

27 October 2022

Passage of amended Aged Care Bill welcomed

The Law Council of Australia commends the Federal Parliament on the passage today of the Aged Care Amendment (Implementing Care Reform) Bill 2022 (Cth), which implements a key Royal Commission recommendation that all residential aged care facilities have a registered nurse on duty at all times (the ‘one registered nurse requirement’).

“The Law Council supports the fact the legislation gives effect to the one registered nurse requirement,” Law Council of Australia President, Mr Tass Liveris said.

“In particular, we welcome amendments to the Bill moved by the Government in the House of Representatives and today agreed by the Senate, which are consistent with recommendations made by the Law Council in its submission to the Senate Community Affairs Legislation Committee inquiry into the Bill. These amendments concern the power the Bill gives the Minister to provide for exemptions from the one nurse requirement.

“The Bill introduced to Parliament included a broad Ministerial power to create an exemption regime in subordinate legislation. The Law Council called for amendments to broadly specify in the Bill the grounds on which an exemption may be permitted – consistent with rule of law principles that executive powers to prescribe regulatory frameworks in legislative instruments should be carefully defined by law.

“The amendments made to the Bill will ensure the Secretary may only grant an exemption from the one nurse requirement when satisfied the provider has taken reasonable steps to ensure the clinical care needs to care recipients in the facility will be met for the period and will limit the period of the exemption. This better ensures an exemption scheme which is consistent with that conceived by the Royal Commission into Aged Care Quality and Safety.

“The Law Council is pleased to see all these issues have been considered during the debate and the final Bill strengthened by the amendments passed.

“The Law Council also commends the Federal Government for its Budget commitment of \$2.5 billion over four years to support the implementation of both the one nurse requirement, and a complementary measure to increase the minimum number of care minutes provided in residential aged care facilities per resident per day.

“These two measures comprised the minimum staff time quality and safety standard to which the Royal Commission into Aged Care Quality and Safety recommended residential aged care facilities be subject.”

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