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20th August 2009

Executive Officer
Victorian Parliament Law Reform Committee
Parliament House
Spring St
East Melbourne Vic 3002

vplrc@parliament.vic.gov.au

Dear Sir/Madam

RE: INQUIRY INTO POWERS OF ATTORNEY

Thank you for your invitation to participate in this inquiry. Social Workers at Peter MacCallum Cancer Centre make the following suggestions after considering the terms of reference regarding the Inquiry into Powers of Attorney:

- Powers of Attorney could be streamlined into one form that provides a tick box (General, Enduring Financial, Enduring Medical) to indicate the area/s that are to be covered. This could also include an option for Guardianship. In our experience, when an Enduring Power of Attorney is enacted due to an individual's loss of capacity, decisions regarding lifestyle and some healthcare decisions are made by the same person/s. A form such as this could allow space for the donor to define the exact powers that they wish to bestow on the attorney.
- We find the booklet *Take Control: a kit for making powers of attorney and guardianship* (produced by Victoria Legal Aid & the OPA) extremely useful to provide to patients and their families. However, a simple one page document that can be provided to attorneys to provide education on their role and responsibility would be useful.

PETER MACCALLUM CANCER CENTRE

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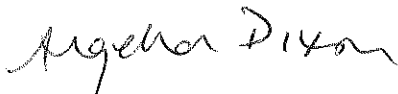
Peter MacCallum Cancer Institute trading as Peter MacCallum Cancer Centre ABN 42 100 504 883

- If Powers of Attorney are being established when a person is an inpatient in a medical facility, capacity should be determined by a lawyer, doctor or psychiatrist undertaking a testamentary capacity assessment and records this in the patient's medical history. A statement on the POA should also be signed to this effect. A doctor or psychiatrist should determine loss of capacity if an existing Power of Attorney (Enduring) is enacted whilst a person is in hospital.
- We believe that a central point for registration of all POA documents (such as the Office of the Public Advocate) would be useful for donors, attorneys and practitioners. This would allow practitioners to easily confirm the existence of a patient's POA, to determine who the attorney is and what powers they hold.
- Whilst not being able to comment on the extent of abuse of Powers of Attorney, we would support the development of safeguard practices in this area. As outlined above, a central registration point may also assist this process.

We note that the Inquiry is not considering Medical Powers of Attorney at this time. However we believe that any consideration of combining Powers of Attorney with Guardianship would also need to consider Medical Power of Attorney as part of this process.

Thank you again for inviting our comments as part of this inquiry.

Yours sincerely



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Cc Alison Hocking, Head of Social Work Department