

# FISH HOEK VALLEY RATEPAYERS & RESIDENTS ASSOCIATION

*(Incorporating Fish Hoek, Clovelly and Sun Valley)*

**P.O. Box 22125, Fish Hoek 7974**  
**Web: [www.fishhoekratepayers.com](http://www.fishhoekratepayers.com)**

**TO: SPEAKER OF THE NATIONAL ASSEMBLY, [speaker@parliament.gov.za](mailto:speaker@parliament.gov.za)**  
**CC: DEIDRE CARTER, [dcarter@parliament.gov.za](mailto:dcarter@parliament.gov.za)**

**SUBJECT: NATIONAL HEALTH AMENDMENT BILL, 2018**  
**DUE: 24 AUGUST 2018**

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## 1. DISCUSSION

In terms of Government Gazette #41789 of 24 July 2018, comments were invited on the National Health Amendment Bill as proposed by Member of Parliament: Diedre Carter.

We believe that death should be natural. When a patient is *compos mentis*, they should be allowed to make decisions for withholding and withdrawing life-sustaining treatment at their request. Living wills, also known as advanced directives, are legal documents that allow individuals to state their decisions about end-of-life care ahead of time. Durable power of attorney for healthcare is where a patient gives another person the power to make decisions on their behalf. Legal certainty is needed in order to prevent a patient's wishes from being ignored by family members or medical practitioners.

The medical profession's protocol has complicated this natural process of dying when an individual makes a living will to refuse, withhold or cease life-sustaining medical treatment or procedure, but the health profession tries to overrule the individual's wishes when they become incompetent. We do not believe that a medical practitioner may override family members acting as decision-makers in a "living will" in any circumstances.

The current healthcare professional decision-maker's authority, according to policy, must be overturned. When an individual becomes incompetent, including those that are intestate, family members must be allowed to override the medical practitioners according to the living will. As it is the individual's or family's freewill for the individual to be allowed to die with dignity, they should be immune from civil and criminal prosecution even though the family members may be beneficiaries from the proceeds of the individuals' estate. That is, anyone acting upon these directives must be immune from criminal and civil prosecutions. Legal clarity is needed regarding resolution of disputes and the subordinate role of medical practitioners should be made clear.

In terms of Section 7A(1)(b) and (2) we support durable power of attorney for healthcare to be given to any suitable agent acting as decision-maker for future medical treatment other than the medical practitioner.<sup>1</sup>

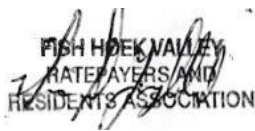
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<sup>1</sup> <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/180807HealthAmendmentdrafBill.pdf>

## 2. RECOMMENDATION

Therefore, it is recommended that for the reasons stated in this report, that:

The National Health Amendment Bill, 2018, to amend the National Health Act #61 of 2003, **be enacted** and thus, provide legal certainty, legal enforceability regarding advance health care directives, as defined, such as the living will and the durable power of attorney for healthcare.

<b>NAME &amp; SURNAME</b>	<i>Brian Youngblood, Chair: Fish Hoek Valley Residents and Ratepayers Association (FHVRRRA)</i>
<b>CONTACT NUMBERS</b>	021 782 1950 / Cell: 084 3 99 99 33
<b>E-MAIL ADDRESS</b>	<a href="mailto:bdyoungblood@gmail.co.za">bdyoungblood@gmail.co.za</a>
<b>SIGNATURE</b>	
<b>DATE</b>	22 August 2018