

Dear NSW Law Reform Commission

I would like to make a preliminary submission to the Review of the NSW Guardianship Act 1987. It relates to "Special Medical Treatment - Hysterectomy or Endometrial Ablation" & particularly to "Treatment for the Purposes of Eliminating Menstruation".

It is rare for the NSW Guardianship Board to consent to a hysterectomy or ablation for an intellectually disabled woman despite the Act stating that the Tribunal must be satisfied that the treatment is:

1. "The most appropriate form of treatment to promote the person's health & wellbeing" or
2. "Necessary to save the person's life or prevent serious damage to their health".

The NSW Disability Services Act 1993 outlines numerous principles with respect to people with disabilities, including:

- a. "Have the right to live in & be part of the community"
- b. "Have the right to realise their individual capacity for physical, social, emotional & intellectual development"
- c. "Have the same right as other members of Australian society to services which will support their attaining a reasonable quality of life"
- d. "Have the right to protection from neglect, abuse & exploitation"

It would appear that these principles are not always being followed by Guardianship Tribunals.

I have appeared before the Guardianship Board on a number of occasions [REDACTED] in an attempt to obtain permission for a hysterectomy or ablation for moderate-severe intellectually disabled women whose quality of life was being severely affected on a monthly basis. Despite abundant evidence that menstruation was markedly affecting the person's "health & wellbeing", the Board has been very reluctant to give permission, stating that they have to be guided by the exact wording of the Act. I am aware of a number of instances where parents have taken their moderate-severe intellectually disabled daughters overseas to obtain a hysterectomy after having their request denied by the Guardianship Board.

Special Medical Treatment only applies to a small percentage of intellectually disabled women but I strongly believe that the wording of the Act must be changed to facilitate treatment that will have the potential to dramatically improve quality of life, an integral component of the NSW Disabilities Services Act & the UN Convention on the Rights of Persons with Disabilities.

Yours faithfully

Dr John Carter AO  
BSc(Med), MB BS(Syd), MD (NSW), FRACP