

Submission No. POA/62
Received 14/09/2009
Law Reform Committee

Matthew Hughes

14/09/09

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

Re Inquiry into Powers of Attorney

Dear Ms Riseley,

I write in response to the request for submission regarding PoA.

From a neuropsychological perspective the key areas for consideration are the assessment of capacity when making a PoA and equally assessment again when PoA may be enacted.

At times when there may be doubt with respect to an individual's capacity, or some conflict, neuropsychological assessment may assist the process of establishing capacity.

Neuropsychologists have training in assessment of cognitive functioning and diagnosis of illnesses affecting cognitive function. The flexible approach used by neuropsychologists in the assessment of capacity is not based on the disability alone, or the outcome of the decision alone, but on an evaluation of the person's cognitive and functional resources in light of the complexity of the decision(s) to be made. Neuropsychologists receive training in assessment of decision making capacity during their training courses which is now in the course approval guidelines.

Neuropsychological assessments can be tailored to take into account variations in age, education, verbal skills, cultural and linguistic background, and can assist not only in determining capacity but also in finding ways to enhance decision making capacity (or compensate for specific problems).

Therefore neuropsychologists can provide an opinion with regard to capacity based on the current level of cognitive functioning and time specific details in relation to the decision to be made. This can be particularly helpful at times where there appears to be a dissociation between an individual's statements and actual behaviour.

Beyond the assessment of capacity, the Committee may consider the provision of a register for Powers of Attorney. Therefore, when PoA have been enacted there would be a means of identifying the existence and validity of such powers.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Hughes', with a stylized flourish at the end.

Matthew Hughes
Clinical Neuropsychologist