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Law Reform Committee



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20 August 2009

John Scheffer MLC
Chair
Victorian Parliament Law Reform Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002

Dear Mr Scheffer

Please find attached a submission to the Victoria Parliament Law Reform Committee's Inquiry into Powers of Attorney.

If you require any clarification or further information please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink that reads 'Amanda Cameron'. The signature is written in a cursive, flowing style.

Amanda Cameron
Director Nursing, Midwifery
& Clinical Services

:ts

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

Dear Ms Riseley

INQUIRY INTO POWERS OF ATTORNEY

Thank you for your invitation to make a submission to the Victorian Parliament Law Reform Committee's Inquiry into Powers of Attorney. I make this submission on behalf of Latrobe Regional Hospital.

Part of our comprehensive assessment with patients is to ask them if they have completed a Power of Attorney. If the patient has not completed a Power of Attorney or does not know of them, we ask the patient if they would like further information. If they do, we give them a brief verbal outline of the different types of Power of Attorney and provide the patient with a **Take Control kit**.

The Social Work team has found the **Take Control kit** to be an excellent resource for patients and their families to understand the concepts of Powers of Attorney and to complete a Power of Attorney.

Concerns the LRH team has experienced when talking with people about Powers of Attorney are:

- There does not appear to be enough community education. For some people it is a new concept and some common responses are "I already have made a will", or "I do not need to make a Power of Attorney as there is nothing wrong with me".
- Education needs to be provided to institutions that need to accept the Powers of Attorney. Patients' families have reported that Powers of Attorney drawn up using the **Take Control kit** have not been accepted by the major banks, telephone companies and other utilities and the family members have been told that the institution will only accept Powers of Attorney drawn up by a Solicitor.
- Some people have become hesitant when considering completing a Power of Attorney if there is a financial cost involved. Our recommendation is that if possible there should be a no cost or a low cost option.
- Family members are sometimes hesitant to fill out the forms in the **Take Control kit** on behalf of the donor. It does not state in the **Take Control kit** whether the donor has to complete the forms themselves, or it is acceptable for someone else to fill them out and for the donor to sign.
- The Social Workers at LRH are fortunate in that if a patient chooses to complete a Power of Attorney using the **Take Control kit**, we are able to ask a medical practitioner to verify that the patient is competent to understand the paperwork and to witness the patient's signature. However, there are concerns that Powers of Attorney are being completed in the community by people who do not have the capacity to understand what they are signing.

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- In the **Take Control kit** the Witnesses' task is to confirm that the donor's signature is genuine, the donor has signed the form freely and voluntarily and has the capacity to make the Power of Attorney. However, there does not appear to be any onus on the witnesses to ensure that the document is completed correctly. Should there be more responsibility on the witnesses to ensure that the document is legal?
- It has sometimes been difficult to find out if a person has a Power of Attorney. It is thought that registering Powers of Attorney would assist in determining if a person has one, however there are also concerns that this information may be accessed inappropriately.
- From our experiences it would seem beneficial both to have the Powers of Attorney and Power of Guardianship separate, **and** to have one document that covers Enduring Power of Attorney Financial, Medical and Enduring Power of Guardianship. Sometimes people only want to complete one of the Powers of Attorney or want to nominate different people for each. Other people choose to complete all three powers nominating the same person or people to be their attorney and guardian.

I trust that this information is helpful to your Inquiry and if you require further information or clarification please contact me on 03 5173 8383 or email rmetcalf@lrh.com.au.

Yours sincerely

Robert Metcalf
Manager Social Work Services
Latrobe Regional Hospital