



Office of The Public Advocate In Action



Case Study



FAMILY

- ❑ Mrs B, 82 years, diagnosed with frontal lobe dementia
- ❑ Son, 39 years, with Down syndrome. He is non verbal, and has always lived with mother
- ❑ Daughter, 63 years, involved in liaising with medical and nursing staff to arrange support services and placement for mother and brother for 4 months
- ❑ Daughter, 58 years, with multiple health problems, questions mother's diagnosis, and denies any problems for mother in meeting her own and son's care needs



ACCOMMODATION

- Mother and son residing in double room in a secure aged care facility, having both agreed to this plan
- Placement purchased at facility for son, and arrangements underway for mother, once her home unit sold
- Younger daughter decided to remove couple from facility, to live in her home
- Concern expressed by Disability SA, son's psychiatrist, and GP about the need for stable accommodation for the son.



FINANCES

- Public Trustee has previously been appointed as administrator for son's affairs
- Mother has signed EPA appointing both daughters, but EPA not activated
- Home unit being sold
- Contract entered into re mothers purchase of room at aged care facility, with "Cooling-Off" period passed



FINANCES cont

- ❑ Clear evidence of mother's mismanagement of son's finances, and management of her pension, with an enquiry underway by Centrelink because of not declaring considerable savings
- ❑ Older daughter assisting mother with financial matters, but acting on mother's directions, and mother making decisions



EPG

- Mother signed EPG in January appointing older daughter.
- Younger daughter claimed that mother had revoked EPG but did not provide documentation
- Mother has no recollection of signing revocation
- Older daughter was planning to lodge an application to the Guardianship Board in relation to conflict regarding EPG



CRISIS

- ❑ Older daughter visited OPA expressing concern about mother's affairs and plan by sister to remove mother and brother from facility the following day
- ❑ Older daughter lodged an application with Guardianship Board for guardianship of mother. Board requested that Office of the Public Advocate conduct an investigation under S28 of the G&A Act 1993
- ❑ OPA telephoned younger daughter, advised of role of OPA and requested that plans to remove mother and brother be postponed while investigation undertaken
- ❑ Daughter refused, stating that GB and OPA had no authority, as mother did not have a mental incapacity



CRISIS cont

- ❑ OPA visited the facility, but before meeting mother and brother, younger daughter arrived, with husband, threatening staff at facility and OPA, throwing possessions into car, and thrusting mother and brother out of the facility
- ❑ Mother and brother were confused and upset, as were the residents of the facility, who could see and hear the commotion
- ❑ SAPOL were called and asked to prevent the mother and son's removal from the facility, on the grounds of "Duty of Care", while Interim Orders including S32 powers were sought.



CRISIS cont

Special powers to place and detain, etc., protected persons

- **32.** (1) The Board, on application made by the guardian of a protected person
 - (a) may, by order, direct that the protected person reside
 - (i) with a specified person or in a specified place; or
 - (ii) with such person or in such place as the guardian from time to time thinks fit,
 - according to the terms of the Board's order; and
 - (b) may, by order, authorise the detention of the protected person in the place in which
 - he or she will so reside; and
 - (c) may, by order, authorise the persons from time to time involved in the care of the
 - protected person to use such force as may be reasonably necessary for the purpose
 - of ensuring the proper medical treatment, day-to-day care and well-being of the
 - person.
- While SAPOL were attempting to manage the situation, and having to call for backup support, the younger sister's husband made a threat on the older daughter's life by telephone



ROLE OF OPA

- ❑ The Public Advocate was appointed as interim guardian and information was gathered to prepare a report for the GB in response to S28 request
- ❑ The younger daughter claimed that her mother wanted legal representation at the GB hearing, so OPA liaised with the lawyer, to ensure that she received instructions directly from the mother, without influence by the daughter
- ❑ The activities of the brother, which had been cancelled by the younger sister, were reinstated immediately by OPA so that he continued to have a variety of appropriate day activities supported by Disability SA
- ❑ Visits by the younger daughter were refused because of the threats made to the facility, and the disruption caused to the mother and son, and other residents



ROLE OF OPA cont

- ❑ The younger daughter accused her sister of actions that she claimed placed her mother at risk, so the delegated guardian had to consider the claims, and weigh up the impact of denying the mother activities she enjoyed
- ❑ It was decided that the Manager of the facility would assess the mother's mental state each day, and in consultation with OPA, she continued to have activities which she enjoyed, but her condition was monitored to ensure that she was not placed at risk
- ❑ OPA recommended the appointment of an independent guardian, as the informal arrangements had clearly broken down, and the safety and welfare of both mother and brother were at risk
- ❑ There was a need to seek full orders including accommodation, health and lifestyle, to address all the issues which had been witnessed during the interim period



GUARDIANSHIP BOARD HEARING

- As a result of the threats made by the younger daughter and her husband, additional security was arranged for the hearing
- The GB gave the mother and both daughters an opportunity to present information to the Board
- The Mother denied any problems displaying a lack of insight and understanding consistent with frontal lobe damage
- There was a need for the younger daughter and her husband to be reminded about appropriate behaviour at the Board



GUARDIANSHIP BOARD HEARING

cont

- ❑ The younger daughter continued to deny her mother's mental incapacity in spite of reports before the Board which provide evidence of this
- ❑ GB decided to appoint the Public Advocate as full guardian of both mother and brother, and Public Trustee was appointed as full administrator of the mother
- ❑ S 32 powers were sought to ensure that accommodation was stable, and not able to be disrupted by family members who continued to deny the role of OPA and GB
- ❑ The husband of the younger daughter followed the older daughter and her husband after they were escorted to their car by security
- ❑ SAPOL were again contacted and a report made by the older daughter.



SINCE THE GB HEARING

- ❑ Separate guardians have been appointed for the mother and the brother, to ensure that both their needs and wishes are being addressed
- ❑ Attempts will be made to ensure that contact can be maintained between both daughters and their mother and brother, but sadly, it appears that the relationship between the sisters has irrevocably broken down
- ❑ The facility continue to refuse access to the younger daughter and her husband because of the lack of understanding of the distress their behaviour caused their relatives, and the residents and staff of the facility
- ❑ The guardians will seek ways to foster ongoing contact but also ensuring that the mother is not “coached” by her younger daughter, who continues to lack insight into her mother’s condition.