



15 October 2020

Ms Brooke Craven
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Dear Brooke

Thank you and your colleagues for meeting with me and other representatives of AMA Tasmania on the draft *Guardianship and Administration Amendment (Advance Care Directives) Bill 2020*. We appreciated the opportunity to talk through the bill and how it would work in practice with you.

Firstly, AMA Tasmania supports the legislation.

While under the AMA Code of Ethics, World Health Organisation and AHPRA, medical practitioners are not required to undertake “futile treatment” on patients, ACDs provide an opportunity for the patient to be empowered to make decisions on what care they would like to receive in the event they lose capacity to make decisions.

The bill is largely based on the South Australian legislation that has been operating successfully since 2013. We are unaware of any material concerns with the application of that legislation.

While Advance Care Directives (ACD) are already legal in Tasmania under common law, this bill will give ACD’s statutory authority and clearly explain the processes to follow to have a legally valid document. It also provides for oversight of ACD’s by the Guardianship and Administration Board, which will hold a register of ACD’s.

In our consultation, the importance of being readily able to search for and read a registered ACD, was raised. While an individual can upload their ACD to the My Health Record, we understand no one else can on their behalf, therefore it is not a reliable source of information. Also, as an ACD can be rewritten and so superseded, access to a central storage database for medical practitioners would be useful to ensure the most up to date ACD is being followed.

We support clause 35G(5) where no one can be required to sign an ACD or require one as a precondition of receiving a service. There was concern raised that some Aged Care Facilities seem to require ACD’s to be signed on entry to their facilities. There should be no coercion on anyone to sign an ACD.

As discussed in our briefing with you, the issue of not requiring the use of accredited interpreters to help with an ACD was also raised. While, we accept that accredited interpreters may not be available for all languages spoken and that there are other safeguards in the bill to guard against coercion being used to get a person to sign an ACD, we would still prefer accredited interpreters to be used if available and for unaccredited interpreters only to be used as a last resort.

We also ask you to consider further why a doctor cannot be a witness to an ACD considering to be able to do so would encourage patients to talk to their doctors about all the possible treatments/ procedures available that the patient may or may not want undertaken in certain circumstances to help inform their decision making around their ACD. In the experience of some of our General Practitioners, patients with an ACD do not always understand the ramifications of the decision they have made, for instance, some elderly people are requesting “full resuscitation” when asked questions on admission to hospital, even if they have e.g. terminal emphysema or are old and fragile. In one instance, when queried, a doctor was informed that he would have to perform CPR on a 92 year old, who had requested “full resuscitation”, if his heart stopped even though the treatment would be futile (going against the AMA Code of Ethics, WHO and AHPRA).

We support the fact that under the bill, no doctor can be compelled or bound to provide certain treatment, but they can be bound to **not** provide certain treatment.

We support the conscientious objection clause to protect Medical Practitioners who cannot comply with an ACD (clause 35S (5)).

We accept that the bill is trying to balance protection of vulnerable people against overcomplicating a process that should be relatively simple.

Finally, as many people have already gone down the pathway of appointing an Enduring Guardian and writing down their wishes should they lose capacity to make their own decisions, it will be important for the government to fund a marketing program to explain the benefits of an ACD and encourage everyone, including those with an enduring guardian, to complete the process of creating and registering an ACD.

Thank you once again for the opportunity to comment on the bill.

Yours sincerely



Dr Helen McArdle
President, AMA Tasmania