



# Submission to Senate Standing Committees on Community Affairs

*National Disability Insurance Scheme  
Amendment (Quality and Safeguards  
Commission and Other Measures) Bill 2017*

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106 Victoria St, West End Q 4101

GPO Box 1289, Brisbane Q 4001

(07) 3840 1444

(07) 3844 9387

[qnmu@qnmu.org.au](mailto:qnmu@qnmu.org.au)

[www.qnmu.org.au](http://www.qnmu.org.au)

submission

## Introduction

The Queensland Nurses and Midwives' Union (QNMU) thanks the Senate Standing Committees on Community Affairs (the Committee) for the opportunity to provide feedback on the *National Disability Insurance Scheme Amendments (Quality and Safeguards Commission and Other Measures) Bill 2017* (the Bill).

Nursing and midwifery is the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNMU is the principal health union in Queensland covering all categories of workers that make up the nursing workforce including registered nurses (RN), registered midwives (RM), enrolled nurses (EN) and assistants in nursing (AIN) who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 56,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNMU.

The establishment of the National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission (the Commission) to ensure the registration and regulation of NDIS providers is imperative to protect people with a disability from experiencing harm. This includes practice standards, code of conduct, compliance, complaints and incident management and record keeping.

While the QNMU is supportive of the formation of the Commission to deliver a nationally consistent safeguarding and quality system, duplication of powers that other agencies already provide should be avoided. The Commission's infrastructure and implementation arrangements must be timely, improve regulatory certainty and ensure people with a disability are receiving the service they deserve. Also pending is the Productivity Commission inquiry into NDIS Costs, thus the Commission must consider the findings from this inquiry.

When the NDIS is in full roll-out, the services and supports such as Information, Linkages and Capacity (ILC) Building, will connect people with a disability and their families and carers with community and mainstream support. This will provide for all people with a disability regardless if they qualify for the NDIS (Citi Research, 2017). With the Commission solely responsible for overseeing the quality supports and services of NDIS providers, those people with a disability who are not part of the NDIS must not be disadvantaged.

The QNMU recommends:

- the nursing support and services provided as part of the NDIS should be undertaken by nurses. Only qualified nurses can provide total nursing care that delivers high quality and cost-effective outcomes;
- the NDIS monitors the use of restrictive practices with the aim to reduce or eliminate such interventions.

## **Community Care**

The community care sector in Australia is moving towards a demand driven model of service delivery in the disability and aged care service sector under the NDIS and consumer directed care (CDC). Where once these services were delivered in a block funding model spread across consumers, providers will now operate within individualised budgets. This means that consumers will have more choice and control.

As the NDIS and CDC are becoming embedded in the home care sector, there has been an associated rise in the number of agencies that seek to match clients to care workers including RNs and ENs. These workers are not directly employed by the agencies and therefore not subject to the rigorous recruitment and training requirements of regulated services. Within the health sector, the emergence of these unregulated services raises concerns on many levels about the quality of care people might receive and the level of protection for both the workers and the public. This may put consumer safety at risk.

The new market environment and subsequent increase of providers and workers entering the NDIS requires a strong, national system of regulation. The QNMU believes the proposed Commission's role of regulating these providers will ensure people with a disability are able to make informed choices and the care and services they receive are of a high quality.

## **Nursing**

The QNMU supports a safe and competent NDIS workforce through the registration of NDIS providers. The regulatory requirements for these providers will ensure a skilled and safe workforce of AINs, ENs and RNs who have relevant qualification and/or licenses. The proposed NDIS Quality and Safeguarding Framework, includes building a skilled workforce to prevent harm to those people with a disability. This commitment to quality assurance and safeguards must include and acknowledge the work performed by nurses.

Nursing services are a crucial part of the NDIS through their care and support of people with a disability, their families and carers. Nursing takes a holistic rather than task oriented approach to health care and includes the physical, mental and emotional care of the person. With the full roll-out of the NDIS requiring more carers, care requirements that fall within the nursing scope of practice must be undertaken by qualified, regulated professionals. Service providers need to acknowledge and accept professional nursing boundaries so that unqualified carers are not engaged to perform nurse-specific tasks.

This means there must be a clear understanding of who is responsible for co-ordinating and monitoring care plans. The appropriate level of nursing support is imperative to the health of people with a disability.

Nursing practice is undertaken by RNs, ENs and nurse practitioners (NPs) who are regulated to practise as nurses. AINs are delegated aspects of nursing care by RNs and provide that care under the direct or indirect supervision of RNs. Current nursing regulation also requires that the outcomes of any nursing care provided by employed AINs or carers, whether in the home or the residential setting, must be evaluated by a RN. Individuals practising nursing should undertake relevant education and possess the required qualifications for registration. RNs, midwives and ENs must comply with the Nursing and Midwifery Board of Australia National (NMBA) Standards for Practice.

The provision of personal care to individuals enables them to live independently and facilitates their integration and participation in the community. Decisions about whether personal care should be provided by a nurse or another level of worker should only be made by a RN. A RN assesses the characteristics of the person requiring care, the activities to be performed, and the competence, education and authority for practice of the person providing the care.

It is important the consumer has a role in directing the care provided, is aware of the different types of workers who will be providing their personal care and is empowered in the knowledge that any nursing care they receive will be delivered, or supervised and evaluated, by a RN. As health care workers have a range of different qualifications and experience, consumers will need education and support in making decisions related to the type of care they receive and who delivers it.

The QNMU opposes the erosion of nursing positions and/or services in any setting by the employment of other staff categories (however titled) to manage or provide nursing care.

### Example

We use the following example of the management and administration of medicines to demonstrate why the qualifications and responsibilities of a 'carer' are important.

In the nursing sense, a carer is any person who is not registered to practice as a registered or enrolled nurse. Two risks arise from this.

The first is a service provider's engagement of carers to administer medicines with no nationally accredited qualifications in pharmacology or in the administration of medicines. Current Australian Qualifications Framework certificate courses have an elective unit which teaches carers how to assist with the administering of medicines, particularly with those clients who self-administer, but they do not provide those students with the necessary pharmacology knowledge to administer medicines safely.

Secondly, RNs who are directed or coaxed into allowing carers to administer medicines in contravention of the national professional nursing standard risk liability for disciplinary action by the nursing and midwifery regulatory authority, the NMBA.

Further, it cannot be assumed that a person receiving a health service in their own home is mentally competent. If the care recipient is not mentally competent to self-administer their medicines, they will require a registered health practitioner (with qualifications in medicines recognised by their National Board) to manage and administer their medicines.

### **Carers**

The number of disability support care workers needs to increase significantly to meet the predicted demand of the NDIS. This expansion poses risks for consumers who have complex needs or who live in remote areas. The need for more disability support care workers in this sector may see some workers having limited qualifications. The NDIS will also compete with other rapidly growing industries such as aged care and healthcare for nurses and care workers. Policies and measures established by the Commission must ensure NDIS providers do not position their carer workforce as a cost effective alternative to the more highly trained nurses (Deloitte 2015). There is a need and scope for both carers and nurses in the NDIS and the work they perform should be kept distinct.

Not all persons with a direct or implied obligation or responsibility for caring for individuals or groups are necessarily engaged in nursing. For example care by carers or relatives in the home environment, 'informal carers', is not considered to be nursing. However, just as the paid carer workforce is vital so too are the informal carers who play an important role in the lives of many people. The contribution of informal carers is vast and extends beyond

societal and economic expectations as many carers report personal satisfaction. Yet, the wellbeing of carers is often poor with many neglecting their own health due to limited time or the ability to afford appropriate treatments (Australian Medical Association, 2014).

With the establishment of the Commission, carers will have a single body to raise concerns about the supports and services they are receiving. This may add to the flow-on benefits of the NDIS for informal carers who are able to take respite, return to work and experience less financial pressure and stress (Laragy, Sanders & Brophy, 2015). With the Government's proposed *Integrated Plan for Carer Support Services* intending to complement the NDIS, the provision of support for informal carers to improve their long term social and financial outcomes and participation in everyday activities such as education and the workforce, is welcomed by the QNMU (Department of Social Services, 2016).

### **Restrictive practices**

The use of interventions and practices that have the effect of restricting the rights or freedom of movement of a person with disability must only be used to prevent a person's behaviour from causing harm to themselves or others (National Disability Insurance Scheme, 2016). The QNMU supports the NDIS approach of monitoring the use of restrictive practices with the aim to reduce or eliminate such practices. The Commission must ensure a strict regulatory requirement for NDIS providers who provide services that pose high risks, including restrictive interventions.

The use of restrictive practices must only be used when it is part of a behaviour support plan developed by a registered NDIS behaviour support practitioner and authorised by the state or territory in which the participant resides. NDIS providers and their staff must meet competency standards and provide regular reporting if using restrictive interventions. The QNMU believes that restrictive practices should not be used unnecessarily or excessively.

### **Industrial Matters**

How the NDIS and the Commission impacts on, and interacts with mainstream services, including those provided by professional nursing practices may have an industrial flow-on. For example, consumers may require care outside the normal spread of hours and only for a limited duration. This calls into account industrial standards such as penalty rates, shift allowances and minimum call out payments.

It is the position of the QNMU that NDIS providers must remunerate all nurses and carers according to the relevant industrial instrument, including adherence to health and safety legislation and standards. Service providers cannot contract out of their obligations under industrial law.

Any shift towards a reduction in occupational licensing, reliance on private certification schemes and reputation mechanisms, avoidance of industry specific regulatory frameworks and the exclusion of certain types of health workers from employment law will inevitably impact on the nature of the nursing workforce.

The QNMU maintains that only qualified nurses can provide total nursing care that delivers high quality and cost-effective outcomes.

### **Accessibility**

The QNMU backs the view that the Commission must ensure the NDIS is inclusive and accessible to all. This includes those consumers from different cultural and linguistic backgrounds, those who live in rural and remote locations, older participants and Indigenous Australians. The QNMU welcomes the added amendment to the *National Disability Insurance Scheme Act 2013* to include those who identify as lesbian, gay, bisexual, transgender and intersex status. Access to the correct supports and provider information should also be inclusive, flexible and easily navigated. If nursing services are not considered appropriate to include in the consumer's NDIS plan, or the funding is insufficient, the review process must be straightforward and timely for the consumer.

### **Conclusion**

The QNMU supports this Bill to establish an independent Commission. As part of this national reform and to ensure quality care is provided for people with a disability, nurses must be the workforce that provides nursing. This work should not be outsourced to lesser qualified, unregulated carers. The use of restrictive practices must be monitored and should not be used unnecessarily or excessively. People with a disability deserve no less.

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