194. A Connelly

**From:** A Connelly   
**Sent:** Thursday, 6 October 2016 11:31 PM  
**Subject:** Elder Abuse -our hospital system

To Whom It May Concern,  
  
After being involved with elderly relatives, I have formed a conclusion that the **hospital and social workers leave the elderly open to abuse by quickly declaring "no capacity"**. Often without a neuropsychologist report and even with one, the testing process can be artificial or too risk adverse. This leads to a loss of basic human rights and liberties of the older person. We will all get old and the chances of getting some form of dementia, even if a mild form, is high.  
  
The hospitals must be answerable and have their power moderated with independent checks and balances. They are very quick to diagnose "dementia" resulting in a certification of "no capacity" and strongly encouraging an older person to be placed in residential aged care. Concerned family members automatically take the advice of the hospital, doctors and social workers - judge and jury in a hosptial meeting room without due process or fair trial. Criminals get a fairer hearing.

The family members form the view the older person cannot make a decision or voice their wishes but rather they are without cognitive ability, with a condition that will get worse and certainly not capable of living independently with support. The hospital does not explain that the elderly persons brain can improve with time (e.g. after a stroke)  or even return to normal. They are so risk adverse that the advice is remove the person from the community and institutionalise them.  The elderly person is often not consulted when the decision with the family is made.   
  
Further, dementia is a broad term, and there are many forms of dementia where some people can live near normal lives. The Monty Python, Terry Jones has a rare form where his speech is impaired but otherwise his brain functions normally.  The stereotypical belief of dementia is where the person has no idea, and declines over time to a point they don't know their relatives or what day it is etc. The hospitals should better educate family members instead of taking a worst case view.  
  
The elderly person often does not have access to a telephone, therefore they are cut off from the outside world. They have no access to strong advocacy or legal representation. VCAT is engaged and guardianship given. This opens up the person to abuse, and is a major injustice if the older person has cognitive abilities.  
  
After experience with the elderly, I know it is possible to regain reasonable to normal cognitive function with solutions put in place to keep them in independent, non-institutionalised home care. Or at least if they go into residential care, they should still have legal power over their assets and finances and which residential home they go into. If they don't like the home, they should have the choice to change homes. Some aged care homes can be scary for the elderly, but sugar coated to the families but in reality they employ the lowest paid staff and unknown contractors and they are not necessarily "safe" places. They are public places.  
  
My husband is going through a VCAT hearing at the moment with his elderly aunt. She is being retested as ordered by VCAT but it the same hospital psychologist as previously. I feel there isn't independence and the testing will be risk adverse, and not take into account variation in human cognitive profiles. I do not feel our aunt will be dealt justice.  I believe she has capacity and is quite clear about her wishes about her future care but I fear the hospital will declare her to have "no capacity" when she is put through the testing process. She is 96 years old but her brain is excellent. There is a vast difference between saying someone is too old to live alone (with support!) as compared to legally declaring “dementia” and no decision making capacity.  The latter is a threat to Australia's human rights record.

I am firmly of the belief that there should be a government inquiry into hospital processes, as it is too easy to declare "no capacity" as a convenient way to place the elderly in residential care. As a society we must think how we would like to be treated when old and encourage independence by putting special equipment, support services, video monitoring and use of technology (device in shoes to detect falls etc etc). Or if we are old we should have decision making rights such as the right to take the risk of living alone because there are certainly risks in being in an aged care home. Or the right to choose the aged care home with the legal right to change. Unless it is beyond doubt that the person lacks the cognitive ability to make a decision.

The hospital system can result in entrapment and is a source of potential elderly abuse. Being bullied into aged care by hospitals should not be their role and declared an illegal practice. Being legally declared as having no capacity should be a thorough process with indepenedant checks and balances and be true beyond doubt.