BH:RM

2 August 2004

The Secretary
Senate Community Affairs References Committee
Suite S1 59
Parliament House
Canberra ACT 2600

Dear Mr Humphrey

SENATE COMMUNITY AFFAIRS REFERENCES COMMITTEE
INQUIRY INTO AGED CARE

Thank you for the opportunity to contribute to the inquiry into aged care.

The NSW Nurses Association (NSWNA) is the industrial and professional body that represents over 49,000 nurses in NSW and represents the NSW branch of the Australian Nursing Federation. The membership of the Association comprises all those who perform nursing work, from assistants in nursing, who are unregulated, to enrolled and registered nurses at all levels including management and education.

This inquiry is of particular interest to nurses as our members are those most intimately involved in the management and delivery of care in the aged care industry. As such we are able to identify the problems which nurses see as impediments to the delivery of high quality health care to our frail elderly population. For many years the industry needs have been dominated by the service providers, who have lobbied for increased funding to the sector. While the NSW Nurses Association welcomes and applauds a properly resourced aged care industry, we have serious concerns that additional funding, without a mechanism to direct the money to nurses' salaries, will not improve the problems of recruitment and retention of a skilled nursing workforce needed to meet the increasingly complex needs of a growing elderly population.

Please find attached the NSW Nurses Association's submission, and one attachment, for your consideration. If you require further clarification, please do not hesitate to contact Rita Martin, Professional Officer, at this office.

Yours sincerely

BRETT HOLMES
General Secretary

NSW Nurses' Association

Submission

Senate Community Affairs References Committee Inquiry into Aged Care

Terms of reference:

On 23 June 2004 the Senate referred the following matters to the Senate Community Affaires Reference Committee for inquiry and report by 30 September 2004:

a) the adequacy of current proposals, including those in the 2004 Budget, in overcoming aged care workforce shortages and training;
b) the performance of the Aged Care Standards and Accreditation Agency in;
i) assessing and monitoring care, health and safety

This submission has three key messages for Senators undertaking this Inquiry process: Firstly, we must recognise and accept that as our population ages and medical technology advances, there will be a burgeoning aged population with increasingly complex care needs. Secondly, it is essential that policy-makers accept the reality that a skilled and qualified nursing workforce is a critical component of healthcare delivery to the frail and aged. Delegation of responsibility for the care of this vulnerable group to unskilled and unregulated workers amounts to disgraceful disregard for the human rights and dignity of the aged in our community. It is critical that the Commonwealth government establish and maintain mechanisms to ensure that conditions of employment in the aged care sector attract and retain the skilled nursing staff necessary to provide the standards of care to which the frail and aged in the community are entitled.

There is ample and widely accepted evidence that the age, dependency and acuity of people in residential aged care is increasing, and will continue into the future. Accordingly there is a growing need for nursing and support staff, to deliver the skilled nursing care that many of these frail elderly patients, often with complex co-morbidities require. There are declining numbers of skilled nurses in the aged care workforce, those who remain are older than the average nursing workforce, many will be retiring in the next ten years, and the sector has seemingly intractable problems recruiting new nurses. Until the wages and conditions in the sector improve considerably for nurses, this decline will not be arrested.

With the introduction of the Aged Care Act 1997, 'ageing in place' was enshrined as a key principle underpinning aged care service provision in this country. This principle, adopted with the support of Government and consumers, recognises the advantages of allowing older people to remain in familiar surroundings as they age, and that varying levels of assistance will be necessary to enable older people to retain as much independence as possible. This may be in their own homes with support, or in retirement villages, often co-located with hostels and nursing homes.

Elderly Australians are living longer and healthier lives, but often require some form of support services as they age. These may range from quite basic assistance in their own homes, for example help with domestic chores or assistance with personal hygiene or meals, to far more complex nursing care at the end of life or following an acute health crisis, such as a stroke or fall. A fundamental aspect of this policy option is that as more complex care becomes necessary with the increasing frailty and co-morbidity associated with ageing, the full spectrum of care must be available.

The introduction of the Aged Care Act (1997) has had significant implications for the provision of healthcare to frail and aged Australians. The recently released *Pricing Review of Residential Aged Care* by Professor Warren Hogan (the Hogan Report)[1] provided detailed information about the residential aged care sector. He found that the age, dependency and acuity of people in nursing homes have increased. Due to the policy of ageing in place, there are an increasing number of high care residents in hostels.

[1] May 2004

While there is a policy direction to keep people in their own homes for longer, with support services they may require, there is undeniably an increasing need for residential aged care beds. Changing demographics mean that people are living longer, and increased participation in paid work by women, who were traditionally the prime carers for older relatives are factors which contribute to a declining number of informal carers for an increasing frail elderly population.[2] The industry has declining numbers of nurses employed, yet increasingly complex care needs for those they service.

a) The adequacy of current proposals, including those in the 2004 budget, in overcoming aged care workforce shortages and training

The NSWNA has conducted a number of surveys between 1999 and 2001 that have considered the issues relating to aged care nursing. These reports include *Survey of Aged Care Nurses Report*[3], *Nursing Student Survey Report*[4], *Survey of Directors of Nursing in NSW Nursing Homes Report*[5], and *What do nurses think about Aged Care – a report on nurse perceptions about the aged care sector*[6].

This research was conducted with nurses currently employed in the sector, students of nursing and Directors of Nursing in aged care facilities. Time and again the **same issues** were raised:

- the lack of wage parity with public sector nurses
- inadequate staffing levels
- inappropriate skills mix
- workload pressure
- increased stress levels
- an inability to deliver quality care

In NSW, there are shortages of skilled and qualified nurses in almost every aspect of healthcare service delivery. This nursing shortage, which has reached global proportions, has had the logical consequence of creating a situation where nurses have a range of employment options available to them. Qualified nurses in NSW are in a position to choose from any number of employment opportunities, and it is clear that certain factors influence nurses' choices to work, or not to work, in particular areas.

The issues listed above are the major reasons cited by nurses themselves to explain why they are not attracted to working in aged care. Until these issues are addressed, the problems encountered in the aged care sector in terms of recruitment of qualified nursing staff will persist.

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[2] Hogan, W. Pricing Review Of Residential Aged Care, May 2004, page 230.
[3] NSWNA, April 1999
[4] Aged Care Career Pathways (ACCP), March 2000
[5] NSWNA, June 2000
[6] NSWNA, September 2001

The May 2004 Federal Budget

The 2004 federal budget has allocated substantial funding to aged care service providers. While the NSW Nurses' Association applauds investment in the aged care sector, the fundamental problems which have resulted in inequitable and inappropriate use of Commonwealth funding are not resolved.

Increasing revenue to service providers will not necessarily address the issues that have resulted in the sector's increasing difficulties with recruitment and retention difficulties. Prior to the introduction of the Aged Care Act (1997), funding mechanisms known as the Care Aggregated Model (CAM) and Service Aggregated Model (SAM), ensured that resources were allocated directly to care and to services. Further, these mechanisms ensured that revenue which was not spent specifically as directed was returned to the Commonwealth.

Since the abolition of CAM and SAM, service providers are entitled to spend income as they choose. This has led to less transparency in the way service providers spend the funding they receive, particularly in relation to how much funding is spent on providing direct patient care.

Not only is there now no mechanism to quarantine funding for the provision of direct care, there is also no mechanism to quarantine funding for salaries. This is despite the repeated claims of Government representatives that it is the intention of government that this increased funding from the 2004 Budget should go towards improving wages of nurses in aged care.

Injections of funds into the sector in the recent past have failed to improve nursing salaries and care delivery. Ms Jill Iliffe, Australian Nurses Federation (ANF) Federal Secretary noted recently:

> *"Aged care providers have received $877.8 million, but there is nothing to guarantee this money will be spent on wages,' Ms Illiffe said. In the 2002-03 federal budget, $211 million was allocated to 'close the wages gap' which, at that time, was $84 a week. Aged care providers have received $101 million of that money and the wages gap is now $170 a week. So it has cost the Australian taxpayer $101 million to double the wages gap."*[7]

Without extra conditions on the $877.8 million incentive payment to mandate that service providers use the money to improve wages and conditions, the NSW Nurses Association does not have any expectation that the employment conditions for nurses in aged care will improve. It will not make any difference in this budget, as it made no difference in previous budgets. Until there is quarantined funding for nurses' wages, it is unlikely that service providers will pass on any extra funds.

To ensure that the current wage disparity does not continue, the Commonwealth Indexation formulae needs to reflect true wage rate increases in each State jurisdiction to ensure that the federal government's purpose of increasing the funding

[7] Australian Nursing Journal, vol.11, No.11. June 2004

available to ensure service providers are able to deliver high quality care and pay competitive wages to aged care staff.

Aged Care Nurses Wage Case, IRC NSW

The NSW Nurses' Association is currently involved in a wage case before the full bench of the NSW Industrial Relations Commission in order to vary the *Nursing Homes &c., Nurses (State) Award*. The NSW Nurses' Association is seeking increases in rates of pay for all nursing classifications of 21.5% to achieve parity with nurses employed in the public sector.

The Aged Care Nurses Wage Case in the NSW IRC is relevant to this inquiry as it highlights the sector is more profitable than service providers acknowledge. Wage parity is a constant complaint of nurses who leave the sector, and employers cite low profit margins in their incapacity to pay increased salaries. The Wage Case has allowed a rare opportunity for the Association to examine how public funding allocated to employers is accounted for.

At the time of this submission, all the witness statements have been heard, and closing arguments are scheduled for the end of August. In opposing the Association's claims for wage parity, employers have claimed incapacity to pay and in the course of their evidence to the Commission some industry witnesses have made supporting statements.

To challenge their arguments, the NSWNA has subpoenaed the financial records of these witnesses. Independent examinations of these financial records have highlighted that the lack of transparency and accountability of Commonwealth funding for aged care providers creates a fertile environment for inappropriate expenditures and misappropriation of public funds. For example, on the basis of the evidence put to the Commission it is clear that one service provider has included his son's HECS payments (for veterinary science) in his establishment's staff training and development budget. In this particular case, from a $24,000 staff training and development budget, approximately $22,500 accounted for the provider's son's university fees, with $1375 allocated to staff. The same service provider and his wife had received a payment of $30,000 related to the costs of running four company-owned vehicles. Another nursing home owner and his wife claimed more than $31,000 a year for company car travel.[8]

While the Association recognises that these incidents are not representative of the entire industry, these cases illustrate the potential for public funding allocated to provide quality care for the aged and vulnerable to be misused by unscrupulous providers in the absence of a robust legislative framework for proper accountability for aged care funding.

Further evidence in the wage case found that accounting standards in the aged care industry are so inconsistent that it is impossible to calculate its revenue. As a witness for the Association, Bob Walker, Professor of Accounting at University of NSW, advised the Commission that the 15 affidavits used by the industry to support its claims that it could not afford to pay nurses, were "*so muddled for accounting*

[8] Daily Telegraph, Friday 16/7/04 Page 5

purposes as to be meaningless." He stated that they did not adhere to Australian Accounting Standards, and recommended that the industry should be made to comply with the same accounting standards as listed companies and prepare general purpose financial statements, and they should be filed on the public record.[9]

Issues raised in evidence by Professor Walker were reported in *The Australian* newspaper:

> *"It was claimed millions of dollars in held by aged care homes in bond money could not be checked by those who deposited it, and was held without accountability…Documents presented to the NSW Industrial Relations Commission showed that a lesser standard of accounting was accepted and there was a potential loophole in the Corporations Act…Sources at the Australian Securities & Investments Commission said they were aware of the concerns about the reporting standards. It is expected there will be further ASIC inquiries following the evidence to the NSW court."*[10]

Also the evidence for the industry excluded what was termed '*non operating income'.*

> *"A number of items including accommodation bonds, retention of accommodation charges, concessional assistance and transitional resident supplement, interest and donations received as non-operating and he excludes these from his calculations*"

Section 57 of the Aged Care Act sets out parameters for the use of revenue generated by bonds. Professor Walker states that this money should be treated as part of ordinary revenue, as the restrictions on its use are minimal.

> "*The legislation does enable the accommodation bonds to be pooled with other cash held in the bank accounts of operators."* [11]

Professor Walker's evidence also criticises the accounting treatment of recording donations made to a facility, and spreading the donation over a period of time, over a five to ten year period from the date of receipt, in order not to show too big an amount over one year. He refers to this as an '*income minimisation technique'*.[12]

As stated previously, it is likely that these examples are not representative of the industry as a whole. It is reasonable to assume that the service providers' witnesses were most probably chosen as examples of the least profitable sector of the market. It begs the question then what would be found if the most profitable providers' records were available for public scrutiny?

[9] Sydney Morning Herald, Wednesday 21/7/2004 Page 5
[10] Australian, Thursday 22/7/04 Page 2
[11] ibid. Page 93
[12] ibid. Page 121

(b) The performance and effectiveness of the Aged Care Standards and Accreditation Agency in assessing and monitoring care, health and safety

The NSWNA has concerns about the performance and effectiveness of the Aged Care Standards and Accreditation Agency since its establishment in 1998. In surveys conducted between 1999 and 2000, Aged Care nurses[13], undergraduate nursing students[14] and Senior Nurse Managers[15] have raised issues on the reduction of standards of care in residential aged care facilities. Nursing students are in a unique position to comment on the standard of care as they have had clinical placements in a wide variety of health care settings during their three-year university program. Their clinical experiences enabled them to compare the workload and quality of care between the public health system and private residential aged care facilities. Most nursing students identified quality of care as an issue that the aged care industry needs to address.

The large amount of time spent on paperwork related to accreditation and the Resident Classification Scale (RCS) has been an issue raised by nurses in every survey. Staff commented that 'the accreditation process is a farce as everything is set up for the day and then disappears'. It has been reported that some facilities have received accreditation of three years despite their dementia residents having been frequently found wandering on the main streets because these facilities have no security measures to prevent such adverse events[16].

Attached is a copy of the recent national Aged Care Phone-in report, conducted by the Australian Nursing Federation for your consideration, however it is opportune to highlight a number of points:[17]

- Inadequate staffing levels were the most important issue of concern for staff, residents and families (86.1%).
- The second most important issue of concern for staff was inadequate standards of care (62.0%).
- The nurses felt unable to provide quality care to their patients, because there are so few skilled staff.

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[13] NSW Nurses' Association, *Survey of Aged Care Nurses Report,* April 1999

[14] Nursing Student Survey Report – What are the issues that influenced nursing students' positive and negative experiences in aged care? A report prepared by the NSW Nurses' Association on behalf of the Aged Care Career Pathways (ACCP) Consortium, March 2000.

[15] NSW Nurses' Association, *Two years after the introduction of the Aged Care Act 1997, what are nurse managers' overall experience of and opinions about the current situation in aged care? Survey of Directors of Nursing in NSW Nursing Homes Report,* June 2000.

[16] A concerned member of the general public, a letter written to the Department of Health and Ageing (NSW Branch) and the NSW Health Department Private Health Care Branch, 2003.

[17] Australian Nursing Federation, *The National Aged Care Phone-In*, July 2004

When asked what could be done to address the issues of concern, 83% said more staff were required, and 77.6% said more funding was needed. Other issues raised included the increasing and inappropriate use of unqualified workers as substitutes for qualified nurses and the lack of accountability and transparency in the way funding to the aged care sector is used.

The large number of callers who identified inadequate staffing levels and inadequate standards of care would strongly suggest that the performance of the Aged Care Standards and Accreditation Agency is not effective in assessing and monitoring care, health and safety.

Most facilities are awarded three years accreditation, and this would imply that the standards of care are good, and staffing levels are adequate. Clearly this is not the picture which emerges from the results of our recent survey, which while a relatively small sample, gave a very strong feeling for what is actually occurring in aged care facilities.

NSWNA members frequently express dissatisfaction with the Agency, who they feel focus on the processes rather than the actual care given. A number of callers to the phone-in stated that they spent their time **documenting care which was never delivered**. The reason for this is that the focus is on the documentation (to pass accreditation and to attract RCS funding) rather than on the actual care delivered.

Despite the well documented reduction in nurses working in aged care, the agency does not seem to reflect the subsequent declining levels of care. Between 1994 and 1999 there was a 17.8% decrease in the number of nurses working in the residential aged care sector.[18] The NILS survey on the aged care workforce found that "…there has been a substantial substitution of personal carers (PCs) for nurses in recent years.[19] This decline has continued, and the ageing of the aged care workforce in particular will mean significant decline of this workforce in the future as many nurses approach retirement age. The inability of the industry to attract and retain the skilled nursing staff to care for growing numbers of frail elderly patients, is a critical issue for the industry. The growing complexity of the care needs of residents is acknowledged in the Hogan report:

> *With the changing dependency needs of the resident population, and the increasing number of residents with complex care needs, residents are requiring expert nursing care to a greater extent now and will continue to do even more in the future than in past days when dependency and frailty levels of residents was less, and nursing home care tended to be somewhat in the nature of 'custodial care'.*[20]

An obvious link must be made between the reduced numbers of skilled nurses employed in nursing homes and the increasing acuity and dependency of those they

[18] Hogan. W. *Pricing Review Of Residential Aged Care* 2004: page 222
[19] Richardson, S. and Martin, W. *The Care of Older Australians – A picture of The Residential Aged Care Workforce* The National Institute of Labour Studies, Flinders University, Adelaide, February 2004.
[20] Hogan, W. op.cit. page 230

care for. The NSW Nurses Association prepared a report in 2001 titled; "*What do nurses think about aged care?"*[21] It found that:

> *"Through the increasingly high numbers of residents who need skilled professional nursing, coupled with a reduction in overall skill mix, added to a depleted aged care nursing workforce, a dangerous situation now exists in many aged care facilities"*

Far from improving in the 3 years since this report was prepared, the situation has continued to decline.

Recommendations

- That legislation should be introduced to ensure that all service providers be made to comply with the same accounting standards as listed companies and prepare general purpose financial statements, and they should be filed on the public record.

- That industry wide benchmarks should be developed for minimum staffing levels **and** skills mix, and these should be enforced.

- A legislative requirement for 24 hour registered nurse cover for **all** high care residents in any residential aged care facility

- Dedicated funding to create and maintain wage parity between nurses in aged care and the public sector

- Indexation should reflect true wage rates and ensure the delivery of quality care by enabling service providers to pay competitive wages to aged care nurses.

- That mandatory and transparent accounting practice for the industry is introduced to show how much of their funding aged care providers spend on care and staff.

- That a more robust framework for accreditation certification be developed to capture the **actual** quality of care delivery in aged care.

- That the accreditation process should be similar to that used to accredit public hospitals.

[21] NSWNA *What Do Nurses Think About Aged Care?* September 2001