

# VOLUNTARY ASSISTED DYING BILL 2021

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

**Mr DAVID MEHAN (The Entrance) (14:52):** I support the Voluntary Assisted Dying Bill 2021. I acknowledge the many community organisations that have worked for several years on this bill. I also acknowledge the community groups that have argued against the bill. The interplay of those organisations and the different views in the community is important in working out this issue in our democracy. I particularly acknowledge the work of the member for Sydney, who has largely been responsible for the bill before us today. As one of the sponsors of the bill I also thank my co-sponsors—who are members of all political parties in this House—for their work on the project. I thank the many people who contacted my electoral office with their views on the issue. Of those people, 225 supported the bill; and 115 opposed it. I note also that information provided by Dying with Dignity NSW indicated that in a poll of 1,378 voters in The Entrance electorate, 79 per cent agreed with the proposition that "terminally ill patients should be able to end their own life with medical assistance". That is what the bill does. The objects of the bill are to:

1. (a) enable eligible persons with a terminal illness to access voluntary assisted dying, and
2. (b) establish a procedure for, and regulate access to, voluntary assisted dying,
3. (c) establish the Voluntary Assisted Dying Board and provide for the appointment of members and functions of that board.

The Act will commence 18 months after assent and, by operation of proposed sections 9 and 89, health practitioners and facilities, including hospitals, can decide not to provide a voluntary assisted dying service. I also note that, by operation of proposed section 10, healthcare workers are not to initiate discussions about voluntary assisted dying and, by operation of proposed section 12, voluntary assisted dying is not suicide for the purposes of other laws in this State. Part 2, proposed section 15 states:

A person may access voluntary assisted dying if:

1. (a) the person has made a first request, and
2. (b) the person has been assessed as eligible for access to voluntary assisted dying by—
  - (i) the person's coordinating practitioner, and
  - (ii) the person's consulting practitioner, and
3. (c) the person has made a written declaration, and
4. (d) the person has made a final request to the person's coordinating practitioner, and
5. (e) the person's coordinating practitioner has certified in a final review form that—
  1. (i) the request and assessment process has been completed in accordance with this Act, and
  2. (ii) the practitioner is satisfied of each of the matters referred to in section 52(3)(f)—

which are—

1. (i) the patient has decision-making capacity in relation to voluntary assisted dying, and
2. (ii) the patient, in requesting access to voluntary assisted dying, is acting voluntarily, and
3. (iii) the patient, in requesting access to voluntary assisted dying, is not acting because of pressure or duress, and ...
4. (iv) the patient's request to access voluntary assisted dying is enduring,

Proposed section 15 continues:

6. (f) the person has made an administration decision, and
7. (g) if the person has made a self-administration decision—the person has appointed a contact person, and
8. (h) a voluntary assisted dying substance authority has been issued by the Board in relation to the person

Section 16 provides for eligibility. The person must be an adult; they must be diagnosed with at least one disease, illness or medical condition that is advanced, progressive and will cause death, and will, on the balance of probabilities, cause death; is causing suffering to the person that cannot be relieved in a way the person considers tolerable; the person has decision-making capacity; and the person is acting voluntarily. Part 10 establishes a board to oversee the operation of the Act, and the other details of the process are provided in the body of the legislation.

The bill enables a terminally ill individual to decide the time of his or her death. This is a powerful new right to be granted to an individual. In granting any new right to an individual we must always balance the right of the individual and the freedom of the individual against the common good. In my view, the common good must always be the overriding consideration in any matter before this place because the common good underpins what it is to have a good society. On balance I will always come down on the side of the common good. However, a good society will always allow individual freedom and much of our work in this place concerns itself with limiting individual freedom in the interests of society at large and the common good. Our response to the COVID-19 virus is a recent illustration of this. In the interests of the common good we restricted work, commerce and mandated vaccination of many members of our society. It was the right thing to do.

In my view when it comes to end-of-life decisions, the common good will be better served if we allow individuals suffering a terminal illness the ability to decide the time of their death. In this regard we already allow a degree of individual autonomy in end of life decisions with the regulation around advanced care directives, which modify the conventional application of palliative care doctrine and procedures in our public health system. The bill will allow those suffering a terminal illness to decide the timing of their death before the progress of their illness reaches the point at which they can no longer communicate and their death becomes not their decision but the decision of someone else. I commend the bill to the House.