Submission

No 8

INQUIRY INTO THE OPERATION OF THE HEALTH CARE COMPLAINTS ACT 1993

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COUNTRY WOMEN'S ASSOCIATION OF NEW SOUTH WALES

SUBMISSION:
INQUIRY INTO THE OPERATION OF THE HEALTH CARE COMPLAINTS ACT 1993

To: Parliamentary Joint Standing Committee on the Health Care Complaints Act
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We thank the Parliament of New South Wales Committee on the Health Care Complaints Commission for the opportunity to express our views and recommendations on the Inquiry into the Operation of the Health Care Complaints Act 1993.

With the health care system in crisis it is timely that an enquiry be held into the handling of complaints.

Of great concern are the limited powers of the Committee on the Health Care Complaints Commission. The Committee monitors and reviews the Commission's functions, reports etc. but, if not satisfied with the findings, cannot request that particular complaints/decisions/findings be re-investigated. It appears that the complaint investigations commission has a poor outcome in relation to communicating the findings to Area Health Services and Registration Authorities, the committee has no power to act, cannot enforce outcomes and follow-ups, and there is no infrastructure to police and enforce outcomes.

The public would be much happier if the complaints commission included members of the public and not just medical professionals and bureaucrats who naturally have a tendency to protect their colleagues and peers.

Complaints from consumers/patients and professionals have to be followed up. The main problem is the lack of fast tracking of complaints from these individuals through the many layers of bureaucracy. The complaints system has to be simplified and paper work minimized. Complaints management should be able to receive a complaint, document it, set a time for the complaint to be heard, and assistance to the person making the complaint offered (advisory personnel etc.) all given in as short a time as possible to relieve stress and concern.

In some hospitals (mainly private) those leaving hospital are asked to complete a survey form listing degrees of satisfaction on treatment, services, food etc. (and complaints one would presume). In most public hospitals, there are "mission statements" on walls and a little booklet in the bedside cupboard listing the patients' rights etc. In the latter case, the patients would be so upset by just being in hospital, that the last thing they would be looking for would be a manual of policies and procedures and, as all public hospitals are stretched for beds, usually as soon as the patients can sit up they are sent home – again, no time to look at paperwork.

Suggestions have been made that all patients entering hospitals should be given information regarding their diagnoses and the risks associated with their treatment. This can happen only with elective surgery and other procedures when treatments are detailed and or planned in advance. However, most admissions into public hospitals are made because of casualties/accidents and sudden events such as strokes and emergency

maternity etc., certainly not the time to sit the patients down to read them their rights and expectations, and it is at these times when reception/admission staff are so busy and stressed that adverse events happen (like giving birth in the toilet area). It is from these adverse events that many health care complaints originate.

Also overseas trained doctors may find it difficult to communicate and be understood by emotional and sometimes hysterical parents and carers in stressed emergency and casualty centres.

One would hope that the purpose of a health care complaints unit is to identify and rectify problems that occur either in the system in general or by individuals. However, from discussions with some of our members and the public, it would appear that few people have any confidence in this happening.

It has to be acknowledged that mistakes will and do happen, and most people are prepared to accept this, However, what is not acceptable is that these mistakes are covered up and rarely reported to superiors and certainly never to the patient. Patients are much better informed today on expected medical outcomes – the days of the doctor's word being taken as final is no longer the case. Patients and their families know when they are being given misinformation, or in fact untruths.

All health consumers in this State know that there is a Health Care Complaints Commission, and it is to this commission that they should lodge their complaints. This is their only avenue for complaints, unless they are very wealthy and can afford litigation which is often long and drawn out battling over medical technicalities. Consumers deserve the right to know that their complaints will be dealt with in an impartial manner and not brushed off, covered up or ignored.

Currently, the public takes the attitude that their concerns will not be acknowledged and their only recourse is litigation, if affordable. Part of this stems from the fact that they believe that they are being treated with total disregard and disrespect. In speaking with members of the public, they state they would not bother to complain as they know they would not be listened to. Few had actual evidence of this, it was simply a perception, but the perception becomes reality if they do not use the system to lodge a complaint. Again, it is the denial and the covering up of the adverse event which affects people, and the knowledge that, if they do not make a complaint, these adverse events (if not brought out in the open) will go on and on.

Unfortunately, the public seems to hear only about problem cases which are television presentable. Current affairs programmes delight in such cases and always ask, "If you are or know someone who is suffering in this way – let us

know". People would have to be desperate to give up their privacy to attain satisfaction.

The public needs to have proof that patients and health professionals will be listened to, treated with respect and not be in fear of either being victimized or have their careers placed in jeopardy. Many health professionals fear for their careers if they speak up about mistakes or problems occurring. Who can forget the Campbelltown and Camden Hospitals professional nurses who, after reporting incidents through the "proper" channels for years with no response, obtained an interview with the State Minister for Health who then sent their complaints on to the Health Care Complaints Commission? The nurses were branded "whistle blowers" – a mark of a cowardly system.

The practice of practitioners refusing to accept that one of their brotherhood should be criticized was re-inforced in the Daily Telegraph 21 November 2008 when a doctor was fired after he had raised concerns about another doctor, even though 14 other medical officers had apparently raised concerns about the same doctor in the past.

It is most disturbing that in all areas of health practitioners very, very rarely "bad report" on another of their "closed shop" colleagues. There are many reports of medical practitioners being employed in spite of their very poor record. Most people (but apparently not practitioners); believe that anyone who fails to report such cases should also be held accountable. Just as teachers and doctors are required to report cases of suspected child abuse, so should all colleagues be required to report cases of suspected malpractice. This would at least remove the stigma of "whistle blowing" as it would be a legal requirement.

According to The Australian, dated November 16, 2008, "The Reeves case early this year led to a review of doctor oversight mechanisms in NSW, and new mandatory reporting requirements for medicos came into effect in NSW this month. Australian Medical Association (AMA) NSW president Dr. Brian Morton stated that "the law changes and the looming move to a national register for doctors had reduced the chance alleged 'rogue' doctors could continue to operate." The public will have to wait to see if this new reporting scheme is ever implemented. A national scheme would hopefully prevent doctors barred in one state from operating in another.

There should also be in place a system where unregistered health practitioners can be regulated, particularly in the case of complementary and alternative medicine practitioners. These practitioners cannot have their registration revoked, as they are not registered. Similar to an unlicensed driver having no fear of losing his/her license – they don't have one! The Health Care Complaints Commission should treat these complaints more seriously, rather than simply advising they cannot do anything as they are unregistered. Too many people have been badly hurt by these practitioners.

Sadly, because of the dire shortage of practitioners in regional/rural/remote areas, “bad” doctors keep their jobs. Practices/hospitals seem to adopt the theory that, while there are patients coming in the door, any doctor (even a “bad” doctor) is better than no doctor.

The Daily Telegraph dated November 21, 2008 revealed the Federal Government’s latest funding offer to public hospitals, given in exchange for the hospitals publishing their performance details – death rates, hospital infections etc. The report stated “There is a culture of concealment in NSW that leads to hospital performances being withheld”. If this system is ever implemented, it would lead to more open and accountable hospitals and adverse events would be noted and detailed, thus making it easier for patients to make claims on these adverse events. The added funding would improve services and the added scrutiny would improve performance.

The Country Women’s Association of NSW is most concerned about the NSW Government’s mini-budget cuts affecting hospital jobs (its is reported that North Coast hospitals may have to slash up to 400 full-time jobs). This will no doubt affect the hands-on workers such as nurses, domestics, and cleaners etc., all of whom are presently understaffed and overworked. One can predict many more claims being lodged with the Health Care Complaints Commission.

Specifically, the process of making complaints has to be streamlined – with a minimum of paper work and costs. The elimination of fear of losing face and position (no whistle blower tagging) has to occur. The committee should be given the power and means to enforce outcomes, and given more control and power over Area Health Services and Registration Authorities.

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