Committee Secretary
Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee
Parliament House
George Street
Brisbane Qld 4000

Health Legislation Amendment Bill 2019

Aged and Disability Advocacy Australia (ADA Australia) welcomes this opportunity to provide a written response to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (HCDSDFVC) consideration of the Health Legislation Amendment Bill 2019.

Aged & Disability Advocacy Australia (ADA Australia) is a not for profit, independent, community-based advocacy and education service with some 30 years' experience in supporting and improving the wellbeing of older people and people with a disability.

ADA Australia provides individual advocacy support to users and potential users of Commonwealth funded aged care services and is a member of the Older Persons Advocacy Network (OPAN) delivering the National Aged Care Advocacy Program (NACAP) in Queensland. ADA Australia also provides individual advocacy support to Queenslanders with a disability, these services being funded by both the Queensland and Commonwealth governments.

ADA Australia also operates a Human Rights advocacy service in South-East Queensland supporting people with impaired capacity, including support as they engage with the Queensland Civil and Administrative Tribunal (QCAT).

ADA Australia endorses the Queensland Government's commitment to improving access to patient information by the key personnel across the health and aged care sectors in the interests of ensuring that patient rights are upheld, including their right to decide whether or not to receive treatment and the types of treatment they might receive.

This response seeks to focus on one specific aspect of the range of issues discussed during the meeting of the HCDSDFVC on 9 December 2019. In response to a question put by a member of the Committee, Dr. Wakefield, Director General, Queensland Health spoke about the relationship between Hospital and Health Services (HHS), Queensland Ambulance Service (QAS) and Residential Aged Care Facilities (RACFs) and the imperative for these services to collaborate and share resources, in order to deliver the best health outcomes to those individuals who are shared across different parts of the system.

Dr. Wakefield advised that the concept of mutual obligation is already embedded in the culture of HHS's and the QAS and referred to Hubs in South-East Queensland and soon to be in Cairns, which sees health services and QAS co-located. In respect to the importance of QAS as first responders having access to patient medical records in order to access treatment

history, pathology, radiology and other important information including end of life care, Dr. Wakefield reported that the QAS has viewer access via a 'window' into HHS systems that allows access to patient information by QAS staff. The Director General advised there are plans to ensure that in future the 'window' will also accessible by nursing staff in RACF's.

ADA Australia supports older people across a range of matters related to independent end of life planning. This includes creation of an Enduring Power of Attorney document while they have capacity, should they lose capacity in later life and require the on-going support of an attorney in relation to making financial and/or health and lifestyle decisions. Advocates also encourage older people to create an Advanced Health Directive (AHD) as a means of identifying and recording their wishes in relation to future treatment should they lose the ability to make their health and/or treatment preferences known.

Where older people have independently specified choices such as Do Not Resuscitate (DNR) ADA Australia is keen to ensure that this information is uploaded onto the HHS patient record system and is readily available to the QAS staff, who might, in the absence of access to a patients treatment preferences, commence treatment, potentially in breach of an individual's expressed wishes, as reflected in their AHD.

As a rights-based organisation, ADA Australia is keen to ensure that when an older person has clearly articulated their treatment preferences and choices that this then, informs treatment. This requires integration with QAS, acute care and aged care systems. Upholding an individual's right to exercise choice and control over treatment can only be achieved if the QAS has immediate and unfettered access to this information before they respond, along with education to understand what the various documents and decision makers actually mean.

ADA Australia understands that often during a health crises, family and other stakeholders will have differing perspectives on what they believe is best for an older person and how often it happens that treating staff are unclear about which, if any of them is an appointed attorney whose role it is to speak and make decisions on behalf of an older person. This lack of clarity creates the risk that those making the most noise and applying the most pressure for treating staff to undertake a course of action, will be listened to and appeased, whether or not their wishes align with what the individual wanted.

ADA Australia believes that one aspect of strengthening the protections for older people is for treating staff to be aware:

- Of the attorney(s) and
- For what they've been appointed to decide
- When they can start making these particular decisions
- Any guidance in the document about who not to consult with

ADA Australia's Human Rights Service (HRS) supports people whose capacity is in question and see evidence of decisions being made by treating staff and other stakeholders, on behalf of individuals, on the basis that they lack capacity without their capacity having been objectively assessed and determined and sadly, for many older people, presumptions of diminished capacity end up being a fast track to residential aged care.

ADA Australia has been consulted about the soon to be implemented Capacity Assessment Guidelines, and we anticipate how useful it will be to refer various health professionals to these standards, once published.

There is ample evidence that currently, 'capacity' is poorly understood and is being mis-applied in acute care settings across Queensland as a tool for moving older people who are no longer in an acute phase, out of the acute care system and into residential care against their wishes. This pathway from a health setting into aged care is enhanced by the difficulties of navigating the community based aged care system.

Geoff Rowe

Chief Executive Officer

18 December 2019