

27 March 2025

Department of Health and Aged Care
GPO Box 9848
Sirius Building, Level 9 South
Canberra ACT 2601 Australia
AgedCareLegislativeReform@health.gov.au

Carers NSW welcomes the opportunity to provide a submission to the Department of Health and Aged Care (the Department) on the Stage 2c release of the new Aged Care Rules (the proposed Rules) relating to funding and regulation. Carers NSW supports greater regulatory and compliance measures that ensure the ethical and safe delivery of aged care services for people who are ageing and their carers. This submission will reinforce Carers NSW previous feedback to the Department on the proposed Rules and the care and support sector Code of Conduct, focusing on the need to strengthen the regulatory and compliance measures to protect and improve the safety and wellbeing of people receiving aged care services and their carers.

Carers NSW is the peak non-government organisation for carers in New South Wales (NSW). A carer is any individual who provides care and support to a family member or friend who lives with a disability, mental illness, drug and/or alcohol dependency, chronic condition, terminal illness or who is frail. Carers NSW is part of the National Carer Network and a member of Carers Australia.

Our vision is an Australia that values and supports all carers, and our goals are to:

- Be a leading carer organisation in which carers have confidence
- Actively promote carer recognition and support
- Actively support carers to navigate a changing service landscape that will be characterised by ongoing policy reform
- Promote connected community experiences and opportunities for carers that are inclusive of diverse carer groups
- Lead and advocate for carer-specific and carer-inclusive policy making, research and service delivery
- Continue to be a quality-driven, responsive and carer-focused organisation.

Thank you for accepting our submission. For further information, please contact Lauren Brooks, Policy and Development Officer at laurenb@carersnsw.org.au or (02) 9280 4744.

Yours sincerely,



Elena Katrakis
CEO
Carers NSW

Introduction

Carers NSW thanks the Department for the opportunity to provide feedback on the Stage 2c release of the proposed Rules. Carers NSW commends the Government's substantial work to improve the quality and safety of care through the development of the new *Aged Care Act 2024* (the new Act), strengthened Aged Care Quality Standards (the Quality Standards) and a new regulatory model for provider registration and worker screening. Carers NSW also supports greater compliance measures and safeguards that promote and uphold the rights, safety and wellbeing of people accessing aged care services. The proposed Rules also present an opportunity to improve not only the quality of care provided but also support increased carer recognition and wellbeing. Carers are vital in assisting, supporting and advocating for people who are ageing and are often active participants in the aged care system themselves. However, Carers NSW is concerned that family and friend carers may be at risk of filling the gaps in care due to breaches in the Grantee Code of Conduct and banning orders.

Carers NSW recognises that not all people who are ageing receive informal support or would identify as having a 'carer'. However, the 2022 Survey of Disability, Ageing and Carers (SDAC) found that of the approximate 1.7 million people who are ageing who require assistance with at least one everyday activity, 71.6% (approximately 1.2 million) reported receiving some assistance with everyday activities from informal supports, most commonly their spouse who is often ageing themselves.¹ Carers provide a range of supports to help the person they care for remain living at home and in the community. This care can include practical care and support, support with navigating and coordinating aged care services, emotional and social support, as well as advocacy.

Principle 7 of the Statement for Australia's Carers states that "carers should be considered as partners with other care providers in the provision of care, acknowledging the unique knowledge and experience of carers."² Carers NSW proposes that recognition of this Principle, and the Carer Recognition Act 2010 (Cwth) more broadly, is foundational to the delivery of high-quality care and safety for both people receiving aged care services and their carers.

Upholding aged care rights and standards

Carers NSW supports the introduction of the Grantee Code of Conduct (the Grantee Code) in setting out compliance requirements for individuals and organisations receiving grant funding who may not necessarily be registered providers as this will likely improve the quality and safety of care. Carers NSW also commends the inclusion of the requirement to treat carers with dignity and respect by valuing the individual's diversity. Carers are often an integral part of the lives of the person that they care for and Carers NSW believes that the development of the Grantee Code provides an opportunity to ensure that the relationships between people that receive care and their carers are acknowledged and respected and that carers are recognised as partners in care, as outlined in the Statement for Australia's Carers in the *Carer Recognition Act 2010* (Cwth). Carers NSW believes that consideration and inclusion of carers as both supporters and secondary service users is key to ensuring that carer awareness and recognition are promoted and protected by all persons working in the aged care sector. Increased carer recognition is likely to improve outcomes for carers and those they care for.

However, Carers NSW is concerned that grantees may not necessarily be required to comply with other conditions or obligations under the new Act, such as the Statement of Rights, unless they are also registered providers. If some individuals and organisations are not required to comply with key

¹ Australian Bureau of Statistics (2022) *Survey of Disability, Ageing and Carers*, Carer Tables. Australian Government, Canberra. Available online at: www.abs.gov.au.

² *Carer Recognition Act 2010* (Cwth) s1.

provisions of the new Act, this may create inconsistencies in the way aged care services are delivered and the quality of care, potentially undermining the core principles of the aged care reform.

While Carers NSW acknowledges that the Statement of Rights may not be directly applicable to grantees who are typically not direct care providers, if the activities of these grants impact the environment where aged care services are delivered, there could be indirect implications for the rights of older people. Ensuring that all grantees, regardless of whether they are registered providers, are subject to the same standards, including aged care rights, principles and Quality Standards, would help ensure accountability and consistency in the ethical delivery of care across the sector, contributing to the overall effectiveness of the reforms.

Alternatively, Carers NSW recommends that the Aged Care Code of Conduct (the Code) apply to both registered and non-registered service providers and aged care programs. This would enable greater consistency of obligations and requirements for all workers and is likely to result in increased awareness of the Code and improved compliance. This would also improve awareness of the Code by those receiving services and supports, their families and carers, enabling them to identify when the Code may be breached and seek redress. Carers NSW is concerned that differing rules and procedures are likely to result in confusion for paid care workers, reduced compliance with quality and safety measures, and, in turn, place vulnerable older people and their carers at greater risk of abuse or neglect. As such, Carers NSW advocates for clear and consistent expectations of the quality and safety of care as this will likely enable carers and the people that they care for to better understand the level of care they should be able to expect and feel more confident engaging with direct care and support services.

Regardless of the approach taken to improve consistency, Carers NSW urges the Department to ensure that people who are ageing and their carers receive accessible information about their rights and expectations of ethical and safe aged care services. This includes carer-friendly information about the Aged Care Code of Conduct and the Grantee Code, the appropriate avenues to take in seeking redress and the procedures following. Throughout the complaints process, carers and the people they care for should be treated fairly and respectfully and be able to access support with raising concerns and complaints.

Greater safeguards in banning orders

Carers NSW supports the development of the Register of banning orders (the Register) in sharing specific information about the banned individual and the order received. Carers NSW believes there must be adequate information sharing between or across sectors to enable breaches of the Code and subsequent compliance actions, such as banning orders, to be shared across the broader care sector.³ Carers NSW has previously raised concerns that inadequate information sharing between care and support sectors has seen banning orders issued in one sector not actively communicated with other sectors (for example, banning and compliance orders in the National Disability Insurance Scheme not actively shared with aged care regulators).⁴ This has allowed workers or providers who have been identified as breaching quality and safety measures in one service system to simply begin working in another care sector, placing vulnerable individuals and their carers at risk. There are concerns that failure to enable or require proactive information sharing between sectors is likely to undermine the effectiveness of regulatory alignment. Carers NSW believes that providers found to be

³ Carers NSW (2021), *Carers NSW submission to the Senate Standing Committees on Community Affairs in response to the Aged Care and Other Legislation Amendment (Royal Commission Response No.2) Bill 2021*.

⁴ Carers NSW (2021), *Carers NSW submission to the Department of Health and Aged Care on the care and support sector code of conduct*.

in breach of the new Act should be restricted from also providing care services and supports within other sectors, such as the National Disability Insurance Scheme (NDIS), as these providers pose a significant risk to the health and safety of people requiring care and their carers. While Carers NSW acknowledges the sensitivities around sharing information surrounding banning orders and the role of the Register, Carers NSW recommends that regulatory mechanisms be integrated across care and support sectors to strengthen consumer protections and rights.

Carers NSW also has concerns about the impact of banning orders on people receiving aged care and their carers. Carers NSW notes that the legislation does not outline how alternative care arrangements will be handled when a provider is banned and how the continuity of care will be ensured. As noted in previous Carers NSW submissions, family and friend carers may provide support in lieu of formal care services when the older person they care for is unable to access health or community care. This is often at a personal cost to their health and wellbeing, and their social and economic participation.⁵ Carers NSW recommends that the Department ensure that when a provider is banned, a clear plan to ensure the continuity of care is established and emergency supports are implemented to minimise the impacts on carers who are often required to fill gaps in care.

Conclusion

Carers NSW again thanks the Department for the opportunity to provide feedback on the Stage 2c release of Aged Care Rules and commends the Department's efforts to improve the quality and safety of aged care services in Australia. Carers NSW supports the development of the Grantee Code and the Register of banning orders provided they are implemented with consistency, accountability, and cross-sector alignment. While Carers NSW is pleased to see carer recognition in the Grantee Code, Carers NSW encourages greater recognition, inclusion and support for family and friend carers to strengthen aged care regulatory and compliance measures in delivering ethical and safe aged care services.

⁵ Carers NSW (2025), *Carers NSW submission to the Department of Health and Aged Care on the stage 2a release of the New Aged Care Act Rules*; Carers NSW (2025), *Carers NSW submission to the Department of Health and Aged Care on the stage 2b release of the New Aged Care Act Rules*.