REVIEW OF REGULATORY BURDENS ON BUSINESS – CATHOLIC HEALTH AUSTRALIA SUBMISSION

KEY POINTS CONCERNING HEALTH AND AGED CARE

Background

- Regulation in health and aged care services is predicated on ensuring Australians have access to safe health and aged care services when they need to.
- Safety and quality assurance is a prime focus and justification of the regulatory burden.
- The vulnerability of aged care recipients and community expectations require high levels of regulatory activity in the aged care sector to ensure high standards of care and services.

In Australia, the regulation framework includes the following types of activities:

Acute Health services

- licensing and regulation of hospitals and surgeries and other specialised services ie Pharmacy, pathology, radiology etc (State and Commonweatlh)
- licensing and regulation of health practitioners (State based)
- safety and quality reporting requirements
- Medical indemnity (State)
- Private health insurance (Commonwealth)
- Medical technology – pharmaceuticals, medical devices and medical services
- Employer regulation (Workplace relations, OH&S, Workers Compensation etc - Commonwealth and State)
- Vetting and approval of Board and key personnel

- In addition the funding rules of benefit schemes such as the PBS, MBS and private health insurance impose additional compliance burdens for specific items (ie particular pharmaceuticals, access to some types of medical services, prostheses funding by private health insurers etc).

Aged care includes:

- Government approval of aged care providers and vetting of all key personnel;
- accreditation of all services;
- unannounced and scheduled visits to monitor accreditation standards;
- minimum building standards (building certification);
- police checks for all staff and volunteers;
- compulsory reporting of resident-on-resident and staff-on-resident abuse;
- a free complaints investigation scheme open to the whole community;
- a regime of sanctions for non compliant providers; and
- an Aged Care Commissioner to receive appeals.

- Aged care in Australia is also subject to additional layers of regulation because of the rationing of aged care services by the Australian Government and the absence of a competitive market. The additional regulatory activity is needed to protect consumers from the potentially adverse consequences of restricted competition and choice and to administer the rationing of services.

- This contrasts with other sectors of the economy where a major objective of regulation is to protect consumers and the community by ensuring that markets for goods and services are competitive and operate fairly and efficiently.

- The additional regulation in aged care includes:

- administrative processes to determine the quantity and types of aged care services;
- administrative processes to ensure that the available services and service types are equitably distributed geographically;
- compliance activity to ensure that the allocated services are used as intended; and
- price controls (in the absence of a market basis for setting fees).

- The absence of a competitive market in aged care also means that there is greater emphasis and reliance on regulation to ensure high quality services.

Options to reduce regulation

- The major areas of concern for **acute health care** providers relate to:

  - the range of inconsistent, and overlapping regulation between different jurisdictions
  - unnecessarily burdensome and duplicated reporting requirements for safety and quality data
  - inconsistent or duplicated reporting arrangements where funding is provided at one tier of government and regulation occurs at another
- The issues could be addressed by the establishment of a process to systematically review regulation of acute care services with the objective of moving to nationally consistent (if not identical regulation regimes).

  - Examples of more specific reforms that could be considered include: removal of restrictions of the number of pathology collection centres, removal of Ministerial premium setting approval for private health insurers, removal of unnecessary additional vetting of key personnel in jurisdictions where services are already operating satisfactorily.

- The reform which would have the biggest impact on reducing the level of regulation in **aged care** would be to foster a more competitive market for aged care services by increasing the availability of aged care services and giving older people and their families greater choice of services, who provides them and where they are received.

- There is also scope to reduce the level of regulation in the following areas where the current arrangements are either redundant, unnecessarily burdensome and /or duplicate other regulations:

  - Building Certification : Building certification was introduced by the Government as a means of improving the quality of the existing stock of aged care homes by requiring them to meet increased fire safety and privacy standards by 2008 and applying these standards to new and rebuilt homes. Now that the upgrading of the existing stock has been achieved, the certification standards (to the extent that they are not) should be incorporated in the Building Code of Australia and thereby avoid ongoing regulatory duplication between the BCA and the building certification program. (If there is a residual of homes that have not met the certification standards, they alone could remain subject to building certification processes.)

  - Annual Fire Safety Declaration : The annual fire safety declaration was introduced pending the achievement of the fire safety standards under building certification. Given the achievement of the fire safety standards by existing services, the incorporation of these standards into the Building Code of Australia and local government's responsibility for fire safety, the annual fire safety declaration has become redundant.

  - Police checks: The *Aged Care Act 1997* requires all aged care staff and volunteers to undergo police checks every three years. These are generally arranged by the employer. There are similar requirements for employees and volunteers in the child care and child

protection sectors. It may be more efficient to have one national body issuing individual police check records (or registration cards) for people wanting to work in these sectors which are easily transportable. High staff turnover rates make a decentralised system administratively demanding. A national agency could also be responsible for alerting employers to any developments during the elapse time before a police check renewal is due which may affect an individual's suitability to continue to work in the sector.

- Compulsory reporting: Aged care providers are currently required to report all allegations or suspicions of resident-on-resident physical abuse to the Department and the police, except where the residents concerned have an assessed cognitive or mental health impairment. With respect to the latter, there is a requirement for the provider to document and put in place arrangements within 24 hours for the management of the resident's behaviour. The Aged Care Accreditation Agency, as part of its regular audit program, would be expected to assess whether each provider has the systems in place to ensure this and related processes are followed. The current requirement to report all other allegations and suspicions of assault to the Department as well as the police is burdensome and serves no useful purpose. As the Department's Guidelines acknowledge, investigation of incidents of alleged assault is the responsibility of the police. As is the case for assaults involving residents with assessed cognitive or mental health impairment, it would be more efficient to rely on the Agency audit processes to ensure appropriate systems are in place to ensure appropriate reporting and management of assaults and that the systems are used.

- Streamlining Community Aged Care: Under current arrangements, care recipients and providers often face disruption and administrative costs in transitioning to higher levels of care because of restrictions placed on the type of care that the provider has been funded to deliver. A system, as currently applies in residential care, which would allow the care provider to adjust the level of care as the individual's care needs change would reduce disruption costs for care recipients and their families and providers.

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