

3 June 2016

Todd Buttsworth  
Secretary, Standing Committee on Community Development  
House of Assembly  
Parliament House  
Hobart TAS 7000

Dear Mr Buttsworth

On behalf of the Australian Healthcare and Hospitals Association (AHHA) I am pleased to provide the following information as part of the inquiry into palliative care in Tasmania being undertaken by the Tasmanian House of Assembly's Standing Committee on Community Development.

End-of-life decision-making is a contentious topic with uncertainty in the health sector about its management.

Advance care planning (ACP) assists individuals to plan for their future health and personal care, for example by legally appointing a substitute decision maker and by documenting any specific wishes regarding their future health care in an advance care directive (ACD).

ACDs allow for individuals to make their preferences known when crucial health and other personal decisions are required after they have lost decision-making capacity. ACDs are life-management documents individuals may complete in home, community, hospital, institutional and aged care settings.

The September 2011 ACD Framework developed by the Australian Health Ministers' Advisory Council (AHMAC) states that while ACDs are used in all Australian states and territories, they take different forms, have different names and are subject to non-consistent legislation across Australia. The document went on to indicate that this level of variability makes it difficult for one jurisdiction to legally recognise an ACD from another jurisdiction.

While the AHMAC's aspirational ACD national framework describes the goals for which policy and practice should aim, a lack of national harmonisation still exists, which should be corrected in order to ensure national consistency and cross-jurisdictional recognition of ACDs in Australia. The lack of national consistency is problematic, especially with the Australian population being highly mobile where patients frequently move between states.

Medical practitioners are not under any legal obligation to provide futile end-of-life care, however, health practitioners express concern about potential criminal or civil liability when a clinical decision is made to recommend that treatment be withheld or withdrawn, or pressures arising from

managing conflicting treatment wishes visa vie patients, their families and the clinical recommendations about futile treatment.

A nationally harmonised approach to ACP and ACDs will reduce legal risk for health practitioners and ensure the wishes of patients are upheld. The harmonisation of relevant legislation relating to ACP, ACDs and substitute decision-making must be a priority.

Earlier exposure to palliative care can enhance health providers' professionalism, provision of patient-centred care, psychosocial and spiritual aspects of palliative care, and communication. Early and continuous education and training, legal and otherwise, on end-of-life issues throughout the career of health service providers will reduce legal risk and promote patient autonomy.

While early and continuous education is important, current jurisdictional legislative inconsistencies and related legal uncertainty surrounding ACP, ACD and end-of-life decision-making will result in health service providers struggling with understanding their legal obligations.

'Advance care planning in Australia: what does the law say?', a November 2015 article published online by the *Australian Health Review*, outlines the legal status and validity of ACDs by and across Australian jurisdiction, and the authors argue nationally harmonised laws and documents would assist with ACD awareness, understanding, and compliance.

Yours sincerely



Alison Verhoeven  
Chief Executive  
Australian Healthcare and Hospitals Association

***The AHHA has been the voice for public healthcare for 70 years, maintaining its vision for an effective, innovative and sustainable health system where all Australians have equitable access to healthcare of the highest standard when and where they need it. The AHHA represents the interests of its members all over Australia. Its members are mostly comprised of public hospitals, primary health networks, state and territory health departments, universities and other health service providers.***