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Australian Law Reform Commission  
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Law Reform Commission Elder Abuse Inquiry

From bitter experience of abuse against my entire family through the use, abuse, exploitation and violence against our father for the past 5 years I recommend the following:

1. A) There are degrees of decision making incapacity. An elderly person can:
  - a) Have an incapacity to make detailed financial decisions; but
  - b) Have capacity to make decisions relating to who is to have access to them, their house; and
  - c) Have the capacity to say how they are looked after; but
  - d) Have an incapacity to decide who is to be their carer due to duress, manipulation, threats and harassment by those who purport to be their carers.B) The degrees of incapacity must be more accurately and objectively measured:
  - A) in the various cognitive, social, psychological areas – observation in the home and in dealing with loved ones, rather than the Rudas Test which is very English language and culture bound;
  - B) Such observations are to be made on an ongoing basis during random inspections.
  - C) Medical opinions must be based on sound objective diagnostic measures.
  - D) Any questions asked of the incapacitated elder without their advocate and a person suitably qualified to speak to the elderly person and away from any context of intimidation, pressure and duress to give any particular answer – are inadmissible.
2. A) The use of the concepts ‘disincentives’, ‘incentives’, and ‘conflict of interest’ to be introduced into protective laws and legislation to ensure that anyone who has any:
  - a) ‘incentives’ to abuse an elderly person in anyway whatsoever including their use as a pawn to exact secretly long held plots and plans to murder them by starvation; or
  - b) ‘disincentives’ to provide genuine risk free care that permits the elderly person to live as normal and independent a life as their capacity can fully permit them; or
  - c) ‘conflict of interest’ in providing care as specified in the General Principles of the Guardianship Act 1987;  
Cannot be permitted to make any decision which adversely affects the health, wellbeing and quality of life of the elderly person.B) These persons to include:
  - a) Carers formal or informal;
  - b) Public Guardians;
  - c) Private Guardians;
  - d) Children and spouses.

e) Medical and Health 'Professionals'.

C) Privacy of information:

a) provided for the protection of the elderly and is not to be provided to the person who is suspected of neglect or abuse, especially, when that person is the 'carer';

b) The support of carers is not to override the interests of the protection of the elderly incapacitated person;

c) Other loved ones including children who do not live with the elderly and who do not have a full-time caring role are to be fully appraised of all information concerning their parent. This is of particular importance when a 'carer' had only through violence against other siblings been able to ensconce themselves in the elderly persons' house and under the guise of protecting them had, in actual, fact ensured the elder's early death so-as-to benefit from their inheritance earlier.

d) Information by a loved one, not being the 'carer', for the purpose of protecting the elderly person is not to be divulged to the 'carer' who is suspected or neglect/abuse, under any circumstances.

3. A) Discretion, perception, and subjectivity to be removed from decision making:

a) Any legal institution which has the authority to make a decision in relation to a person with a decision-making incapacity;

b) Carers formal or informal;

c) Public Guardians;

d) Private Guardians;

e) Children and spouses;

f) Medical and Health 'Professionals'.

B) All decisions made that can potentially harm or prevent an elderly person from living as normal and as independent a life as their capacity can fully permit them are to be:

a) Factual, Objective;

b) Medically evidenced with objective medical tests and not with subjective opinions and modal words such as "apparently", "possibly", "maybe", "probably", "perhaps".

C) Any opinion or medical evidence given that can potentially harm or prevent an elderly person from living as normal and as independent a life as their capacity can fully permit them if heard at a legal institution, must be:

a) Submitted based on procedural fairness;

b) Evidenced in person under oath or sworn declaration; and

c) Tested by cross-examination.

D) Any person who makes a decision knowing it to have potential consequences of harming or depriving the elderly person from living as normal and as an independent life as their capacity can fully permit them, and indeed resulted in harm and deprivation from doing so; is liable for the harm and deprivation that their decision has caused the elderly person and, in turn, any member of their family. This is to ensure that decisions of this nature are not made vindictively, lightly and irresponsibly.

4. The overarching principle in any government decision making relating to elderly persons is that no decision which could in anyway potentially harm or prevent an elderly person from living as normal and as independent a life as their capacity can fully permit them cannot be made:
  - a) In isolation;
  - b) By one person;
  - c) Must have oversight by a team of specialised professionals;
  - d) Must be subject to change as necessary to accommodate each elderly person on a case by case basis and is flexible in changing circumstances.
5. A) State Public Guardianship to be abolished and replaced a Commonwealth Office of the Protective Guardian.
  - B) The Commonwealth Office of the Aged Care Commissioner to be abolished.
  - C) The State Guardianship Division of NCAT must be abolished.
  - D) The establishment of the Commonwealth Office of Protective Guardian for all vulnerable people. This office will be structured as follows:
    - a) An overarching Abuse Oversight Committee constituted by professionals in every field relevant to the health, happiness, welfare, and wellbeing scrutinises each decision about each person with incapacity based on each, and every specialisation prior to a decision being made on a case by case basis in every application to the Commonwealth Office of Protective Guardian;
    - b) The decisions submitted to the Abuse Oversight Committee will have oversight of decisions made by teams of professionals with specialisations relevant to each, and every aspect of the health, happiness, welfare, and wellbeing: Medical, psychological, social, nutritional, family relationships, extended relationships with relatives and friends, community interaction outside and inside the home.
    - c) Each, and every team must submit their decision to the Abuse Oversight Committee based on factual objective evidence and not claims, innuendo, and rumours fabricated by psychopathic abusers.
    - d) Every aspect of the elderly person's life which, if neglected, could potentially lead to harm or their death must be extensively scrutinised by another advisory team who will look at any decision or recommended decision with the analytical eye of a detective.
    - e) Each elderly person with incapacity is to be appointed an advocate who will have a compatible personality and the ability to communicate with the person with dignity and respect.
    - f) Any recommendation made by advocates must also be scrutinised and evidentiary justification provided.
    - g) Any sign of neglect discovered must be referred to the appropriate authority:
      - i) To a health, welfare or social services body if the neglect is found to be unintentional; however,
      - ii) If there is any hint that the neglect could be intentional whether by circumstance or by inconsistencies of information given by any of the persons listed 2. B) or 3. A) then this is to be referred to the police.

Care Provision:

6. Care provision whether formal or informal is to be inspected and reviewed on a random basis, no less than fortnightly, by a member of the inspection team(s) which is one of the teams under the auspices of the Commonwealth Office of the Protective Guardian. These

inspections must be random and have oversight and scrutiny of any neglect, abuse or any issue that might potentially be harmful or prevent the elderly person to live as normal and independent a life as their capacity can fully allow.

7. A) Carers are not to administer any substance which the patient does not have the capacity to understand the full implications of taking.
- B) Having said that, it must be clarified that natural unharmful remedies that the elderly person chooses to take and had proven to be helpful are not to be withheld from them, particularly, when they proved to be unharmful, have efficacy in combatting a potentially fatal disease, and to be beneficial in improving health, happiness, and wellbeing. Indeed, withholding such remedies could be deliberate to intentionally reduce the life span of the elderly person to suit those 'carers' who have an 'incentive' for doing so, a 'disincentive' to providing sufficient care, and a 'conflict of interest' (stand to benefit from their expedited death or their further incapacity by neglect) in prolonging the elderly person's life through improved health, happiness and wellbeing.
- C) Formal care providers are not to interfere in any loved person's provision of care to their parent under the guise that their care is more superior and valuable to the elderly person.
  - a. Formal care providers become jealous and vindictive when loved ones are able to obtain an instantaneous response and provide superior care and thus claim that loved one's are interfering in their provision of care, rather than the opposite.
  - b. Formal care providers take this vindictiveness further when loved ones formally complain about their neglect of duty of care or indignant treatment of the elderly in their own home. They even make unsubstantiated and unevicenced false claims to public guardians and the guardianship tribunal in their official capacity as 'expert carers'.
  - c. The care of loved ones genuinely interested in the health and wellbeing of the elderly person is always more valuable and beneficial to an elderly incapacitated person than any stranger's.

Police complaints relating to neglect and abuse of the elderly:

8. Police must understand that people who have concerns about their elderly loved ones do so with justification, particularly, when the complaint is about a person blocking access:
  - a) They are more familiar with the situation than the police, since the police never properly listen nor investigate complaints against a 'carer' thinking that a carer has an absolute right to run the elder's life;
  - b) Blocking access by a 'carer' is always about concealment of wrong doing and not protection;
  - c) Any statement of neglect/abuse made by the elder person to trusted family and/or officials in the absence of the 'carer' and against the 'carer' must be taken very seriously;
  - d) Any allegations by the 'carer' against loved ones which could potentially result in isolating the elder person or reducing their interaction and nutrition must be taken extremely seriously because it is always about continuing neglect/abuse in secret (behind closed doors).
  - e) Police should be given further training and special teams formed to deal with speaking to the elderly to deal with elder abuse.

- f) Any complaints of neglect/abuse against a 'carer' who is blocking access and making allegations of others poisoning the elderly must result in protecting the elderly person by removing the 'carer' who is blocking access and making allegations of poisoning and mal-administering of beneficial, life-saving remedies. These actions by a 'carer' who if assisted, supported by the many authorities (both individuals and whole bodies) ensures the 'carer' is able to continue their abuse/neglect of the elderly resulting in intentional starvation to death while secreting the evidence with the support of all authorities to whom cries for help are made.
- g) These actions by a 'carer' accompanied with protests against involving the ambulance and police must be taken as red flags of, potentially fatal, neglect/abuse.

### The Future of Aged Care:

9. Current high need services in respite care, food supply, and transport services are grossly inadequate:
  - A) This is a huge opportunity for improved employment prospects through raising wages and job security in this field by:
    - a) Increased care training and nursing training places in aged care are needed;
    - b) There is a huge shortage of transport to high need care places outside the home;
    - c) The taxi industry is in need of overhauling – why not combine the two and permit taxi licenses and plates to be utilised for special needs shuttle busses to better utilise both services (and increase employment in both vocations);
10. This is a great area that governments can utilise to develop services and products through research, promotion and marketing of innovation to increase employment in the field:
  - a) Promoting and assisting new small businesses in developing services and products in care, food, transport and home/disability equipment;
  - b) Although, Meals on Wheels provide a much needed and commendable service, it is insufficient for high need elders. Ready portable additive free (including any natural gums and thickeners) high protein and high energy fluid meals (other than Sustagen) could be developed and marketed around the world;
  - c) Portable easy to assemble railings and ramps could be developed marketed and sold around the world;
  - d) Elders are often too frail and suffer chronic illnesses that are not assisted by conventional medicines which are too harsh and more harmful than healing for their frail bodies. The natural therapies professions can help by developing supplements specific for deficiencies and herbal mixtures that are more effective in healing without harming older bodies.
11. The 'Carer Payment' and 'Carer Allowance' can be streamlined.
  - a) I have encountered unemployed Arabic speaking persons who have teamed with a person who is incapacitated by providing in-home care for them in return for receiving the 'Carer Payment'. The person in need of care had advertised their need in an Arabic newspaper and recruited the carer for themselves;
  - b) Other people who are highly skilled and experienced in caring for the aged advertise their services on the internet for a much lower cost to the in-home elder;
  - c) Institutionalisation and organisational provision of care programs is not the most conducive to personalised individual care, nor to ensuring against neglect/abuse