

VOLUNTARY ASSISTED DYING BILL 2021

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

Dr HUGH McDERMOTT (Prospect) (12:12): The Voluntary Assisted Dying Bill 2021 is the most heinous piece of legislation ever introduced to this Parliament. The proponents of the bill have attempted to define the debate as one of progressive and compassionate ideas. However, the truth is that this legislation and the arguments for its introduction are regressive and move the priority from care to death. Supporters of voluntary assisted dying explain their reasoning based on personal experience and define, with good intentions, decency and perceived compassion. However, to base the debate solely on emotional and personal experience serves as a disservice to the legislative process and evidence-based policymaking, and to members of our community.

Legislating voluntary assisted dying in New South Wales will have far-reaching consequences, in particular for our community's most vulnerable people and for public policy more broadly. It is important to acknowledge that there have been many attempts to frame this debate around matters of religious faith. However, there are religious and non-religious people on all sides of the debate. To frame the debate solely as a religious issue simplifies and degrades what it is: a highly complex and technical public policy matter. The debate must be framed for what it truly involves: a failure of public policy and human rights, and a desperate attempt to resolve this failure through what seems to be the only viable alternative to suffering. We need to leave emotional stories outside the Chamber and discuss the bill's major implications for the criminal law's general prohibition against killing the innocent.

By enabling eligible patients to access assisted suicide, the Voluntary Assisted Dying Bill 2021 will essentially devalue the sanctity of human life and destroy the immensely important bond between a doctor and a patient. Currently, the law in New South Wales does not permit the killing of any person, regardless of the circumstances. Arguments of self-defence and necessity in such matters must be tested before a court of law, and the law does not permit a person to consent to having harm done to them by another. Human life is important and is protected by our State. When we abolished the death penalty our society moved away from draconian legal responses. We removed the prosecution of persons who attempted suicide and understood that mental health support must play a critical role in suicide prevention. Our society now champions human rights and the rights of individuals to live with dignity and respect. Any exception to the law banning the killing of the innocent or assisting their suicide contradicts the duty of the State to protect the lives of its citizens, especially the weakest and most vulnerable members of society. Introducing voluntary assisted dying changes this approach.

To legislate the legal means to kill another person breaks the progress of our society in valuing human life over death. It is a regression of the human rights that we have worked so hard to achieve. It places value on each person's life and transfers that value judgement to medical practitioners who are supporters of voluntary assisted dying or, when a patient's consent is not available, patients' deemed carers. It makes death an alternative to proper support and care. The bill is 81 pages long. I understand it is no easy feat to draft a bill with this level of detail, and I appreciate the commitment of the Parliamentary Counsel's Office and others in drafting it. However, with all due respect, we must be concerned that a bill of this length, which requires such a level of explanation, is confusing and provides a lack of understanding of the key issues involved.

As I am limited to a maximum of 15 minutes of speaking time, I am unable to analyse the bill section by section. However, I will attempt to discuss some of its major concerns and how its introduction will lead to abuses in New South Wales. The lack of involvement of specialised palliative care and end-of-life medical professionals within the operation of the bill is one of the largest problems with this legislation. Part 2 sets out the requirements that a patient must meet to access voluntary assisted dying. Part 3, division 1 explains that a patient must make a first request to a medical practitioner to begin the process. That medical practitioner can be a general practitioner, as there are no provisions in the bill that stipulate that the medical practitioner must have any specialisations or qualifications in palliative care.

The medical practitioner, referred to in the bill as the "coordinating practitioner", must determine whether the patient meets the eligibility criteria to access voluntary assisted dying. The coordinating practitioner must then notify the Voluntary Assisted Dying Board and refer the patient to a second medical practitioner, named in the bill as the "consulting practitioner". The second medical practitioner, who also does not need to be a specialist in palliative care, will then determine whether the patient is eligible to access voluntary assisted

dying. The patient must make a written declaration and then make a final request to the coordinating medical practitioner. The process between the first and final request by a patient can occur in as little as five days. No provisions in the bill require either the coordinating or consulting practitioner to consult with any health professionals who specialise in palliative care or end-of-life treatment, or a medical professional who has a history of medical care with the patient.

In addition to not being a specialist, a doctor does not need to be in the same room as a patient to receive their request for euthanasia. First and final requests for lethal drugs are permitted to be made and accepted via telehealth. That paves the way for a doctor to approve the death of a person they have never physically examined or in fact had an ongoing professional relationship with. I ask the Chamber how we can expect the coordinating and consulting practitioner to adequately and professionally determine whether a patient has been given all the possible options for treatment to help manage their terminal illness, or be given the best chance of living a longer life with suffering, if there are no end-of-life experts consulted throughout the process.

Part 10, division 9, section (176) (1) of the bill explains the requirements of the Voluntary Assisted Dying Board. According to the bill, the board is only required to record statistical information about patients and if they live in regional New South Wales. No provisions in the bill establish that any member of the board must be a specialist in palliative care. In fact, the bill does not require that any medical expert to be on the review board. It only mandates the presence of an experienced lawyer. Unlike the Victorian bill on euthanasia where doctors and healthcare practitioners are prohibited from raising the issue of euthanasia with their patients, that protection is not provided in the New South Wales bill. That means a doctor can suggest it as part of a consultation. Part 1, division 4, section (10) (2) of the bill stipulates that a doctor may suggest voluntary assisted dying if the medical practitioner informs the person about treatment options and palliative care services. I am deeply concerned about that subsection as palliative care services are not widely available or understood across the State.

When a person is terminally ill, they require a significant level of care. As much as we wish our loved ones will have a long and healthy life, many sick family members may see voluntary assisted dying as the only way to lift the burden from their families. Worse yet, for those terminally ill and elderly persons who do not have a solid unit of loved ones, voluntary assisted dying can lead to a means of elder abuse. I seek an extension of time to conclude my comments. [*Extension of time*]

The Royal Commission into Aged Care Quality and Safety showed horrific abuse of the elderly in care homes, and by staff and family members. We see countless cases before the courts of family jealousy, greed and dysfunction, especially involving inheritance. This legislation will allow perpetrators of that abuse to take the issue further than ever before. To say that by legislation we will stop similar abuse towards vulnerable people facing the end of life, is simply false. In countries that have introduced voluntary assisted dying laws we have seen legislative expansion, despite the original legislation being clear in its intent and safeguards. In Belgium and the Netherlands, voluntary assisted dying was extended to newborn children, the mentally ill, dementia patients and those with mental and intellectual disabilities, including autism.

The bill does not disqualify a person from accessing euthanasia if they have a mental illness, including a diagnosis of clinical depression. There is no way that the current voluntary assisted dying advocates can guarantee that this will not happen in New South Wales. It is already happening in other jurisdictions. Voluntary assisted dying will open the way for the euthanasia of the mentally ill, the depressed, individuals who feel as if they are a burden to their families, the vulnerable, the abused and those who cannot afford top level health care. In society we deplore suicide, yet this bill will normalise suicide in New South Wales. Members must pause and reflect on their responsibilities as a parliamentarian. We must be aware that our actions today will cause consequences for lives in the future.

I will reflect on a number of policies that parliamentarians such as ourselves have voted for in the past with good intentions, but they resulted in barbaric laws—the forced assimilation of our First Nations people, the Stolen Generations; racial discriminatory immigration laws; the sterilisation of the mentally ill and disabled; and the criminalisation of homosexuality. Those were all policies supported by the Parliament and government of the day which later generations, including our own, now condemn. In the future, voluntary assisted dying will fall into that category. History will not judge its advocates and supporters kindly. It will be found to be a barbaric law that undermines the value of human rights and the care of the vulnerable. We must pass legislation that secures the right to life for all citizens and vote down any legislation that weakens the capacity of the State to protect its citizens.

To legislate voluntary assisted dying would be a step in the wrong direction; it would take the focus off providing dedicated and well-resourced palliative care to all who need it. Well-resourced palliative care is the real solution to alleviate suffering. However, we are confronted with a palliative care crisis in New South Wales. The recent Royal Commission into Aged Care Quality and Safety reported that residential aged-care staff tend to be under skilled or under qualified to manage palliative care adequately. The commission recommended that palliative care should be considered a core business for aged-care providers; however, currently it is not. In many parts of remote and regional Australia palliative care is non-existent. Rural and regional MPs should lobby for significant palliative care funding and strategies, not using voluntary assisting dying as an alternative option. Currently, access to palliative care depends on a person's postcode. That should not be the case. With the introduction of voluntary assisted dying, we are valuing human life according to social class—a class that can afford dedicated palliative care services and a class that has no choice but to choose suicide.

The bill has received limited support from a number of doctors in New South Wales. However, it is my understanding that none of those doctors are specialists in palliative care. In fact, Palliative Care NSW opposes the bill. If we were to consult with the medical specialists—those with the highest order of understanding about what is required for patients at the end of their life—we would find there is little support for voluntary assisted dying. This Parliament must support the vulnerable in our society—the marginalised, the sick, the elderly and the disabled—and vote against a law that opens opportunities for those people to be abused and ultimately killed. We must vote against legislation that favours the lives of those who can afford health care, but encourages the death of those who cannot. I oppose the bill, and I encourage my parliamentary colleagues to do the same.