



**Australian College of Nursing**

# **AGED CARE WORKER REGULATION SCHEME CONSULTATION PAPER**

**AUSTRALIAN COLLEGE OF NURSING RESPONSE TO THE DEPARTMENT OF HEALTH  
(JUNE 2020)**

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## General comments

The Australian College of Nursing (ACN) would like to thank the Department of Health for the opportunity to provide feedback on the **Aged Care Worker Regulation Scheme Consultation Paper (June 2020)**. As the pre-eminent and national leader of the nursing profession, ACN is committed to providing system-wide strategies that safeguard Australia's vulnerable ageing population from risks when accessing aged care services; and is keen to pursue novel approaches that will assist the aged care sector into the future. ACN's commitment to Australia's Senior Australians is demonstrated with the establishment of ACN's Healthy Ageing Community of Interest and Ageing Policy Chapter; ACN's membership with the National Aged Care Alliance; submissions to aged care inquiries including the recent and ongoing Royal Commission into Aged Care Quality and Safety; and the development of position statements<sup>1 2 3</sup> and white papers<sup>4 5 6 7</sup> addressing the complex care needs of Senior Australians with recommendations around the aged care workforce including the need for a regulated and skilled workforce.

For this submission, we acknowledge the term "Aged Care Worker" includes Personal Care Workers (PCWs) in addition to other staff (e.g. kitchen staff). ACN however will only be commenting on the PCW workforce as these health care workers are utilised to support the delivery of **nursing care** by assisting people with personal care and activities of daily living. In addition, it is important to highlight that published ACN policy documents consistently refer to "Unregulated Health Care Workers" (UHCW). The UHCW title is an umbrella term used to describe various support worker roles including the PCW, Personal Care Assistant, Assistant in Nursing, Auxiliary Nurse in addition to many other titles which vary across and within jurisdictions. To avoid confusion, ACN will be using the term PCW throughout our response.

With roughly 70% of the aged care workforce made up of PCWs, ACN has expressed this is of concern considering that an increasing number of elderly people entering the aged care sector are presenting with more complex care needs with many requiring end of life care. The ACN white papers, *'Nurses are Essential in Health and Aged Care Reform (2016)'*,<sup>8</sup> and *'Achieving Quality Palliative Care for All: The Essential Role of Nurses (2019)'*,<sup>9</sup> outline the complex care needs of residents living in residential aged care facilities (RACFs). Specifically, people living in RACFs more commonly have co-morbidities, chronic disease and multiple medications; and 75% of people in RACFs are known to be 85 or older. The complex care required by residents can only be provided under the direct supervision of a Registered Nurse (RN). ACN does not intend to undermine the value of the PCW workforce, however in the interest of patient safety advocates for at least one RN

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<sup>1</sup> Australian College of Nursing (ACN) 2016. 'The role of registered nurses in residential aged care facilities – Position Statement', ACN, Canberra.

<sup>2</sup> Australian College of Nursing (ACN) 2019, 'Unregulated Health Care Workers – Position Statement', ACN, Canberra.

<sup>3</sup> Australian College of Nursing (ACN) 2020, 'Voluntary Assisted Dying in Victoria – Position Statement', ACN, Canberra.

<sup>4</sup> Australian College of Nursing (ACN) 2019, 'Regulation of the Unregulated Health Care Workforce across the Health Care System – A White Paper by ACN 2019', ACN, Canberra.

<sup>5</sup> Australian College of Nursing (ACN) 2016, 'Nurses are Essential in Health and Aged Care Reform – White Paper', ACN, Canberra.

<sup>6</sup> Australian College of Nursing (ACN) 2019, 'Achieving Quality Palliative Care for All: The Essential Role of Nurses – White Paper', ACN, Canberra.

<sup>7</sup> Australian College of Nursing (ACN) 2019, 'Establishing a Nurse-led Palliative Care Service in Australia: An implementation toolkit – A White Paper by ACN 2019', ACN, Canberra.

<sup>8</sup> Australian College of Nursing (ACN) 2016. 'The role of registered nurses in residential aged care facilities – Position Statement', ACN, Canberra.

<sup>9</sup> Australian College of Nursing (ACN) 2019, 'Achieving Quality Palliative Care for All: The Essential Role of Nurses – White Paper', ACN, Canberra.

to be on shift and available to supervise PCWs at all times; and that PCWs should never be substituted for RNs or Enrolled Nurses (ENs).<sup>10</sup>

Substitution of qualified nursing staff for PCWs can significantly impact the skill mix (proportion of qualified RNs to PCWs) in RACFs. The literature demonstrates that when less hours of nursing care are provided by qualified and appropriately trained RNs, individuals are at greater risk of inadequate care and poor outcomes.<sup>11 12 13</sup> Interestingly, a recent US study demonstrated that a lack of RNs in RACFs was linked to a higher number of COVID-19 cases. Specifically, when more RNs were on duty, aged care facilities had 22% fewer COVID-19 cases amongst residents.<sup>14</sup> ACN has consistently recommended policy reform to provide minimum safe RN staffing levels and to amend the Aged Care Act 1997 (Cth) to mandate safe staffing and skill mix levels.

Qualified RNs and ENs that are registered with the Australian Health Practitioner Regulation Agency (AHPRA) are considered a skilled workforce and a necessary workforce in the aged care sector given their level of training around the care and needs of older people. Registration ensures the safest and highest quality of care is provided to individuals and that there are mechanisms in place to hold workers accountable for inappropriate or risky behavior in the workplace.

Findings from the *Royal Commission into Aged Care Quality and Safety Interim Report*<sup>15</sup> demonstrate Senior Australians in RACFs have been experiencing and are at continued risk of elder abuse and neglect, highlighting the importance of regulating aged care workers. Recent data from Queensland's Elder Abuse Prevention Unit shows that there were 1,780 notifications of abuse reported in 2018–19.<sup>16</sup>

In some cases, the health literacy of PCWs is limited due to a lack of or limited ongoing professional development or minimal standards of training in health which can increase risk of abuse and neglect in patients. Whilst the current aged care legislation places certain responsibilities on providers with respect to aged care workers, there is no legislation that places any direct requirements on aged care workers. ACN finds this concerning, as there is currently no mechanism to prevent PCWs from moving unnoticed onto other employers if they put patient health and safety at risk. ACN has consistently advocated that if PCWs are to be utilised, then they must be regulated through the National Registration and Accreditation Scheme (NRAS) with the establishment of a practice framework which articulates a minimum level of education, a defined scope of practice, and national codes, standards and guidelines.<sup>17</sup>

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<sup>10</sup> Australian College of Nursing (ACN). 2019, 'Unregulated Health Care Workers – Position Statement', ACN, Canberra.

<sup>11</sup> Aiken, L.H., et.al., 2017, 'Nursing skill mix in European hospitals: cross-sectional study of the association with mortality, patient ratings, and quality of care', *BMJ* 26:559-568, doi: 10.1136/bmjqs-2016-005567.

<sup>12</sup> Duckett, S.J., Jorm, C., Moran, G., & Parsonage, H. 2018, Safer care saves money: How to improve patient care and save public money at the same time, Grattan Institute, viewed 5 March 2019 <<https://grattan.edu.au/wp-content/uploads/2018/08/Safer-care-saves-money.pdf>>

<sup>13</sup> Chenoweth, L., Merlyn, T., Jeon, Y.H., Tait, F. & Duffield, C. 2014. 'Attracting and retaining qualified nurses in aged and dementia care: outcomes from an Australian study'. *Journal of Nursing Management*, 22(2): 234-247.

<sup>14</sup> The Weekly Source 2020. US study links lack of RNs to number of COVID-19 cases – recommends regulator target homes with lower infection control. Viewed 23 June 2020 <https://www.theweeklysource.com.au/us-study-links-lack-of-rns-to-number-of-covid-19-cases-recommends-regulator-target-homes-with-lower-infection-control/>

<sup>15</sup> Australian Government 2019. Royal Commission into Aged Care Quality and Safety – Interim Report (Volume 1). Accessed at: <https://agedcare.royalcommission.gov.au/publications/Documents/interim-report/interim-report-volume-1.pdf>

<sup>16</sup> Queensland Government 2020, 'Elder abuse and the COVID-19 pandemic', available at: <https://www.communities.qld.gov.au/resources/campaign/know-the-signs/fact-sheet-elder-abuse-and-covid19-accessible.pdf>

<sup>17</sup> Australian College of Nursing (ACN) 2019, 'Unregulated Health Care Workers – Position Statement', ACN, Canberra.



While a National Code of Conduct for Health Care Workers including PCWs was introduced in 2015, this is largely determined by jurisdictions, with varied rates of implementation across Australia. More so, scope of practice for PCWs is largely determined by individual health services and units of competency completed as part of their training qualification. With no consistent national qualification for PCWs in Australia, there is variability in educational preparedness amongst the PCW workforce who are employed under individual contracts. At the national level, regulation of PCWs through participation in the NRAS and the establishment of a practice framework, which, articulates a minimum level of education, a defined scope of practice, and national codes, standards and guidelines is supported by ACN.<sup>18</sup> This would facilitate greater clarity and consistency around the PCW role, provide a clear picture of the PCW profile, ensure a sustainable PCW workforce that can be utilised consistently across care settings nationally, and afford a greater level of protection to both the public and the individual health care worker.<sup>19</sup>

In the wake of COVID-19, additional issues have appeared within the aged care sector which further highlights the need for a regulatory scheme for aged care workers. Specifically, COVID-19 saw the introduction of family visitation restrictions causing significant distress amongst individuals at the inability to communicate with, oversee and advocate for family members or loved ones in care. This issue may be heightened for people from Culturally and Linguistically Diverse (CALD) and Aboriginal And Torres Strait Islander (ATSI) backgrounds who require culturally sensitive care. In light of this, ACN established the [COVID-19 Nursing Workforce Solutions Expert Advisory Group \(EAG\)](#) to address these issues with the Australian Government, for the current pandemic situation and beyond for any potential future communicable disease outbreak.

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<sup>18</sup> Australian College of Nursing (ACN) 2019, 'Unregulated Health Care Workers – Position Statement', ACN, Canberra., p. 3.

<sup>19</sup> Australian College of Nursing (ACN) 2019, 'Unregulated Health Care Workers – Position Statement', ACN, Canberra.

## ACN responses to the consultation questions

### 1. What is your preferred approach to aged care worker criminal history assessments?

ACN members overwhelmingly support Option A2 – Centralised assessment of criminal history for workers (based on NDIS model).

### 2. Are there other options that should be considered?

ACN members gave the following information in response to this question:

- In addition to criminal history other factors such as limitations set by the Australian Health Practitioner Regulation Agency (AHPRA) or other boards should be included
- Consideration should be given in relation to whether a person has been discharged from a criminal activity or has a history of medication abuse
- A registration or checking system like the working with vulnerable people check
- Reference checks should also be carried out from previous employers

### 3. If there were to be a centralised assessment of criminal history, should any other matters be routinely taken into account? If so, which of the following options should be considered?

ACN members indicated that all four options should be considered:

- Option B1 – Information from disciplinary bodies such as health complaints bodies, the NDIS Commission and National Boards
- Option B2 – Information from relevant government agencies
- Option B3 – Information from courts and tribunals
- Option B4 – Information from employers

### 4. Are there any other matters that should/should not be considered as part of any aged care worker screening scheme?

ACN members provided the following feedback in relation to what should be considered:

- Vaccination particularly Hepatitis B and medical screening
- If information from employers is to be considered, the assessment should also consider how the employers are performing as in whether employers have successfully being accredited, as staff may have minor disciplinary issues recorded by their employer but it may be due to understaffing or other issues at play which might translate to their employer not passing accreditation standards
- Outcomes from investigations into complaints, allegations and suspicions should be included
- Appropriate training / skills / experience in the industry should be checked

## **5. What is your preferred approach to a code of conduct?**

ACN members overwhelmingly selected Option C3 – Develop a new code of conduct specific to aged care workers.

## **6. What do you consider are the advantages and disadvantages of introducing a code of conduct for aged care workers?**

ACN members conveyed that the advantages of introducing a code of conduct for aged care workers include:

- Provides greater clarity & accountability
- A code of conduct would be more in-line with how AHPRA regulates health professionals
- Transferable and easily retrievable information from workplace to workplace
- Objective investigations are easier to conduct with defined criteria
- A minimum set of standards that would apply to all aged care workers and it would also provide a framework from which to investigate misconduct when required

The disadvantages of introducing a code of conduct for aged care workers include:

- There is the possibility of employers abusing the system to terminate employees' contracts who make complaints or raise concerns when in fact the employer may be at fault
- Possible uncertainty regarding timeframes for any investigation into an employee

## **7. What is your preferred approach to strengthening English proficiency in aged care?**

ACN members strongly support Option D2 – Establish a requirement for PCWs to demonstrate their proficiency in English as part of a registration process (consistent with the National Scheme).

## **8. What are the other options for strengthening English proficiency in aged care (particularly for those providing personal and clinical care)?**

It is critical in the delivery of often complex care that all staff have a good command of the English language in order to properly be able to understand care notes as well as to properly verbally communicate with older people. Feedback provided by ACN members identified the possibility of using existing IELTS exams adopted by the higher education sector which would require a standard to be met.

In addition to English proficiency, ACN believes that cultural competence and communication competence must also be demonstrated by aged care workers.

\* Communication competence encompasses English language proficiency and more accurately embodies the ability for a nurse to effectively communicate with an individual in their care. It is important that aged care workers are equipped and assessed for skills demonstrating an ability to competently practice active listening, recognise verbal and non-verbal cues (observation skills),<sup>20</sup> to provide clear and comprehensible instructions, to elicit information from individuals in their care, and to refer or seek additional support from other members of the health care team when required.

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<sup>20</sup> Boykins A, (2015). Core Communication Competencies in Patient-Centered Care" ABNF J. 26(2):29.

\* Cultural competence is also important given the number of residents in care and aged care workers themselves whom have a CALD background. ACN sees the importance of having multi-lingual workers whom can communicate with non-English speaking residents and understand their values and cultural sensitivities; however, workers need to also demonstrate proficiency in English to effectively communicate with colleagues.

### **9. What is your preferred approach to minimum qualifications?**

ACN members singled out as their preferred approach to minimum qualifications Option E3 – Establish a requirement for PCWs to demonstrate their qualifications as part of a registration process (consistent with the National Scheme).

### **10. What are the other options for strengthening the skills and knowledge of PCWs in delivering aged care?**

ACN strongly advocates for a Registered Nurse to supervise Enrolled Nurses and PCWs to ensure appropriate care is delivered. PCWs should have a minimum Certificate III qualification and a Certificate IV qualification for medication credentialed PCWs and those working in the community. Some of ACN's members argue that the current minimum qualifications are not enough. Student placements should have criteria that is met rather than the student fulfilling the placement for simply undertaking the required hours.

### **11. What is your preferred approach to continuing professional development?**

The majority of ACN member feedback to this question supported Option F3 – Establish a requirement for PCWs to demonstrate they have met specified minimum CPD requirements as part of a registration process (consistent with the National Scheme).

### **12. What are the other options for strengthening the CPD of PCWs and others delivering aged care?**

ACN members provided the following feedback:

- Mandate that providers offer a certain amount of CPD opportunities/hours which are directly linked to the specific context of the work
- Basic nursing care to be an ongoing component of CPD. A national standard will ensure consistency across the workforce
- Providers should increase the number of CPD hours allocated for annual mandatory education to enable some paid education hours

### **13. How should the register of cleared workers be presented?**

The majority of ACN member responses to this question support Option G3 – A list of workers who have been cleared to work in aged care and a list of workers who are excluded from working in aged care.

### **14. What are the advantages and disadvantages of different bodies managing screening of all aged care workers and/or registration of PCWs?**

The advantages of different bodies managing screening of all aged care workers and/or registration of PCWs include:



- It would be advantageous to have a new national government body like AHPRA to allow for a single national registration and management of all PCWs. This body can concentrate on one profession.
- Improved objectivity of screening

The disadvantages of different bodies managing screening of all aged care workers and/or registration of PCWs:

- Duplication, time consuming, difficult for PCWs to navigate
- Possible information fragmentation

**15. In principle, should a person cleared to work with people with a disability be automatically cleared to work in aged care?**

ACN believes that caring for people in aged care is different to caring for someone with a disability. There are different skills required for care of these different groups and separate skills training is needed. ACN does not support a single Certificate III course being developed which includes Aged Care and Disability. Anyone working in Aged Care must have education at the Certificate III level in dementia and palliative care.

**16. Are there any other clearances that should support automatic clearance in aged care?**

ACN believes registration with AHPRA should be an automatic clearance provided the registration is current and the individual is not being investigated due to any complaints being made against them.

**17. What are the relevant considerations regarding the interplay between AHPRA (and any other professional registrations) and PCW registration for aged care?**

ACN members provided the following responses to this question:

- It would be positive if the registration of PCWs would lead to a scaffolding of health care worker education. For example, a PCW starts with a certificate, then obtains a diploma and then undertakes a degree. This would help carers move into the 'next level' of health care work and nursing. Student nurses would be able to be further utilised, current PCWs would be motivated to undertake further studies, if some recognised prior learning could be in place when moving to the next educational level. This could strengthen the workforce, and the respect for PCW work. So, it would be advantageous to create a registration for PCWs in line with the other professions so a future scaffolding of education could be easier.
- It would be a new scheme and implementation would take time; the new information will need to be included in training; the annual cost of registration would need to be in line with the lower incomes of PCWs.