

ANMF Submission to Consultation Paper

**AUSTRALIAN GOVERNMENT
DEPARTMENT OF HEALTH
DRAFT CHARTER OF AGED
CARE RIGHTS**

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Australian
Nursing &
Midwifery
Federation



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INTRODUCTION

The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 275,000 nurses, midwives and carers across the country.

Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.

Our strong and growing membership and integrated role as both a trade union and professional organisation provide us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.

Through our work with members we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.



The Federation welcomes the opportunity to provide a response to the Australian Government Department of Health public consultation on the draft Charter of Aged Care Rights. An Australian Charter of Aged Care Rights is an essential document. This Charter should form the basis of all care provided to people receiving aged care services in residential or community settings. Once developed, the Charter needs to be enforced to ensure that it does, in fact, provide protection for the rights of aged care consumers. It is vital that all people receiving care, their family, friends and carers, aged care providers and staff have a clear and comprehensive understanding of the rights of people receiving residential or community aged care services.

Our members work across all settings in which aged care is delivered, including approximately 45,000 members who are currently employed directly in the aged care sector. Many more of our members are involved in the provision of health care for older persons who move across sectors (acute, residential, community and in-home care), depending on their health needs. Being at the fore-front of aged care, and caring for older people over the twenty-four hour period in acute care and residential facilities, our members are in a prime position to make clear recommendations to improve the care provided. The ANMF has a strong commitment to achieving the change required to improve the care being provided to older persons in residential and community aged care.

Questions for consideration

1. Does the Charter cover what you think is important? Yes/No? If no, please specify.

No. The proposed Charter of Aged Care Rights intends to simplify the charter for consumers and condense the existing four documents (Schedule 1 to 3 Part 2) into a single document. Upon assessment of the existing Charter to the proposed Charter of Aged Care Rights, the following gaps have been identified (the information provided in italics refers to the existing four documents - Schedule 1 to 3 Part 2):

Schedule 1; (1): Each care recipient has the following rights:

(c): to full information about his or her own state of health and about available treatments

This relates to (f) in the proposed Charter of Aged Care Rights: be informed about my care in a way that meets my needs, have access to information about my rights, care, accommodation and anything else that relates to me personally, and get the information I need in a timely way.

The proposed Charter of Aged Care Rights fails to explicitly state the provision to consumers about available treatments.



Schedule 2; (1): Each care recipient has the following rights:

(d): to receive care without being obliged to feel grateful to those providing the care.

This is omitted from the proposed Charter of Aged Care Rights.

Schedule 2; (3): Each care recipient has the following rights:

(b) to be given before, or within 14 days after, he or she commences receiving home care, a written plan of the care and services that he or she expects to receive.

This relates to (f) in the proposed Charter of Aged Care Rights: be informed about my care in a way that meets my needs, have access to information about my rights, care, accommodation and anything else that relates to me personally, and get the information I need in a timely way.

The proposed Charter of Aged Care Rights fails to explicitly state a timeframe for provision of a written plan of care and services in a residential setting.

Schedule 2; (3): Each care recipient has the following rights:

(c) to receive care and services that take account of his or her other care arrangements and preferences.

This relates to (d) and (g) in the proposed Charter of Aged Care Rights:

(d) maintain my independence.

(g) maintain control over, continue to make decisions about, my care and personal and social life.

The proposed Charter of Aged Care Rights fails to explicitly state the person's right for the provider to take in to account their other care arrangements.

Schedule 2; (3A): Each care recipient has the following rights:

(b) to have his or her individualised budget reviewed and, if necessary, revised if:

(i) the care and services to be provided, or the costs of providing the care and services, change;
or

(ii) he or she requests the approved provider to review and, if necessary, revise the individualised budget;

(c) to receive a monthly statement of the funds available and the expenditure in respect of the care and services provided during the month.



These relate to (f) in the proposed Charter of Aged Care Rights: be informed about my care in a way that meets my needs, have access to information about my rights, care, accommodation and anything else that relates to me personally, and get the information I need in a timely way.

The proposed Charter of Aged Care Rights fails to explicitly state the person's right for the provider to provide them with the information as per Schedule 2; (3A) as listed above.

Schedule 2; (5): Each care recipient has the following rights:

(b) to be given a copy of this Charter;

(c) to be offered a written agreement that includes all agreed matters.

The proposed Charter of Aged Care Rights fails to explicitly state the person's right for the provider to provide them with a copy of the charter or to be offered a written agreement that includes all agreed matters.

Schedule 3 Part 1; (2): Each care recipient has the following rights:

(p) to have access to services and activities available generally in the community.

The proposed Charter of Aged Care Rights fails to explicitly state the person's right for the provider to provide them access to services available generally in the community.

Schedule 3 Part 2; (5; 3): Each care recipient has the following rights:

(b) to be given before, or within 7 days after, he or she commences receiving short term restorative care, a written plan of the care and services that he or she expects to receive.

The proposed Charter of Aged Care Rights fails to explicitly state the person's right for the provider to provide them a written plan of the care and services that he or she expects to receive before commencement of care or within 7 days after commencement of care in a home care setting.

Schedule 3 Part 2; (5; 7): Each care recipient has the following rights:

(b) to receive invoices that are clear and in a format that is understandable.

The proposed Charter of Aged Care Rights fails to explicitly state the person's right for the provider to provide them invoices that are clear and in a format that is understandable.



It is noted that the proposed Charter of Aged Care Rights has removed any mention of care recipient responsibilities. In particular, respecting the right and needs of other consumers, their visitors and staff to ensure an environment free from harassment.

2. Does the introduction/preamble require clarification or any further information? Yes/No? If yes, please provide details.

Yes. The following underlined additions and deletions should be made to the draft Charter preamble.

The Australian Charter of Aged Care Rights (the Charter) provides protection for aged care consumers and helps to create a shared understanding about the rights of people receiving Commonwealth subsidised residential and community aged care. Having a shared understanding between people receiving care, their family, friends and carers, and aged care providers and their staff, helps everyone work together, in genuine partnership, to achieve safe and high quality aged care.

The rights described in this Charter sit alongside other laws that inform the delivery and quality of aged care, for example the broader Aged Care Act 1997, the consumer outcomes in the new Aged Care Quality Standards, and rights under the Australian Consumer Law and anti-discrimination law.

The Charter helps people receiving care understand how their aged care provider will work with them. It also helps people receiving care understand how they will engage with others involved in their aged care service – so that they can enjoy the same rights. Respecting the rights of other people receiving care is essential so that everyone achieves the best possible outcomes. Sometimes aged care providers may have to balance competing rights. Providers will work to resolve these situations sensitively through consultation and with the spirit of the Charter in mind.

3. Should the Charter be phrased in the first person, 'I have the right to' or 'you have the right to'? Please select only one item. I have the right to? You have the right to? Comfortable with either.

For consistency with the Australian Commission on Safety and Quality in Health Care's *Australian Charter of Healthcare Rights*, which describes the rights of all persons using the Australian health system, the Charter of Aged Care Rights should be phrased in the first person, 'I have a right to'.



4. Are the rights in the draft Charter easy to understand? Yes/No? If no, please suggest alternative wording.

Yes. However, please see response to question 1 for the additional and/or alternative wording required to ensure thorough and comprehensive amalgamation of the existing four documents (Schedule 1 to 3 Part 2) into a single Charter document. For further clarity, a glossary of terms should be included in the Charter.

5. Would you add any additional rights to the Charter? Yes/No? If so, please provide details.

Yes. Please see response to question 1, as well as the additional rights detailed below.

I have a right to:

- m) Quality use of medicines, including correctly dispensed and administered medicines provided by appropriately qualified registered health practitioners
- n) Be informed about how the government funding provided for my care is being spent
- o) Choose which health practitioners provide my care, including a nurse, doctor and/or pharmacist
- p) Participate in decisions about where I choose to die

6. Would you remove any rights from the draft Charter? (Please select all that apply)

- a) Receive safe and high quality care and services
- b) Be treated with dignity and respect and to have my individuality valued
- c) Have my identity, culture and diversity valued and supported
- d) Maintain my independence
- e) Live without abuse and neglect
- f) Be informed about my care in a way that meets my needs, have access to information about my rights, care, accommodation and anything else that relates to me personally, and get the information I need in a timely way
- g) Maintain control over, and continue to make decisions about, my care and personal and social life
- h) Be listened to and understood
- i) Choose to have another person speak on my behalf
- j) Complain, and to have my complaints dealt with fairly and promptly
- k) Exercise my rights without it adversely affecting the way I am treated
- l) Personal privacy and to have my personal information kept confidential

None of the above rights should be removed from the draft Charter. However, the suggested amendments in question 1 should be made and suggested additions in question 5 also be included.



7. Would you change any rights in the draft Charter? Yes/No? If yes, please specify which right and your suggested changes.

Yes, i) should be amended to state:

i) Choose to have another person speak on my behalf, who is listened to and understood

Please see response to question 1 and question 5 for other suggested changes.

8. How else could consumers be made aware of their rights under a single Charter?

In addition to displaying the Charter in the aged care service and including the Charter in the consumer's care agreement, consumers could also be made aware of their rights under a single Charter by:

- Providing the Charter of Aged Care Rights on the Australian Government **myagedcare** portal;
- Through a communication and social media campaign undertaken by the Aged Care Quality and Safety Commission, once established;
- Including a requirement for the aged care provider to inform all people receiving care, their family, friends, carers and staff about the Charter of Aged Care Rights as part of the assessment and monitoring process for the new single set of Aged Care Quality Standards

9. Do you have any other comments?

The Charter should clearly set out the options and processes for escalating any breach of rights identified by the person receiving residential or community aged care services, their family, friends, carers or staff, should this occur.

CONCLUSION

The ANMF welcomes the opportunity to provide feedback through this submission to the public consultation on the draft Charter of Aged Care Rights. We look forward to further assisting the ongoing process for the development of a clear, concise and enforceable Australian Charter of Aged Care Rights. Aged care providers must be held to account if they do not uphold the Charter of Aged Care Rights for people receiving residential or community aged care services.