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Public Accounts and Estimates Committee
Parliament of Victoria

Dear Committee Members,

Re: The Victorian Government's response to COVID-19 outbreaks in Victorian aged care facilities

I write this submission with respect to the TOR on "a. responses taken by the Victorian Government, including as part of the National Cabinet, to manage the COVID-19 pandemic and b. any other matter related to the COVID-19 pandemic".

As a corporate governance researcher and management academic, I have been studying and watching the sector since private equity players entered in 2007.[1]

I make the following recommendations as a result of the Victorian Government's response to COVID-19 outbreaks in Victorian aged care facilities:

1. Take over the regulatory role of the Federal Government with respect to aged care.
2. Establish a Victorian Aged Care Ombudsman which will have clear oversight and enforcement powers over aged care facilities such as criminal actions.
3. Disclose and be transparent with naming the facilities that have had fatal outbreaks.

Background

The Royal Commission into Aged Care's interim report "Neglect" has shown how inadequate the Federal regulatory responsibility is over aged care. COVID-19 has created

[1] https://www.theage.com.au/business/aged_care_money_may_be_heading_in_wrong_direction_20070917_ge5u89.html

a perfect storm to highlight the enormous systemic failings of this sector from staffing levels to infection control and to the glacial response by all levels of government, particularly the Commonwealth. Aged care in this country is a cautionary tale of systemic failure that I can only attribute to ageism at all levels - political ageism, bureaucratic ageism and clinical ageism.

Newmarch House showed the inadequacy of the system in the first half of this year[2]. At the time of writing, Newmarch is the second most lethal outbreak of COVID in Australia after the Ruby Princess[3]. But the Victorian cases have already surpassed the number of infected cases and the death toll, undoubtedly, over the next two weeks will exceed it. It is unfortunate that the Victorian Government has not taken heed of the lessons (including confusion over the State/Federal responsibility) from Newmarch and is currently facing - at the time of writing - multiple double-digit outbreaks across several Victorian aged care facilities[4] . Where does the buck stop?

Transparency - or lack thereof

There are many issues and questions that have arisen from this preventable disaster. Lack of transparency, and the failure to disclose the affected facilities earlier on in Victoria's aged care outbreaks is notable. Most concerning, unlike NSW Health, the Victorian DHHS studiously fails to disclose or name the facilities that have had lethal and fatal outbreaks instead using the vague words "are linked to known outbreaks in aged care facilities"[5] removes any semblance of origin, empathy or responsibility.

NSW Health was more transparent:

> *"There has been one death related to COVID-19 in the past 24 hours. A 94-year-old man, confirmed positive for COVID-19, has passed away. He was a resident of Anglicare Newmarch House. NSW Health extends condolences to the family of this man. There have been two more confirmed cases of COVID-19 at the Anglicare*

[2] https://www.abc.net.au/news/2020 06 23/four corners newmarch house coronavirus australia/12345726?nw=0

[3] https://www.smh.com.au/national/nsw/the perfect storm how covid 19 unleashed chaos inside newmarch house 20200515 p54t9d.html

[4] https://www.dhhs.vic.gov.au/coronavirus update victoria 23 july 2020

[5] op.cit.

Newmarch House aged care facility in Caddens, bringing the total to 41 cases (14 staff and 27 residents)." -20 April 2020[6]

This vagueness has allowed private aged care owners and managers not to be held to account over the duty of care they owe to Victorian aged care residents, and the wider community. By not naming how many deaths they are responsible for, it reduces their accountability and their failures over their underqualified and understaffing practices and, now, poor infection control practices. This failure by the government to name the owners and managers of these facilities where deaths have occurred have shown their complicity to such failure. At Newmarch, the Anglicare CEO was visible. At Dorothy Henderson Lodge, the CEO was visible. How many CEOs of Victorian aged care homes have shown such visibility?

It should not be left alone to the media to investigate who has died at the facility and under which circumstance they have died. This lack of transparency - in a time of heightened public community interest due to a once in a century pandemic - is insupportable. I can only point out one aged care provider, BaptCare, providing the same level of transparency in Victoria as Anglicare provided at Newmarch[7]. This is insufficient and does not meet any semblance of community expectations.

Below are my questions for the following responsible persons in charge of the Victorian Government's pandemic response:

Questions for the Premier Daniel Andrews

1. In National Cabinet, did the Premier discuss Federal and State aged care responsibility with the Prime Minister? If so, would he able to disclose aspects of their discussion over the Federal/State division of their different role and responsibility over aged care?
2. Separate from National Cabinet, was the Premier ever in touch with his State counterparts such as the NSW Premier Gladys Berejiklian and SA Premier Steven Marshall with respect to their handling of COVID outbreaks in aged care in their respective state?

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[6] https://www.health.nsw.gov.au/news/Pages/20200420_00.aspx

[7] https://www.baptcare.org.au/why_baptcare/news/update_baptcare_wyndham_lodge_community_werribee,_victoria

3. Who approached SA Premier Steven Marshall for South Australian registered nurses (RNs) to help with the Victorian aged care outbreak?
4. Was the Premier aware of the Newmarch case in NSW? If so, what elements of the Newmarch outbreak was he aware of?
5. The Newmarch outbreak lasted approximately from 13 April 2020[8] to 19 May 2020[9]. A total of 71 people were infected including 34 staff and 37 residents. 19 of these residents subsequently died showing a mortality rate of 51% - one in two infected residents died. Was the Premier aware of the mortality rate at Newmarch?
6. Is the Premier aware that NSW Health's daily coverage of Newmarch included how many residents and staff were infected, recovered, and how many residents from the facility had died from the infectious disease?
7. South Australia announced they would transfer covid infected aged care residents to hospitals on the 2nd June 2020 (see below)[10]. Was the Premier aware of this policy that the the SA government implemented at the beginning of Victoria's own aged care pandemic? If he was, did he provide any consideration for this option?

Management of COVID-19 in residential aged care facilities

This fact sheet provides information for aged care residents and their families/carers about what to expect in the event of a confirmed case of COVID-19.

What will happen if a resident tests positive to COVID-19 in an aged care facility?

If a resident tests positive to COVID-19 they will be transferred immediately to hospital by ambulance. This is a public health response to ensure the resident has access to appropriate medical care if needed, and to protect other residents and staff from exposure. The resident's family/substitute decision-maker will be notified immediately. If a resident has an Advance Care Directive[i], and they are unable to make their own decisions, their health care wishes will be respected in the hospital setting. This should be discussed with the treating team.

8. Is the Premier aware of the red tape reduction program undertaken by the Commonwealth Government in 2015[11] which has removed transparency measures

[8] https://www.health.nsw.gov.au/news/Pages/20200413_00.aspx

[9] https://www.anglicare.org.au/about_us/media_releases/covid_19_statement_from_anglicare_sydney_19_may_2020/

[10] https://www.sahealth.sa.gov.au/wps/wcm/connect/1a6171b8_49da_4e1b_a17c_03df3ac7873f/20200602+_+Management+of+COVID_19+in+RACF+_+Information+for+residents+and+families+%282%29.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE_1a6171b8_49da_4e1b_a17c_03df3ac7873f_na1BAB4

[11] https://www.health.gov.au/resources/publications/red_tape_reduction_action_plan_aged_care

that would have given the community vital information in making informed choices on aged care?

9. Is the Premier aware of poor staffing levels and lack of basic PPE and low level infection control amongst the general aged care workforce?
10. Is the Premier aware that there is a lack of transparency in aged care disclosure in general which includes staffing levels and clinical measures in non-government owned facilities?
11. Is the Premier aware of the information provided by the Federal Department of Health Department to the Federal Senate Covid Committee with respect to disclosure (or lack thereof) of facilities with covid outbreaks, showing that the Federal Department is more concerned with media reporting than community informing (see below)?[12]

> While state and territory health authorities may choose to publicly disclose the names of aged care services that have known cases of COVID-19 from a broader public health perspective, the Department would prefer not to name further facilities due to the impact public disclosure has on services, their staff and residents due to media exposure as well as their continued ability to operate. We want to encourage service providers to proactively report cases to the Department of Health. The Department can provide the Committee a private briefing, should this detail be required.

12. Has the Premier been contacted by relatives and responsible persons of residents in aged care facilities? If yes, what was the nature of these contacts?
13. Has the Premier or his Office been contacted by the aged care industry lobby groups? If so, how often were he and his officers contacted and what was the nature of this contact?
14. Will the Premier consider regulating all aged care homes in Victoria and remove them from Federal responsibility so that the State of Victoria can provide appropriate and efficient regulation, disclosure and accountability over the sector in the absence of Federal ineffectuality?
15. Will the Premier consider establishing a Victorian Aged Care Ombudsman that has both criminal and civil powers to fill in the regulatory vacuum left by a captured Federal aged care system?

[12] Parliamentary Inquiry Question on Notice, Senate Select Committee on COVID 19 List of residential aged care facilities with COVID19. PDR No:IQ20 000107, 6 May 2020 https://www.aph.gov.au/DocumentStore.ashx?id=e8846b70_4b93_4267_91f1_d5dcc899bed0

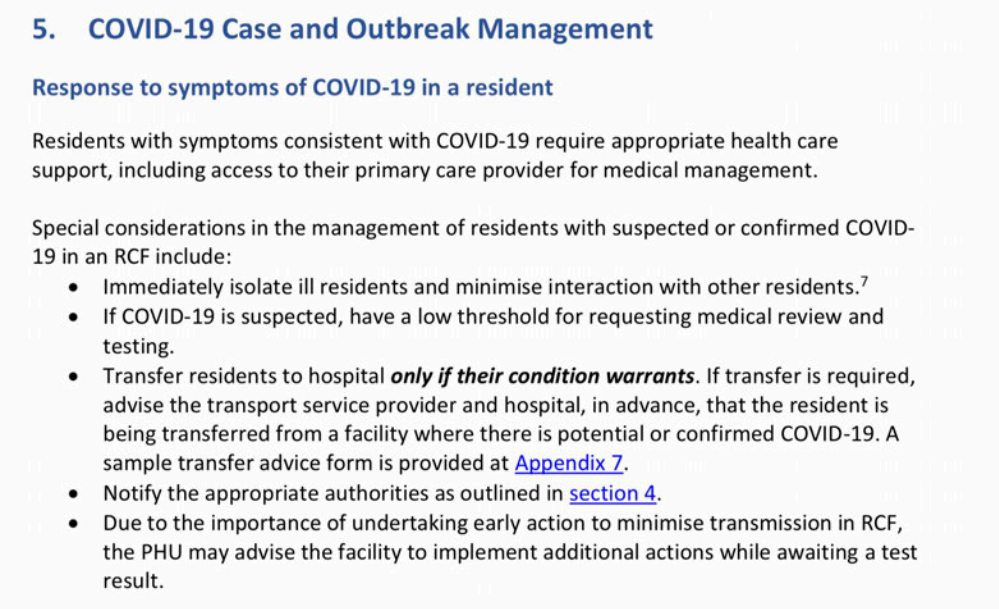
16. Is the Premier aware of the bill from the ACT Attorney-General, Gordon Ramsay MLA, which seeks to incorporate elder abuse in its many forms - physical, psychological and financial - committed by organisations and institutions into its Crimes Act?[13]
17. In hindsight, what would the Premier have done differently in handling the multiple double-digit outbreaks in aged care homes in Victoria in July 2020?

Questions for the Chief Health Officer/Representative from the DHHS

18. Is the Department in contact with its counterpart on the Federal level? If so, how often is the contact? Who are the principals involved? What is the nature of the contact?
19. Does the DHHS consider a PHN outreach service such as a HITH is deemed a hospital admission?
20. Does the DHHS classify a hospital admission of an aged care resident and subsequent death in the hospital as a "hospital death" and not an aged care facility death?
21. Is the DHHS informed if palliative care has commenced in an aged care facility, then does this preclude transfer to hospitals for continuation of care?
22. Are there any specialist geriatric hospitals or wards set aside for aged care residents and those over 70?
23. What is the ICU capacity in Victoria?
24. Were any ICU beds set aside for aged care facilities? Was any triaging policy being enforced when dealing with aged care residents?
25. Can the Department disclose how many requests to transfer aged care residents to hospitals were made? How many were refused admission? How many were admitted?
26. Is the Department aware if any aged care residents who were refused admission subsequently died?
27. Can the Department provide data on aged care residents who were covid positive and covid negative who were transferred to hospitals? A covid negative resident here is where a decision was made to transfer the resident to hospital due to a confirmed outbreak in the facility.
28. Can the Department provide a list of aged care facilities the above residents were from?

[13] https://www.legislation.act.gov.au/b/db_62217/

29. Can the Department provide data on covid positive aged care residents who were transferred to hospitals and recovered from this virus? What was the average duration of their stay?
30. Can the Department provide data on covid positive aged care residents who were transferred to hospitals and died? What was the average duration of their stay from admission to death?
31. What was the rationale behind the DHHS's failure not to publicly name the facilities whose covid positive aged care residents have died ?
32. Why does the DHHS not publicly disclose this information and to whose benefit does the lack of information help in the time of pandemic in the community?
33. Does the DHHS consider that clusters of deaths from an aged care facility from a novel coronavirus is an important public health and public interest issue? If yes, why were the names of these facilities not being disclosed? If not, why not?
34. Will the Department consider that having the media report on outbreaks and aged care residents' deaths and the facilities where they are from is second hand public information and impugns trust in the way the Department has dealt with the covid outbreak in Victorian aged care?
35. The CDNA guidelines suggest that aged care residents should not be transferred unless necessary and avoid transfer if possible (see below)[14].



5. COVID-19 Case and Outbreak Management

Response to symptoms of COVID-19 in a resident

Residents with symptoms consistent with COVID-19 require appropriate health care support, including access to their primary care provider for medical management.

Special considerations in the management of residents with suspected or confirmed COVID-19 in an RCF include:

- Immediately isolate ill residents and minimise interaction with other residents.[7]
- If COVID-19 is suspected, have a low threshold for requesting medical review and testing.
- Transfer residents to hospital ***only if their condition warrants***. If transfer is required, advise the transport service provider and hospital, in advance, that the resident is being transferred from a facility where there is potential or confirmed COVID-19. A sample transfer advice form is provided at Appendix 7.
- Notify the appropriate authorities as outlined in section 4.
- Due to the importance of undertaking early action to minimise transmission in RCF, the PHU may advise the facility to implement additional actions while awaiting a test result.

36. Are these the clinical guidelines the Chief Health Officer and his department followed to the letter? If so, was there any deviancy? If not, why not?

[14] https://www.health.gov.au/sites/default/files/documents/2020/06/coronavirus_covid_19_guidelines_for_outbreaks_in_residential_care_facilities.pdf

Response to an Outbreak of COVID-19

This section provides detailed information on the required actions to be implemented once an outbreak has been identified. An outbreak management checklist is provided at Appendix 8. Additional information for public health units responding to an outbreak in a high risk setting is available in the CDNA National Guideline.

RCF should seek advice from an infection control consultant or make contact with the residential in-reach service at their local health service should they require additional support in an outbreak. They may also be available to assist RCF to avoid the transfer of residents to hospital where possible.

37. What other groups and which individuals was the Department in contact with, with respect to the clinical guidelines implemented in aged care?
38. What lessons have the Department learnt from their handling of the infectious out break in aged care?
39. In hindsight, what would the CHO and the Department have done differently in handling the multiple double-digit outbreaks in aged care homes in Victoria?

Questions for the Health Minister, Jenny Mikakos

40. Is the Minister in contact with other State counterparts such as NSW Health Minister Brad Hazzard and SA Health Minister Stephen Wade with respect to their handling of covid outbreaks in aged care?
41. Is the Minister aware of the South Australian guidelines (see Question 6) which states that covid positive aged care residents are transferred immediately to hospital by ambulance?[15]
42. How often is the Minister briefed or updated on the aged care covid outbreak in Victoria? When was she first informed of the outbreaks and emerging clusters in aged care?
43. Was/Is the Minister in contact with the Federal Minister for Health Greg Hunt and Aged Care Minister Richard Colbeck at the commencement of the covid outbreak in aged care and its duration? What was/is the nature of this contact and communication - if any?
44. Does the Minister support the Department's suppression of naming the aged care facilities who had one or more covid positive resident die? If yes, what was the rationale behind her support? If not, why not?

[15] https://www.sahealth.sa.gov.au/wps/wcm/connect/1a6171b8_49da_4e1b_a17c_03df3ac7873f/20200602+_+Management+of+COVID_19+in+RACF+_+Information+for+residents+and+families+%282%29.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE_1a6171b8_49da_4e1b_a17c_03df3ac7873f_na1BAB4

45. Is the Minister aware of the St. Basil's outbreak? If so, when was she first informed of the outbreak? Who informed her of the outbreak and what steps, if any, did she take to address the outbreak?
46. Has the Minister been contacted by relatives and responsible persons of residents in St Basil's? If yes, what was the nature of these contacts?
47. Would the Minister be able to disclose if there were any covid positive residents from St Basil who have died in situ or in hospital? If not, why not?
48. Has the Minister been contacted by relatives and responsible persons of residents in other aged care facilities during this outbreak? If yes, what was the nature of these contacts?
49. Will the Minister concede that the double-digit multiple covid outbreaks in aged care show that this is now out of control in Victoria?
50. Has the Minister or her Office been contacted by the aged care industry lobby groups? If so, how often were she and her officers contacted and what was the nature of this contact?
51. In hindsight, what would the Minister have done differently in her handling of the multiple double-digit outbreaks in aged care homes in Victoria in July 2020?

I hope some, if not all, the above questions will be answered to allow some sunlight and self-reflection into the way the Victorian government has handled this aged care crisis and how can it better handle future aged care issues. As a NSW resident and seeing the horror that unfolded at Newmarch, it was with an awful sense of déjà vu to see the multiple covid disasters unravel in Victoria. Clearly, the lessons of Newmarch was not learnt in Victoria.

While the continued Federal dysfunctionality over aged care does not help, the Victorian Government response has been slow and opaque in comparison to NSW Health. Given what happened over Newmarch and the political debacle there, the lead time from Newmarch should have alerted and emphasised the contingency planning in other states such as Victoria's.

It is increasingly clear that ageism takes many forms and what is happening in aged care is systemic ageism. The political (both Federal and State), bureaucracy (Federal and State Health Departments) and clinical ageism (CDNA and followed by the DHHS) and

ineptitude has manifested itself in the disaster that is now Victorian aged care and its systemic failure to protect our most vulnerable elderly.

Out of this disaster I hope more effective actions can be taken to ensure the owners of these facilities are made held responsible and accountable, and that those with political power exercise them to ensure that they regulate aged care on behalf and for the community.

Yours sincerely,

[redacted]

Dr. Marie dela Rama