

Andrew Johnson, NSW
Public Submission
1 February 2011

To: The Productivity Commission

Regards: Public inquiry into Australia's aged care arrangements

Dear Chairman and Inquiry,

I concur with Dr K Evans (submission #4) that the aged are often denied access to their own doctors and are routinely denied access to their chosen family support by the commercial aged care industry at ruinous cost to the victim's health & freedoms, and ruinous financial costs to this nation. However, this denial of human rights is generally at the instruction of a substitute decision maker who lacks empathy and regard for the care recipient.

There is need for federal regulatory protection of the rights of people in aged care.

I suggest that federal funding require State authorities and nursing homes to provide a chronology for any dementia patient recording the dates their legal rights of self-determination were removed and to whom, and recording any periods the patients are believed to have been receiving other care and from whom.

Because the "person responsible" section of Guardianship Acts often acknowledge that unpaid carers and domestic relations are predisposed to protect a person's wishes and welfare; people seeking unjust control of the Aged, often apply in covertly while also secretly accusing the carer of being mentally ill and unfit as a "person responsible". Even if the carer finds out about the application; the social workers, hospitals, and Guardianship Tribunal will not allow the carer to take the Aged person to their own doctor or other (neurological) examination during the months before the Guardianship hearing where the applicant presents reports based on whatever fiction the applicant told their choice of social workers and doctors. Guardianship Tribunal are kangaroo courts with hearsay reports for pre-determined decisions. For this reason too many hospitals and nursing homes obscure records about who they were accepting instructions from and who the Aged person's previous carer/domestic relations were.

Money is not always the motive for people seeking unjust control; the disregard and malice portrayed by the antagonists in the Oliver Twist and Bleak House novels is too common a reality which can be better

attributed to personality disorders such as excessive narcissism and paranoia. People with disorders such as combined narcissism and paranoia tend to be skilled at concealing their true beliefs, at misguiding other people, and often believe their parents and family carers have been unfairly 'fortunate' in life. People with such intentions find it easy to tell outlandish tales to social workers who tell Tribunal staff, who imagine they are protecting the Aged by refusing to allow the carer to get the Aged to their own doctors.

Too many innocent people are being declared demented without medical reason, and Aged citizens and their carers can lose years of their lives & suffer financial ruin due to it.

There is need to encourage better State regulatory protection of the Aged.

I ask you to urge State governments to amend their laws to better protect the innocent as well as the demented whose age or health can be too easily exploited. The Guardianship Acts should require the Tribunals to suspend applications whenever an applicant accuses any other party (*typically the carer*) of being unfit as potential substitute decision maker, the Guardianship application can resume after the applicant has their allegation resolved with the appropriated authority (*hospital, police, or judicial body*). Either the hospital, police or judicial body will support the applicant's allegation against the other party or the Tribunal can ignore the allegation which they were not qualified nor entitled to judge.

The Tribunal hearings should be confined to the appointment of substitute decision makes and should no longer be subject to cross-party allegations misleading the Tribunals; if the applicant alleges serious mental illness or financial abuse etc. against the other potential substitute decision makers, then they have an obligation to present their belief/evidence to the appropriate authority before applying for control of somebody else's affairs.

The NSW Health Records and Information Privacy Act schedule 1, and the NSW Guardianship Act section 105 should also be amended with reference to sections 307A, 307B, and 307C of the NSW Crimes Act under which an informant may be liable if they give false or misleading information.

The NSW Guardianship Act should remove the word "relative" from section 33A part 4(d) which is misleading and irrelevant to the definition in section 3E, and should clarify that the "person responsible" is a single responsible person and not a group. And the Act should require the

Tribunal to disclose the applicant's allegations against the other parties before the hearing so that the accused has a chance to gather evidence to rebut allegations which are otherwise made during the hearing.

Among the dozens of violations of law by the NSW Guardianship Tribunal and others which I have witnessed, they have recklessly used Risperidone to retard a person accused of dementia despite the chemical endangering the person's life and vascular mental health. It is too easy for criminals to use the Australia Aged Care industry as a tool to drug the accused while covertly acquiring ascendancy over their affairs; and even if discovered by the carer, the criminal can keep changing their allegations because the hospital & Tribunals will do their best to conceal each previous false allegations which their staff had acted on. The affect is that the Tribunal is not told what was said at the hospital, and the Courts are not told what either the hospital or at the Tribunal did; and the result is ruinous to the entire Australian community.

It is irresponsible for the federal government to blindly trust State governments have complied with their statute laws, too many people have been robbed of their freedom by family or others misrepresenting treatable conditions such as UTIs as dementia or Risperidone medication. I suggest the federal government should not be funding State governments or Aged Care facilities for any involuntary care **unless** those facilities (including State hospitals) are willing to state how their facility came to have authority over those involuntary patients.

A Johnson
1 February 2011.