

VOLUNTARY ASSISTED DYING BILL 2021

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

Dr JOE MCGIRR (Wagga Wagga) (16:14): I begin my speech in debate on the Voluntary Assisted Dying Bill 2021 by acknowledging the enormous amount of feedback I have received from the electorate. I thank all those who wrote to or messaged me, especially those who gave their time to speak and meet with me. I also acknowledge the genuine passion and commitment of advocates on this issue and those who have worked on the bill, particularly the Independent members for Sydney and for Lake Macquarie. I have always tried to make clear the views and experience I bring to this issue. In representations to my office—and there have been many—there has been a relatively even split between people who are in favour of the legislation and those who oppose it. I have considered the views of all the constituents who have made contact with me. I have also considered a range of expert opinions and information for and against this issue. I thank those organisations who provided that information to me.

My concerns about the bill fall into several categories: the issue of palliative care, the access to proper care for rural people, the message we send around the taking of one's own life, and the processes in the bill itself around assessment and protection for the vulnerable. The issue at hand is about how we care for the dying. We all want those we love to die in the best way possible. In my view, the debate has been framed around only two options: voluntary assisted dying or suffering. But there is an alternative—palliative care, and I believe that must be considered. Palliative care provides relief from pain and other distressing symptoms; integrates the psychosocial spiritual aspects of patient care; offers a support system to help patients live as actively as possible until death; applies early in the course of illness in conjunction with other therapies; neither hastens nor postpones death; and offers a support system for helping the family and loved ones.

Palliative care is not about prolonged or unnecessary treatment. Palliative care can come early on in a life-limiting illness and it includes emotional and spiritual support. It steps in when other medicine says there is no more we can do. In his second reading speech the member for Sydney went straight to this issue. He stated at the outset that we had a world-class palliative care system, but it could not help everyone. He then cited a number of statistics in support. I checked with Palliative Care Australia on this information. It indicated that the data related to old and out-of-date Australian Medical Association [AMA] and Palliative Care Outcomes Collaboration [PCOC] information. Specifically, it stated that in relation to the statement about Palliative Care Australia estimating 4 per cent of patients are beyond its help, the member's office did not provide reference information and it was unable to find the source of information. Information was not sought from the office of Palliative Care Australia. Palliative Care Australia is concerned that information in this instance is being presented that is not current or accurate.

Palliative care reduces pain in greater than 98 per cent of cases, with the 2 per cent remaining including those who decline treatment in order to end their lives with family at home or for religious reasons. The option of palliative sedation is also available, which permits full autonomy of an individual to ensure that painful suffering is eliminated. Medical advances have revolutionised end-of-life care, especially with advances such as ketamine, methadone, coeliac and splanchnic blocks, and intrathecal drug therapy. Palliative care physicians and geriatricians, who have so much to do with dying patients, oppose voluntary assisted dying. It is not supported by the medical profession at large. In a 2017 article in the *Medical Journal of Australia* Emmanuel noted the evidence actually is:

Patients who request and receive euthanasia or physician-assisted suicide infrequently experience pain; similarly, few patients in pain actually want euthanasia or PAS.

He goes on to say:

If not pain, then what motivates patients to request euthanasia and PAS? Depression, hopelessness, being tired of life, loss of control and loss of dignity. These reasons are psychological—they are clearly not physical pain—and are not relieved by increasing the dose of morphine, but by antidepressants and therapy. Later he goes on to state:

The importance of psychological suffering as patients' rationale for requesting euthanasia ... indicates that these interventions are less like palliative care and more like traditional suicide condoned and assisted by the medical community.

In fact, pain is not the main reason people consider voluntary assisted dying; rather, it is loss of meaning, purpose and value to life. Is it good enough that society's response to this is simply to allow the taking of a life? Palliative care is not about prolonging life or having unnecessary treatment. Nothing legal needs to be done for people to choose not to continue to have treatment and allow the natural process of dying to continue. There is no need for a change to the law to allow this.

Palliative care in fact provides the autonomy people seek. It is in fact the best way to guarantee that autonomy. We should protect and support the right of everyone to access high-quality palliative care. This is supported by the results of a survey question asked by the PM Glynn Institute in 2018 as part of its survey on Australian attitudes to hope, trust and belonging. Respondents were asked where they stood on a number of issues, including access to palliative care in preference to assisted suicide. The question asked was:

Where do you stand on the following ... issue? Protecting the rights of terminally ill people to receive high quality palliative care and pain control, in preference to legalising assisted suicide or a "right to die"?

Asking about one or the other—right to die or access to palliative care—would be expected to bring a high level of support. This question placed one against the other to explore the issue in more depth. The survey was conducted in December 2018 by an independent social and market research company of a nationally representative sample of 3,000 respondents aged 16 years or over, selected at random. The results showed that 59 per cent expressed some or strong support for the proposal—that is, for the palliative care option—21 per cent were neutral and 17 per cent were opposed.

The right to ensure that everyone has access to high-quality palliative care, and the strong support I believe this has, brings me to a very critical issue. I am concerned that the impact of this bill will further the divide between rural and metropolitan people. The fact is that in rural areas access to palliative care is not the equivalent to that in metropolitan areas. If voluntary assisted dying becomes legal, all New South Wales citizens will have access to it; yet not all citizens have access to quality palliative care. I am worried that what we have here will be seen as a cheaper and more efficient alternative to proper care. Indeed, this has been suggested to me. As the Premier said, we do not have a world-class palliative care system. We do not have a system that is good enough. I welcome the Premier's commitment today to making palliative care in New South Wales the best in the world and I look forward to seeing the details of this. I especially implore him to ensure that the best palliative care is available in rural areas.

I am also concerned that we are sending a mixed message on the issue of suicide. Our society devotes a great deal of time and effort to ensuring that people do not take their own lives. This is especially an issue for rural areas, and I have spoken about it many times, yet here I believe we have a bill that sends the opposite message. It does not matter how stringent or limited the conditions are. We are crossing a threshold in the way we regard human life. This is not about letting someone die; this is about allowing people to take their own lives. As I noted earlier, research shows that people who choose to use voluntary assisted dying do so often because they have a sense of futility about their life and a lack of purpose.

There is evidence that where voluntary assisted dying operates, unassisted suicide may increase—for example, in US states where it operates compared with other US states. The suicide rate in the Netherlands has increased and in Belgium it has remained the same, and they both have euthanasia, while at the same time rates in France and Germany have declined. By legalising voluntary assisted dying are we not setting off on a path of normalising suicide as a response to despair? Are we not sending a mixed message to our community? I am also concerned that this legislation will see the increasing liberalisation of euthanasia. Once it is passed, there will be pressure for a further watering down of protections, as has been seen overseas. This is not surprising. [*Extension of time*]

To me, many people who argued in favour of the bill clearly had in mind that this would apply to them when at some future point they did not want to live or be a burden to others. Of course, the bill in its current form does not provide this but, for them, it will in the future and it represents a critical step forward. It is the first step in allowing more liberal criteria to take place. I have some concerns about the bill itself. I am concerned that bill will lead to the development of specialist euthanasia doctors. While the bill requires that someone must consult two doctors, neither has to be a specialist in the patient's illness and assessment does not have to be

in person. These doctors are not required to be independent of each other. As the member for Ku-ring-gai highlighted earlier today, the procedure does not guarantee independence of the assessment. They are not required to consult with the treating doctors. They are not required to consult with their family, so how can they realistically assess possible coercion?

We have had much debate in this place about the issue of coercive control, and rightly so. We have also become aware of the issue of elder abuse in our community. The New South Wales Government has appointed a Commissioner for Ageing and Disability to, in part, address this issue. We have listened to the evidence of the Royal Commission into Aged Care Quality and Safety. How will two doctors, who have limited knowledge of the person's circumstances, assess the presence of coercion? It is my view that it will not take long before issues such as financial pressures, healthcare costs and the expectations of family lead people to feel that they are a burden and they need to take their own lives. There is no requirement for a mental health assessment or reference to a palliative care specialist. Indeed, the process as described is a technical process, a procedure, and when medicine is reduced to simply a "procedure" and our health professionals become technicians, we know we will have problems.

We must not let this happen when we are dealing with life and death. The medical technicians will have a strong preference for what should happen. In my view, there is a high risk that they will take a patient down the path to euthanasia without adequate consideration of other options. I am also concerned that the bill does not support a proper bereavement process. A constituent spoke to me of her experience in this regard. Several years ago this constituent's husband utilised services available overseas to end his own life. He had been previously diagnosed with a terminal illness. His family did not know what he intended to do "until his hand was on the back doorknob". During the entire preparation of the assisted dying process, including several GPs, specialists and psychological consultations, no-one knew this man had a family. They were not included in any of the processes. They were not with him when he ended his life. A week later, they received a text message saying, "He's gone".

My constituent's concern with this bill is that there is no ongoing support for immediate family members who are left behind and there needs to be safeguards to ensure family members are aware of, and involved in, the voluntary assisted dying process. I ask the movers of the bill to please consider that issue. We need a careful and diligent appraisal of the person, an impeccable approach to managing pain and distress—physical, mental, emotional—and of looking after the family and loved ones. Instead, I am worried that we just have a technical process—and, worse still, it is a technical process that relies on an estimate of the length of life that studies have shown can be inaccurate by an amount of up to five times. So six months or one year can be two to five years. We would not accept this level of uncertainty in a parcel delivery, but we are planning to accept it in a fatal, irrevocable decision. Many people have contacted me about the bill. Many members of Parliament have recounted stories and I wish to recount one as well from one of the many constituents who contacted me. She said:

I have sat with my parents and aunt as they died. They had great suffering but fought for life until the end with the greatest dignity and love dedicated to them. That does not mean it was easy for them or their family. If this bill is passed, our society will see humanity as a liability only worth preserving and caring for if the materialistic benefits outweigh the cost of medical care. People who are suffering, mentally and physically, are not free to choose what makes their lives valuable—their lives are precious and need to be treated as such with adequate compassion, medically and socially.

This law changes how we care for others. It challenges the foundational ethics of the caring professions but, more than that, it changes society. We do cross a line here. This is not about letting someone die; this is about actively taking steps to end life. It goes against the sanctity of human life. That no-one has the right to take the life of an innocent person is a foundational principle of our society. What problem was ever solved by killing someone? We have an alternative in palliative care to ensure that people die in dignity, are cared for and receive the love and care they deserve. That is where our focus should be. After many months of careful thought and reflection, I will not be supporting the Voluntary Assisted Dying Bill 2021.