

Hon Nick Goiran; Hon Stephen Dawson; Hon Colin Tincknell; Hon Dr Sally Talbot; Deputy Chair; Hon Robin Chapple; Hon Alannah MacTiernan; Hon Aaron Stonehouse; Hon Kyle McGinn; Hon Rick Mazza; Hon Diane Evers; Hon Colin Holt; Hon Adele Farina; Hon Simon O'Brien; Hon Sue Ellery; Chair; Hon Martin Aldridge

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## VOLUNTARY ASSISTED DYING BILL 2019

### *Committee*

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Martin Aldridge) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

#### **Clause 1: Short title —**

Committee was interrupted after the clause had been partly considered.

**Hon NICK GOIRAN:** In the minister's answer earlier this afternoon, prior to questions without notice, he referred to what I understood is a likely gap in the fees that would be relevant for nurse practitioners. The minister referred to a figure of 85 per cent. Can the minister clarify what that means? Does that mean that Medicare will cover up to 85 per cent of the fee of a nurse practitioner? How does that 85 per cent figure relate to the gap that will be required to be paid by a patient who wishes to access voluntary assisted dying?

**Hon STEPHEN DAWSON:** We will have to check that information and we will provide an answer to the chamber later in the evening.

**Hon NICK GOIRAN:** Further to that, there has been a call for government to regulate the fees that will be able to be charged for these procedures. The minister may be aware that the law regulates the fees chargeable by legal practitioners in Western Australia for certain types of legal cases—not for all types of legal cases, but there is a regulatory system. In fact, in some cases, a legal practitioner is prohibited by law from charging a fee over and above the set regulated scale cost. Is the government considering doing a similar thing with the fees that medical practitioners will be able to charge under the voluntary assisted dying process?

**Hon STEPHEN DAWSON:** No, we are not considering it. My advisers say that, to the best of their knowledge, it has not been raised with us.

**Hon NICK GOIRAN:** The minister has indicated that the government is in ongoing consultation and discussion with the Australian Medical Association (WA). The AMA did a survey and 90 per cent of those who responded—that is, 1 368—believed that the government should regulate these fees and charges. Is the minister indicating to the chamber that the AMA has never raised with the government that it should regulate the fees and charges for this process?

**Hon STEPHEN DAWSON:** My advisers tell me that we are not aware of it being raised, but we are going to check the AMA document that was tabled yesterday, dated 21 October 2019, to see whether it was raised in that format. We will check that document and provide an answer to the chamber based on that.

**Hon NICK GOIRAN:** Was the issue of regulating the fees that will be chargeable raised with the Ministerial Expert Panel on Voluntary Assisted Dying, and did it provide any information to government on that?

**Hon STEPHEN DAWSON:** The ministerial expert panel did not make a recommendation on this issue. We would have to go back and check the submissions to the ministerial expert panel to see whether it was raised by any organisation as part of that submission process, but we are not aware of that at this stage. We will have to go back and check that.

**Hon NICK GOIRAN:** To the best of the government's awareness, this issue was not raised in the ministerial expert panel process. Is this matter now under consideration by government?

**Hon STEPHEN DAWSON:** We have gone back and checked the Australian Medical Association (WA) document from 21 October that was tabled yesterday and there is a proposed amendment in relation to that issue in that document. I have previously indicated that the government is involved in conversations generally with the AMA (WA) on its amendments, so I suspect that all the amendments are under consideration at this stage. However, no decision has been made by government on any of them.

**Hon NICK GOIRAN:** For what it is worth, I think it would be worth giving serious consideration to that amendment. I cannot make a case for the law of Western Australia telling a legal practitioner involved in a workers' compensation case that under no circumstances should they charge more than the scale fees, and then allow a medical practitioner who is involved in taking the life of a person—it may well be with the consent of the individual and may meet all the criteria under the legislation—to have unlimited capacity to charge for that service. I cannot make a case for that. I think that is morally wrong. I hope the government will agree that if it is good enough to tell legal practitioners how much they can charge in a workers' compensation case, it surely must be good enough for the government to tell a medical practitioner how much they can charge for so-called voluntary assisted dying. I hope the government will give serious consideration to that. I do not know what level of consideration it is giving to that amendment because, as we have previously discussed, we are operating with handcuffs and blindfolds on in this debate.

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One thing the ministerial expert panel did was undertake some consultation with Aboriginal people. I draw the minister's attention to page 30 of the ministerial expert panel report, where it states —

Discussions that took place in the Kimberley raised issues in relation to self-harm and suicide and noted that even discussing palliative care with patients can be challenging in this context. There may be complexities surrounding concepts such as blame or 'pay back' in Aboriginal communities and potential implications if the family has a negative perception of the practitioner or health service because of involvement in voluntary assisted dying.

How has this issue that was identified by the ministerial expert panel been taken into account in the bill before us?

**Hon STEPHEN DAWSON:** On the last point, we are seeking some further advice and I will provide that shortly. In relation to Hon Nick Goiran's mention of the fees payable to law practitioners in Western Australia, I am not full bottle on those and certainly was not part of the Parliament when decisions were made on that issue. I hear what the member is saying and his views on that issue. He has a strong view that medical practitioners who participate in this process should be regulated by a similar scheme, if I can use those words. I have noted the member's comments about that.

The member has again talked about our hands being tied. Again, we are following the same processes that are followed when other bills are before this chamber; that is, when the government or, indeed, anybody decides to move amendments to legislation before the chamber, they of course need to lodge those amendments with the clerks and they then appear on the supplementary notice paper for the bill. He might say that his hands are tied, but plainly and simply we are following the same process that has been followed in this place for a very long time. Of course, we all understand that customs and practices in this place are a very important part of our daily lives. He might say that his hands are tied, but I would say, as I have said previously, that we are considering a range of amendments based on the feedback of honourable members in this place and indeed health stakeholders, including the Australian Medical Association and the Royal Australian College of General Practitioners. We continue to consider those amendments. Once the government has made a decision on those amendments, we will, of course, put them on the supplementary notice paper as we would for any other bill.

In response to that last specific question, we continue to seek that advice, so I will sit down for a second and provide an answer once it is ready.

In response to Hon Nick Goiran's question about the consultation findings on page 32 of the "Ministerial Expert Panel on Voluntary Assisted Dying: Final Report" and the comments that he read to the chamber from the Aboriginal Health Council of Western Australia, I am advised that the advice received from Aboriginal communities and organisations informed a range of expert panel recommendations, particularly the guiding principles; recommendation 12, regarding care navigators; and recommendation 29, regarding education and training to promote culturally competent practice. As recommended by the Aboriginal Health Council of Western Australia in its submission to the ministerial expert panel, a navigator program will be planned, designed and implemented in a culturally appropriate manner, and suitable training and ongoing support will be provided to care navigators. Community awareness and communication programs about voluntary assisted dying will also be developed to ensure that everybody in the community, including Aboriginal people, has accurate and appropriate information on this choice.

**Hon NICK GOIRAN:** The minister referred to the submission by the Aboriginal Health Council of Western Australia. I note that page 31 of the ministerial expert panel's report says —

*'Clinicians often use complex medical terminology when discussing treatment options with Aboriginal people ... This results in the real risk that Aboriginal people may consent to something they don't fully understand. There is also the issue of the disparity of power between a doctor and Aboriginal people; Aboriginal people will often agree with a doctor's advice even if they are not happy with it as they can feel overpowered in the doctor-patient relationship'.*

As I understand it, that quote on page 31 is a submission by the Aboriginal Health Council of Western Australia. How is that addressed in the bill?

**Hon STEPHEN DAWSON:** Again, the advice received from Aboriginal communities and organisations informed a range of ministerial expert panel recommendations generally, so the honourable member can read in whichever quotes in here, but certainly my advice is that all the submissions were considered by the ministerial expert panel. Following the consideration of those submissions and the consultations that took place across the state, the ministerial expert panel landed on the recommendations in the "Ministerial Expert Panel on Voluntary Assisted Dying: Final Report".

**Hon NICK GOIRAN:** The Aboriginal Health Council of Western Australia also said to the ministerial expert panel —

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*'As Aboriginal families often live together, with multiple generations sharing the same house, there is a safety concern about the unregulated presence of highly harmful medication in the home.'*

How has that been addressed in the bill?

**Hon STEPHEN DAWSON:** All medication should be stored securely. The department is of the view that advising or educating people on safe storage and medication management is more appropriate and effective than a fixed legislative requirement for a specific method. It is not our intention to police storage within a patient's home. In line with the Department of Health's guiding principles for medication management in the community and the national poisons standard, patients using medicines in the community will be encouraged to store their medicines in a manner that maintains the quality of the medicine and safeguards the consumer, their family and visitors in their home. Appropriate methods for storage will be further developed with expert clinical advice during the implementation stage of the bill. It is anticipated that specific medication protocols will be developed and implemented to ensure the safe storage, preparation, administration and disposal of unused voluntary assisted dying substances. The bill sets out the minimum requirements for the supply, storage and disposal of the prescribed substance.

I am further advised that the consultation findings will be reflected in the training of doctors.

**Hon NICK GOIRAN:** The minister indicated that somebody within government has given advice that an educative approach for storage is better than a legislative fix, I think the phrase was. Is that the approach that has been taken in Victoria?

**Hon STEPHEN DAWSON:** The ministerial expert panel provided a snapshot of eight different jurisdictions and their medication management. None stipulated a time line for the process nor specific disposal requirements; rather, consistency with existing protocols and the use of internal policy guidelines and education seems to be the preferred approach. The ministerial expert panel noted that apart from Victoria, no jurisdictions legislate for locked boxes and there is no evidence of misuse with voluntary assisted dying medication elsewhere in the world. In Western Australia, schedule 4 and schedule 8 poisons, which will make up voluntary assisted dying substances, are already dispensed to people without discrete storage requirements such as a locked box. The Victorian legislation differs from Western Australia in this regard.

**Hon NICK GOIRAN:** The minister mentioned that there is no evidence of any misuse. Is that something that the ministerial expert panel has said or is it subsequent advice from within government?

**Hon STEPHEN DAWSON:** I am advised that the issue was part of the ministerial expert panel's considerations, but it was also an issue considered by the Department of Health in the formulation of this bill.

**Hon NICK GOIRAN:** To be clear, both the ministerial expert panel and the Department of Health have said to the government that there is no evidence of misuse of the poison, substance or drug when it comes to storage. Is that the advice from both the ministerial expert panel and the Department of Health?

**Hon STEPHEN DAWSON:** The ministerial expert panel noted that there was no evidence available on this issue. I am further advised that the Department of Health looked for evidence and could not locate any.

**Hon NICK GOIRAN:** I think the minister told us in a previous answer to a question that the system in Oregon is just self-administration, not practitioner administration. Finding 115 on page 206 of the minority report states —

The inherent difficulty in prosecuting after the event is underscored by at least five assisted suicides in Oregon that occurred by illegal overdoses administered by a nurse.

If there is only self-administration and not practitioner administration in the Oregon system, and the data in Oregon indicates that death has occurred at least five times because of an illegal overdose by a nurse, would that not be an issue of concern? How was that substance obtained? We are talking about storage, and someone clearly had access to the poison. I also note finding 111 of the minority report —

In Oregon an octogenarian cancer patient was assisted to suicide notwithstanding that two doctors, including her own physician, were concerned about the presence of depression and refused to prescribe the lethal drug requested.

These cases in Oregon seem to suggest at face value that something is not quite right there. It is not clear to me why the ministerial expert panel would be in a position to advise the government, "There's nothing to see here, folks. There's no problem." Is the minister in a position to explain that?

**Hon STEPHEN DAWSON:** The assertions made in the honourable member's minority report would need to be checked and I will have to take some further advice on that. But he is making assertions about the Oregon legislation. Our bill is different from Oregon's. Perhaps it was in my second reading reply or the second reading speech in which I alluded to the summary of safeguards that we have attached to the bill that is being discussed before us.

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The ministerial expert panel noted that there was no evidence on this issue and the Department of Health looked for evidence. We will, of course, seek some further advice about the minority report and I will provide further explanation about that once we have been able to ascertain the extra information we are looking for.

**Hon COLIN TINCKNELL:** Does the minister believe that death certificates should be truthful?

**Hon STEPHEN DAWSON:** I think the honourable member is asking me for my opinion on an issue.

**Hon Colin Tincknell** interjected.

**Hon STEPHEN DAWSON:** Hang on; I am on my feet.

I suggest that the question is out of order. The honourable member is welcome to ask questions about the bill before us. We are, of course, at clause 1 of the bill and have previously decided on the policy of the bill. If the honourable member has questions about specific clauses in the bill, perhaps he should ask questions about those clauses at those clauses. It is not appropriate to ask me about my opinion.

**The DEPUTY CHAIR (Hon Martin Aldridge):** Before I give the call to Hon Colin Tincknell, I am not able to locate it presently, but I am certain the bill has a provision that relates to the issuance of death certificates. I caution the member that if he is intending to ask specific questions about a clause, that is not a matter to be dealt with at clause 1.

**Hon STEPHEN DAWSON:** Just to clarify, death certificates are mentioned in or linked to clause 81 of the bill. Perhaps the honourable member might want to ask questions about that issue generally at clause 81. It is certainly not appropriate to ask me what my opinion is of death certificates.

**Hon COLIN TINCKNELL:** If this chamber decides to legislate for voluntary assisted dying, no stigma should be attached to the Voluntary Assisted Dying Bill or any determination made to prohibit any reference on the death certificate to death by voluntary assisted dying. There is a reason for the question. I understand that the advice is that a death should not be attributed to VAD on the death certificate. Why is that the case? If this chamber, this Parliament and society choose to legalise voluntary assisted dying, what is the stigma that is attached to that?

**Hon STEPHEN DAWSON:** Again, clause 81(6) of the bill states —

The medical practitioner must not include any reference to voluntary assisted dying in the cause of death certificate for the person.

That is dealt with in the bill. It is not a clause 1 issue; it is a clause 81 issue. In relation to stigma in the community, I am not answerable for people's views and who thinks what is stigmatised or otherwise. These questions are most appropriately asked at clause 81.

**Hon NICK GOIRAN:** I will follow up on the concerns raised by the Aboriginal Health Council of Western Australia with the Ministerial Expert Panel on Voluntary Assisted Dying around the need for safeguards because of the unregulated presence of highly harmful medication in the home, and the revelation by the minister that the government has chosen to take an educative approach to this and not a legislative fix. Earlier we discussed the situation in Oregon, which uses only self-administration. Does Oregon take an educational approach to the storage issue or does it take a legislative fix?

**Hon STEPHEN DAWSON:** The honourable member is asking about the Oregon legislation. That is not the bill that we are debating this evening. That is different legislation. I have been very generous in answering questions about legislation in other countries and whatever else, but for him to continually ask me questions about the Oregon legislation in particular, it is outside the scope of this bill. I am happy to answer questions about the bill before us, but asking me about what is in the Oregon legislation is a very different issue from asking me about the bill that is currently being considered by this chamber.

**Hon NICK GOIRAN:** I do not think the minister understands the basis for the question. The Aboriginal Health Council of Western Australia sent a submission to the ministerial expert panel. The government has spent half a million dollars getting the ministerial expert panel to provide advice to government. The minister indicated to us earlier that the ministerial expert panel and the Department of Health have suggested to him and government that the best approach would be an educative approach, not a legislative approach. That is fine; government can decide to do that, but it does not address the concern of the Aboriginal Health Council that states —

‘As Aboriginal families often live together, with multiple generations sharing the same house, there is a safety concern about the unregulated presence of highly harmful medication in the home.

The council has raised this concern. I want to make sure that the government has made the right decision by choosing an educative approach, not a legislative one. It is open to us and to the minister whether we put amendments on

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the supplementary notice paper to take a legislative fix. I am trying to understand the basis upon which the government has said, "No, that is not necessary. We are going to take an educative approach." One of the reasons might be that the Oregon system takes an educative approach. The minister indicated earlier that the government is taking a lot of information from, and putting a lot of weight on, the Oregon approach. That is fine; the government is entitled to do that. I am simply trying to ascertain whether that is one of the reasons the government has chosen an educative approach and not a legislative one. That is the basis of my question. I am not asking for specific detail about the Oregon legislation at all. The answer will help us to understand the basis upon which the government has formed the decision to take an educative approach, not a legislative one, to storage and to compare and contrast that with the Oregon approach. It may be that the expert panel has already looked at this. I would be happy if the minister could point us to that in the panel's report and then we could move on to another issue. That is the basis of the question. I do not think it is unreasonable for the Aboriginal Health Council of Western Australia to submit its concerns about unregulated practices for lethal medication in the home when the minister has indicated to us that there will be no regulation but simply education.

**Hon STEPHEN DAWSON:** With the greatest of respect, the honourable member's question was about Oregon. He asked me specific questions about Oregon. That is not in the bill that is before us now. By all means, ask me questions about this bill and I will be happy to provide answers. The member asked questions about the Oregon legislation and what was in it —

**Hon Nick Goiran:** No, I didn't.

**Hon STEPHEN DAWSON:** Yes, he did.

**The DEPUTY CHAIR:** Order!

**Hon STEPHEN DAWSON:** Perhaps the member misunderstood himself. That is certainly my understanding of what was asked. The member asked about what was in the Oregon legislation. With the greatest respect, Deputy Chair, I am not answering questions about the Oregon legislation. I am happy to answer questions about the bill that is before us. Any comments made by organisations in their submissions to the ministerial expert panel were considered by the panel. As I have said previously, advice received from Aboriginal organisations or, indeed, Aboriginal communities have been considered and informed a range of expert panel recommendations. It is open to the honourable member if he wants to move an amendment about the storage of medication. That course of action is open to him and he should do that at the appropriate time. But I have made the point that generally the submissions received by the ministerial expert panel were considered by the panel and it made recommendations based upon on those submissions. Obviously, the government has taken on board the ministerial expert panel's recommendations and that has helped to formulate the bill that is before us this evening.

**Hon NICK GOIRAN:** We do not know whether we can move an amendment on storage based on the Oregon model because the minister will not tell us whether it is a model that we can follow—that is the problem. But again, that is the approach taken by government, which is to frustrate, not facilitate—that is okay.

I take the minister to recommendation 24 of the Joint Select Committee on End of Life Choices. It states —

The Western Australian Government develop and introduce legislation for voluntary assisted dying having regard to the recommended framework and following consultation with the Panel established under Recommendation 21.

The minister will see that the preamble to the framework sets out certain things that the legislation should or should not do. Has a criminal defence been provided, as referred to in the framework; and, if so, which clause does that; and, if not, why not?

*Point of Order*

**Hon Dr SALLY TALBOT:** Once again, can I just say that a number of us are listening very closely to this debate. We have to pay tribute to the efforts by Hon Nick Goiran to do what he informs us is helping him to understand what the Chair of Committees has referred to as the detail and the machinery of the bill. That is a commendable thing for him to be trying to do. But I personally harbour a suspicion that something else is going on, because I have just done a rough calculation. It seems to me, as I said last night when I took a similar point of order, that we are still on clause 1. Clause 1 has a relatively narrow reference to it. We have 184 clauses in the bill. If Hon Nick Goiran keeps proceeding at this rate in an attempt to inform himself about the detail and the machinery of the bill, it will take us between nine and 10 years to get through this bill.

**The DEPUTY CHAIR (Hon Martin Aldridge):** Hon Dr Sally Talbot, could you please bring your point of order to a point.

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**Hon Dr SALLY TALBOT:** I will get to the point. I was laying that out as a context for my point of order; that is, it is reasonable for us to look to the Chair, and I pay tribute to the quality of the chairing, which I think has been excellent throughout this last week. I would ask the people who are in the chair to look at some of these aspersions that are being cast, the imputations that are being made, about the minister and about the government's process. So far in the last hour or so we have heard handcuffs, blindfold and oversensitive and, of course, the member refers constantly to what he calls the "so-called ministerial expert panel"; although I notice that he tends not to do that when certain advisers are at the table. I ask the Chair to encourage the honourable member not to cast these aspersions. The minister is providing very, very fulsome answers. In addition, I would like to point out that I personally have been in briefings, with both people who support the bill and people who do not support the bill, in which the minister and all the minister's staff have said over and over again, "We will brief you as many times as you need to be briefed to understand what's going on with this bill."

**The DEPUTY CHAIR:** Hon Dr Sally Talbot, you can take your seat. I understand that your point of order—when you finally got to it—was about personal reflections and imputations. I do not think that the threshold has been exceeded with respect to that point of order, so there is no point of order. I remind members that we are dealing with clause 1. The procedural notes for members say that the short title debate does no more than give members the opportunity to range over the clauses of the bill, foreshadow amendments and indicate, consistent with the policy of the bill, how its form or content may be improved. I have been listening very carefully to the debate. It is not always easy to follow where a question is going and link it back to a clause of the bill, but the questioning does relate to the storage of substances. Some clauses in the bill relate to aspects of storage, but my understanding of the questions being asked by Hon Nick Goiran is that they are consistent with the policy of the bill and consistent with the advice that I have just read out, which is looking at ways and considering options to improve the substance of the bill. I will continue to monitor the debate very carefully, but there is no point of order.

*Committee Resumed*

**Hon STEPHEN DAWSON:** Thanks, Mr Deputy Chair. I will have to ask the honourable member to ask his question again, because he ranged over a number of areas and I just want to pinpoint exactly what he is asking for so we can actually get him an answer.

I make the point that I have not sought to frustrate the passage of this bill over the debate, and if anyone suggests otherwise, I take issue with it. I have been fulsome in my responses. I have sought to provide answers to the questions that have been asked on issues as broadly as I possibly could, so for people to suggest that I am being tricky or frustrating or anything else, I take great issue with that. Again, I will ask Hon Nick Goiran whether he might repeat his question so we can give him an answer.

**Hon NICK GOIRAN:** Mr Chairman, I do not know what that was all about by Hon Dr Sally Talbot, but, plainly, she was not listening to the question that I asked, so I will repeat it, because her untimely interruption stopped the government from being able to respond to what was otherwise a pretty straightforward question. Minister, I once again refer to the Joint Select Committee on End of Life Choice report, which Hon Dr Sally Talbot will be very familiar with, in particular page 225, recommendation 24. Hon Dr Sally Talbot will be aware that recommendation 24 states —

The Western Australian Government develop and introduce legislation for voluntary assisted dying having regard to the recommended framework and following consultation with the Panel established under Recommendation 21.

Minister, I was referring to the preamble there and asking you whether a criminal defence has been provided, as referred to in the preamble; and, if yes, which clauses do that; and, if not, why not?

**Hon STEPHEN DAWSON:** I appreciate and I thank the honourable member for re-asking his question. Of course, without having the page in front of us makes it very difficult to answer the question. We did not have it at that stage but we have now. The question the member asked referred to recommendation 24, which refers to recommendation 21. Without having the specifics in front of us, it made it very difficult, so I was not seeking to slow down the debate; I was seeking to make sure we knew exactly where the honourable member was going so that we could provide a proper answer to his question. Having established that, we are now in a position to get an answer and I will provide it shortly.

I am advised that yes, there are protections. This issue could be asked under part 8, which is "Protection from liability".

**Hon NICK GOIRAN:** The framework that the committee has asked the government to consider refers to changes to prosecution guidelines. Have prosecution guidelines been changed?

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**Hon STEPHEN DAWSON:** No prosecution guidelines have been changed, but, obviously, we will see what happens with the passage of this bill. If government thinks there is a need to change those guidelines upon the passage of this bill, that will be considered at that stage.

**Hon NICK GOIRAN:** Was the prospective change to prosecution guidelines something that the government specifically consulted with the Director of Public Prosecutions?

**Hon STEPHEN DAWSON:** No, the specific issue has not been discussed with the DPP yet, but the intention is to discuss the issue with the DPP post the passage of the bill—if I can be so bold as to suggest the bill might pass at some stage.

**Hon NICK GOIRAN:** The framework refers to a recommendation from the joint select committee that the legislation should provide for self-administration of lethal medication when an eligible person is physically able to self-administer and in cases in which the person is eligible but physically incapable of self-administration, the legislation should permit a doctor to administer the lethal medication. In discussions about a later part of the framework, the minister previously indicated that the government had rejected one aspect of it with regard to personal objections. Has any aspect of this been rejected, or is this fully implemented in the bill; and, if it is, what clauses give effect to this part of the framework?

**Hon STEPHEN DAWSON:** Can I clarify this? Is the member asking whether any element of the framework is being rejected?

**Hon Nick Goiran:** Just in respect of this portion here on assisted dying.

*Sitting suspended from 6.00 to 7.00 pm*

**The DEPUTY CHAIR:** I note that we have new supplementary notice paper 139, issue 4.

**Hon NICK GOIRAN:** Before the dinner break, the minister was taking advice about the issue of the framework, so I will take the minister to the framework that the joint select committee recommended the government use as its guide for the bill. We are looking at the provision at page 225 under the category “Assisted dying”, verifying that what the framework says under “Assisted Dying” has been agreed to by government or rejected. If it has been agreed to, which clauses of the bill implement those provisions?

**Hon STEPHEN DAWSON:** The joint select committee said that practitioner administration should occur only if the patient is physically incapable of self-administration. The issue is dealt with in the bill at clause 55, so we have gone in a slightly different direction than suggested by the joint select committee.

**Hon NICK GOIRAN:** If we want to know more about the reason the government is deviating from the framework at this point, is there any place to discuss that other than clause 1?

**Hon STEPHEN DAWSON:** The member could discuss it at clause 55.

**Hon NICK GOIRAN:** At this point, with issue 4 of the supplementary notice paper now being available to us, can the minister indicate to the chamber the position of the government on the range of amendments that are on the supplementary notice paper?

**Hon STEPHEN DAWSON:** Obviously, the supplementary notice paper was issued only in the last hour or so. It spans 64 pages. My understanding is that it has around 400 amendments. Obviously, those amendments will be considered by government, along with the other amendments that have been put on the supplementary notice paper by other members of this place. It is my intention to give a government response to each amendment at the clause on which the amendment is raised.

**Hon NICK GOIRAN:** Which of the clauses for which amendments are listed is the minister in a position to deal with this evening and provide a government response to?

**Hon STEPHEN DAWSON:** As I indicated, I am happy to deal with each clause when we get to each clause. Obviously, there is an amendment standing in Hon Nick Goiran’s name at clause 1. The member is welcome to move that if he wants and I am happy to give him an indication at that stage of the government’s response.

**Hon NICK GOIRAN:** I want to be clear: the government has had enough time to develop a position on all the amendments on the supplementary notice paper and, therefore, because it has had sufficient time to consider all the amendments, the minister is in a position to proceed forthwith with the bill.

*Point of Order*

**Hon ROBIN CHAPPLE:** I think the minister has made it quite clear that as we come to clauses, a decision will be made by the government and the members of this chamber on how we will determine each clause. To ask the

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government to come up with a blanket position in relation to each clause is not the way we normally do Committee of the Whole.

**The DEPUTY CHAIR (Hon Matthew Swinbourn):** Member, your point of order is valid. It is not the normal course of conduct for the government to have to indicate its position on all proposed amendments on the supplementary notice paper. I think it is an acceptable practice, as the minister has outlined, to respond to each of those proposed amendments if and when they are moved by the relevant member. It is often the case that amendments that are put on the supplementary notice paper are not moved. In the interests of progressing the debate, if a member wishes to move an amendment, they can. That point of order stands.

*Committee Resumed*

**Hon NICK GOIRAN:** I make the observation that it is not uncommon for members to withdraw amendments, and that is often done with the benefit of advice from government. I note that an amendment that appeared on an earlier issue of the supplementary notice paper was subsequently withdrawn by an honourable member because of advice he had obtained from the government. Obviously, that would be possible now if the government was able to indicate its position. However, if the government is not in a position or is unwilling to do so, I will simply move the amendment standing in my name. I move —

Page 2, line 4 — To delete “*Assisted Dying*” and substitute —

*Euthanasia and Assisted Suicide*

**The DEPUTY CHAIR:** Hon Nick Goiran has moved the amendment in his name at 125/1, on page 2, line 4, to delete “*Assisted Dying*” and substitute “*Euthanasia and Assisted Dying*”.

**Hon NICK GOIRAN:** I just want to make the observation, Mr Deputy Chairman, that the amendment is to substitute the words “*Euthanasia and Assisted Suicide*”, not “*Euthanasia and Assisted Dying*”.

**The DEPUTY CHAIR:** My apologies. I misread that.

**Hon STEPHEN DAWSON:** I am in a position to indicate that the government will not be supporting this amendment. Honourable members may well recall conversations and questions about the title of the bill and why we landed on the nomenclature “*Voluntary Assisted Dying Bill*”. For the purposes of the debate in front of us, I want to remind the chamber that the bill makes clear that the prerequisite for the decision to be voluntary is absolutely essential. This is why we use the term “*voluntary assisted dying*” and not *euthanasia* or *suicide*. *Euthanasia* refers to the situation in which death is induced to relieve suffering. However, this term has significant and mixed connotations. Historically, it has reflected abuse in voluntary *euthanasia*, which raises the prospect of medical practitioners or society killing people whose lives are thought to have little value. More recently, people are familiar with the idea of *euthanasia* from the practice of relieving the suffering of family pets. When applied to humans, *euthanasia* is often similarly understood to be a procedure that is provided to a passive patient. Even when the term “*voluntary euthanasia*” is used, it does not entirely capture the intent that a person is being assisted in taking their final steps, with the choice ultimately residing with the patient. Furthermore, the term “*voluntary euthanasia*” still evokes a sense of patient passivity in the process. By contrast, the term “*voluntary assisted dying*” reflects that this death is a process that is requested and led entirely by the patient.

**Hon ALANNAH MacTIERNAN:** I would like to comment. I totally oppose this amendment. The minister has set out the basic case. However, it is important to add that the purpose of this bill is to assist, and provide the opportunity to, people who have already had a terminal diagnosis—a diagnosis that on the balance of probability would see them dying within six months, and 12 months in the case of a neurodegenerative disorder. This is very much not about *suicide*. This is about assisting and providing the opportunity to people who already have an illness that will lead to their death in less than 12 months. It is absolutely vitally important that we make that distinction. That is at the very heart of the bill. As the minister said, the idea of agency on the part of the patient is very important. It is clearly important to understand the fundamental principle that this is being made available to people who have a diagnosis that they will die within the next 12 months.

**Hon ROBIN CHAPPLE:** Obviously, people give a lot of thought to the amendments that they put in, but certainly the thought that has gone into this will not be supported by the Greens.

**Hon AARON STONEHOUSE:** I seek some clarification from the member who moved the amendment. I have not yet had a chance to look at issue 4 of supplementary notice paper 139, and to familiarise myself with all the proposed amendments, but, since I last looked at it, it has become a bit thicker. Can the member clarify for my benefit whether he intends to define “*euthanasia*” in a later clause, and, if so, how that will be defined, because that might help me to understand what it would mean to change the title of the bill?

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**Hon NICK GOIRAN:** That is a good question from the honourable member. To deal with the matter that was raised by Hon Robin Chapple, I might remind the member of the title of his previous private member's bill.

**Hon Robin Chapple:** I saw the error of my ways!

**Hon NICK GOIRAN:** Very good. That is a response.

I say to Hon Aaron Stonehouse that, yes, it is my intention, irrespective of what the chamber does with clause 1, to insert a definition of "voluntary euthanasia". Clause 5 of the bill lists the different terms to be used.

I draw the honourable member's attention to the amendment in my name found at 145/5 on page 6 of issue 4 of supplementary notice paper 139. Members will see that I have foreshadowed that I will move to insert at page 8, after line 11, a definition of "voluntary euthanasia" as follows —

... means the administration of a voluntary assisted dying poison to a patient by the administering practitioner for the patient in accordance with this Act and includes steps reasonably related to that administration taken in accordance with this Act;

While we are dealing with this issue, I draw to the honourable member's attention that I also intend to retain "voluntary assisted dying" within the bill. "Voluntary assisted dying" is defined in clause 5, "Terms used", on page 8 of the bill. The definition states —

***voluntary assisted dying*** means the administration of a voluntary assisted dying substance and includes steps reasonably related to that administration;

That formed the basis of the framework for my proposed definition of "voluntary euthanasia" to be inserted at line 7 on page 8. I also draw to the honourable member's attention the amendment standing in my name at 143/5 at the top of page 6 of the supplementary notice paper. That amendment seeks to amend the definition of "voluntary assisted dying" by deleting "administration of a voluntary assisted dying substance and includes steps reasonably related to that administration;" and inserting "process by which a person is given assistance to die in accordance with this Act, whether by voluntary euthanasia or by assisted suicide;". To make a long story short, "voluntary assisted dying" in this bill would be defined as "voluntary euthanasia" and "assisted suicide". There would be definitions of "voluntary euthanasia" and "assisted suicide".

I take members to the top of page 3 of the supplementary notice paper and the amendment standing in my name at 127/5, which seeks to insert —

***assisted suicide*** means the self-administration of a voluntary assisted dying poison by a patient in accordance with this Act and includes steps reasonably related to that self-administration taken in accordance with this Act;

I have taken this approach because earlier in the examination of clause 1, the minister indicated to us that the form of voluntary assisted dying that the government wants us to have in Western Australia includes two parts—self-administration and practitioner administration. Under my amendment, self-administration would be assisted suicide and practitioner administration would be voluntary euthanasia. That is consistent with the glossary of terms found in the "My Life, My Choice" majority report of the Joint Select Committee on End of Life Choices. I draw the honourable member's attention to the definition of "voluntary assisted dying" found at page 23. It says —

The provision for self-administration of lethal medication where an eligible person is physically able to self-administer. In cases where the person is eligible but physically incapable of self-administration, a medical practitioner may administer or provide the medication.

In addition, the definition by the joint select committee on euthanasia found on page 20 states —

Euthanasia means the intentional termination of the life of a person, by another person, in order to relieve the first person's suffering ...

Euthanasia can be voluntary, non-voluntary or involuntary. Voluntary euthanasia means euthanasia performed in accordance with the wishes of a competent individual ...

That is precisely what this bill does. As defined by the Joint Select Committee on End of Life Choices in its majority report, not the minority report, the combination of voluntary euthanasia and assisted suicide equals voluntary assisted dying. Further, I draw to members' attention that the definition of "assisted suicide" is also set out in that same report at page 17. It states —

This term is used in some jurisdictions to describe interventions which assist individuals to end their lives. It places emphasis on the person's active decision-making and involvement.

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Members might recall that there was a dialogue last week between me and the minister about this point. The minister referred to that and said this had already been dealt with. What the minister and his advisers decided not to let people know last week, which I now draw to their attention, is that the use of the word “intervention” is quite common. I draw to members’ attention the uncorrected *Hansard* from last week and this exchange between the minister and me. I quote —

**Hon NICK GOIRAN:** Self-administration and practitioner administration are the two forms that have been indicated. Are both of those things interventions?

**Hon STEPHEN DAWSON:** We are of the view that they are an assistance. They are the words that we are using. I do not know what the member is trying to get me to say.

**Hon Nick Goiran:** I am just asking whether it is an intervention or not.

**Hon STEPHEN DAWSON:** The advisers are telling me that it is not.

**Hon NICK GOIRAN:** Why is it not an intervention?

**Hon STEPHEN DAWSON:** It is a question of definition, because “intervention” means coming between someone.

I draw to members’ attention that the government of Western Australia, the Department of Justice’s Registry of Births, Deaths and Marriages, has a form which is a medical certificate of cause of death. Nine manners of death can be ticked by the practitioner for the medical certificate of cause of death. Of course, the government did not want us to know this last week. When we asked questions about intervention, it made sure that this was hidden from us. As I discovered on Friday, in actual fact there are nine manners of death. The nine are disease, accident, war, intentional self-harm, could not be determined, assault, unknown, pending investigation, and legal intervention. It was unfortunate that we were misled last week with that advice. Obviously, what the Joint Select Committee on End of Life Choices said was an intervention is quite common practice as defined in medical certificates of cause of death in Western Australia.

I encourage members to support the amendment standing in my name, in particular to demonstrate that there has been consistency on this. Members might be familiar with the minority report that I tabled in August last year. In particular, I draw to members’ attention this definition from the report —

The term ‘assisted suicide’ is used in this Report to refer to both ‘voluntary euthanasia’ (where lethal medication is administered by a medical practitioner upon the request of a patient) and ‘physician-assisted suicide’ (where access to lethal medication is provided by a medical practitioner, and self-administered by the patient).

Hon Alannah MacTiernan made some remarks about the use of the word “suicide” and of course that is a different concept. The report goes on to state —

‘Suicide’ is defined as an action taken to intentionally end one’s own life, and despite cultural and historical connotations, the term is neither disparaging nor a judgment. Assisted suicide simply identifies both voluntary euthanasia and physician-assisted suicide, and provides clarity, as other terms such as aid in dying, medical aid in dying, dying with dignity and physician assisted dying could all equally be used to describe palliative care practices.

**The DEPUTY CHAIR:** Hon Nick Goiran.

**Hon NICK GOIRAN:** Mr Chairman, the reason I moved the amendment standing in my name is that during both the second reading debate and consideration of clause 1, multiple members said that language is important. Several members have said they do not understand why the government is trying to tell the people of Western Australia that we are doing something when what people generally understand this to be is voluntary euthanasia and assisted suicide. For those reasons, I have moved the amendment for the consideration of members.

**Hon KYLE MCGINN:** I rise to put forward my views on the amendment. From the start, when this legislation was raised, going back a while to the media release from the Minister for Health, it has been called “voluntary assisted dying”. It is the term I put on my survey when I put it out and what I have been speaking about when I have been out in the electorate. It is something that people are well aware of in Western Australia and assumed would be in the name of the bill. I think that there has not been a huge response. The honourable member just said that people see it as euthanasia and assisted suicide. I disagree and say that people in my electorate see it as voluntary assisted dying. I will not be supporting the amendment.

**Hon RICK MAZZA:** There was quite a bit of debate on the name of this bill in the other place, even to the point of dissecting the word “euthanasia” and what it means in ancient Greek. Mr Peter Katsambanis pointed out that the word in Greek means “a good and graceful death”. I do not know why there is resistance to using the word

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“euthanasia” if it means a good and graceful death. I would prefer that the bill be called what it is—that is, a voluntary euthanasia and suicide bill. I do not know why we need to use other words. Other jurisdictions around the world use the terms “voluntary euthanasia” or “assisted suicide”. I am quite comfortable with the amendment and will be supporting it.

**Hon AARON STONEHOUSE:** I thank Hon Nick Goiran for his detailed explanation of the rationale behind this amendment. The report of the Joint Select Committee on End of Life Choices describes euthanasia in terms that are inconsistent with the practice of a physician or medical practitioner administering voluntary assisted dying. I may have missed Minister Dawson’s comments in response to this amendment earlier as I was making my way from urgent parliamentary business into the chamber to catch the debate on this amendment, but absent of a compelling argument against such an amendment, I see that there is quite a bit of merit in this amendment to the title of the bill because it will provide a degree of clarity about the two types of voluntary assisted dying that will become available with the passage of this bill. At this point, I am inclined to support this amendment in the absence of a compelling reason not to.

**Hon DIANE EVERS:** Just briefly, I will not be supporting this amendment because “euthanasia” in the current usage usually means someone doing something to someone else. In this case, it is the person making the choice to have that done and they have full responsibility for it, but they are not capable or do not want to have to do it themselves. I will not be supporting this amendment.

**Hon NICK GOIRAN:** I understand exactly why Hon Diane Evers has said that. It was dealt with in the “My Life, My Choice” report. It specifically deals with the distinction between the definitions of “euthanasia” and “voluntary euthanasia”. It is for exactly those reasons that I have used the terms “voluntary euthanasia” and “assisted suicide”. If the member looks at the amendment that stands in my name, she will see that I am seeking to delete the words “assisted dying” and substitute the words “euthanasia and assisted suicide”. The outcome would be that the bill would be called the “Voluntary Euthanasia and Assisted Suicide Bill”.

**Hon COLIN HOLT:** I indicate that I am not supporting the amendment. I am backing the process that has occurred over the last two years—an extensive select committee of both houses, an extensive report and a ministerial expert panel to get to this point—as well as the government’s indication regarding the bill. I am backing that process. I understand the reasons put forward by those supporting this amendment. I just do not agree with them, and I will be voting against this amendment.

**Hon AARON STONEHOUSE:** This might already have been foreshadowed in the questioning leading up to the movement of this amendment, but I suppose there are implications here. If the title of the bill is amended to include “voluntary euthanasia” and “voluntary assisted suicide” and there are later amendments to the bill to remove the capacity for medical practitioners to administer voluntary assisted dying, we would have to come back again and perhaps amend the title of the bill once more to change it back to referring to voluntary assisted dying or voluntary assisted suicide—whichever wording the chamber deems appropriate. Has consideration been given to that? Hon Nick Goiran has asked questions to get an indication of what amendments the government might consider. Is the minister able to give us some indication of where the government currently is on the question of medical practitioners administering voluntary assisted dying? If it is the intention of the government to contemplate amendments to medical practitioners administering voluntary assisted dying, there is no need at all to change the title of the bill. In fact, we might want to deal with matters relating to medical practitioners administering voluntary assisted dying when we get to that clause, and then come back and consider the title of the bill at a later stage, once we have had a chance to see how this regime will work after amendment, if indeed any amendments are agreed to by the chamber.

**Hon STEPHEN DAWSON:** I indicate that the government supports the bill as it stands. We are not of a mind to make further amendments, as Hon Aaron Stonehouse has suggested. Given that the honourable member has asked the question because he was away from the chamber on urgent parliamentary business, I am happy to re-advise the chamber of the reasons why we are not supporting the amendment. Certainly, I have made it clear that euthanasia refers to a situation in which death is induced to relieve suffering; however, the term has significant and mixed connotations and historically has reflected abuse through involuntary euthanasia, which raises the prospect of medical practitioners or society killing people whose lives are thought to have little value. More recently, people are familiar with the idea of euthanasia from the practice of relieving the suffering of family pets. When applied to humans, euthanasia is often similarly understood to be a procedure that is provided to a passive patient. Even when the term “voluntary euthanasia” is used, it does not entirely capture the intent that a person is being assisted in taking their final steps, with the choice ultimately residing with the patient. Furthermore, the term “voluntary euthanasia” still evokes a sense of patient passivity in the process. In contrast, the term “voluntary assisted dying” reflects that this death is a process that is requested and led entirely by the patient.

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Suicide is completely separate to and distinct from voluntary assisted dying. Suicide connotes the loss of life of a person who is typically not dying, in circumstances that are often tragic, and when the person feels socially or emotionally isolated. Voluntary assisted dying involves a person's choice about their mode of death when they are already dying—a process that is requested and led entirely by the person, whereby they are given the support and care they require in their end-of-life stage.

There were questions on this issue last week—I cannot remember what day it was, but it was certainly last week—and I advised the chamber that “voluntary assisted dying” is language that has been used for the last number of years, certainly across Australia. In 2013, a bill was introduced in the Tasmanian Parliament that had that title and used those words. In 2017, a bill that used those words was introduced in the New South Wales Parliament. Indeed, the Victorian inquiry into end-of-life choices referred to “assisted dying” in its final report. The Victorian Ministerial Advisory Panel on Voluntary Assisted Dying referred to “voluntary assisted dying” in its discussion paper in January 2017. The Victorian ministerial advisory panel also referred to “voluntary assisted dying” in its final report, which was tabled in July 2017. As I said, New South Wales used those words in a bill that was introduced in that state, albeit that was not passed. Of course, the Western Australian Joint Select Committee on End of Life Choices referred to “voluntary assisted dying” in its final report, tabled in August 2017. The Western Australian Ministerial Expert Panel on Voluntary Assisted Dying referred to “voluntary assisted dying” in its discussion paper that was tabled in March 2017.

The government supports the language that currently stands in the bill, and we do not support the change that has been proposed by Hon Nick Goiran.

**Hon NICK GOIRAN:** Just to deal with the point raised by Hon Aaron Stonehouse, I think there is a clear indication that the government is not interested in any amendments to this bill. Despite the fact that during the debate on clause 1 we have discovered that the government has —

*Point of Order*

**Hon STEPHEN DAWSON:** I have not said at any stage that the government was not interested in any amendments to this bill, so I ask the honourable member not to make up stories like that. I have indicated that we are open to amendments. What I said to Hon Aaron Stonehouse was that we are not accepting amendments about that particular issue, so please do not put words in my mouth.

**Hon Nick Goiran:** Please do not waste time with pointless points of order.

**Hon Stephen Dawson:** Please do not make stuff up.

**The DEPUTY CHAIR (Hon Matthew Swinbourn):** Members! I have not called you as yet, Hon Nick Goiran. If members could make their best efforts to accurately reflect each other's positions rather than engaging in hyperbole, it would be helpful to all. There is no point of order.

*Committee Resumed*

**Hon NICK GOIRAN:** What I said to the honourable member is that I think we can see that the government is not interested in any amendments. I think we can see that. The government is quite entitled to say, “No, we are very interested in amendments.” That is fine. When the minister gets the call, he can let us know how keen the government is on amendments. I think we can see that the government is not really interested in amendments. The reason I say that is that if the government were really interested in amendments, we would know about them, but we do not. That is why I think, with due consideration to the important point made by Hon Aaron Stonehouse, that if the government were indicating that it was thinking about moving one of these two amendments, whether the practitioner is involved or not involved, I would be quite happy to move an amendment to my amendment at the moment. We can call this the “Voluntary Euthanasia Bill” or we can call it the “Assisted Suicide Bill”. I do not mind, but it is clear to me that the government does not intend to make those changes, and it is for those reasons that I put the amendment on the supplementary notice paper—because it is consistent with the scheme of what the government wants. It wants both methods in, and I cannot see that there will be any genuine appetite by government to change that, hence the amendment.

*Division*

Amendment put and a division taken, the Deputy Chair (Hon Matthew Swinbourn) casting his vote with the noes, with the following result —

**Extract from *Hansard***  
[COUNCIL — Wednesday, 30 October 2019]  
p8561a-8585a

Hon Nick Goiran; Hon Stephen Dawson; Hon Colin Tincknell; Hon Dr Sally Talbot; Deputy Chair; Hon Robin Chapple; Hon Alannah MacTiernan; Hon Aaron Stonehouse; Hon Kyle McGinn; Hon Rick Mazza; Hon Diane Evers; Hon Colin Holt; Hon Adele Farina; Hon Simon O'Brien; Hon Sue Ellery; Chair; Hon Martin Aldridge

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Ayes (5)

Hon Rick Mazza  
Hon Charles Smith

Hon Aaron Stonehouse  
Hon Colin Tincknell

Hon Nick Goiran (*Teller*)

Noes (28)

Hon Martin Aldridge  
Hon Ken Baston  
Hon Jacqui Boydell  
Hon Robin Chapple  
Hon Jim Chown  
Hon Tim Clifford  
Hon Alanna Clohesy

Hon Peter Collier  
Hon Stephen Dawson  
Hon Colin de Grussa  
Hon Sue Ellery  
Hon Diane Evers  
Hon Donna Faragher  
Hon Adele Farina

Hon Laurie Graham  
Hon Colin Holt  
Hon Alannah MacTiernan  
Hon Kyle McGinn  
Hon Michael Mischin  
Hon Simon O'Brien  
Hon Martin Pritchard

Hon Samantha Rowe  
Hon Robin Scott  
Hon Matthew Swinbourn  
Hon Dr Sally Talbot  
Hon Darren West  
Hon Alison Xamon  
Hon Pierre Yang (*Teller*)

**Amendment thus negated.**

**Hon ADELE FARINA:** Minister, a number of clauses in the bill deal with the unused substance, so, clearly, this was a concern by the bill's drafters. I also note that clause 69(5) states that a single dose of the substance is to be prescribed. I am curious to understand what is the likelihood of there being unused substance?

**Hon STEPHEN DAWSON:** My advice is that it is very unlikely that medication would be left over. It is intended that a single dose will be prescribed in an amount sufficient to cause the death of the patient, and that will be according to the patient's specific, individual requirements—for example, comorbidity.

**Hon ADELE FARINA:** Does the patient need to consume the whole of that single dose for it to be effective to cause death?

**Hon STEPHEN DAWSON:** That is likely. Appropriate medical protocols will be developed around this issue and the patient accordingly advised. The likelihood is that the patient will be advised to take the full dose that is prescribed.

**Hon ADELE FARINA:** I understand that in Victoria the current practice is to dispense 15 grams of nembutal, which may be enough to cause the death of two adults. This dosage accords with the dosage prescribed in the Netherlands, which in 2012 was increased from nine grams to 15 grams because about 15 per cent of patients were not dead within the desired time frame and were then euthanased by the attending medical practitioner. In the Netherlands, a medical practitioner is required to be in attendance for self-administration to address complications if and when they arise. Thank goodness, it had the foresight to do that, given that there have been problems in 13 per cent of cases. In view of this practice internationally and in Victoria, would it be reasonable to assume that a similar quantity would be dispensed in Western Australia?

**Hon STEPHEN DAWSON:** I am advised that we cannot comment on the system in Victoria. In Western Australia, the choice of lethal medication for a particular patient will be a clinical decision made by the coordinating practitioner from an approved list of schedule 4 and 8 poisons only. It is a matter for the patient's coordinating practitioner. A fully qualified medical practitioner with additional training on voluntary assisted dying will determine what dosage and formulation they consider appropriate to make up the voluntary assisted dying substance. It is intended that as part of the implementation of the bill a clinical panel be convened to determine the schedule 4 and schedule 8 medication protocols suitable for voluntary assisted dying in Western Australia. The clinical panel will also inform the operational requirements for supply, dispensing and ensuring safe management of these medications. Further, it is expected that this clinical panel will include appropriate representation from pharmacy, medical and nursing experts from a health and clinical perspective.

**Hon ADELE FARINA:** In cases when a patient ingests only part of the substance, becomes unconscious and therefore does not die, what is the likelihood that the patient will be able to self-administer the rest of the VAD substance?

**Hon STEPHEN DAWSON:** I am told that it is likely that the type of schedule 4 or 8 poison approved for use in the voluntary assisted dying process will not have any other side effects for the patient. In the event that taking the medication does not result in the patient's death, evidence indicates that the patient will awaken without otherwise being affected. These issues will be considered by the clinical panel and CEO during the implementation phase.

**Hon SIMON O'BRIEN:** I have two questions. Firstly, it strikes me as incredible that we will have a state-sanctioned system of assisting people to end their lives, but with recognition that the substance, the poison, that the government is proposing will be dispensed will not actually do the job. That strikes me as absolutely extraordinary and is a further reason why clause 1 should not be further complicated.

What initially got me to rise to my feet was something that the minister said in response to the question before the last one. I wonder whether he can clarify: did he say that he cannot or will not comment on what we know from Victoria, or has he been forbidden to comment on Victoria? I did not quite catch what he said.

Hon Nick Goiran; Hon Stephen Dawson; Hon Colin Tincknell; Hon Dr Sally Talbot; Deputy Chair; Hon Robin Chapple; Hon Alannah MacTiernan; Hon Aaron Stonehouse; Hon Kyle McGinn; Hon Rick Mazza; Hon Diane Evers; Hon Colin Holt; Hon Adele Farina; Hon Simon O'Brien; Hon Sue Ellery; Chair; Hon Martin Aldridge

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**Hon STEPHEN DAWSON:** Member, I did not say any of those things. I said I cannot comment. Hon Adele Farina was asking questions about nembutal and extra grams prescribed for the use of a patient in that jurisdiction.

**Hon Simon O'Brien:** Were you just saying you have no immediate knowledge of that?

**Hon STEPHEN DAWSON:** Exactly, so I cannot comment on what is used over there.

**Hon Simon O'Brien:** It's how it came across.

**Hon STEPHEN DAWSON:** Sure—that is what I was indicating. We do not have knowledge of that. The Victorian scheme is different. All I can talk about is the one that is before us now. In relation to the dosage issue, I have been advised that the intention is that the amount of medication supplied would be sufficient for the patient according to their individual circumstances and that there would, therefore, be no medication remaining after administration.

**Hon AARON STONEHOUSE:** I want to follow up on this line of questioning. What factors would the medical practitioner assessing the patient go into to determine the dosage of the voluntary assisted dying substance?

**Hon STEPHEN DAWSON:** I did indicate this, but I am happy to do so again. I advised that what is prescribed would depend on each patient themselves—their particular condition, their weight and their capacity to consume the voluntary assisted dying substance. The coordinating practitioner must prescribe a sufficient amount that will cause death for that particular patient in their particular circumstances.

**Hon AARON STONEHOUSE:** Will the medical practitioner who assesses a patient for their dosage consider whether the patient has a tolerance to barbiturates?

**Hon STEPHEN DAWSON:** Yes, they would.

**Hon AARON STONEHOUSE:** In case members are not aware, there are people who use barbiturates as a recreational drug. They can build up a tolerance to them over time to a point at which a dose that would otherwise kill another person would be a recreational dose for them. The line between what might be a recreational dose and a lethal dose can vary quite a lot from person to person. It can be a very, very small amount from what I understand. How might a medical practitioner identify whether someone is a barbiturate user who may already have a tolerance to barbiturates? Is there a line of questioning that they would employ? Would there be something in their medical record they could look at to identify someone who has a tolerance?

**Hon STEPHEN DAWSON:** I am told that the medical practitioner would review the record of the person, and it may not be a barbiturate; it could be another substance. Schedule 4 and schedule 8 poisons are used by certain patients in the community at the moment, so the poison, if I can use that word, that is used for a particular patient may well be unsuitable for another patient based on those factors that I previously identified, such as weight et cetera.

**Hon AARON STONEHOUSE:** I believe there might be some cross-tolerance, if that is the right term to use. Someone may be a user of another drug, but the use of that drug could cause them to build up a tolerance to barbiturates as well—correct me if I am wrong. If someone was identified to have a tolerance to a barbiturate, what other substances might be used as an alternative—not specifically which substances, but perhaps what category might they fit into?

**Hon STEPHEN DAWSON:** I am told that if the practitioner had a query, they would seek a specialist opinion. There are other drugs on the list of schedule 4 and 8 poisons. I guess, upon consideration of the patient's medical history or, indeed, the medication that they are prescribed to take, if there was a question, they would seek specialist opinion on what other substance from the schedule 4 and 8 list may be used.

**Hon ADELE FARINA:** How long after the dispensing of the voluntary assisted dying substance may a patient hold onto it without actually taking the substance before some trigger sounds either with the Voluntary Assisted Dying Board or with the coordinating practitioner?

**Hon STEPHEN DAWSON:** I am told that this issue will be looked at operationally during the implementation phase. It is the government's view that it would be inappropriate to put a time constraint on a patient within which they must keep or take the medication. Stipulating such a time frame risks coercing the patient into taking the substance sooner than they would otherwise choose to.

**Hon ADELE FARINA:** I understand that concern. However, if the patient has not died within six months and is still alive 12 months or two years down the track, surely, at some point, there is a need for the coordinating practitioner to touch base with the patient again, perhaps to undertake another assessment of the patient to see whether the patient's interest in accessing voluntary assisted dying is still enduring and whether they still have decision-making capacity. It may even necessitate a reassessment, because, clearly, the prognosis was wrong, and it may be that the diagnosis was wrong as well. Surely, there must be some point at which there is a need to re-evaluate the situation. I am not suggesting it should happen within the six-month period, but at some point post the six-month period.

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**Hon STEPHEN DAWSON:** I am advised that, again, this issue will be looked at during the implementation phase. However, these people will be at the end of life, so the likelihood is that they will engage with medical practitioners and medical professionals fairly regularly. Some of the medication could expire. Should this occur, it will be proactively managed or picked up by the authorised supplier.

**Hon ADELE FARINA:** It seems strange that this is not included in the bill, particularly if we are looking at the possibility of requiring that the drug be returned. One would think that a head-of-power provision would be required in the bill to enable that to happen. I do not see how that can be done simply by way of directions. I am not sure what is being contemplated during the implementation period. Surely we need a head-of-power provision in the bill. I cannot find one. I would like clarification about what is proposed and what is being considered for the return of the substance.

Also, I agree with the point that the minister made that the person will be at end of life and therefore likely to be in contact with medical practitioners. But the medical practitioners with whom a patient is in contact may not be the coordinating practitioner because the bill provides for doctor shopping. The minister needs to accept the fact that it may not be the same doctor. Certainly once my dad was being looked after by palliative care services at home, his GPs never visited him. He was basically attended to by Silver Chain nurses. We managed to persuade Silver Chain to bring its palliative care doctor to visit him on a couple of occasions, but that is fairly rare. For a long time during his final period, he was not attended to directly by a doctor; it was done by Silver Chain nurses. So my question stands: how will the government make this work?

**Hon STEPHEN DAWSON:** As I indicated, we will work out the details during the implementation phase. Clause 66 identifies the role of the contact person, and states —

(1) The contact person for the patient is authorised to —

...

(d) give the prescribed substance, or any unused or remaining prescribed substance, to an authorised disposer as required by section 104.

**Hon ADELE FARINA:** Clause 66 authorises the patient's contact person to do certain things—receive the prescribed substance, possess the prescribed substance for the purposes of delivering it to the patient and supply the prescribed substance to the patient. Paragraph (d) states —

give the prescribed substance, or any unused or remaining prescribed substance, to an authorised disposer as required by section 104.

Clause 104 applies only if the patient revokes a self-administration decision or when the patient, having made a self-administration decision, dies without taking the drug. I do not know whether that provision covers the situation I am raising, because I am raising a situation in which the prognosis may have been very wrong and beyond six months the patient is still alive and perhaps 12 months later the patient is still alive. Is there a mechanism by which the substance can be brought back to the dispenser or is there a requirement for a further assessment about the prognosis at that time? As I said, I am not talking about the first six months. I agree that we do not want the patient to feel they have to take the substance. However, if the patient is still alive a year later or sometime between six months and a year later, something has gone very wrong with the process. Obviously, there needs to be a mechanism in the bill for intervention and I cannot see any.

**Hon STEPHEN DAWSON:** There are no requirements for further assessment in the bill.

**Hon ADELE FARINA:** I will leave that because I am obviously not going to get anywhere.

Yesterday I asked some questions about the storage of the VAD substance by an aged-care facility and the minister referred me to the Medicines and Poisons Regulations and the guiding principles, none of which was of great help with the concerns I had. Is there anything in the bill that would prevent an aged-care facility from telling its patients or having a rule that if the patient wants to access voluntary assisted dying, they need to do so by medical practitioner administration so that there is no requirement for the aged-care facility to have to store the VAD drug on its premises?

**Hon STEPHEN DAWSON:** No.

**Hon NICK GOIRAN:** I had understood from the minister that there would be responses to questions I had asked under clause 1. Obviously, I have effectively finished my questions on clause 1. But I think the minister will understand that I would like answers to the ones that have been taken on notice.

**Hon STEPHEN DAWSON:** We have just checked. I understand that there was an answer to a question asked by Hon Nick Goiran about the additional 61 full-time staff that this initiative will bring. I mentioned that there will

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be an extra 61 full-time staff and the honourable member asked over what time frame that is expected to be delivered. The WA Country Health Service has advised that the phased planned resource increase is aiming for 40 per cent expansion in the first year, an additional 20 per cent in the second year, an additional 15 per cent in the third year, and the final 25 per cent in the fourth year. In answer to the question about when the extra 61 FTEs are expected to be delivered and how many of the 61 FTEs are in place, I am told that the planned increase for the first year equates to 24.4 FTE; recruitment is underway and 1.5 FTE are already engaged. There was a further question about how many nurse practitioners are employed, and the answer is that five palliative care nurse practitioners are employed in WA.

**Hon NICK GOIRAN:** The minister indicated that WACHS has advised him that the rollout will be 40 per cent, 20 per cent, 15 per cent and 25 per cent. Has this information only just come to light?

**Hon Stephen Dawson:** To me, yes.

**Hon NICK GOIRAN:** There are also 1.5 FTE currently in place out of the 61?

**Hon STEPHEN DAWSON:** Yes.

**Hon NICK GOIRAN:** The context is that the government has said that it has a plan or has funding to roll out 61 extra FTE across Western Australia, but there are only 1.5 in place at the moment. This goes to the questions that were asked by Hon Martin Aldridge as far back as 8 August about whether the government had a defined plan, to which the parliamentary secretary said no. Now we know, at the end of October, that it has 1.5 FTE out of 61. These are the reasons I will vote against clause 1 of the bill. On Wednesday night last week, the government finally admitted that it had drafted some amendments. The big concern for me is that it said it was discussing them with interested members, but it would not release them to all members. My view, and I know that this will upset the minister, is that this is no time for trickery by government. It promised gold transparency, yet it does the exact opposite.

The reason I asked the question earlier about whether the government had had sufficient time to consider supplementary notice paper issue 4 is that I quite readily realised it had only an hour to consider it over the dinner break. The point I would make is that at least it had an hour and it knows what the amendments are. The rest of us do not know what the amendments are that the government will propose. It is the exact opposite of gold transparency. This is supposed to be a conscience vote, but the government is acting unconscionably. Parliamentarians and the people of Western Australia have a right to know the areas that the government concedes were of sufficient concern for it to invest taxpayers' funds in drafting amendments. That is what happened on Wednesday last week when we examined clause 1. The following day, on Thursday last week, the government was unable to confirm whether telehealth will be able to be used for its voluntary euthanasia scheme, or voluntary assisted dying, as it is called. Several regional members have quite rightly raised their concerns about why we are debating this bill at this time, when the government has not resolved this impasse with federal law. It was interesting that during our examination of clause 1, the government conceded that it was something that the joint select committee report did not deal with. The committee did not deal with that, despite the fact it was part of its terms of reference. The ministerial expert panel did not do it. My question is: what was the point of creating a so-called ministerial expert panel if the experts have not sorted out whether telehealth will be able to be used?

Worst of all is the government's refusal to guarantee that it will fund a palliative care specialist and an interpreter to go to regional Western Australia but that it will guarantee funding for up to eight people to go and execute the voluntary assisted dying process in the same location. That is reprehensible. Yesterday, it became clear that the government intends to allow social workers to become care navigators, but to simply leave them to be self-regulated. What could possibly go wrong with having expert steerers who are self-regulated? Meanwhile, although the government has announced extra funding for palliative care, it has confirmed that it does not have a plan on how to allocate that funding. Alarming, the government has also refused to table correspondence between the Department of Health and the commonwealth Attorney-General's Department. It also refused to table any information about the concerns raised by the Director of Public Prosecutions and the coroner. I asked about those things, but the government will not tell us what the Director of Public Prosecutions or the coroner had to say. Why should we be concerned in this environment?

In a remarkable revelation, the government cannot tell us what the Chief Psychiatrist advised the ministerial expert panel when he was invited to attend as a subject matter expert, because the ministerial expert panel did not keep any minutes. That is despite the fact that the panel charged taxpayers up to half a million dollars. Finally, the government conceded yesterday that, in some cases, patients will have a gap payment to make. The government cannot tell us how much the scheme will cost because it has not done the work. In fact, we know that it has not even consulted with private health insurers or Medicare. How, in all those circumstances, it would be appropriate for us to move on to other clauses is beyond me. It is for those reasons that I will vote against clause 1.

**Hon ADELE FARINA:** The bill places quite onerous duties on the control person, including that the control person needs to return any unused substance to the authorised disposer within 14 days. There may be circumstances in which

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that is not possible. Is there a defence contained somewhere within this bill to protect a control person from prosecution in the event that they have a genuine reason for not being able to return the unused substance within the 14 days?

**Hon STEPHEN DAWSON:** Can I clarify that the honourable member is referring to the contact person? She said “control person” numerous times.

**Hon Adele Farina:** I apologise; yes.

**Hon STEPHEN DAWSON:** So it is the contact person. I am advised that the decision is at the prosecutorial discretion of the CEO of the Department of Health.

**Hon ADELE FARINA:** What will happen in a situation in which the contact person refuses to continue in the role, which is permitted under the bill, but they do so after the voluntary assisted dying substance has been dispensed to the patient and another contact person is not appointed?

**Hon STEPHEN DAWSON:** Clause 67 refers to a contact person and states —

- (1) The contact person for a patient may refuse to continue to perform the role of contact person.
- (2) If the contact person for a patient refuses to continue to perform the role —
  - (a) the person must inform the patient of the refusal; and
  - (b) the person ceases to be the contact person for the patient on informing the patient under paragraph (a); and
  - (c) the patient must make another appointment under section 64(1).

**Hon ADELE FARINA:** I thank the minister for that. I do understand that provision in the bill. This is a person who is at the end of life. Very onerous obligations have been placed on the contact person. I, for one, would not want to volunteer to be a contact person. What would happen if the substance has been dispensed, and the contact person says they want to cease being the contact person, and the patient does not have another person whom they can appoint to be the contact person?

**Hon STEPHEN DAWSON:** In that case, the bill allows for the coordinating practitioner to take on that role.

*Division*

Clause put and a division taken, the Deputy Chair (Hon Dr Steve Thomas) casting his vote with the ayes, with the following result —

Ayes (25)

Hon Martin Aldridge	Hon Colin de Grussa	Hon Kyle McGinn	Hon Dr Steve Thomas
Hon Jacqui Boydell	Hon Sue Ellery	Hon Martin Pritchard	Hon Darren West
Hon Robin Chapple	Hon Diane Evers	Hon Samantha Rowe	Hon Alison Xamon
Hon Jim Chown	Hon Adele Farina	Hon Robin Scott	Hon Pierre Yang ( <i>Teller</i> )
Hon Tim Clifford	Hon Laurie Graham	Hon Aaron Stonehouse	
Hon Alanna Clohesy	Hon Colin Holt	Hon Matthew Swinbourn	
Hon Stephen Dawson	Hon Alannah MacTiernan	Hon Dr Sally Talbot	

Noes (9)

Hon Peter Collier	Hon Rick Mazza	Hon Charles Smith
Hon Donna Faragher	Hon Michael Mischin	Hon Colin Tincknell
Hon Nick Goiran	Hon Simon O'Brien	Hon Ken Baston ( <i>Teller</i> )

**Clause thus passed.**

**Clause 2: Commencement —**

**The DEPUTY CHAIR (Hon Dr Steve Thomas):** The Leader of the House is taking over for a moment.

**Hon NICK GOIRAN:** Clause 2(a) provides that part 1, other than divisions 2 to 4, will come into operation on the day on which the act receives royal assent. Why does the operation of clause 4, “Principles”, in division 2 need to be delayed until a day fixed by proclamation?

**Hon SUE ELLERY:** As I understood the honourable member’s question, it was: why does that second part under clause 2 need to come into operation at a later date? It is anticipated that the proclamation date will be 18 months from the date of passage of the bill so that health services and the community can prepare for the changes. The minister handling the bill has already flagged the implementation period on a number of occasions. It will require a suite of new procedures to be established to enable the scheme to be implemented properly, including the

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establishment of the board that has been referred to earlier in the debate. The ministerial expert panel recommended 18 months, and our counterparts in Victoria have anecdotally advised that 18 months is a suitable period.

**Hon NICK GOIRAN:** I ask the returning minister to look at division 2, “Principles”. The question that I asked his substitute a moment ago was: why does the operation of clause 4, “Principles”, in division 2 need to be delayed until a date fixed by proclamation? The answer that came back was that the government has received advice from Victoria that 18 months is a good implementation period because new procedures need to be developed and the board needs to be established. That does not answer the question about why the operation of clause 4, “Principles”, in division 2 needs to be delayed until a day fixed by proclamation.

**Hon STEPHEN DAWSON:** My advice is that there is no point in just having principles; we want the principles and the rest of the bill. Therefore, the proclamation date is set at a later stage.

**Hon NICK GOIRAN:** Unless it is necessary to wait for proclamation for a particular clause, the normal process is that that would come into operation on the day after the bill receives royal assent. That would be the normal process. The government has taken a deliberate decision, presumably—or an accidental one—that clause 4, “Principles”, needs to wait for proclamation. That is irregular; that is not customary. I am simply asking for a comprehensive explanation about what is in the principles that needs to wait 18 months for proclamation. It has nothing to do with the establishment of the board, which was the response given by the Leader of the House. Apparently, there needs to be new procedures. Maybe this will assist us: what new procedures need to be developed by government in order to give effect to the principles?

**Hon STEPHEN DAWSON:** I am advised that voluntary assisted dying will require a suite of new procedures to be established to enable the scheme to be implemented properly, including the establishment of the Voluntary Assisted Dying Board. There is also the establishment of the statewide pharmacy, operational procedures around care navigators and medical protocols. Further, my colleague the Leader of the House, when she answered the previous question, referred to the 18-month period that was recommended by the ministerial expert panel. Of course she also referred anecdotally to the period it took in Victoria. For those reasons, we wish the proclamation of the remainder of the bill to happen at the same time at a period in the future, and not happen in dribs and drabs.

**Hon NICK GOIRAN:** The principles set out at clause 4 indicate the types of things that a person exercising a power or performing a function under the act must have regard to. That is at clause 4(1). Subsection (2) states —

In subsection (1), the reference to a person exercising a power or performing a function under this Act includes the Tribunal exercising its review jurisdiction in relation to a decision made under this Act.

Clearly, the provision is to do with the establishment of the tribunal. As the minister indicated, that needs to be dealt with via proclamation and they are in different clauses in the bill. But they have nothing to do with why the principles at clause 4 cannot commence on the day after royal assent. The explanation provided, which was a vague response about 18 months to implement, makes no sense with regard to the principles. I go back to my earlier question, and maybe those advising can take note of the actual question: what are the new procedures that the government needs to prepare in order to give effect to the principles?

**Hon STEPHEN DAWSON:** The answer to that question is none. In relation to part 1, divisions 2 to 4, I am advised that they relate to the substantive provisions of the bill. There will be no point in them coming into operation at an earlier date because they would have nothing to operate on. That is the advice given to me by the advisers.

**Hon NICK GOIRAN:** That happens all the time.

**Hon Stephen Dawson:** That’s the answer I’ve given you, honourable member. That is the advice provided.

**Hon NICK GOIRAN:** Why is the government taking a new approach in this bill and not using the same process it uses in other bills? In a debate earlier today, the Leader of the House endeavoured to boast about how many bills the government had passed. If an analysis were done of those bills and this bill, I think it would be found that the government’s approach to this bill is irregular. The normal approach is that part 1, particularly the commencement and the short title, commences on the day the act receives royal assent. That has been done in this instance. Other sections that do not need to wait for proclamation commence on the day after the act receives royal assent. Only the provisions that need to wait for proclamation are dealt with at a later stage. That is something that is routinely considered by the Standing Committee on Legislation, which otherwise would have considered this issue. It is quite normal and has to do with parliamentary sovereignty. If the Parliament decides when a section commences, that is when it will commence. Parliament does not delegate that authority to the government unreasonably, and that is happening here. In clause 2(a) the government has made a conscious decision that part 1 will commence on the date the act receives royal assent, but it has decided to carve out divisions 2 to 4. I am trying to ascertain what is so special about division 2 that it cannot commence either on the day that royal assent is given or the day after.

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Perhaps the minister can provide advice to the chamber about why the government has decided to take a different approach to the commencement provisions of this bill than would ordinarily be taken.

**Hon STEPHEN DAWSON:** I cannot give the honourable member anything further than I have given him already on that question. I have outlined the reasons that the government has done this. I cannot be sure that this approach has not been taken before in other bills. The member has talked about what is normal, but this could well have been done before. Regardless, it is being done in this bill and it has been suggested that it be done in this bill. I earlier gave the honourable member the reasons that we are doing it. The member may not like them, but they are the reasons that I have outlined.

**Hon NICK GOIRAN:** If division 2 of part 1 were to commence on the day on which the act receives royal assent, would the legislation be undermined?

**Hon STEPHEN DAWSON:** We are not saying that it would undermine the legislation. We are saying that we want a holistic proclamation of the act. Our preference is for that proclamation to happen at the same time—in all likelihood, 18 months down the track.

**Hon NICK GOIRAN:** That is unacceptable. I suspect that most members in this place would be passionate about the principles in this bill. The principles in clause 4 are things that we should all be able to agree with. For example, clause 4(1)(a) states that “every human life has equal value”. The minister’s government wants us to agree to that, and I am happy to agree to that because I also believe that every human life has equal value. The government is asking us to leave that until proclamation. What if the government never proclaims it? What if the government decides to proceed with this legislation but not clause 4? Would that be possible under this arrangement?

**Hon STEPHEN DAWSON:** That is definitely not the intent. The intention is that, should this bill pass the Parliament—I can tell members that at times I am not so sure that it ever will—the rest of the bill will be proclaimed on a day in the future. Plainly and simply, the intention is to do that.

**Hon NICK GOIRAN:** Division 3 is also being carved out of part 1. The government does not want the Parliament to exercise its authority and say that division 3 of part 1 should commence immediately. Instead, the government wants to rein that in and keep it as a matter for proclamation. What is in part 1, division 3, that warrants the matter being left to proclamation?

**Hon STEPHEN DAWSON:** Division 3 has definitions that will apply only if the rest of the bill passes. For that reason, as I have said previously, our preference is that the rest of the bill be proclaimed en bloc.

**Hon NICK GOIRAN:** That is not quite right, because if we just take a moment to look at division 3, we will see that it contains more than just clause 5, “Terms used”; it also has clauses 6, 7 and 8. My question is: what is so imperative about those particular clauses that they must be left to government to proclaim and cannot possibly commence at the time of royal assent?

**Hon STEPHEN DAWSON:** Just to clarify, I did say that division 3 includes definitions. With regard to the rest, they set out concepts that only apply to and are contingent upon the rest of the bill.

**Hon NICK GOIRAN:** Clause 7 states —

- (1) The CEO may, in writing, approve a Schedule 4 poison or Schedule 8 poison (as those terms are defined in the *Medicines and Poisons Act 2014* section 3) for use under this Act for the purpose of causing a patient’s death.
- (2) A poison approved under subsection (1) is a ***voluntary assisted dying substance***.

Is it the case that if clause 7 were to commence immediately upon assent, it would need—it would be necessary; it would be essential—clause 5 to also come into operation on that same day? My question is: can clause 7 commence independently of clause 5, or must they both be in operation in order for clause 7 to have effect?

**Hon STEPHEN DAWSON:** There is a connection, obviously, between clause 5 and clause 7. We are of the view that they should both come into operation at the same time.

**Hon NICK GOIRAN:** I understand that. I know that that is the view. In fact, the view of the government is that everything from clause 4 onwards should come in at the same time, so I understand that. If the government wants clauses 4 to 184 to come in all at the same time, it follows that it would want clauses 5 and 7 to come in at the same time. That was not my question. My question was: can clause 7 operate independently of clause 5, or do both clauses need to be operative at the same time for clause 7 to be operative?

**Hon STEPHEN DAWSON:** The advice is that they would need to come into operation at the same time. Clause 7(2) refers to a voluntary assisted dying substance, which is defined under clause 5 of the bill.

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**Hon NICK GOIRAN:** That is exactly my point. The definition of “voluntary assisted dying substance” in clause 5 says —

*voluntary assisted dying substance* has the meaning given in section 7(2);

So they are referring to each other. This is my point: does clause 5 have to be in operation for clause 7 to be operative?

**Hon STEPHEN DAWSON:** We do not believe that clause 7 can come into operation without clause 5 and vice versa; clause 5 cannot come into operation without clause 7.

**Hon NICK GOIRAN:** Clause 7 of this bill could come into effect on the day of or the day after royal assent; let us say immediately or the day after—either way—because I am relaxed about either option. Clause 7(1) states —

The CEO may, in writing, approve a Schedule 4 poison or Schedule 8 poison ... for use under this Act for the purpose of causing a patient’s death.

The minister has indicated that clause 5 would have to also come into operation, so if clause 5 and clause 7 were both in operation on the day of royal assent or the day after, would the CEO be able to approve in writing these schedule 4 and schedule 8 poisons in the absence of the other clauses of the bill coming into operation?

**Hon STEPHEN DAWSON:** I am told we need the clinical panel to look at the schedule 4 and schedule 8 poisons, and only then will the CEO be able to undertake that action.

**Hon NICK GOIRAN:** Is the minister saying that clause 7 is an example of a clause that must await implementation so this clinical panel can be put together?

**Hon STEPHEN DAWSON:** Yes, that is why we are saying we need that 18-month period.

**Hon NICK GOIRAN:** That makes sense and that is consistent with my view that clause 7 needs to wait for proclamation. Why then does clause 5 need to wait for proclamation?

**Hon STEPHEN DAWSON:** That is because clause 5 sets out the definitions for the rest of the bill.

**Hon NICK GOIRAN:** Yes, that is what clause 5 does, minister, but that does not explain why clause 5 can commence only on proclamation and cannot commence on royal assent or the day after. The minister has just provided us with an explanation of why clause 7 can be done only at that point in time—it is because a clinical panel needs to be established and it has to work out the concoction of poisons before the CEO can authorise and approve those things, which makes sense with regard to clause 7. It does not make sense with regard to clause 5. It is not at all clear why clause 5 would need to await anything. Is there some kind of procedure or some other type of panel that needs to be formed? What is it about the definitions section that means it has to wait for proclamation and cannot commence immediately?

**Hon STEPHEN DAWSON:** As I indicated earlier, honourable member, division 2 to 4 relate to substantive provisions of the bill. There would be no point in them coming into operation at an earlier date because they would have nothing to operate on, so I think that is probably the last answer I can give on this one. We have a view that it should come into operation 18 months down the track. The member obviously has a different view and the member also has an amendment in front of us on the supplementary notice paper, so I do not think the member is going to get any joy out of the answer that I give. Therefore, I think the member should probably consider moving his amendment and putting it to the vote.

**Hon NICK GOIRAN:** That demonstrates that the minister does not understand the amendment, because the amendment has nothing to do with the questions that I am asking at the moment; they are two entirely different issues. Maybe the minister already has advice on my amendment and he can indicate what the view of the government is on it.

**Hon STEPHEN DAWSON:** Once the honourable member has moved his amendment, I would normally indicate what the government’s view is, so if the member is in a position to move it, I am happy to indicate what our response is.

**Hon NICK GOIRAN:** That takes me to my questions around the government’s choice to cut out divisions 2 to 4 of part 1. Thus far, we have identified that clause 7 is the only clause that actually needs to wait for proclamation. Clause 5 does not need to wait for proclamation nor does clause 4. There is no problem whatsoever with clause 4 coming into operation. I think the minister even indicated or conceded that it would not undermine the bill if clause 4 commenced immediately. Would that be the same, minister, for clause 5? If clause 5 were to commence immediately, would that undermine the bill?

**Hon STEPHEN DAWSON:** I am only going to give one last answer on this, and then I am just not; we are going around in circles here. The provisions in division 3 are part of the substantive voluntary assisted dying scheme. The intent is that all provisions of that scheme come into operation at the same time. That is the intent of government. That is the view and that is certainly what is before us in the legislation. If members have alternative views, they,

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of course, are absolutely able to vote against the bill as it stands or indeed move amendments. But I have now made it clear a number of times why we have done things the way we have done things, and I do not think I have anything further to add to that conversation.

**Hon NICK GOIRAN:** One of the reasons the minister said that proclamation of the bill needs to be delayed is for the preparation of new procedures. What are the new procedures that need to be prepared?

**Hon STEPHEN DAWSON:** I have also indicated that in a previous answer.

**Hon NICK GOIRAN:** The minister has indicated that. Do you have a list of the new procedures, minister?

**Hon STEPHEN DAWSON:** I read out what some of the procedures will be. I did not have an exhaustive list, but I mentioned the establishment of the board, the establishment of the statewide pharmacy, care navigators and medical protocols. I have mentioned that issue already and I will not mention it again.

**Hon NICK GOIRAN:** Let us be clear, the minister said earlier that one of the things that will need to be done is the preparation of new procedures. However, it would not have been apparent to anybody that the establishment of the board was the creation of a new procedure.

**Hon Stephen Dawson:** It would've been because I had said at that point that the creation of procedures —

**Hon NICK GOIRAN:** Let us be clear, the advice the government has provided at this point is that the establishment of the Voluntary Assisted Dying Board is a new procedure that the government intends to do in the next 18 months. When the minister gave advice to the house earlier this evening, he was listening very closely to the advisers who were telling him to say that. They said to the minister, "Make sure that you respond and say that there are going to be new procedures prepared. One of those new procedures is the establishment of the board." I want to make sure that that is crystal clear.

**Hon Dr SALLY TALBOT:** Mr Deputy Chair, I do not want to make a point of order but just a general point. I think that the questioner is sailing awfully close to the wind in implicitly casting aspersions on both the advisers and the minister. I have known Hon Stephen Dawson since he was quite a small boy and I can tell members that nobody puts words in his mouth. In the context of debating this bill, to suggest that advisers are putting words in the minister's mouth is simply wrong. It is unparliamentary to even make that suggestion. I ask you to ask Hon Nick Goiran to desist in making that imputation.

**The DEPUTY CHAIR (Hon Dr Steve Thomas):** Hon Dr Sally Talbot, I was listening very carefully to the words of Hon Nick Goiran; I do not think it was offensive. The minister has the capacity not to answer the questions. I will give some unbidden advice to the minister. If the minister says that he is not going to answer questions on a particular topic, the simplest thing to do is not to answer them. He would then have the protection of the Chair. The reality is that the words of Hon Nick Goiran were, in my view, not offensive and should not be considered so.

**Hon STEPHEN DAWSON:** I thank Hon Dr Sally Talbot for her —

**The DEPUTY CHAIR:** Defence.

**Hon STEPHEN DAWSON:** No; for reminding me that I once used to be young. I certainly feel I am ageing at a great pace these days!

Part 9 of the bill refers to the Voluntary Assisted Dying Board and the establishment of the board. Once that board is established, the general procedures that it needs to follow will be done at a later stage. That is one of the procedures that is referred to.

**Hon NICK GOIRAN:** I thank the minister. It now becomes clear that the procedures the minister referred to are procedures for the board. Is there a need to prepare procedures for anybody other than the board during this 18-month period?

**Hon STEPHEN DAWSON:** Yes, there is a need. Procedures will probably be needed for the statewide pharmacy, for example. Procedures will be needed for the clinical panel, care navigators and probably around medical protocols. There could be others, but those are certainly some of the procedures.

**Hon NICK GOIRAN:** The minister mentioned that he had received some advice from Victoria about these things. Does Victoria have procedures with regard to its board or equivalent, and its statewide pharmacy, clinical panel, clinical protocols and care navigators?

**Hon STEPHEN DAWSON:** I did mention Victoria in relation to clause 2 and the fact that Victoria has anecdotally advised that a minimum of 18 months will be required for the implementation period. That is the context in which I mentioned Victoria. In relation to procedures, I am sure that they do have procedures in operation in Victoria.

**Hon NICK GOIRAN:** The minister is sure that they have procedures in Victoria. Do they have procedures with regard to care navigators?

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**Hon STEPHEN DAWSON:** They do have care navigators in Victoria and they would have procedures, whatever they are called. I am not sure what name or language they use in Victoria, but I am certain there would be procedures around those care navigators.

**Hon NICK GOIRAN:** Is it the intention of government to use the Victorian procedures as a template or guide for the preparation of our procedures?

**Hon STEPHEN DAWSON:** No; but that is not a clause 2 question, honourable member.

**Hon Nick Goiran:** When would you like me to ask it?

**Hon STEPHEN DAWSON:** Ask it at a more appropriate time. Perhaps it was a clause 1 question and the member missed his chance there! But certainly in relation to clause 1 —

**Hon Nick Goiran:** We are in committee.

**Hon STEPHEN DAWSON:** I think that the honourable member asked it at the wrong time, but I have given the answer.

**Hon NICK GOIRAN:** The minister indicated that he has received anecdotal evidence from Victoria that an 18-month period is the necessary minimum period for proclamation. What does “anecdotal information” mean? Has somebody actually communicated with someone specifically in Victoria? Has that meant an exchange of correspondence? Is there a copy of that correspondence? Can that correspondence be tabled? The minister mentioned it was a minimum of 18 months. Did they also suggest a maximum period and, indeed, how long did Victoria take?

**Hon STEPHEN DAWSON:** I am told that there have been ongoing conversations with Victoria and Victoria's time frame was 18 months.

**Hon NICK GOIRAN:** There have been some conversations with Victoria, it took 18 months and on the basis of that the minister has indicated that it will be a minimum of 18 months. Is any advice available from government on the criteria under which it may be necessary for there to be a longer period of time? Obviously, there is quite a difference between Victoria and Western Australia, not the least of which is the size and geography of our state. Has any advice been taken by government on that issue and the differences?

**Hon STEPHEN DAWSON:** No, there has not. But as the member alluded to, Victoria is a different place from Western Australia; it has different topography and it is a different sized state. We are using that 18-month time. I guess that we are suggesting that it will take approximately that amount of time. It could take a little longer, but it depends. Obviously, there are differences between the Victorian bill and our bill. We think that it could take 18 months, but it could take longer.

**Hon NICK GOIRAN:** In this 18-month implementation period, the time within which the government wants to wait for the bill to commence by way of proclamation, will it be necessary for any regulations to be drafted?

**Hon STEPHEN DAWSON:** The bill does not require that any regulations be made. It has been drafted as a comprehensive piece of legislation to operate as is. There is a general regulation-making clause as a futureproofing mechanism; however, it is not anticipated that there will be any regulations made under the bill. That is at clause 161. If the member has questions about regulations, he is welcome to ask that question at that stage.

**Hon NICK GOIRAN:** The minister will see that at clause 162 it talks about the Parliament ordering the minister to conduct a review. Would it be possible under the current draft of clause 2 for that review clause to never be proclaimed?

**Hon STEPHEN DAWSON:** The intent is to proclaim the rest of the bill on the same day in the future.

**Hon NICK GOIRAN:** Taking that as an example, what is the fundamental objection of government to a clause, for example, like 162, in which the will of Parliament is that it wants there to be a review of this act at some point in time, and Parliament wants that to commence on the day of royal assent or the day after royal assent? What is the fundamental objection of government to ensuring that that happens? Will that undermine the bill? Will this be another one of the deal-breakers that the Minister for Health previously referred to?

**Hon STEPHEN DAWSON:** What is the point of starting a review the day after the bill is proclaimed? That was his point. I will not go into the detail of clause 162 because, of course, we will deal with that at a later stage. But that clause states that a review will happen —

... not later than 12 months after the 2<sup>nd</sup> anniversary or the expiry of the period of 5 years, as the case may be.

Obviously, that is an issue for clause 162.

**Hon NICK GOIRAN:** With respect to the minister, it is not, because the minister is asking us to decide now when all the other clauses are going to commence, include clause 162. There will be no point in me asking the minister

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questions about commencement at clause 162, because he will pull another one of his tricky moves and tell us, “You should’ve asked that question at clause 2.” That is why I am asking about it now. I draw to the minister’s attention that the terms of clause 2 that the minister wants us to approve say —

(a) Part 1 (other than Divisions 2 to 4) —

Commence —

— on the day on which this Act receives the Royal Assent;

(b) the rest of the Act ...

That means all the other clauses. That means clauses 4 to 184, including clause 162. If this chamber says that it wants clause 162 to commence on the day of royal assent or the day after royal assent, and it does not want to delegate to the government proclamation, this chamber is entitled to do that. The only time we can have that debate and that conversation is now on clause 2. With respect, minister, there is no point if every time I provide an example, I am told that those things can be asked at that particular clause. No, they cannot, because the time to discuss the commencement of various clauses is now. Now is the only time that it can be done. That is why I am asking it now.

Clause 162 is a classic example. It disturbs me that the government is asking us to delegate authority to the government to proclaim this clause if and when it wants to in the fullness of time. The minister asked me what would be the point of the review clause commencing immediately. The point is that the Parliament would then know, with absolute certainty, that that review will take place and that it will not be left to a government of the day to decide that it will proclaim all clauses except clause 162. The minister said that that is not the intent of this government. I accept that. However, the minister is also not the minister who ultimately will be responsible for the proclamation of this bill; he is representing the Minister for Health. There could be another Minister for Health.

I am curious to know the fundamental objection to why these things cannot commence on the day on which the legislation receives royal assent. It seems to me that, in theory, it would be open for the entire bill to come into operation on the day on which it receives royal assent. I think that would be bad practice. It would be highly unusual. It would not be radically unusual for clauses to commence on the day after the legislation receives the royal assent, because the minister has disclosed that there is no intention to prepare any regulations. No clauses are waiting for regulations to be drafted, which is the usual reason that governments of both persuasions give to members. They say, “Please allow us to commence these clauses on a day to be proclaimed, because we need to prepare some regulations and we are not ready yet.” That is the normal reason. It disturbs me that the decision on whether some of these clauses will come into operation, particularly something as fundamental as the principles at clause 4 and the review clause at clause 162, will be left to government discretion. Bills sometimes say, as in paragraph (b) of this clause —

the rest of the Act—on a day fixed by proclamation.

But sometimes additional words are added by parliamentary counsel to say that different sections will be proclaimed or will commence on different dates. Those are not the words used in this bill. Does that mean that clauses 4 through to 184 will have to be proclaimed on one single date, or will it be open to the government to proclaim certain clauses on certain dates and to choose to not proclaim some clauses at all?

**Hon STEPHEN DAWSON:** The bill operates as a whole scheme and not as a piecemeal scheme. This is reflected in the requirement to proclaim the bill 18 months or thereabouts into the future. The intention is to proclaim the rest of the bill on the same day. Mr Chair, that is all I can give in relation to answering this question. I do not propose to answer any further questions on this.

**Hon NICK GOIRAN:** The question was a technical question for the minister, on which I was hoping to get a technical response. I know it is the intention of the government to proclaim all the clauses in one package. However, I want to know whether the words before us empower the government to proclaim some clauses on a particular date, other clauses on another date and other clauses not at all. That is the technical question that I want answered pursuant to the drafting in front of us. I know and understand that it is the intention of the government for the whole thing to come in as a package. I am not denying that; I accept that that is what the minister has consistently said this evening. However, is the minister able to take advice on whether it is possible—I know it is not the intention—for the government to proclaim some clauses pursuant to this wording, or would that not be possible because it would require the additional words to say that some sections can come into operation on different days?

**Hon Stephen Dawson:** I have nothing further to add.

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**Hon NICK GOIRAN:** The minister does not know. We are on clause 2, and we are already at the stage that we cannot get technical advice. That probably goes to the heart of one of the comments that was made by an honourable member earlier this week about one of the difficulties in trying to do this in Committee of the Whole House. This would be not acceptable in the Standing Committee on Legislation; it would be utterly unacceptable. We will continue to pursue this until such time as we extract a response to a technical question. To simply have the chief minister with responsibility for the bill in this chamber tell us that he is not going to provide us with that technical information —

*Point of Order*

**Hon SUE ELLERY:** Chair, I seek your guidance. The chamber has already made a decision about whether to refer the bill to a committee. I wonder whether the honourable member is in fact reflecting on a decision of the chamber, which of course would be a breach of standing orders.

**The CHAIR:** If that were the case, it would be. The member is not reflecting on a decision of the chamber in the sense contemplated by the standing orders. He is referring, as part of a narrative, to what has occurred and what might otherwise have occurred. It is a simple observation. There is no point of order.

However, there is an approaching point of order about repetitious debate. I have not quite reached that stage, but there is a limit to how many times the same point needs to be made. There is no point of order from the Leader of the House, but a near point of order is approaching from me.

*Committee Resumed*

**Hon NICK GOIRAN:** I move the amendment standing in my name at 49/2 —

Page 2, after line 8 — To insert —

(aa) Part 1 (other than Division 1) and section 161A — on the day after the day on which this Act receives the Royal Assent;

**Hon STEPHEN DAWSON:** I indicate that the government does not support the amendment. The amendment seeks to defer proclamation to when the member's proposed new clause 161A comes into operation. That is a requirement to introduce a system of care navigators by regulation. Therefore, we are not supportive of this amendment.

*Point of Order*

**Hon ADELE FARINA:** My question is really a point of order. The amendment refers to new clause 161A, which the chamber has not yet contemplated. I wonder whether we need to defer consideration of clause 2 until after we have considered new clause 161A. I do not know how we can consider the amendment before we have dealt with new clause 161A. I seek your guidance, Chair.

**The CHAIR:** The amendment as proposed refers to new clause 161A, which, of course, does not technically exist at this time. However, that does not mean that the amendment to clause 2 cannot be considered at this time. It may. Perhaps the member in moving his amendment might wish to refer to new clause 161A to ensure that the Committee of the Whole House is aware of how the two are interlinked, but there is no necessity for the consideration of clause 2 to be parked. Indeed, it would be undesirable to do so.

*Committee Resumed*

**Hon NICK GOIRAN:** Hon Adele Farina has raised a fair question and, ultimately, I am very relaxed about whether we deal with clause 2 now or after the consideration of new clause 161A. If the chamber has an appetite to deal with it now, I am happy to proceed.

The context is that over the course of considering clause 1, the government has been at pains to try to satisfy the concerns of regional members about how this will work in regional Western Australia by telling them that it will be done by way of a care navigation process. Part of the reason that the government has had to invent this care navigation process is that it has not yet worked out whether telehealth can be used. Interestingly, during the clause 1 debate, the government indicated that care navigators might be nurses or social workers. There was a rather startling revelation by the minister during the clause 1 debate that social workers are self-regulated. My concern is that these care navigators are, in my mind, expert steerers.

There are concerns about elder abuse in Western Australia. Submissions by the Aboriginal Health Council of Western Australia to the ministerial expert panel contain concerns about the need for special care to be taken. These concerns have been raised. We know that psychological and emotional elder abuse is a real problem in Western Australia and it will take only the smallest of subtle coercions for a person to be navigated to take the voluntary assisted dying path instead of the palliative care path. In fact, I find it quite unacceptable that we are

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prepared to have this government invest taxpayers' funds in creating voluntary assisted dying care navigators, but there is no talk by government about palliative care navigators. The navigators are going to steer people towards voluntary assisted dying. That could include self-regulated social workers and I asked the government whether it had any plans about regulation, but it all became too hard and we were told we were asking too many questions and we did not make any progress. The solution to that is new clause 161A.

I ask members to give new clause 161A serious consideration. What would it do? It would provide that the government could make regulations to govern how these care navigators will operate. Let us remember that care navigators do not exist in Western Australia. That is a new invention of this government. I have asked about whether it is using the Victorian system as a model. Sometimes it says yes, it is referring to Victoria; sometimes it says no. It really depends on the time of day that we ask the question. The point is that they do not exist at the moment. This would allow government to make regulations on how those care navigators will operate. The provisions of new clause 161A require this chamber and the other chamber to approve those regulations. Once we have approved those regulations for care navigators, the bill can commence, but not before. I draw to members' attention that during answers to questions that I have asked on clause 2, the minister has said that we need to defer this for 18 months because we need to deal with the care navigation process. The minister said that the government needed time to prepare new procedures, establish a board, and to deal with care navigators. Proposed section 161A would ensure that if the government wants regulations and it wants care navigators, as it said it does, it will have to prepare the regulations and put them before both houses for approval, and at that point the bill can commence.

**Hon AARON STONEHOUSE:** I would feel much more comfortable if we deferred debate on clause 2 until we have had a chance to consider proposed section 161A. If we get down in the weeds debating proposed section 161A, we will miss a lot of the context of the bill, especially around the head of power for regulations in proposed section 161. It seems to me it would be a heck of a lot easier to defer consideration of clause 2—only one amendment is proposed for it at this point anyway—and we can come back to it at a later stage when the chamber has considered proposed section 161A. If proposed section 161A is agreed to, we can return to clause 2 and consider the amendment put forward by Hon Nick Goiran.

I am not sure what the attitude around the chamber is, but I would certainly feel much more comfortable being able to discuss both of those proposed amendments in context, together perhaps, rather than being in a situation in which the chamber agreed to the proposed amendment to the question put but later did not agree to proposed section 161A, and we had to return to clause 2 anyway. I do not mean to foreshadow what the will of the chamber might be on individual clauses, but we might end up with a bit of a weird situation and return to clause 2 regardless. I would certainly feel more comfortable if we deferred debate on clause 2 until that stage and proceed to clause 3 now. I put my views out there, Chair. I am interested in whether other members share that sentiment; and, if they do, perhaps we can move in that direction.

**Hon MARTIN ALDRIDGE:** I know the minister's response to this was to the effect that the government was not supporting it. Can I get an understanding, perhaps a bit more than that, in terms of the reasons the government opposes the recognition and regulation of care navigators within the bill and why it is best placed outside the bill?

**Hon STEPHEN DAWSON:** This will be an operational system. It is our belief that it is unnecessary to put into regulations. The issue will be worked on, as I have previously indicated, during the implementation phase.

While we are on clause 2, the amendment does refer to clause 161A, which we think is restrictive and it is onerous. We do not support proposed section 161A and we certainly do not support the amendment that is before us, which is that the words to be inserted be inserted.

**Hon MARTIN ALDRIDGE:** Thanks, minister. With respect to proposed section 161A, which links back to the proposed amendment at 49/2 on the supplementary notice paper, does the minister's objection centre on the enabling provision that requires the regulations to be passed by an affirmative resolution of both houses as opposed to defining what a care navigator is and the discretionary provision for the making of regulations, or is it both of those issues?

**Hon STEPHEN DAWSON:** Our concern is a combination of both.

**Hon MARTIN ALDRIDGE:** I have a question about the operation of proposed new clause 161A, noting that we have had only a short while to consider this amendment. As I read through the logical order of new clause 161A, subclause (1) creates a definition of "care navigator" and subclause (2) states that the Governor "may" make regulations. Subclauses (3), (4) and (5) would apply only if the Governor indeed made regulations. My question—it may be a question to the mover of the amendment—is: if new clause 161A were to pass as constructed, would "care navigator" be defined by subclause (1), but because of the discretion provided by the use of "may" in subclause (2), it does not compel the Governor to make any regulations about care navigators? Therefore, subclauses (3), (4) and (5) would not be relevant.

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**Hon NICK GOIRAN:** I am happy to answer that. The issue is not whether we have the capacity to compel the Governor to make regulations. That is why I have used “may” rather than “must”. But if there is technical advice from the government that it is possible to compel the Governor to make the regulations, I would have no problem with an amendment to the amendment.

**Hon AARON STONEHOUSE:** To continue the point I was making earlier, this is what I was hoping to avoid. We are now discussing hypotheticals of how proposed new clause 161A might operate. It may be an amendment that many members have not put their minds to yet. The question at the moment is an amendment to clause 2 of the bill. There may be an alternative wording to new clause 161A. I may move an amendment to retain the regulation-making powers but to make them less restrictive. There are infinite hypothetical amendments that could be moved to new clause 161A, and we are discussing these in consideration of clause 2. It is very difficult to engage in this kind of hypothetical debate at this point. So that we can at least move forward and members may have an opportunity to consider new clause 161A at the relevant stage, I would like to move, without notice, that consideration of clause 2 be postponed until after consideration of clause 184, which would be at the end of the bill.

**Hon STEPHEN DAWSON:** I just want to clarify what the question is before the chamber.

**The CHAIR:** The question before the chamber is that the words proposed to be inserted be inserted.

To achieve what Hon Aaron Stonehouse is seeking to achieve, we would need a two-part process, if the chamber so wishes—that is, to defer consideration of the amendment and, if that is carried, to defer consideration of clause 2. That would be the process. In that way, we could then consider it after new clause 161A had been considered. I think Hon Aaron Stonehouse was half moving along that way. If members wish, we can resolve that one way or the other.

**Hon STEPHEN DAWSON:** I am not seeking to be difficult, Mr Chairman; I am just trying to understand the issue. Would we not have to put the question before the chamber first, because Hon Nick Goiran has moved his amendment, before the deferral could happen?

**The CHAIR:** I am advised that procedurally an amendment becomes a second question before the chamber and takes precedence over the first. In effect, we have two questions that we need to deal with. The first one is the question of the amendment. If we want to defer that, we can do that. Then we would have to defer clause 2. Hon Aaron Stonehouse, I think that is what you were moving, was it not?

**Hon AARON STONEHOUSE:** Yes, and thank you for that clarification, Chair. I move —

That consideration of amendment 49/2 be deferred until a later stage.

**The CHAIR:** I note that Hon Aaron Stonehouse has moved that consideration of amendment 49/2 be deferred. This is in two parts and I will be moving another motion, but if members wish to defer consideration of clause 2 until after these other matters are resolved, they will support this proposition. If they do not, they will not. The question is that the amendment at 49/2 be postponed.

**Hon MARTIN ALDRIDGE:** Is the question before the Chair debatable?

**The CHAIR:** Yes, it is debateable.

**Hon MARTIN ALDRIDGE:** I understand the issue that Hon Aaron Stonehouse is trying to overcome, and I think it was first raised by Hon Adele Farina. But not having had a chance to read all 64 pages of the supplementary notice paper, after a quick flick through, I think there are several other circumstances in which this issue is going to arise, not least of which being when we get to clause 5 and the definitions. I understand that the member may feel this is the best approach for expediting the process, but I suspect that we will end up being repeatedly faced with the same challenge, and it is my view that it may be best to just soldier on and deal with the difficulties that come with managing multiple amendments and linking the multiple amendments on the supplementary notice paper.

**Hon STEPHEN DAWSON:** I indicate that the government is not supportive of the deferral.

*Division*

Question put and a division taken, the Chair (Hon Simon O'Brien) casting his vote with the noes, with the following result —

Ayes (3)

Hon Nick Goiran

Hon Colin Tincknell

Hon Aaron Stonehouse (*Teller*)

**Extract from *Hansard***  
[COUNCIL — Wednesday, 30 October 2019]  
p8561a-8585a

Hon Nick Goiran; Hon Stephen Dawson; Hon Colin Tincknell; Hon Dr Sally Talbot; Deputy Chair; Hon Robin Chapple; Hon Alannah MacTiernan; Hon Aaron Stonehouse; Hon Kyle McGinn; Hon Rick Mazza; Hon Diane Evers; Hon Colin Holt; Hon Adele Farina; Hon Simon O'Brien; Hon Sue Ellery; Chair; Hon Martin Aldridge

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Noes (30)

Hon Martin Aldridge	Hon Stephen Dawson	Hon Alannah MacTiernan	Hon Charles Smith
Hon Ken Baston	Hon Colin de Grussa	Hon Rick Mazza	Hon Matthew Swinbourn
Hon Jacqui Boydell	Hon Sue Ellery	Hon Kyle McGinn	Hon Dr Sally Talbot
Hon Robin Chapple	Hon Diane Evers	Hon Michael Mischin	Hon Darren West
Hon Jim Chown	Hon Donna Faragher	Hon Simon O'Brien	Hon Alison Xamon
Hon Tim Clifford	Hon Adele Farina	Hon Martin Pritchard	Hon Pierre Yang ( <i>Teller</i> )
Hon Alanna Clohesy	Hon Laurie Graham	Hon Samantha Rowe	
Hon Peter Collier	Hon Colin Holt	Hon Robin Scott	

**Question thus negatived.**

**Hon MARTIN ALDRIDGE:** Before Hon Aaron Stonehouse moved his motion without notice, I was trying to understand the implications if this new clause 161A passes in its current form. I think for the first time we would have reference to a care navigator in the bill, because I asked a question on clause 1 and the government confirmed that there was no reference to a care navigator in the bill. My plain reading of this amendment is that there is a discretion for the Governor to make regulations, but there is a delimitation on the scope or operation of the care navigator in the absence of regulation. I wonder whether the minister could assist the house with some technical advice, with the benefit of the advisers at the table, about whether this amendment will achieve what is intended, which is essentially to regulate care navigators as opposed to providing discretion to the government to regulate them if it so wishes.

**The CHAIR:** I appreciate the difficulty presented by the situation. The fact of this matter is that we are contemplating clause 2 and not proposed new clause 161A. In any case, looking at the time, I think I need to now interrupt debate and report progress, which will give members time to look at their 64 pages of amendments prior to resuming.

**Progress reported and leave granted to sit again, pursuant to standing orders.**