John B Myers
9 September 09

Email 1: 9 Sept 09

Document 1
September 09.09.09\5769

Submission to the Committee on safety

Two things are certain, birth and death. Add this. In Australia if you are not a regulator you're going to be regulated. Safety/safe practice is a ruse for non-clinicians to take control of clinical decision-making. Protective agencies of government, Tribunals and Boards are protective of their own positions. They are totally self-serving, acting as they do as prosecutor and judge. "Safe" is the excuse people in government agencies, Boards and tribunals, with the help of the Office of the Public Advocate, use to prevent patient's or their caring families from having their say.

On the basis of "safety" people are removed from their homes against their will and have their assets placed under administration by government agencies such as State Trustees and non-government, such as Perpetual Trustees and specific Law firms where one or other of the partners have been members of the Tribunal, agencies who do not disclose accounts in full to those who ask, such as family or their appointed solicitors, who have a right to know and are quite capable of managing the administration and guardianship issues in the best interests of the elderly person.

It is because of "safety" by these "protective" jurisdictions that anyone who requires services from Councils or agencies of government are under threat by those who provide the services, who on the basis of "safety", even though it is not their responsibility to make decisions for the patient, apply for an administrator or guardian to be appointed. Taken out of context i.e. despite the fact that they have no authority to make decisions for another, because safety is relevant to them regarding their service delivery, and nothing else, their application is regarded by Boards and tribunal as a pretext to become involved and to make decisions that are against the wishes of the person, which results in loss of independence and rights.

The older generation who fought for freedom against the German menace, "nazism" to ensure our rights now find that objecting to being told what to do or what one can do or not do in one's home by a "case manager", or even a personal care attendant, who holds a differing view, is likely to result in having an administrator or guardian appointed from the Office of the Public advocate, which they find is like having to fight another war against malice and unaccountability.

"Case managers" are not legally entitled to make decisions for another. The term "case managers" ought to be ablated in favour of a term that describes what they are meant to do, i.e. "services liaison officer", used. Social workers who make the applications are the

worst offenders in having people removed from their homes or having an administrator appointed against the person's will. Any health worker's view is given priority over that of the doctor whom the patient trusts. This is the tell tale proof of the self-serving nature of "protective" agencies of government. Their protective track record, and the attitude of the bureaucrats does not make us who work feel safe. The system is agog with abuse. It lacks clarity of purpose - there is only one purpose i.e. that which is moral. Anything else is self-serving – think about it!

More officers are not needed. People who care are needed as are Laws and a system of adherence to these Laws is required, by utilising an evaluation system that evaluates decisions made by judges, members, magistrates and advocates and administrators appointed by government, as well as the whole notion of "safety". "Safe" practice is not the end point of best medical practice, nor should it be. Safety is the bureaucratic attitude that regards what is known as absolute. Bureaucratic attitudes are made by those in regulator position and decision-making positions who cannot fend for themselves in an open market and who are jealous of us who do. "Safe" is the antithesis of risk that underlies leadership, incentive, innovation, excellence, breaking boundaries, achievement and "happiness".

The whole system needs to be evaluated as has been called for elsewhere, and a system of evaluation instituted that can be used to test the validity of decisions as "good" or "bad" decisions. Scepticism needs to be high when accountability is lacking in these "protective" agencies of government and because anecdote underlies the judicial system approach. Here error is abetted by bias resulting in the admixture of the roles of prosecution and Judge. Here discretion is exercised on the basis that doubt exists, where no doubt exists if the patient's views are taken into account. Here healthy scepticism must reign and an objective system of evaluation instituted.

People are safe behind bars, where dogs and guards strut outside. Safe can mean complete loss of quality of life. Interestingly, there is risk only in life. Acceptable risk is something we can live with.

You can step this way may be the first step in the wrong direction, yet you are telling me it is "safe". Sorry mate, but you are deluding yourself. Making something "safe" may make it impossible for another to reach their full potential. By doing so you are committing an abuse. Helping someone to reach their full potential always entails risk, because one cannot go out of one's comfort zone without there being an element of "risk". Growth is potential being achieved. This involves risk. Take it. At any age, take it for growth depends on it, mental, physical spiritual and emotional wellbeing and health.

Yours sincerely,
Dr John B Myers

Document 2
09.09.09 \ 5769

To: Australian Commission on Safety and Quality in health care.

Dear Commission: Safety and Quality

I shall be grateful if you would read the following submission and recognise 1) "patient focused" 2) driven by information 3) and organised for safety
that the first and the third are not compatible.
1) You need to define "safe".
2) information of what by what. Do you mean "evidence-based" uncertainty? See Aust Med J 2009; 191: p 199-210.
3) "safety" of what. Service delivery can be safe and ought to not cause harm to person or property. The latter are decisions that can be made and evaluated by non clinicians during service delivery.
Clinical medicine is not about service delivery.
Clinical medicine is about whole person recognition and about the doctor patient relationship, that is sacrosanct, where no-one, nobody, no "case Managers" or such like, avid health care workers are even legally entitled to go, unless the patient signs an agreement to this effect making a Power of Attorney arrangement. The doctor patient relationship is different to all others as only the doctor is the natural patient-appointed health care guardian and advocate. Anybody else is simply an imposter, though not recognised as such because there is no system of evaluation of abuse by government agencies such as Medical Practitioner's Boards, VCAT members, members of the Office of the Public Advocate, and decision makers including the Chief Justice and Judges on the High Court, Federal Court of Australia, bench who show bias and contempt for righteousness and justice, by falling prey to admixing of prosecution and judicial duty by excluding the patient's (patients') view. The Medical Treatment Act (Vic) 1988, demands 1) the wishes of the patient be respected and 2) that the doctor who does so is to be protected from criminal, civil and Board action, something that the commission must ab initio take on Board when defining "safe" or "safe Practices", or injustice will be done as, by example, tat I would like you to use as a case in point, namely, that of Myers vs Medical Practitioner's Board (Vic), where the Medical Practitioner's Board admixed the role of prosecution and "judge" or decision maker, and upheld elderly abuse and non-payment for services rendered, by ignoring the wishes of the patient and acting accordingly as an ignominious group, which the Chief Justice and members of the High Court bench in effect agreed with, making them complicit in "safe" practices, that were non-responsive (see Who Health Systems evaluation, 2000), that caused the "death" of the patient following the administration of a lethal injection of Morphine that was not indicated, would have been refused had the patient been asked, and which was likely to have harmful effects given that the patient had become hypotensive from unnecessary medication that was given previously, that she asked me to stop, which I did. They were also complicit in keeping her in hospital against her wishes for 6 weeks during which time her health deteriorated and she developed a leg ulcer and would not eat. And they

became complicit in not paying for services rendered that the HIC agreed to pay for. All of this occurred because of deliberate malice and assumption based on nothing - because like “safety” undefined, anything can be proven, as in the Health Professions Registration Act 2005, which governs their action, there is no contextual definition of conduct or “safety” (see Myers JB, Med J Aust 2009).

The commission ought to ensure that where a person is wrongly alleged to have been “unsafe”, whether or not “proved” by the Court, where nothing is “proved”, only “decided” or “ended”, adequate compensation is given for time, error in judgement/decision, as it is hardly a judgement where bias is central and the patient’s views are ignored, and opportunity to reference to the Medical Treatment Act 1988 was deliberately spurned showing disrespect to the Law; psychological and emotional harassment and wrongful display of material on government websites, is abuse of office, to the doctor in particular and disrespectful of the patient and patients’ views, in those circumstances.

For this I thank you,

Yours sincerely,

Dr John B Myers.

Suggested reading.

1. World Health Report 2000 – health systems: improving performance. Geneva: World Health Organization, 2000.
2. Strull WM, Lo B, Charles G. Do patients want to participate in medical decision making? JAMA1984;252:2990-4.
3. Weinstein JN. Partnership: doctor and patient: advocacy for informed choice vs informed consent. Spine 2005;30:269-72.
4. Myers JB. 'Duty to care', or, 'duty of care' and the goal of medical treatment. Intern Med J. 2006:36(8); 540-1.
5. Little JM. Humanistic medicine or values-based medicine…what's in a name? Med J Aus 2002:177;319-21.
6. Hartzband P, Groopman JG. Keeping the patient in the equation – Humanism and Health Care Reform. NEJM 2009:361(6); 554-5.
7. Kahn MW. What would Osler do? Learning from "difficult" patients. NEJM 2009:361;442-3.
8. Myers JB. Ethics and professional medical opinion and Guardianship and Administration legislation. Intern Med J 2006:36(8); 540-1.
9. Myers JB. Advanced Directive. Choice based on informed Consent. Intern Med J. 2008:38(6);455-6.
10. O'Shaughnessy DV, Elder GJ. Patient-level outcomes: the missing link. Nephron 2009:14(4);443-51.

11. Myers JB. The Australian Medical Council draft code of professional conduct: good practice or creeping authoritarianism? Med J Aus 2009:191(3);190-1.
12. Justice Buchanan and Justice Nettle. Supreme Court of Appeal. Leave application Application for leave granted on the basis “of error of decision below and wrong, if the decision is allowed to stand … given there is tenable argument” recognised the abuse inherent in all of the remaining allegations that Myers acted in the interests of the patient and according to their wishes to stop. Myers vs Medical Practitioner's Board of Victoria. [2007] VSCA163.
13. Myers JB. Intern Med J 2009, in press are two letters awaiting publication, NB. Thank you.

Email 2: 11-9-09

Daer CBaggoley,
May i refer you to the article by Kerr DJ and Scott , NEJM Sept 10 2009, entitled "British Lesson on Health Care Reform" i.e. what we can learn from the NHS, is also all important for Australians, who are on the path to credo, as, amongst other things the Federal Health Minister takes advice from nurses directed bias, not sincere use of doctors in primary medical practice.
I also submit other submissions herewith for your read.

I also must apologise that there are some statements made in the national framework, that are very mush worth striving for, that must be emphasised. However, in the pot pouri of the three boxes, assumptions are made and context contradict the focus on patient centred approach. For instance not everybody wants to work as a team as each, have their own agenda. Team work is not an ideal. The ideal is patient focus. Many teams works as teams, but the members offer their view and often safety is the reason that prevails to prevent a patient from realising their own patient centred goals. How do you address this is in your framework?, the conflict when an administrator challenges the patient of the relative advocating for the patient, and how do you deal with the situation where the third party, being the administrator, say CEO of the Commission of Safety and quality decided to align with the relative, against the wishes of the patient.?, on the basis of safety.? I am sure you agree, patients are able to decided for themselves and what you say or anyone else says is irrelevant to the patient view, especially if the doctor of trust is supportive of the patient's view. and knowledge is not the prerogative of all, in such circumstance, you must agree wit the patient (and doctor) is that not so, I expect you to answer this correctly if you are to head or be CEO of this Commission. B"H, which means thank G-d.

Kind regards and best wishes,
Yours sincerely, Dr John B Myers

Attachment to email 2:

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21 Aug 2009 / 5769

Dear Sirs/Madam,

Re: Inquiry into Powers of Attorney.

Please find attached particulars to the submission
Below is a submission regarding Elder Abuse, that somewhat pertains.

I thank you.

Dr John B. Myers.

I am responding to the call for submissions on Elder Abuse Prevention and do so, using the document /Consultation Paper Office of Senior Victorians, August 2005, as a springboard.

General Comment. Quoting page 19. Summary Community Education; "The importance of education is not limited to the 'information' learnt. Its value lies in the role it plays to change attitudes, behaviours and values. It is this aspect of education and public awareness campaigns which makes them fundamental to a preventive strategy."

For the purpose of education I wish you to consider yourselves as the public and in so doing be open to new ideas and ideals. These are the basis of a meaningful education, as the fundament of education policy is an open mind, and at some point to being able to appraise one's effort, by asking two very simple questions; "Is this how I prefer to be regarded? Is this how I hope my interests are respected?"

General Comment on the Document:

The emphasis of a preventive document must ensure that "victimisation" is not more likely to occur by the way the "group" in question is portrayed.

The definition must be encompassing. It must not stigmatise, nor must it create an exclusion from complicity of certain groups, particularly those who have input into the education and who either decide or administer over the group.

This document falls short because it does set up the group as a target group for victimisation - more than it is already. The focus on "relationship" and "being in a position of trust", by its definition (relationship needs to be defined if you are using a term you must define it) excludes others who are in positions of power that cannot be defined as "trusting relationship", [vide infra *yet are*]. And is the exact opposite of a "relationship based on trust". And it excludes those who are not in "relationships – meaning not only family or relationship context ie positions of trust. Relationships are either inherited opportunities or voluntary as in friendships or through marriage. But the definition must also include imposed

relationships. These are imposed and thus cannot be based on a trusting relationship, yet for reasons that will become clearer, they still are.
Although there is no essential position of trust between the representative and the patient or person, and therefore no relationship between them, given that the appointee has ”to act in another’s best interest”, they dos so in a position of trust to safeguard those rights. A relationship thus exists, between the appointee and society, by virtue of that appointment which is put there to honour the fact that an individual has rights. Thus despite being in “positions of strength or control over the represented person” who is unable to represent their own interests, nevertheless by virtue of that appointment, one is bound by trust invested in the appointee by the people through the investiture of the elected Government.

I shall go through the document paragraph by paragraph and provide a non exclusive definition, an all encompassing definition which does not exclude anyone or any body or corporation who implement strategy or who may thereby even be aggravating factors in abuse and which does not stigmatise a particular group. It is also not age specific and therefore can be used within any cultural group anad between cultural groups.

Specific Comment. By paragraph.

- Purpose of this consultation paper.

The first sentence needs to read “ The majority of senior Victorians are healthy, active and lead independent lives *even though they are vulnerable,* <u>as we are all</u>, *subject to the risks of everyday existence.*

Reason for above: This then indicates the group does not have to feel threatened. They may still be able to lead independent lives, as we all do, subject to the risks of everyday existence.

These strategies recognise that the different life courses of older people require the development of innovative and targeted programs to assist them <u>to maintain their independence and dignity</u>.

Reason for above: Underline to indicate the purpose of the strategies – that must remain the focus of action in every circumstance. After 1 and 2 on page 1 column one insert in bold, the heading, **PURPOSE**, before “These strategies.., to highlight this is the purpose, which becomes the reference point of the ethical and moral workings of the strategies and actions taken.

Page 1. second column, the system must be able to provide an integrated and sensitive response to the problem, *but it must also engage the members of the group, (and also offer the opportunity to those who may expect to become part of that community, a part) in all determinations and discussions, so the community it seeks to protect is afforded the opportunity to be involved in that protection.*

Reason for above: Involving members of the group in an electoral way affords an internal audit of processes and decisions that affect it.

In other words inclusive team work not exclusive team work must be the focus in order to safeguard and ensure purpose, "these strategies recognise that the different life courses of older people require the development of innovative and targeted programs to assist them to maintain their independence and dignity".

Page 2. What is elder abuse?

Definition comes before description of extent. Therefore insert *definition* first.

Definition of Abuse: Abuse occurs when a person acting on another's behalf acts against the person's wishes.

(ref. Myers, JB. Elder Abuse: Call for National Guidelines and Reference Centre. The Inaugural Combined Rehabilitation and Geriatric Medicine 2004 Annual Scientific Meeting. Perth, 27-30 April, 2004).

Merely acting against the wishes of another person may not be abuse - it may be beneficial or not beneficial, intentional or unintentional, civil or criminal. It is only when one acts on another's behalf against their wishes that is called abuse, because it is not abuse of the individual, but of the position one holds and the action one takes or does not take in relation to the wishes of the other.

Definition: Elder Abuse is an action taken/made or not taken /made on an elder's behalf against the wishes of the elder person to which the elder person in any way objects.

Elder abuse occurs when a person, whether or not acting on behalf of an elder, acts against the wishes of the elder **to which the elder person in any way objects**.

DEFINITION: **Acting in a persons best interest** means according to their wishes, i.e. firmly held view or opinion expressed at any time, or as indicated by any means, oral, written, motion, or any other means at that point in time (see Medical Treatment Act, Vic Gov, 1988).

There are thus two components to abuse:

> **Purporting to act on behalf of another as may occur by consent or is implicit as in the case of a parent and child or minor or by legal imposition as in the case of appointed guardianship, or acting by appointment, or acting without appointment or without consent**
> **a) against the person's wishes**
> **b) to which the person may or does in any way object.**

The definition used "occurring within a relationship where there is an implication of trust, which results in harm to an older person" implies there has to be a relationship, but this word needs to be defined. The document focuses on family as the potential circumstance that leads to abuse occurring, and in so doing demonises the within family relationship. But in fact any relationship is set-up to fail in regard to care, not just within families.

It needs to be pointed out that families are the fundamental unit on which societies depend for moral and ethical tutelage and they form the fundament of care and nurturing practices in society.

There is also an inherent relationship which holds societies together that exists between all people that is based on belief in the common good that exists between people, often expressed in the words, "In G-d we trust". It is therefore expected that civility will reign and accord given to each individual respectful of each person's individual rights. Thus abuse can occur even when there is no recognised existence of relationship per se, let alone when there is one.

It is therefore suggested that the definition of Abuse, as indicated above, be adopted and it's components made clearly evident for the sake of PURPOSE and Education and educational strategies undertaken.

Abuse may occur through acts or omissions in different areas and different ways:

> Physical: is where harm to a person is caused through physical means.
> Financial: occurs by depriving a person of asses and financial means. It includes misappropriation, purposeful mismanagement and restricting

access to their own supply or reserve of funds to be used for their own needs and purpose.
Sexual: occurs through non-consensual sexual acts or ongoing behaviour of a sexual nature or intent directed at another person who indicates he/she regards such behaviour as offensive.
Psychological/Emotional: occurs by the use of intimidating language (including sexual inferences) or behaviour and includes influencing others or manipulating environments/circumstances in ways that adversely affect another person's sense of well-being.
Social: occurs through restricting access to persons or to places and activities that the person requests or is known to want to have an ongoing association with.
Neglect: occurs when care or services and or necessities are purposely limited to disadvantage a person, by those whose responsibility it is to manage or provide these to fulfil a person's need(s).

These forms of abuse apply to all persons. The words, "a person" or "another person" can be replaced by "an elderly person", or any other specified person, male or female, for instance, if one chooses to specify any particular person or person group.

Thus, on the basis of the above, **Elder Abuse may be defined as: Action taken/made or not taken/made on an elder's behalf against the wishes of the elder person AND add, *to which the person may or does or can in any way object.*** The use of the word "can" is because it may be trough an interpreter, or in writing or by a movement in answer to aspecific question, be used in addition to verbal indications of objection**.**

Similarly: **Elder Abuse occurs through acts or omissions by persons acting or purporting to act on the elder's behalf or by simply acting against the wishes of the elder person to which the (elderly and/or disabled elderly) person may or does or can in any way object.**
By inserting the words "elder person" and "by a person acting on the elder person's behalf against the wishes of the elder person' into the definitions noted above, these general types of abuse may be applied to Elder abuse: eg.

Physical abuse of an Elder is harm caused to an elder person through physical means.
Financial abuse of an elderly person: occurs by depriving an elderly person of assests and financial means

against the wishes of the elder person. It includes misappropriation, purposeful mismanagement and restricting access to their own supply or reserve of funds to be used for their own needs and purpose.
Sexual Abuse of an elderly person: occurs through non-consensual sexual acts or ongoing behaviour of a sexual nature or intent directed at an elderly person who indicates he/she regards such behaviour as offensive against the wishes of the elder person.
Psychological/Emotional Abuse of a elderly person: occurs by the use of intimidating language (including sexual inferences) or behaviour and includes influencing others or manipulating environments/circumstances in ways that adversely affect an elderly person's sense of wellbeing against the wishes of the elder person.
Social Abuse of an elderly peson: occurs through restricting access to persons or to places and activities that the elderly person requests or is known to want to have an ongoing association with against the wishes of the elder person.
Neglect of an elderly person: is a form of abuse that occurs when care or services and or necessities are purposely limited to disadvantage an elderly person against the wishes of the elder person or by a person whose responsibility it is to manage or provide these according to wishes of the elderly person.

By substituting any person or group for elder person in all of the above definitions of types of abuse, one can readily adapt the general definition to a specific person or group, in this case the Elderly.

Elderly are regarded as being over 65 years of age PAGE 5, and accounted for 13% of Victorians in 2001. Thus description by age is useful to determine statistical information and for analysis. However, in practical terms people are not aware of a person's age. Thus elder may best be described not only in terms of age as known, but also in other ways, see below, comment Page 5.

The next paragraph on page 2 "Elder abuse is typically .."
This assumes – and is dangerous even though elder abuse is committed by those in close relationships including family members, it must be realised that it is more frequently the case that relatives are in a position of strength not trust. Relatives are not a voluntary category of association, whereas friends are. Similarly, doctors are an elected category whereas guardians who are natural or appointed are not. While it may be asserted that relationships indicate that trust exists this is clearly not the case. **Trust** equates with voluntary association and applies where there is freedom of choice (to assert one's right). **Strength** arises from involuntary

relationships because there may be no other person/persons available from whom to obtain support.

Social isolation predisposes to further abuse for this reason, namely to strengthen the control another has over the elderly person.

An appointed person, such as a Guardian is in a position of strength, and implied trust by virtue of the obligation the guardian has to society and to government, who sanction such an appointment. Thus an appointed guardian acting against a person's interest is acting against the intent of the Law, if not against the Law, per se.

Trust depends on the extent to which the person who has the consent to act on behalf of an elder person, or who has been appointed to act on behalf of an elder person, respects and takes into account the elder persons wishes, ie. the extent to which that person's or persons' care provider, assessor or guardian, acts in the elder person's best interest.

By definition anyone can be party to elder abuse because of the trust implicit in our society. Trusting relationships are the fundament of our society, which is to "do to another as you would have them do unto you" and "Do not unto another as you would have them not do unto you". This covers acts of commission and omission.

Elder may be defined according to age group, eg over 65 years of age, or upper quartile of the population, noting that projected figures indicate that in 2042, 25.6% of Victorians will be over 65 years of age. This definition serves to aid in data analysis and collection only. In practical terms one is not always aware of another's exact age. Cultural factors influence attitudes but in any culture elders are grandparents or people at least one generation older than the majority of parents. Elder elders are great-grandparents or their peers. Elders are those who have experience of their own and the cumulated first hand knowledge of experience and tradition of the preceding generation or two, who have died.

Elders (seniors) may also be regarded as such by the white or grey colour of their hair, to which a member of a younger generation would readily react, eg. on a full bus, standing room only, a younger person may offer the elder a seat, even without knowing their age, or help them off or onto a means of public transport, because an elder is physically frail..

A practical definition of an elder is someone who bears physical hallmarks of old age or who appears aged.

Definition of Aged: Aged means physically frail because of age.

The elderly, persons who appear aged or who bear the hallmarks of old age, are more likely to require support services than those younger. This factor, requiring services combined with age group, is likely to determine, more than any other two factors, the incidence of abuse, in this case elder abuse. Are the meek and helpless and those who are dependent the target of abuse because they are vulnerable? Are people who are likely to abuse, actually weaker morally and financially less well off and dependent on an elder for support and or entitlements? Were they ill-treated by the elder in the past? And are people who are likely to abuse psychologically and emotionally weaker if not disturbed because of an upbringing, which has not been founded on the virtues of understanding and respect? Does being able bodied, per se, lead to the elder abuse? Are people who are likely to restrict social contact or contact with others whom the elder trusts because of mal-intent or revenge or both? Do all people within help organisations act out of shared values and recognition of a person's rights? Or do they act to even a score for what they never had, do not know and continue to lack, namely understanding and empathy and a sense of loss at never having been made to feel they were cared for themselves? Does kindness and compassion towards another come into it? If not why not and how did this come about? Or does mediocrity and feelings of inferiority result in Elder abuse? Do the elders behave in a way that allows the other person to feel that abuse is a just retaliation for an elder's own abusive behaviour, even in the distant past? Can abuse go unrecognised, not because it is hidden, but because it is disguised as care. This is a concern as expressed in 7.1.5 "Imposing unwanted interventions may replace one 'intolerable ' situation with another" that needs to be borne in mind, as does the fact that an appointed person, such as a Guardian is in a position of strength.. These are all of some of the questions that need to be asked and borne in mind.

Page 3 continued.
Para 1 from page 2. That acts by strangers are excluded from the definition because of a lack of "a trusting relationship" does not address elder abuse. All of these acts are not criminal, but as mentioned may be beneficial or not, intentional or not, civil or criminal. This approach is based on the restricted and imprecise definition used, as opposed to the definition proposed which clearly indicates that two factors determine the circumstances in which abuse occurs. Your definition attempts to address this but does not for instance cover a circumstance where a

stranger for whatever reason, takes umbrage at an older person for no apparent reason, in ways that are perceived as intimidating but not criminal. The inherent "trust" on which society operates ensures that there exists, even between strangers, the element of trust which determines how we act and perceive another's actions, if and whether that actions is wholesome or an abuse. Accordingly shortcomings are evident in the definition you have used or wish to use, which opens up unchartered channels and opportunities for the occurrence of abuse through action and inaction, as audit will be impossible if this definition is used. One ought to be open to the fact that abuse by strangers can be elder abuse, including actions by appointed persons, who are in effect strangers, would not only be a disservice. It would result in aggravating the problem because prevention can only occur by efforts, which uphold the respect for another's rights, particularly of the frail and the elderly, whatever the circumstance. As mentioned in you definition, abuse occurs when there is a beak down of trust. Every relationship depends on trust. When this breaks down "a relationship can only continue if one party is dominant. This predisposes to abuse, as the conditions for abuse have been set up by a breach of trust. Thus any appointment of someone in charge is an explosive one in terms of an ""abuse" situation set-up".

An older person's response to abuse may be more affected by fear than attitude, so access to help options needs to be a priority in staving off the occurrence of abuse.

Keeping channels of communication and networks open to those in the best position to help, such as trusted relatives and friends as well as doctors, will help to prevent Elder Abuse. Guardianship may be an option in those circumstances where the person does not have capacity. I would also argue that Guardianship is not necessary where there is conflict if the person has the capacity to decide.

Ensuring ongoing support, and sharing in that support by keeping other options open and thereby reduce the load on only one carer or trusted person, will do much to maintain and provide a broader support base for decision-making and action-taking. Sharing the carer load may prevent, or, at least, lessen the potential for abuse.

3. CONTEXT.

The studies in eight countries by focus groups involving older people and primary health care professionals indicated that NEGLECT, VIOLATION of RIGHTS

and DEPRIVATION of choices, were the broad categories regarded by older people who perceived abuse.

THESE CATEGORIES NEEDTO BE FOCUSSED ON IN CARING FOR THE ELDERLY to ensure their rights and are in support of the approach presented in this submission. The purpose of this submission is to have regard for another rights and to understand what is meant by “in their best interest”. “In their best interest” is a not to be used by those committing the abuse a euphemism to disguise their action or decision making, yet, in reality they patronise and act in disrespect of the elder person’s own choice(s), by doing what they may think is right. “In their best interest” means to do for another what the other wants in according with their wishes. This is the corollary of the meaning of abuse.

Toronto Declaration. Spell it out.

The last paragraph on page 3 is potentially abusive as it does not encourage nor list group enhancement and self-help within the group. By sidelining the older person one creates adversarial scenarios, rather than mediation and support networks.

3.2 NATIONAL

This section highlights the PURPOSE, and reflects International trends. The focus on rights, safety, dignity and autonomy and well-being of an elder, reflecting the international trend, demands a focus also on trust inherent in society, that others in society will protect those rights. Therefore the definitions used and proposed in this submission of Abuse, Elder Abuse, and in a person’s Best Interest need to be adopted and promulgated worldwide, to provide just and workable arrangements and services.

3.3 VICTORIAN

As for National, 3.2 above, as the Victorian Government, Victorian Parliamentary Committee on Positive Ageing 1997, is committed to the United Nations Principles for Older Persons (United Nations General Assembly resolution Annex 46/91).

HREOC reiterated, include first paragraph column 2 page 4.
Similarly, Victorian Government, Victorian Parliamentary Committee on Positive Ageing 1997, affirmed the general principle that senior Victorians have a right to live in their own homes.

The Victorian Government, along with the Victorian community considers elder abuse unacceptable. *It does so because the Australian nation is founded on the basis of individual rights and respect for one another. This is emboldened in our Constitution and is also the basis of our Federal system of government.*
The Victorian Government clearly supports educational efforts and service networks that help to prevent and to act in cases of Elder Abuse.

COMMENT: Here terminology (*in italics*) is altered to ensure the focus again is on the rights of the individual, which is the purpose and focus of prevention and care. Supporting "health care professionals and community service agencies dealing with elder abuse", again removes the group itself from being involved which is against the notation in 3.1 that states that older people be involved as action groups. Support needs to focus not on the groups but on the work required to prevent and work which is required in cases of Elder Abuse. This is intended to ensure that **audit of need and response will determine action plans, audit and further funding, FUNDING NOT JUSTIFIED ON "SERVICE GROUPS" but according to performance, at all times being aware of purpose. NB. Quality assessment and assurance and quality control. See also NETWORKING below.**

Page 5, 4.1 para 2, confirms that those who require more services are at greater risk of abuse. Stratifying service requirements by type and amount of service and risk of different forms of abuse may reveal pattern of abuse in different subgroups according to care requirement and location, and by whom.

Page 6, 4.2 column 1, para 1, highlights the involvement of older people in the development of education strategies and seeking their views on delivery of services NB they ought o be involved in the service delivery aspect as well. Perhaps younger groups could also focus on this task from their own perspective in anticipation of them reaching an older age, and leave the oldies to work out their own pathways with *available support as distinct from help*. The former stresses the need to maintain involvement and independence, the latter focus is on patronage and dependence.

Page 6, 4.2 column 1, para 2,

Re financial fraud – civil law protection and advocacy from government departments and their agencies may become more important is a concern given the large commissions and revenues bodies such as STATE TRUSTEES take in costs from an estate they are appointed to administer.

In this regard it is important to mention that people with disability are more at risk.

To prevent abuse from occurring requires a definition of what does “disability” in terms of the VCAT Act mean?
It appears that any disability qualifies a person for Guardianship. Disability is not acted on as though it refers to capacity.
Accordingly it appears that the VCAT workings of the VCAT Act and the adherence to this (system of justice) by the Office of the Public Advocate, that the literal use of the term “disability” is used, which has little regard for “retained capacity”. As such it seems that this approach is used to usurp control over others and make decisions for them when this is not (yet) warranted.

Persons at risk are more likely to be alone, dependent on another to do tasks such as banking, without close friends or relatives to offer moral or task driven support, including personal care, and both domestic and community task support. They are therefore more vulnerable to the need for services and abuse by strangers who enter into their lives to provide the services of need, rather than to care.

This leads to imbalance in the relationship and therefore to abuse as power or control and strength by one party predisposes to abuse of power vs care.

In this regard people who manage services provision must by definition be called service provider managers and not case managers.

Page 6 Item 5. Victorian approach to Elder Abuse Prevention. Covers 6.2 Prevention.
The Victorian response strategy is not a preventive strategy. Response means after the event, Interventions also means after the horse has bolted. Perhaps what is meant is secondary prevention, but this does not address the issue even as a method of secondary prevention. It merely restricts. Like most authorities it is reliant on power.
As a result it is likely to be punitive, which may result in control but without an attitude change – the ingredient required for healthy and successful education.

The education component is removed or squandered in such a system. Involving the participation role of elder citizens in their own control is a better strategy,

which must have as its aim, engendering rights and elder empowerment. Use of the term
"Victim" denigrates a person, and increases the likelihood of adversarial politics and legal processes being pursued, which do not result in changes in attitudes, and are costly, emotionally and financially.

A child protectionist model is of itself not likely to change attitudes. For this reason it is not appropriate. It may be that a child protectionist model does not empower as well as upholding the rights of children. In any model, it is not the child or elder which requires emphasis, but the upholding of Purpose, namely protection of an individual's rights which is the main Purpose and focus, in ways that ensure a change in attitude through participation and empowerment.

This addresses the argument in 6.2.2. "Victim(s)" implies criminality and people do not want to be called victims, and would only do so for macabre psychological reasons, to obtain compensation or refelcts the fact that not enough empathy exists in society to help overcome the psychological trauma or other hurtful sequelae of abusive treatment.

We are all victims of a cruel application of the use of this word, on the receiving end. It would be preferable to see or refer to people not as victims. Such labels dramatise the issue for the sake of the response body or team, to give them more credibility and leeway to do what is both required and not required and that is where the danger lies.

As a society we need to be able to deal with adversity in ways that more readily help over some, and preferably prevent, situations that are an assault on a person's rights or are an abuse of a person's rights.

6.2.2 c.
Advocacy does not equate with independence. Independence means to act in he "person's best interest", which often Advocates do not. Being a stranger to an issue or case presentation also does not guarantee independence. Advocates often prefer their own opinions. They refuse specialist advice yet they have no training on which to do this, let alone the empathy this requires - to act in the person's best interest. Independence does not equate with objectivity. It may mean callousness, distance and intolerance. This is a vital area that needs to be addressed. Failure to do so sets
an attitude in place whereby the whole area of safeguarding a person's rights collapses.

We would rather no advocacy system existed than one which operates without accountability practices by interest groups.
There are no qualifying tests for people who want to become advocates, nor are training programs in place to ensure the likelihood of focus on Purpose and on actions to support prevention and changes in attitude.

6.2.2 d. integrated models have benefits, as long as it is not “their familiarity with one another” that is the primary focus, see para 2, but their familiarity with Purpose. This means familiarity to ensure the rights of an individual are to be upheld and supported, let alone protected, in a way that does not stigmatise, so that no stigma is attached to this, but rather a consistent mindset in regard to purpose that results in a change in attitude. (see Attorney General’s Justice Statement, 2204, page 15, column 1.)

<u>Primary prevention strategies and secondary prevention Strategies.</u>

Primary Prevention Strategies. Education to parents, with young children and newly weds about the importance of understanding and respect and educating a child to learn from their own parents the meaning of understanding and respect. This requires listening, setting an example for one’s kids by being respectful to one’s own parents and to stand up for what is both right and good, according to the Law (Torah of Moses), which provides the moral framework on which all societies are meant to operate.

Secondary Prevention Strategies. This involves networking the various agencies that are equipped in different ways to deal with reporting of elderly abuse and in being able to respond to call from those abused, for help and counselling.

Networking between agencies has been clandestine and hidden by means of informal understanding, not in writing, which would be subject to scrutiny. In order to ensure these agencies act in the elderly abused best interest they must not only be self-serving, but must serve the group they are meant to protect in the interest of all society.

To transform how they act, in mutually exclusive mode, for instance the residential care rights service will not intervene in a matter the at VCAT is involved in and so on, requires change.

NB. What is required is networking between agencies in a way that strengthens the process of ensuring elder person's rights. This is best achieved if the agencies complement each other's service or response provision, rather than "compete" with one another to obtain more "victims" as "their charge" to justify their own existence as occurs, or so it appears is the case, at the moment.

But in order to avoid duplication and make the process and response more efficient and focussed to prevent abuse, all complaints and applications to the various bodies including the Office of the Public Advocate and the Guardianship Board, may I suggest the introduction of a Triage model (Myers). All applications are filed centrally. These are then assessed by a triage team of elders, who distribute the load to various agencies, which they regard as most appropriate, including the Police or residential rights or to arbitration as the case may require. An Elder Council to determine outcomes of decisions that are filed for appeal and an Elder group to assess outcomes on a random basis will provide the means to audit the process from application to outcome.

Page 6

- For each service to develop their own protocols will not reveal any good. There must be a central plan and an optional opportunity to add questions to be able to ask specific questions that may be required in different geographic locations. An Australian wide data-base with similarly collected material would provide better opportunity to research and assess the issue and progress.

    As it now operates the Office of the Public Advocate and the Guardianship and Administration Tribunal needs to be ordered to develop sound guidelines of operation in society's best interest. It is in the position to ensure the foundation stone of moral and ethical practice is the foundation of its operation in society's best interest.

    An algorithm that makes decision making according to ethical and moral values simple that will ensure the foundation of society, by any member who adheres to them would simplify procedures.

5.1 Para 2 (page 6), Para 3 (page 7) The GUIDE for Health Services and Community Agencies dealing with Elder abuse needs to be rewritten to reflect the co-operative spirit of all Australians to engage to deal with the problem and in a more objective manner. Agencies will not only provide services. They will be involved in both primary preventive and secondary

preventive Strategies and the auditing process, through transparency and public participation in this important area.

There needs to be a program of training and assessment in place that all members in any body or organisation officially dealing in the area of Abuse are acquainted with, which develops the awareness of Purpose in this vital area.

- The focus on individual rights and action in respect of those rights, Purpose, must be highly regarded so that in practice this idea is adhered to and completely and reliably understood with familiarity. Culling of those who fail needs to take place. A module of training in this fundamental area must be introduced into any training course, in any group, that would deal with abuse, and be the core of service provider ethics in training, to alleviate and prevent abuse from occurring within establishments, and to aid in resolution of disputes.

  Recommendation: In addition to the above a module ought also to be developed to introduce this life dimension in primary as well as secondary schools – for instance what do elders mean for children with different backgrounds /from different countries. This will allow one to dispel prejudice and highlight how elders' lives and views influence the national culture, the ANZACS for instance.

Continue to list service groups whose role/case load is to be allotted through Networking by peer groups.

Peer group networking will streamline the process by avoiding lengthy hearings when conciliation is appropriate to ensure balance and upholding of focus and Purpose, namely an individual's rights and to facilitate review by more than one body dealing with abuse if this became necessary. At present exclusive participation is the case at the moment ie resident rights will not be involved if VCAT is involved, yet it may be appropriate to have the presence of both to ensure balance and Purpose. Peer group triage would ensure that an application to VCAT for instance by a nursing home to obstruct a relative with a complaint against the nursing home does not bypass legitimate complaints options for the relative. The application to VCAT must not result

in the exclusion of the right to protest to Residential rights groups. The application before VCAT removes much of the option for a resident's right

to be bypassed by the nursing home having done so. A peer group triage system would enable correct channels to be accessed to address that.

Peer group networking will streamline the auditing process of appeals and random assessments of outcomes and cases for quality assurance and training purposes.

5.4.1 The Office of the Public Advocate and VCAT represent the Victorians with disabilities. Is this intended to mean what it says? Use of the terms “disabilities”, “impairments” and “handicap” are in Rehabilitation Medicine are different. An “Impairment” is a structural loss of an organ or body part. Disability is the result of impairment. Neither, impairment or disability even if present, necessarily causes a change in capacity. Similarly, handicap indicates the effect the disability has on a person’s ability to function in society, yet even this does not necessarily influence a person/s decision-making capacity. Terms have to be defined, as above and used correctly by all in the field. Standardised protocols are required. Developing one’s own systems can be encouraged on the basis of randomised testing as trials, with development and set-up, assessment and audits undertaken with peer group involvement and probable academic input to ensure fairness and rigorous assessment. The results of such trials will be made known and assessed in selected areas randomly assigned, prior to generalised introduction. Scientific methodology will remove anecdotal reporting and subjective assessment as the basis of departmental operation standards.

Format and 6.2.2.
Clear pathways – beckons an algorithm approach for triage and after triage. And use of an algorithm model to decision making at VCAT to ensure morality and principles which are in keeping with the An tradition and which reflects the United Nations Principles for Older Persons: Independence, participation, care, self-fulfilment and dignity. (United nations Assembly resolution 46/91, annex.

A case in point, of singling out of groups for negative intonation – is shown in 6.2.2. By setting social workers and doctors in a negative way is an attack on professionals, albeit they too need to have modular training in regard to the issue of individual rights and to providing meaningful assessment. Doctors more than any other group are best equipped to determine capacity because of the clinical training, knowledge and expertise to assess physical as well as mental state, t to determine first hand the true mental capacity. Neuropsychologists, on the other hand rely on hearsay as a to a person’s condition as they are trained to test the

engine only but are not equipped to test the roadworthiness. For instance a person may have a 60%

score on neuropsychological testing, yet function well at home, independently and safely, but in a strange location not function well at all, or under stressful conditions they may function poorly and be given a low cognitive score. Yet on vital issues which concern them, such as where to live etc. an d who will care for them, decision making is clear cut and there is no impairment in capacity at all, despite other findings, even on neuropsychological testing. Therefore doctors trained in this field are the group best equipped to assess capacity, as none other have the qualifications and expertise to do so, unless trained to fulfil this role, with the proviso that audit groups can check these if there is a dispute. Even then, special training is needed. The ability of doctors is enhanced through the clear understanding of physical diseases and their impact on the individual which is part of the training of doctors, but which is not the focus of training of any other group. The doctor is therefore best positioned to become expert in the field of capacity assessments, but there must be a standardised best practice established to ensure this.

Nevertheless focussing on the individuals involved and not on the rights and issue as it is related to Purpose is an attack on professionals. This may be subconscious or otherwise, by those who are not trained as professionals, but words to this effect have been clearly stated in one Hearing, which was indicative of the attitude towards expert evidence or assessment by doctors when this does not suite the Tribunal. Preference has also been expressed by a regional manager, Office of the Public Advocate, that they will obtain what evidence they want and will choose sources according to the information they choose to obtain. There was no indication they would choose randomly or accept other evidence.

Such bodies ought not to have “self-interest” in proceedings and ought o uphold the values of objective enquiry, without which the rights of an individual in society are denigrated and abused. These organisations are complicit as regards Elder abuse

But it is also an attack on families, to use the term family violence. It is not in the public interest for the bulk of VCAT members and advocates attached to the Office of the Public Advocate to be so deplorably complicit as regards Elder Abuse. It is their role to focus on the Purpose, not on denying access to professionals and by doing so ensuring the absence of Purpose. As mentioned Professionally qualified health care workers with clinical training in medicine need to be trained and assessed in relation to their attitude to individual rights and

to their ability to or capacity to be able to make capacity assessments. There is a need to have specialists trained in this field. 7.1.3.

6.1.3
"Society fails when it views seniors as disposable and does not actively promote their importance and the sanctity of their authority and safety". *This is the basis on*

which society must not adopt a punitive approach or blaming, but rather to develop a cultural attitude that values the worth of accumulated experience and valued use of time.

The needs of children provided by their parents, results in the needs of parents provided by their children.

Thus while there may be adoption of child abuse prevention strategies applicable to the elderly, this must be based on the recognition of rights and preservation of dignity of the charge, either younger or elder. It requires the provision of more support and care.
Punitive action has little place if any in care. Carer stress does not require punitive action as this cannot serve to make "violence" disappear. Problems of physical and psychological abuse arise from insufficiency in parental understanding and of parenting requirements per se, of knowledge and awareness that are not related to income and status, but ignorance with respect to the meaning of care.

6.4.2
The use of terms such as "Family violence" is the wrong focus. It has nothing to do with families. It has to do with lack of opportunity or knowledge relating to care. The "family" is not the issue, except that what may be wrong becomes inbred, and that is the lack of value and respect of human rights.

6.4.3
Family violence will be treated seriously by police. There is already "too much" police from highways to wasting time laying charges against people who are innocent in our lives. It is not appropriate to get tough. It is appropriate to quell emotions that have gotten out of hand momentarily – and to this end the police can be advisory not punitive and reassuring not destabilising, and comforting rather than distressing. Police would also benefit from "safeguarding the rights of others" training. Police can then work to bolster positively re-enforcing ideas and

attitudes rather than be employed to only deter or arrest the “bad” from happening.

7
7.1
Promoting positive ageing and social connectedness are key elements of the strategy. This is to be re-enforced ***but not at the expense of family***, and not to ensure independent but biased involvement of anyone from carers to the members attached to VCAT and to the Office of the Public Advocate. Consultants in the State Trustees, also act against the public’s interest and with emotional bias against doctors who support patient’s rights. Why? One may well ask. For money or to keep their jobs?

7.1.1
Knowledge of what others can do or who are set up to do for them and participation in services and utilisation of services in which they have a large measure of input and decision making capacity, empowers people in a healthy and constructive way.

Resource brochures. Substitute the word likelihood of being “victimised”, to “taken advantage of” – let’s not dramatise for the sake of getting too involved and run the risk of forfeiting their rights, rather than protecting them, and of intrusively involving ourselves rather than supporting a family framework, from a distance. NB.

7.1.3
Elder abuse as a curriculum for health care workers as well as a curriculum on human rights and parenting in schools, within the concept and structure of positive family traits.

7.1.5
“Imposing unwanted interventions may replace one ‘intolerable ‘ situation with another” needs to be borne in mind.

7.1.6
Updating “ With respect to Age ..’will include current NOT agreed definitions of elder abuse – please see definitions provided as above, as the current definition will simply result in repeatedly “insert 7.1.5 above here - “Imposing unwanted interventions, which may replace one ‘intolerable ‘ situation with another” needs to be borne in mind change interventions to definitions, “imposing unwanted

definitions will lead to interventions that are intrusive and which denounce the valuable life carriage of nurturing and caring values, the family, whose role is both within families and to impart these values to others less fortunate in whose family/ies where this respect of human rights was lacking.

Primacy of the autonomy of older people who are suffering *from* abuse by others or another, or are in a susceptible or abuse sustaining situation.

Establishment of peer support networks and peer review by older Victorians. Funding will be required. It is also considered that older even retired workers be involved in part time training or full time training of younger trades people or those in law and medicine and business or in administration and government and other learning or work situations. They may also be able to nurture younger generations

and pass on to them the cultural aspects of togetherness and ideals that characterise the Australian identity of what this nation has achieved and continues to strive for.
New immigrants would be well to know this is what is expected and to discard their prejudices before they arrive in Australia as they approach Australian waters. Respecting what is ours, be these fisheries and or forests will help to establish respect for those who are elders and have lived and fought for the ideas we now can share. And let them also tell of their blunders, so that these are not repeated. Encourage them to present their strengths and weaknesses to ensure the younger can learn from their “old age” and be wiser and more experienced as a result of this interactive experience.

7.1.7 end of column one.
Agencies assisting older people insert bracket
(who have been abused or are at risk).

The South Australia model appears to have the right focus. More can be made of advanced directives and capacity assessments, May I suggest the a website or column in the news entitled, “Seniors aware” for an informational experience. Information includes the advantages of Advanced Planning and appointment of Power of Attorney by people whom one can trust, medical doctors included, in relation to life style decisions, and lawyers and accountants in relation to financial administration, as well as members of one’s family as the usual resource.

7.1.8

This is important. Mediation. Also Triage will prevent unnecessary use, as determined by the peer group, of VCAT in circumstances where there is no disability Committee, who will ensure that mediation takes place first, and who can run the mediation format or monitor this.

7.1.9
The continued use of the term victims is the wrong focus, not because of wrongs done but because 7.1.5 “Imposing unwanted interventions may replace one ‘intolerable ‘ situation with another” needs to be borne in mind. Use of the word “Victim” focuses on the person, not on the Purpose, which is why it stigmatises and forms the negative view, which results in less reporting and more isolation, which ensures the abuse will continue or become more serious. Call them as in 8, Seniors *whose rights are the duty of all Victorians to continue to uphold, even when and if they have become dependent.*

8.
How is it possible that you say Older people should not be seen as frail, yet you continue to use and to call them or refer to them as victims. Does this approach or

attitude stem from VCAT, the Office of the Public Advocate? The Government papers, on the other hand, are well balanced, and all focus in the rights of the older person being upheld, not on making them appear not only vulnerable but stigmatised as well, as occurs when discussion is “personalised”, which evokes emotion and subjectivity rather than objective argument.

No wonder so many rape victims never get over their tragedy, because how can they if labelled as victims. No intention is made other than to bring this matter to attention, without trivialising the tragedy that occurs through intrusion, whether physical, emotional or psychological, and all may occur in the case of Elder Abuse or rape, whether physical or financial, which is a denial of rights.

One has to educate citizens that victimisation occurs where there is lack of tolerance and that younger and older, male and female are victims of the press, or terminology and attitudes that although well meaning are in themselves the perpetrators of much unnecessary suffering an harm. See comments on “your definition” of elder abuse, which has the potential to aggravate the situation and expose more people to abuse”.

A positive yet empathic approach will go far further to ensure inter-generational understanding both within families and between cultures and people of differing

backgrounds, and yet provide a core of values on which to focus preventive and response strategies.

8.2
"Individual rights" does not mean publicity of individual personal activities and preferences. Rights means the support of moral and ethical values that ensure fairness and justice and respect for an individual's right to free choice and free association.

8.2 It has nothing to do with lesbians and homosexuals.
Focus on purpose, not on persons wanting to be involved or who want to publicise their activities, which are personal not public. This is how one gets entangled in discussions about diverse groups, when the issue is about "safeguarding rights"
The issue of rights certainly has nothing to do with the activities of such groups or justifying their personal preference or activities publicly, or using public monies to do so. Elder abuse has to do with rights. It is not about personal preferences. It is about activities. Elder abuse is not about the people in some emotional or nebulous way. It is not about prejudice, perversions or personal actvities. It is about safeguarding their rights, whether or not they are engaged in any activity, from drag racing to drag queens, or being male or female, for that matter, is immaterial to the abuse.

Elder abuse is about the activities by another that cause harm in situations that one would expect otherwise, from being given a position of trust.
Elder abuse is acting on an elderly person's, behalf, against their wishes, to which they in any way may or can object.

It is not about what lesbian and homosexuals are on about. Elder abuse should not be used as a vehicle for nefarious activities involving other groups. The point made is that older people are part of the equation, and activity of the elder is inconsequential, so that this hocus pocus about whatever people do privately is not an issue that needs to be entered into. To do so indicates that these groups are putting their case on the band wagon of abuse, which is, perhaps another form of abuse not mentioned, to manipulate a just cause to further their own self interest. How shameless of any body to make use of the frail and elderly in this way, for their own self-shamelessness, in the name of elder abuse.
To call someone who did this a scoundrel would make no sense of this. But an elder could call out to them and say, "where are you now?"

Would you stand up and be counted. If the person has the courage and does so, then the elder could ask him or her to please write one hundred and one times, "I will not litter the world again". Then instruct that person to go out into the world and pick up one hundred and one pieces of litter, or cigarette butts, if they smoke. Then instruct them or him/her to discard these appropriately or recycle them if that can be done, then to please report to the Elders office for lessons in weeding and lawn cutting without creating noise. And so on until a sense of respect for an individual is understood. It has nothing to do with personal issues. It has to do with obstructing a person who wishes something else, by someone acting against their wishes yet purporting to act on their behalf.

It cannot be said too often. <u>Care of the elderly</u> *is about respecting older people, particularly, dependent older peoples' rights by honest representation and acting in accordance with their own wishes to ensure their individual rights.*

8.3
As mentioned in your document 8. Para 2. It has to do with empowering older people and respecting their autonomy, whilst ensuring assistance is available should they require it -- to address the issue in an holistic manner which extends beyond health care and community service responses. This being so add **and which ensures that the focus is not on disability but on retained capacity**. *Capacity for living, making lifestyle decisions and in doing so helping the youth in society to learn, develop and to enable achievement of and on their own because of what they have learnt and the respect they have for an elderly person's input, determination and achievement.*

Elderly people have capacity to continue to infuse society with positive input.

8.4
"Elder abuse is a violation of Human rights and a significant cause of injury, illness, lost productivity, isolation and despair".
Where is the productivity lost to a generation that is not employed? And where is the despair, which implies that nothing can be done about it?

Do not erase the sentence, but add reality and clarity to it.

"Elder abuse is a violation of Human rights and a significant cause of injury, illness, lost productivity, isolation and despair – if one can believe

this then one needs to add to this**, to the abused and the abuser, and to society as a whole**.

PLEASE use the whole sentence, the incredulity **as well as the** (more likely) **facts**, which now follow and put the matter into context. See 8.3 to address the issue in an **holistic** manner which extends beyond health care and community service responses

Similarly,
"Confronting and reducing elder abuse requires a multi-sectorial and multi-disciplinary approach" is fine and makes a lot of jobs for a lot of people to do any thing without quality control, a continuation of the present system which focuses on self importance of those who provide the service, rather than on the service they are meant to provide not simply as a service but mindful of purpose.

Change to read as follows:

"Confronting and reducing elder abuse requires *honesty*", the rest is superfluous.

RECOMMENDATIONS. Are throughout text above.

SENIORS AWARE.
- A multi-dimension access site whose purpose is to ensure elders' rights by;
- Being manned by elders in groups,
- who triage all complains or applications related to elders' lifestyle and well-being
- including to VCAT, Residential rights etc
- and provide information as may be required.

- Develop programmes to be used in schools,
- A call for a review of the whole guardianship area of VCAT, the office of the Public advocate, and the State Trustees, and invite "a truth Commission of all members, as well as a call for views related to case against decisions made in VCAT.
- Call for submissions and from randomly selected files regarding their loved ones, when the decision for guardianship has gone against them.

- This can be done in random fashion to ensure auditing takes place of the VCAT services provided and ramifications that flow from this.
- The triage function will assess applications and triage them to various services that may do the work required as relevant,. The service group response, process and decision, will be assessed by another elder group. They will check the triage suitability and also the review of the outcome of triage, delegation and action taken by the service group. Statistics will be kept and decisions analysed for Purpose assurance control and cost savin in the community.

Use of the term “family violence” is negative and has the wrong focus. It stigmatises family. It undermines family values. It focuses on violence, as the main issue. Which sets up males more than females unless we are referring to carers, more of who are female. It focuses on physicality whereas many more subtle forms of abuse, such as isolation from people whom the elder prefers to see, may go unnoticed.

Access to the site will be by Internet facilities and individuals on request and provide feedback to LMO’s and service providers. Case managers will have their role as service managers. They are not decision-makers, and cannot make decisions other than from where to obtain service provision. This definition needs to be promulgated, which is that they have no part in determining anything other than where requirements of care come from. In their own accommodation or location the
elder person may indicate that a replacement care service manager is required, if the case service provider considers that the persons requirements are better met by making other accommodation arrangements rather than providing more services. A replacement for the case service manager may be the required if they are unable to come up with the required services, failing which reassessment of location suitability may be required. In such a situation a doctor, with experience in home support and feasibility of this, acting together with the elder group involved will determine care provision requirements and options that can be accessed.

Education is required as an essential component of any response network that includes information on action channels as well as counselling, assessment,

support and legal advice services, with ready reference to existing services dependent on auditing of process and outcomes by an Elder assessment service network.

As it now operates the Office of the Public Advocate and the Guardianship and Administration Tribunal needs to be ordered to develop sound guidelines of operation in society's best interest. It is in the position to ensure the foundation stone of moral and ethical practice is the foundation of its operation in society's best interest. These moral standards must of course be in accord with the foundation stone of moral in G-d's eyes, as founded in Torah Law. This is universally expressed as, "do not unto others as you would not have them done unto you", which is the foundation of its operation in society's best interest.

I am able to discuss with you an algorithm that makes decision making easier and which could make the task of a Triage group easier to decide whether there is a need to go down the path of appointing a Guardian.

Please refer to other recommendations that are contained throughout this report.

I am happy to discuss cases which indicate the burdensome accord of the VCAT and Office of the Public Advocate and the State Trustees, on people whom the VCAT consider have a disability. Each need to be thoroughly audited and reassessed, as do all services, on the basis of service provided and meeting expected standards of operation in relation to settlement of dispute claims, to ensure person's rights are upheld. Similar aspects of use/abuse may relate to the **Mental Health Act.**

Thank you for your kind consideration and attention. You may wish to discuss any or some, or all, of this document with me, which I am happy to do. I am happy to discuss this submission or other subject matter at any time, except on Friday nights and Saturdays, with grace.

CONFIDENTIALITY STATEMENT.
It is permitted for you to quote the author in using any of the information contained herein. If there are any queries please do not hesitate to contact me to discuss these at any time.

Yours sincerely,
Dr John Myers.

Email 3: 11-9-09

Dear Commission, please consider my last email to you earlier today as a submission in its own right and append to it the reference "Dr Holmes at 200 - The SPirit of Skepticism", by Ryan CS and Podolsky SH. New Engl J Med 2009; 361(9); 846-7.

with thanks and belief in G-d alone,
Yours sincerely,

Dr John B. Myers