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NSW must give the terminally ill the right to a dignified death

Parliamentary working group on assisted dying

Over the last few decades there has been a mind shift in parliaments around the world towards legislation regarding voluntary assisted dying. This shift has also been reflected in Australian values. Polling consistently demonstrates widespread support across Australia to allow terminally ill patients to voluntarily end their lives with assistance from the medical profession.

The reasons behind this mind shift are best enunciated by California Governor Jerry Brown, a pious Catholic and former attorney-general. In 2015 he signed legislation allowing doctor-assisted dying into Californian law rather than using his veto. At the time he noted: "I do not know what I would do if I were dying in prolonged and excruciating pain. I am certain, however, that it would be a comfort to be able to consider the options afforded by this bill and I wouldn't deny that right to others."



Since the passage (and subsequent voiding) of the Northern Territory's Rights of the Terminally Ill Act 1995, there have been many attempts in parliaments across Australia to provide legislative and medical frameworks for the terminally ill to voluntarily end their lives, and all have ultimately failed.

In 2015, in recognition of the political, moral and legal difficulties associated with voluntary assisted dying, a group of NSW parliamentarians formed the NSW Parliamentary Working Group on Assisted Dying (PWGAD). The group has since collaborated with parliamentarians and stakeholders on developing a bill to be introduced into the NSW Parliament. The draft bill is now ready for release and public discussion, and, it is hoped, will be debated in the spring session of the NSW Parliament.

The draft bill provides a legislative framework for the rights of terminally ill people to request and receive assistance to end their lives voluntarily. It gives protection to medical personnel providing assistance to patients and sets up safeguards against possible abuse. Fundamental to the draft bill is consent and the patient's decision-making capacity. The proposed legislation outlines that

the patient must be able to communicate their consent, understand the other options available to them, including palliative care, and understand the consequence of the decision.

To be eligible for consideration, the patient must be at least 25 years of age and a resident in NSW. They must also be suffering from a terminal illness that, in reasonable medical judgment, would be likely to result in the death of the patient within 12 months. In the course of the terminal illness, the patient will be experiencing severe pain, suffering or physical incapacity to an extent unacceptable to the patient. The request by the patient may be rescinded at any time.

The patient must be examined by their primary medical practitioner and independently by one other medical practitioner, as well as by a psychiatrist or psychologist. The draft bill also allows for a review of requests for assistance to the Supreme Court. While the bill only allows for the primary medical practitioner to assist, it also provides that a health care worker, or any other person, is not under any duty to assist in an assisted death. This includes a hospital, nursing home or any nurse.

The PWGAD believes these measures and safeguards are important and form fundamental tenets of the draft bill. They are designed to meet community expectations alongside concerns of the legal and medical professions.

The issue of voluntary assisted dying is a deeply personal one that is so often framed by people's own experience of watching a friend or loved one suffer an excruciating and undignified death. While society may shy away from talking about the end of life, we can no longer ignore giving those patients with terminal illnesses the right to a dignified death.

Ultimately, this is about providing a choice to those people who wish to take control of the final days, weeks or months of their life. The draft legislation is now available in the public domain, including on the NSW legislation website. We hope that, upon passage of this bill, we not only help ease the suffering of those patients who would be eligible under the framework, but also the distress experienced by friends, families and loved ones.

The parliamentary working group on assisted dying includes Lee Evans MP (Liberal), Lynda Voltz MLC (Labor), Trevor Khan MLC (Nationals), Mehreen Faruqi MLC (Greens) and Alex Greenwich MP (Independent).

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