227. Name Withheld

I had a problem setting up an on-line account to make a submission.  My comments are in bold under the items I am commenting on.

I am making my comments based on personal experience.  My mother has lived in aged care for the past 6 years.  Fifteen months ago my mother, now 92, sustained severe, very dramatic but  unexplained bruising on her face and forearms in an overnight incident.  My mother insisted she was hit on the chest.

The Facility Manager told me the matter had been reported to the police.  This was incorrect. The manager rang the police who refused to take a report of the incident as the Facility Manager advised them no-one knew what happened.

I tried to report the matter to the police and was given the same reason for the police refusing to take a report.

I complained to the Aged Care Complaints Hotline and was told they could not do anything about the matter, I was specifically concerned because I had asked the aged care facility for a copy of their report on the matter and it was not forthcoming.

Eventually I received a copy of the requested report.  It was factually incorrect.

I spoke to the carer who was on duty that evening and discovered she had refused further night shifts as she was concerned about both her safety and residents safety.

I complained to the Aged Care Complaints Hotline about the lack of staff to provide a safe environment for my mother overnight.  They reiterated they could not address my complaints and referred the matter to the Quality Team.  The Quality Team wrote to me quoting legislation which gives the aged care provider the responsibly of providing sufficient staff.

The Quality Team were in attendance the day the incident occurred and did not address the matter at all.

I complained to the Minister and again received a response quoting legislation.

It is my opinion that aged care providers act as if they have no Duty of Care to residents.   Residents have no automatic right to a safe environment, the government provides significant funds to aged care providers without ensuring these funds are actually spent on care staff salaries to meet claimed needs.  Residents and their families pay substantial care costs again without any of the usual transactional consumer protections.

Staff are often placed in vulnerable situations because shifts are run with minimum staff numbers and frequently residents with high care needs can be violent and demanding.

**3. Powers of Investigation**

**Proposal 3–1** State and territory public advocates or public guardians should be given the power to investigate elder abuse where they have a reasonable cause to suspect that an older person:

(a) has care and support needs;

(b) is, or is at risk of, being abused or neglected; and

(c) is unable to protect themselves from the abuse or neglect, or the risk of it because of care and support needs.

Public advocates or public guardians should be able to exercise this power on receipt of a complaint or referral or on their own motion.

**My Comments:  This power should include suspected abuse or neglect in aged care facilities, and cover such things as unexplained weight loss, bed sores, extensive unexplained bruising, use of restraints, unexplained changes in residents behaviour.**

## 11. Aged care

**Proposal 11–1** Aged care legislation should establish a reportable incidents scheme. The scheme should require approved providers to notify reportable incidents to the Aged Care Complaints Commissioner, who will oversee the approved provider’s investigation of and response to those incidents.

**Proposal 11–2** The term ‘reportable assault’ in the Aged Care Act 1997 (Cth) should be replaced with ‘reportable incident’.

With respect to residential care, ‘reportable incident’ should mean:

(a) a sexual offence, sexual misconduct, assault, fraud/financial abuse, ill-treatment or neglect committed by a staff member on or toward a care recipient;

(b) a sexual offence, an incident causing serious injury, an incident involving the use of a weapon, or an incident that is part of a pattern of abuse when committed by a care recipient toward another care recipient; or

(c) an incident resulting in an unexplained serious injury to a care recipient.

With respect to home care or flexible care, ‘reportable incident’ should mean a sexual offence, sexual misconduct, assault, fraud/financial abuse, ill-treatment or neglect committed by a staff member on or toward a care recipient.

**My Comments: reportable incidents should be worded to say suspected sexual offence etc., suspected incident resulting in unexplained injury or severe bruising.   Frequently elderly people are unable to articulate what is happening to them and visitors may have suspicions but no evidence.**

**Proposal 11–3** The exemption to reporting provided by s 53 of the Accountability Principles 2014 (Cth), regarding alleged or suspected assaults committed by a care recipient with a pre-diagnosed cognitive impairment  on another care recipient, should be removed.

**Proposal 11–4** There should be a national employment screening process for Australian Government funded aged care. The screening process should determine whether a clearance should be granted to work in aged care, based on an assessment of:

(a) a person’s national criminal history;

(b) relevant reportable incidents under the proposed reportable incidents scheme; and

(c) relevant disciplinary proceedings or complaints.

**Proposal 11–5** A national database should be established to record the outcome and status of employment clearances.

**Question 11–1** Where a person is the subject of an adverse finding in respect of a reportable incident, what sort of incident should automatically exclude the person from working in aged care?

**My Comments:  Any incident which after investigation finds the person was either responsible for the incident or lax in carry out their duty to protect the resident should result in an automatic exclusion from working in aged care.**

**Question 11–2** How long should an employment clearance remain valid?

**My Comment: 3 years**

**Question 11–3** Are there further offences which should preclude a person from employment in aged care?

**My Comments: Theft or assault in the wider community.**

**Proposal 11–6** Unregistered aged care workers who provide direct care should be subject to the planned National Code of Conduct for Health Care Workers.

**Proposal 11–7** The Aged Care Act 1997 (Cth) should regulate the use of restrictive practices in residential aged care. The Act should provide that restrictive practices only be used:

(a) when necessary to prevent physical harm;

(b) to the extent necessary to prevent the harm;

(c) with the approval of an independent decision maker, such as a senior clinician, with statutory authority to make this decision; and

(d) as prescribed in a person’s behaviour management plan.

**My Comments: I agree with this proposal.**

**Proposal 11–8** Aged care legislation should provide that agreements entered into between an approved provider and a care recipient cannot require that the care recipient has appointed a decision maker for lifestyle, personal or financial matters.

**My Comments:  Interesting but impractical given that 81% of residents in aged care facilities are high care.**

**Proposal 11–9** The Department of Health (Cth) should develop national guidelines for the community visitors scheme that:

(a) provide policies and procedures for community visitors to follow if they have concerns about abuse or neglect of care recipients;

(b) provide policies and procedures for community visitors to refer care recipients to advocacy services or complaints mechanisms where this may assist them; and

(c) require training of community visitors in these policies and procedures.

**Proposal 11–10** The Aged Care Act 1997 (Cth) should provide for an ‘official visitors’ scheme for residential aged care. Official visitors’ functions should be to inquire into and report on:

(a) whether the rights of care recipients are being upheld;

(b) the adequacy of information provided to care recipients about their rights, including the availability of advocacy services and complaints mechanisms; and

(c) concerns relating to abuse and neglect of care recipients.

**My Comments:  these phrases should include “care recipients and their advocate or Power of Attorney”.  According to the ACFA annual report 81% of aged care residents are assessed as high care.  Many of these people have dementia so their capacity to understand their rights is limited.**

**Proposal 11–11** Official visitors should be empowered to:

(a) enter and inspect a residential aged care service;

(b) confer alone with residents and staff of a residential aged care service; and

(c) make complaints or reports about suspected abuse or neglect of care recipients to appropriate persons or entities.

**My Comment: I agree with this proposal.**

**Please keep my comments confidential, I am happy to have them on the website providing my name is not attached to them.**

**Thank you**