

# Bastian Hancock Stynes

L A W Y E R S

Our Ref: KGS:ND:250011

Your Ref:

Direct Email: [kstynes@bhslawyers.com.au](mailto:kstynes@bhslawyers.com.au)

14 October 2025

Mr A Swendson  
16 Barton Drive  
Mount Eliza VIC 3930

**BY EMAIL TO:**

[angus@bcigroup.com.au](mailto:angus@bcigroup.com.au)

Dear Angus

**General Advice**

**Includes Frankston Hospital | January 2025**

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We refer to the above matter and to your 'recent' communications with us (specifically Kimble).

We confirm that you seek to instruct our firm to provide you with advice, and to assist you in relation to claims you wish to make involving the conduct of Frankston Hospital.

We understand that you were admitted to the 'Peninsula Health Mental Health Wellbeing Service' in the Frankston Hospital under a 'Variation of a Temporary Treatment Order to an Inpatient Treatment Order' on 11 September 2025. We further understand that you were recently discharged from the facility.

On the basis that you were involuntarily admitted, we hold concerns about your ability to provide us with instructions and assume responsibility for our fees. We are required to seek an assessment as to your legal capacity to provide instructions.

To have the necessary capacity, a person must:-

1. Understand the nature and effect of information when it is explained;
2. Retain and understand information relevant to making decisions including the consequences of those decisions;
3. Use or weigh information as part of the process of making decisions; and
4. Communicate decisions, views and needs clearly.

Where a person is deemed not to have the requisite capacity at the time that they seek to provide instructions, those instructions are invalid, and we are unable to act on their behalf.

To be satisfied that you have the necessary capacity to provide us with instructions to act for you in respect of your legal matters, we have requested that your treating Psychologist, Dr Ethan Chua, provide us with his written assessment.

**why are they requesting this when it is a basic right in the mental health act of 2022**

On the basis of your involuntary admission, we are obliged to obtain this assessment. Such assessment would be required by any Court should we perform legal work for you. It is important that you are aware that, despite your admission to hospital, when making an assessment as to legal capacity, your treating doctor must have regard to the following matters:-

1. A person may have decision making capacity for some matters and not others;
2. If a person does not have decision making capacity for a matter, it may be temporary and not permanent;
3. It should not be assumed that a person does not have decision making capacity for a matter merely on the basis of their appearance or because they make a decision that appears unwise; and
4. A person has decision making capacity for a matter if it is possible for the person to make a decision in the matter with practicable and appropriate support.

We further confirm that you have proposed appointing a forensic psychiatrist to assist you in performing hypnosis to recover particular memories. Whilst you are entitled to do so for your own purposes, we note as a preliminary point, that any information obtained from hypnosis may not be admissible in Court, and expert evidence would be required to determine whether any such memory recovery is either valid or reliable. This would involve not only the costs of engaging the forensic psychiatrist, but also the costs of engaging an expert to provide their expert opinion on these matters.

We confirm receipt of payment from you in the sum of \$2,000 on account of costs and disbursements on 19 September 2025. We further refer to our Costs Disclosure Agreement forwarded to you on 22 September 2025 (which was addressed to your parents, Remo and Carrol, who we presume passed on to you). We enclose further copy of same in any case.

We hold concerns about your ability to meet our ongoing fees in providing you with legal advice and doing legal work on your behalf in circumstances where you have recently been in hospital. Our initial fee estimate of \$5,000 relates to providing you with advice in relation to the matters contained in this letter and our ongoing communications with you. Because of your voluminous communications, we have already exceeded this amount. We will only be in a position to provide you with a costs estimate for the further work you require once we are satisfied that you hold legal capacity to provide us with instructions and our scope of work to be done is determined/clarified.

In the interim, please advise how you propose to cover our fees and those of any forensic psychologist, or any other treatment providers to progress your matters.

We will advise once we have received the assessment from Dr Chua.

In the meantime we note that a mental health report is to be prepared by the hospital for your tribunal hearing. You are to be provided with a copy of this report once it has been released. Please ensure that you provide us with a copy of this report once you receive it and advise the date for the Tribunal Hearing.

We understand that Remo and Carrol are not your legal guardians and that they do not act under any power of attorney for you. Nevertheless, given you have indicated that you are completely candid with them and seek their assistance, we have copied them into this correspondence.

Should you have any queries please do not hesitate to contact this office.

Yours faithfully

**Bastian Hancock Stynes Lawyers**



Nadia Dal Bo  
Senior Associate



Kimble Stynes  
Partner