

**Sponsor:** Melbourne High School (Changemakers)

**Refuter:** Newhaven College

A Bill for an Act relating to Privately Funded Aged.

To be enacted by the YMCA Victoria Youth Parliament;

## **Privately Funded Aged Care Bill 2021**

A Bill for an Act to regulate aged care and residential aged care facilities in the state of Victoria that do not receive funding from the Commonwealth of Australia. These facilities fall into an undesignated category as neither the state nor federal government impose legislation on them. The global COVID-19 pandemic showed the importance of diligent management of aged care facilities, in which some of the most vulnerable Victorians reside.

Employees of these facilities are essential to their sound management and must be treated fairly. This Bill aims to provide individuals working in the aged care industry with more support to stabilise their positions of employment. This includes reducing the ability of employers to force part-time permanent employees to travel rapidly to differing places of work, with limited notice. The Bill will establish the Privately Funded Aged Care Regulation Authority, a regulatory body, to ensure the aged care facilities falling under the jurisdiction of this Bill are in line with all relevant legislation. Furthermore, this legislation will ensure a quota is filled to increase the number of full time workers, simultaneously, increasing the ratio of employees to residents, improving the quality of care within these facilities.

## PART I—Preliminary

### Clause 1 Purpose

The main purposes of this Act are—

- (a) to regulate aged care facilities in Victoria that do not receive federal government funding;
- (b) to establish the Privately Funded Aged Care Regulation Authority to regulate privately funded aged care facilities;
- (c) to ensure the fair treatment of employees within these facilities.

### Clause 2 Commencement

This Bill shall commence upon receiving assent from the Youth Governor of Victoria.

### Clause 3 Definitions

In this Bill, we define the following to mean—

- (a) **nurse** means registered or enrolled nurse;
- (b) **nurse-in-charge** means a registered nurse who is undertaking, whether temporarily or permanently, the role of—
  - (i) a nurse unit manager or equivalent; or
  - (ii) an associate nurse unit manager or equivalent;
- (c) **employee** means any individual receiving compensation from a privately funded aged care facility;
- (d) **reasonable estimate** means an estimate of hours required for the employee to meet their expenses, on an individual basis;
- (e) **Privately Funded Aged Care Facility** means an aged care facility that is run without any funding from the Commonwealth Government;
- (f) **the Authority** means the Victorian Aged Care Worker Certification Authority.

## Part II—Establishment

### Clause 4 Overview

- 4.1 This Act aims to regulate aged care and residential aged care facilities that are not funded by the Australian government.
- 4.2 This Act also bolsters the rights of workers within the facilities in question.

### Clause 5 Mandated nurse to resident ratios for every shift

- 5.1 Privately owned and funded aged care facilities shall apply the same nurse to resident ratios that currently apply to any aged care facility with government funding where—
  - (a) on the morning shift—
    - (i) there is one nurse for every 6 patients; and
    - (ii) one nurse in charge;
  - (b) on the afternoon shift—
    - (i) there is one nurse for every 7 patients; and
    - (ii) one nurse in charge;
  - (c) on the night shift, there is one nurse for every 10 patients.

### Clause 6 Mandated quota of employees that are full-time

- 6.1 Privately owned and funded aged care facilities shall ensure that the minimum number of full-time employees does not consist of less than 45% of the total number of employees—
  - (a) employees that are sub-contracted do not count towards this figure.

### Clause 7 Establishment of the Privately Funded Aged Care Regulation Authority

- 7.1 The Privately Funded Aged Care Regulation Authority shall be established to act as a regulatory body for privately funded aged care facilities.
- 7.2 The Authority shall fully subsidise the following training courses—
  - (a) certificate III in Individual Support;
  - (b) certificate IV in Aged Care.
- 7.3 The Authority shall provide an opt-in annual cultural safety and trauma-informed training to privately owned aged care facilities.
- 7.4 The Authority shall conduct periodic checks on privately funded aged care facilities to ensure the application of the changes outlined in this Bill.
- 7.5 A two year transitional period shall be given to facilities to comply with the new standards, policies, and regulations.

- 7.6 The Authority shall monitor the progress of all facilities to ensure they are on the way to compliance with this bill.
- 7.7 After the transitional period, should the Authority find that a facility has committed an offence, the Authority will have the ability to impose a fine of an appropriate number of penalty units. This shall be done at their discretion.

**Clause 8 Reduction of random and rapid fluctuations in hours and locations of employment**

- 8.1 Prior to employment, the employer must provide an employee a good faith estimate by writing the employee's minimum and maximum hours per week down.
- 8.2 Employers shall also inform the employee the probability of random and rapid fluctuations in hours and locations of employment.
- 8.3 Any changes to hours and locations need to be confirmed and agreed to by the employee.

**Clause 9 Roster requirements**

- 9.1 The ordinary hours of work for each employee shall be displayed on a fortnightly roster in a place conveniently accessible to employees.
- 9.2 The roster will be posted at least 2 weeks before the commencement of the roster period.
- 9.3 Seven days notice shall be given to the employee if a change in their roster is required.

**Clause 10 Compensation for employer breach of required notice**

- 10.1 The following compensation is to be paid by the employer to the affected employees if less than seven days notice is given—
  - (a) with less than seven days' notice but 48 hours or more notice, the employee shall be entitled to one hour of pay at the employee's regular hourly rate;
  - (b) with less than 48 but greater than 24 hours' notice, the employee is entitled to two hours of pay at the employee's regular hourly rate;
  - (c) with less than 24 hours notice, the employee is entitled to four hours of pay at the employee's regular hourly rate.
- 10.2 The employer is not required to pay the employee compensation under the following exceptions—
  - (a) another employee scheduled during the affected employee's shift is unable to work due with a legitimate reason and the employer did not receive at least seven days notice of said absence.