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**Additional statement to present as an observer at the House of Representatives  
Hearing to the Inquiry into Older People and the Law, Sydney May 14/15 2007**

The Christian Science Federal Representative for Australia is authorized to represent the practice of Christian Science to the media and to the Australian Federal Parliament. This office made a submission to the Inquiry. My extra comments relate to some issues raised during the hearing over the past 2 days.

And at the outset I should remind the Committee that Christian Science is *not* Scientology.

As our submission states, the method of spiritual healing known as Christian Science and the denomination known as the Church of Christ, Scientist, was founded by Mary Baker Eddy in the late 19<sup>th</sup> century in the USA. Christian Science is practiced in many countries throughout the world.

The Church does not in any way direct individuals in their choice of health care which is rather an entirely individual choice. Nor does the Church direct individuals on what to include in an advanced health directive. Instead individuals seek independent legal advice as they would do in preparing a power of attorney or a will.

Listening to some of the testimony in the Hearing on Monday makes it even clearer that as new laws may be formulated that seek to protect an older person from abuse or neglect, it is critical that provision be made for those individuals who choose spiritual healing through prayer, in

lieu of medical treatment, in the form of a clarifying accommodation in those laws.

Christian Science has been shown to heal illness, injuries and other conditions. It is not psychology. The experience of those practicing Christian Science – especially many elder people in the community, is that this healing method has both preventative and curative effects.

The two issues raised in our submission appear not to have received much comment at this two-day Hearing –

- **That individual choice of health services such as spiritual healing in lieu of medical treatment does not and should not constitute abuse and neglect of the older person**
- **Delegation of Authority with Regard to Advance Directives for Health Care, including Competency Issues**

#### Individual choice of health services:

Whether or not all the statements made in this Hearing yesterday concerning guardianship issues prove there are flaws in some State guardianship laws, older persons would have concerns that if they prepared an advanced health directive outlining their wishes for an alternative healthcare choice such as Christian Science treatment, that choice might not be followed in some circumstances.

Even beyond guardianship issues, many in the community do not understand why individuals might choose spiritual

healing instead of medical treatment. Our submission goes into more detail about why. Those who make an alternative choice for non-medical healing may find themselves in a situation whether in independent living or supported care where claims of abuse or neglect are levelled at that choice, or on their loved ones who support that choice. A worse-case scenario would be if a guardianship order was placed on the person. We believe that unless new statutes are developed to accommodate these individual choices then the honouring of a person's health wishes as a stated life practice might appear seriously compromised.

In the UK the recently commenced Mental Capacity Act and Code of Practice makes it clearer to individuals in that country that their advanced healthcare wishes will be carried out. As mentioned too in the US as well, there are exception clauses in civil and criminal codes accommodating an individual's right to choose spiritual healing without that being deemed a form of neglect or abuse. It is time Australia caught up.

Mention was also been made here several times of the House of Representatives inquiry into the harmonisation of legal systems within Australia and between Australia and NZ where it is proposed to eliminate inconsistencies, duplication or complexity between different legal systems.

Again individual choice of healthcare and the certainty that clearly documented wishes in an advanced health directive will be followed wherever the individual resides, is also now an issue to be considered within the proposed harmonization process. I won't reiterate the problems associated with an older person having made clear in an AHD their health wishes, and then needing to move across the country for family support reasons, to a State

where the law does not recognise all or some aspects of that legal document.

Again from other testimony heard here, concerns would be raised regarding a further option many older people are now making -- ie their choice regarding resuscitation at times of incapacity. Whatever decision is made legally in regard to this their choice should be honoured wherever they live. That is the whole purpose in making an advanced health directive.

We would also support the issues raised about a need for wider awareness of information being made available of the "how" and the importance of older people making an advanced health directive as such practice is not common in Australia as yet. A clearly drawn advanced health directive alongside statutes confirming how it should be adhered to, and exception clauses as previously outlined included, there is a three-way benefit - first to the individual in having their wishes adhered to, second to their families who may not necessarily understand that choice, and third to the medical fraternity in certain circumstances when the individual may present in an emergency situation.,

## 2. Delegation of Authority - with Regard to Advance Directives for Health Care, including Competency Issues

Very briefly I will expand on one point in our submission - again because of earlier testimony in the hearing.

A question was raised as to whether it is preferable for a physician or a lawyer to assess individual capacity. An individual who wishes to make an advanced health directive detailing their choice of spiritual healing such as

Christian Science, would not normally have a regular medical practitioner with whom they communicate on health issues. And it has been said that some decide against making one because of this provision, having concern that the MD would not understand their choice. The preference would be for a lawyer rather than an MD to determine capacity to make an advanced health directive – as is available in NSW I understand.

We mention this approach is recognized in the United States in the *Uniform Health-Care Decisions Act*.<sup>1</sup> (See Exhibit D in our submission), where there is the right of a competent individual to decide all aspects of his or her own health care in all circumstances, including the right to decline health care or to direct that health care be discontinued, even if death ensues.<sup>2</sup>

In summary statutes addressing elder care should leave an older person confident that their right to choose the health care method of their choice and which they have likely relied upon for decades is understood and respected in an advanced health directive.

And in addition, in new or amending statutes, such laws need to accommodate an older person's choice to rely on spiritual treatment through prayer, in lieu of medical treatment, by clarifying that such a choice does not constitute abuse or neglect in either civil or criminal codes.

**Presented by Margaret Clark**  
**Christian Science Federal Representative for Australia**

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<sup>1</sup>Uniform Health-Care Decisions Act (1994)

<sup>2</sup>Id., Prefatory Note, page 1.