

VOLUNTARY ASSISTED DYING BILL 2021

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

Ms FELICITY WILSON (North Shore) (12:00): I contribute to the second reading debate on the Voluntary Assisted Dying Bill 2021.

Death comes to us all. Being dead does not matter. It is a consequence of being born. It is a final universal experience.

But getting there, how we die, does matter, and many of us do not find the gentle or sudden death for which we hope. Many of us here will find only wild deaths at the end of the road. We may wish that it was otherwise, but it is not.

Those words were spoken on the floor of this Chamber 25 years ago, not by a member of this place but by former longstanding Liberal Senator and advocate for voluntary assisted dying Professor Peter Baume, AC, who is a member of my community. I commence my contribution on the Voluntary Assisted Dying Bill 2021 by putting those words on the record because they convey an enduring and undeterred intergenerational push for reform, a journey that has been underpinned by liberal values. I am in this place as a staunch advocate of liberalism. It is the right of the individual to make decisions for themselves. That liberty should be unfettered by the views and values of others, no matter how deeply felt or well meant, if the action does not harm others.

That liberal philosophy of John Stuart Mill underpins our democracy, our laws and our decision-making. It enshrines our rights and liberties, and it empowers our autonomy and choice. For too long, people at end of life have endured extreme suffering. For those small few whose pain cannot be alleviated sufficiently by palliative care, there has either been the requirement to continue suffering or the potential for an assisted suicide or hastened death in a murky, unregulated, likely illegal and hidden manner. That is not choice; that is not liberty. Today we take the steps to right that wrong, to return choice to individuals and to empower people to exercise autonomy over their own lives. Supporting legislative reform that enables a person to end their life is not an easy action to take, even if it is a clear decision.

I recall quite clearly a conversation I had with my grandfather well before I was in this place about the euthanasia debate, as it was then known. I had quite wrongly assumed that this conservative man would be in fierce opposition. I had not taken a view; I was young and healthy and was not thinking about end of life. He floored me with his observation. He said to me that it was the young and the healthy who make the laws but it is the sick and the old who have to live with it, even if they cannot bear to live any more. To think that all these years later I would be in a position to make our laws and to make them in recognition of his advocacy for the continuing liberty of those individuals afflicted with a suffering that I have never experienced, I can only say that it is bittersweet that I get to make this decision.

It is not an unusual experience to have to legislate on matters that we have never experienced personally— and we hope not to—which is why the values that we bring to this place and the ideals of our communities must guide us at every step. Since I was first elected as the member for North Shore, I have listened to the views of my community on this important matter. I have held community forums, hosted speakers for and against the issue, and executed surveys of my community. I have had many thousands of contributions from constituents, and the overwhelming majority of them have urged me to support the bill. I thank each and every person who has reached out to me, particularly those who have shared their deeply personal experiences whether in support or opposition. I share some of those testimonies today.

Paul from Mosman shared with me his story about both of his parents. His parents both lived in Victoria until their death. His father passed away through the Victorian Voluntary Assisted Dying [VAD] program in July last year, and then in April this year his mother chose the same course. Paul's father had been diagnosed with inoperable brain cancer and Paul said that "he did not hesitate in going down the VAD route". During around the COVID-19 restrictions last year, Paul took a few opportunities to visit his father in his last few months. The day his father was given permission to proceed he told Paul that he would take the medication the following day.

Paul's mother had emphysema for more than 20 years, but when the illness really took its toll on her and she was at a weight of just 26 kilograms, she also decided to enter the VAD program. While Paul's visits were limited, he made the most of them. He was also there when the specialist met with his mother to assess her for

VAD, and he noted that he could not participate in the discussion due to the very strict laws to mitigate the risk of family influencing a patient's decision. While his mother took a few months once she had approval for the medication and before she took it, he said that once she had that approval, the sense of control gave her relief in her final weeks.

Kate from Mosman shared her recent experience of the death of her husband. Kate's husband was diagnosed with terminal cancer and she described the traumatic final days of her husband's life to me. The experience is still very raw and it continues to cause distress for her and her son, who was just a young adult. The doctors sent him home to die and Kate cared for him and loved him and helped to clean him up when he lost control of his bodily functions, even though he was mortified about it. Kate said that she had no choice and he had no choice but for him to suffer and the family to watch him suffer and just help him in any way they could. She knows that her husband was a dignified man who died without the dignity that he sought.

I have heard from many other constituents and community representatives describing their experience of watching the slow and painful deaths of their nearest and dearest or the distress of coping with a degenerative or terminal illness. I have also heard from doctors, nurses, health workers and carers who have witnessed many patients at the end of their life and can recount the distress and suffering of those patients. The scope of the bill shows that we are not taking this matter lightly. The requirements to voluntarily end one's life will be restricted to people who are terminally ill and whose extreme suffering cannot be alleviated. It requires an enduring request from a competent person. The bill contains strong safeguards. There will be multiple assessments for decision-making capacity and to determine whether the patient is acting voluntarily and without pressure or duress.

Two doctors with prescribed experience and mandatory training will be required to assess and approve the patient's request and can seek further assessment where appropriate. Before any doctor can participate in the scheme, they must have conducted training approved by the Secretary of NSW Health, which will include how to identify signs of coercion. The legislation also includes a number of new offences with high penalties, including life imprisonment, for unauthorised administration of substance and seven years imprisonment for inducing someone to apply for VAD. The bill considers our healthcare professionals and the role they may play in voluntary assisted dying. It acknowledges that they will not be forced to take part in voluntary assisted dying and can conscientiously object or not participate for any reason. The bill respects the rights of medical practitioners and medical institutions that may hold religious or other objections. Provisions in the bill enshrine the ability for hospitals and residential facilities to have a policy to not provide VAD services.

We have heard, and will hear, from those who oppose the bill very well-meaning and considered contributions, from those who fear the slippery slope or dire consequences for the vulnerable in our community. But we must vote on the bill before us—a bill that is constrained, detailed, robust and reflects the evidence and experience across the globe and across every State in Australia. For those who have concerns about quality of and access to palliative care, I agree that we must do more. For those who have concerns about people with disabilities, I agree that we must do more. For those who have concerns about our First Nations people, I agree that we must do more. But none of those actions are mutually exclusive with acting on voluntary assisted dying.

New South Wales must have one of the best palliative care systems in the world, and I welcome the Premier's personal commitment to achieve that goal. But what about those whose suffering cannot be alleviated by palliative care regardless of funding, training, capability and accessibility? Global and local evidence shows that palliative care can relieve all suffering in about 80 per cent of people. For a further 15 per cent of people, palliative care makes a sufficient difference to tolerate pain. But what about the 5 per cent of people whose suffering can never be alleviated by palliative care? With the best funding and support for palliative care, the moral problem remains, even if one person cannot be helped. The bill addresses that moral obligation.

Lastly, we must acknowledge that forms of assisted dying already occur each and every day across this State. Studies over many decades have shown that this occurs behind closed doors and is unregulated, and takes place without protections for the vulnerable, the ability to include family members, medical practitioners working together for the patient and a robust model of consent—essentially, without ensuring that it is voluntary. Quite rightly, we should all be wary of the risk of abuse or coercion, but the status quo already enables this to occur. Any efforts to address this should be undertaken with or without a voluntary assisted dying regime. I seek an extension of time. [*Extension of time*]

Perhaps worse than this hushed-up hastening of deaths are the horrific and lonely suicides that occur in the absence of this reform. Coroners in a number of States have shared graphic and powerful testimony about

the problem. The Victorian coroner revealed that suicides are occurring at a rate of one person per week. A safe framework for voluntary assisted dying can help to reduce the incidents of patients resorting to that option. For those who oppose the bill, I ask of them: What action will you take to end these practices? Fundamental to the bill is its voluntary nature, with a framework to ensure that choice rests with the individual to the exclusion of other interests.

I thank the member for Sydney for bringing the bill to the Parliament and for the detailed and lengthy work that he has undertaken to ensure that we can vote on this reform for the people of New South Wales. I thank the organisations that have played a part in the creation of the bill. I particularly note Penny Hackett and Shayne Higson from Dying with Dignity NSW, whose steadfast and indefatigable efforts over many years I have had the privilege of observing. I thank the Council on the Ageing NSW, the NSW Nurses and Midwives' Association, Go Gentle Australia, Christians Supporting Choice for Voluntary Assisted Dying, Doctors for Assisted Dying Choice, the AIDS Council of NSW, Cancer Voices NSW, the Australian Lawyers Alliance and Palliative Care NSW, as well as other members of the NSW Voluntary Assisted Dying Alliance. I also thank my fellow co-sponsors of the bill from both Houses across the parties.

I support the bill not because I am a Liberal, but the values that make me a Liberal are the same values that compel me to support a bill that empowers individual choice in the absence of harm to others. I support the bill not because I am a Christian, but the compassionate faith with which I was raised is entirely consistent with the goal and outcome of a bill that frees a person from intolerable suffering. I know not all Liberals nor all people of faith will support the bill, but I know the vast majority of people in New South Wales and in my own community of North Shore want to see this reform. More importantly, those who seek autonomy to end unbearable pain are crying out for this change. My vote will not decide what a person does at the end of their life; it merely ensures that they will be able to make that decision. That is a right that should be inalienable for all of us. I commend the bill to the House.