

# A New Aged Care Act – Exposure Draft

Submission by the **Australian Physiotherapy Association**

March 2024

**Authorised by:**

Anja Nikolic  
Chief Executive Officer  
Australian Physiotherapy Association  
Level 1, 1175 Toorak Rd Camberwell VIC 3124  
Phone: (03) 9092 0888  
Fax: (03) 9092 0899  
[www.australian.physio](http://www.australian.physio)



## **Acknowledgement of Traditional Owners**

The APA acknowledges the Traditional Custodians  
of Country throughout Australia and their  
connections to land, sea and community.

We pay our respect to their Elders past and present  
and extend that respect to all Aboriginal and  
Torres Strait Islander Peoples today.

## About the Australian Physiotherapy Association

The Australian Physiotherapy Association's (APA) vision is that all Australians will have access to quality physiotherapy, when and where required, to optimise health and wellbeing, and that the community recognises the benefit of choosing physiotherapy. The APA is the peak body representing the interests of Australian physiotherapists and their patients. It is a national organisation with state and territory branches and specialty subgroups.

The APA represents more than 32,000 members. The APA corporate structure is one of a company limited by guarantee. The APA is governed by a Board of Directors elected by representatives of all stakeholder groups within the Association.

We are committed to professional excellence and career success for our members, which translates into better patient outcomes and improved health conditions for all Australians. Through our National Groups we offer advanced training and collegial support from physiotherapists working in similar areas.

---

## Table of Contents

<b>1. EXECUTIVE SUMMARY</b>	<b>5</b>
<b>2. APA'S RESPONSE TO THE CONSULTATION QUESTIONS</b>	<b>6</b>
Q1 Are the revised Objects, Statement of Rights and/or Statement of Principles clear and do they achieve their intent? If not, what changes are required?	6
Q2. Do you consider the revised definition of high quality care will encourage providers to aim higher? Does it align with your future vision for aged care?	6
Q4. Do you think a single service list will increase clarity of the services that the Commonwealth aged care system provides to older people?	7
Further comments	7

## 1. Executive Summary

The Australian Physiotherapy Association (APA) is pleased to provide feedback on the New Aged Care Act Exposure Draft and welcomes the opportunity to contribute further to any future inquiries or consultations. As a member of Allied Health Professions Australia (AHPA), the APA supports AHPA's submission with reiteration of a number of key points and additional comments.

Our advocacy has called for a system that focuses on and prioritises:

- A human rights-based and culturally safe approach;
- Enshrines access to reablement services, well-being programs and strives to promote quality of life;
- high quality, person-centred, multidisciplinary care;
- appropriate clinical assessment to inform autonomous decision-making and choice, and enable early and preventative intervention;
- increased transparency and regulatory powers; and
- investment in workforce capability and retention of workforce, including highly qualified healthcare professionals such as physiotherapists with a view to valuing working in the aged care industry.

It is disappointing that there is no explicit reference to reablement within the consultation paper, Exposure draft, Objects, Statement of Rights or Statement of Principles. The omission of explicit reference to allied health such as physiotherapy is also concerning.

The absorption of allied health professionals under the umbrella term of aged care worker may have significant implications on data collection and understanding whether older people are receiving the care they need, transparency and regulating the sector.

We understand that physiotherapists employed by residential and home care providers will not be required to undertake an additional registration process but sole traders, at this stage are proposed to do so in the future. We caution that additional administrative and regulatory burden on an Ahpra-regulated profession, such as physiotherapy, may discourage participation in the sector, particularly if those self-employed healthcare professionals are working across sectors and schemes, with likely impacts on rural and remote service delivery.

We have significant concerns about the early assignment of classification upon entering the aged care system whether in residential or home care. The absence of a clinical needs-based assessment (as distinct from classification assessment) to inform care planning may result in pre-determined service plans that do not address the individual's unique needs, cultural and familial background or the environment where the services are to be delivered. The health of older people can change rapidly and the proposed reforms do not address how changing needs will be addressed in a timely manner.

We note that the Exposure Draft is incomplete and the consultation period on this fundamental and key piece of legislation is short. We are concerned the exclusion of chapters relating to funding and the proposed Support at Home program, and the Rules, does not enable full understanding of the reforms.

The Australian Physiotherapy Association supports the submissions of Dementia Australia.

We support the recommendations of the joint consumer group statement prepared by COTA and OPAN as they pertain to reablement, timing of introduction of the Act, and handling of consumer complaints and support their recommendation for an Independent Complaints Commissioner with direct independent statutory authority and functions, operating independently of the Aged Care Quality and Safety Commissioner.

## 2. APA's response to the consultation questions

As a member of Allied Health Professions Australia (AHPA), the APA endorses AHPA's submission with reiteration of the following recommendations for consideration.

### Q1 Are the revised Objects, Statement of Rights and/or Statement of Principles clear and do they achieve their intent? If not, what changes are required?

It is positive to see the rights of older people at the forefront of the Draft. However, we believe there are critical gaps that will impact the definition of high-quality care that may preclude older patients from accessing the clinical care they require.

We believe that they can be further strengthened by explicitly stating the aged and ageing person's right to:

- reablement to maintain and improve function and mobility;
- early intervention at age care entry stage to prevent and delay deterioration; and
- access to services such as physiotherapy according to their clinically assessed need.

We believe the Statement of Rights should be enforceable to address the current power imbalance within the system.

There is a need for greater reinforcement and clarity about the duty to uphold the rights throughout the Act.

Further clarification about the eligibility for services is required with a focus on supports for older Australians living with a disability that align with the Statement of Rights and Statement of Principles.

### Q2. Do you consider the revised definition of high quality care will encourage providers to aim higher? Does it align with your future vision for aged care?

We would like to see the terms quality care and high quality care more clearly defined to:

- a) differentiate between obligation and aspiration.
- b) enshrine the right of older people to access evidence-based healthcare according to their clinically assessed need and delivered by the appropriately qualified professionals.

High quality care cannot be delivered in the absence of clinical assessment to meet the individual health needs of the older person – as distinct to assessment for classification.

The definition should also include the delivery of services according to individual care plans as determined by clinical assessment and multi-disciplinary care teams.

#### Definition of high quality care – suggested inclusions in italics

The delivery of a funded aged care service by a registered provider to an individual is high quality care if the service is delivered in a manner that:

*Insert: is adequately funded to provide suitable supports in either the community or residential aged care that maximise functional independence*

(b) upholds the rights of the individual under the Statement of Rights *including the right to access reablement services and programs, early intervention based on restoration of functional abilities and to access services according to clinically assessed need; and*

(c) prioritises the following: (i) kindness, compassion and respect for the life experiences, self-determination, dignity, *mobility*, quality of life, mental health and wellbeing of the individual;

(v) supporting the *maintenance and* improvement of the individual's physical and cognitive capacity *by suitably qualified healthcare professionals*, where the individual chooses to, including by keeping the individual mobile and engaged if they are living in an approved residential care home;

### **Q4. Do you think a single service list will increase clarity of the services that the Commonwealth aged care system provides to older people?**

In absence of the inclusion of the service lost, we support the principle of the inclusion of a single service list on the basis that it outlines each healthcare profession, including physiotherapy, and their scope.

---

### **Further comments**

In addition to AHPA's submission, the APA notes there may be unintended workforce consequences created by potential administrative burden of proposed registration requirements.

Physiotherapists are Ahpra-registered and adhere to a professional Code of Conduct with additional oversight from the physiotherapy National Professionals Standards Panel. Registration of physiotherapists and the quality and safety it already provides is recognised in the context of aged care provision and we urge avoidance of duplication of checks and processes. We recommend alignment of regulation across the care sectors to avoid duplication; and that regulation is always directed towards improving quality and safety.

The generalised support assessment currently proposed appears to rely on an algorithm-generated classification – to the exclusion of a clinical assessment. Clinical input should be included.

There is also potential for the new aged care entry application process to impact timely access to required healthcare, including physiotherapy, and there is a need to ensure that a rapid process is also included for those with urgent need. Currently, the multi-step process requiring an application through My Aged Care, an assessment and classification approval from the System Governor has the potential to delay early access to care. The collection and communication of assessment information needs to be planned so as to include health professionals such as physiotherapists and the person's regular Primary Care service provider e.g. General Practitioner to facilitate better coordination of health care.