

Submission

No 13

## INQUIRY INTO THE OPERATION OF THE HEALTH CARE COMPLAINTS ACT 1993

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**COTA (NSW)**

**Council on the Ageing (NSW) Inc**  
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**Submission from**

**COTA (NSW)**

**Inquiry into the Health Care Complaints Commission**

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## **COTA (NSW)**

COTA is a consumer organization and the peak body representing the issues, concerns and priorities of people in New South Wales over the age of 55. COTA was established in 1956 as the Older People's Welfare Council and launched at the Town Hall on 26 March 1957. It became 'Council on the Ageing' in 1969. The joint founders of COTA (NSW) were NCOSS (the NSW Council of Social Service), the Sydney City Council and the Rotary Club of Sydney.

COTA's core functions include:

- Policy development, representation and advocacy
- Delivering important community programs such as Medications Management for Older People, Healthy Ageing talks, the Living Longer, Living Stronger program and the Grandparenting Project
- Brokering, referring, collaborating, coordinating, and networking among seniors organizations and services to seniors
- Informing and educating older persons and all those concerned with their welfare.

### **COTA (NSW) submission to the Inquiry into the Health Care Complaints Commission**

This submission is intended to provide comment regarding terms of reference set out for the Inquiry. Overall COTA believes that equal weighting should be given to legislation and education in order to protect older consumers. That a more consumer focussed system should be in place so that the rights of consumers are paramount to any new mechanism considered.

#### **The identification and removal of any unnecessary complexities in the New South Wales health care complaints system.**

Consumers need to be made aware of their rights. For seniors 65+ information should be available in by telephone and in hard copy in alternative formats (large print) as well as on the web for service providers. COTA NSW has accessed the HCCC website to obtain information and has referred people to the HCCC.

It is important that consumer interests be at the forefront of any health reform process. A more consumer focused complaints system should be examined.

Consumers need simple systems in place with assistance provided in preparing the information to make a complaint. For older people it would be distressing if a complaint had to be made against a trusted and long term provider of health care. At present the options for consumers are to proceed with assisted resolution, conciliation or to discontinue the complaint. There is a need for better assistance for those consumers who choose not to take any action. It is important that consumers receive some satisfaction that the complaint will be taken seriously and logged in case other complaints are made against the practitioner in the future.

In matters where the issue is one of communication, where the consumer feels that the practitioner failed them in being clear about a medical concern, or where the practitioner or practice staff have treated the consumer in an unsympathetic way, it is important that such concerns are treated as a breach of duty of care and should be investigated whether the consumer wished to press on with

resolution or conciliation. Further some support should be offered to consumers who have felt that they have been treated unfairly even if the matter is not one of clinical negligence.

### **The appropriateness of the current assessment and investigative powers of the Health Care Complaints Commission**

Currently the HCCC

- receive and assess complaints relating to health service providers in NSW
- resolve or assist in the resolution of complaints
- investigate serious complaints that raise questions of public health and safety
- prosecute serious complaints.

COTA NSW believes that the HCCC should remain an independent body and retain these powers. The HCCC should identify and apply best practice in consumer focused complaints mechanisms.

For people aged 65+ it is important to resolve the complaint as soon as possible and minimise the referrals. It is also important that consumers are kept informed at every step of the process and are aware of their rights particularly if the matter is not resolved to their satisfaction.

COTA supports PIAC's submission in relation to the following:

- advocating for an independent body, like the NSW Health Care Complaints Commission, to make the initial decision about whether a complaint should be investigated and if necessary prosecuted. This body should have access to dedicated staff and independent professional and peer advice, before making these decisions.
- advocating for a model that is more consumer focused and consumer accountable than any of the complaints mechanisms that currently exist in the Australian states.
- advocating the retention of the current state-based complaints systems, brought up to a standardised benchmark of best practice in the event that the national registration scheme would result in an overall reduction in consumer protection.

### **CONCLUSIONS**

In the spirit of supporting consumers to be self determined it is most important that a holistic approach be taken to protecting consumers by HCCC, health care providers and practitioners.

Government plays an important role in regulation and in setting clear boundaries and expectations for the HCCC and their responsibility to inform and educate consumers.

The Community sector has a vital role to play in the development and distribution of information and education resources to consumers. It is noted that any reform will require education and information of service providers as well as consumers.

COTA is eager to partner with other agencies to assist in the development and distribution of financial literacy resources for older Australians.

