

Subject:

FW: Comments on the new aged care exposure acts

From:

Sent: Thursday, February 29, 2024 4:07 PM

To: Aged Care Legislative Reform <AgedCareLegislativeReform@Health.gov.au>

Subject: Re: Comments on the new aged care exposure acts

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Criminal Penalties for Responsible Persons

I am concerned about the impact on the aged care sector of criminal penalties for 'responsible persons' who breach the proposed statutory duty. I appreciate criminal penalties may only apply in isolated cases, but senior aged care managers will be 'spooked' by it, and not wish to expose themselves and families to criminal proceedings and penalties. The likely impact will be:

- On the ability to retain and recruit executive and management staff to work in residential aged care.
- Increased difficulty with retention and recruitment of board directors, especially volunteer directors.
- Rising insurance premiums.
- More insurers may depart the insurance market reducing competitiveness. [Note: The Royal Commission resulted in some insurers leaving the aged care market.]
- Its message of disrespect for the sector.

Exposure to criminal penalties differentiates the aged care sector from public and private hospital services and disability accommodation services. Directors and senior managers in these sectors do not have a criminal legal risk exposure as is proposed for aged care providers.

At a recent seminar conducted by the Department on the new Aged Care Act I asked why criminal penalties were being proposed. Despite asking twice, and despite the convenor calling for more questions, my question was ignored. This approach breeds suspicion.

Overall Comment

The proposed new Aged Care Act and new Quality Standards both significantly increase regulation of the aged care sector. Already the aged care sector is more heavily regulated than public and private hospitals, and disability services, which have similar risk profiles.

The increased regulatory regime is an ever-tightening web of micro-management of the sector by the Department and the Commission. Increased regulation has costs and

disbenefits. Boards, Executives and Senior Managers will spend more time (and money) on mind-numbing compliance, 'box ticking' and risk aversion at the expense of time and money spent than on innovation and improving services and outcomes for residents.

Increased regulation has adverse consequences and I urge caution with layering more compliance, bureaucratic control, and red tape on the sector. It is disheartening for motivated executives to work in a rule-bound environment.

Thanks for the opportunity to comment.

Good health

Shane Neaves OAM