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Federal Issues Requiring Review

Comments about the Productivity Commission into Human Services

This is a brief summary of what was supplied to you at our meeting.

- Palliative care is more than just the last year of life
- Palliative care and end of life care are more than just personal care and compassion.
- Palliative care and end of life care requires training and experience.
- What I fear is introduction of an outdated model of generalist-based community palliative care services using GPs, non-specialist nurses and assistants-in-nursing for personal care. This risks turning the clock back 50 years to the time when there was no expert training in palliative medicine or nursing and when each clinician had to “learn on the job” at the expense of patients and their families.
- If Governments MUST use a variety of private and NGO services to supplement the struggling state government-funded specialist palliative care services, it will be vitally important to give contracts to services which offer adequate numbers of specialist palliative physicians, nurses and allied health to meet the community’s needs.

Lack of regulation regarding registered nurses in aged care.

- Not all Residential Aged Care Facilities (RACFs) have registered nurses 24/7. This should be mandated, regardless of cost. It is a humanitarian issue to be able to receive appropriate, as required medication and skilled attention 24/7.
- There is no specified staff-to-patient ratio.
- For many years NSW had its own rule that RACFs which provided “high care” had to have RNs 24/7 but when the Federal regulations changed from having “high” and “low” care facilities to “Ageing in Place” so that many more facilities would need to employ RNs 24/7, the NSW Government cancelled that rule. A Senate Inquiry was held in NSW and recommended that the rule be reinstated, but the NSW Government decided against that.

I mentioned to you that I had received an opinion from a retired Supreme Court Judge who looked at the legislation for me. He wrote:

"The Australian Constitution, in section 109, says: "When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid."

Caselaw in the High Court has recognised two forms of inconsistency, namely (1) where there is a "textual collision" between the Federal law and the State law so that in some circumstances they cannot both apply, and (2) where the Federal law manifests an intention that it shall exclusively cover a particular field, into which the State law impinges.

There may be, or be perceived in State circles to be, an arguable case that the (Federal) Aged Care Act, with its mass of regulations relating to standards of care is inconsistent with the (State) Public Health Act requirement about registered nurses, on the second branch of section 109. I am not suggesting that such a view would necessarily prevail in the courts, but it may be that the best target for pressing the importance of retaining the registered nurse requirement would be the Commonwealth Health Minister".

MyAgedCare

People have been reporting to me that is very difficult to get the help they need through MyAgedCare in a timely fashion.

- First, telephoning the office is irritating and unhelpful. The people who are supposed to give help or advice seem to be at sea themselves and not familiar with what is needed. This causes unnecessary confusion and distress to already anxious and stressed carers.
- Once people need help they must be assessed by the Aged Care Assessment Team (ACAT). Most, by that time, need a lot of help, so they are assessed as level 4 (out of 4). But I have never heard of anyone being able to access Level 4 service at once. Any are told that they will have to wait for an indefinite time. Most have to start with Level 2 which is not enough help for their heavy needs. This often leads to avoidable admissions to hospitals.

Immigration issues for Palliative Specialists

- Palliative care in Australia has been underfunded for decades. Now NSW has been granted \$100M over four years with eight additional palliative physicians positions funded immediately, all for rural and regional NSW. This would be wonderful but we don't have enough palliative specialists to fill the positions. I am told that immigrant doctors are only granted 3 years in Australia, then their jobs must be advertised again and if there is a local who wants the job, the immigrant is sent home. Is there a way around this for this very special group? It is so hard to get specialist physicians to settle in rural areas. The only two we have in NSW now came from the UK and have brought about the most wonderful transformation for the towns they have settled in – Broken Hill and Coffs Harbour.

Dr Yvonne McMaster