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BY: LACA

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18th December 2006

Submission No. 95
Date Received

NA
The Secretary,
House of Representatives Standing Committee
on Legan and Constitutional Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam,

Re: Inquiry into Older People and the Law

Thank you for the opportunity to make a submission on the Inquiry into Older People and the Law.

I am pleased to enclose a submission from the Social Work Department, Bendigo Health, together with a copy of the *Responding to Abuse of Older Persons* kit developed by our Department.

Yours faithfully,

Jim Young,
Manager, Social Work.

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SUBMISSION: INQUIRY INTO OLDER PEOPLE AND THE LAW

BACKGROUND:

The Social Work Department has been instrumental in developing a 'Preventing Abuse of Older Person's Kit' in 1999. Our Project received a Commonwealth Violence Prevention Award in 1999.

An updated version was released in 2005 including abuse in residential settings. Recent funding from State Department Human Services assisted with the printing of new kits and education via the delivery of workshops to community and residential care workers in aged and disability sector across the Loddon Mallee Region.

Our role at Bendigo Health in aged care encompasses inpatient, community and regional contact. Many forms of abuse have come to light in our line of work with financial being the most predominant.

Many of these cases of financial abuse would have been prevented if appropriate legal advice had been provided early on. We recognise that older people are vulnerable and at risk of coercion and manipulation regardless of their cognitive capacity. Unfortunately, the notion of vulnerability does not seem to be well integrated within the legal system whereas, Incapacity is generally well defined. A number of cases of vulnerable older people recently received media attention. The families and/or older person(s) seem to be helpless to stop the exploitation. It is not uncommon in our city that older people receive harassment by young people, when attending banks to collect their pension monies. The very same exploitation can occur in residential settings where older people feel isolated and vulnerable to abuse even though they are medically defined as capable. The line between vulnerability and incapacity is blurred. The law needs to provide some level of protection to people who are deemed to be vulnerable to exploitation or where suspicion has been raised that abuse or exploitation is occurring.

The program would also provide assistance to:

- Aboriginal and Torres Straight Islander people aged 45 + years. Australia has a significant Aboriginal population located across all regions of Australia. The matter of abuse of older persons has not been specifically addressed within this community in a culturally respectful manner.

We welcome the opportunity to contribute to this inquiry and have read the current submissions. We support their recommendations rather than reiterating them.

RECOMMENDATION:

We would therefore recommend a national approach to this ever growing problem. This should include the availability of legal assistance, free or low cost to older persons providing advice and information on:

- Estate Planning;
- Power of Attorney;
- Health Care Directives;
- Finance and Consumer Issues;
- Family Care Agreements & Property Disputes.