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cc
bcc

Subject Submission to Inquiry into Powers of Attorney

Executive Officer
Victorian Parliament Law Reform Committee
Parliament House
Spring Street
EAST MELBOURNE, VIC 3002

Dear Executive Officer,

This is a submission to the Inquiry into Powers of Attorney.

The Terms of Reference for this inquiry do not include medical powers of attorney. That is powers of attorney to make decisions about medical treatment of the donor. The reason might be that that area raises some problematic issues.

However, those difficulties arise frequently in hospitals faced with patients, usually elderly, that have suddenly become incompetent as the result of accident, trauma or sudden deterioration of their pre-existing medical condition. Medical staff often must ask relatives whether or not they consent to the patient being classified as "not for resuscitation". That classification means that if the patient's condition deteriorates to the point that emergency and life support procedures are required to resuscitate the patient, they will not be administered.

That decision is often agonizing for relatives and not infrequently different family members have different opinions on what is best. That can lead to additional time-consuming discussions with senior medical practitioners who have already assessed that the patient's outlook so far as life expectancy and quality of life are concerned, is grim at best.

Effectively the relatives are being given a *de facto* medical power of attorney. Since it is likely to be the final decision on medical treatment it is effectively "enduring".

Clearly though a resuscitated patient, although gravely ill, may recover mentally enough to be capable of competent decision making.

The problem I see is that a relative with an existing non-medical power of attorney over the patient's affairs (and possibly also a witness) could be placed in the position to manipulate or influence such things as: the time-frame of the attorney's power as against the executor of the will for example; or the time-frame for beneficiaries, joint tenants and others affected by the life or death of the patient. The decision can either shorten or lengthen those time-frames.

At the risk of giving additional work to medical practitioners, that they neither want nor need, should the legislation provide that persons asked to decide whether or not a patient is "not for resuscitation" must disclose that they have a non-medical power of attorney over the patient's affairs? Then there should be some guide as to how to proceed such as, for examples: note it

in the medical record; get further senior medical opinion; or seek opinion from a other relatives.

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