

**Queensland Health Policy
Health (Drugs and Poisons) Regulation 1996**

***Guidelines for the Use of Carers in Helping with Medications
(Residential Care Facilities)***

**Consultation Draft
September 2004**

**SUBMISSION BY THE QUEENSLAND NURSES UNION OF EMPLOYEES
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1.0 SUMMARY AND RECOMMENDATIONS

1.1 SUMMARY

The Queensland Nurses Union (QNU) opposes the introduction of the Queensland Health (QH) policy pursuant to the Health (Drugs and Poisons) Regulation 1996 titled '*Consultation Draft Guidelines for the use of Carers in Helping with Medications (Residential Care Facilities), September 2004*'.

The Union believes that implementation of the proposed policy would create serious risks to the health and safety of residents, and impose excessive and unreasonable responsibilities on unlicensed nursing staff in residential aged care facilities. The Union believes that the proposed policy does not reflect the legal requirements of the Health (Drugs and Poisons) Regulation 1996.

The current QH policy (CHO Circular 03/98) reflects the 'carers' provisions in the Health (Drugs and Poisons) Regulations 1996. Assistants in nursing/carers do not need an endorsement under the Regulation to help a resident take their dispensed drugs if the resident asks the assistant in nursing / carer for help to take those drugs. The proposed policy would allow assistants in nursing/carers to be directed to give medications to *all* residents in residential aged care facilities, not just provide help to those residents who have asked for assistance to take their dispensed medications.

The carers' provisions in the Health (Drugs and Poisons) Regulation 1996 were introduced prior to changes in Commonwealth legislation that have resulted in dramatically increasing numbers of high care (nursing home) residents in low care aged care facilities (hostels). At the time the Regulation was introduced on 1 January 1997, all hostel residents in Queensland were classified as requiring low levels of care. In September 2000 approximately 29% of all hostel residents in Queensland were classified as high care residents. As at September 2004 approximately 40% of all residents in 'low care' hostels in Queensland were nursing home type residents requiring high levels of care.

The majority of residents classified as requiring high levels of care do not have capacity to ask for help to take their drugs and are not able to self manage their medications. These residents require their medications to be administered by a registered nurse, or an endorsed enrolled nurse under the supervision of a registered nurse.

The current QH policy stipulates that licensed nurses with endorsements under the Regulation must administer medications to residents in residential aged care facilities with only high care residents (nursing homes). Despite a statement excluding residential aged care facilities with only high care places from the proposed policy, QH has not confirmed that aged care providers could be prevented from directing assistants in nursing to give drugs to residents in facilities/parts of facilities with only high care residents if the proposed policy is implemented.

A survey of QNU members working in aged care facilities has shown that licensed nurses currently administer medications in residential aged care facilities that care for at least 83% of all aged care residents in Queensland. The survey results also confirmed that the endorsed enrolled nurse role is under-utilised in low care facilities (hostels). The proposed policy confers authority on aged care providers to determine whether or not a licensed nurse will be 'available' to administer medications. The Union believes it is not appropriate for QH to permit aged care providers to decide who will administer drugs to residents in aged care facilities.

Ensuring that appropriate policies remain in place for medication management in residential aged care services is a matter of public interest as it affects some of the most vulnerable citizens of our community. The QNU believes that it is the responsibility of QH to ensure public safety in relation to the legal requirements for management of drugs and poisons in residential aged care facilities in this State. The proposed policy provides for persons without endorsements required under the Regulation to administer medications to totally dependent residents in aged care facilities. The proposed policy should not be implemented.

1.2 RECOMMENDATIONS

1. **The QNU recommends that QH develop concise medication management policies that are specific for the different categories of services (community care, supported accommodation, residential aged care) that must comply with the carers provisions in the Health (Drugs and Poisons) Regulation 1996;**
2. **The QNU recommends that QH develop medication management guidelines to promote safe and quality use of medications that supplement the concise policies specific for the different categories of services;**
3. **The QNU recommends that any QH policy related to medication management in residential aged care facilities reference the legislated requirements under the Health (Drugs and Poisons) Regulation that:**
 - i) **Dispensed medications are administered by a registered nurse, or by an endorsed enrolled nurse under the supervision of a registered nurse, to any resident in residential aged care facilities who does not have capacity to request help from an assistant in nursing/carer to take their dispensed medication/s;**
 - ii) **In addition, the QNU recommends that there is a mandatory requirement that storage of medications in all residential aged care facilities complies with the storage requirements of 'institutions' defined under the Regulation, and that appropriate provision is made for residents who are self administering their medications to keep their medications under their personal control; and**
 - iii) **Medication charts are maintained for all residents in residential aged care facilities.**
4. **The QNU recommends that any QH guidelines in relation to medication management in residential aged care facilities include recommendations that:**
 - i) **Complementary (non-prescription) medicines are managed by a registered nurse, or by an endorsed enrolled nurse under the supervision of a registered nurse, for any resident in residential aged care facilities who does not know what complimentary medicines to take and when to take them;**
 - ii) **All residential aged care facilities establish, where possible, a Medication Advisory Committee to promote, develop, monitor and evaluate activities which support the quality use of medicines;**
 - iii) **Appropriate training is provided for assistants in nursing/carers who are required to assist residents who have capacity to request help to take their medications.**
5. **The QNU recommends that a regulatory impact statement is prepared in relation to any future proposed amendments to the Health (Drugs and Poisons) Regulation 1996 impacting on the role of 'carers' in medication management.**

2.0 INTRODUCTION

The draft Queensland Health Policy pursuant to the Health (Drugs and Poisons) Regulation 1996 'Guidelines for the Use of Carers in Helping with Medications (Residential Care Facilities)' was released for consultation in September 2004. It is proposed that this document will replace the current Queensland Health policy (Circular No. 03/98).

The stated purpose of the proposed policy is to provide guidance to service providers on 'acceptable practice in relation to the use of a carer to help and support the provision' of prescribed medications to residents. The stated scope of the proposed policy is to 'provide guidance once an informed decision has been made in accordance with the Regulation that the use of carers to help with medication is appropriate'. The proposed policy indicates that a decision by an aged care provider to direct assistants in nursing/carers to give *all* residents their dispensed medications, rather than provide help to those residents who have requested assistance to take their dispensed medications, would be in accordance with the Regulation.

The current policy includes the following mandatory requirements:

- Registered nurses, or endorsed enrolled nurses under the supervision of a registered nurse, must administer medications in residential aged care facilities with only high care residents (nursing homes);
- Assistants in nursing/carers in low care residential aged care facilities (hostels) may only help residents take their dispensed medications when the resident has requested assistance from the assistant in nursing/carers;
- Only a registered nurse (or an endorsed enrolled nurse under the supervision of a registered nurse) may administer injections, except where a resident is self administering their own insulin;
- Only a registered nurse (or in some circumstances an endorsed enrolled nurse under the supervision of a registered nurse) may administer PRN/as required medications to residents, except where a resident is self-medicating.

The proposed policy would introduce the following changes to the current mandatory requirements:

- Despite a statement excluding high care facilities (nursing homes) from the policy, QH has not confirmed that aged care providers could be prevented from directing assistants in nursing/carers to give dispensed medications to residents in high care facilities;
- Assistants in nursing/carers may be directed to give *all* residents their dispensed medications, rather than provide help to those residents who have requested assistance to take their dispensed medications;
- Assistants in nursing/carers may be directed to give injections to residents - for example pre-filled fixed dose insulin and/or adrenaline injections;
- Assistants in nursing/carers may be directed to give residents their PRN/as required medications, including pain relief medications such as morphine, and sedation medications such as valium.

Queensland Health has indicated that the review of the current Carers' Guidelines is being conducted for the following reasons:-

- i) The CHO Circular 03/98 was developed as an interim measure pending introduction of 'interpretative guidelines';
- ii) That there is ongoing uncertainty about the interpretation of the current Carers' Guidelines; and
- iii) That aged care providers have expressed concern that there may be some circumstances where licensed nurses are not available to administer medications.

In response to these points, the QNU submits that:

- i) The current Carers' Guidelines provide a clear policy framework for interpretation of the carers' provision in the Regulation;
- ii) QH did not provide QNU with any evidence to support the contention that there was uncertainty about the interpretation of the current Carers' Guidelines;
- iii) Registered nurses, and/or enrolled nurses under the supervision of a registered nurse, administer medications in all high care facilities (nursing homes) and most low care facilities (hostels) currently;
- iv) The role of endorsed enrolled nurses is under-utilised in low care facilities (hostels) in Queensland.

The QNU has strenuously opposed the proposed changes in Queensland Health policy throughout the process of development of the draft guidelines. As advised throughout this process, the QNU's reasons for rejecting the proposed policy changes include:

- The legislative intent of the carers' provisions is that a 'carer' (assistant in nursing/carer) may help a person take their dispensed medications only when the person has requested assistance from the carer;
- The proposed expansion of the role of employed 'carers' (assistants in nursing/carers) would create an ongoing risk to resident safety, health and well-being in residential aged care facilities in Queensland.

A survey of QNU members working in aged care facilities conducted in late 2004 has demonstrated that nursing staff overwhelmingly reject the proposed policy changes. Aged care nursing staff expressed a view that only registered nurses and endorsed enrolled nurses should be responsible for administering medications to residents who do not know what drugs to take and when to take them. Members expressed serious concerns that the proposed policy would impact negatively on nursing skill mix and nursing workloads in aged care facilities, and result in worsening standards of care for residents.

This submission outlines the major issues considered by the QNU in response to the draft Queensland Health policy document.

3.0 STANDARDS AND CONTROLS FOR SCHEDULED DRUGS AND POISONS IN QUEENSLAND RESIDENTIAL AGED CARE FACILITIES

3.1 The Health (Drugs and Poisons) Regulation 1996 (Qld)

The Health (Drugs and Poisons) Regulation 1996 (the Regulation), which is made pursuant to the *Health Act 1937 (Qld)*, provides the legislative framework for standards and controls for scheduled drugs and poisons in Queensland. The Regulation adopts the *Standard for the Uniform Scheduling of Drugs and Poisons*¹ which promotes national uniformity in relation to the scheduling, labelling and packaging of drugs and poisons. The Regulation is administered by Queensland Health and operational issues are managed by the Queensland Health Environmental Health Unit. The role of the Environmental Health Unit is to develop policies in relation to the management of medications that promote, safeguard and maintain the health and wellbeing of the people of Queensland².

1 National Drugs and Poisons Schedule Committee (2003) *Standard for the Uniform Scheduling of Drugs and Poisons No. 18*.

2 *Health Act 1937 (Qld)* s180(2).

3.2 The Carers' Provisions in the Regulation from 19 December 2003.

Three separate but similar provisions in the Regulation provide for 'carers' to help others take their medications. These provisions deal with different classes of medications. Section 74 relates to controlled (S8) medications, section 183 relates to restricted (S4) drugs, and section 270 relates to poisons (S2 and S3 preparations).

A number of changes were made to the Regulation in late 2003 and took effect from 19 December 2003³. The definition of 'carer' was deleted and amendments were made to the three sections referring to carers. Queensland Health advised at the time that the changes were considered 'mechanical in that they [had] been drafted to address a longstanding anomaly and/or further clarify the intent of a particular legislative provision'.

For example, section 74 the provision included in Chapter 2 relating to controlled (S8) medications now reads as follows:

74 *When endorsement is not needed*

(1)

(2) *Also, a person (a "carer") does not need an endorsement under this regulation to help another person (an "assisted person") to take a controlled drug that has been supplied for the assisted person as a dispensed medicine, if –*

(a) the assisted person asks for the carer's help to take the dispensed medicine; and

(b) the carer helps the assisted person to take the dispensed medicine under the directions on the label attached to the dispensed medicine's container.

3.3 The Carers' Provisions prior to 19 December 2003.

Prior to 19 December 2003 the three sections referring to carers read as per the example below:

74. *When endorsement is not needed*

(1).....

(2) *Also, a carer does not need an endorsement under this regulation to help a person for whom a controlled drug was supplied as a dispensed medicine take the drug if –*

a) the person requests the carer's help; and

b) the carer helps the person take the drug under the directions on the label attached to the dispensed medicine's container.

3.4 Definition of 'carer' prior to 19 December 2003.

The definition of 'carer' in the Regulation was deleted in the amendments that took effect from 19 December 2003. Prior to that date the definition included in the appendix of the Regulation was:

'Carer' means a person who is under a lawful duty to provide someone else with the necessities of life and includes someone working for a person under a lawful duty to provide someone else with the necessities of life⁴.

3 SL 2003 No 348 Health Legislation Amendment and Repeal Regulation (No 1.) 2003.

4 Health (Drugs and Poisons) Regulation 1996 (Qld) Appendix 9, omitted SL2003 No 348, s 65.

3.5 Legislative purpose of the Carer's Provisions.

Explanatory Notes for the Health (Drugs and Poisons) Regulation 1996 indicate that the legislative purpose of the carers' provisions were to '*outline the circumstances when an authority for a ..drug is not required and includes circumstances where a "carer" may assist a person to take medication*'⁵.

Queensland Hansard of 30 January 1997 records the following Question on Notice and response in relation to the inclusion of the carers' provisions in the new Health (Drugs and Poisons) Regulation⁶:

1226. Hostels for the Aged; Distribution of Prescription Drugs by Carers

Mr Pearce asked the Minister for Health (13/11/96)-

With reference to a requirement by persons employed as carers in privately run aged hostels to distribute prescribed drugs to residents-

What protection is there for carers employed in these hostels against wrongful dismissal and possible litigation as a result of the issuing of an incorrect type or quantity or drug?

Mr Horan (13/12/96): *At present, regulations dealing with prescribed drugs and poisons do not recognise the role of carers. This situation will be considered by Government in the context of the new Health (Drugs and Poisons) Regulation 1996. The objective of this regulation is to control the movement and supply of scheduled drugs and poisons.*

This regulation, while not directly addressing issues such as wrongful dismissal and possible litigation, will recognise contemporary practice issues and will define the term "carer", as well as detailing the circumstances under which a carer may lawfully assist a person in taking a prescribed drug or poison.

These legislative provisions will clarify what is currently a "grey" area and will formalise a practice (and thereby providing some protection for carers) which is being undertaken in these types of facilities throughout Queensland.

The QNU believes this extract from Hansard supports the view that the legislative intent of the carers' provisions was to make it legal for employed carers in hostels to assist residents with medications in circumstances where the resident requested help from the carer. In our view the provisions themselves imply that the resident has the capacity to request help and to consent to such help from the carer.

3.6 The current Carers' Guidelines – The Office of the Chief Health Officer Circular No 03/98 Administration of Medications by Carers.

The Office of the Chief Health Officer Circular 03/98 'Administration of medication by carers' (the 'Carers' Guidelines') was issued in February 1998 as a policy statement about when carers may help a person take their medications. The 'Carers' Guidelines' outline twelve conditions under which the 'carer' provisions can be used.

The Carers' Guidelines reinforce the non-applicability of the carers' provisions to nursing homes (residential aged care facilities with only high care residents) based on the inclusion of nursing homes in the Regulation's definition of 'institution' and on the basis of the high level of care required by nursing home residents. The Carers' Guidelines stipulate that a carer may help a resident in low care residential aged care facilities take their medications only if the resident has requested help from the carer.

5 Explanatory Notes, Health (Drugs and Poisons) Regulation 1996 (Qld).

6 Queensland Hansard, 30 January 1997.

3.7 Introduction of Endorsed Enrolled Nurses in 1997.

The Health (Drugs and Poisons) Regulation 1996 introduced endorsements for enrolled nurses to administer up to and including Schedule 4 medications. One of the primary benefits of this was to ensure an ongoing cost effective source of licensed nurses authorised to administer medications in Queensland, and specifically in residential aged care services.

3.8 Changes to definitions of 'nursing home' and 'hostel' in legislation regulating residential aged care services.

At the time the Regulation was enacted in January 1997, Commonwealth and State legislation regulating residential aged care services differentiated the hostel and nursing home sectors. Under the Regulation, nursing homes were included in the definition of 'institution' and were licensed under part 3, division 5 of the *Health Act 1937* (Qld).

The *Aged Care Act 1997* (Cth) was passed in June 1997 and implemented from 1 October 1997, some nine months after the Regulation was introduced in Queensland. The *Aged Care Act* brought nursing homes and hostels under one legislative system and removed distinct definitions for nursing homes and hostels which were redefined as 'residential aged care facilities'. The Queensland Regulation that provided for licensing of nursing homes in Queensland, the Health (Nursing Home) Regulations 1982 (Qld), expired on 1 July 1998.

Prior to these legislative changes all residents in hostels were classified as requiring low levels of care. The changes introduced the capacity for residents in hostels (low care facilities) to 'age in place' and have resulted in a dramatic increase in the number of residents in low care residential aged care facilities who require high levels of nursing care.

4.0 CHARACTERISTICS OF RESIDENTS IN AGED CARE FACILITIES

4.1 Legislative framework – Commonwealth funded Aged Care Services in Australia.

The *Aged Care Act 1997* (the *Act*) provides the legislative framework for the provision of Commonwealth funded aged care services in Australia. The *Act* governs all aspects of service provision including the funding of services and the responsibilities of service providers. The *Act* is supported by sets of Principles that provide further details on aspects of the *Act*, such as the *Quality of Care Principles 1997* and the *Accreditation Grant Principles 1999*. Aged care service providers must demonstrate compliance with the Accreditation Standards set out in the *Quality of Care Principles 1997* in order to receive Commonwealth funding.

4.2 Resident Classification Scale (RCS).

Under the *Aged Care Act 1997*, the Resident Classification Scale (RCS) provides a system by which Commonwealth funds are granted to aged care service providers to provide care to residents. One of eight funding categories is allocated to each resident.

Residents with RCS categories 1 – 4 are classified as requiring high levels of care. Prior to the introduction of the *Aged Care Act 1997* high care residents were cared for in nursing homes and not in hostels. Residents with RCS categories 5 – 8 are classified as requiring low levels of care. Prior to the introduction of the *Aged Care Act 1997* low care residents were cared for, as is currently the case, in hostels (low care facilities). Prior to 1997 it was necessary for hostel residents who became more dependent and required high levels of nursing care to be transferred to a nursing home.

4.3 Nursing care needs of high care residents (RCS categories 1 – 4).

Residents who are classified in Resident Classification Scale categories 1 to 4 require high levels of nursing care. Under the *Quality of Care Principles 1997* all residents classified as requiring high levels of nursing care must have initial and on-going assessment, planning and management of care carried out by a registered nurse. Each high care resident must have a nursing care plan developed and managed by a registered nurse. The care plans identify the nursing care needs that each resident requires on a daily basis.

In addition to these requirements, Part 3 of Schedule 1 of the *Quality of Care Principles 1997* stipulates that a licensed nurse must carry out a range of nursing services required by high care residents. These may include, but are not limited to:

- a) establishment and supervision of a complex pain management or palliative care program, including monitoring and managing any side effects;
- b) insertion, care and maintenance of tubes, including intravenous and naso-gastric tubes;
- c) establishing and reviewing a catheter care program, including the insertion, removal and replacement of catheters;
- d) establishing and reviewing a stoma care program;
- e) complex wound management;
- f) insertion of suppositories;
- g) risk management procedures relating to acute or chronic infectious conditions;
- h) special feeding for care recipients with dysphagia (difficulty with swallowing);
- i) suctioning of airways;
- j) enema administration;
- k) oxygen therapy requiring ongoing supervision because of a care recipient's variable need;
- l) dialysis treatment.

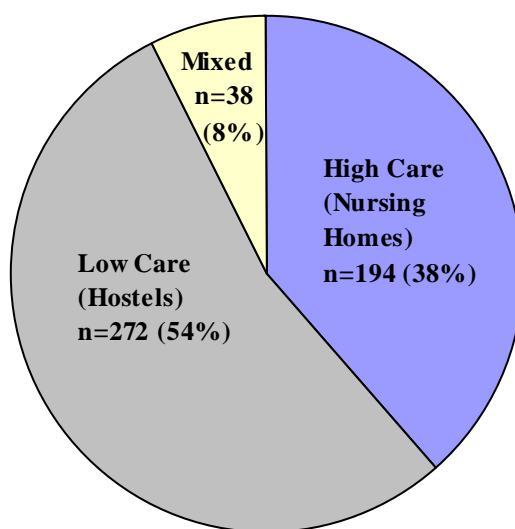
Part 3 of Schedule 1 of the *Quality of Care Principles 1997* also requires medications to be administered to residents according to State law. In Queensland, registered nurses and endorsed enrolled nurses are endorsed to administer medications under the Health (Drugs and Poisons) Regulation 1996. Assistants in nursing/carers are not endorsed to administer medications.

The legislative requirements in relation to nursing care of high care residents apply in all residential care facilities. This means that aged care providers must employ licensed nurses to perform these activities in any low care facility (hostel) that provides care to one or more high care resident.

4.4 High care facilities (nursing homes) and low care facilities (hostels) in Queensland.

There are approximately 504 certified residential aged care facilities in Queensland.⁷ Prior to the 1997 *Aged Care Act* (Cth) facilities were approved as 'nursing homes' or 'hostels'. Residential aged care facilities are now allocated high care places, low care places, or a mix of high and low care places. Residents who are classified as requiring low levels of care are able to remain in a 'low care' facility when their needs increase to a high care level.

Diagram 1 Number of residential aged care facilities in Queensland by type.⁸



4.5 Number of high care and low care allocated places (beds) in residential aged care facilities in Queensland.

The total number of allocated residential aged care beds in Queensland as at July 2004 is indicated in the table below.

Table 1 Allocated places by residential aged care facility type as at July 2004.⁹

Facility Type	No of allocated beds	% of all allocated beds
High care Facilities	11071	41.3%
Low Care Facilities	13036	48.7%
Mixed Facilities	2678	10%.
Total	26785	100%

7 Department of Health and Ageing (Cth), List of Certified Aged Care Facilities as at July 2004.

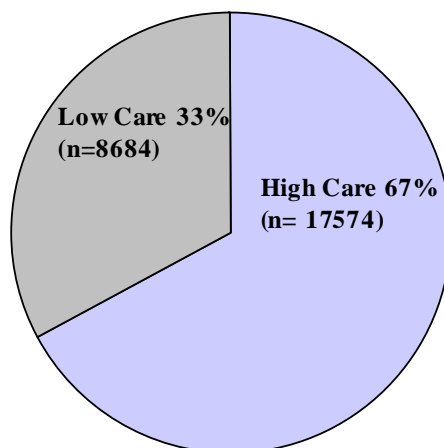
8 Department of Health and Ageing (Cth), List of Certified Aged Care Facilities as at July 2004.

9 Department of Health and Ageing (Cth), List of Certified Aged Care Facilities as at July 2004,

4.6 Number & percentage of high care and low care residents in residential aged care facilities in Queensland.

As a result of the 'ageing in place' processes, the actual mix of high and low care residents varies from the number of places allocated for residents requiring low and high levels of nursing care. As at September 2004, 67% of all residents in residential aged care facilities in Queensland required high levels of nursing care.

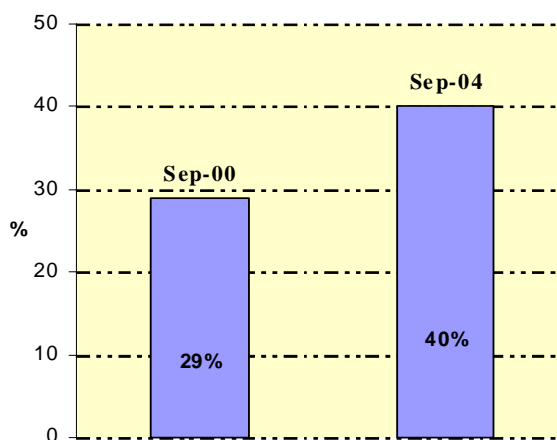
Diagram 2 Percentage of high care & low care residents in Qld aged care facilities.¹⁰



4.7 Increasing number of high care residents in 'low care' facilities.

Since 1997 the number of residents in 'low care' facilities requiring high levels of nursing care have increased dramatically. In September 2000 approximately 29% of all residents in 'low care' facilities were classified as requiring high levels of care. As at September 2004 approximately 40% of all residents in 'low care' facilities required high levels of nursing care.

Diagram 3 Residents in 'low care' facilities classified as requiring high levels of care.¹¹



10 Department of Health and Ageing (Cth), RCS Statistics September 2004.
 11 Department of Health and Ageing (Cth), RCS Statistics September 2004.

4.8 Proposed changes to Commonwealth funding structure for residential aged care services.

The Commonwealth Government is currently considering changes to the funding structure for residential aged care services. The proposed changes involve aged care providers receiving funding allocated for high, medium and low categories of care. If implemented, these changes would further blur the previous distinction between nursing homes (high care facilities) and hostels (low care facilities).

The QNU submits that the current requirement that assistants in nursing/carers assist only those residents who have capacity to request help to take their dispensed medications provides clear guidance to residential aged care providers no matter how funding for care is allocated, or what type of service is providing care to residents.

4.9 Safety, health and well being of residents in residential aged care facilities.

The QNU believes that the legislative intent of the carers' provisions promotes the safety, health and well-being of residential aged care residents as the requirement for the person to request help means that the person has some understanding of their prescribed medications, is aware of what medications and when to take them, but requires physical assistance to take the medications.

A resident who does not have capacity to request help is not able to refuse a medication that may seriously impact on their health at times when their health status is fluctuating or unstable. Registered nurses and endorsed enrolled nurses undertake clinical assessment of the resident each time prescribed medications are administered. If the health status of the resident is assessed as being unstable the registered nurse or endorsed enrolled nurse is professionally accountable to take further action (such as monitoring blood pressure, taking a blood sugar level, or contacting the resident's doctor) prior to administering a prescribed medication that may further exacerbate the resident's health status. This ongoing nursing assessment is essential to ensure that resident safety and wellbeing is maintained.

4.10 Professional accountabilities of registered and enrolled nurses.

The Queensland Nursing Council (QNC) is responsible for the regulation of nursing practice in Queensland. The QNC is an independent statutory body established under the *Nursing Act 1992*. The object of the *Nursing Act* is to make provision for ensuring safe and competent nursing practice. The QNC develops, implements, and monitors standards for the registration, education, practice and conduct of nurses to ensure that this objective is met.

Licensed nurses must perform nursing activities according to the Australian Nursing and Midwifery Council's *National Competency Standards for the Registered Nurse and the Enrolled Nurse* and must comply with the *Code of Ethics for Nurses in Australia*. The *QNC Scope of Nursing Practice Decision Making Framework* states that registered nurses and enrolled nurses are individually accountable and responsible for the nursing care they provide. Failure to comply with these requirements may result in disciplinary action by the QNC.

Registered nurses and endorsed enrolled nurses are licensed by the QNC and are professionally accountable for safe and competent administration of medications. The safety and well being of residents in residential aged care facilities is promoted by the mandatory requirements under the Health (Drugs and Poisons) Regulation 1996 that only licensed nurses administer medications to residents who do not have capacity to request help and/or self manage their medications.

5.0 QUEENSLAND HEALTH REVIEW OF THE CARERS' GUIDELINES

5.1 Previous draft carers guidelines 1999 and 2002.

Queensland Health issued revised draft carers' guidelines in 1999. The project was set aside after QNU raised concerns about the proposed application of substitute decision making laws to the Regulation.

The QNU received another version of draft '*Carers Guidelines (Residential Care Facilities)*' in March 2002. No consultation had occurred between Queensland Health and QNU between late 1999 and this time. QNU was subsequently advised that the project had been re-initiated in 2001 when QH met with representatives of the Department of Health and Ageing (Cth) and the Queensland Adult Guardian. The QNU requested that this draft document be withdrawn and that a consultative forum be established to progress the review. The first meeting of the consultative group was held on 29 October 2002 and monthly meetings were conducted until December 2003.

5.2 Queensland Health Policy Health (Drugs and Poisons) Regulation 1996 *Guidelines for the Use of Carers in Helping with Medications (Residential Care Facilities)* Consultation Draft September 2004.

The consultation draft policy is lengthy, and includes recommendations/guidelines about practices that do not relate directly to compliance requirements of the carer provisions in the Health (Drugs and Poisons) Regulation. In addition, the draft policy is said to apply to a range of services that differ dramatically in terms of the context of the services and the legislative framework which apply to those services.

The QNU recommends that QH develop concise medication management policies that are specific for the different categories of services (community care, supported accommodation, residential aged care) that must adhere to the carer provisions in the Health (Drugs and Poisons) Regulation 1996. The policy statements should be brief, and only include requirements that service providers must comply with. The QNU recommends that QH develop medication management guidelines to promote safe and quality use of medications that supplement the concise policies specific for the different categories of services.

A number of draft versions of the policy have been issued since March 2002. The revised document dated September 2004 includes a statement at page 12 that '*a carer can only help with medication if the resident who requires the help with the medication requests the carer's help*'. The document goes on to state that '*in the case where a resident has impaired capacity and cannot make an informed request for help with their medication, the substitute decision-making framework provided through the Guardianship and Administration Act 2000 and the Powers of Attorney Act 1998 applies*'. The document then refers the reader to Appendix 3 of the document.

Appendix 3 includes a statement at page 19 that '*within residential care facilities, qualified nurses should administer medications to residents who do not have capacity to request assistance*'. The document then indicates that, in circumstances where a qualified nurse is not 'available', the service may obtain authorisation from the resident's substitute decision maker, or from the adult's doctor where consent to the prescription and administration of such medication is required, for carers to administer dispensed medications. Aged care providers may determine whether or not a licensed nurse will be available to administer medications to residents who do not have capacity to request assistance.

The QNU submits that:

- there is no capacity under the Regulation for 'carers' to obtain authorisation to administer medication to people with impaired capacity (heading on page 19 of draft document);
- adults who do not have capacity to request help to take/self manage their medications must have their dispensed medications administered by persons with the required endorsements under the Regulation;
- substitute decision makers do not have capacity to consent to administration of medications by persons who do not hold the required endorsements under the Regulation;
- assistants in nursing/carers working in residential aged care facilities do not hold the required endorsements to administer medications;
- if implemented, the proposed policy would create serious risks to the health and safety of residents and impose excessive and unreasonable responsibilities on unlicensed nursing staff in residential aged care facilities.

6.0 QNU SURVEY OF MEMBERS WORKING IN RESIDENTIAL AGED CARE FACILITIES¹²

6.1 Overview of Survey to QNU Members – Medication Management in Residential Aged Care Facilities.

Nurses working in residential aged care facilities throughout Queensland have overwhelmingly rejected the proposed QH policy. In October/November 2004 the QNU surveyed members working in aged care facilities asking for their views on the proposed policy. The survey also asked members to identify which nursing staff were currently giving medications in their workplace.

A total of 1288 completed survey responses were returned. Of these, 535 (42%) were from AINs/Carers, 181 (14%) were from EN/EN(Med), 570 (44%) were from RNs, and 2 were from others. Residential aged care workplaces were identified in 1201 returns.

Responses were received from nursing staff working in approximately 80% of all aged care facilities¹³ in Queensland. The facilities where survey respondents work provide care for approximately 85% of all aged care residents in the State.

Views vigorously expressed by members included:

- only registered nurses and endorsed enrolled nurses should be responsible for administering medications to residents who do not know what drugs to take and when to take them;
- the wage rates of AINs/carers are not adequate to include the additional responsibility of giving medications to all residents, and the proposal would impose excessive and unreasonable additional responsibilities on unlicensed nursing staff;
- the endorsed enrolled nurse role is under-utilised in low care facilities.

More than 97% of respondents expressed concern about the proposed policy. Comments from members which highlight some of these concerns are extracted below.

'Unsafe practice. Medication changes take up to 5 days for sachet to be changed over Pharmacy. They send out individual sachets of the changed medication to be added to original sachet. Need to know what you are doing, also lots of unpacked medications: vit C, cranberry caps, telfast, warfarin, osteoporosis medication to be added to daily medication.' **RN, Hostel with low care and high care residents.**

12 Department of Health and Ageing (Cth), List of Aged Care Facilities as at July 2004.

'What is the reason behind this proposal?? Is it so aged care providers will not have to employ registered nurses and endorsed enrolled nurses thus reducing their costs?' **EN (Med), nursing home and hostel at one site.**

'Some medication arrives already pre-packed and some of these medications can be packed wrongly. My concern is not knowing what is right and what is wrong, and giving the wrong medication to my resident.' **AIN, Hostel with low and high care residents.**

'Very concerned regarding proposed policy and implications.- such as monitoring of residents post administration.' **RN, Hostel with low care and high care residents.**

'I feel this proposal is purely a cost cutting exercise at the expense of the welfare of aged care residents and compromises the professionalism of aged care nurses.' **AIN, Hostel with low care and high care residents.**

'Client safety. I agree that it is inappropriate and unacceptable. ..I'm trusting QNU to do all possible to prevent this proposal becoming legal; to prevent health care standards for our State's elderly residents to be inferior and to deteriorate.' **RN, Hostel with low care and high care residents.**

'Residents in aged care have the same rights to the standard of medication management as patients in the acute system.' **RN, Nursing Home and Hostel one site.**

'I have grave concerns, not for our facility as it will never happen. For this to be allowed is potentially hazardous.. Disgraceful!.' **Nurse Manager, Nursing Home and Hostel one site.**

'My workmates and I, as PC, have already confronted this issue with management. We all said we didn't want the responsibility.. We won. We now have registered nurses and enrolled nurses to do medications.' **Carer, Hostel with low care and high care residents.**

'At an aged care facility in... I was given medication assessment in 2 hours and then expected to give medications in the dementia ward. Fortunately for me I was sick and didn't go to work again for some time...They have registered nurses and endorsed enrolled nurses doing medications there now'. AIN, now working in Nursing Home.

'[66%] of the residents are high care – many have behavioural problems and diminished swallowing reflexes. I consider these residents need their medications given by an RN' **RN, Hostel with low and high care residents.**

'Even with Webster packs and sachet packed medications, the RNs/ENs(med) must remain vigilant as incorrect packing occurs, Dr's orders change and the staff giving out the medication have to identify drugs which have been ceased or added since the last packaging. Adverse reactions are constantly being assessed...' **RN, Nursing Home and Hostel, one site.**

6.2 Medication management in residential aged care facilities with allocation of high care beds only (nursing homes).

Survey responses were received from nursing staff working in 181 (93%) of the estimated 194 residential aged care facilities in Queensland with allocations of high care places only. Survey responses demonstrated that only registered nurses and endorsed enrolled nurses administer medications in high care facilities. This reflects the current legislated requirement that licensed nurses administer medications in these facilities.

6.3 Medication management in residential aged care facilities with allocation of low care places only (hostels).

Survey responses were received from nursing staff working in 174 (64%) of the estimated 272 residential aged care facilities in Queensland with allocations of low care beds only. These facilities account for approximately 73% of all allocated low care beds in Queensland. The survey responses indicated that there was a mix of high care and low care residents being cared for in most of these facilities.

Survey responses indicated that registered nurses and endorsed enrolled nurses are also currently administering medications in most 'low care' facilities. For example, RNs administer medications in 94% of the low care facilities represented in the survey returns.

Survey responses indicated that AINs/carers assist some or all residents to take their medications in approximately 31% of low care facilities represented in the survey returns. Survey responses indicated that AINs/carers have sole responsibility for medication management in only a small number (approximately 5%) of low care facilities represented in the survey returns.

6.4 Medication management in residential aged care facilities with allocations of both high and low care places.

Survey responses were received from nursing staff working in 33 (87%) of the estimated 38 residential aged care facilities in Queensland with allocations of both high and low care places. These facilities account for approximately 89% of all allocated places to 'mixed' facilities. Survey responses indicated that registered nurses, endorsed enrolled nurses, and AINs/carers all participate in medication management practices in these facilities.

6.5 The endorsed enrolled nurse role in residential aged care facilities.

Analysis of responses confirmed that the endorsed enrolled nurse role is under-utilised in low care facilities. Survey responses indicated that endorsed enrolled nurses administer medications in 93% of the high care facilities represented, but only 60% of the low care facilities represented in survey returns.

7.0 CONCLUSION

The QNU opposes QH's proposed expansion of the role of employed carers in medication management in residential aged care facilities. The Union submits that:

- i) The legislative intent of the carers' provisions is that a person has capacity to request help from a carer to take their medications;
- ii) The proposed policy, if implemented, would create ongoing risks to the health, safety and wellbeing of residents, and impose excessive and unreasonable responsibilities on unlicensed nursing staff in residential aged care facilities.

The QNU's view is that the proposed QH policy is not consistent with the objectives of the *Health Act*, the Regulation, nor the legislative intent of the carers' provisions. Further, there should be no amendments to the existing Regulation. In the Union's view, the potential costs to the community of any amendments to the Regulation that would provide for carers not to require endorsements to administer medications would be significant. The QNU believes that a Regulatory Impact Statement must be prepared in relation to any proposed amendments to the Health (Drugs and Poisons) Regulation 1996 impacting on the role of 'carers' in medication management.