WHO SHOULD LOOK AFTER OLDER PEOPLE WHO NEED RESIDENTIAL CARE?
A Charitable Trust? A Merchant Bank Or Private Equity Corporation? The State?

- Maire Leadbeater

First a disclosure: I have recently retired from a position as social worker working at Auckland Hospital in Older People's Health, so this article is informed by considerable experience with the issues facing older people who enter residential care. However, this article will focus largely on structural issues, rather than coalface experiences. For those who may be looking for a residential placement for themselves or a family member: don't despair there are places out there that offer good care. I hope you can access good professional support with your decision making from a social worker, needs assessor or geriatrician. You might also find useful the website www.eldernet.co.nz which lists information, including vacancy information about most facilities in New Zealand (it is run by Eldernet Ltd – a New Zealand-owned company). *Consumer* magazine has a great free rest home checklist at http://www.consumer.org.nz/reports/rest-homes/checklist to assist with decision making.

Labour-Green Report

In October 2010 the Labour and Green Parties in conjunction with Grey Power issued an excellent report[1] about care of the aged in the community and in residential facilities. It is based on a fact-finding initiative that canvassed consumers, families, providers, and advocates for older people across the country. Its recommendations for the residential care sector are exemplary: establish an Aged Care Commissioner, improve training for care workers, establish mandatory staffing levels for facilities, design a star rating system and ensure that audits are transparent, independent and based on unannounced visits.

There is no recommendation however, about the commercialisation of residential care provision. It may now sound radical to suggest that the State should be providing for the long stay care of dependent older people, but it is not so long ago in our history that care was mainly provided by the state, or in State-supported church and trust facilities.[2] The Labour-Green report includes many firsthand case studies of maltreatment, and they are not for the fainthearted.

Even if the accounts of bullying, pressure sores and dehydration can all be discounted, what about the figures quoted for aged care residents' admissions to acute hospital care? 27% higher than an available international benchmark in 2008, and visits to the emergency department of residents roughly twice the level of an international benchmark. The demographics also ensure that this is an issue we must take seriously: the over 65 population is expected to more than double by 2051 when this group will make up at least a quarter of all New Zealand residents.

In the last ten years or so there has been little change in the number of residential care beds overall but the distribution between rest homes (which cater for the moderately dependent) and high dependency private hospitals has changed. The number of rest home residents has dropped by about 13% while the number for hospital residents has increased by a similar proportion. The demand for specialist dementia care is also increasing. The trend for people going into care to be at the high end of the dependency spectrum is expected to continue.

However, the good news is that the proportion of the population over the age of 85 years living in residential care has declined over the past 20 years – presumably because more people are ageing better and accessing home care support to enable them to continue living at home.[3] But more of us living longer does mean that the demand for private hospital and dementia beds is predicted to rise every year from now until 2026 [4] and thereafter, failing unforeseen advances in healthcare.

The New Zealand Aged Care Association represents both for profit and not for profit providers and its Chief Executive Officer, Martin Taylor, was quick to defend the sector against the overall thrust of the report suggesting that it was neither

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1 Labour and Green Parties in conjunction with Grey Power New Zealand: "Report Into Aged Care: What Does The Future Hold For Older New Zealanders?" October 2010

2 The past should not be looked through rose tinted spectacles- past problems included cases of older people going into care prematurely, and not being given adequate professional help to rehabilitate after an illness or injury.

3 Boyd, M. Freemasons' Department of Geriatric Medicine, Faculty of Medical and Health Sciences, University of Auckland, "Changes In Aged Care Residents' Characteristics And Dependency In Auckland 1988 To 2008, Findings From OPAL 10/9/8 Older Persons' Ability Level Census" researchspace.auckland.ac.nz/handle/2292/5594 Retrieved 18/10/10

4 Grant Thornton New Zealand Ltd , "Aged Residential Care Service Review",: September 2010 Report Commissioned by District Health Boards and leaders from the residential care sector nzaca.org.nz/publication/documents/ARSCR.pdf accessed 18/10/10

"robust nor balanced" and its anecdotal stories were not "representative".[5] But, I am with Labour and the Greens and the suggestions that we need a revolution in our whole approach to aged care services. First, we need to look back on the restructuring and the social and economic "revolution" that opened the door to the "for profit" sector to become dominant in aged care provision. More than two thirds of aged care facilities are controlled by "for profit" operators, and this is in contrast to Australia where the "not for profit sector" still operates most facilities.[6]

How Did We Get Here?

The Welfare State began to devolve its responsibilities to religious and welfare organisations in 1949 when it established subsidies for these charities to build accommodation for older people.[7] In the 1960s rest home subsidies were introduced to enable older people to pay for their care in private rest homes. Public hospitals began to contract out long stay care to private hospitals, and to pay for this care the Geriatric Hospital Special Assistance scheme (GHSAS) was set up. Funding from the GHSAS scheme was available to patients but it was subject to an income test. In 1985 81% of Auckland patients in long stay private hospital care were subsidised by the GHSAS.[8]

The neo-liberal experiment of the 1984 Labour Government gave the private "for profit" age care sector a boost. Government undertook a review of rest home subsidies in 1987 and subsequently ended the special salary and building subsidies for charitable facilities.[9] Rest home residents could access an individualised subsidy to pay for their care providing they met a stringent means and asset test. The number of "for profit" rest homes increased, but most were small localised businesses, often owned and managed by the same person.

The National government elected in 1991 went a step further by forming hospitals and clinics into competitive Crown Health Enterprises or CHEs. Many smaller hospitals were closed as "uncompetitive". When small town hospitals were closed their long stay geriatric wards went too – often against a backdrop of community protest. In 1993 there were more changes. Newly established Regional Health Authorities were required to issue contracts for both public and private service providers for services including acute care, rehabilitation and clinical services. The new buzz phrase was "funder-provider split". New legislation removed the disparity in financial support available for those going into private hospitals and rest homes. From this time all subsidies were to be subject to the same income and asset test. In 2005 a Labour-led government liberalised the asset testing regime for residential care subsidies.

In 1988 6% of all long term care beds were in public hospitals. By 2008 these had decreased to 0.4% Counties Manukau is the only Auckland District Health Board offering long stay beds.[10] Today two small hospitals, Franklin Memorial Hospital, near Waiuku, and Pukekohe Hospital, offer long stay care of a high standard, albeit in modest surroundings. In the last decade there have been more major changes as many church and trust providers have sold their facilities and the aged care residential "industry" has become increasingly commercialised. There is a new trend for rest home and private hospital care to be provided in conjunction with retirement villages owned by large corporates and offshore owners.

Deregulation

The ownership changes have taken place in a context of deregulation. In 2002 a new certification system saw the end of the minimum staffing guidelines and staff-patient ratios previously set out in legislation. Facilities can now develop their own staffing mix of qualified and unqualified staff, providing they deliver care "outcomes". Private hospitals must ensure that there is at least one registered nurse on duty. The Ministry of Health subsequently published voluntary guidelines but, as the Labour and Green enquiry discovered, these minimum recommendations are often not met.

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5 Interview with Katherine Ryan, Radio New Zealand, *Nine To Noon*, 15/10/10

6 Grant Thornton New Zealand Ltd, "Aged Residential Care Service Review",: September 2010 Report Commissioned by District Health Boards and leaders from the residential care sector nzaca.org.nz/publication/documents/ARSCR.pdf accessed 18/10/10

7 Campbell, J, *International Journal of Health Planning and Management*, Volume 2 , Issue 5, April 1987 , pp 187-200 "Implications Of Policy And Management Decisions On Access, Quality And Type Of Services For The Elderly In New Zealand"

8 Sewell, F and Hawley, T.G. *New Zealand Medical Journal* 28/1/87, 100 (816) 16-8."Utilisation Of Private Hospital Beds In Auckland For Long Term Geriatric Care"

Joseph, A.E. and Chalmers, L. "'Residential And Support Services For Older People In The Waikato, 1992-1997: Privatisation And Emerging Resistance" *Social Policy Journal of New Zealand,* 13, 154-169. 1999 researchcommons.waikato.ac.nz/handle/10289/2042 Retrieved 18/10/10

9 Joseph, A.E. and Chalmers, L. "Residential And Support Services For Older People In The Waikato, 1992-1997: Privatisation And Emerging Resistance" *Social Policy Journal of New Zealand*, 13, 154-169. 1999 researchcommons.waikato.ac.nz/handle/10289/2042 Retrieved 18/10/10

10 Boyd, M. Freemasons' Department of Geriatric Medicine, Faculty of Medical and Health Sciences, University of Auckland, "Changes In Aged Care Residents' Characteristics And Dependency In Auckland 1988 To 2008, Findings From OPAL 10/9/8 Older Persons' Ability Level Census" researchspace.auckland.ac.nz/handle/2292/5594 Retrieved 18/10/10

All facilities are required to be audited, but this is no longer carried out by experienced Ministry of Health nurses but by contractors, some of whom have no public health background. You can view audit information on the Ministry of Health website (www.moh.govt.nz) but the information summaries are complex and, like the unit standards being imposed in our education system, not helpful to the uninitiated.

The auditors are chosen by the facility and the day of the audit is fixed in advance. The Labour-Green Report team heard accounts of providers putting on a good show and bringing in extra staff for audit day! The other problem with the current auditing system is that it is mostly about establishing a paper trail. A written description of a staff training programme does not ensure that regular quality training is actually happening.

The Ministry of Health conducts unannounced inspections in response to complaints but this is a poor substitute for routine and regular quality monitoring. The workers in aged care facilities are generally poorly paid and for the most part not unionised, and the Labour-Green Report has an eloquent section about the use and abuse of migrant nurses in the aged care sector. It is clear from the Labour-Green Report that complaints and incidences of poor care are prevalent across different categories of operators[11], but when *Consumer* magazine set out to find which facilities were failing to provide good care, issues among corporate care providers came to the fore**.** [12]

Consumer's Jessica Wilson needed persistence to get to the facts and figures as the Ministry of Health was initially reluctant to reveal the names of facilities subject to complaints in order "not to unreasonably prejudice" the commercial position of the homes. However, in the second of two major articles in late 2009, *Consumer* exposed a significant level of complaints relating to the nationwide transnational aged care chains.

There are seven major chains currently operating in New Zealand: Oceania Care Group, Radius Residential Care, Ryman Healthcare, Metlifecare, Ultimate Care Group, Summerset Care and BUPA Care Services.[13] According to the Aged Residential Care Services Review[14] the building stock for our aged care residences is also ageing, but all the new investment is going in to the high end of the market. Not for profit providers are struggling to develop or renovate their facilities, and some are following the strategy of the corporates and beginning to build luxurious apartments on their sites.

About Retirement Villages

It would be hard to miss the glitzy magazine promotions for retirement village complexes. The target market is the worried wealthy – older people who are willing to pay well for comfortable and secure surroundings. Part of that security is the assurance that full care is available on site should they experience a health crisis such as stroke which means they can no longer live independently. From the perspective of the village operator capital gains are built in. When the occupants sell they receive their purchase price back usually minus some pre-agreed deductions. In a rising market the operator gains when the apartment sells again at a higher price. Even if the market is falling the operator still comes out ahead.

All retirement villages charge fees for rates, gardening, and sometimes a long list of other services, including a deferred management fee. Some villages require residents to pay the full costs of having their units refurbished if they have to move out. Advocacy groups such as Age Concern have long been warning older people and their families to exercise caution before signing a contract to purchase accommodation in a retirement village. In 2003 the Retirement Villages Act was passed and there is now a Code of Residents' Rights but the protections offered are to do with the peripheral matters like the right to information, consultation and dispute resolution.

Retirement villages make their money through real estate, rather than the fees and government subsidies they collect for the care of their residential care clients. But, in my experience, operators assiduously chase up their dues and frequently impose additional part-charges as they are entitled to do if they offer services or amenities that are a cut above the District Health Board's requirements. Some 43% of facilities charge extra fees and this is the double the number that did so in 2006.[15]

Since first impressions do count, providers pay careful attention to features such as décor, lighting and spacious reception areas. Families often discover to their cost that all that glitters is not gold and that the pleasant surroundings of new or newly

11 Not all complaints are well-founded; falls and health crises cannot always be averted and caring family sometimes wrongly attribute sad outcomes to care lapses

12 Wilson, J. *Consumer* 496 October 2009, "Failing To Care; More Rest Homes Have Been Found Providing Sub-Standard Care" and Wilson, J .*Consumer*, August 2009, No 494, "Rest Home Roulette : What Are Your Chances Of Finding A Good Rest Home?"

13 Wilson, J. *Consumer* 496 October 2009, "Failing To Care; More Rest Homes Have Been Found Providing Sub-Standard Care"

14 Grant Thornton New Zealand Ltd, "Aged Residential Care Service Review", September 2010 Report Commissioned by District Health Boards and leaders from the residential care sector nzaca.org.nz/publication/documents/ARSCR.pdf accessed 18/10/10

15 Grant Thornton New Zealand Ltd, "Aged Residential Care Service Review," September 2010 Report Commissioned by District Health Boards and leaders from the residential care sector nzaca.org.nz/publication/documents/ARSCR.pdf accessed 18/10/10

renovated facilities are not matched by a high standard of care. CAFCA's listing of the Overseas Investment Office decisions is helpful in tracking the extent of offshore ownership in the residential care industry, but it can be a challenge to establish the degree of overseas ownership through the maze of holding companies and as major share packages are bought and sold. However, it is clear that there is a heavy dominance of Australian ownership mainly through investment banks and property development companies.

It is all part of the "tsunami" of transnational corporate takeovers of profitable enterprises in New Zealand, and there is no sign of any resistance from the OIO or the oversight regime set up by the 2005 Overseas Investment Act. The worst case scenario? An investment company crashes and a chain of facilities is passed over to a receiver. It is not inconceivable that these banks, investment companies and property development firms will over-extend themselves as they jostle for market share. Two of the seven chains, Summerset and Ryman, have opted for green field developments and all their facilities are purpose-built complexes including independent apartments, and in most cases, a hospital and rest home. The others have more of a mixed portfolio of facilities reflecting their practice of acquiring existing complexes.

The Seven Chains

Ryman Healthcare, which has 21 villages nationwide, has been a finalist for the Roger Award twice (*most recently in 2009. Ed.*) on account of its excessive profits, poor reputation for care of its dependent clients, and its anti-union behaviour. Ryman has denied access to union delegates and has obstructed its workers' attempts to establish a collective agreement. Ryman's Edmund Hillary Village in Auckland was the subject of a serious complaint in 2008, concerning a patient with undiagnosed neck and rib fractures who subsequently died in Auckland Hospital.[16]

According to the *Business* section of the *NZ Herald* (20/8/10) the Canadian investment fund Garlow Management sold its 14% share in Ryman Healthcare in July 2010, but the New Zealand Companies Office register has not recorded this change yet. Ryman is listed on the Stock Exchange and has a dispersed shareholding. Before the (still to be confirmed) Garlow Management divestment Ryman Healthcare met the 25% threshold for being classed as an overseas company. The other shareholders are locals such as Ngai Tahu Capital and the NZ Superannuation Fund, and Canadian investors.

Whether it is currently New Zealand or overseas-controlled, Ryman is doing very nicely – until recent tax changes it did not have to pay tax due to a depreciation and interest shield. The tax changes were not all bad though – the reduction of the corporate tax to 28% from 30% will be positive for Ryman according to its Managing Director, Simon Challies.[17] In July 2010, Ryman announced that it was looking for a site for its first village in Australia while also telling its shareholders that it was building on eight sites around NZ and in the process of acquiring new sites in Christchurch and Tauranga. Ryman announced a record profit of $61 million and lifted its annual dividend by 16%.[18] Not surprisingly Matt Henry, the Equity analyst for Goldman Sachs JB Were, considers that Ryman is "New Zealand's best operator in a secular (multi-decade) growth industry. The company's business model is exceptionally capital efficient delivering high returns on shareholder funds".[19]

Summerset Care has 12 villages, and its major investors are in Australia: Perpetual Trustees Ltd and Quadrant Private Equity. Summerset's villages are in the North Island but it has plans for expansion into the South Island with land already purchased in Dunedin. Other villages are planned for Karaka, Hamilton and Katikati. Summerset Care in Trentham (Hutt Valley) has been the subject of a serious complaint to the Ministry of Health which upheld a complaint about a resident whose death was hastened by pneumonia and dehydration. The Ministry Report said that the care facility had failed to meet the standards for clinical assessment, medicine management and infection control.[20] The new Summerset facility in South Auckland is attractively presented, but all residents (or their families) are required to pay additional part-charges, for the privilege.

The large BUPA chain (46 facilities) is owned by BUPA UK, a provident association which reinvests its profits. Its Website says: "With no shareholders, we invest the surplus we make into more and better care". BUPA's international operations are vast – the Website proudly declares that "BUPA serves ten million customers in over 190 countries" (www.bupa.com).

16 **Wilson, J *Consumer*, August 2009, No 494, "Rest Home Roulette : What Are Your Chances Of Finding A Good Rest Home?"**

17 **Christchurch *Press* 22/5/10**

18 *Otago Daily Times Online News* **29/7/10 retrieved 18/10/10**

19 Ryman Healthcare Website http://www.rymanhealthcare.co.nz/ retrieved on 20/10/10

20 Wilson, J. *Consumer*, August 2009, No 494, "Rest Home Roulette: What Are Your Chances Of Finding A Good Rest Home?"

BUPA bought out the former Guardian Healthcare residential care chain along with its personal alarm business, formally changing the name to BUPA from June 2009 (*BUPA is a 2010 Roger Award finalist. Ed.*).

Metlifecare owns 17 facilities throughout New Zealand and is Australian-owned, mainly by investment banks and a property development company. Metlifecare's major shareholder is listed as Retirement Villages New Zealand and it, in turn, is owned through a chain of holding companies by JP Morgan Nominees, FKP Ltd (the property development company), and Macquarie Investment Holdings. The major shareholder of Oceania Group Ltd, which has 59 facilities throughout New Zealand, is the Australian Trust Company Ltd. Oceania has taken over facilities once run by the Presbyterian, Salvation Army and Methodist churches, as well as others previously in local ownership.

Radius Residential Care Ltd has 22 facilities nationwide. According to *Consumer*, Radius was the subject of numerous complaints to the Ministry of Health in 2007 and 2008, and follow up visits suggested that many of the problems were not fixed promptly. Radius states on its Website that it underwent a major shareholding buyout in April 2010 when the Company was restored to Kiwi ownership from Radius Health Group's foreign investors - Kuwait Finance House. Radius' Chief Executive Brian Cree is also the majority shareholder in the company. The Ultimate Care Group (UGC) has 16 facilities around the country and its major shareholders are UGC Investments New Zealand, ANZ Capital NZ Ltd and ANZ Funds Pty Ltd, based in Australia. *Consumer* documents a 2008 complaint against a UGC facility, concerning a resident who was subjected to a breach of restraint standards. [21]

How Could We Have A Brighter Future?

The current situation is working brilliantly for offshore interests, wealthy shareholders and for some fit well off retirement village residents. It is not working so well for many residents in aged care facilities. There is growing evidence of failing care in many of the large corporate chains. In "not for profit" or smaller owner-operator facilities, resources for new development and rebuilding are limited. A major review of our liberal open door foreign investment regime as well as a full review of funding for aged care is needed. The sector already receives a large amount of taxpayer funding[22] and the Labour-Green Report is calling for a clearer picture of how the current funding is allocated.

What if residential aged care facilities were to be built and run by the State and paid for by our taxes? Imagine a comfortable and functional facility where the resources had been devoted to additional amenities like a well equipped physiotherapy gym, rather than the awe inspiring chandelier-dominated entrance ways of some of our retirement complexes. The nurses, doctors, physiotherapists and occupational therapists would all be on a collective contract and would be able to move between the acute care hospitals and the long stay facility for career diversity. They would have time to talk to the residents and hear their rich stories while fulfilling their care needs. When you went to visit you would not find your elderly friend in their room or in front of the TV but out in the garden being instructed in a modified form of tai chi to help their balance and overall wellbeing. At least dreams are free!

A Dignified Life?

An informant, a nurse, visited an elderly friend in one of the corporately-owned private hospitals to find her "saturated" with urine, in pain and unable to reach to get a drink. She searched for staff to help but had trouble finding a registered nurse. She was told the previous RN had just left, and her replacement had a very heavy load. Informant decided to shower her friend herself with the help of healthcare assistants and in the course of this care she became more concerned about the patient's pain because she kept saying "my back, my back!" She thought that her friend may have had a urinary tract infection and suspected she was dehydrated. Subsequently the patient was admitted to public hospital where a fracture was diagnosed. The family arranged alternative care.

Another family chose a facility on the basis of its presentation, but were quickly disillusioned. Three weeks after admission the patient - who has dementia - was in bed, seemed dehydrated and had bed sores on her heels. When two family members tried to get her to stand and mobilise, the patient seemed in considerable pain. This patient also was admitted to a public hospital, also diagnosed with a fracture and subsequently discharged to an alternative facility.

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21 Wilson, J. *Consumer* 496 October 2009, "Failing To Care; More Rest Homes Have Been Found Providing Sub-Standard Care".

22 All NZ residents in long- stay hospital care are entitled to a "top-up" subsidy from Government if they do not meet the financial eligibility test for full residential care subsidy.