

08 February 2022

Professor Elizabeth Reymond
Office of Advance Care Planning
PO Box 2274
Runcorn QLD 4113

Via email: acp@health.qld.gov.au

Dear Professor Reymond

Thank you for the opportunity to comment on the draft Statement of Choices forms v6.

I support the Office of Advance Care Planning's commitment to encourage Queenslanders to plan for their future health care, and it is encouraging to see the improvements that continue to be made to the forms.

Introductory Information

In the introductory information before the forms, it is a positive change to see that it is more clearly stated that the Statement of Choices forms are to be used as a guide only for the appropriate substitute decision-maker when a medical decision is to be made, and that the forms are not legally binding.

However, the positive change noted above is somewhat negated by the look and feel of the forms, which still create a perception of 'legal formality'. The font used, the colours, and the structure of the forms remain very similar to those used for advance care planning forms that are legally binding in Queensland (enduring power of attorney and advance health directive forms). When combined with the use of the Queensland crest, the forms continue to convey a perception that they are official, and quite likely, binding documents, even with the inclusion of the qualifying statement on the cover page.

With this in mind, I suggest that additional consideration be given to the look and feel of the forms, to potentially make their structure and content more aligned with a document that is not legally binding. It is also suggested that the document include additional information stating that no person is bound by the information or wishes contained in the forms, and that should a person wish to have a legally binding document in regard to their medical preferences that they complete an advance health directive.

Forms A and B

In both Forms A and B, it is noted on the final page that they remain current until they are replaced or withdrawn. However, it does not appear that there is any information on either form as to how to replace, withdraw or update them. Although the process is likely to be explained on the website or via the phone number provided, it may be helpful for people to have a brief explanation of the process somewhere on the forms.

In relation to Form A, I note the updated doctor/nurse practitioner's statement and its improvement over the previous form by outlining the role and responsibilities of the doctor/nurse practitioner signing the form. Although it does better describe the context of capacity in this situation, it may be of further benefit to refer to the fact that the definition of capacity is contained in the glossary that also contains a reference to the capacity guidelines.

Further to this witnessing requirement, some concern remains regarding this procedure not requiring an independent witness. The practitioner witnessing the document can be the same person who has guided the person in specifying their wishes and preferences. A proper enduring document such as an advance health directive or an enduring power of attorney contains a verification by an independent witness that the person has completed those documents willingly and that the information contained properly reflects their views, wishes and preferences without any undue influence being applied.

The Statement of Choices should contain the requirement that it be witnessed by an independent witness who can verify that it contains the views of the person completing the form.

Specifically regarding Form B, I acknowledge the improvement made to the wording of the form to indicate that it only contains that person's general understanding of the views and preferences of the other person, which should create less confusion that this might be considered to be a direction for medical treatment.

Other enduring documents

The purpose of the Statement of Choices document appears to be that it is a planning document intended to be more accessible and easier for people to complete than the more formal, legally binding documents that exist, such as an advance health directive.

However, I suggest that the introductory information should encourage the person to consider completing an advance health directive if they are able to do so. An advance health directive is legally binding and would reduce confusion among both the people completing these documents and medical practitioners who must rely on them. A properly completed advance health directive may mean that there is no need for a Statement of Choices at all and would assist all parties involved in knowing exactly what a person's views, wishes and preferences are.

Thank you again for the opportunity to comment on the Statement of Choices forms. I would be happy to speak further with your office if required.

Yours sincerely

A handwritten signature in blue ink, appearing to read "John Chesterman", with a long horizontal flourish extending to the right.

John Chesterman (Dr)
Public Advocate