

## Dementia/Mental Capacity Issues

### 55 THE LEGAL STATUS OF GUARDIANS IN ADVANCE CARE PLANNING IN AUSTRALIA

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M Schyvens *Guardianship Tribunal of New South Wales, NSW, Australia*

Australia, like many countries, is currently debating the optimum means of permitting individuals to engage in advance care planning within the confines of our respective legal systems. 'No decision without me' is a message in accord with the UN Convention on the Rights of Persons Disabilities. This convention is an important consideration for our legal systems in developing means of validating people's advance care planning wishes. It also brings with it great challenges for guardians as substitute decision makers when called upon to engage in advance care planning.

These themes will be the focus of a presentation outlining:

- ▶ Current recognition status of advance care planning in Australian jurisdictions;
- ▶ The debate for the need for new legislation in Australia to give recognition and framework to advance care planning;
- ▶ The challenges facing appointed guardians called upon to engage in advance care planning, the limitations on their authority and the impact of the UN Convention; and
- ▶ The importance of developing uniform language when engaging in advance care planning to enhance legal validity and community acceptance – an examination of the current development of an Australian national framework for advance care planning.