Dear Ms Westcott


Please find attached the Australian Nursing Federation (Vic Branch) submission into the above call for comments by the Department of Health and Ageing that will form the basis of consultation in relation to the legislative amendments required to implement the Living Longer Living Better aged care reform package.

Should you require additional information please contact Mark Staaf - Professional Officer, on 03 9275 9333 or mstaaf@anfvic.asn.au

Yours sincerely

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The Australian Nursing Federation (Victorian Branch)
The Australian Nursing Federation (ANF) was established in 1924. The ANF is the largest industrial and professional organisation in Australia for nurses and midwives, with Branches in each state and territory of Australia.

The Australian Nursing Federation (Victorian Branch) represents in excess of 65,000 nurses, midwives and personal care workers (the latter predominantly in the private residential aged care sector). The Australian Nursing Federation nationally represents in excess of 225,000 members and we are the largest union in Australia representing workers in the health sector. Our members
are employed in a wide range of enterprises in urban, rural and community care locations in both the public and private health and aged care sectors.

The Australian Nursing Federation participates in the development of policy relating to nursing and midwifery practice, professionalism, regulation, education, training, workforce, and socio-economic welfare; health and aged care, community services, veterans' affairs, occupational health and safety, industrial relations, social justice, human rights, immigration, foreign affairs and law reform.

The core business for the Australian Nursing Federation is the representation of the professional and industrial interests of our members and the professions of nursing and midwifery. Additionally, the Australian Nursing Federation (Vic Branch) is a registered training organisation and contributes to vocational education and training of enrolled nurses, and professional development for registered and enrolled nurses and registered midwives.

The Australian Nursing Federation (Vic Branch) represents the interests of nurses, that are employed by the state government and private aged care providers that work in residential and community aged care and therefore has an interest in any reform to the proposed changes to the Aged Care Act 1997 that may have an impact on aged care nursing care of older people in nursing homes or aged care facilities. Registered and enrolled nurses form the largest health profession in Australia, providing care to people throughout their lifespan and across all geographical localities nationally.

**Introduction**

The Australian Nursing Federation (Vic Branch) understands the proposed changes to the Aged Care Act 1997 involve amendments under four categories:

1. Residential Care - the way Government subsidies and resident fees are calculated in relation to accommodation costs;
2. Home Care - changes to the type of home care and the way the Government subsidies and fees are calculated;
3. Governance and Administration - changes relating to the establishment of the new Aged Care Pricing Commissioner and the new Aged Care Quality Agency;
4. Changes that remove anomalies in the Act and improve the operation of the Act.

**Part 1 - Proposed changes to High and Low Residential Care**

The Australian Nursing Federation (Vic Branch) is supportive of the removal of differing arrangements that are currently in place that distinguishes differences for high and low care assessed residents. Such improvements that result in residents being able to access the level of care that they need on admission to a nursing home and the removal of the requirement for re-assessments if a person does not enter care immediately after being approved as eligible for entry into a nursing home will be less burdensome for residents and their families, without effecting people entering a residential aged care home for the purpose of respite care, is supported.

The Australian Nursing Federation (Vic Branch) is of the view that all older people living in residential aged care services are entitled to the same level of safe, quality care that all registered and enrolled nurses provide, regardless of any subcategory of care. We welcome change to the Aged Care to ensure any resident assessed under the current Aged Care Funding Instrument
(ACFI) assessment who is categorised as high care cannot be living in a low care nursing home without access to 24 hour care from a registered or enrolled nurse.

We have some reservations in the blending of high and low care residential aged care where there is a desire by approved providers to alter direct care staffing levels to include an increase in lower level direct care workers in place of competent, skilled and educated registered and enrolled nurses or work substitution to a lesser skilled and qualified aged care worker to replace nurses. This scenario becomes evident where some direct care activities - like medication administration to a high care resident is the professional practice domain of a nurse and there is jurisdictional legislation that places the responsibility for such care activities with nurses. For example, state and territory drugs and poisons legislation.

The provision of one tier of care by removing the current high/low care distinctions must ensure quality, skilled nursing care to recipients who are currently assessed as having low care needs will benefit to optimise the period of personal autonomy and extend the degree of their independence.

The Australian Nursing Federation (Vic Branch) considers the removal of any distinction between low care and high care, as a model of care, must involve the development and implementation of an improved model of care in a way that does not differentiate between approval for low care or high care. It is our view that the current standards applied to high care aged care nursing situations is the common denominator for the baseline of nursing and personal care. Nonetheless, any blended care model must remain consistent with the identified specific care needs in accordance with the individuals ACFI assessment.

Where any amendment to the current Aged Care Act is proposed in this regard, the amended Act, must specify a minimum safe staffing level based on the ACFI assessed care needs of residents and a skills mix standard for staffing that is applicable in every aged care home in all Australian jurisdictions.

By developing a minimum staffing standard as an appropriate model for resident care, the ANF consider this will afford a safe level of high quality nursing care, to all residents, that will in turn, improve residents care outcomes, health and well-being, slow the rate of deterioration and diminish recurrent costs to the Commonwealth. Furthermore, there may be some enhancement of the current inflexible funding system which rewards approved providers through higher levels of funding when residents become increasingly frail and physically dependent on others for assistance.

**Nursing and aged care workforce profile**

Victoria has two levels of nurse, the registered nurse and the enrolled nurse. With the move to national registration on 1 July 2010 the licensing and registration of nurses in these classifications has been assumed by the Nursing and Midwifery Board of Australia (NMBA) through the Australian Health Professionals Regulation Agency (AHPRA).

For licensure in Australia, the registered nurse must successfully complete a minimum three year undergraduate degree at a recognised higher education institution or, historically, the equivalent from a recognised hospital based program. For a nurse to maintain their licensure or registration, the registered nurse must satisfy requirements in respect of continuous professional development, recency of practice, professional indemnity insurance, criminal history and English language.
The registered nurse is a crucial part of the aged care workforce, managing teams of staff, making nursing assessment, and applying advanced and specialist knowledge to the increasingly complex care needs of the RAC demographic.

The enrolled nurse, for registration, must have satisfactorily completed a qualification at the minimum Certificate IV for entry to practice; or a Diploma of Nursing from a Vocational Education and Training (VET) provider such as a TAFE, registered training organisation (RTO) or, historically, the equivalent from a recognised hospital based enrolled nurse program. More recently however, the educational preparation for enrolled nursing in the majority of Australia is the diploma of nursing, which involves around 1500 student contact hours and is delivered full time over 18 months. The enrolled nurse may undertake more complex tasks than a personal care worker (PCW) including, where educationally prepared, medication administration and client monitoring. The enrolled nurse works closely with the registered nurse, generally undertaking delegated care under the direct or indirect supervision of the registered nurse. The Core (not minimum) enrolled nurse practice requires the enrolled nurse to work under the direction and supervision of the registered nurse as stipulated by Australian Health Practitioners Regulation Agency (AHPRA). At all times, the enrolled nurse retains responsibility for his/her actions and remains accountable in providing delegated nursing care.

Personal care workers or assistants in nursing (however titled) are not currently licensed. Their educational preparation while generally at a certificate III level is not regulated and there is no requirement to hold accredited education to undertake the role. The most common qualification, the Certificate III in Aged Care Work, is not currently overseen by any regulatory authority. Whilst there are nominal hours allocated to the Certificate III (around 550 hours), the number of hours and standard of delivery vary between RTO's. Personal care workers or assistants in nursing (however titled) undertake routine care tasks that have been delegated by registered or enrolled nurses, under direct or indirect supervision.

Historically, the majority of nursing care in RAC facilities has been provided by registered and enrolled nurses. Whilst this remains the case in the Victorian public aged care sector, regulatory changes, efforts to minimise cost and a difficulty in recruiting and retaining registered and enrolled nurses, have dramatically affected the composition of the private aged care workforce and the way nursing care is administered in RAC facilities.

Significantly, there has been a steady and dramatic reduction in the number and equivalent full time quota (EFT) of registered nurses and enrolled nurses working in the residential aged care sector. Conversely, over the same period, there has been an exponential increase in the number of unlicensed personal care workers in RAC facilities.

The reduction in the number of registered and enrolled nurses employed by approved aged care providers has caused a significant 'reorganisation of care' in residential and community aged care, with more nursing care now being provided by unlicensed workers and less being provided by registered and enrolled nurses. The Australian Nursing Federation (Vic Branch) asserts that this reduction of registered and enrolled nurses, i.e. those direct care staff most educationally prepared to provide for the increasingly complex care needs of residents, is counter-intuitive in the context of the ageing and increasingly dependent RAC demographic. Furthermore, the Australian Nursing Federation (Vic Branch) asserts the effective reduction in nursing skill mix is contributing to a lower level of resident safety and quality of care, and placing vulnerable residents at risk.

Additionally, nursing and care hours in the RAC sector have neither kept pace with, nor matched the expansion in the number of RAC places, nor adapted to meet the demand arising from the
more complex care needs of the RAC demographic. Whilst there was a 15.3% increase in the number of care staff employed in RAC facilities from 2003 to 2007; this translated to only a 3.4% increase in EFT.

The 3.4% EFT increase is significantly less than the corresponding increase in RAC places of 12.5%, indicating that nursing and care staff hours have not increased to meet demand.

The failure to increase nursing hours relative to the increase in number of RAC places and to RAC residents' more complex health and care needs is resulting in inadequate staffing levels, particularly in the private residential aged care setting. In turn, inadequate staffing levels are causing intensification of work for nurses and PCWs, which is impeding both the retention and recruitment of a sustainable aged care workforce, and contributing to a decline in resident safety and quality of care.

The provision of staffing levels and skill mix adequate and appropriate to the assessed care needs of residents is crucial to providing high quality care. With this in mind, aged care workforce planning must ensure that staffing levels and skill mix are adequate and appropriate. Consideration of what comprises an appropriate staffing level and skill mix in residential and community aged care must take into account the different educational preparation and scope of practice of registered nurses, enrolled nurses, and unlicensed care workers. These direct care staff must be deployed within nursing homes at the bedside in proportions and numbers that match and can competently meet the assessed care needs of residents.

The Certificate III educational preparation of pews equips them to provide routine care tasks delegated by a registered nurse and performed under the supervision of a registered nurse. In contrast, the degree qualified registered nurse is educationally prepared and enjoys a broad scope of practice that equips them to clinically assess a resident's complex care needs and, additionally, to plan, implement, monitor and evaluate this care. Registered nurses make a difference to resident and patient outcomes and provide the surveillance system for the early detection of complications.

The Australian Nursing Federation (Vic Branch) considers that an appropriate staff skill mix, comprising adequate direct care staff levels and sufficient registered nurses are absolutely critical in the provision of high quality aged care. Conversely, a failure to provide such staffing standards contributes to a reduction in the quality of care.

A report by the Accreditation Agency found among those homes found to be non-compliant in human resource management, it was found that a significant proportion did not maintain appropriate numbers and types of staff, with many of them not being able to ensure that staff skills and qualifications were the right fit for the work required and to reflect their residents' needs.

Nurses and care staff are under pressure because there are no mandatory staffing levels, shift lengths and skill mix implemented in a high percentage of facilities they are working. The nurses consider this to be dangerous to residents, and thereby to their ability to practice under the guidelines set by the Australian Nursing and Midwifery Accreditation Council (ANMAC) and adopted by AHPRA. There is also an increasing body of international and Australian research and literature that supports the proposition that the number of nursing and care staff, and moreover the proportion of registered nursing staff and skill mix, significantly determines outcomes in respect of quality of care, and the incidence of complications or sentinel events.
There exists a plethora of research and literature corroborating the correlation between registered nurses, adequate staffing levels and resident/patient health outcomes and quality of care. Consequently, the Australian Nursing Federation (Vic Branch) contends that this correlation should be given significant weighting when determining future nursing and care staff workforce requirements.

The Australian Nursing Federation (Vic Branch) is conscious of the fact that any changes mentioned above, will in turn require substantial changes to the Quality of Care Principles 1997. It is pleasing to see that the Australian Government has anticipated the need to amend the Quality of Care Principles 1997 as part of the review of the Aged Care Act. The Australian Nursing Federation would value any consultation regarding those changes and to providing further submissions on appropriate models of care for all aged care recipients.


Part 2 - Residential Care - Fairer Means Testing and Care Fees

This section of the proposed changes to the Aged Care Act 1997 is largely supported by the Australian Nursing Federation (Vic Branch).

Choices in relation to amenities and services

Where consumers of aged care services including residential and community aged care are required to contribute to the cost of their care, the Australian Nursing Federation (Vic Branch) is supportive of the consumer having a choice of paying for their accommodation through a refundable lump sum, a rental style periodic payment or a combination of either in circumstances where the consumer of the service can afford to pay. Notwithstanding our view that there must remain fully supported Commonwealth aged care places available for financially and 'Intellectually disadvantaged older people and that aged care providers must not be able to distinguish between care recipients based on their ability to pay for their care.
Part 3 - Residential Care - Flexibility and Choice in paying Accommodation Costs

Care Subsidy reduction
The Australian Nursing Federation (Vic Branch) acknowledges the complexities of the means testing and capping arrangements inclusive of the supplements and supportive arrangements proposed. We acknowledge there is to be no change to the current arrangements of residents in nursing home care before July 1, 2014 and note the proposed changes are to be effective from July 1, 2014.

For people entering residential aged care from July 1, 2014, we acknowledge that it is proposed that the standard resident contribution will be set at 85% of the basic Australian aged pension amount and that there will be a means tested care fee, calculated in accordance with the prescribed formula taking into account the persons the persons assets and income, excluding the family home, if occupies by a residents spouse or other protective person.

Accommodation Bonds & Charges
The Australian Nursing Federation (Vic Branch) is supportive of the summary in relation to accommodation bonds as proposed.

Behaviour Supplement
The Australian Nursing Federation (Vic Branch) is supportive of the introduction of an additional behavioural supplement to enable approved providers to make available additional and more appropriate nursing and personal care to care recipients diagnosed with dementia.

The Australian Nursing Federation (Vic Branch) believes it is critical that challenging behaviours associated with dementia are to be managed successfully, any additional funding must incorporate a proportion to improve the skill mix of the care staff that provide the daily care to residents with dementia, or else the initiative will not met its primary objective.

We recommend that any additional supplement should only be paid subject to the implementation by the provider of a model of care that, at its core, has dementia care being provided by appropriately skilled registered nurses, and enrolled nurses working under registered nurse supervision.

The Australian Nursing Federation welcomes an opportunity to consult with the Department of Health and Ageing about an appropriate model of care designed to effectively manage challenging behaviours exhibited by dementia clients living in residential care homes.

Part 4 & Part 5 - Home Care - Greater Choice and Control in Home Care/Fairer Means Testing

Home Care Packages
The Hon. Mark Butler MHR • Minister for Health and Ageing, announced in April 2012, an investigation into ACFI claiming patterns. The Minister was reported in the media as stating
"These increased claims are not happening in other areas that depend on higher levels of clinical evidence, and they don't appear to be flowing through to increased staffing levels or other spending on care."8

The Australian Nursing Federation agrees with the Minister in this regard and would extend it to the context of aged care in general. As aged care residents need progress to requiring higher, more complex levels of care, the approved provider receives higher level funding, yet in most circumstances there is not a corresponding increase in the care staff clinical hours nor a change to the skill mix of care staff required to provide increasing care needs to residents.

The Australian Nursing Federation (Vic Branch) acknowledges the 4 levels of home care aimed to replace the current Community Care Packages, of Community Aged Care Package (CACP), Extended Aged Care Home (EACH) and Extended Aged Care Home - Dementia (EACH D) will transition into new home care packages. The four proposed new levels of home care are:

- Level 1 Basic Care Package
- Level 2 Low Level Care Package
- Level 3 Intermediate Level Care Package
- Level 4 High Level Care Package

These new care packages are supported by the Australian Nursing Federation (Vic Branch), however we contend in order to effectively implement the stated purpose of the proposed home care package, home care aged care providers must be obligated by the funders to increase care hours and skill mix for those eligible care recipients as their home care needs and funding increase. Specifically we recommend correlated increases to care hours and skill mix must be implemented within a stipulated time frame for funding to continue at that level. The proposed transition arrangements for current care recipients are supported where there is no disadvantage.


Part 6 - Improved Governance and Administration

The Quality Agency

The Australian Nursing Federation (Vic Branch) is supportive of proposed changes to the current system of accreditation of residential aged care homes and improvement to current governance arrangements for quality care provision in the home and community care sector. Nonetheless it is the view of the ANF that the proposed measures still fall short of those necessary to ensure quality care is provided in both sectors. We are in receipt of anecdotal evidence from our membership that some residential aged care facilities fail to implement professional nursing standards or to maintain sustainable workload rosters, yet still achieving compliance with all 44 accreditation standards.

Additionally there have been examples given by ANF members in the past, whereby some nursing homes fail to meet all 44 accreditation standards, the home's management place the responsibility for such failure upon individual nursing staff, that can result in individual disciplinary action, despite those nurses having previously identified their inability to maintain safe and quality care due to unsustainable workloads and having also made recommendations on how to rectify the problem.
Any transition to a statutory agency for high quality care and accreditation must include amendments to the Quality of Care Principles 1997, including a comprehensive review of the Accreditation Principles and the Residential Care Principles, with the primary focus on embedding criteria relevant to the assessment of compliance with professional nursing standards, as well as developing sustainable workload models for staffing and skill mix levels required for the provision of quality care.

The current process of the Aged Care and Accreditation and Standards Agency (the Agency) review of a facility includes interviewing selected staff on duty. Whilst the interview is purported to be confidential, the Agency report lists the numbers and categories of staff that are interviewed. In most residential aged care services, it would not be difficult for managers to confidently identify persons who were interviewed, based upon daily rosters, their personal knowledge of the staff and the details contained in the report. Direct care staff in nursing homes are acutely aware of this practice, which of course provides a disincentive for them to speak openly and honestly with Agency assessors.

Consequently the ANF holds that, any review of the Agency process for accreditation of nursing homes considers the benefits of Agency accreditation reports, to not identifying to the Approved Provider the numbers or categories of staff who were interviewed by the Agency. Furthermore, the review should also consider implementing more expansive powers and time-frames for Agency assessors to review professional nursing standards and workload issues and to interview off-duty and after-hours staff regarding compliance with Agency's accreditation standard criteria. Such a process gives a more robust and quality staff interview, that remains truly confidential and promotes an accurate assessment and report.

Service quality within home and community care services, remain ad hoc. The current process for home care providers to demonstrate the provision of quality care is through self-reporting to the Department of Health and Ageing and a review of that report by a departmental officer. Members of Australian Nursing Federation working in community aged care services in various Australian jurisdictions report that some home care providers fail to implement professional nursing standards and they also require registered nurses to undertake unsustainable workloads, particularly in the areas of delegation and supervision of nursing care performed by unregulated healthcare workers.

It is the view of the ANF that home care providers be required to undergo the same level of regulatory scrutiny as providers of residential aged care services in relation to the provision of quality care, professional nursing standards, workloads, staffing and skill mix for the home care services being provided and funded.

**Aged Care Pricing Commissioner**

The Australian Nursing Federation (Vic Branch) is supportive of the establishment of a new Aged Care Pricing Commission and the appointment of an Aged Care Pricing Commissioner whose function it would be to decide on the levels of accommodation payments to an approved provider, approving any fee of extra services and undertaking other functions within the scope of the role that are yet to be finalised.

**Aged Care Quality Advisory Agency**

The Australian Nursing Federation (Vic Branch) is supportive of the implementation of a new Aged Care Quality Advisory Agency and its proposed role in relation to quality assurance in aged care. We support the establishment of a new Quality Agency in each and every state and territory of Australia. Moreover, we make this suggestion based on the fact that all Australian
states and territories have varying legislation impacting upon the provision of safe and quality care in general, with some jurisdictions having legislation specific to aged care and/or nursing homes. Furthermore, should such a new Aged Care Advisory Agency be established the Australian Nursing Federation at the national level would welcome participation, as a member of the Advisory Agency industry reference group.

Australian Nursing Federation (Vic Branch) is concerned that, despite the seemingly rigorous approach taken by the Aged Care Standards and Accreditation Agency to monitor approved aged care providers, inconsistencies and inadequacies had traditionally existed with this process. As the current Agency arrangements only allow for a 'snapshot' of an RAC facility's compliance status on a particular day of a visit from the Agency, and that this picture may not be reflective of the enduring standard of resident care or safety in the facility; and is open to manipulation from approved providers, who may focus on ensuring that staffing levels or other measures of accreditation are sufficient for the period of assessment, but reduce these immediately after the facility has been accredited.

These inadequacies resonated strongly with ANF (Vic Branch) members who have provided anecdotal evidence that in some homes:

- RAC providers commonly employ additional staff during the period of accreditation to give the appearance of having adequate staff, only to reduce these staff immediately after being accredited.
- The accreditation process is too heavily focused on documentation of care delivery rather than actual care delivery itself. Participants cautioned that what has been documented in terms of care delivery may not reflect actual care delivery, and that the accreditation process should therefore delve deeper into delivery of care rather than rely on documentation.
- Nursing and care staff are often coached by RAC providers on what they 'should' say to people from the Aged Care Standards and Accreditation Agency. Participants stated that coaching and pressuring staff in this way may lead to staff giving information to help the RAC facility pass accreditation, rather than providing accurate information.
- Too often Accreditors are neither qualified nor have expertise in nursing, aged care or health issues. Participants believed this detracted from an accreditor's ability to analyse relevant information and accurately assess the facility.

**Aged Care Quality Advisory Council**

The Australian Nursing Federation (Vic Branch) is supportive of the implementation of a new Aged Care Quality Advisory Council and its proposed role in relation to quality assurance in aged care. We support the establishment of a new Quality Council in each and every state and territory of Australia. The Australian Nursing Federation would be well placed to appointed to membership status on any such Council as our members have expertise in a number of relevant fields such as:

- Aged care nursing
- Provision of aged care nursing services
- Gerontology and geriatrics
- Psychiatry of the older person
- Management
- Quality management systems
Consequential Changes Supported.

ACFI Appraisals
The Australian Nursing Federation (Vic Branch) would like to see improvements in the accountability of approved providers in relation to their ACFI claims for aged care funding. Nursing is the profession that is held in the highest regard by the Australian public and any rorting of the funding process by providers reflects poorly on, and diminishes the morale of, their nursing staff who are working diligently, often with difficult workloads and for relatively poor wages, to provide safe and quality care to our frail aged.

Sanctions
The proposed changes are supported by the Australian Nursing Federation (Vic Branch) to bring into line consistency with Section 66-1 (j) of the Aged Care Act.

Conclusion
Available evidence shows that the more nurses are required in the skills mix of the aged care sector broadly and within aged care homes specifically. Moreover, the evidence highlights that greater numbers of nurses within aged care environments leads to better and more positive health outcomes for residents of aged care homes which directly correlate to the quality and quantity of care they receive.

The Australian Nursing Federation (Vic Branch) appreciates the opportunity to provide comment in relation to the proposed review of the Aged Care Act 1997, and acknowledge that any change to the current Aged Care Act will result in amendments being required to the Quality of Aged Care Principles 1997 accordingly.

We are supportive of changes within the aged care reform package that will assist older people to stay in their own homes for longer and having a greater choice in the care and support they receive. Additionally, the strengthening of the aged care workforce and improved health connections through complex and chronic health care provision, multidisciplinary care and service are welcomed - we see the registered and enrolled nurse as the pivotal linchpin in development and management of these processes.

The removal of differing residential care levels for low and high level residential care by the Commonwealth for older people living in residential aged care services must ensure that aged care nursing home residents receive the same level of safe, quality nursing and personal care that all registered and enrolled nurses provide, regardless of any subcategory of care. We welcome change to the Aged Care to ensure any resident assessed under the current Aged Care Funding Instrument (ACFI) assessment who is categorised as high care cannot be living in a low care nursing home without access to 24 hour care from a registered or enrolled nurses.

Finally, we assert that the Australian Nursing Federation would be well placed to an appointment as a member on the new Aged Care Quality Advisory Council.

We trust our comments can be used to inform the development of the Aged Care (Living Longer, Living Better) Bill 2013.