

## VOLUNTARY ASSISTED DYING BILL 2021

*Legislative Assembly Second Reading Debate – copied from Hansard 12 November 2021*

**Mr STEPHEN BROMHEAD (Myall Lakes) (14:21):** I contribute to debate on the Voluntary Assisted Dying Bill 2021. I start by relating a personal experience. That does not mean my personal experience is any better than anyone else's; it is simply my experience. I was a registered psychiatric and geriatric nurse, studying general nursing. My father died in 2002, after a long battle with skin cancer. He died about six months after the doctor pointed the bone at him—in his words. He was with my brother in my eldest brother's home, where he received palliative care and they looked after him. Dad died a loved, caring and comfortable death with palliative care. They really looked after him.

My second experience was with my mother. She passed away in March this year. Mum battled skin cancer for probably five years. In mid-2019 the specialist said there was nothing more we could do and she would not have long to live because the melanoma was in her throat, and she had thyroid cancer and metastases in the lung and pelvis. They told us, "You probably have six months, max. We'll get the palliative care team to introduce themselves." But mum said, "I'm not ready for that. No way in the world." So she was not introduced to palliative care. That was mid-2019 and she lived and enjoyed every moment she had left. She went over to Western Australia where my eldest brother and his family lived, and spent some time with them. She stayed at the retirement village where she was looking after herself and in charge of the bridge club and other things and in control of the retirement village, as she had always been.

Mum was like that until earlier this year. Her demise was fairly rapid, but I was able to arrange for mum to be introduced to palliative care and transfer her to a nursing home in Foster close to where I lived. I will say that Kularoo Gardens nursing home did a wonderful job, as well as the palliative care and doctors. Sue and I would go around and rub mum's legs and do all those sorts of things. But she lived. For about 18 months or more she had a wonderful time. In the end, it was relatively pain free. In the last bit of time, the care and love was there. My nieces and nephews came to visit and her face would light up at how wonderful it was. Other members of the family would also come and see her. It was not a horrible death; it was an emotional death. Dying is a terrible thing, but we are all going to do it.

I have spoken to palliative care specialists, nurses, other doctors, GPs and all sorts of people about this and how the medicine and science behind palliative care have improved. Each individual member will have a conscience vote on the bill before us. It is not a vote that your party makes; there is no party vote. A number of my party members will vote for it and a number will vote against it. It is a free vote and it is a vote not on your morals necessarily, because it could be that you consider the views of your electorate and that sort of thing. To give some background, we heard the member for Mount Druitt refer to the Voluntary Assisted Dying Bill 2017. That bill came about because a bipartisan working party came together and formulated legislation. That bill was one I could support, so I arranged for the Hon. Trevor Khan from the other place and the current member for Auburn, who was then in the other place, to attend a public meeting and address people at Tuncurry. We conducted a survey online so I could gauge the views of my electorate. As I said, I have consulted widely.

We should look at the 2017 legislation and look at the 2021 legislation, and compare the pair. The first thing I note in the 2017 legislation is that the person must be over the age of 25. The bipartisan group recommended the age of 25 because they believed it is not until a person is 25 that the brain is fully formed and they are able to make constructive, properly formulated decisions. In the 2021 bill, on the other hand, the age is 18. That is probably fair. If you can send a person to war at age 18 and they can vote to decide who will govern them, then 18 is fair enough for this purpose. The next thing I note in the 2017 bill is that the person must be suffering from a terminal illness and, as a consequence, experiencing severe pain and suffering physical incapacity to an extent that is unacceptable to the person. That is pretty much the same in the 2021 bill.

The next part of the 2017 bill is that the patient makes a request for assistance—and it has to be a request—to a registered medical practitioner who is able to conduct an examination of the person. That is pretty much the same as the 2021 bill. The 2017 bill said that the person must then go to a specialist for that particular illness, like oncology, and they should examine the patient and then certify. That is not in the 2021 bill, and it is

a glaring omission. The next thing in the 2017 bill is that the person must be referred to a psychiatrist or a psychologist to ensure that they are making the decision freely and voluntarily, without any overbearing or undue influence. That is not in the 2021 bill. The 2021 bill says that if one of those medical practitioners, who may or may not have even examined the patient, thinks that it might be necessary, then they may refer them on. That is another glaring mistake in this bill. It should be compulsory because what we know is that there are family disputes.

In my past life as a lawyer and as a detective, I was involved in many family disputes many times over wills and whether the wills were given freely and voluntarily, and whether or not powers of attorney and enduring guardianships were done freely and voluntarily. It is interesting when you look at enduring guardianship, the person who is appointing a guardian must sign it in the presence of a lawyer, who must certify that that person is doing it freely and voluntarily. Then the person who is going to be the guardian must also sign it in the presence of a lawyer, who must certify that that person is doing so and understands their fiduciary duty. We go to all that

trouble of the guardians having to sign it in front of lawyers to ensure that there is no undue influence and that

they understand what they are doing. [*Extension of time*]

When you see the worst of human nature because of the various roles I have had, there are family members out there who treat their parents or grandparents appallingly. For example, I recall a case where a son convinced his mother to transfer the house to him. He would then provide a roof over her head and maintain the house for the rest of her life. Two years later, he wanted to evict her from the home. That is just a simple one. There are other ones where mothers who have dementia were convinced by her daughters to change their will to leave everything to them, make them the power of attorney, then use the power of attorney to sell properties and other things to defeat other beneficiaries. A long list of things can happen. We all know about elder abuse. The member for Mount Druitt spoke about elder abuse and about financial abuse of older people.

I know there are some safeguards in the 2021 bill, but I do not believe it has the same sufficient safeguards as were in the 2017 bill, which provided that a psychiatrist or a psychologist must meet with and assess the person and provide a certificate to that effect. I do not believe the safeguards in the 2021 bill are sufficient. I know that the majority of people want—and I believe that the majority of people do want—a voluntary assisted dying bill. But this is not that bill. This is an assisted dying bill, but the last thing you want is an assisted dying bill that some members of our community will take advantage of and will abuse their family through it. If we get one person being abused, then this bill is not the right bill. It either needs to be amended or we vote it down and we do, and we do it properly. The safeguards are not robust—I heard speakers talking about robust—they are not robust.

How can it be robust if the second doctor does not even have to talk to the person or meet with them and just looks at the file? How can it be robust if there is no psychologist, psychiatrist, lawyer or some person ensuring that the person has signed it freely and voluntarily without family members or others convincing them that this is what they should do? There are people out there who, when they are told, "You have cancer and you're going to die", think, "This is the end of it. I better do away with it" when they could have a beautiful 12 or 18 months, two years. In my mother's case it was probably five years or more that she was living the good life with cancer. It was 18 months before she died and she was told, "You haven't got long to live." I ask my colleagues on both sides of the House to really think about this issue. This is open to abuse, and the last thing we want is a bill that we pass that opens up abuse. I was supportive of the 2017 bill, but I just cannot support this bill because it does not have the safeguards of the previous bill.