ROYAL COMMISSION INTO AGED CARE QUALITY AND SAFETY

Covid-19 Hearings

Name: Diana Asmar

Address: Level 5, 222 Kings Way, South Melbourne

Occupation: Branch Secretary, Health Services Union, Victoria No.1 Branch, the Health Workers Union ("the HWU").

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1. I provide this statement before giving oral evidence in response to a Summons to appear before the Royal Commission dated 6 August 2020.

My position

2. I was elected to the position of Branch Secretary of the HWU in December 2012 after many years working in the health sector. I have continuously held the position of Branch Secretary of the HWU since 2012.

HWU Members

3. The HWU has more than 16,000 members across the health system. The HWU has significant membership in public and private hospitals, pathology, disability services, community health clinics, Aboriginal health, the dental industry and other medical or health clinics.

4. In aged care in Victoria, the HWU represents more than 6,000 members.

COVID-19 and HWU members

5. A significant number of HWU members have tested positive with COVID-19. Some of our members have been and some remain in ICU. In addition, hundreds of our members have had to isolate as a result of being a close contact of a known case of COVID-19 in an aged care setting. Many workers have been restricted to working in only one facility. More precise statistics are not available to me.

HWU members' work in aged care

6. Most of HWU's 6000 aged care members are employed by private aged care providers. Our members work in various occupations: Personal Care Workers (PCWs); chefs and cooks, kitchen hands; laundry workers; leisure and lifestyle workers; gardeners; stores people; cleaners; receptionists and administrative workers and enrolled nurses.

7. The majority of the HWU's members in private sector aged care are employed to work as PCWs. PCWs are front line residential aged care workers. PCWs provide residents' daily care. The work includes showering and toileting residents, providing meals, providing medication and arrangement for leisure activities. PCWs are often the primary

communicators with families. PCWs respond to residents' buzzers: responding to all manner of residents' care needs. A PCW also documents the work that he or she does with each resident. In my experience, inexperienced workers especially find the time management issues of the job of a PCW very demanding. A PCW must prioritise work and attend to the needs of a number of residents.

Case studies

8. For the purposes of this statement, I have set out four case studies (Lily, Manuel, Asha and Jeremy) which have been reported to me as examples of HWU members' working experiences in Victoria aged care in the pandemic.

9. I have changed members' names. I have not named facilities.

10. Each case study aims to serve as an example of an underlying or systemic problem. Where possible, I have set out my views as a union leader on how things might be done better.

11. In summary, the pandemic has laid bare in very confronting ways issues that have existed for many years in the private aged care as to:
    a. understaffing;
    b. casualisation and insecure work; and
    c. workplace health and safety.

Case study 1: Understaffing - *Lily*

12. Lily is a PCW at a Melbourne aged care facility which recently had an outbreak of COVID-19. Before the outbreak, 2 PCWs to 60 residents were rostered on night shift. After the outbreak, employees who were close contacts of known cases were required to isolate; other staff did not attend work whilst awaiting test results. Other staff were told they could work until they received results. Still others, employed as casual employees, feared bringing the virus home to their family, so declined shifts.

13. By 22 July 2020, short staffing meant 2 PCWs were rostered to 150 residents on night shift. Lily reported that the facility was so short-staffed that management had to ring emergency services to find workers.

14. Resident care fell short of proper standards. Residents were not showered or fed. It was reported a resident was left on the floor after a fall because there were not enough carers to attend to each buzzer call. Lily was then directed not to attend work as she awaited her COVID-19 test results as she was the close contact of a resident that passed away.

Lessons from Lily's case

15. Lily's case starkly demonstrates the chronic and very serious understaffing that exists in aged care facilities which the pandemic has laid bare. The pressure on HWU members as frontline workers in the pandemic has been severe. The pressure has been increased by a reduction in available workers caused by a combination of infection, self-isolation, requirements only to work at one facility and casualised workforces.

16. Serious and chronic understaffing has negative effects both on workers and the quality of resident care. For PCWs, pre-pandemic burnout and injuries were common. Unrealistic workloads reduce the industry retention of employees. It is fair to say there is a high level of worker "churn". Of course, workers and residents' needs are related. If there are not enough workers, residents do not receive the standard of care that the community expects.

17. Having regard to PCWs' work, I urge the Royal Commission to consider the development of the prescription or regulation of mandatory staffing levels in private aged care facilities.

18. As HWU Branch Secretary, I strongly believe that current PCW staff levels are routinely and wholly inadequate. Inadequate staffing levels are not fair for workers or residents. Of course, more employees cost more money. Profit motive is an inventive for cutting employee numbers. There is no mandatory carer to resident ratios in private sector aged care. There is no guideline as to minimum staff levels. This longstanding issue can only be addressed by regulated standards.

19. There is a legislative model in Victoria. *The Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015* (Vic.) s. 19 requires that the operator of a publicly funded hospital operating an aged high care residential ward must ensure that:
    (a) on morning shift the ward is staffed with one nurse for every 7 residents (and one nurse in charge);
    (b) on the afternoon shift one nurse for every 8 residents (and one nurse in charge); and
    (c) and on the night shift one nurse for every 15 residents.

20. There is no similar mandatory carer to resident ratios in private sector aged care (for nursing or non-nursing staff).

21. I believe that a ratio system should be extended to the private sector and extended from nursing staff to PCWs and beyond high care scenarios Ratios are prescribed in other industries: for teachers as to class sizes and in childcare. The community's aged residents and workers deserve the same consideration. In addition to safeguarding minimum care standards, ratios can assist with the setting of appropriate government funding levels.

22. The HWU believes that a mandated ratio of one carer to six residents built on the example of the *Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015* would lead to a greater quality of care for residents and improve employees' working lives.

Case study 2: Job insecurity – *Manuel*

23. Manuel is employed part-time at four aged care facilities by four different employers. In June or July 2020, the aged care industry expressed a preference for its employees to work at a single aged care facility to reduce infection risks. In July 2020, each of Manuel's 4 employers told him he could only work at a single facility.

24. At facility 1, Manuel was sent home because he had not declared whether he was working elsewhere. He has since depleted his annual leave. Also, at facilities 2 and 3, because he was working elsewhere, he was directed to take paid leave.

25. At facility 4, where Manuel worked the most hours, his employer asked him to sign a statutory declaration that he was not working anywhere else. That employer foreshadowed disciplinary action if he either signed a false declaration or worked at another facility without the employer's consent. Manuel declared (as was the case) that he was on leave from the other three facilities. Facility 4 has not increased Manuel's hours to make up for lost shifts at the other aged care providers.

26. As a result of these events, Manuel has depleted his accrued leave entitlements at facilities 1 to 3, which means that he will not be able to take a holiday if the secondary employment direction is lifted. If his leave entitlements are exhausted, he will experience a significant loss of income.

27. The effect of the Commonwealth Government compensation package for aged care providers to reduce impacts on employees such as Manuel is as yet unknown. There is no way of knowing whether each of Manuel's employers will agree to the Commonwealth funding proposal to reduce the impact on employees. My understanding is that operator participation is voluntary.

Lessons that can be learned from Manuel's case

28. HWU members in the aged-care sector are very low paid workers by community standards. The minimum pay rate is between $22 and $23 an hour which is grossly insufficient for the level of responsibility and importance for the general community. Insecure casual and/or part-time work is the norm. The limited hours offered by employers, coupled with low rates of pay, drives aged care workers to work in multiple jobs to make ends meet. Anecdotally, one HWU member reported that 60% of her colleagues were working across multiple facilities.

29. There is no systemic need for such high levels of casual work (as contrasted with ongoing full time or part time work) in aged care. Casual workers are kept "hungry" for shifts and are unlikely to rock the boat as to their own concerns or concerns about resident care. They need the next shift (which can be given or withheld). It is true that some workers prefer casual work, which I see as a result of the high demands of the job. An analysis of the HWU database is that 60% of members in aged care are employed either as casual employees or part-time employees.

30. Because resident numbers are known in aged care, so too is the amount of work required to care for those residents. Casual workers should supplement permanent workforces; not form the core of workforces. Insecure work undermines the development of career paths for workers. Resident care is undermined if workers' skills and experience are not developed and retained.

31. Understaffing needs to be addressed (*Lily* above). *Manuel*'s story illustrates that casualisation and insecure work needs to be fixed.

32. The only industrial incentive which favours permanent work is a right in certain circumstances in the *Aged Care Award 2010* for a causal employee to request "casual conversion" (cl. 10.5): that is, a right for a casual employee after 12 months to request that their employment be converted to full-time or part-time. This is a welcome provision, but limited use is made of it.

33. My view as a union leader is that if the ratios issue can be addressed, it may have a knock-on impact on insecure work.

34. A low-paid worker such as Manuel is least well placed to bear the costs of a restriction on working at multiple facilities.

Case studies 3 & 4: PPE and infection control protocols - *Asha and Jeremy*

Asha

35. Asha is a cleaner. She (like many of her co-workers) speaks English as a second language.

36. In April 2020, she was told that she did not need to wear a face mask when she cleaned residents' rooms. Her employer provided her with gloves, but no other PPE. Face masks were only given to staff that provided "direct resident care". She was told that if she was concerned, she could bring her own face mask. Management gave face masks to PCWs and nurses. Asha felt vulnerable whenever she attended a resident's room. Asha did not receive any training about infection control.

Jeremy

37. Jeremy is a PCW. In March or April 2020, the facility had limited supplies of personal protective equipment including face masks. One day, supplies of face masks were taken from the aged care centre to meet a shortage at a public hospital. More recently, the PPE stock has been replenished. All staff including cleaners are now required to wear PPE including face masks. However, Jeremy was informed that he could only use one face mask each shift due to a shortage.

Lessons from Asha and Jeremy

Equal treatment with medical staff

38. Our members feel undervalued and at risk as PPE has been prioritised for doctors and nurses. The same as nurses, PCWs have direct contact with residents. Other workers, including cleaners, work in the same environments including residents' rooms.

39. HWU members' protection is equally important as the protection of medical professionals. PCWs and other HWU members are on the front line the same as nursing employees. They deserve and must have equal treatment. PPE must be provided to all workers in aged care facilities.

An increase in PPE supplies; accessible to all

40. From my observations, the aged care industry needs to significantly increase its PPE supplies and its availability. I have had reports of PPE being kept in locked medicine cupboards, inaccessible to non-medical staff. Protocols must ensure that there is supply available for all staff. For example, trolleys with PPE should be stationed outside residents' rooms so they are easily accessible to all staff. No limits should be placed on use by staff.

41. A related point is about communication. There has been real difficulty in reconciling possibly conflicting communications from State and federal governments and from individual operators. Today, I received a communication from the federal government that surgical masks should be changed once every 4 hours. The reissued state guideline today refers to one N95 mask as often as required for providing care to COVID confirmed patients. This creates difficulties for our members on the ground.

Infection control training

42. Infection control should be part of employee training. After the pandemic, the need for better training as to infection control should be part of routine training provided to all - to new employees and by way of refresher training. Training must be tailored for employees who speak English as a second language. I do not believe that internet self-guided training (of itself) is adequate. As part of that training, and in the workplace generally, staff must be encouraged to speak up about safety concerns and informed of their right to report concerns to the union and/or the regulator without fear of reprisal.

Conclusion

43. HWU members must be given their due and equal respect as providers of aged care on the front line of this pandemic. If they are not, residents also lose out. It is not acceptable for low-paid staff to think that they have fewer rights and protections than other workers in the same workplace. HWU aged care workers have reported feeling like the workers on the lower levels of the Titanic. The virus does not discriminate, neither should we.

Date: 10 August 2020