Dear Committee Secretariat

Submission to the Standing Committee on Health, Aged Care and Sport

Inquiry into the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018

The Department of Health (the Department) welcomes the opportunity to provide this submission to the Standing Committee on Health, Aged Care and Sport for its Inquiry into the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018 (the Bill).

The Department understands that the intent of the Bill, as outlined in the Explanatory Memorandum, is to effect the quarterly publication of ratios of aged care recipients to staff members for each residential care service operated by approved providers, with the aim of creating greater public transparency in the provision of residential care services and informing members of the public in choice and decision making regarding residential care services.

This submission sets out information about:
1. current regulatory and policy settings in relation to the aged care workforce;
2. work currently underway in relation to the workforce, aged care quality and transparency of information; and
3. implementation considerations of the measures proposed in the Bill.

On 16 September 2018, the Prime Minister announced the Government's decision to ask the Governor-General to establish a Royal Commission into the aged care sector. The Government has mentioned the importance of the aged care workforce in the Royal Commission process.

The Royal Commission will primarily consider the quality and safety of care provided in residential and in-home aged care services to senior Australians. It will also include young Australians with disabilities living in residential aged care.
settings. Following an extensive public consultation exercise, the Terms of Reference and appointment of Commissioners will be announced shortly.

The Government has made it clear that existing reforms will continue to be pursued including the establishment of the new Aged Care Quality and Safety Commission, for which there are currently Bills before Parliament (Aged Care Quality and Safety Commission Bill 2018 and the Aged Care Quality and Safety Commission (Consequential Amendments and Transitional Provisions) Bill 2018. Stakeholders in the aged care sector have also spoken about the importance of continuing with ongoing reforms while the Royal Commission progresses.

1. CURRENT REGULATORY AND POLICY SETTINGS

The Aged Care Act 1997 enacts a quality framework to support the provision of quality aged care services. This includes comprehensive quality standards through the Quality of Care Principles 2014, monitoring, complaints management and compliance powers. Residential aged care providers are legally required to meet the Accreditation Standards to ensure quality care and services are provided to all care recipients.

The law also requires individual residential aged care facilities to provide appropriately skilled and qualified staff sufficient to ensure the services are delivered in accordance with the Quality of Care Principles 2014. (Quality of Care Principles 2014 Schedule 2 Accreditation Standards Part 1 Management Systems, staffing and organisational development, Item 1.6). Commonwealth legislation governing aged care residential facilities does not include mandatory staff-to-care recipient ratios.

If a provider is not meeting its legislative obligations, the Department may take regulatory action, including imposing sanctions. This action is aimed at protecting current and future care recipients’ health, welfare and interests as well as returning the provider to compliance. Information about aged care providers and compliance action, including current and expired sanctions, is available at www.myagedcare.gov.au.

Accreditation and Consumer Experience Reports
The Australian Aged Care Quality Agency (the Quality Agency) assesses and monitors the performance of residential aged care services against the Accreditation Standards, including through re-accreditation audits for residential care settings.

Legislation to implement unannounced re-accreditation audits came into effect on 17 March 2018. The new arrangements will apply to all new re-accreditation applications made from 1 July 2018. This change will strengthen aged care regulation, helping to ensure safe, quality care is consistently maintained at all residential aged care services.
There are also mechanisms to specifically ask residents of residential care facilities questions about the adequacy of staffing levels from their perspective. This is achieved during visits where surveyors make observations, watch care practices, review documents such as staffing rosters, and interview care recipients, their representatives, staff and management to obtain information and evidence regarding the care provided including the adequacy of staffing levels. During the audit, the surveyors must talk to at least 10 per cent of people in the residential aged care facility and/or their representatives as well as key staff management and volunteers and their feedback is reported in Consumer Experience Reports.

Consumer Experience Reports are aimed at promoting consumer choice by capturing the consumer experience of the quality of care and services in aged care. The Quality Agency publishes Consumer Experience Reports on residential aged care services and is currently working on applying the reports to the home and community sector.

The Consumer Experience Reports covers responses about staffing, including if:
- staff treat residents with respect;
- residents feel safe;
- staff meet the healthcare needs of residents;
- staff follow up when residents raise things with them;
- staff explain things to residents;
- residents like the food at the facility;
- there are staff to talk to when residents are feeling a bit sad or worried; and
- staff know what they are doing.

For residential aged care services, Consumer Experience Reports are published alongside the re-accreditation audit report for each home in the Reports section of the Quality Agency’s website: http://www.aacqa.gov.au/publications/reports.

The presentation of the Reports is consumer friendly, an example can be found on the Quality Agency’s website: http://www.aacqa.gov.au/publications/ConsumerExperienceReportExampleFinalJune2017.pdf. The Government is taking action to improve transparency around the quality of aged care services. Announced as part of the 2018-19 Budget, from July 2020, simplified, consumer friendly accreditation reports will also be developed and published on the My Aged Care website with the existing Consumer Experience Reports.

New Aged Care Quality Standards
From 1 July 2019, new Aged Care Quality Standards will apply to all aged care services including residential care, home care, flexible care and services under the Commonwealth Home Support Program.

The new Standards focus on quality outcomes for consumers rather than provider processes, and make it easier for consumers, their families, carers and representatives to understand what they can expect from a service.
Providers will be required to demonstrate that their care and services are safe and effective, and delivered in accordance with each consumer’s needs, goals and preferences to optimise health, wellbeing and quality of life. The new Standards have an increased emphasis on organisational governance, with the governing body being held accountable for safe and quality care and services.

With regard to human resources (Standard 7), providers will be required to demonstrate that they have a workforce that is sufficient, and is skilled and qualified, to provide safe, respectful and quality care and services.

Existing information about a service’s staffing
While the legislation does not require the publishing of staff information, there are facilities available to providers to make this information public, should they choose to. This is available as part of the aged care homes service finder tool on the My Aged Care website, in order to market this aspect of their services to consumers. This is in addition to information that may be provided on the service’s own website.

There is also information on the My Aged Care website encouraging consumers to ask providers questions such as:
- What training do the care staff have?
- What is the mix of registered nurses, enrolled nurses or trained carers?
- How many staff provide care overnight?
- How you ensure there are enough of the right staff to care for residents’ needs?

Complaints processes
In addition to legal requirements on providers, the Aged Care Complaints Commissioner (Complaints Commissioner) provides a free service for people to raise concerns about the quality of care or services delivered to people who receive Commonwealth funded residential care services.

Anyone can make a complaint about the care and services delivered in aged care to the Aged Care Complaints Commissioner. There are strict confidentiality and anonymity provisions within legislation that ensure people who request confidentiality are protected from having their identity disclosed.

2. REFORM WORK CURRENTLY UNDERWAY

Aged Care Workforce Strategy
On 13 September 2018, the Minister for Senior Australians and Aged Care, Minister for Indigenous Health Minister Wyatt, AM, MP, launched Australia’s Aged Care Workforce Strategy which recommended an industry-led approach to transparency about staffing levels. Specifically, the Aged Care Workforce Strategy Taskforce recommended that “organisations publish the model of care and hours of care across elements of the holistic care plan to better support their consumers and inform the family, carers and the local community”.

The Strategy also recognises that the care needs of older Australians are growing increasingly complex, with a high incidence of multiple chronic conditions, including dementia and changing community expectations.
The Taskforce did not support the introduction of legislated staff ratios.

The Government is supporting Professor John Pollaers OAM, former Chair of the Taskforce, to facilitate sector implementation of the Strategy.

Aged Care Services Industry Reference Committee
A well-qualified workforce is the foundation for quality care and requires new career pathways for the aged care workforce that recognise and value their skills and experience. An Aged Care Services Industry Reference Committee, announced by the Australian Government in March 2018, will reform national training package qualifications and skill sets needed by the aged services industry and examine new approaches for career progression in the sector.

3. OTHER REFORMS

New Aged Care Quality and Safety Commission
In response to the Review of National Aged Care Quality Regulatory Processes (the Carnell-Paterson Review), the Government is establishing a new national independent Aged Care Quality and Safety Commission (the Commission). The new Commission will deliver a more responsive and holistic approach to aged care regulation, giving people greater confidence in the regulation of aged care.

The new Commission will oversee the approval, accreditation, assessment, monitoring, complaints handling and compliance of Commonwealth subsidised aged care providers.

Starting from 1 January 2019, the functions of the Quality Agency, the Complaints Commissioner and the regulatory functions of the Department of Health will transition to the new Commission. Bringing these functions together will strengthen the regulation of aged care, giving greater confidence to all Australians.

Minister Wyatt introduced the Aged Care Quality and Safety Commission Bill 2018 and the Aged Care Quality and Safety Commission (Consequential Amendments and Transitional Provisions) Bill 2018 to establish the Commission into the Parliament on 12 September 2018. The Bills are currently before the House of Representatives and are also being considered by the Senate Community Affairs Legislation Committee, which is expected to report on 15 October 2018.

4. IMPLEMENTATION CONSIDERATIONS

The Bill proposes quarterly reporting and publication of staffing ratios on the My Aged Care website, along with reporting of any changes of more than 10 per cent of the ratio of aged care recipients to staff member (by category). The Explanatory Statement for the Bill states “the Bill will have no financial impact.”

The Bill further proposes that staffing is reported by category (e.g. Registered Nurse, Enrolled Nurse, Personal Care Attendant, Allied Health Staff and Other Staff), of which there are 10.
It would need to be considered whether this level of detail would be useful to consumers and, if so, what additional information and context would need to be provided to consumers to assist in their understanding and choice making.

In seeking to provide greater transparency around staff ratios, it is important any measurements selected and the way they are communicated are chosen carefully. The information would need to be both easy to understand and support people to consider staff ratios alongside a range of relevant information when choosing an aged care provider, acknowledging there are a range of issues to consider in assessing the quality and safety of aged care providers.

The Bill’s proposed requirement for aged care providers to report, between the quarterly notifications, a change of more than 10 per cent in any of the 10 categories would also increase administrative costs and regulatory burden. The Department considers that this burden would have a disproportionate impact on small providers, given that some categories of staff members described in the Bill would likely have low numbers. These would be considered through a regulatory impact statement process.

Further, in considering the implementation of the Bill, there will be costs to design and implement the solution to publishing staffing ratios on the My Aged Care website. There are also likely to be ongoing costs for Government and aged care providers in collecting, collating and publishing the information proposed by the Bill.

I trust this information has been of assistance to the Inquiry into the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018. We would be happy to assist the Committee through attendance at the Inquiry hearings.

Yours sincerely

Glenys Beauchamp

3 October 2018

1 The Aged Care Workforce, 2016 (March 2017) reported that in 2016 over half of facilities (52 per cent) are large (ie with more than 61 places). The average size of employment in large facilities in 2016 was 113 PAYG employees, and on average 75 of these employees are direct care workers. Note: This would suggest that some ratio categories of staff members described in the Bill would have low numbers even for large providers. The National Aged Care Workforce Census and Survey explores how this workforce is distributed, resourced and managed and is commissioned by the Department of Health and conducted every 4 years.