



**Inquiry into Annual and Financial Reports 2020-2021**  
**ANSWER TO QUESTION TAKEN ON NOTICE**  
**22 February 2022**

Asked by Dr Marisa Paterson MLA on 22 February 2022: Mr Andrew Taylor took on notice the following question(s):

[Ref: Hansard Proof Transcript 22 February 2022 [PAGE 57]]

In relation to:

**DR PATERSON:** With respect to page 25 of the annual report, I have a question about medical guardianship and the very significant increase in numbers, from 48 to 132 this year, for decisions. Unless I am missing something, there is a figure of 64 per cent; is that correct? It seems to me to be a much bigger increase than 64 per cent. I am not entirely sure that the mental health treatment percentage change is correct, either. I am questioning the figures in your annual report. On top of that, can you explain why there was such a significant increase in medical decision-making, and what medical knowledge or input is put towards making those decisions?

**Mr Taylor:** I cannot answer that question now, but I could take that one on notice.

Mr Andrew Taylor, Public Trustee and Guardian

The answer to the Member's question is as follows -

**1. In relation to the very significant increase in the number of medical decisions made -**

This increase in medical (incl surgical) decisions made by the Public Trustee and Guardian (PTG) during the reported period 2020-21 was the result of –

- Increased regulation of certain treatments and supports within disability and aged care sectors especially related to restrictive practises. This has triggered more regular and rigorous review of prescribed treatments for represented persons unable to make health care treatment decisions on their own behalf. As an example, PTG reviews and updates consent periods based on available best practise which has resulted in maximum valid consent periods of 3 months for some recommended treatments.
- Requests for consent to administer the COVID-19 vaccination for persons with disability and older persons whom PTG represents were initiated, in the main, during this period.
- Increased awareness of appropriate consent-seeking procedures by health care professionals. Health care professionals have not always complied with the requirement to formally seek consent from an appointed Guardian for health care decisions. Where PTG is appointed as Guardian by the ACT Civil and Administrative Tribunal, or as Attorney under an Enduring

Power of Attorney, with authority to make medical care and health care decisions, PTG has worked to increase awareness through continuous feedback, engagement with health care professionals and discussion about process efficiencies.

In certain situations e.g. emergency, or where there is imminent risk of serious adverse consequences, a treating health practitioner may deliver a treatment as a “duty of care”.

**2. In relation to what medical knowledge or input is put towards making those decisions?**

When appointed as Guardian, under s 7(3)(e) of the *Guardianship and Management of Property Act 1991*, PTG may provide consent for a medical procedure or other treatment for a represented person (including medical research or low-risk research, but not including a prescribed medical procedure or medical treatment involving treatment, care or support under the *Mental Health Act 2015*).

In making such decisions, PTG seeks information from the treating practitioner or health care team on the benefits and risks of a recommended treatment and options including not having the treatment. This may include asking additional questions, as might any person, seeking information to support another person in decision-making.

PTG makes every effort to ascertain the view of the person in respect to each decision or, where this is not possible, to align the decision as closely as possible with the values, will and preferences of the person as far as they can be determined. For example, if a person has, in the past, participated in a health care examination or treatment this might be used as an indication of their preference.

It is important to note that PTG may offer an informed consent but has no authority to coerce or compel, so treatment may still be declined by the person.

**3. In respect to the accuracy of figures reported and the calculation of percentage change.**

All figures reported for 2019-20 and 2020-21 have now been reviewed and verified. Two figures were inadvertently miscalculated as follows -

- In relation to the % increase in medical decisions from 2019-20 to 2020-21, the % increase from 48 to 132 was incorrectly reported as 64%. The correct % increase is 175%.
- In relation to the % increase in mental health treatment decisions from 2019-20 to 2020, the % increase from 13 to 17 was incorrectly reported as 24%. The correct % increase is 30.7%.

Approved for circulation to the Standing Committee on Justice and Community Safety

Signature:

Date:

By the Public Trustee and Guardian, Mr Andrew Taylor