Distinguished Guests,
Ladies and Gentlemen,
Good Morning.

Introduction

I am very pleased to be here today and I would like to welcome all of you again to the Convention.

2. I understand that this is the 43rd run of the Singapore Medical Association’s annual medical convention. The theme of this year’s convention, ‘Healthy Mind, Healthy Life’, with its emphasis on mental health, dovetails very nicely with the work of the Office of the Public Guardian (OPG). Since its formation in 2010, OPG has organised annual Code of Practice Seminars to educate the public on the practical aspects of the Mental Capacity Act (the Act). I am pleased to note that SMA has collaborated with OPG to organise this event for 2012. Championing the Act through such collaborative initiatives across government professional bodies and wider community is important to ensure that the key messages in the Mental Capacity Act will be brought to a wider audience.

Ageing Population

3. Singapore faces many challenges ahead with a rapidly ageing population. Acting Minister for Community Development, Youth and Sports Mr Chan Chun Sing mentioned in his speech at the Code of Practice Seminar 2011, that “We are one of the fastest ageing societies in the world. Our rate of ageing is projected to rise from an average of four percent per annum in 2000-2011, to six percent per annum from 2012-2020. With longer lifespan, we will have a higher proportion of Singaporeans living to ages of 85 and beyond.”¹ This phenomenon was also highlighted in the Report of the Committee on Ageing Issues, 2006.

¹ Speech by Acting Minister for Community Development, Youth and Sports Mr Chan Chun Sing at Code of Practice Seminar 2011, 7 October 2011.
“Between now and 2030, Singapore will witness an unprecedented profound age shift. The number of residents aged 65 years or older will multiply threefold from current 300,000 to 900,000 in 2030. By then, one out of every five residents will be a senior.”

Hence it will not be unusual to see more elderly leading an active life with increasing numbers of seniors like Madam Chang Ka Fong who was mentioned in PM’s recent National Day rally speech as someone who still plays basketball daily at an age of 87. Even though seniors are more active, the greying of our population also brings about its own set of issues which include greater demand for healthcare services, a higher old age dependency ratio, and an increased incidence of age-related illnesses such as dementia. The onset of mental incapacity, when it occurs, changes everything. There will be a loss of an individual’s ability to independently go about his daily life, contribute to one’s family and society. There are also wider societal challenges.

**Healthcare Challenges**

4. The challenges facing the healthcare sector in addressing elderly mental health care were highlighted by Health Minister Mr Gan Kim Yong in his speech at the Annual Singapore Conference on Ageing (ASCA) 2012 who noted that “Dementia and depression are some of the key mental health conditions affecting our society. The World Health Organisation (WHO) recently published a report on dementia and stressed the importance of making it a public health policy priority.”

Minister Gan shared at the Conference that part of the Healthcare 2020 action plan would include building up the community mental health sector, and these efforts would help our elderly through a three-pronged approach of (1) increased early intervention efforts, (2) more holistic services and (3) additional support for caregivers.

**Legislative Changes**

5. In recent years, various legislative changes have also been made to meet the challenges. The Mental Disorders and Treatment Act was repealed on 1 March 2010 by the Mental Health (Care and Treatment) Act and another timely piece of social legislation, the

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3 Speech by Minister for Health Mr Gan Kim Yong at the Annual Singapore Conference on Ageing (ASCA) 2012, 10 May 2012.
Mental Capacity Act. The Mental Capacity Act creates a totally new legislative framework for the safeguarding of a person’s autonomy as well as the protection of a person who lacks mental capacity. The Act lays out the parameters within which decisions are to be made in the best interests of those who lack mental capacity. It enshrines five statutory principles that anyone making any decision or taking any action for a person who appears to lack capacity must apply. The thinking behind the statutory principles is to assist and support people to make particular decisions, and not to restrict or control them. These principles also require us to accord respect and dignity to everyone, regardless of their state of mental capacity.

6. The Act also introduced a new legal instrument, the Lasting Power of Attorney (LPA) which we should all consider as part of pre-planning. The LPA helps us in contingency planning as we can appoint proxy decision makers called ‘donees’ to make decisions for us should we one day lose our mental capacity. Through the LPA, ‘donors’ (those that have made LPAs) can be assured that the selected appointees will have the authority to act in the event that they need to do so.

7. With the implementation of the Act in 2010, the Mental Capacity Court was also established by the Chief Justice to specifically hear only cases under the Act. The setting up and operation of the specialised court reaffirmed Singapore’s commitment to invest in infrastructure and human resources to address and protect the legal rights of the mentally vulnerable members in our society.

8. The legal fraternity, through the Law Society – Pro Bono Services Office launched a Law Awareness outreach initiative, “Law Cares” on 1st October 2011. This initiative focuses on the elderly and the legal issues that they and their caregivers face. One of its aims include raising awareness of legal issues that affect the daily lives of the elderly on eldercare-related legal matters such as maintenance of parents, will-writing, probate/HDB related issues and the various aspects of the Act.

**Involvement of the Community**
9. Even while the Act emphasises the dignity of the individual, the LPA also expressly recognises that we are all inherently social creatures who interact and rely on others in the community. Unlike other legal instruments like say a will which can be made without consultation and the agreement of others, the LPA requires the express agreement of our designated proxy decision makers before it can be made. You can also express your intention to make an application to register the LPA by notifying up to 5 persons.

10. Another feature of the LPA which requires the involvement of the community is the need for a prescribed professional to act as an LPA certificate issuer. The Mental Capacity Regulations prescribes that lawyers, psychiatrists and accredited medical practitioners are to play a key role in certifying that the person who makes the LPA understands the purpose of the instrument and that there is no fraud being used to influence the donor to create the LPA. The involvement of LPA certificate issuers is a critical component of the LPA. Such issuers do not only provide independent verification of the intentions of the LPA applicant, they can also assist to disseminate information of the LPA on the ground especially to those that are likely to need it in the near future. Professionals like medical practitioners hold positions of trust and influence and they are in a good position to be advocates of the LPA. OPG recognises the importance of increasing the pool of certificate issuers. It is in this context that OPG has engaged SMA to work on an online accreditation module that will allow medical practitioners to be trained on the LPA and the certification process and thereafter to be accredited. I would like to encourage more general practitioners and specialists like geriatricians and neurologists to step forward to get involved and be accredited as LPA certificate issuers. This will be a valuable service to the community and will more accurately reflect the key role already played by the medical sector in our community. The aim is to have more Singaporeans gain easy access to a certificate issuer. Perhaps in the near future, we should have a LPA certificate issuer in each neighbourhood. I understand that more details of the online accreditation module will be released shortly by SMA.

**LPA Statistics**
11. The LPA take up rate has been encouraging, with more than 2,000 LPAs applications received to date since the start of OPG’s operation in March 2010. The profile of the LPA applications throws up some interesting insights. Over 80% of donors have selected their immediate family members to be their donees while another 8% have appointed members of their extended family to be their donees. Perhaps this is a reflection that the family still remains a key part of Singapore society or it could be that those with closer family ties have been early adopters of the LPA. We also note that significantly more women than men have made their LPAs. The ratio is 60% women to 40% men. This could mean that women are not only the fairer sex but they are the ones that are more prepared for the future! More significantly perhaps, we note that only 4% of the donors are younger than 34 years old – it seems we have not managed to gain much inroad into the mindset of younger Singaporeans.

12. While the number of people making LPAs continues to increase, I wish to point out that there are about 28,000 dementia patients in Singapore today, and this number is estimated to go up to 80,000 by 2030. Not forgetting this number does not include cases of stroke, accidents or people with mental disabilities. It is clear that many more Singaporeans have yet to make an LPA to pre-plan and safeguard their future. Perhaps a mindset change is required for us to embrace the concept of pre-planning for the possibility of losing our mental capacity. Some of us may feel that we have lots of time to plan or that it will not happen to us. If I may, I would like to cite the following case profiles:

Case A:
Take a typical Singapore family, Mr and Mrs P. Mrs P is a 44-year old mother of two young children who was a professional before falling into a coma in 2007 after an operation to remove a tumour in her brain. Her assets include bank accounts, CPF accounts, a Dependent’s Protection Insurance Scheme and a HDB flat which she is co-owner of. Although they are husband and wife, Mrs P’s husband is not recognised in the eyes of the law to have legal authority to make decisions and transact on matters on behalf of Mrs P. He had to apply to court to be appointed as a deputy, a legally appointed proxy decision maker, to collect the insurance payout and manage all of his wife’s affairs (personal welfare and property and affairs matters). An LPA in which Mrs P appointed Mr P would have facilitated the process.
Case B:
Mdm X is a 90-year-old lady who suffers from mixed dementia (Alzheimer’s disease and vascular dementia) with no capacity to make decisions on her discharge and care plan. She has two filial children but they could not decide who should be the final decision-maker for their mother. This resulted in stress within the family. The hospital was also caught in a bind on how to discharge Mdm X. If an LPA had been made to appoint one of the children as the decision maker, it would have allowed her children to better organise Mdm X’s care plan.

13. These 2 cases serve to illustrate the difficulties which families face when a family member loses capacity and key decisions need to be taken but no proxy decision maker has been appointed. The family has no legal authority to make claims/decisions for the member, and such additional stress and frustration will wear any care-giver down further, who is already in a great deal of emotional turmoil due the situation. Although the Mental Capacity Court was created to make the process of appointing a legally recognised proxy decision maker simpler, families will find that they have to grapple with the legal processes involved in appointing a deputy for their loved ones who have lost capacity. The pre-planning framework available under the LPA serves to spare us and our loved ones from much of the stress of such situations. With a valid LPA in place, appointed proxy decision makers are granted immediate legal authority when the donor loses decision making capacity. Applications to the Court will then be kept for the specific decision which an LPA might not cover and hence, this would save time and resources for the families.

Moving Forward
14. OPG and the Public Guardian Board recognise that the LPA is a relatively new legal instrument and more work still has to be done. We will continue to review the accessibility barriers to making the LPA. We will also continue to engage strategic partners like the SMA to explore further collaborations so that we can leverage on our joint capabilities to build confidence in the LPA framework.

Conclusion
15. In conclusion, it has been said that:
"The measure of a civilisation is how it treats its weakest members."

It is my hope that through the Mental Capacity Act, more of us will be more conscious of the need to accord dignity and respect to those without capacity. It is through how we treat the vulnerable members of our community that we are judged. I trust that the rest of the convention will provide you food for thought and some worthy thoughts to take home with you. Thank you.