

VOLUNTARY ASSISTED DYING BILL 2019

Committee

Resumed from 24 October. 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 —

Progress was reported after the clause had been partly considered.

The DEPUTY CHAIR: I draw members' attention to supplementary notice paper 139, issue 3, dated Thursday, 24 October 2019.

Hon STEPHEN DAWSON: I had better speak up before someone reminds me again. Thank you very much, Mr Deputy Chair. Last week, there were a number of things that I undertook to come back to the chamber with an answer on. However, before I do that, I want to remove any misunderstanding that I may have left last week. It is in relation to Hon Peter Collier's questions about possible amendments that the government may accept. I just want to make it clear that we will, of course, consider proposed amendments to this bill, provided that the amendments are reasonable and that they do not undermine the bill, or, indeed, its policy and purpose. We will, of course, give careful consideration to each and every one that is put forward and, as I mentioned previously, this will be done as we get to each clause. Therefore, once we get to debate each clause, any amendments that are proposed will be considered at that time. Of course, if the government itself forms a view that an amendment is required, it will obviously notify the chamber in the usual way. That is what I referred to last week by putting amendments from the government on the supplementary notice paper. In case there is any question about whether the government will be open to amendments to the bill, I just wanted to clarify that.

I also have comments in relation to two issues Hon Nick Goiran raised last week. He asked whether social workers would be captured by the national law that I referred to. The answer is: no, they will not. Social workers are self-regulated allied health professionals. Social workers are healthcare workers but not registered health practitioners under the national law. The second issue he raised related to how long the government anticipates it might take to create care navigator roles. As I said previously, it is intended that the bill will become operative after the implementation phase of 18 months. The intention is that healthcare workers and registered healthcare practitioners who choose to participate will be trained and ready to discharge their obligations under the act. However, obviously, we will be working within the usual workforce constraints.

Hon PETER COLLIER: Thank you for that, minister. Can I just get clarity? I am a little confused after the minister's comment. Regarding the amendments, I appreciate that the government will always consider any amendments that come from the floor—I have no problems with that one. I just want some clarification around the government's amendments. That was the direction in which I was heading with my questions about amendments that the government was considering. I got the impression from the minister's comments last week that the government was not only considering amendments but also actually drafting amendments at this stage. Can the minister confirm whether that is still the case?

Hon STEPHEN DAWSON: Certainly, that issue was dealt with last week, and it was indicated that the government was drafting amendments based on amendments that were raised in the other place or, indeed, amendments that were raised by stakeholders external to the Parliament. No decision has been made on the policy or the policy intent of those amendments, but, certainly, some amendments have, I understand, been drafted by the minister's office. They are under consideration still.

Hon MARTIN PRITCHARD: Last Thursday, I removed from the supplementary notice paper an amendment that would have required a consulting practitioner to hold some specialty. I thought it might be worthwhile to canvass that a little bit, because it has been brought to my attention that that amendment had a lot of support outside the chamber and to some extent inside the chamber. I thought I would explain briefly why I removed that amendment. It was after a briefing that was organised by Hon Colin de Grussa and after he had spoken to some motor neurone disease specialists. They indicated that only four specialists service over 90 per cent of people in Western Australia. It came to my mind at that time that there could well be a situation in which either by contractual arrangement or through conscientious objection, or through availability, they would not be available. Therefore, even though people tend to fall in love with the drafting that they conjure—I was in love with my drafting—I thought it would be appropriate to remove my amendment because I accepted the view that was put to me by the minister and others that it could have created some real problems in the bill. But that does not necessarily change my mind with regard to what expertise should be required for prognosis.

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That led me last week to make a number of intemperate comments about general practitioners. I have had some feedback on that. I accept that general practitioners have a whole-of-body specialty, so I would like to talk briefly about that. In reading the bill as it currently stands, it seems to give the impression that one day a person could arrive at their general practitioner, say that they are very ill and the general practitioner could then turn around and say, “Yes, by the way you have cancer; you have six months to live.” Then the discussion could go on from there and they would have to do an assessment. Of course, that is not the reality. The reality is that in almost all cases, a person would have to be sick for many months, if not years, and would have been at previous times, I imagine, referred to specialists, and the general practitioner would have been acting as a conduit to look at the comorbidities and to make a judgement, in discussion with the patient, about the best treatment for the patient. I accept that. However, the bill will go further than that. It will impose upon the patient a requirement to go through exactly the same processes a second time. That is considered to be a precaution, which seems strange to me because the consulting practitioner would be the one selected by the coordinating practitioner, so it does not tend to empower the patient, in my view, in that regard, and they would have to go through exactly the same process a second time, which, if a person were in their last six months of life or even less in some circumstances, seems to be an unnecessary precaution.

I looked at the bill and it came to my mind that because of the amount of information that the general practitioner would have already collated, and the opportunity to refer to specialists but not get those specialists involved in the process—in other words, not limiting the availability and such—the coordinating practitioner, the GP, would be in a perfect position to make a determination, given all the information, and that the only oversight that I see would be necessary would be collating all that information in some reporting process and giving that to the board and the board basically ticking it off and saying, “Yes, based on all the information we have, we make a prognosis of less than six months”, and they would go through the process. That would severely limit the exposure a patient would have and how many times they would have to see a different general practitioner. It would also mean that people in the bush would have fewer problems, because in many towns, of course, there is only one GP. However, we cannot unscramble an egg; I understand that. I also understand that the government falls in love with the drafting it puts together. But I just wanted to raise those things.

I did not mean to denigrate general practitioners. I think they do play a role, but I think it is a collation and holistic role, and the fact that they have in most cases a relationship with the patient and the family, and those things can be of assistance. I have always been a general fan of the fact that a general practitioner be the coordinating practitioner; I just do not see the need for a consulting practitioner to be involved in the process because I think that will have limitations. That is why I withdrew the amendment that I was going to put forward at a later stage.

As I said, I am almost certain that specialists will be involved, but they would not necessarily have to be pulled in as a coordinating practitioner; rather, they could be part of the process in which the coordinating practitioner refers off to specialists and gains that information with the board having oversight. I think that would make it a lot simpler and it would have gained my support earlier. I do not believe that we gain much by going through the process twice when we are talking about people who have fewer than six months to live. Hopefully, that gives members some insight into why I withdrew the amendment. In its place, I will move amendments to, I think, clauses 25 and 36—I may be incorrect—that suggest that the coordinating practitioner has to identify whether they have the skills and training to make a prognosis, or other aspects, and if they do not have those skills or training, they refer off as the bill suggests. They will then have to take into account—not necessarily accept—each and every report and send all those reports, whether or not they support their view, to the board so that it has proper oversight. I have tried to toughen those areas to give me confidence in the bill. I know that I do not have the option, but I do not see the consulting practitioner as a safeguard. I see the consulting practitioner as going through the process twice just in case someone gets the process wrong in the first instance. I do not understand it and given that the voluntary assisted dying process is for patients who have only six months to live, it is unnecessary. I do not necessarily need the minister to make a comment. I thought it would be good for the chamber to understand why I withdrew the amendment and the concerns I had with it.

Hon NICK GOIRAN: Last week, the minister responded to concerns raised by Hon Kyle McGinn about the role of care navigators, particularly Indigenous ones, to assure him that the intent is that the role is to assist, not coerce. The member also sought an assurance from the minister that the standard for Indigenous navigators will be more than just completing a cultural competency course, and that resulted in my last question before we adjourned last Thursday, which was: given the strict parameters operating in the bill for medical practitioners, and given that the government is considering using social workers as navigators, what will be the strict system regulating the navigators? In effect, in the minister’s response this afternoon, he indicated that social workers are self-regulated and do not operate under the national law for health practitioners. What arrangements does the government plan to put in place to regulate the role of care navigators in the instance that they are social workers?

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Hon STEPHEN DAWSON: As I alluded to earlier in answering Hon Nick Goiran's question about whether social workers are captured by the national law, I said no, they are not. Social workers are self-regulated allied health professionals. Social workers are healthcare workers but not registered health practitioners under the national law. The National Code of Conduct for Health Care Workers 2014, which was a decision of the Council of Australian Governments, was developed to set standards for healthcare workers against which disciplinary action can be taken. In Western Australia, the Health and Disability Services Complaints Office commenced phase 2 of the implementation of process of that in June 2018. Phase 2 has included the progression of activities required for legislative change necessary to give effect to the national code in Western Australia. I understand the drafting instructions have been provided to parliamentary counsel. The preparation for drafting of the health and disability services complaints amendment bill to provide for the national code jurisdiction and the implementation of the code in Western Australia through regulations is progressing. The national code will set standards against which disciplinary action can be taken and, if necessary, a prohibition order will be issued in circumstances in which a healthcare worker's continued practice presents a serious risk to public health and safety.

It is anticipated that social workers and, indeed, health workers, who undertake the navigator role will be employed by the Department of Health in the first instance and they will be subject to the department's code of conduct and directions by their employer. It is likely that the care navigation process will be a nurse-led service. The Department of Health is of the view that a nurse-led model of care is preferred and that eventually a multidisciplinary team with other health professionals will develop. It is intended that the manager of any multidisciplinary team of care navigators must be a registered nurse. Registered health practitioners, including registered nurses, are subject to the Health Practitioner Regulation National Law (WA) Act 2010 and may be investigated by the Australian Health Practitioner Regulation Agency.

Hon NICK GOIRAN: Does that explanation simply mean that the social workers who the government proposes will be care navigators—or a group or a class of people who will be part of the care navigation scheme—currently do not operate under the national code of conduct for healthcare workers because, at the moment, the instructions to make that happen are with parliamentary counsel?

Hon STEPHEN DAWSON: If I can just clarify, the national law does not include nor bind social workers at this stage. I know that we have mentioned social workers numerous times last week and today, but the intention, as I said, is that the navigator service be led by nurses and the likelihood is that at some stage, social workers could be involved in the process, although no decision has been made on that. In Victoria, the care navigation role is filled by a clinical nurse consultant and a social worker. We have not landed on social workers absolutely being part of the scheme, but certainly if they are, as we seek changes to regulations, the intention would be that they will be employed by the health department so they will be subject to the Department of Health's code of conduct and the directions of their employers.

Hon NICK GOIRAN: What part of the bill limits care navigators to be those who will be led by nurses in the first instance; and, secondly, what part of the bill ensures that the care navigators, if they are social workers, will be employed by the Department of Health?

Hon STEPHEN DAWSON: None. As I have said previously, care navigators are not part of the bill. That issue will be dealt with during the implementation phase.

Hon NICK GOIRAN: I agree that it is not in the bill. This is the problem. The government is trying to assure regional members that they do not have anything to worry about with the bill before the house and that there will be good access in regional Western Australia because this government will spend taxpayers' money to fund care navigators. That is part of the government's rhetoric and narrative to provide regional members with an assurance about their concerns. Multiple regional members in this place have raised concerns about that, noting that "care navigator" is not a defined term or mentioned in any way in this bill. I am simply seeking to ascertain the extent to which the government has any plan to regulate that role. It seems to me that the government has not yet decided who is going to be a care navigator, let alone how they will be regulated. There have been some vague remarks about them being nurse led, but the government has not really made a decision on that. It thinks it might, in due course, in the fullness of time, bring in some social workers, who are self-regulated, but it is not really sure about that either, and it thinks that all these things will be taken care of in the implementation phase, which will take 18 months. The minister can understand why I do not necessarily receive any assurance or satisfaction when he says to Hon Kyle McGinn that he has nothing to worry about because the intention is that these care navigators will be there to assist and will not coerce, yet there is no regulation around the process of care navigators, there is no definition and there is no plan.

I will move to a different area. Last week, the minister indicated that, if necessary, the government would fund the cost of up to eight people to assist a person in regional or rural WA to access voluntary assisted dying, but he was unwilling to provide a guarantee that the government would fund the cost of one palliative care specialist and

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one interpreter to visit that same person if that was their preference. Has the minister now spoken to the Minister for Health and is he now able to provide that assurance?

Hon STEPHEN DAWSON: I did raise that issue with the minister's office last week. I have raised the issue. I have told the minister of the member's concern. I understand that people can access palliative care services remotely, in that they can access them over the phone. I certainly raised the issue with the minister's office.

The member spoke about sending up to eight people to regional or remote Western Australia—those were the words he used. That was a hypothetical situation. I answered that that might well be the case in certain circumstances, but I also said last week that the likely number of people throughout the state who will access the service is likely to be small. This is not about cost; this is about ensuring that people in regional and remote Western Australia can access the service that will be allowed under this bill. I understand that palliative care services can be accessed over the phone at this stage.

Hon NICK GOIRAN: Is the government able to guarantee that it will fund the cost of one palliative care specialist and one interpreter, if that is the request of a Western Australian in regional WA?

Hon STEPHEN DAWSON: No, I am not in a position to guarantee that.

Hon NICK GOIRAN: There we have it! The evidence from the minister last week was that the government would guarantee up to eight people to participate in this voluntary assisted dying process and execute the act for the patient in regional Western Australia. Because cost is not an issue for the government when it comes to voluntary assisted dying, it will fund up to eight people to go to regional Western Australia. However, the government has just confirmed that it cannot guarantee that it will send out a palliative care specialist and an interpreter. That should send a chill down the spine of anyone in regional Western Australia. The pretence is that this will somehow be a choice. Someone in regional Western Australia will have the choice of having eight people go out to execute the VAD act for them, but they will not be able to have two people to execute life in palliative care. People tell me that this is about choice, but we have just had evidence to confirm that that is fake for regional Western Australians. If I am wrong about that, the minister can correct the record at any time and reconfirm that the government will now take a different approach and will ensure and guarantee that regional Western Australians will have access to a palliative care specialist if that is their choice. At this stage, that is not the case. Now, minister, in response to —

Hon Stephen Dawson: Before you move on to another point —

Hon NICK GOIRAN: I have not finished.

Hon Stephen Dawson: You just invited me to answer at any stage, honourable member. Either you want an answer or you do not.

The DEPUTY CHAIR (Hon Martin Aldridge): Order; Hon Nick Goiran has the call.

Hon NICK GOIRAN: Thank you, Mr Deputy Chair; I think the minister is unfamiliar with the processes of this chamber.

The minister indicated earlier to Hon Peter Collier that the government will consider amendments if they are put forward. He indicated last week that he would not table the draft amendments that the government has in its possession. Has the government reconsidered whether it will at least reveal to the chamber to which clauses of the bill those draft amendments pertain?

Hon STEPHEN DAWSON: No, we have not reconsidered. Indeed, I do not propose to go over this issue again. Mr Deputy Chair, these questions were asked last week; I do not propose to answer them again today. I would argue that we are starting to veer into the area of repetition. I do not propose to continue having this debate on the same issue week in, week out. I will park that issue there for a second.

In earlier comments, Hon Nick Goiran invited me to stand at any stage to make further comment, but then he did not welcome that advice from me. I make the point that a record investment has been made by this government in palliative care services across the state. It is a significant \$220 million investment over four years. It is beyond anything that any other government has put into palliative care services. I also indicated that it is not just about sending services to people in remote and regional Western Australia; there is also the ability to bring a patient from regional and remote Western Australia to a centre or, indeed, a city if that is more appropriate. The honourable member is trying to trip us up by saying that we said that eight people could go out to regional Western Australia. I did say that, but the likelihood is that patients who are seeking access to services will be brought to a central location. The government is making a significant investment in palliative care right around regional and remote Western Australia. I am confident that people around the state will be able to access palliative care services into the future as a result of this investment.

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Hon NICK GOIRAN: Yes, I did invite the minister to rise and respond, but I obviously meant that he needed to first seek the call—that is the normal process in here. I did not mean that he could jump up and interrupt another member when they were still making a contribution.

The minister indicated that part of the process the government is relying upon is what the minister described as record funding for palliative care. I draw to the minister's attention that on 8 August this year, Hon Martin Aldridge asked a question in this place that was responded to by the parliamentary secretary representing the Minister for Health. His question was on the subject of the additional \$30.2 million of funding to expand palliative care services in the regions and asked —

Has the government now defined a plan to allocate the additional funding?

Hon Alanna Clohesy said no. Since 8 August this year, has the government now defined a plan to allocate the additional funding to expand palliative care services into the regions?

Hon STEPHEN DAWSON: I am advised that the WA Country Health Service is still working through that plan.

Hon NICK GOIRAN: Has WACHS been allocated any of the funding increase of \$30.2 million?

Hon STEPHEN DAWSON: Certainly, WACHS has been provided with some extra funding, but I will place on the record what is known so far, bearing in mind that the WA Country Health Service is working through a plan at the moment. It has previously been announced that more than 61 full-time equivalent positions will be employed over a phased approach across regional Western Australia. That is a tripling of staffing arrangements for palliative care support for regional Western Australia and includes the establishment of new specialist district palliative care teams comprising medical nursing, allied health and Aboriginal health workers across the regions. As part of the extra funding, \$3 million will enable 24-hour support via the WA Country Health Service telehealth hub. There is also some extra money in the budget—\$6.3 million—specifically for improving metropolitan and regional community-based services for care closer to home to better meet demand. A further \$2.5 million has been committed to enable the WA Country Health Service to enhance rural and regional palliative care services by improving governance to refine models of palliative care and roll out services, ensuring that they best support the needs of rural and regional patients. Some money is in the process of being given to the WA Country Health Service, but that plan is still being worked on.

Hon NICK GOIRAN: Of the \$30.2 million that the government promised in the budget, how much has been provided to WACHS at this stage?

Hon STEPHEN DAWSON: I am advised that the money has been committed to WACHS, but the WA Country Health Service is now working on exactly where that money will be spent.

Hon NICK GOIRAN: The minister mentioned that the plan is for there to be an extra 61 full-time staff towards this initiative by government. Over what time frame is that expected to be delivered?

Hon STEPHEN DAWSON: I am advised that the funding envelope is over four years, so it may take some of those staff a period of time to be employed, but certainly the money is there over the next four years.

Hon NICK GOIRAN: I understand that. That is not my question. I do not want to know about the funding. I realise that is over a four-year period. I am asking: over what time frame are the extra 61 FTEs that the government is working on expected to be delivered?

Hon STEPHEN DAWSON: The likelihood is that those staff will be employed over that four-year period. In terms of the exact breakdown a year, I would have to take that question on notice.

Hon NICK GOIRAN: How many of the 61 extra FTEs are in place?

Hon STEPHEN DAWSON: Again, we would have to take that question on notice.

Hon NICK GOIRAN: Does the minister have access to information that would indicate whether at least one of the 61 FTEs are in place?

Hon STEPHEN DAWSON: I do not have that information before me, no.

Hon NICK GOIRAN: How much time would it take to access that information?

Hon STEPHEN DAWSON: I am not aware, honourable member. The member has asked the question now. People are listening to this debate. As soon as it comes to me, I am happy to give it. But I am not in a position to say whether it will take days, weeks, months or years.

Hon NICK GOIRAN: Are any of the extra 61 extra FTEs planned to be palliative care nurse practitioners?

Hon STEPHEN DAWSON: It has not been determined. WACHS is working through what type of healthcare professionals may be needed and where in the state those professionals will be needed.

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Hon NICK GOIRAN: How did the government come to the figure of 61? That is a very precise number of FTEs for the government to determine, yet when I ask the minister when this will be done and whether it includes nurse practitioners, the government does not know; the minister keeps saying that WACHS is working on it. I respect that that is the position. The minister cannot do anything to control that. But I am curious to know how the government is able to be so precise by identifying 61 FTEs.

Hon STEPHEN DAWSON: We would have to go back to WACHS and ask for that. Certainly, my advisers with me this afternoon do not have an answer to that question, nor do I know the answer. I understand that apparently it is based on existing clinical levels across the state and this amount will triple the staffing arrangements for palliative care staff in regional Western Australia. That is the extent of the information I have. For anything more, I would have to seek further information.

Hon NICK GOIRAN: Speaking of existing clinical levels, how many palliative care nurse practitioners are employed in Western Australia?

Hon STEPHEN DAWSON: I am advised that it is a constantly changing figure, so we will have to seek some advice from the department on that. We could not give the member an exact figure today.

Hon NICK GOIRAN: Does the minister have access to information at the moment that would indicate whether the number of palliative care nurse practitioners in Western Australia is in single or double digits?

Hon STEPHEN DAWSON: Again, I cannot give the member an answer to that question. I am absolutely happy to answer these questions. I do not have it before me. I am happy to get an answer for the member, but I do not have the answer in front of me.

Hon NICK GOIRAN: That is fine. There is no criticism on my part. The minister is doing the best that he can in the circumstances. Obviously, had this matter been referred to the Standing Committee on Legislation as was recommended and moved by Hon Rick Mazza, we would be able to get to the bottom of these things and the process would be far more expedient, but there was a decision to reject that proposal, so both the minister and I are operating as best we can. I note that the government made a recent announcement to commit a further \$17.8 million to palliative care service provision in metropolitan and regional Western Australia. How much of that \$17.8 million has been allocated to palliative care service provision outside the metropolitan region?

Hon STEPHEN DAWSON: I am advised that of that \$17.8 million, \$2 million will be dedicated to rural and regional Western Australia to fund care services for patients who have a potential risk of admission to hospital or residential aged care requiring domiciliary home-care services.

A further \$2.5 million has been committed to enable the WA Country Health Service to enhance rural and regional palliative care services by improving governance to refine models of palliative care and roll out the services to ensure that they best support the needs of rural and regional patients.

Hon NICK GOIRAN: Of the \$17.8 million, we can say that \$4.5 million has been allocated outside the metropolitan region—\$2 million for regional services and \$2.5 million for WACHS governance. Does the government have a plan about how to allocate this additional funding?

Hon STEPHEN DAWSON: Again, that is an issue that WACHS is working through at the moment. The regional funds need to be allocated in conjunction with WACHS. I might also add that there is a further amount of \$6.3 million in that \$17.8 million budget. That has been allocated to improving metropolitan and regional community-based services for care closer to home to better meet demand. I am told this will fund community-based services to be delivered predominantly through non-government organisations across the state. There is the \$4.5 million that I mentioned previously and also an amount from that further \$6.3 million that will be spent in regional Western Australia. I do not have a further breakdown of that. I think that information is being worked on now by the department in terms of how to break that figure down between metro and regional service provision.

Hon NICK GOIRAN: These community-based services that the minister referred to, is that the type of service that Silver Chain currently provides?

Hon STEPHEN DAWSON: Yes, it is.

Hon NICK GOIRAN: In which parts of regional Western Australia does Silver Chain currently operate and in which parts of Western Australia does the minister anticipate it will operate with the benefit of some of this \$6.3 million funding?

Hon STEPHEN DAWSON: I am told that Silver Chain has a small footprint outside the metro area, or in regional Western Australia. I am further advised that that may have changed recently, so I would have to seek further information on where it provides services outside the metropolitan area. Generally, this type of service is currently provided by the state, so it is done by the health department. However, I will seek some further information about

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where Silver Chain currently provides a service and where this extra money could go and therefore ensure that services are being expanded in regional Western Australia.

Hon NICK GOIRAN: A lot of information has now been taken on notice. I reiterate that that is not the minister's fault; he is doing the best he can in the circumstances he finds himself in. It is very difficult for a member, even a metropolitan member like me, to be satisfied that regional Western Australians will have access to palliative care when most of the answers need to be taken on notice, including something like where Silver Chain operates at the moment. If we were to have a map of Western Australia to try to identify where the gaps are in the system, we would be unable to do that on the basis of the information provided today because everything has had to be taken on notice. This concerns me because I note that in the other place, on 3 September this year, the Minister for Health said —

Voluntary assisted dying does not preclude or prevent palliative care; these are not either/or choices.

I will continue to quote from him in a moment, but it seems to me that the answers we are getting today indicate that it is an either/or choice because people in regional Western Australia will be guaranteed VAD but they will not be guaranteed palliative care. When the minister said in the other place that it is not an either/or choice, in actual fact the information to the Committee of the Whole House would indicate otherwise. The Minister for Health went on to say —

We are considering the compassion we show to those people for whom palliative care does not relieve suffering. The provision of voluntary assisted dying in Western Australia will be part of a continuum of end-of-life care choices available to the Western Australian public; it is not instead of palliative care.

The minister may be aware that the WA branch of the Australian Medical Association conducted a survey in recent times and that 91 per cent—that is 1 398—of its medical practitioners who were surveyed believe that all patients should be offered acceptable palliative care prior to or at the same time as voluntary assisted dying. Ninety per cent of medical practitioners surveyed—that is 1 370—believe that the government should provide special support to patients outside metropolitan areas to ensure that there is equitable access to both health care and VAD services. It seems to me that at the moment VAD will be offered and made available to people living in Western Australia, whether in metropolitan Western Australia or in regional or remote Western Australia, but specialist palliative care services will not necessarily be offered. Given the AMA's survey and the overwhelming response of those doctors—inevitably, some would have been for or against the scheme—what conversations has the government had with the Australian Medical Association to address the concerns of those practitioners as outlined in the survey?

Hon STEPHEN DAWSON: The member's earlier question related to palliative care services across the state. On pages 30 and 31 of the document "WA End-of-Life and Palliative Care Strategy 2018–2028", there is a very helpful map about the palliative care services that are provided in the metropolitan area and in regional Western Australia. I am happy to get copies of this if honourable members have not got it. I undertook to provide at a later stage some further information in answer to earlier questions from Hon Nick Goiran. There is some information there. In 2017–18, which is the most up-to-date information that I have, across regional areas of Western Australia, the WA regional specialist palliative care service teams supported approximately 1 088 people who died at home, and 831 who died in non-home environments such as in hospitals, palliative care units, hospices or aged-care facilities. In that same year across the Perth metropolitan area, the Silver Chain hospice care service provided specialist palliative care to 3 255 people with an advanced life-limiting illness who were living at home. This included people living in residential aged-care facilities. The Silver Chain hospice care service also provided 1 963 bereaved carers with support during the same time frame.

In relation to conversations that the government has had with the Australian Medical Association, I understand the government, particularly the Minister for Health, continues to have conversations with the WA branch of the AMA in relation to the bill before us and any concerns it may have about it.

Hon NICK GOIRAN: Has the Minister for Health had conversations with the AMA about those matters in the survey that I raised; that is, 91 per cent of medical practitioners surveyed by the AMA believe that all patients should be offered accessible palliative care prior to, or at the same time as, voluntary assisted dying? I understand that the government is having ongoing conversations with the AMA on a range of things, including the government's secret amendments that it will not table or release, and it will not provide advice on which clauses it has briefed parliamentary counsel. I understand that those conversations are occurring, but at present I am more interested in understanding what conversations the Minister for Health has had with the AMA about access to palliative care in the regions, which, according to this survey, 91 per cent of medical practitioners in Western Australia support.

Hon STEPHEN DAWSON: That is 91 per cent of those medical practitioners who participated in the survey. Obviously, it is very important to point out that not every medical practitioner in Western Australia participated in that survey. Obviously, questions were asked at a certain point. In relation to the issue raised by the honourable member, the answer is yes, those conversations have occurred.

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Hon COLIN TINCKNELL: Last week and also today the minister mentioned during answers to questions that he had been consulting with the Department of Health and the Australian Medical Association. Last week, I also received a submission from the AMA dated 23 October. I understand that it was also sent to other members. Has the minister seen that submission? I think it had 19 proposals in it.

Hon STEPHEN DAWSON: I wish to make it clear that I have not been engaging with the AMA on behalf of the government. I did not make that point last week. I said that the government was engaging with the AMA through the Minister for Health, whose bill is before us today. I want to make that clear. I have certainly had conversations and meetings with the AMA, as have other members of this place, when the AMA sought to brief us on amendments. I have not led any conversations with the Minister for Health. I have seen the document that the member referred to.

Hon COLIN TINCKNELL: I did not explain that clearly enough. I was talking about the government consulting with the Department of Health and the AMA.

I have a copy of the AMA's proposal. I would like to make this available to all members. This is important information. I seek leave to table the document.

Leave granted. [See paper 3334.]

Hon COLIN TINCKNELL: In my first question, I asked the minister whether he had seen that document.

Hon Stephen Dawson: The answer is yes; I have already indicated that.

Hon COLIN TINCKNELL: Now that I have tabled that document, other members will be able to look at it and respond to it. What is the government's position on the proposals that have been put forward in that document?

Hon STEPHEN DAWSON: The government continues to have conversations with the WA branch of the AMA on the issues that it has raised around this bill. Those conversations continue to occur. Obviously, the AMA is a valuable stakeholder. The government is working with the AMA at the moment to identify its specific concerns and assessing how its concerns may be addressed.

Hon NICK GOIRAN: Hon Colin Tincknell has obviously added up the proposals and worked out how many have been put forward by the AMA. I think it is appropriate at this point that the government indicate to the chamber its position on each of those proposals put forward by the AMA. It will not be of any use to us when the bill has already passed; we need to know now. I will take the minister through each of them. I have a copy of the document that he tabled as well. The first proposal of the AMA is that patients must have access to relevant expertise and practitioners must be independent. What is the view of government on that first proposal by the AMA?

Hon STEPHEN DAWSON: I am not in a position to identify the government's position on any of the AMA's proposed amendments or changes in that document. I am in a position to say that conversations continue between the WA branch of the Australian Medical Association and the minister's office on its concerns about the bill. Any proposed amendments by government following those conversations will appear on the supplementary notice paper under my name when a final policy decision has been made by the government on any proposed amendments from the AMA.

Hon COLIN TINCKNELL: The first proposal from the AMA relates to clause 16. Can the minister guarantee that if we left it until clause 16 to discuss this, no other clauses from 1 to 15 would affect those proposals in a way that we may not know?

Hon STEPHEN DAWSON: I am not in a position to give the member any guarantee on that issue. The member is very welcome to ask those questions at clause 16, as he is very welcome to ask questions on clauses 1 to 16, but I am not giving him any guarantees.

Hon NICK GOIRAN: How are we supposed to progress this bill in these circumstances? The government says that it has briefed parliamentary counsel but it will keep any draft amendments secret. The minister said last week that the government was discussing it with "interested members". I have indicated to the minister, as have other members, that we are interested members. The government has not approached me to discuss those secret amendments that it has prepared with parliamentary counsel at taxpayers' expense in circumstances in which I have also sought to draft amendments via parliamentary counsel. I am unable to get all my amendments drafted because the government is hogging the time of parliamentary counsel, blocking the capacity of other members to prepare amendments while he continues to keep his amendments secret. That is my first point.

My second point is that the minister has just been asked by Hon Colin Tincknell about the government's position on the amendments proposed by the Australian Medical Association. The minister told us that the conversations are ongoing but he cannot tell us what the government's position is on any of its amendments or proposals. The honourable member asked the minister whether he can guarantee that the first proposal will not impact on clauses 1 to 15, and the minister said that he cannot provide that guarantee. How are we supposed to operate in Committee of the Whole House in these circumstances when we are this constrained? I am staggered that people

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in government think that this is an appropriate way to carry out lawmaking. This would not be an appropriate way to carry out lawmaking on an innocuous piece of legislation, but Western Australian lives are at stake with this bill, irrespective of where members sit on the continuum of views. I think we all agree that it is a serious bill that requires all of our intellectual capacity and commitment. At the moment we have a government hogging the time of parliamentary counsel and hiding amendments. It is not prepared to tell us its position on any of the proposals put forward by one of the key stakeholders. I do not know when the government thinks it is going to reveal its position on these things, but I remind the minister of the comment made by his Premier, his leader, in the other place on 5 September 2019 when amendments were trying to be put at some unsatisfactory time of the morning. I quote from page 6669 of *Hansard*. He said —

However, in any event, we will not accept the amendment now, on the run. We will consult about what the member is proposing between here and the upper house with doctors, the health department and the like. I do not propose to amend the bill at quarter to one in the morning with some words written on a piece of paper. We will consult between here and the upper house, which I think is the right way to deal with legislation.

That is the minister's Premier. His Premier says that is the right way to deal with legislation, yet this is the attitude when Hon Colin Tincknell simply asks the minister questions about a key stakeholder, the Australian Medical Association. He says, "Sorry, we cannot tell you that. We are having ongoing conversations with the AMA." When will the ongoing conversations with the AMA finish? Will it be when we get past clause 184? That would be spectacularly helpful! I am very disturbed by the contemptuous attitude that the government seems to have to the processes of the chamber. I would personally like to know what the government's view on a number of these proposals is. It is one thing for the minister to say to Hon Colin Tincknell, "Sorry, you can ask that question when we get to clause 16." That was about the first proposal.

Can I get the minister to turn to the second proposal from the Australian Medical Association, which says that VAD must not be initiated by the health practitioner. The AMA says that the relevant clause is a new clause, so clearly there would be no other time this question could be asked than in the debate on clause 1. That is according to the AMA, because the provision is not in any other clause in the bill. No doubt the minister wants to make progress; I have no doubt he wants to move to clause 2. Is the minister telling the chamber that he is not able to tell us the government's position on the AMA's second proposal as to whether voluntary assisted dying must be initiated by the health practitioner? The AMA says that would require a new clause. Is the minister saying he cannot provide any advice to the chamber or tell us where the government is up to in its consultation with the AMA—that he cannot tell us anything about that? Is that the government's position?

Hon STEPHEN DAWSON: What I can tell the chamber is that items in the document that Hon Colin Tincknell tabled this afternoon remain the subject of discussion between the WA branch of the Australian Medical Association and the state government. Those conversations continue. If at any stage amendments that the government supports come out of those conversations, they will appear in my name on the supplementary notice paper. Those conversations continue; they continue today. Obviously, the WA branch of the AMA is a very important stakeholder, but conversations about the bill before us continue with other stakeholders, too, and certainly about amendments. I am aware that a number of members of Parliament have amendments on the supplementary notice paper, so it is plainly not true to suggest somehow that the government is blocking amendments or opportunities for people to access parliamentary counsel. Some members have amendments on the supplementary notice paper. I say again: the items in the document tabled by Hon Colin Tincknell all remain the subject of conversations between the AMA and the state government. At any stage, once a policy decision has been made about our acceptance of any or all of those, they will appear on the supplementary notice paper under my name.

Hon COLIN TINCKNELL: We want to progress past clause 1. I am obviously very interested in the first two proposals put forward by the AMA, and I have indicated that. It is really hard. We are charged with making informed decisions in this chamber, and I would like to know the government's position on those first two proposals of the AMA. I do not feel confident moving past clause 1 until I have some idea of the government's attitude towards a very credible stakeholder, which is the AMA of Western Australia.

Hon STEPHEN DAWSON: With the greatest respect, the AMA is a very important stakeholder, but it is one stakeholder in this debate, and there is a number of other stakeholders. There is a number of strongly held views about this debate by a great number of stakeholders. The government continues to have conversations with the AMA and, indeed, other stakeholders, about this. As I said, and this is the last time I will say it, we continue to have those conversations. Once the government is of a mind that one, all or none of those amendments should be taken on board, once that policy decision is made, amendments will appear in my name on the supplementary notice paper. That is not to suggest that other members cannot move those amendments themselves when we get to the appropriate clause, but at this stage I am not in a position to say which of those proposals have been agreed to, because those conversations are live and continue.

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Hon NICK GOIRAN: Which of the 19 proposals put forward by the Australian Medical Association of Western Australia have been considered by the Ministerial Expert Panel on Voluntary Assisted Dying?

Hon STEPHEN DAWSON: The answer to that is none, given that the ministerial expert panel does not meet anymore, it is finished, and those amendments came in very recently.

Hon NICK GOIRAN: Is the advice to the chamber that the ministerial expert panel did not consider any of the 19 issues listed by the Australian Medical Association? Let us be clear and let us not be cute. I am not asking, obviously, whether the ministerial expert panel, which no longer exists, read the document after 23 October 2019, looked at the 19 proposals and then came to a consideration and a position on it. Self-evidently, that would not be possible. That is not what I am asking. I am asking whether the expert panel, the panel of experts, considered any of these 19 matters that have been brought to our attention by a key stakeholder, or is this yet again—like the telehealth issue, like the issues of inconsistency with federal law—another issue that the expert panel did not consider?

Hon STEPHEN DAWSON: The AMA did not provide this document to the ministerial expert panel or Department of Health while the ministerial expert panel was meeting, so plainly and simply it has not considered the amendments before us.

Hon NICK GOIRAN: Did the ministerial expert panel consider the issue of whether a patient should have access to relevant expertise from a practitioner?

Hon STEPHEN DAWSON: Yes.

Hon NICK GOIRAN: What was the view of the ministerial expert panel?

Hon STEPHEN DAWSON: I am advised that the Ministerial Expert Panel on Voluntary Assisted Dying agreed with the recommendations of the Joint Select Committee on End of Life Choices that two doctors must assess the person. Each doctor must be independently satisfied that the person meets the eligibility criteria. Either or both doctors can be a general practitioner and neither doctor is required to be a specialist regarding the person's disease or illness.

Hon NICK GOIRAN: Did the ministerial expert panel provide any advice to government on what is meant by the “independence” of the two practitioners?

Hon STEPHEN DAWSON: I am told that the ministerial expert panel agreed with the recommendation of the joint select committee that each doctor must be independent. I draw the honourable member's attention to page 65 of the final report, which goes into that issue.

The CHAIR: Members, I am just examining where we are going with this debate. What we are starting to do is to debate specific recommended amendments to identifiable clauses in the bill before the chamber. As I said when we started consideration of clause 1, back when we were all a bit younger, I indicated that the way we would prosecute the examination of this bill, particularly in regard to clause 1, was that where matters were specific to certain subsequent clauses, that would be where the substantial amount of examination should occur. That being said, if we are to examine closely proposed amendments or suggested amendments to certain clauses that are later in the bill, it would have to be demonstrated to me, I think, that the purpose in so doing was relevant to a clause 1 debate. If any member wishing to do so can satisfy me on that point, of course they can proceed. The question is that clause 1 do stand as printed.

Hon RICK MAZZA: Thank you, Mr Chairman. Thank you for your wisdom and advice on how we should proceed with clause 1, which has given me great confidence to get up and ask this particular question. Minister, last week we spoke briefly about the delivery of voluntary assisted dying into regional and remote Western Australia. I still have some concerns around that; it is the reason I moved a motion to refer the bill to the Standing Committee on Legislation, which, of course, was defeated.

On 22 August, I received from the office of Hon Roger Cook an email in relation to the use of telehealth. One of the answers we got back is that Victoria has at this stage instructed its health practitioners not to engage in telehealth, but to consult face to face. This is in relation to the commonwealth Crimes Act; the provisions in that act were included in 2005 to address cyberbullying.

One paragraph in a letter from the Western Australian Attorney General, Hon John Quigley, around 26 August, states —

I note that leading legal experts who have examined the Western Australian Bill have noted that it explicitly states that VAD is not suicide, which the Victorian bill does not ...

By that, it would seem the Attorney General is suggesting that the Western Australian bill does not offend the commonwealth act. Can the minister advise whether legal advice has been sought on this very issue, because I think last week he indicated that the government would not be instructing practitioners to engage in telehealth? Can the minister advise whether there has been legal advice on this; and, if so, whether he is able to table that advice?

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Hon STEPHEN DAWSON: I think we had a long debate on this issue last week and I have answered these questions previously. Unless the member has a further question in relation to this issue, I do not propose to go over it—I cannot possibly. We have already spent a fair few hours on this bill, on clause 1. This is a very important bill, and, of course, members should feel free to ask questions in relation to the bill, but I cannot, and I will not, answer questions on issues that I have already answered, and I believe I have answered this question previously.

Hon RICK MAZZA: I recall some debate around this; that is not to say that the answers we got were satisfactory —

Hon Stephen Dawson: By way of interjection, you might not believe it is satisfactory, but I believe I have answered the question.

Hon RICK MAZZA: That is where we are going to have a parting of the ways as far as that is concerned. I do not believe we have been able to establish yet how this is going to be delivered to regional and remote Western Australia. The minister spoke last week about the hub-and-spoke method of being able to deliver VAD to regional and remote Western Australia, but we still do not know the detail of that.

Earlier today, in answer to Hon Nick Goiran's questions on palliative care, the minister spoke about bringing patients back to a central point, such as Perth, to be able to deliver that palliative care. In many cases, dying in a regional centre—because palliative care, obviously, is getting towards the very end of life—is not acceptable where cultural sensitivities and dying in country are concerned. The minister has not yet given us full details on how this will be delivered in regional and remote Western Australia, particularly when telehealth cannot be used.

Hon STEPHEN DAWSON: As I indicated last week, how it will work throughout the state will be worked out during the implementation phase. However, certainly, the bill has been drafted in full awareness of those challenges being faced by regional Western Australians, and it does seek to enhance accessibility through the inclusion of nurse practitioners and has provisions for the appropriate use of technology where appropriate, as I said. We acknowledge the challenge of service access across rural and remote WA, but it is not the purpose of the bill to address issues related to general healthcare services in regional and remote Western Australia; this is solely about voluntary assisted dying. The conversation earlier with Hon Nick Goiran was about palliative care; it was not about voluntary assisted dying. What I said about voluntary assisted dying was that we would use a hub-and-spoke model and that in some cases it may be appropriate for the specialists to go to regional Western Australia and in other cases it may be appropriate for the patient to go to the metropolitan area. Again, it depends on the particular circumstances of the individual and it also depends to a degree on the choice of the individual.

Hon RICK MAZZA: Thank you for that, minister. I asked one question that was not answered today. Has the government received legal advice about using telehealth; and, if so, will the government table that advice?

Hon STEPHEN DAWSON: That question was answered previously and the answer was no.

Hon MARTIN ALDRIDGE: There are a few outstanding issues from last week's debate that I have reflected on during the recess, one of which is the issue that Hon Rick Mazza just raised, and I apologise, I just came in on the end of that debate. It was my understanding that we left the issue with the minister seeking some guidance from the Minister for Health and perhaps the Attorney General about the extent to which there is a preparedness to waive privilege on the legal advice so that we can gain a better understanding of the commonwealth Criminal Code Act 1995 and its application on this bill. Is that not the case? Has the minister engaged with the Minister for Health and the Attorney General about that matter?

Hon STEPHEN DAWSON: Those conversations have been had between the two offices—that is, the Minister for Health's office and the Attorney General's office. I am not in a position to table the legal advice.

Hon MARTIN ALDRIDGE: Just to clarify, the minister is not in a position to table the legal advice. Can I read into that that the Minister for Health and the Attorney General refuse to waive legal professional privilege on the advice they received from the highest level of government, who, I assume, is the Solicitor-General, the state's solicitor?

Hon STEPHEN DAWSON: What Hon Martin Aldridge can read into that is that the government is not willing to waive privilege in relation to the advice.

Hon MARTIN ALDRIDGE: I thank the minister for that clarification.

The other question that I asked and on which the minister said he would get back to me was the date on which the commonwealth Attorney-General's Department first corresponded with the state Department of Health about concerns about the Voluntary Assisted Dying Bill 2019 and the intersect with the federal Criminal Code Act. Is the minister in a position to advise me of that date? Further to that, has the government reconsidered its position about tabling that correspondence in Committee of the Whole?

Hon STEPHEN DAWSON: I am told that the date was 21 August. I am not in a position to table any correspondence.

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Hon NICK GOIRAN: Further to this, last week when Hon Martin Aldridge was seeking documents from the minister, there was plainly some confusion on the part of government about what documents were being referred to. I take the minister back to the exchange that he and I had last week, in which he said —

This question relates to matters within the Attorney General's portfolio, so I will have to seek further advice and provide an answer later today.

Of course, that did not happen, which is why I am following it up now. My response was —

I take the minister to the document that he tabled today, dated 28 August 2019. As Hon Martin Aldridge has just identified, it states —

The Western Australian Department of Health has recently received a communication from the Attorney-General's Department ...

That has nothing to do with the state Attorney General's department. It has to do with the Department of Health. At the moment, the minister is representing the Minister for Health. It is not satisfactory to then palm this off and handball it to Hon John Quigley, who has nothing to do with this situation. Hon Martin Aldridge is asking about the Western Australian Department of Health and its interactions with the Attorney-General's Department, and asking for that information to be provided. It seems to me very appropriate of the honourable member and it seems incumbent upon the government to provide a response.

The minister replied —

My answer remains the same: I have given an undertaking to seek further advice that I am not in a position to give now.

What is the outcome of the undertaking that the minister gave to the chamber last week?

Hon STEPHEN DAWSON: The undertaking was to seek further advice on this matter. I sought further advice and I am not in a position to table any correspondence about the issue the member just asked me about.

Hon NICK GOIRAN: From whom did the minister seek that advice?

Hon STEPHEN DAWSON: The advice was sought from both the Minister for Health's office and the Attorney General's office.

Hon NICK GOIRAN: When was that done?

Hon STEPHEN DAWSON: Conversations were had last Thursday, and I believe further conversations were had on Friday.

Hon MARTIN ALDRIDGE: It is a difficult position in which we find ourselves in that we are unable to consider these matters more specifically in a committee examination of the bill. Nevertheless, the government's unwillingness to provide the correspondence from the commonwealth expressing its concern and indeed providing the advice on which the government is acting makes it very difficult for us as legislators to understand the path forward faced by government following the passage of this bill if, indeed, that is the case. I sympathise with the government because this is not necessarily a problem of its own doing, nor is the solution in its control. Ultimately, it is a matter on which the commonwealth will act in time, but it will create barriers for delivery. Given that we are not able to get some of that detail, I want to understand—I do not want to delay this matter any more than it needs to be delayed, but it really is only a clause 1 matter—the three elements of the operation of the bill that I see as likely to encounter problems with the federal Criminal Code Act; that is, the operation of care navigators, the operation of consulting and coordinating practitioners and the referral to seek further advice from a specialist or an appropriately qualified practitioner. My understanding from the committee stage thus far is that the operation of care navigators and referral for advice to an appropriate practitioner with relevant expertise would not be encumbered by the application of the federal Criminal Code Act. I ask the minister to confirm that in his reply. The real issue is the consulting and coordinating practitioner, the roles of which are obviously clearly defined in the bill and are therefore clearly captured by the prohibition of using a carriage service under the federal Criminal Code Act. Can the minister confirm that?

Hon STEPHEN DAWSON: Best practice would be that some of those conversations happen face to face. I also add that my adviser told me that the state continues to have discussions with the commonwealth. Once this issue is settled, practitioners and navigators will be instructed accordingly, but the conversations between the state and the feds continue.

Hon MARTIN ALDRIDGE: From what I understand, the position of the state is that best practice in all those categories would be face-to-face communication. From the answers the minister gave to my previous questions, I understood, for example, that a referral to a specialist under the bill would not be encumbered by the provisions

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of the federal Criminal Code Act. I expressed some relief about that response in the committee stage. Is that now incorrect?

Hon STEPHEN DAWSON: My advisers tell me that that is still the case.

Hon MARTIN ALDRIDGE: That is good. If a coordinating practitioner or a consulting practitioner —

Hon Stephen Dawson: Just by way of interjection, I used the term “best practice”. It might be face to face. I have not said anything today that is contrary to the advice I gave last week.

Hon MARTIN ALDRIDGE: Okay. If the consulting or coordinating practitioner needs to refer a patient, based on the information the minister has provided, that referral could take place using a carriage service without contravening the federal Criminal Code Act. Is that correct?

Hon STEPHEN DAWSON: I am told that the referral will be on a particular eligibility criterion. It will not be about accessing voluntary assisted dying. Does that answer the member’s question?

Hon MARTIN ALDRIDGE: Okay. Just to make sure that we are on the same page, if a coordinating practitioner refers somebody to a psychiatrist to determine capacity, that would obviously be for a determination of capacity as opposed to some other aspect of the regime that would likely trigger the anti-suicide provisions of the commonwealth.

Hon STEPHEN DAWSON: That is correct.

Hon MARTIN ALDRIDGE: Thanks, minister. It is good to get that clarity.

With respect to care navigators, obviously that path is a little more murky. I understand that their role will be to provide advice to patients around access to the regime and to physicians.

Hon Stephen Dawson: You might say “murky”, but I would say “less clear”, because we are waiting for the implementation phase to happen.

Hon MARTIN ALDRIDGE: I assume that the minister is not able to provide any explicit advice on care navigators, because parts of their function may well avoid the federal Criminal Code Act, whereas other aspects could trigger the Criminal Code Act, depending upon the assistance they are providing to, or the role they are playing with, the patient. Is that fair?

Hon STEPHEN DAWSON: That is correct, honourable member.

Hon NICK GOIRAN: Last week, when we were discussing the government’s inability to confirm whether telehealth will be able to be used to facilitate this scheme and why the Ministerial Expert Panel on Voluntary Assisted Dying failed to identify this legal difficulty, the minister revealed that the ministerial expert panel did not keep any minutes. The minister also undertook to ascertain the cost to the people of Western Australia of the ministerial expert panel. Does the minister now have that cost available?

Hon STEPHEN DAWSON: I indicated that the ministerial expert panel had not considered that issue. I add that the Joint Select Committee on End of Life Choices did not consider that issue either.

Hon Nick Goiran interjected.

Hon STEPHEN DAWSON: I am sorry; I am answering questions now. As the honourable member quite rightly pointed out earlier, only one person speaks at a time.

The cost of the ministerial expert panel over 2018–19 and 2019–20, when appropriate, was \$225 517.66, and the consultation cost was \$266 005.70.

Hon NICK GOIRAN: Approximately \$225 000 was spent on the ministerial expert panel. Did I hear correctly that \$226 000 was spent on the consultation process? I am happy to have that provided by way of interjection.

Hon STEPHEN DAWSON: The member cannot have it both ways. I am always happy to do it by way of interjection, but that obviously needs to be reciprocated at the appropriate time. I will clarify the figures for the member. The cost of the MEP was \$225 517.66. The consultation cost was \$266 005.70.

Hon NICK GOIRAN: The overall work of the ministerial expert panel totalled nearly \$500 000—it was spent partly on the ministerial expert panel itself and partly on the consultation process. The minister indicated that some costs fell into the 2019–20 period. I forget the date on which the ministerial expert panel handed down its final report. Was it in this financial year or last financial year?

Hon STEPHEN DAWSON: The panel handed down its report in June 2019, but I understand that some of the invoices were not submitted until the next financial year.

Hon NICK GOIRAN: On what basis are any invoices being sent to the government from the ministerial expert panel? Is it because individual members of the panel are invoicing the government? What type of invoices are we talking about?

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Hon STEPHEN DAWSON: I am told that members of the ministerial expert panel could seek reimbursement for their time and for travel expenses to meetings or if they needed to go further afield. The consultation costs may well have included the cost of booking facilities for some of those meetings or forums and, indeed, the advertising of those forums. Those items would be captured by that consultation amount.

Hon NICK GOIRAN: Was the reimbursement amount for time the same for all members of the panel, or were different members able to charge different rates?

Hon STEPHEN DAWSON: It was based on advice from the Public Sector Commissioner. The PSC rate was set for the chair, deputy chair and members of the ministerial expert panel. It is important to note that not every member of the panel could access reimbursement. If some members were employed by the state, obviously they could not be reimbursed. I am further advised that this was a Public Sector Commission determination at public sector rates as opposed to any rates that people may be paid—or indeed QC rates—in the broader community. It was not those rates; it was our own.

Hon NICK GOIRAN: The minister mentioned last week that one of the few things the ministerial panel maintained was a meeting attendance register. Can the minister table that?

Hon STEPHEN DAWSON: We can table it. We will have to table it later today, honourable member. It has been accessed, but I will have to do it later in the day.

Hon NICK GOIRAN: The minister indicated earlier that the ministerial expert panel—or the panel that has some experts on it—elected to support the view of the Joint Select Committee on End of Life Choices and the minister referred the chamber to pages 64 and 65 of the panel's final report. To what extent does the expert panel's view differ from the Australian Medical Association's view?

Hon STEPHEN DAWSON: Can the honourable member clarify—or maybe I can clarify it for the member—whether he is referring to the AMA's view on 21 October 2019, which is the view expressed in the document tabled this afternoon?

Hon Nick Goiran: Yes, the twenty-third.

Hon STEPHEN DAWSON: Obviously, the AMA continues to have conversations with the government about these issues. I want to clarify that the member is talking about this document.

Hon Nick Goiran: Yes.

Hon STEPHEN DAWSON: I will seek further information for the member. I think there is agreement on that issue. Page 3 of the AMA's document refers to the doctors being independent, which is the same as the ministerial expert panel's advice that they should be independent.

Hon NICK GOIRAN: As I understand it, the minister has indicated to the chamber that there is agreement between the joint select committee, the ministerial expert panel and the Australian Medical Association. Therefore, will the government agree to the amendment proposed by the AMA?

Hon STEPHEN DAWSON: That is very tricky, honourable member. I again make the point that the government is in active dialogue with the AMA about its proposed amendments. Those conversations are continuing today, I understand. I made the point about clarifying whether the member is referring to this document before us, because my understanding is that as part of the dialogue with the AMA, there is some toing and froing, and I think people's understanding of the issues continues to move. I am not in a position to say now what amendments may be moved, but I certainly indicate that active consideration is being given to the issues raised by the Australian Medical Association's WA branch.

Hon NICK GOIRAN: I refute the suggestion by the minister that somehow I am the one being tricky here. The only one being tricky is the government, which has briefed parliamentary counsel, and it is hiding the amendments that it has drafted and it will not let the 36 members of this place know what those amendments are. That is trickery of the highest order, and, worse, this government will not tell us which clauses the amendments pertain to. There is no trickery by me or other members here. The only trickery is by the government and that is exasperating, and no way to make law at the best of times, let alone when the stakes are this high and the purpose of this bill is in effect to give doctors a licence to kill. That is what this bill will do. The result of this bill will be lawful killing of Western Australians. That is why the stakes are so high. People have a view to say that that is what the community wants, and clearly that is what will happen, but I refute categorically that I am, or any other member here is, being tricky when the government is hiding amendments from us.

The minister can understand my exasperation because Hon Colin Tincknell earlier asked the minister whether he could guarantee that this would not have an impact on any clause between clauses 1 and 15, and the minister said that he could not give that guarantee. The difficulty I have is how do we progress from clause 1 to clause 2 when the minister is unable to provide the member with an assurance that the AMA's first proposal, which the minister has identified has the agreement of the joint select committee, the ministerial expert panel and the AMA—those

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three bodies agree on this issue of independence—will not have any impact on clauses 1 to 15. Regardless, the minister wants us to progress past clause 1. I suspect that the minister understands the difficulty that members then have, particularly when all members of this place are expected to cast a conscience vote. We cannot be told what the government intends to do, other than that the conversations with the AMA are ongoing.

Can the minister indicate to the chamber whether the ministerial expert panel provided any advice to government on whether voluntary assisted dying should or should not be initiated by a health practitioner?

Hon STEPHEN DAWSON: Yes, it did.

Hon NICK GOIRAN: Where can we find this advice from the panel of experts?

Hon STEPHEN DAWSON: I am advised yes; the joint select committee made a recommendation and the ministerial expert panel agreed with it. The Ministerial Expert Panel on Voluntary Assisted Dying deals with that issue on pages 30 and 31 of its report.

Hon NICK GOIRAN: I understand the minister indicated that the view expressed by the joint select committee was endorsed by the ministerial expert panel, but to what extent does that differ from the proposal put forward by the WA branch of the Australian Medical Association?

Hon STEPHEN DAWSON: I presume the honourable member is talking about page 6 of the AMA's document. If that is the case, this provision mimics Victoria's legislation. Neither the joint select committee nor the ministerial expert panel supported this way forward.

Hon NICK GOIRAN: What is the position of government on this?

Hon STEPHEN DAWSON: The view of government is in the bill before us, honourable member. There is no prohibition.

Hon NICK GOIRAN: The minister said that the government is in ongoing conversations with the AMA about the bill and also about all 19 of its proposals. Unlike the first proposal—the minister indicated there is agreement between the joint select committee, the ministerial expert panel and the AMA—in this instance the minister said that there is agreement between the joint select committee and the ministerial expert panel, but the AMA does not share the same view. I am simply asking what the government's position is. This demonstrates the problem with the government not being transparent in indicating where it is at with the 19 proposals put forward by the AMA. In this short exercise, we can see that there is a difference between proposal 1 and proposal 2. Obviously, it is not in the bill. I think the AMA identified that as well when it said that a new clause should be inserted at this point. I note that the AMA's proposal indicates that the policy intent is —

To protect individuals who may be open to suggestion or coercion by registered health practitioners, not to discourage open discussions driven by the individual. It is not intended that every single subsequent discussion be initiated by the patient.

The AMA went on to say that 50 per cent of survey respondents think that registered health practitioners should be prohibited from initially suggesting the option of VAD. The suggested wording reflects section 8 of the Victorian VAD act. The minister indicated to us that the position of government on this is that it is not in the bill, but what is the position of government in its ongoing conversations with the AMA?

Hon Stephen Dawson: What is the question?

Hon NICK GOIRAN: Further to that, minister, what is the position of government in respect of the conversations it is having with the AMA on this proposal?

Hon STEPHEN DAWSON: I am not sure what the member is asking. If I can again refer to the fact that the government continues to have conversations with the WA branch of the AMA about the legislation before us. That document was obviously correct at a point in time. The document I have is dated 21 October 2019, but I think the honourable member might have said he has one dated 23 October.

Hon Nick Goiran: I have the one that was tabled today.

Hon STEPHEN DAWSON: The one that has been handed to me by the advisers here today is 21 October 2019. Does the member have a different document?

Hon Nick Goiran: I am dealing with the one that has been tabled.

Hon STEPHEN DAWSON: The tabled document that has been handed to me by the attendant says 21 October 2019.

Hon Nick Goiran: I accept that.

Hon STEPHEN DAWSON: I would not be surprised if the member has a different document because, as I have said, the conversations between the WA branch of the AMA and the government continue to take place. My understanding is that the AMA may well have formed a different view on some of these issues since that date. The conversation continues between the state and the AMA about possible amendments, as does the conversation

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continue between other people who are interested in moving amendments to the bill, and government too. This document was correct at a point in time. The honourable member said “50 per cent”, but I think he meant to say 54 per cent. I think that was a misreading. I will make the point again: this was from a number of people who participated in a survey. This was not every doctor or medical professional in Western Australia; a limited number of people participated in the survey. There are others with differing views, as there are differing views in different organisations involved in this space. Conversations continue; it is an ongoing dialogue. It does not mean we agree with the AMA or anybody else about amendments. Some issues that can be addressed during the implementation phase do not require amendments to the bill, but certainly the conversation continues with the AMA.

Hon COLIN TINCKNELL: I am having real trouble. I do not understand why the government will not inform us about what amendments it is considering. It is not just the AMA—medical specialists, palliative care doctors and nurses, psychiatrists, disability rights advocates, Aboriginal groups, suicide prevention advocates, politicians and thousands of other people from many other groups have said they have concerns. We are trying to find out what amendments the government is considering so we can make an informed decision in this place. I feel that we are getting close to the end of clause 1 and it worries me that many of these things will not be able to be brought up once we have gone past clause 1.

Hon STEPHEN DAWSON: With the greatest of respect, perhaps I can spell it out to the honourable member: the reason there are no amendments in my name at this stage is that everything is being considered. Those issues that have been raised by multiple stakeholders outside this place are under consideration by government. When the government agrees with amendments to this bill, they will appear in my name on the supplementary notice paper. That is the standard practice for any bill under consideration by this place. The member has been in this place for a couple of years now. When amendments to any bill being dealt with by this place have been agreed by government and a policy decision has been made in relation to amendments, those amendments appear on the supplementary notice paper, plain and simple. That is the process that is normally followed and it is the process being followed now when considering this bill. The government has not decided on, or agreed to, any amendments. The conversations continue to happen. Members will know whether amendments have been agreed upon when they appear on the supplementary notice paper. At this stage, again, there are none in my name.

Hon COLIN TINCKNELL: Is it standard practice for those amendments to be made after discussion on clause 1 has finished?

Hon STEPHEN DAWSON: It is standard practice for amendments to appear on the supplementary notice paper at any stage of the bill, before a clause has been debated. That is the standard practice and that is what is happening with this bill.

Hon NICK GOIRAN: The Minister for Health was reported in the media last week indicating that certain things with respect to this bill would be “deal-breakers”—I think that is the word he used—or words to that effect. Are any of the proposals that have been put forward by the AMA deal-breakers?

Hon STEPHEN DAWSON: I made it clear in my opening remarks this afternoon, and I will make it clear again, that the government will consider any amendments to the bill before us that we believe are reasonable and that do not undermine the bill, its policy and purpose. If they do not undermine the bill, its policy and purpose, we will certainly give them careful and objective consideration. We are dealing with clause 1. There are no amendments before me at clause 1, so there are no amendments for the government to consider at clause 1.

Hon NICK GOIRAN: Do any of the 19 proposals put forward by the WA branch of the Australian Medical Association undermine the bill?

Hon STEPHEN DAWSON: I am not in a position to answer what may or may not undermine the bill in relation to the proposed amendments that were on the bit of paper dated 21 October 2019. As I have said a few times, the government continues to have conversations with the WA branch of the Australian Medical Association on a number of proposed amendments. I understand that those conversations are very good, and we continue to have those conversations with the AMA. It is an appropriate and important stakeholder in relation to this bill. I am not in a position to go through each of the suggested amendments of that date because, to my knowledge, none of them appear on the supplementary notice paper in the way that they have been written by the AMA.

Hon NICK GOIRAN: It does not work like that. If amendments were on the supplementary notice paper and I asked the minister questions about them, he would say to me, “Hold fire on those questions until we get to that part of the bill.” Some of the proposals that are before us are not on the supplementary notice paper. We, as members with a conscience vote on this matter, need to know whether it is worth our while briefing parliamentary counsel on any of the 19 amendments put forward by the AMA. Is it worth us investing the time of parliamentary counsel, at taxpayers’ expense, to do that? I do not want to do that if the minister and his government have already done that. That would be a waste of taxpayers’ money and it would be a waste of parliamentary counsel’s time. The minister wants to continue to keep that secret. That is why we continue to ask these questions.

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Hon Peter Collier has been asking the minister for some time whether this government will consider any amendments. The minister's final answer was that he would consider any amendments so long as they do not undermine the bill. When we asked him whether a particular proposal undermines the bill, he said that he cannot answer that question. How do we make progress in those circumstances? We are engaging in a circular circuit at the moment if, at every opportunity, the minister indicates that he cannot tell us what we are doing, he will not tell us what he is doing and he will respond to questions in due course only when they are on the supplementary notice paper. That leaves us with no choice but to brief parliamentary counsel on all and sundry and put all the amendments on the supplementary notice paper—we will probably end up having a massive supplementary notice paper—and work with the government to identify which ones it considers undermine the bill and which ones do not. I am not too sure that that is the most efficient way of progressing but if that is the only way the government desires to progress the passage of this bill, I am happy to accommodate that.

With respect to the 19 amendments that have been put forward by the AMA—it is clear that the government is not willing to tell us whether any of them undermine the bill—I intend to ask the minister about one of the proposals. I intend to do that because in each and every one of the other proposals, the minister will see in the document before him that the AMA has identified particular proposed sections that are relevant. I foreshadow for the benefit of his advisers that when we get to those proposed sections, inevitably questions will be asked about those matters. Perhaps some rigorous preparation can be done in readiness for those questions so that when we get to clauses 4, 5, 6, 15 and so on, we do not find ourselves in the situation in which I ask, yet again, having given a massive amount of notice, whether the government's position is that this proposal undermines the bill and the minister says that he is not in a position to say anything. I am just giving notice now about an efficient way forward. That will require people to do some work on those particular proposed sections between now and then.

I want to take the minister to proposal 4 now because we cannot do it anywhere else. I will work from the document dated 21 October 2019 that was tabled earlier today. The title on page 8 is —

S4. Extra consult if no pre-existing therapeutic relationship

It identifies a necessary new section. A form of words is proposed. Was the government informed about this issue by the Ministerial Expert Panel on Voluntary Assisted Dying?

Hon STEPHEN DAWSON: In his earlier remarks, Hon Nick Goiran alluded to the circular conversation that we are having this afternoon. Madam Deputy Chair, I seek your guidance and the guidance of other Chairs. I ask whoever is presiding over this debate that when they hear the circular nature of this debate, they advise members of the standing orders about repetition. We should not be having circular conversations on the same issue multiple times. We should not be going back over the same points. I will just make that point. I did not seek a point of order at the time. However, the honourable member has pointed out that we are having circular conversations. In my mind, that means that we are dealing with the same issue again and again. Although the honourable member might not be happy with the answer that I am providing, it is the answer.

As I have said again and again, amendments that the government intends to move will appear in my name on the supplementary notice paper. There are no amendments in my name on the supplementary notice paper at this stage. We believe that the bill before us is a good one. There was a significant amount of consultation on the bill. We have taken advice from many experts and we have landed in the place where we are at. Notwithstanding that, I have also said that we continue to have conversations with members who want to move amendments. If other members want to move amendments, they should have those amendments drafted. I have said that any amendments will be considered at the appropriate time when those amendments are raised.

As to the last question, I am advised that in relation to page 8 of that document, that issue was not considered by the ministerial expert panel.

The DEPUTY CHAIR (Hon Adele Farina): Before I give the call to Hon Nick Goiran, in relation to the minister's request that the Chair and Deputy Chairs take note of the circuitous discussion and reference to the repetitious debate, I draw the attention of members to standing order 48(1), which states —

A Member who persists in making irrelevant or repetitive arguments may be ordered by the President to discontinue the speech.

It refers to a speech, not questions. I also think that the Chair and Deputy Chairs are more than capable of presiding over the Parliament without instruction.

Hon NICK GOIRAN: Thank you, Madam Deputy Chair. If anything circular has been happening today, it has been the tedious repetition of the minister's answers and the ongoing obsession by this government with secrecy and the unwillingness to provide transparency or real answers to questions. Yes, there are responses—there are responses that are words articulated out of the mouths of ministers—but they are not satisfactory answers. The minister indicated that the fourth proposal on page 8 of the document dated 21 October this year, tabled earlier

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today by Hon Colin Tincknell, was not covered by the ministerial expert panel, so it seems to me to be yet another area that this panel has failed to address—the panel that cost taxpayers half a million dollars. Between the panel and the consultation process it has cost the people of Western Australia half a million dollars, and the panel was unable to identify the problem with federal law, which the government still has not been able to resolve. Now we have another matter that the Australian Medical Association has identified that the ministerial expert panel was not able to identify. Let us remember that this is the panel that did not even think it was appropriate to keep minutes: “We will rack up a charge of half a million dollars to the people of Western Australia, but we will not do our job with sufficient professionalism to keep minutes of the panel.” I find that appalling and unacceptable, and I cannot believe that that has happened. Nevertheless, it is clear that that is what has occurred to the tune of half a million dollars to the taxpayers of Western Australia.

Last week, when the minister was asked by Hon Martin Aldridge whether the bill’s so-called conscientious objection provisions apply only to individuals and not to institutions, he indicated that there was no need for this as no obligations are imposed on institutions. Which institutions has the government consulted about this?

Hon STEPHEN DAWSON: Noting that the conscientious objection provisions were first raised by the Joint Select Committee on End of Life Choices, which the ministerial expert panel agreed to, I can point to the organisations that were consulted as part of the ministerial expert panel’s final report. They are listed on pages 130 and 131 of that report. They are the organisations that were consulted about this bill, and they were consulted generally about it.

I will now take the opportunity, in the interests of transparency, to say that I am very happy to provide further information to the chamber. Hon Nick Goiran asked about the Ministerial Expert Panel on Voluntary Assisted Dying’s meeting attendance register, and I will table it. I ask chamber staff to provide the member with a copy of it. It lists the various members of the ministerial expert panel, the meeting dates and whether members attended those meetings.

[See paper 3335.]

Hon NICK GOIRAN: The minister referred us to pages 130 and 131 of the ministerial expert panel’s final report, and indicated that the organisations listed have been consulted, but he indicated to us earlier that this was done before the bill was made public. I recall last week asking the minister which organisations were consulted about the tenth draft, which the minister indicated was the draft version of the bill provided to certain agencies of government, but none of them seem to appear on this list. In any event, the list on pages 130 and 131 does not take us forward, because it applies to the time before the release of the bill. I go back to my earlier question: which institutions has the government consulted about the conscientious objection provisions raised last week by Hon Martin Aldridge?

Hon STEPHEN DAWSON: The institutions consulted about the tenth consultation draft of the bill that the honourable member just referred to again were the coroner, the Department of Justice, the Health and Disability Services Complaints Office, the Solicitor-General, the State Administrative Tribunal, the Department of Health, the Director of Public Prosecutions, the Public Advocate, the State Solicitor’s Office and the WA Police Force. The organisations listed on pages 130 and 131 of the ministerial expert panel’s report were, of course, the organisations that were consulted on the issue of voluntary assisted dying. The issue the member refers to would have formed part of the conversations with many of those organisations.

Hon NICK GOIRAN: The minister said the issue would have been part of the conversations with those organisations, but was it?

Hon STEPHEN DAWSON: Certainly, the issue was raised at various times. It would have been raised at a number of the public consultations and it would also have been raised in a number of the submissions received by the ministerial expert panel.

Hon NICK GOIRAN: Did any of those organisations that raised the issue with the ministerial expert panel express any concern about the need for a conscientious objection provision applying to institutions, not just individuals?

Hon STEPHEN DAWSON: I am advised it was not a common theme. It could have been raised by an organisation, so we would have to check, but I do not have that information before me.

Hon NICK GOIRAN: Do I take from that then that this issue is not specifically addressed in the final report?

Committee interrupted, pursuant to standing orders.

[Continued on page 8416.]