



NACCHO

National Aboriginal Community
Controlled Health Organisation
Aboriginal health in Aboriginal hands

www.naccho.org.au

Aged Care Rules

Stage 4

Place allocation under specialist
aged care programs

Provider obligations and funding

Submission to
Department of Health
and Aged Care

April 2025

About NACCHO	3
Acknowledgements.....	4
Recommendations	4
National Agreement on Closing the Gap	6
Review of Closing the Gap	6
Aged care services for Aboriginal and Torres Strait Islander people.....	7
Supporting ACCOs/ACCHOs to deliver aged care services	8
Rules to support Aboriginal and Torres Strait Islander people.....	9
Aligning aged care provider obligations with ACRC Recommendations	10
Aged Care provision in an under-developed sector	11
Support providers to operate in thin markets to strengthen equity of access to culturally appropriate aged care.....	11
Specifics of Aged Care Rules – Stage 4a.....	13
97 Place allocation (applies to MPSP and TCP only)	13
177 Cooperation with other persons (Chapter 5 Registered provider, responsible person and aged care worker obligations – Part 7 Other obligations).....	13
175 Registered nurses (Chapter 5, Part 6 - Obligations relating to aged care workers)	14
154 and 166 Reporting and record keeping requirements – Quality indicators (residential aged care services)	15
149 Conditions on provider registration, Division 4 - Starting and ceasing provision of funded aged care services and continuity of those services	16
169 Responsible persons of a registered provider must notify of change of circumstances relating to suitability	16
288-25 Specialist aged care programs – charging of <i>accommodation payments</i> and <i>accommodation contributions</i>	16
543-5 Retention of records.....	17
Support for Aboriginal and Torres Strait Islander people to navigate aged care reform.....	17

About NACCHO

NACCHO is the national peak body for Aboriginal and Torres Strait Islander health in Australia. We represent 146 Aboriginal Community Controlled Health Organisations (ACCHOs) and assist several other community-controlled organisations to improve health outcomes for Aboriginal and Torres Strait Islander people.

Our sector has more than fifty years' collective service. In 1971, Aboriginal people established the first Aboriginal medical service in Redfern, NSW. Mainstream health services were not working and there was an urgent need to provide decent, accessible health services for the medically uninsured Aboriginal population (pre-dating Medicare (1975)). Similar Aboriginal medical services quickly sprung up around the country. In 1974, a national representative body was formed to represent these Aboriginal medical services. That body has grown into what NACCHO is today.

NACCHO liaises with its membership (ACCHOs) and eight state/territory affiliates, governments, and other organisations, to develop policy, provide advice and advocate for better health and wellbeing outcomes for Aboriginal and Torres Strait Islander people. Together we address health issues including service delivery, information and education, research, public health, financing, and programs.

ACCHOs range from large multi-functional services employing several medical practitioners and providing a wide range of services, to small services which rely on Aboriginal health practitioners and/or nurses to provide the bulk of primary health care services. Our 146 members provide services from about 550 clinics. Our sector provides over 3.1 million episodes of care per year for over 410,000 people across Australia; about one million of these episodes of care are delivered in very remote regions.

ACCHOs contribute to improving Aboriginal and Torres Strait Islander health and wellbeing by providing comprehensive primary health care, and by integrating and coordinating care and services. They provide home and site visits; medical, public health and health promotion services; allied health; nursing services; assistance with making appointments and transport; help accessing childcare or dealing with the justice system; drug and alcohol services; and help with income support.

ACCHOs build ongoing relationships to provide continuity of care. This helps chronic conditions to be better managed and provides more opportunities for preventative health care. Through local engagement and a proven service delivery model, our clients 'stick'. Cultural safety in our services is a key factor of our success.

ACCHOs are also closing the employment gap. Collectively, we employ about 7,000 staff – 54 per cent of whom are Aboriginal or Torres Strait Islanders. This makes us the third largest employer of Aboriginal or Torres Strait people in the country.

Enquiries about this submission should be directed to:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Acknowledgements

NACCHO welcomes the opportunity to provide a submission to this Consultation. We support submissions from our Affiliates and members. Our focus is on health and wellbeing for Aboriginal and Torres Strait Islander people and improving their ability to deliver and access culturally safe aged care.

Recommendations

NACCHO recommends:

1. the Aged Care Rules align with and support the National Agreement and its four Priority Reform Areas.

We reiterate our recommendations to the *Senate Inquiry into the Aged Care Bill 2024* which are also relevant to the Aged Care Rules, and recommend:

2. that in line with Priority Reform 2 of the National Agreement, regulatory controls and associated legislation provide flexibility to support ACCHOs and ACCOs to provide aged care services that support their local cultural and service delivery needs.
3. that Aged Care Rules support funding policy and mechanisms that recognise that ‘best practice in aged care’ in Aboriginal and/or Torres Strait Islander community settings may look different from that in mainstream settings and adjust provider obligations accordingly.
4. that an ideal model for Aboriginal and Torres Strait Islander aged care service delivery would be for ACCHOs to deliver Elder Care Support, aged care assessment and aged care services. This would provide a clear and culturally safe pathway for care, and continuity of care in a familiar and trusted environment.
5. that Aged Care Rules support *all* Aboriginal and Torres Strait Islander people to access culturally appropriate care, regardless of where they live. This includes:
 - supporting Aboriginal Community Controlled organisation providers to enter thin markets as aged care providers
 - supporting Aboriginal Community Controlled Organisations, through funding and/or waivers and exemptions, to deliver aged care services and expand service delivery offerings in under-developed markets
 - supporting and/or compelling all providers to deliver culturally appropriate care.

Specifically in relation to the Aged Care Rules Consultation – Stage 4a, we recommend:

6. that in line with Priority Reforms 1 and 3 of the National Agreement, the Department consults more broadly with the ACCHO/ACCO sector, nationally, regarding Aged Care rules. This includes consulting directly with the Office of the Interim First Nations Aged Care Commissioner, NATSIAACC, NACCHO, and Aboriginal Community Controlled providers of both home and residential aged care services.
7. that the Department works in genuine partnership with the sector to produce written advice, tailored for Aboriginal and Torres Strait Islander providers, workers and older people, on the reform agenda, its progress and the implications for Aboriginal and Torres Strait Islander stakeholders.

8. funding and providing organisational capacity and capability building activities for ACCHOs and ACCOs wishing to deliver aged care services, to ensure service providers have the back-end capacity and systems to comply with regulatory requirements, CQI, reporting and other conditions of provider registration.

NACCHO also supports the following:

- All Aged Care Royal Commission recommendations that pertain to aged care for Aboriginal and Torres Strait Islander people.
- Interim First Nations Aged Care Commissioner recommendations regarding aged care services in the *Transforming aged care for Aboriginal and Torres Strait Islander people*¹, report.

¹ Transforming aged care for Aboriginal and Torres Strait Islander people, First Nations Aged Care Commissioner

National Agreement on Closing the Gap

At the meeting of National Cabinet in early February 2023, First Ministers agreed to renew their commitment to Closing the Gap by re-signing the National Agreement, first signed in July 2020. The reforms and targets outlined in the National Agreement seek to overcome the inequality experienced by Aboriginal and Torres Strait Islander people and achieve life outcomes equal to all Australians.

The Government's first Closing the Gap Implementation Plan commits to achieving Closing the Gap targets *through implementation of the Priority Reforms*. This represents a shift away from focussing on the Targets, towards the structural changes that the Priority Reforms require, and which are more likely to achieve meaningful outcomes for our people in the long term.

The four Priority Reforms offer a roadmap to meaningfully impact structural drivers of chronic disease for Aboriginal and Torres Strait Islander people. This is particularly pertinent to older people.

Priority Reform Area 1 – Formal partnerships and shared decision-making

This Priority Reform commits to building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments to accelerate policy and place-based progress against Closing the Gap.

Priority Reform Area 2 – Building the community-controlled sector

This Priority Reform commits to building Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap. In recognition that Aboriginal and Torres Strait Islander community-controlled services are better for Aboriginal and Torres Strait Islander people, achieve better results, employ more Aboriginal and Torres Strait Islander people, and are often preferred over mainstream services.

Priority Reform Area 3 – Transformation of mainstream institutions

This Priority Reform commits to systemic and structural transformation of mainstream government organisations to improve to identify and eliminate racism, embed and practice cultural safety, deliver services in partnership with Aboriginal and Torres Strait Islander people, support truth telling about agencies' history with Aboriginal and Torres Strait Islander people, and engage fully and transparently with Aboriginal and Torres Strait Islander people when programs are being changed.

Priority Reform 4 – Sharing data and information to support decision making

This Priority Reform commits to shared access to location-specific data and information (data sovereignty) to inform local-decision making and support Aboriginal and Torres Strait Islander communities and organisations to support the achievement of the first three Priority Reforms.

Review of Closing the Gap

In its first review of the National Agreement on Closing the Gap, the Productivity Commission found that governments are not adequately delivering on their commitments. Despite support for the Priority Reforms and some good practice, progress has been slow, uncoordinated, and piecemeal.

The Commission noted that to enable better outcomes, the Australian government needs to relinquish some control and acknowledge that Aboriginal and Torres Strait Islander people know what is best for their communities. It needs to share decision making with Aboriginal Community Controlled Organisations (ACCOs), recognise them as critical partners rather than passive funding

recipients, and then trust them to design, deliver and measure government services in ways that are culturally safe and meaningful for their communities.

‘Without external perspectives, government organisations will not be able to overcome any blind spots relating to institutional racism, cultural safety and unconscious bias.’²

NACCHO recommends that the Aged Care Rules align with and support the National Agreement and its four Priority Reform Areas.

Aged care services for Aboriginal and Torres Strait Islander people

In the continuum of receiving care to maintain wellbeing throughout life, aged care and primary health care become inextricably linked (The National Aboriginal and Torres Strait Islander Health Plan 2021-2031 refers)³. Maintaining links with primary health care providers and other therapeutic and non-clinical care services that are familiar, can be important for people as they age. Being able to access care and support from trusted providers, can provide comfort and reassurance. For Aboriginal and Torres Strait Islander people, this means receiving care from their family and community. A rights-based Aged Care Act that focuses on person-centred care, should respect and support peoples’ right to receive care from a trusted source. “The aged care system must reflect the fact that for many Aboriginal and Torres Strait Islander people, health is grounded in connection to Country, culture, family and community.”⁴

We know that Aboriginal and Torres Strait Islander people do not access aged care at a rate commensurate with or appropriate to their level of need⁵. They trust and prefer to access community-controlled services, however there is a lack of access to community-controlled aged care services, and aged care services generally, across remote and very remote areas.

The nature of care provided in Aboriginal community-controlled settings is such that, despite resourcing challenges to meet service needs, people in need are not turned away when they need help. In situations, particularly in thin markets in rural and remote regions, where community providers face huge challenges meeting service needs, having adequate staffing, having access to housing, and face other local, environmental challenges, problems and issues of aged care compliance should be met with understanding of the setting and place-based context. Addressing problems should be strengths-based and begin with offering support, education, resources etc. to help resolve and improve the situation, with a focus on continuous quality improvement.

ACCHOs’ holistic, person-centred approach to care prioritises individual client needs. The multidisciplinary care model naturally supports people as they age and have growing needs for different types of care to maintain wellness. The ACCHO model of care incorporates wraparound

² Productivity Commission, Review of the National Agreement on Closing the Gap, Study Report, Canberra, 7 Feb 2024 [Study Report - Closing the Gap review - Productivity Commission \(pc.gov.au\)](https://www.pc.gov.au/research/indigenous/closing-the-gap/study-report).

³ (n.d.). <https://www.health.gov.au/topics/aboriginal-and-torres-strait-islander-health/how-we-support-health/health-plan>

⁴ *Royal Commission into Aged Care Quality and Safety Final Report: Care, Dignity and Respect Volume 1 Summary and recommendations*. (n.d.). <https://www.royalcommission.gov.au/system/files/2024-03/aged-care-rc-final-report-volume-1.pdf>

⁵ Royal Commission into Aged Care Quality and Safety, 2021, Final Report: Care, Dignity and Respect, <https://agedcare.royalcommission.gov.au/publications/final-report>

services that are not generally available through mainstream services. It ensures clients receive all the care they need.

Whilst it is critical that the ACCHO sector is strengthened to begin offering aged care services, ensuring cultural competence in aged care should not rest solely with the ACCO sector. Mainstream services also need to provide culturally safe services. This includes having leaders who embrace cultural competence and understand cultural intelligence so they can instil this in staff and be accountable to enforceable key performance indicators. Without a whole of organisation approach, no amount of staff training will deliver cultural safety for Aboriginal and Torres Strait Islander clients.

Supporting ACCOs/ACCHOs to deliver aged care services

Recognising that ACCHOs/ACCOs achieve better results for Aboriginal and Torres Strait Islander people⁶, and the Productivity Commission's recommendation⁷ that governments need to take steps to strengthen the capability of ACCHO/ACCOs in key sectors, it is essential that the new Aged Care Rules support the ACCO sector to deliver aged care services.

Integrated aged care services delivered in line with NACCHO's Core Services and Outcomes Framework⁸, a successful, well-established model of ACCHO primary health care, offer many benefits for Aboriginal and Torres Strait Islander people needing aged care services. These include:

- Promoting elder wellbeing and safety through intimate knowledge of and connections to family and community
- Ensuring their primary and chronic healthcare needs are met
- Better access to aged care by reducing complexities of needing to navigate multiple services and systems for example, providing navigation supports across My Aged Care through the ECS program
- Maintaining Indigenous identity
- Supporting management of comorbidities and social complexities experienced by many older Aboriginal and Torres Strait Islander people through holistic services that incorporate social supports.⁹

Currently the accreditation process requires ACCHOs to duplicate processes and governance structures they already have in place to deliver primary health care services. NACCHO acknowledges that the Department has commenced work to streamline the accreditation process for ACCHOs in ways similar to those in place for Multi-Purpose (MPS) Program providers. This will reduce barriers to market entry for ACCHOs.

NACCHO recommends that in line with Priority Reform 2 of the National Agreement, regulatory controls and associated legislation provide flexibility to support ACCHOs and ACCOs

⁶ Productivity Commission 2024, Review of the National Agreement on Closing the Gap, Canberra, fact sheets, Priority Reform 2, p3.

⁷ Productivity Commission 2024, Review of the National Agreement on Closing the Gap, Study report, volume 1, Canberra.

⁸ NACCHO Core Services and Outcomes Framework <https://csof.naccho.org.au/>

⁹ Dawson, A., Harfield, S., Davy, C., Baker, A., Kite, E., Aitken, G., Morey, K., Braunack-Mayer, A., & Brown, A. (2021). Aboriginal community-controlled aged care: Principles, practices and actions to integrate with primary health care. Primary Health Care Research & Development, 22(e50). <https://doi.org/10.1017/s1463423621000542>

to provide aged care services meet the cultural and service delivery needs of their local community.

Rules to support Aboriginal and Torres Strait Islander people

Aged care regulatory mechanisms should reflect that ‘best practice in aged care’ in Aboriginal and/or Torres Strait Islander community settings may look different from that in mainstream settings and adjust provider obligations accordingly. Furthermore, Aboriginal and Torres Strait Islander community-led pathways may vary across communities, in line with local customs and preferences.

“For Aboriginal and Torres Strait Islander people, healing is a holistic process, which addresses mental, physical, emotional and spiritual needs and involves connections to culture, family and land.

Healing works best when solutions are culturally strong, developed and driven at the local level, and led by Aboriginal and Torres Strait Islander people.”¹⁰

Trauma informed healing therapy and *Social and Emotional Wellbeing (SEWB)* care should be factored into services offered.

NACCHO supports aged care regulatory mechanisms that take a more supportive and less punitive approach. We welcome the Aged Care Quality and Safety’s Commission’s stated support for innovation and openness to aged-care provider discretion as to how they achieve compliance.¹¹

We welcome regulatory frameworks for aged care that support:

- a person-centred approach, as this aligns with the ACCHO model of care¹²
- an aged care system where all services are centred around and culturally appropriate for the person receiving care
- aged care services that are free of discrimination and racism and delivered flexibly to optimise health outcomes for the person receiving care
- aged care services that reflect the collective, holistic view of family, community, relationships with Elders, and connections with Country including the Torres Strait Islands or other islands as central to Aboriginal and Torres Strait Islander wellbeing
- an aged care system where Aboriginal community-controlled aged care providers are supported to:
 - determine and deliver an integrated model of care to meet the aged care, disability care and primary health care needs within their community
 - lead ACAT assessments for Aboriginal and Torres Strait Islander people in their community.
- equitable access to assessment or reassessment of needs for funded aged care services in a manner which is culturally safe, culturally appropriate, trauma-aware and healing-informed
- Aboriginal or Torres Strait Islander people to stay connected with community and Country.

In line with Priority Reform 1, governments must share power with Aboriginal and Torres Strait Islander people in determining aged care service types, funding models and rules that can support

¹⁰ [Community Healing | The Healing Foundation](#), accessed 31/10/2024

¹¹ Department of Health and Aged Care New Aged Care Act Exposure Draft consultation webinar, 18 January 2024

¹² NACCHO Core Services and Outcomes Framework <https://csof.naccho.org.au/>

ACCHOs to grow and sustain their workforce to provide aged care services to meet the needs of their ageing community members. This includes:

- funding additional staff to provide navigation support, such as Aged Care Connectors and Aged Care Support Coordinators, through NACCHO's Elder Care Support program which supports both ACCHOs and ACCOs
- ensuring funding models such as NATSIFAC support ACCHOs and ACCOs to deliver aged care services, nationally, including in urban and metropolitan areas.

NACCHO recommends that Aged Care Rules support funding policy and mechanisms that recognise that 'best practice in aged care' in Aboriginal and/or Torres Strait Islander community settings may look different from that in mainstream settings and adjust provider obligations accordingly.

Aligning aged care provider obligations with ACRC Recommendations

NACCHO reiterates its support for the Aged Care Royal Commission (ACRC) recommendations relating to Aboriginal and Torres Strait Islander people and aged care service providers. With respect to place allocation, provider obligations and funding rules in this consultation, we support Aged Care Rules that align with the ACRC recommendations outlined below:

ACRC Recommendation 50: Prioritising Aboriginal and Torres Strait Islander organisations as aged care providers

1. *The Australian Government should assist Aboriginal and Torres Strait Islander organisations to expand into aged care service delivery, whether on their own or in partnership with other organisations, including with Aboriginal Community Controlled Organisations and existing Aboriginal and Torres Strait Islander providers.*
2. *The Australian Government and the System Governor should encourage and support additional Aboriginal and Torres Strait Islander aged care providers by flexible approval and regulation of them to ensure:*
 - a. *existing Aboriginal and Torres Strait providers are not disadvantaged and should continue to provide high quality and safe aged care while being assisted to meet the new provider requirements*
 - b. *other organisations that wish to move into aged care to enhance services to Aboriginal and Torres Strait Islander people across Australia are given special consideration.*
3. *Flexibility in approval and regulation should extend to such matters as: additional time to meet new requirements; alternative means of demonstrating the necessary capability or requirement; and, in some very limited cases, exemptions. Assistance should include financial assistance for capacity-building.*

ACRC Recommendation 54: Ensuring the provision of aged care in regional, rural and remote areas, and to support equity of access to aged care services.

ACRC Recommendation 47a: Aboriginal and Torres Strait Islander people receive culturally respectful and safe, high quality, trauma-informed, needs-based and flexible aged care services regardless of where they live.

ACRC Recommendation 47c: Regional service delivery models that promote integrated care are deployed wherever possible.

ACRC Recommendation 47e: Aged care is available in regions based on need determined in consultation with Aboriginal and Torres Strait Islander populations and communities.

In line with Priority Reform 2, these recommendations will support the Aboriginal Community Controlled sector to grow capability providing aged care services.

Aged Care provision in an under-developed sector

Aboriginal and Torres Strait Islander people suffer disproportionate rates of disadvantage against all measures of socio-economic status. Stolen Generations survivors and their descendants carry higher levels of disadvantage across life outcomes when compared to other Aboriginal and Torres Strait Islander people, and their numbers are rising. Currently approximately one in three adult Aboriginal and Torres Strait Islanders are Stolen Generation survivors or descendants. All Stolen Generation survivors are now aged over 50 and so are eligible for aged care.¹³

ACCHOs and ACCOs that deliver aged care services are overburdened and unable to meet the demand for services from their communities. One ACCO service recently advised that despite having access to around 70 in-home aged care packages, they had taken 40 more local clients who they support at their own expense. They have a waitlist of more than 60 clients who they currently are unable to support. Overwhelmingly, Aboriginal and Torres Strait Islander people are calling for more ACCO/ACCHO aged care providers.

ACCHOs have told us that Elders are experiencing significant wait times for eligibility assessments for an aged care plan, and then waiting again, to access their plans. Some Elders entitled to higher level care plans are only receiving lower-level supports. Several Elders have passed away whilst waiting to receive the care plan for which they were entitled.

Programs managed by the Aboriginal Community Controlled sector, such as NACCHO's Elder Care Support program are successfully addressing issues around access to aged care services. Other workforce initiatives that could be funded and managed by the community controlled sector to address issues of aged care service access include Aboriginal and Torres Strait Islander Aged Care Assessors and embedding Aboriginal Health Practitioners into aged care service delivery.

NACCHO recommends that an ideal model for Aboriginal and Torres Strait Islander aged care service delivery would be for ACCHOs to deliver Elder Care Support, aged care assessment and aged care services. This would provide a clear and culturally safe pathway for care, and continuity of care in a familiar and trusted environment.

Support providers to operate in thin markets to strengthen equity of access to culturally appropriate aged care

The introduction of 24/7 registered nursing requirements will exclude many ACCHOs from joining the market. It risks leaving Aboriginal and Torres Strait Islander Elders and older people going without

¹³ HFAAdmin. (2021, June 1). *Significant increase in Stolen Generations survivor numbers signals urgent need for government solutions in health, aged care, and other services*. The Healing Foundation. <https://healingfoundation.org.au/2021/06/02/significant-increase-in-stolen-generations-survivor-numbers-signals-urgent-need-for-government-solutions-in-health-aged-care-and-other-services/>

essential care to stay on Country or having to move away from Country and family at the very time they are needed the most.

Providers already delivering care, including those in urban, rural and remote locations and those operating small facilities will also struggle to meet these new requirements. Services in these locations face a range of issues when trying to recruit and retain registered nurses which may include the high costs of recruitment and/or relocation and a lack of access to suitable accommodation. Remote services often need to provide expensive incentives such as remote allowances, free/subsidised accommodation, travel allowances and additional leave. There is a high turnover of staff in rural and remote locations due to a range of factors including isolation, culture shock and the complex and confronting nature of the work. It is important to note that services in urban areas also operate in economically and culturally thin markets. Across the sector, there is a lack of access to staff who have suitable cultural awareness and understand how to deliver care to Aboriginal and Torres Strait Islander people.

‘Analysis from the Institute for Urban Indigenous Health shows that the rate of access to aged care for older Aboriginal and Torres Strait Islanders is 10% below the national average. However, the rates of access in many remote and very remote communities attained the national average or exceeded the national average. This demonstrates that to address these access barriers and close the parity gap, investments in improving access must also focus on older Aboriginal and Torres Strait Islander people living in cities and towns.’¹⁴

To meet the recommendations of the Royal Commission and the National Agreement and ensure Aboriginal and Torres Strait Islander people receive aged care from the most appropriate organisations, consideration must be given to alternative staffing models for services in urban, regional, rural, remote and very remote locations.

NACCHO supports aged care provider rules that would provide greater flexibility, particularly in rural, remote, and regional areas, but also in thin markets, which in terms of delivering *culturally safe* care, extends to urban and metropolitan areas. This may translate to needing additional funding or to be funded in different ways than mainstream aged care providers and/or exemptions from certain obligations.

The National Aboriginal and Torres Strait Islander Aged Care (NATSIFAC) program provides block funding for services delivering to predominantly to Aboriginal and Torres Strait Islander clients. This has proven to be a very successful funding model, however is currently only offered to rural and remote services. NACCHO advocates that this program should be expanded to all MM areas including urban settings and modified to prioritise Aboriginal community controlled providers. This would help to address the issue of *culturally thin* service provision in urban, rural and remote settings.

NACCHO recommends that the Aged Care Rules support all recommendations relating to Aboriginal and Torres Strait Islander people made by the Aged Care Royal Commission.

NACCHO recommends that Aged Care Rules support *all* Aboriginal and Torres Strait Islander people to access culturally appropriate care, regardless of where they live. This includes:

- supporting Aboriginal Community Controlled organisation providers to enter thin markets as aged care providers

¹⁴ Transforming aged care for Aboriginal and Torres Strait Islander people, First Nations Aged Care Commissioner

- supporting Aboriginal Community Controlled Organisations, through funding and/or waivers and exemptions, to deliver aged care services and expand service delivery offerings in under-developed markets
- supporting and/or compelling all providers to deliver culturally appropriate care.

Specifics of Aged Care Rules – Stage 4a

97 Place allocation (applies to MPSP and TCP only)

NACCHO acknowledges the conditions on MPSP and TCP providers to effect place allocation:

A place allocated to an entity comes into effect when the entity satisfies certain conditions including being a registered provider in a registration category for one or more services groups through which funded aged care services will be delivered under the specialist aged care program (Rules 97-5).

A place allocated ceases to be in effect if:

- the entity ceases to be a registered provider, or
- if the System Governor and the entity agree the place may be relinquished,
- or if the System Governor revokes the place under certain conditions (Rules 97-15)

For a place to remain in effect, registered providers are required to follow certain conditions, including notifying the System Governor if the entity will not be able or does not intend to use the place for a period of 12 months or more (Rules 99-5).

NACCHO asks that in the interests of not limiting access to care for Aboriginal and Torres Strait Islander people, through unintended non-compliance resulting in cessation or reallocation of places, particularly in thin markets, that the government supports MPSP and TCP providers to understand and comply with these obligations through appropriate education and systems and/or resources to assist them to comply.

177 Cooperation with other persons (Chapter 5 Registered provider, responsible person and aged care worker obligations – Part 7 Other obligations)

NACCHO acknowledges that Section 177 of the Rules does not apply to delivery of funded aged care services under a *specialist aged care program*.

All other registered providers, however, have a new obligation to cooperate with anyone performing functions or exercising powers under the Act, e.g. Commission officers from ACQSC, System Governor officers from DOHAC and people acting on behalf of the Pricing Authority.

The rules:

- **Allow the abovementioned authorities to collect and review data, costings and other studies of the provider, and to consult with the provider** to perform a function under the new laws
- Describe the requirements to cooperate with a person authorised to request **access to any approved residential care home. Penalties apply for non-compliance by provider.**

We acknowledge the above and ask that to support Aboriginal and Torres Strait Islander providers to comply, that the relevant Aged Care Rules ensure that those officials who need to access Aboriginal

and Torres Strait Islander provider premises and/or collect and review data are compelled to so in a culturally safe, culturally appropriate and respectful manner.

175 Registered nurses (Chapter 5, Part 6 - Obligations relating to aged care workers)

NACCHO notes that:

The Act 175(1) prescribes that a registered provider must ensure that at least one registered nurse is on site, and on duty, at all times at an approved residential care home of the registered provider, however 175(2b) notes that 175(1) does not apply if either of the following conditions apply:

(a) the System Governor grants the registered provider an exemption in accordance with any rules made for the purposes of subsection (3) – i.e. for granting an exemption to 175(1).

(b) registered providers delivering funded aged care services at the approved residential care home under a specialist aged care program that is prescribed by the rules.

Therefore, so long as an ACCHO is funded under a specialist aged care program prescribed by the rules or has an exemption they do not need to comply with 175(1) (above).

We note that the **only** specialist aged care programs defined in the Act are MPSP and TCP, and that NATSIFACP and CHSP are currently defined as specialist aged care providers in the Rules. Therefore, so long as an ACCO/ACCHO is funded under a specialist aged care program prescribed by the Act or the Rules or has an exemption they do not need to comply with 175(1) (above).

If in the future the Rules change to exclude these specialist aged care programs, unless an ACCHO has been granted an exemption, they would need to comply with 175(1) – to have a 24/7 registered nurse. Needing to comply with the 24/7 Registered nurse requirement may restrict access to the market for small residential providers and present a barrier to new providers.

Residential aged care clinical care workforce considerations

In NACCHO's response to *Aged Care Rules – Stage 1 – Service list* consultation, regarding *Residential clinical care* and *Service types*, services in the service type Residential clinical care should support Aboriginal and Torres Strait Islander people to deliver and receive trusted, culturally safe, aged care.

We recommended that services in the service type *Residential clinical care* should include

- Aboriginal Health Practitioner clinical assessments and care
- Aboriginal Health Worker care
- ACCHO multidisciplinary primary health care services.

We also recommended, that as Health Practitioners, AHPs and AHWs provide primary health care, and that this should be recognised in the Aged Care Rules not dissimilar to that of Nursing Care, as per Clause 41 of the Aged Care Rules Consultation Draft (Stage 1 - Service List), p15, rather than as allied health and therapy.

We also recommended that Aged Care Rules references to services provided by AHPs and AHWs are described as Aboriginal Health Practitioner care and Aboriginal Health Worker care, respectively, and suggested including AHP care and AHW care services under a new service type, *Primary Health Care*.

Facilitating Aboriginal Health Practitioner and Aboriginal Health Worker care under arrangements as described above could support both mainstream and ACCO/ACCHO residential care providers to meet clinical care needs in lieu of having a 24x7 registered nurse.

This could be supplemented with

- access to on-call registered nurses, general practitioners, or specialist registrars relevant to older persons – e.g. trainee geriatricians, endocrinologists, nephrologists, palliative medicine specialists possibly through
 - required rotations in aged care facilities during registrar advanced training and nurse trainee placements
 - telehealth support from nearest tertiary hospitals
 - as needed access to a range of health and medical professionals working in ACCHOs
- chronic care trained allied health professionals such as diabetes educators, physiotherapists working remotely to support AHPs and AHWs and other onsite aged care workers either by telehealth (if available/practical) and/or by phone
- chronic care elective streams in Aboriginal Health Practitioner, Aboriginal Health Worker and Nurse training

Co-locating supporting mainstream residential aged care providers with ACCHOs is another way to provide access to culturally safe and trusted clinical care to aged care residents. At least one example of this exists with Mutkin Residential and Community Care Indigenous Corporation and Gurriny Yealamucka Health Services Aboriginal Corporation (GYHSAC) in Yarrabah, south-east of Cairns.

Exemptions

We note specifically the period of exemption is for not longer than 12 months.

Considering a longer period of extension - perhaps a tiered or more nuanced approach for granting an exemption, could assist smaller residential care providers and providers with workforce challenges to remain in the market.

NACCHO welcomes the development of a First Nations Aged Care Workforce Implementation Plan intended to identify and anticipate Aboriginal and Torres Strait Islander training and workforce needs in the aged care sector in the immediate and long-term future and include targets for training and employment for Aboriginal and Torres Strait Islander people and avenues to promote aged care employment pathways.

154 and 166 Reporting and record keeping requirements – Quality indicators (residential aged care services)

Noting *exclusion for specialist aged care program providers*, residential aged care service providers are required to report to the System Governor on quality indicators each reporting period. The quality indicators report must include information on various aspects of care such as pressure injuries, restrictive practices, falls and major injury, medication management, and hospitalisation.

Quality indicator reports must be kept for 7 years from the day the record is made or received, in either written or electronic form.

NACCHO asks that the government supports *all* relevant providers to understand and comply with these obligations by providing culturally appropriate education and systems and/or resources to support compliance.

149 Conditions on provider registration, Division 4 - Starting and ceasing provision of funded aged care services and continuity of those services

NACCHO acknowledges the following requirements under the Rules to support continuity of care:

- requirements to notify the System Governor and the Commissioner when a provider starts or ceases to deliver funded aged care services to an individual
- requirement for providers to not cease delivery of funded aged care services unless, for example:
 - the individual's care needs can be more appropriately met by other types of funded aged care services, or
 - the individual has intentionally caused serious harm to an aged care worker of the provider, or
 - the individual notifies the provider in writing that they no longer wish to receive funded aged care services from the provider
- obligations on the providers to give notice to individuals and new providers about cessation and unspent funding.

169 Responsible persons of a registered provider must notify of change of circumstances relating to suitability

Noting the application of significant penalties associated with non-compliance, the government should support ***all registered providers*** (sole traders excluded) to understand the obligations ***of their responsible persons*** to notify changes of circumstances relating to suitability.

This can be achieved through timely and culturally appropriate education, systems and/or resources to support them to comply with notification requirements of changes in circumstances relating to suitability.

288-25 Specialist aged care programs – charging of *accommodation payments* and *accommodation contributions*

NACCHO notes that for accommodation payments and bonds for specialist aged care programs, the Act defers to the Rules – which of course, are subject to change.

MPSP

NACCHO acknowledges the right of an individual who is experiencing financial hardship and who is receiving ongoing funded aged care services through the service group residential care in an approved residential care home under MPSP, to receive a copy of the provider's financial hardship policy, and to expect the provider to comply with that policy. This may include reducing or waiving the *accommodation payment* in accordance with the terms of the policy. 288(2)(b) of the Act refers.

However, we note that the draft Rules associated with the new Act provide for individuals accessing funded aged care services under the MPSP in an approved residential care home, outline arrangements where individuals may need to pay an *accommodation payment*.

Where a provider has published an accommodation price, and the individual's means assessment (obtained via a pre-entry means assessment from Services Australia) indicates they must pay an accommodation payment, then the individual needs to pay an *accommodation payment* to cover the costs of their accommodation. If the individual has been determined as not being eligible for Commonwealth Government assistance for their accommodation cost, or insufficient information is provided for a means assessment to be determined, the person must pay the room price agreed with their provider, as an accommodation payment.

NACCHO is concerned that where an individual is unable to provide the information required for means testing that they **must pay** the provider's room price from the time of entry. We are also concerned that this may disadvantage some Aboriginal and Torres Strait Islander people and others who need care but who do not have the support systems in place to assist them to access a means testing determination prior to entry.

NATSIFACP

NACCHO acknowledges that registered providers delivering funded aged care services to an individual through the service group residential care in an approved residential care home under the NATSIFACP **must not charge** the individual an *accommodation payment* for the delivery of those services. 288(2)(b) of the Act refers.

MPSP & NATSIFACP

NACCHO acknowledges that registered providers delivering funded aged care services to an individual through the service group residential aged care in an approved residential care home under the MPSP or NATSIFACP **must not charge** the individual an *accommodation contribution* for the delivery of those services. 288(2)(c) of the Act refers.

543-5 Retention of records

Noting that all current providers will become registered providers under the new Act, we ask that the Department supports all existing providers and those considering entering the market to be abundantly aware of and *understand* their record keeping obligations and conditions of registration under the Act and associated rules including, for existing providers, any changing obligations in this regard due to the new Act, well before they are registered or deemed into new provider registration categories. This includes providing culturally appropriate guidance, training and systems for providers, and their responsible persons and aged care workers where applicable, to support them to meet their obligations.

Support for Aboriginal and Torres Strait Islander people to navigate aged care reform

It is imperative that the Department of Health and Aged Care is cognisant of the need to consult widely with Aboriginal and Torres Strait Islander communities and be transparent about the practical implications of new aged care reforms. Implementing change on this scale requires comprehensive and multifaceted change management strategies. A one-size-fits-all public campaign approach with Department newsletter updates and webinars, whilst very helpful, is insufficient and is not necessarily reaching those most in need of support. Meaningful and timely engagement, training and resources are needed to support providers, sector workers and individuals needing and/or wanting

to deliver or access culturally appropriate aged care services, to prepare for, transition into and navigate and comply with obligations associated with the new Act.

Without adequate consultation and collaboration with the Aboriginal Community Controlled stakeholders on appropriate models and rules for delivering and accessing aged care services, and with Aboriginal and Torres Strait Islander aged care providers and workforce to help them navigate and prepare for the changes associated with the new Act, risks further disadvantage for some of Australia's most vulnerable older people.

All services, including aged care services, delivered by ACCHOS/ACCOs, are fundamentally *person-centred*. Given the reform's focus on delivering *person-centred* aged care, wide consultation with the Aboriginal Community Controlled sector will help the Department to better understand how to best support Aboriginal and Torres Strait Islander people to deliver and access appropriate aged care services.

I am concerned to see that so many decisions are being made for and about older Aboriginal and Torres Strait Islander people without proper consultation to gain community perspectives and input, and without adequate data and evidence to rely on. This means that the Government applies non-Indigenous perspectives to its policies, which results in Indigenous-specific programs being little more than minor tweaks to broad mainstream programs, rather than being designed with and for older Aboriginal and Torres Strait Islander people.¹⁵

Andrea Kelly, Interim First Nations Aged Care Commissioner

NACCHO recommends that in line with Priority Reforms 1 and 3 of the National Agreement, the Department consults more broadly with the ACCHO/ACCO sector, nationally, regarding Aged Care rules. This includes consulting directly with the Office of the Interim First Nations Aged Care Commissioner, NATSIAACC, NACCHO, and Aboriginal Community Controlled providers of both home and residential aged care services.

NACCHO recommends that the Department works in genuine partnership with the sector to produce written advice, tailored for Aboriginal and Torres Strait Islander providers, workers and older people, on the reform agenda, its progress and the implications for Aboriginal and Torres Strait Islander stakeholders.

NACCHO recommends funding and providing organisational capacity and capability building activities for ACCHOs and ACCOs wishing to deliver aged care services, to ensure service providers have the back-end capacity and systems to comply with regulatory requirements, CQI, reporting and other conditions of provider registration.

¹⁵ Health. (2025, February 10). *Transforming Aged Care for Aboriginal and Torres Strait Islander people*. Australian Government Department of Health and Aged Care. <https://www.health.gov.au/resources/publications/transforming-aged-care-for-aboriginal-and-torres-strait-islander-people?language=en>