



**The Hon Mark Butler MP  
Minister for Health and Aged Care**

Ref No: MS22-001553

Ms Anna Pejnovic  
Coroners Registrar  
Coroners Court of Victoria  
[cpuresponses@coronerscourt.vic.gov.au](mailto:cpuresponses@coronerscourt.vic.gov.au)

Dear Ms Pejnovic

Thank you for your correspondence detailing the coroner's report into the investigation of the death of Mr Phillip Hodges. I apologise for the delay in responding.

On behalf of the Australian Government, I would like to express my deepest condolences to the family of Mr Hodges. I thank you for writing to me on this matter and providing Coroner Magistrate Audrey Jamieson's recommendations.

The Government is committed to the delivery of quality care and services for senior Australians and considers the health, safety, and welfare of those in aged care of paramount importance.

The Government's plan for aged care builds on recent aged care quality reforms, including those announced during the Royal Commission into Aged Care Quality and Safety, the COVID-19 pandemic, and in response to the release of the Royal Commission's Final Report titled 'Care, Dignity and Respect'.

In the response attached to this letter, the Department of Health and Aged Care has outlined some immediate actions this Government is taking that are consistent with your findings, and further details some of our medium to longer term reforms that will help to improve the safety and quality of Australia's aged care system.

Should you require further information, please contact Emma Gleeson, Assistant Secretary, Aged Care Workforce Branch, Department of Health and Aged Care ([emma.gleeson@health.gov.au](mailto:emma.gleeson@health.gov.au)).

Thank you for writing on this matter.

Yours sincerely

Mark Butler

9 / 11 / 2022

Encl (2)

Report without Inquest into the Death of Mr Phillip Hodges  
Departmental Response to Coroner's Report on the death of  
Mr Phillip Hodges



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**Department of Health and Aged Care**

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**Attention:** Audrey Jamieson, Coroners Magistrate

Thank you for your correspondence dated 19 July 2022 regarding the investigation into the death of Phillip Hodges.

Coroner Magistrate, Audrey Jamieson handed down findings without inquest into the death of Phillip Hodges. The finding includes recommendations made under section 72(2) of the Coroners Act 2008 (Vic) (the ACT).

**Introduction**

In response to the report and in line with current government priorities to improve the quality and safety of aged care in Australia, the Department of Health and Aged Care (the Department) is working with the Aged Care Quality and Safety Commission (the Commission) to undertake immediate communications activities to alert residential care providers to the risk of choking and provide a timely reminder of the need to have adequate first aid response capability on the premises of the residential facility.

In addition, the Commission is developing consumer fact sheets on swallowing and risk feeding, in the context of the risks of swallowing to elderly people with a number of conditions which can affect the complex action of swallowing. These will address identification of the risks and individualised strategies to minimise the risks. Whilst recognising and aiming to minimise inherent risks in certain circumstances, these fact sheets will also acknowledge the rights of consumers to choose the food and the way in which they consume food, in a way that is safe, recognising the impact on nutrition and quality of life. Response to both choking and aspiration will form part of this. These fact sheets and a webinar are due early next year.

**Background**

The *Aged Care Act 1997* s54-1(1)(d) requires approved providers to comply with the Aged Care Quality Standards (Quality Standards), which set standards for quality of care and quality of life for the provision of aged care. Commonwealth-funded aged care service providers (that is, service providers of the Commonwealth Home Support Programme and the National Aboriginal and Torres Strait Islander Program) are required to comply with the Aged Care Quality Standards through their relevant funding agreements.



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As part of its inquiry, the Royal Commission into Aged Care Quality and Safety (Royal Commission) identified areas that can be improved to make the Quality Standards more comprehensive, measurable and easy to understand to better support quality care.

Consistent with these recommendations, the Government is reviewing the Quality Standards. In October and November 2022, the Department will be undertaking a public consultation to seek feedback on revised Quality Standards. Resources supporting the public consultation will be available through the Ageing and Aged Care Engagement Hub at [www.agedcareengagement.health.gov.au](http://www.agedcareengagement.health.gov.au). Feedback from this consultation will inform the review report to Government in late 2022. The revised Quality Standards commence at the same time as the new Aged Care Act, which is due to commence on 1 July 2024.

Relevantly, the Quality Standards require providers to deliver safe and effective personal and/or clinical care in accordance with the consumer's needs, goals and preferences to optimise health and well-being. In respect of this standard, providers must demonstrate that each consumer gets safe and effective personal and clinical care that is best practice, tailored to their needs, and optimises their health and well-being.

The Quality Standards also require providers to have a workforce that is sufficient, skilled and qualified to provide safe, respectful and quality care and services. This requires providers to demonstrate that the members of the workforce must have the qualifications and knowledge to effectively perform their roles, and are recruited, trained, equipped and supported to deliver the outcomes required by the Quality Standards.

As part of the public consultation for the Quality Standards review, proposed revised Quality Standards (Proposed Standards) were published on the Department's website on 14 October 2022. One Proposed Standard is a separate, dedicated standard for food and nutrition (Proposed Standard 6).

Some of the actions in the Proposed Standards which are anticipated to support the Coroner's recommendations include:

- Standard 2 (The Organisation) - The provider maintains and implements a training system that:
  - includes training strategies to ensure that workers have the necessary skills, qualifications and competencies to effectively perform their role
  - draws on the experience of older people to inform training strategies



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- is responsive to feedback, complaints, incidents, identified risks and the outcomes of regular worker performance reviews.
- The provider regularly reviews and improves the effectiveness of the training system.
- Standard 6 (Food and Nutrition) - As part of assessment and planning, the provider assesses and regularly re-assesses each older person's nutrition, hydration and dining needs and preferences. The assessment considers issues that impact the older person's ability to eat and drink.
  - (Note) Issues that may impact the older person's ability to eat and drink' may include but are not limited to consideration of their oral health, ability to chew and swallow, the impact of medications on appetite, seating and positioning requirements for eating and drinking, dexterity, physical assistance needed to eat and drink, etc.
- Menus (including for texture modified diets):
  - are designed in partnership with older people
  - are developed and reviewed with the input of chefs/cooks and an Accredited Practising Dietitian, particularly for older people with specialised dietary needs
  - enable older people to meet their nutritional needs.
- Meals provided to older people:
  - are prepared and served safely
  - are in accordance with each older person's choice and needs, including where older people have specialised diets or need support to eat.
- The provider makes sufficient workers available to support older people to eat and drink.
- Standard 5 (Clinical Care) - The provider implements evidence-based processes to manage swallowing and choking risks including when the older person is eating, drinking, or taking oral medicines.

Standard 2 (The Organisation) also includes expectations that all workers are regularly trained as relevant to their role, in relation to core matters such as responding to medical emergencies. The expectations in relation to medical emergencies will be further clarified in guidance developed to support understanding and implementation of the revised Quality Standards.



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Standard 2 (The Organisation) some actions that providers may need to demonstrate include:

- The provider develops emergency and disaster management plans that describe how the organisation will respond to an emergency or disaster and manage risks to the health, safety and wellbeing of older people and workers.
- The provider implements strategies to prepare for, and respond to, an emergency or disaster.
- The provider engages with workers, older people and their families and carers about the emergency and disaster management plans.
- The provider regularly tests and reviews the emergency and disaster management plans in partnership with workers, older people, their families and carers and other response partners.

#### Response

The Department provides the following in response to the Coroner's recommendations as requested.

#### **RECOMMENDATIONS**

- 1. In the interests of promoting public health and safety and with the aim of preventing similar deaths, I recommend that the Federal and State Government Health Departments create a legislative mandate requiring annual drills for residential aged care staff to enable the staff to develop the necessary skills to abate the medical emergency risks presented by choking incidents.**

Partially Agree.

The Australian Government agrees staff need to be supported to develop the necessary skills to abate medical emergency risks and considers the mechanism for such expectation setting is through the Quality Standards, which already require the workforce to be trained, competent, skilled and qualified. Further, as mentioned above, the Quality Standards are currently under review and it is anticipated the revised Quality Standards will include additional requirements relating to the skills of the aged care workforce.

Noting the work being undertaken to revise the Standards, there are currently certain requirements that must be met for both providers to be accredited and nurses to be registered and to work in a clinical capacity.



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**Providers**

The assessment cycle for residential aged care providers includes:

- Application for accreditation
  - The initial accreditation period is for one (1) year
  - In deciding whether to accredit the service, the Aged Care Quality and Safety Commissioner (the Commissioner) must take into account: the application, relevant information provided by the Secretary, whether the service will undertake continuous improvement, and any other relevant matter.
- Application for re-accreditation of an accredited service
- The re-accreditation period varies, but is generally three (3) years
  - The Commissioner must form an assessment team to conduct a site audit, which will prepare a site audit report
  - The Commissioner must then prepare a performance report about the service, and decide whether to re-accredit the service for a further period

**Application of Standards**

The Department supports the requirement to include stronger health and safety measures requiring regular refresher training for all aged care staff in the Quality Standards which are currently under review. Regular refresher training would ensure staff develop and maintain the necessary skills to mitigate the medical emergency risks presented by common health incidents like choking.

If a provider is not meeting the Quality Standards, the Aged Care Commission may take regulatory action, including agreeing to enforceable undertakings, seeking injunctions and imposing notices to agree and sanctions. Regulatory actions for residential aged care are published on My Aged Care.

Anyone, including care recipients, families, friends and the staff of an aged care service can raise any concerns or complaints regarding the quality of care and services with the Aged Care Commission. All information received by the Aged Care Commission is used to inform its assessment of a service's compliance with the Quality Standards

**Registered and Enrolled Nurses**

The NMBA Registration Standard: Continuing Professional Development sets out the Nursing and Midwifery Board of Australia's (NMBA) minimum requirements for continuing professional development (CPD) for enrolled nurses (ENs) and registered nurses (RNs).



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The Standards explain that:

- Nurses and midwives are expected to participate in at least 20 hours of CPD per year.
- The CPD must be relevant to the nurse's context of practice.

In addition to the CPD requirements, the NMBA Registration Standard: Recency of Practice standard sets out the Nursing and Midwifery Board of Australia's (NMBA) minimum requirements for ENs and RNs.

This registration standard applies to all RNs with the exception of non-practising registration, recent graduates or students of nursing.

Practice hours will be recognised as meeting this standard if the EN / RN:

- holds or has held current and valid registration with a recognised nursing regulatory authority (either in Australia or overseas), or
- Role involves the application of nursing knowledge and skills, or
- Has carried out postgraduate education leading to an award or qualification that is relevant to the practice of nursing.

ENs and RNs will fulfil the recency of practice requirements if they can demonstrate one or more of the following:

- completion of a minimum of 450 hours of practice within the past five years
- successful completion of a program or assessment approved by the NMBA
- successful completion of a period of supervised practice approved by the NMBA.

**2. In the interests of promoting public health and safety and with the aim of preventing similar deaths, I recommend that the Federal and State Government Health Departments include a training module to cover emergency procedures in choking incidents as part of any standing First Aid Response training in residential aged care.**

Agree.

The nationally recognised unit of competency for basic first aid training, HLTAID011 *Provide First Aid*, already requires learners to show evidence that they can apply appropriate first aid procedures for a range of conditions including choking. This includes appropriate knowledge about signs, symptoms, and management of the condition.



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Further to this training, the Certificate III in Individual Support CHC33015 - *Certificate III in Individual Support* also includes this First Aid unit. The Certificate III is the preferred minimum qualification for all personal care workers.

**3. In the interests of promoting public health and safety and with the aim of preventing similar deaths, I recommend that the Federal and State Government Health Departments devise or develop a training module for staff employed in residential aged care to be trained to safely provide feeding assistance at all times to residents with modified texture diets.**

Agree.

The Certificate III in Individual Support is currently under review by Commonwealth, State and Territory Skills Ministers. As part of the review, a new unit of competency has been specifically developed to address feeding related issues: *CHCCCS043 Support positive mealtime experiences*. This draft unit describes the performance outcomes, skills and knowledge required to support positive mealtime experiences for people receiving care or support. It includes using a person-centred approach to mealtime management and meal consumption to support the person's wellbeing and quality of life.