

8 March 2024

Department of Health and Aged Care - New Aged Care Act Consultation
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To whom it may concern,

RE: New Aged Care Act Consultation

The Australian Healthcare and Hospitals Association (AHHA) welcomes the opportunity to contribute to the Department of Health and Aged Care's Consultation on the new Aged Care Act.

This submission builds on consultation undertaken with health system leaders in developing a [blueprint for health reform](#) towards outcomes-focused, value-based health care, and AHHA's operating model of continuously listening to and engaging with the experiences and evidence from our members and stakeholders, as we contribute to the evolution of our health system.

About the AHHA

For more than 70 years, AHHA has been the national voice for public health care, maintaining its vision for an effective, innovative, and sustainable health system where all Australians have equitable access to health care of the highest standard when and where they need it.

As a national peak body, we are uniquely placed, in that we do not represent any one part of the health system. Rather, our membership spans the system in its entirety, including – public and not-for-profit hospitals, PHNs, community, aged care and primary healthcare services.

Our research arm, the Deeble Institute for Health Policy Research connects universities with a strength in health systems and services research, ensuring our work is underpinned by evidence.

In 2019, AHHA established the Australian Centre for Value-Based Health Care, recognising that a person's experience of health and health care is supported and enabled by a diverse range of entities, public and private, government and non-government. The Centre brings these stakeholders together around a common goal of improving the health outcomes that matter to people and communities for the resources to achieve those outcomes, with consideration of their full care pathway.

Through these connections, we provide a national voice for universal high quality health care. It is a voice that respects the evidence, expertise, and views of each component of the system while recognising that siloed views will not achieve the system Australians deserve.

Our response

AHHA welcomes many of the changes introduced in the exposure draft of the new Aged Care Act, including the rights based approach, new duty of care, the system and provider governance arrangements, compensation pathway, and the inclusion of palliative care and end of life care in the Statement of Rights.

However, there are three changes we would like to propose to the exposure draft in order to facilitate the effective implementation of its stated objective to “set the foundations of this new system and will focus on the safety, health and wellbeing of older people, and put their needs and preferences first”¹.

1) Refine content relating to palliative care and end of life care

Regarding Section 22, Statement of Principles, 3(d), which states:

“maintain or improve the individual’s physical, mental, cognitive and communication capabilities to the extent possible except where it is the individual’s choice to access palliative care and end-of-life care”².

It must be considered that people can receive palliative care for a long time before they die, with some people living comfortably and receiving palliative care for years. Therefore, the line “except where it is the individual’s choice to access palliative care and end-of-life care” must be removed, as it is possible and desirable to maintain *the individual’s physical, mental, cognitive and communication capabilities* for palliative patients to the extent possible.

In line with the recommendations of Palliative Care Australia, a separate statement of principle for palliative care and end of life care should be added that covers timely access to, assessment and provision of multidisciplinary care. In addition, a definition of palliative care should be added to the new Act.

2) Strengthen the definition of high quality care

The Act does not adequately define high quality care.

While there are several references in the draft act to care being tailored to the *needs of the individual* or according to *personal needs*³, references to the use of clinical assessments, reviews or tools are limited to the process of assessing if a person is eligible for an aged care package and what will be funded within that package.

In assuring high quality care, there must be an expectation articulated for providers to also use clinical assessments or reviews or tools to inform *care provision*. These are the clinical needs assessments providers would use to determine the day to day provision of care (symptom assessment scales, pain scales and other clinical tools). Omitting the use of these evidence-based, clinical assessment tools in the definition of ‘high quality care’ implies that high quality care can be delivered without the use of these tools, and evidence suggests otherwise.

To resolve this, the meaning of high quality care within the Act must include, in line with recommendation no.13 of the Royal Commission, the specification that a service is delivered in a manner that prioritises that care:

“be provided on the basis of a clinical assessment, and regular clinical review, of the person’s health and wellbeing, and that the clinical assessment will specify care designed to meet the individual needs of the person receiving care, such as risk of falls, pressure injuries, nutrition, mental health, cognitive impairment and end-of-life care”⁴.

3) Address inconsistency with state and territory legislation

Lastly, the introduction of ‘supporters and representatives’ within the Act has the potential to create integration and implementation problems due to existing roles identified in state and territory legislation and practices. This will need to be addressed within the New Aged Care Act.

Yours sincerely,

Kylie Woolcock

Chief Executive

¹ Australian Government (2023), Department of Health and Aged Care, Exposure draft – Aged Care Bill 2023, viewed 13/02/2023 at: <https://www.health.gov.au/resources/publications/a-new-aged-care-act-exposure-draft-consultation-paper-no-2?language=en>

² Australian Government (2023), Department of Health and Aged Care, Exposure draft – Aged Care Bill 2023, page 33, viewed 13/02/2023 at: <https://www.health.gov.au/sites/default/files/2023-12/exposure-draft-aged-care-bill-2023.pdf>

³ Australian Government (2023), Department of Health and Aged Care, A new Aged Care Act: exposure draft – Consultation paper no. 2, page 6, viewed 13/02/2023 at: <https://www.health.gov.au/sites/default/files/2023-12/exposure-draft-aged-care-bill-2023.pdf>

⁴ Royal Commission into Aged Care Quality and Safety (2021), Final Report – List of Recommendations, page 219, viewed 13/02/2023 at: <https://www.royalcommission.gov.au/system/files/2021-03/final-report-recommendations.pdf>