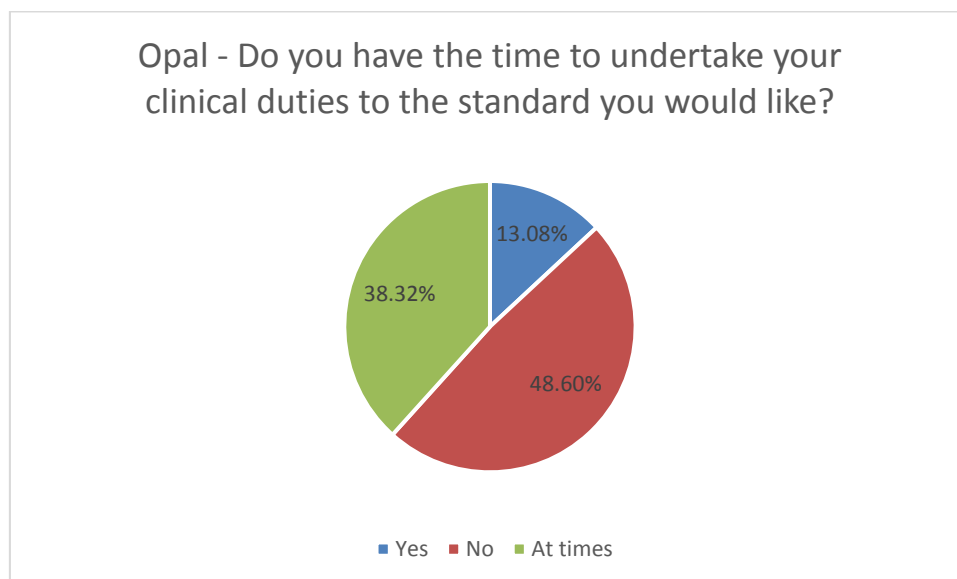
We often run short of supplies and have to improvise or go and buy our own. For example, wet wipes for incontinence of faeces run short all the time. Now we buy spares ourselves to help cover our shift.

Assistant in Nursing, For-Profit RACF

Results of NSWNMA member surveys:

Opal Aged Care

Opal made company-wide changes to rosters in 2015. As a result 74.7% of staff surveyed (384) stated that their **workload had increased** due to **reduced nurses on duty** and having to undertake additional duties. Over 70% (339) stated that the new roster had **not resulted in improved resident care**.

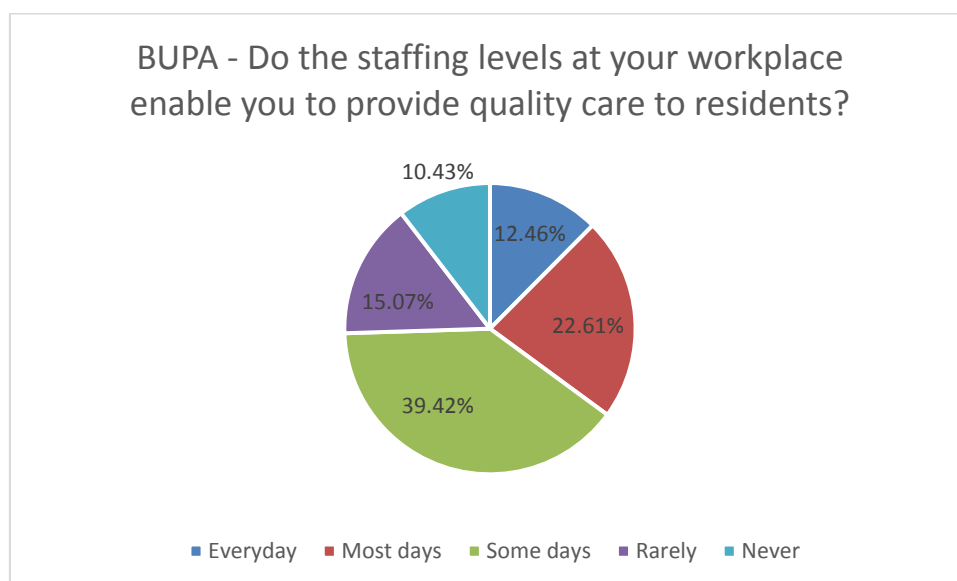


Please help us we are burning out at an alarming rate trying to cover extra shifts to help our fellow work mates. The residents are only getting basic care and not the time they deserve to spend with them when giving care needs. It feels like a production line, get them in shower them dress them get them out next please I hate it!! But being in the country doesn't help either as people don't want to work in nursing homes as it's a thankless job at times.

Assistant in Nursing, For-Profit RACF

BUPA

BUPA introduced a new model of care (BMoC) in mid-2016. As a result 75.2% (227) staff surveyed stated that **BMoC has had a negative impact on staffing/workloads** at their facility. An incredible 92% (401) stated that they have **worked short-staffed** in the last week with leave not being replaced and not enough staff rostered as the main reasons.

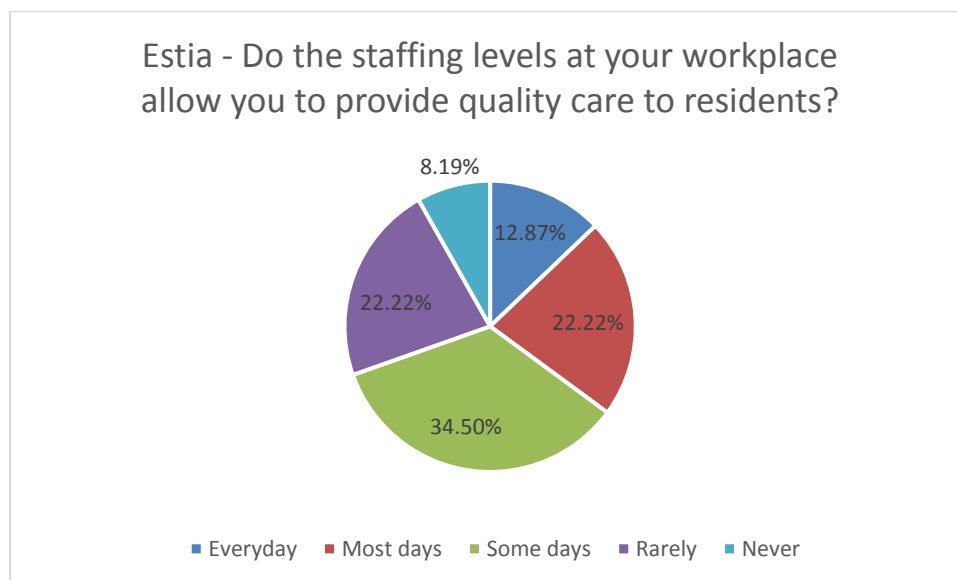


We always work past our clock-off time and don't get paid for it. We got used to that because we want to ensure our residents are settled and resting well before handing over to our night staff.

Assistant in Nursing, For-Profit RACF

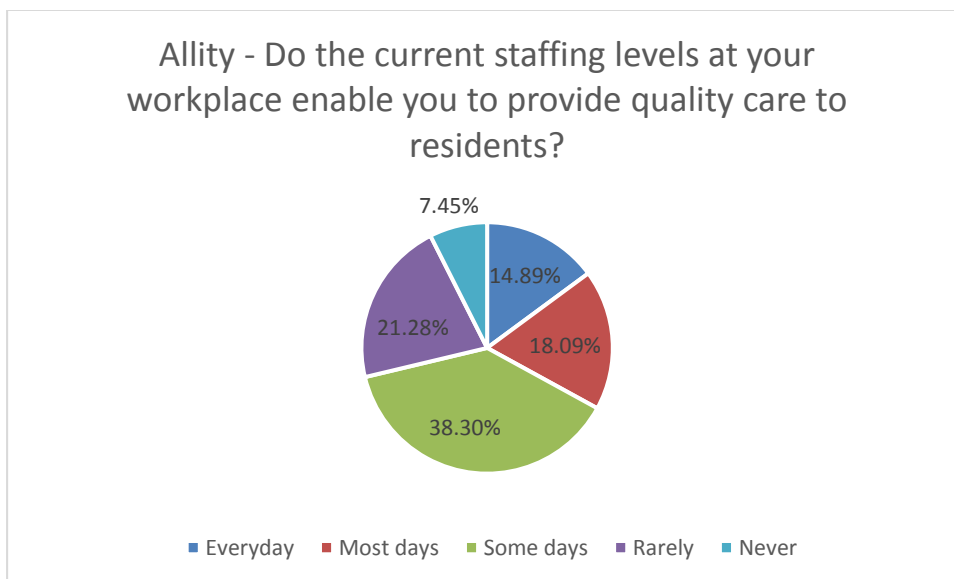
Estia

In 2015 Estia purchased a number of facilities in New South Wales. These acquisitions of Hutchinson Health 3 facilities (349 beds) and Kennedy Health Care 8 facilities (876 beds) were completed before negotiations commenced on a new enterprise agreement. Members were surveyed in regards to changes in staffing/workloads since the take-over. 56.3% (99) of staff surveyed stated that their **workload had increased**, with 38.8% (57) stated **fewer nurses**, 46.3% (68) having **additional duties** and 19% stating shorter shifts as the reason.



Allity Aged Care

The NSWNMA is currently in negotiation for a new enterprise agreement. The survey conducted is the most recent which was conducted late 2017. Only 14.9% stated that staffing levels enable quality care to residents, with over 28.7% stating Never/Rarely. The reasons for the inability to provide quality care are 59.3% (54) stated **not enough nurses on the roster** and **sick leave absences not being replaced** (57.1% (52)).



When examining the issue of ‘value for money’, we believe the examples provided clearly demonstrate that the public are not receiving good value from their taxes. As the abhorrent findings at the Oakden facility in SA show⁹, there has been historical lack of transparency facilitated by the operation of an ‘arms-length’ approach for regulating the sector. Successive governments have chosen to close their eyes to the crisis in aged care quality and skills drain.

⁹ Groves A, Thomson D, McKellar D and Procter N. (2017) The Oakden Report. Adelaide, South Australia: SA Health, Department for Health and Ageing. Available at: <http://www.sahealth.sa.gov.au/wps/wcm/connect/4ae57e8040d7d0d58d52af3ee9bece4b/Oakden+Report+Final+Email+Version.pdf?MOD=AJPERES>

Value for money is inextricably linked to personal safety. The community must be assured that there are sufficient protections provided through governance of the sector. They must be assured not only that accountable tax practices are upheld, but also that commonwealth funding is appropriately allocated to the promotion of safe quality care. It is not for providers to self-regulate this issue. This is an industry that provides care to the most vulnerable. Therefore the same protections that are afforded to children, must also be afforded to the elderly. Mandated ratios of staffing and skills mix, determined by an evidence-based model of care¹⁰, and regulated appropriately, must be applied to the sector.

There has been a lack of intent to collect data on care outcomes within the sector both at federal and state level. This is despite commonwealth agreement about conditions included in the potentially preventable hospitalisations indicator¹¹ and avoidable re-admissions classifications¹². We have recently made enquires in NSW to ascertain what measures are taken at state level, to assure the public that measures are in place to monitor the shifting of care costs to state based public services under this criteria.

We have found universal lack of data to inform which hospitalisations arise from those accommodated within RACFs. Our members tell us that many residents are transferred to hospital to receive care that could be provided by aged care providers, if they employed the right skill mix of staff. Our members also tell us of poor behaviour management and over-sedation of residents due to lack of staff availability, poor care outcomes such as pressure sores, and even people wandering out of the home due to lack of supervision.

Media articles highlighting abusive practices are becoming increasingly prevalent breakfast reading. These are extremely concerning issues that fall under the governance radar in the aged care sector. It is clear we need more data around avoidable hospital admissions from RACFs, prescribing trends, care outcomes and

¹⁰ ANMF (2016) Staffing and Skills Mix Report 2016. Available at:

http://www.anmf.org.au/documents/reports/National_Aged_Care_Staffing_Skills_Mix_Project_Report_2016.pdf

¹¹ <https://www.safetyandquality.gov.au/wp-content/uploads/2017/03/A-guide-to-the-potentially-preventable-hospitalisations-indicator-in-Australia.pdf>

¹² <https://www.safetyandquality.gov.au/our-work/indicators/avoidable-hospital-readmissions/>

behaviour management. Only then can the true test of value for money be ascertained.

ACFI is being done fraudulently, we have had visits by the department who don't go out and check what is supposed to be done for the resident, nor speak with staff. Staff are threatened with losing their job if they do not fill out behaviours etc. as they are told we will not get funding if you don't say these things, but this is untrue.

Registered Nurse, For-Profit RACF

██████████ needs to be examined, what is advertised is not even close to what they get. There are residents with specific needs that are on the premium rate, residents with dementia who do not watch the included Foxtel, residents on specific diets who can't eat the advertised menu options.

Assistant in Nursing, For-Profit RACF

d) whether current practices meet public expectations

We believe that public expectations are rising, and as such, will increasingly seek assurance about appropriateness of commonwealth spending. The concept of fairness is inherent within Australian society. Increasingly, we are hearing media coverage of poor quality care provided by for-profit aged care providers raised by family members. At the same time, we hear about the rising costs associated with meeting the needs of an ever ageing population.

Addressing the taxation issue will potentially attract additional funding that could be pumped back into the aged care sector. A more equitable use of commonwealth funds than allowing taxation loops which benefit the minority, not the majority. The community will increasingly draw a link between rising care fees and quality of care and demand explanations about how their fees (whether private, or subsidised) are spent. It is hoped that this inquiry will go some way towards providing some level of assurance for the future.