

# Memorandum

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To: Officers  
From: Sam  
Date: 26 March, 1997  
Subject: AGED CARE

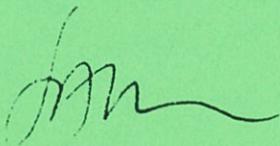
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97/08023

Today, Jennie George headed up a lobbying team including myself, Glenn Fredericks and Denis Jones from the Federal Office. We met with the Democrats, Greens and Senator Harradine's office. There will be follow-up, particularly with the Democrats and the Greens, and I am hopeful that we may have some small effect on some of their thinking.

Attached is a copy of the ANF/NSWNA submission to the Senate Committee looking into the proposed changes to aged care. I found this submission, which has been compiled by officers of all Branches of the Federation, as well as the Federal Office, to be a great summary of our position on the aged care legislation.

WELL WORTH A READ!



SAM

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A SUBMISSION BY  
AUSTRALIAN NURSING FEDERATION  
AND  
NSW NURSES ASSOCIATION

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To the Senate:

Community Affairs Reference Committee on Funding of Aged Care Institutions on the consequences for older Australians and their families arising from proposed changes announced in the 1996-97 Federal Budget to the funding of aged care institutions in Australia

MARCH 21, 1997

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## 1. INTRODUCTION

The public and consumers ought to be able, in 1997, to have a reasonable expectation that an appropriate level and quality of care will in most circumstances be provided to nursing home residents. This reasonable expectation is due in part to previous scrutiny of nursing homes.

In 1983 and 1984, a Senate Select Committee on Private Hospitals and Nursing Homes specifically inquired into, and delivered to the Senate on November 2, 1984, its report titled "Private nursing homes in Australia: their conduct, administration and ownership".

The establishment of the Select Committee was in response to widespread complaints, media reports and community concern.

Significantly, the Senate Select Committee concluded:

*"From the Committee's evidence and from inspections conducted by it, it became evident that private nursing homes vary considerably in the quality of care and type of environment they provide. Standards are particularly dependent on the proprietor and/or Matron, the level of professional accountability of those servicing the nursing homes, particularly the general practitioner, and the financial viability of the nursing home"*<sup>1</sup>

The Senate Committee conducted a lengthy and comprehensive examination of nursing homes including funding controls, accountability, ownership and the standard of nursing home care.

In March 1997 the terms of reference of the Senate Community Affairs Reference Committee are similar in scope. As was the case in 1984, so it is in 1997. Funding, staffing, accountability, standards and quality of care are interdependent. Each of these issues and the net effect of them all impacts on consumer confidence in assurances that quality of care is available to their family, relatives and friends in nursing homes or other aged care facilities.

Two major concerns emerge:

Will the current standard of care be maintained?; and  
Will the use of funding be properly applied, after July 1<sup>st</sup> 1997 by the proprietor?

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<sup>1</sup> Senate Select Committee, 1985. Private Nursing Homes in Australia: Their conduct, administration and ownership. Paragraph 4.36, Page 120, Commonwealth of Australia.

(2)

It is after July 1<sup>st</sup>, 1997 that the key aspects of the current system established in 1986/1987 will change. It is then, that proprietor's will have substantial and we believe excessive, discretion as to how they use federal government funding for nursing and personal care. This in stark contrast to the scrutiny, control and accountability applying at this time.

We would suggest that it was the absence of such mechanisms in 1983 and 1984, which lead the Senate Committee to report on the significant abuses to residents and deficiencies in care. If the Government's reforms are implemented as proposed the Australian Nursing Federation believes that the same patterns of abuse and deficiency will re-emerge.

The ANF understands that as a result of the August 20, 1996 budget there has been a significant reduction in permanent positions in the Standards Monitoring Teams in all States. This had the effect of reducing the capacity of those teams to conduct an effective range of inspections from July 1<sup>st</sup>, 1997 up until the full implementation of the new proposed system of accreditation after the year 2000.

We note that the Senate Select Committee in 1984 made this observation concerning effective scrutiny.

*"The Committee is not in favour of reducing the number of inspections and believes that all homes should be inspected at least annually".<sup>2</sup>*

In 1997, the reduction in the size and capacity of the current teams can only exacerbate the tendency for standards of care to be compromised. The current monitoring is based on risk management and is targeted based on historical data as to where problems are likely to occur.

Such concern over the prospective ability of current Standards Monitoring Teams is well founded. The history of departmental effectiveness is a lengthy one, and its limited capacity was noted in the Braithwaite Report (1993).

*"An eighteen month visit cycle cannot be achieved nationally within program resources available as of April 1992"<sup>3</sup>*

The report went on to comment that statistical targeting capabilities were inadequate and that all homes should be subject to monitoring.

It is this historical trend of sporadic inspections identified in the 1984 report of the Senate Select Committee, and, again eight years later that suggests that the transition from July 1<sup>st</sup>, 1997 as it is presently planned will compound existing deficiencies.

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<sup>2</sup> Senate Select Committee, 1985. Private Nursing Homes in Australia: Their conduct, administration and ownership. Paragraph 4.36, Page 120, Commonwealth of Australia.

<sup>3</sup> Braithwaite J., Makki T., Braithwaite V. and Gibson S, 1993. Raising the Standard - Resident Centred Nursing Home Regulation in Australia. Recommendation 36, Page xxi, Commonwealth of Australia.

(3)

The current system of standards monitoring and financial accountability for the use of care funds is marginal, lesser scrutiny proposed, after July 1<sup>st</sup> would suggest that this situation will become worse.

The Braithwaite report also raised the issue of the unequal impact and effort expended across the nursing home sector to secure compliance.

*"However, the national statistics obscure the reality that most of the enforcement action has occurred in Victoria, while most other states and territories continue to tolerate nursing homes persisting in chronic non-compliance for months and years".<sup>4</sup>*

In 1997, there are reportedly some 49 homes of concern, and a perception in the industry, that sub-standard nursing homes continue to operate and receive full funding at the same level, as those which exhibit high levels of compliance.

We would suggest to the Committee, that it should satisfy itself that there has been an appreciable improvement since 1992, and that the transition to a new system after July 1<sup>st</sup> does not carry with it the same clutch of poor quality care providers known to exist in substantial measure at the present time.

That transition to a system of accreditation is based on an election promise of quality assurance and to produce a better system than that in place now.

It is clear from the August 20, 1996 budget the proposed up front fees were to address the well reported need to upgrade nursing home accommodation. It has subsequently been clarified by the government that up front fees now only represent an additional and discretionary source of funds to proprietors.

The importance of the up front fees is that, it brings into closer focus the inadequacy and deficiencies of nursing home facilities as they now are.

From July 1<sup>st</sup>, the community will be required to pay for a proportion of their care as a resident from their assets, usually the family home.

However, that impost which is now to be called the accommodation bond cannot be thought to deliver better care or better accommodation, as there is no regulatory system in place which will ensure that these outcomes are achieved.

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<sup>4</sup> Braithwaite J., Makki T., Braithwaite V. and Gibson S, 1993. Raising the Standard - Resident Centred Nursing Home Regulation in Australia. Recommendation 36, Page xxi, Commonwealth of Australia.

(4)

Another, false premise underpinning the new system is that greater choice of facility will exist, and therefore prospective residents will gravitate towards better care and better facilities, as a market driven demand for quality.

The factual reality is that, there is not going to be any real choice, because the government will retain its current system of bed to population ratios. Supply of beds will remain regulated, demand will remain well in excess of supply and the prospective resident will not be able to exercise a choice in most circumstances.

It is necessary to recall the observations in May 1994 by Professor Bob Gregory on the quality of nursing home buildings and the annual outlay required to upgrade or rebuild. He identified the link between funding and the capacity of the proprietor to borrow and to service the loan's obligations.

*"The low level of actual building suggests that the private sector does not consider the proportion of the cost met by the funding sufficient to justify the contribution required, although the number applying indicates an interest in the improving stock".<sup>5</sup>*

In this discussion about the adequacy of funding, the estimate of homes in need of prompt upgrading was significant. The situation has not improved since 1992, and that objective will after July 1<sup>st</sup>, 1997 be reliant on an assumption that sufficient additional revenue will be derived from accommodation bonds, that finance can be obtained and the incentive to upgrade will exist. It is intended that a proportion of nursing homes, approximately 500 to 600 hundred will be surveyed on building quality. It is estimated that some 15 to 20% will not meet minimal standards, and unless this is rectified will not be suitable for accreditation.

It is not yet known what will be the exact content of the principles foreshadowed in the Bill.

What is certain, is that there is no guarantee to the public or consumer that quality in accommodation will change, even though residents will pay an accommodation bond in hope that better care and quality will be the result.

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<sup>5</sup> Gregory R.G, 1994. Review of the Structure of Nursing Home Funding Arrangements, Stage 2. Page 11, Commonwealth of Australia.

(5)

The Aged Care Bill in its objects is well intentioned, but in that section the objective is qualified in this way.

*"In construing the objects, due regard must be had to:*

*(a) the limited resources available to support services and programs under this Act;"*<sup>6</sup>

Such caution implies that the government is aware of the poor capital infrastructure, that accommodation bonds will produce variable ranges of revenue and that the revenue may not be effectively used.

Whether the objects of the Bill can be met relies upon the (unstated) Principles referred to at pages 313-314 in the Bill.

In the absence of clear obligations, controls and accountability in the Bill, the achievement of the objects of the Bill become critically relevant on the Principles.

We would suggest to the Senate Reference Committee, that its consideration of the Bill must, if it is to comprehend the total change proposed, be undertaken in conjunction with scrutiny of those Principles.

Those Principles as yet unavailable, will determine the operational reality; the form of care and its quality, residents rights, the use of funds, and whether there is to be an improvement in infrastructure.

The Australian Nursing Federation makes these following observations on the Bill in support of our view, that the Principles are integral to the Senates consideration of the proposed legislation.

**A. THE IMPLICATIONS OF CHARGING AN ENTRY FEE FOR ACCESS TO A NURSING HOME OR HOSTEL**

The Bill, significantly, does not require proprietors after July 1<sup>st</sup> 1997 to utilise the extra funds from up-front fees (accommodation bonds) on either upgrading the quality of accommodation and/or on the improvement of care.

(6)

Hostels are reporting that they believe that the new arrangements will in fact lead to reduced rather than increased funds available for capital development or maintenance. The fact that the bond is transferable to other facilities without a capacity for renegotiation will mean that residents will face greater difficulty in relocating to their facility of choice.

A recent survey of hostels in South Australia conducted by Aged Care Australia showed that many expected to be worse off under the new system than the existing arrangements.<sup>7</sup>

No. Beds	Make surplus now	Expect surplus under new scheme
0 - 25	51.41%	29.25%
26 - 50	97.43%	58.97%
Over 50 beds	94.28%	71.42%

In addition this survey also revealed that:

- Smaller hostels were faced with loss of funding for over a quarter of residents
- Smaller hostels had higher vacancy rates and therefore attracted less funding
- Nearly 20% of small hostels do not make provision for Long Service Leave
- Approximately 20% of small or medium and 2.13% of larger hostels do not make provision for depreciation of buildings
- Larger hostels face substantial losses due to the numbers of residents presently paying variable fees.

**B. THE APPLICATION OF AN ASSETS TEST TO THE HOMES OF OLDER PEOPLE LIVING ALONE**

The ANF seeks to reserve comment on this area at this stage.

**C. GUARANTEEING EQUAL ACCESS TO NURSING HOME CARE FOR FINANCIALLY DISADVANTAGED PEOPLE**

At this time, the revenue available to proprietors is dependent on an uncertain amount of revenue related to a proposed subsidy for financially disadvantaged persons. We understand representations have been made by provider organisations to the government on what they regard as an inadequate daily rate for financially disadvantaged persons (now called concessional residents).

Notwithstanding, the concern of such industry organisations over the adequacy of the subsidy, the Federation is concerned over the unpredictable effect this will have on operating revenue after July 1<sup>st</sup>, 1997.

This volatility in revenue may create a preference by proprietors to limit the proportion of concessional residents, in order to retain viability by actively seeking residents who will pay an accommodation bond.

The Bill and therefore its Principles, at this time, do not deal effectively with equity of access. There is, and will be a wide variation, for instance, on a geographical basis of the asset levels of prospective residents, and between for profit and not for profit nursing homes segments of the sector substantially funded out of tax revenue and that all proprietors will be recipients of those funds.

Not for profit homes, that is facilities operated by church and charitable organisations will be obliged to provide access based on long standing policy. This segment will bear the greatest impact of a relative, negative shift in revenue and operating viability.

A subsidiary effect will flow onto capital upgrading leading to a reduced ability to finance internally or externally such renovations or reconstruction. The effects will be both short and long-term. This segment is also the largest operator of hostels, both stand-alone and co-located.

There is a need for an effective mechanism to be put in place in the Bill and in the Principles to oblige all proprietors to take a reasonable percentage of concessional residents, and for a formal monitoring system to operate as to admissions and allocations.

It is necessary to note, that the delivery of aged care will remain substantially funded out of tax revenue and that all proprietors will be recipients of those funds.

**D. THE ROLE OF MARKET FORCES IN DETERMINING THE LEVEL OF ENTRY FEE TO BE PAID**

The community is being led to believe that "market forces" will drive quality, when the government knows that it strictly limits and licences the number of nursing and hostel beds it will fund. There is no 'market'. We note that prudential arrangements to protect residents funds derived from accommodation are not clearly guaranteed.

In a sector where there has been historically high demand for such beds (often outstripping supply) and the associated care, it is deceptive to pretend that choice and competition will supplement the legislative framework. The real circumstances, are that, intending residents or their representatives will not be in an equal bargaining position with providers. That disadvantage will be compounded by the physical, mental and emotional state of the prospective resident.

**E. ENSURING THAT A TWO-TIERED SYSTEM OF NURSING HOME CARE DOES NOT DEVELOP AS A RESULT OF THESE CHANGES**

The Bill removes the commitment to providing professional nursing care without regard to the residents income or assets. The Bill establishes streams of paying residents on the one hand and on the other those who are unable to pay. Proprietors will establish different types and standards of accommodation and insist on preferential levels of care for those that provide an up-front fee. The Bill does not establish a mechanism for preventing that practice, and it will place nurses in an invidious professional position.

These consequences will be allowed to occur because the Bill does not establish a clear, and rigorous system of accreditation until the year 2000. In the intervening period there will be the wide and continuing variation in accommodation standards, care and use of federal government funding and up front fees.

In this context, the professionalism of nursing will be similarly undermined. This is because any basis for sufficient funds to be directed to the payment of proper wages, to provide the necessary continuing education of staff, to support improvements in occupational health and safety standards and other conditions of employment is no longer certain. In addition employers in a number of States have foreshadowed reductions to the number of staff and in the skill mix of their staff under the new regime.

The ANF is concerned that there will be problems for country and remote facilities which have predominantly less dependent residents. Most of these facilities will not be able to afford any reduction in funding, and because of their location will have a limited potential to raise capital income.

For example, in the Northern Territory the majority of resident are financially disadvantaged persons.

The Australian Nursing Federation believes that the legislation must ensure that nursing care is provided on the basis of resident needs rather than on their classification or system of payment.

The same concerns apply in respect of facilities which provide services to aboriginal and some ethnic communities. Facilities which provide a higher proportion of FDP places, and do so as a matter of commitment and conscience, stand to be disadvantaged by a system which largely expects providers to raise additional funds via an 'accommodation bond' or resident fees.

The existing requirements for continuous presence of a Registered nurse in nursing homes should continue as an audited component of funding.

**F. ENSURING THAT THE QUALITY OF CARE IS PROTECTED IN NURSING HOMES**

The delivery of high quality care and related services to the elderly is of necessity reliant upon the professionalism and commitment of nurses as employees, as well as, management and proprietors. The Bill does little to reassure the Australian Nursing Federation that it directs itself to preserving quality of care to the elderly residents in nursing homes and hostels.

The main concern of the Australian Nursing Federation and the NSW Nurses Association is the abolition of the Care Aggregated Module (CAM) of funding the adoption of a single non-acquittable payment. The use of CAM ensured that public money provided to nursing homes by the government was used for its intended purpose. This meant that providers were accountable for funds and, importantly, it meant that this money was spent on the provision of care for residents.

This system was transparent and allowed the community to have some certainty about staffing levels in nursing homes. There is no such protection in the Bill and there is a real danger that the new system will encourage proprietors to maximise their profits by deskilling their workforce and thereby compromising the care given to residents. In particular, nursing homes may be tempted to downgrade their nursing workforce. Residents are in nursing homes because they need nursing care. Any system that claims to be concerned about the quality of care in nursing homes (or in any other aged care facility) must ensure that public money provided for nursing care is spent on nursing care. The Bill does not provide for this. Accordingly there is no guarantee for residents, who are now in a position of having to purchase aged care, that the level of care they are purchasing will meet their needs.

We believe the Bill as it now exists will have the following impacts:

- F.1 Creating great uncertainty among the workforce given lack of any clear picture of what impact the changes will have on the day to day care of the elderly.
- F.2 There is great concern that the collapsing of specific funding for skilled carers, particularly trained nurses, from the 1<sup>st</sup> July 1997, will have a detrimental impact on skilled employment in the sector.

Employers in some states have already foreshadowed intentions to reduce and retrenched staff as a consequence of introduction of the new arrangements from July 1997.

- F.3 If there is no guarantee of funding for rates of pay necessary to ensure recruitment and retention of suitably trained nurses and other skilled staff, these employees will be forced out of the sector with a consequential impact of poor quality care outcomes.

It should be noted that nursing home and hostel funding are both indexed in accordance with arrangements applied to all Commonwealth Other Purpose Outlays since the 1995 budget.

That indexation has different timings, and different ratios are now applied to nursing homes and hostels.

With the proposed introduction of a single funding instrument from 1st July, 1997 a single ratio will be applied.

The change will affect the final indexation rate and therefore funding quantity. The new indexation rate has not yet been determined, and as other uncertainty in terms of operating revenue and therefore meeting the cost of care for residents exists.

- F.4 Many staff in the sector without a higher (or any formal qualification), the majority of whom are women and many from a non English speaking background, are in a poor bargaining position with respect to their employers.
- F.5 In an industry which has been notorious for employer non-payment of superannuation contributions, the removal of specific acquittals for employment conditions such as superannuation, is a major concern to workers and unions.
- F.6 The ANF supports measures which promote the financial viability of proprietors but not at the expense of nursing and personal care or staff pay and conditions. The abolition of CAM and the collapsing of CAM, SAM and OCRE into one payment means that although proprietors will still receive funding based on resident dependency, they will not be required to staff their facilities in a way which correlates with resident dependency.

The current system requires money provided by the Government for nursing and personal care to be spent for this purpose, or returned. Without the continued requirement to "acquit" expenditure, some proprietors may divert funds away from the purpose intended by the Government. CAM provides certainty regarding staffing levels, which is removed by the current proposal. At the same time as residents are being asked to pay for more care, the safe guard CAM provides to ensure safe nursing and personal care levels is being removed.

With the removal of audit requirements on prospectively funded Long Service Leave moving in OCRE for CAM staff as of 1 July 1997, we believe there will be a positive incentive for proprietors to make redundant, after 1 July 1997, any nurse who has worked for them between five and 10 years. They will have been funded a portion of the award entitlement but the nurse is not entitled to claim it as an award entitlement until after 10 years.

The abolition of the distinct OCRE payment also places superannuation contributions at risk, noting that the nursing home sector has a poor record of compliance with Commonwealth Superannuation Guarantee requirements, despite the fact proprietors receive designated funds to ensure their contributions can be made.

The Government's failure to continue the commitment of the previous Government to index CAM to meet increased staffing and related costs; will place an increasing impost on the industry for example, despite the fact that aged care nurses in Victoria have received \$8.00 safety net increases only since 1993 proprietors are already claiming the need to reduce terms and conditions of employment and reduce staffing levels because CAM is no longer properly indexed.

A reduction in staffing levels, or an inadequate skills mix has the potential to impact adversely on occupational health and safety in a sector with an acknowledged appalling level of worker injury. The recent Commonwealth initiative in Occupational health and Safety in Nursing Homes and Hostels demonstrated that a nurse going to work in a Nursing Home today is more likely to be injured to work than a worker on a building site. The level of injury has risen dramatically over the past six years as the staffing levels and skills mix have gone down and as dependency levels of residents have risen.

ANF would be pleased to provide data on this serious issue if required.

- F.7 The Bill assumes that in the absence of rigorous controls or sound accreditation obligations, proprietors will not seek to reduce the professional and skilled component of the workforce for financial reasons. Evidence to the contrary is already emerging in some states/territories. The effect of the Bill is to remove any credible form of accountability for the use of significant public funding. The Australian Nursing Federation supported the specific funding of nursing and personal care under CAM, because the delivery of such care requires a stable and transparent system of funding.

The removal of separate and acquitted funding for nursing and personal care returns the Aged care sector to arrangement predating the current funding system which have been responsible for inadequate and unsatisfactory levels of care and outcomes for residents in need of care in 1983/84.

The Bill, if enacted in the current form will not guarantee that residents who with up-front fees will be purchasing care can be assured that the level of care they are purchasing will meet their needs.

- F.8 The Bill relies upon a prospective introduction of a system of accreditation for nursing homes and hostels. The system remains a principle yet to be revealed by the Minister but in any case will not be fully implemented until the year 2000 if the Bill is enacted.

The effect is that from July 1<sup>st</sup>, 1997 and for at least 2 and a half years there will be no one system that relates public funding to demonstrable quality of care. The Australian Nursing Federation believes that the implementation date should be considerably earlier than the year 2000.

Our concerns are compounded by the absence in the legislation of an emphatic commitment to accreditation. The public and nurses are expected to believe that the Bill will take a real and effective form in the principles, even though they are not yet formulated.

- F.9 The ANF is concerned that the new system is being implemented without a clear framework for the operation of Accreditation. It appears that it will be 4 years before Accreditation is fully functional. The ANF would be pleased to see a shorter time frame for proprietors to achieve accreditation in respect of care standards. This would minimise the potential for 'three tiers' of care standards ie. Extra services facilities, Accredited facilities and non-Accredited facilities.

We also believe that the Government needs to place positive pressure on the industry to ensure that all homes meet Accreditation by declaring what it intends for those which don't measure up within the required time. Accreditation should be a requirement of approved provider status.

It is clear, that the government is attempting to abrogate its obligation to the community to support the frail aged at a time of vulnerability with effective legislation.

**Nursing care is the essence of residential aged care.**

Existing legislation in Australia has as the key criteria for admission to a nursing home, the need for continuous nursing care. This currently requires the employment of a director of Nursing and qualified nursing staff.

An essential element in the delivery of residential aged care is the provision of nursing care. In the case of nursing home residents in particular the need is for "continuous nursing care". This is clearly stated in current legislation, and should be reflected in the new legislation.

It is noted that section 40AB of the National Health Act 1953 indicates that admission to a nursing home can be authorised for a:

*"...person in respect of whose admission approval is sought, by reason of illness, disease, incapacity or disability has a continuing need for nursing care".<sup>8</sup>*

The draft Aged Care Bill deletes key references to the need for nursing care. The ANF is concerned that this is a deliberate, budget driven omission which fails to appreciate the health risk to residents in reducing or removing nurses.

#### **G. THE NEED FOR USER RIGHTS**

The absence of User Rights Principles renders detailed comment on this important area of aged care policy inappropriate at this stage. However, the ANF wishes to make the following comments:

The Charter of Residents' Rights and Responsibilities - the ANF believes that this document has been an important vehicle for improving attitudes and focussing the attention of residential aged care staff and proprietors on the individuality and rights of residents. Subject to the views of organisations representing consumers, we believe that the Charter should remain in force until such time as stakeholders are consulted to ascertain whether there is scope for improving the document.

Resident contracts - the ANF is concerned by Departmental advice that the Aged Care Bill will negate the validity of contracts currently in force between residents and proprietors. We are concerned that this may breach the legal rights of residents at common law. We believe there is merit in a standard resident/proprietor contract which clearly sets out the expectations of the parties, proscribes fees payable and precisely sets out the services to be delivered to the resident.

Access to residents financial records - the ANF is concerned about privacy issues and would be pleased to see the Government put in place safeguards which protect the privacy of residents and their families, and relieve the burden on proprietors ie. perhaps the Government could consider having DSS provide the assets assessment in addition to the residents income assessment.

The need for services to be proscribed - we note that 'Extra Services Principles' are proposed in Chapter 7. It is in the interests of all residents to have services they are entitled to expect clearly set out in legislation and attached to each resident/proprietor contract.

## H. THE IMPLICATIONS OF POSSIBLE TRANSFER OF AGED CARE TO THE STATES AND TERRITORIES

The abrogation of the Federal Government's responsibility for aged care and its quality is intended to continue. Section 4.2 of the Bill, enables it under an extremely broad provision, the unfettered capacity to devolve aged care to single States or Territories. It is not acceptable that such a major change could take place with the Bill ceasing to operate in a State, without the specific approval of Federal Parliament. The Parliament would, if it supported that Section, dissolve national standards of access, equity and the employment of qualified nursing staff for the community for all time.

## CONCLUSION

It is clear to the Federation, that the deficiencies in the content of the Bill, its direct impact on nurses and on residents and consumers requires a substantial delay in its passage into legislation. As it now exists, the Bill is a piecemeal approach in that it fails to ensure that a transition from the comprehensive current system will be replaced by an equal or superior system and structure.

## 2. SPECIFIC CHANGES SOUGHT TO THE BILL

Set out are specific changes we propose to the Bill, at this time:

### TERMS (P3 AND P318, SCHEDULE 1)

Care - because the provision of (aged) care is the primary objective of the Act the definition of 'accommodation' and 'services' is inadequate. The definition ought to include nursing, allied health and personal assistance.

Flexible care - exactly what is envisaged by flexible care is unclear.

Residential care - (p122, 41-3) - the definition should also include allied health. 41-3(ii) after the word "appropriate staffing" the words "and a skills mix including adequate trained staff" should be inserted.

### CHAPTER 1 DIVISION 4

#### Section 4-4 Binding the Crown

Subsection (2) should be deleted since it is inconsistent with subsection (1). How can the Act be construed to bind the Crown if no penalties can be attached for non-compliance with the provisions contained within the Act or any subordinate legislation.

CHAPTER 2

Division 25 - How are care recipients classified (PP76/77/78)

There is no requirement under this division that the person undertaking the assessment for purposes of classification of a resident is required to have any level of expertise or skill. Rather, 25-3 leaves it up to the proprietor. This division should be amended to require a registered nurse to carry out the classification and assessment of residents.

Division 57 - Accommodation Bonds

No provision has been made in this division in respect of a resident who is not competent to enter into agreement over the accommodation bond. No other vehicle is available to the resident. This may well create conflict with state legislation (eg Queensland legislation relating to power of attorney).

Division 92

Requires an authorised officer to apply for a warrant before being able to enter the premises without the occupiers consent. It is the view of the QNU that this necessity could cause undue delays and hamper authorised officers capacity to carry out spot checks etc. on providers.

SECTION 8.3 SUITABILITY OF THE PERSON TO PROVIDE AGED CARE

Subsection (1)(a)&(b)

What is meant by "experience" within these two subsections? Given that all future providers of aged care services will be required to become incorporated a careful watch must be had of the relevant laws covering incorporation as they apply in the Commonwealth and each State/Territory. What are the requirements for the formation of a Board of Directors or a single person incorporated body. Subsection (a) refers to "the suitability and experience of the directors and officers of the applicant, and of anyone who is responsible for the day - to - day operations of aged care services to be conducted by the applicant;" Subsection (b) refers to "the applicant's ability to provide, and its experience (if any) in providing, aged care;"