



# Submission to

## The Legal Affairs and Community Safety Committee

### *Guardianship and Administration and Other Legislation Amendment Bill 2017*

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submission

## Introduction

The Queensland Nurses and Midwives' Union (QNMU) thanks the Legal Affairs and Community Safety Committee (the Committee) for the opportunity to provide feedback on the *Guardianship and Administration and Other Legislation Amendment Bill 2017* (the Bill).

Nursing and midwifery is the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNMU is the principal health union in Queensland covering all classifications of workers that make up the nursing workforce including registered nurses (RN), registered midwives (RM), enrolled nurses (EN) and assistants in nursing (AIN) who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 57,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNMU.

### ***Guardianship and Administration and Other Legislation Amendment Bill 2017***

The QNMU has reviewed the Bill and explanatory notes with respect to the proposed changes to the *Guardianship and Administration Act 2000 (Qld)* (the Act). We are of the view that the clauses amending sections of the Act relevant to who can assume the role of an attorney under an Advance Health Directive (AHD) are appropriate and provide consistent safeguards for the principal in the event that the AHD is enlivened. Additionally, the clauses creating better and consistent clarity regarding the legal capacity required by a principal in making an AHD are appropriate and will ensure the AHD (or other enduring documents) truly reflects the principal's intentions.

We also believe the redrafting and repositioning of the general principles and health principle are positive amendments that will assist both principals and attorneys in the creation and enlivening of enduring documents.

The QNMU has recently stated its position on advanced care planning in our response to the Productivity Commission's (the Commission) (2017) draft report - *Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services*. For the benefit of the Committee we have included this information because of its importance to the general context of the bill.

In the report the Commission (2017) made the following recommendation:

**PRODUCTIVITY COMMISSION DRAFT RECOMMENDATION 4.3**

The Australian Government should promote advance care planning in primary care by:

- including the initiation of an advance care planning conversation as one of the actions that must be undertaken to claim the '75 plus' health check Medicare item numbers. At a minimum, this would require the general practitioner to introduce the concept of advance care planning and provide written material on the purpose and content of an advance care plan;
- introducing a new Medicare item number to enable practice nurses to facilitate advance care planning.

The QNMU welcomes advance care planning (ACP) in primary care. In our view, all RNs and nurse practitioners (NP) should be included in a new Medicare item number not just practice nurses. RNs and NPs working in aged and community care are well-placed to provide this service.

The ACP should be a routine part of an aged care facility resident's admission process where the clinician documents any instructions in a specific section of the individual's file. If an individual is unable to complete an ACP due to reduced cognition, then a 'Statement of Choices', an Enduring Power of Attorney for Health Matters (or similar document) should be considered as an alternative.

We asked the Commission to consider exploring opportunities to provide fiscal incentives to authorise an Enduring Power of Attorney. The federal government could enable this by incorporating an additional specific component in the Aged Care Funding Instrument (ACFI) or aged pension that applies when a person is admitted into residential or community care.

The QNMU recommended:

- All RNs and NPs be included in a new Medicare item number for ACP not just practice nurses;
- If an individual is unable to complete an ACP due to reduced cognition, then a 'Statement of Choices', an Enduring Power of Attorney for Health Matters (or similar document) should be considered as an alternative.

## References

Productivity Commission (2017) *Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services*, Draft Report, Canberra.