Extract from *Hansard*
[COUNCIL — Tuesday, 19 November 2019]
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Hon Nick Goiran; Hon Stephen Dawson; Hon Rick Mazza; Hon Martin Aldridge; Hon Alison Xamon; Chair; Hon Aaron Stonehouse; Hon Martin Pritchard; Hon Robin Chapple; Deputy Chair; Hon Donna Faragher; Hon Peter Collier; Hon Michael Mischin; Hon Adele Farina; Hon Jacqui Boydell; Hon Robin Scott; Hon Kyle McGinn; Hon Colin Tincknell

VOLUNTARY ASSISTED DYING BILL 2019

Committee

Resumed from 31 October. The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 4: Principles —

Progress was reported on the following amendment moved by Hon Nick Goiran —

Page 3, line 4 — To insert after "person's" —

registered

Hon NICK GOIRAN: When we last sat, we were considering an amendment to clause 4. Specifically, we were looking at the principle set out in clause 4(1)(e), which is the fifth principle that the government has indicated should guide the legislation that is before us. On the last occasion we learnt that, according to the government, these principles are very important because anybody who has a power or a function under this act will be mandated to give consideration to these principles. It was revealed during the last debate that that could include an appeal being lodged to the Court of Appeal on the basis that the State Administrative Tribunal or any other person might not have given adequate consideration to the principles before us. We are considering the fifth of these principles at the moment. To refresh the memory of members, the amendment before the chamber relates to the insertion of the word "registered" prior to the words "health practitioner". I moved that amendment because in every other instance in this bill, the government refers to a "registered health practitioner". Clause 4 is the only instance in this bill where we suddenly see the words "health practitioner". I understood that this was a simple drafting error, so it should be easy to facilitate this amendment and insert the word "registered".

The last time we sat, the minister gave an explanation on behalf of the government. The government indicated that it would not be supporting the amendment. Part of the reason given in the explanation provided by the minister was that it was deliberate on the part of the government—this is my paraphrasing of the explanation provided by the government—that this should be a wider group of individuals than just registered health practitioners. For that reason, it purposely did not include the word "registered" prior to "health practitioners". We were just starting to get to the bottom of that before we adjourned at the end of the sitting. I indicate that when we last sat, I had some sympathy for the position that the minister was putting. The government was seeking to capture a larger group of individuals than registered health practitioners. My concern is that the types of individuals whom he listed on the last occasion would not be captured by the term "health practitioner". Has any consideration been given by the government since we last sat to an alternative form of words? I would even be amenable to seeking leave to withdraw my amendment and not have the words "registered health practitioner" if I could be satisfied that we were incorporating a different form of words that met the government's intention. Has any consideration been given to that?

Hon STEPHEN DAWSON: Further consideration has been given, but the point that I made the last time we sat remains the same; that is, we are not in a position to support the member's amendment.

Hon NICK GOIRAN: In the absence of a definition of the term "health practitioner" in this bill and because the term "registered health practitioner" is defined in the bill, how will it be interpreted?

Hon STEPHEN DAWSON: I am told that "health practitioner" is a commonly used term that those engaged in health professions are familiar with. Further to the point about the member's amendment, I am also told that it is unnecessary to define "health practitioner" in the bill as, unlike registered health practitioners, who have a defined role under the bill, such as in clauses 25(2) and 36(2), health practitioners do not.

Hon NICK GOIRAN: Is the term "health practitioner" defined in any other Western Australian statute?

Hon STEPHEN DAWSON: No, not to my knowledge. My advisers tell me no.

Hon NICK GOIRAN: In the absence of a definition in this bill and, according to the minister and the advice he is obtaining, in any other Western Australian legislation, from what will the courts seek guidance when they interpret the term "health practitioner", which he has indicated is a fundamental aspect of this bill? The principles need to be considered by the Court of Appeal, the State Administrative Tribunal and any person who exercises a power or performs a function under this legislation. Where will they seek to interpret the term "health practitioner" in the absence of a definition in this bill or in any other statute in Western Australia?

Hon STEPHEN DAWSON: I am advised that if it came to it, they could look under the umbrella of the Australian Health Practitioner Regulation Agency, which identifies anybody engaged as a health practitioner to be a health professional.

Hon NICK GOIRAN: I did not quite understand that answer. The minister said that any person who is a health practitioner is to be regarded as a health professional, but my question was: how are people to interpret what "health practitioner" means in this bill in the absence of a definition in this bill or, as I understand it from the minister, in any other statute in Western Australia?

Hon STEPHEN DAWSON: I said that anyone engaged in a health profession would be recognised as a health practitioner. That was the Australian Health Practitioner Regulation Agency. I have also been told that it is a matter of perhaps commonsense that anyone providing a patient with care of some kind to do with health would be recognised as a health professional, so it is intentionally broad.

Hon RICK MAZZA: I have been listening to the debate very carefully and I have to say that I am inclined to support the amendment put forward by Hon Nick Goiran. I am a little concerned about what is a health practitioner. Further on in the bill, the term "medical practitioner" is defined, but what is a health practitioner? In this day and age, a quick Google search will show that it could be anything from an aromatherapist to a fitness instructor. The term "health practitioner" has a very wide scope. Is the intention of this bill to provide for a health practitioner, such as a dietician or whatever the case may be, to assist somebody in the late stage of their life? I would like to hear from the government a bit more about why it thinks it does not need to be a registered health practitioner. I think the Australian Health Practitioner Regulation Agency registers health practitioners. Is it the government's intention to open this up to a very wide scope of interpretation of "health practitioner", whether that be those who provide some counselling assistance or dietary assistance—the whole range of what is termed "health practitioner" these days?

Hon STEPHEN DAWSON: I am told that in the context of the principles, we want a wider scope than "registered health practitioner", so we have used the term "health practitioner". I have indicated previously that we are not in a position to support Hon Nick Goiran's amendment. I do not have too much further to say other than we are dealing with the principles of the bill and we want to have a wide scope.

Hon MARTIN ALDRIDGE: I think I heard the minister say the last time we sat, and I think he reiterated it today, that it was the government's intent to have a broader application of the term "health practitioner". I must admit that when I read this clause, particularly subclause (1)(e), which refers to a therapeutic relationship between a person and the person's health practitioner—that is singular, not plural—I immediately thought that it was between a person and their doctor. Paragraph (g) refers to health practitioners—in the plural sense—family and carers. The minister mentioned a moment ago, I think in response to Hon Nick Goiran, that the interpretation might refer to the Australian Health Practitioner Regulation Agency. Is the minister in a position to tell us which health professionals it regulates so that we can understand the definition of "health practitioner" in this context?

Hon STEPHEN DAWSON: The list may include Aboriginal and/or Torres Strait Islander health practitioners; chiropractors; dental practitioners, including dentists, dental hygienists, dental prosthetists, dental therapists and oral therapists; medical practitioners; medical radiation practitioners; nurses and midwives; occupational therapists; optometrists and opticians; osteopaths; paramedics; pharmacists and pharmaceutical chemists; physiotherapists and physical therapists; podiatrists and chiropodists; and psychologists.

Hon MARTIN ALDRIDGE: Is there any explanation of why paragraph (e) refers to health practitioner in the singular, but paragraph (g) refers to health practitioners in the plural?

Hon STEPHEN DAWSON: I am told that in drafting, the singular includes the plural, so it can be either one of those. It can be more than one.

Hon NICK GOIRAN: The minister kindly provided a list to Hon Martin Aldridge of the classes of persons regulated by the Australian Health Practitioner Regulation Agency. It included chiropractors, dentists, nurses, occupational therapists, pharmacists and the like. Are any of those given in the list not regarded as registered health practitioners?

Hon STEPHEN DAWSON: I might have to ask the honourable member to ask that question again, because all those that I identified are health professionals that AHPRA would register. What was the honourable member's particular question?

Hon NICK GOIRAN: The context of my question was that the minister indicated to Hon Martin Aldridge that these were all the classes of people—again, I am paraphrasing—whom AHPRA regulates. When the minister was listing them, they sounded to me to be people who would be described as registered health practitioners. If

those people would be captured by my amendment, it is not clear to me whom we are trying to capture that my amendment would not capture.

Hon STEPHEN DAWSON: I am told they will be captured only if the individual were registered. In some cases, an individual has to be eligible to be registered, but does not have to register.

Hon NICK GOIRAN: By way of an analogy, in the legal profession there can be people who are registered and people who are not practising. I imagine the minister is referring to the same kind of situation. For instance, a medical practitioner might be registered, but there may be medical practitioners who are not registered. However, I draw the minister's attention to the principle in paragraph (e), which states —

> a therapeutic relationship between a person and the person's health practitioner should, wherever possible, be supported and maintained;

I cannot imagine that it is the intention of the government to support and maintain a therapeutic relationship between a non-registered or non-practising health practitioner and the person. That seems to me to be a rather dangerous mechanism. I cannot imagine that that is the intention. Perhaps a better way to ask the question and elicit a response is to ask: what are the classes of persons who would not be registered health practitioners, but would have a therapeutic relationship with a person?

Hon STEPHEN DAWSON: The professions are, potentially, social workers or Aboriginal health workers. This is about a therapeutic relationship. I make the point again that some health services do not require the health practitioner to register. They must be eligible to register and perform health services and/or provide health care. I am not sure that we will land in a place —

Hon Nick Goiran: I think we're close.

Hon STEPHEN DAWSON: I am not sure that we are going to land in a place where Hon Nick Goiran will be comfortable with the answers I give him on this. By all means, if the member has a couple more questions, he can ask them, but the member has moved his amendment, and we are not going to land in that place, so let us put the amendment before the chamber.

Hon NICK GOIRAN: Thanks, minister. I understand that, but we have to take a moment because, as we have already identified, there is no definition of "health practitioner" in this bill and the minister has advised the chamber that there is no definition of "health practitioner" under any Western Australian statute whatsoever. In the absence of anything else, the courts will have to take guidance from our dialogue right now. I would like to make sure that we get it right. If I understand the minister correctly, one of the classes of persons the government would like to capture by this principle is social workers. Has the government received advice that a court would interpret a social worker as being a health practitioner?

Hon STEPHEN DAWSON: No, we have not received that advice.

Hon NICK GOIRAN: With the greatest of respect, can I suggest to the minister that, in the absence of that advice, I cannot conceive that there is a credible court in the land of Australia that is going to interpret "health practitioner" to include a social worker. It is incomprehensible to me. If the government has advice to the contrary, I invite that to be put on the record so this can be put without a shadow of a doubt.

Hon STEPHEN DAWSON: No, I do not have advice to the contrary at the moment.

Hon NICK GOIRAN: I reiterate what I said at the outset. I have some sympathy for the position that the government has sought to put forward, which is that it wants to capture a class of persons greater than registered health practitioners. I have no problem with that. For that reason, I would be willing to seek leave to withdraw my amendment, but I can do that only if we get an alternative from the government. The phrase "health practitioner" will not cover the situation the government wants it to. I accept that it would like to have social workers included. I think we both agree that they are not captured by the term "health practitioner", so would the government be minded to move an amendment of its own choosing, which may say "health worker" or "health or social worker" or words to that effect? Would the government be prepared to consider that?

Hon STEPHEN DAWSON: No, I am not in a position to accept the honourable member's suggestion. I have received further advice that the Health Practitioner Regulation National Law (WA) Act 2010 contains a definition of "health practitioner"; that is the national law that Western Australia adopts. I am sorry, that information has just come to hand now.

Hon NICK GOIRAN: What is that definition?

Hon STEPHEN DAWSON: The definition states —

health practitioner means an individual who practises a health profession;

Hon NICK GOIRAN: I know that the minister has competent advice at his disposal this afternoon, as he has had throughout the course of the debate on this bill. I think that the minister is in a position to agree that that definition does not capture social workers. It is the government's intention that this principle cover social workers. With that knowledge, surely an amendment is required.

Hon STEPHEN DAWSON: I appreciate the honourable member's kind words about the advisers I have before me. I have certainly been well looked after in the advice I have been given at the table throughout the debate on this bill. The short answer and the key point is that the government does not want to limit this principle to registered practitioners; therefore, I am not in a position to move an amendment or to accept the proposed amendment that the member has moved before the chamber.

Hon NICK GOIRAN: In light of the dialogue that we have had today, does the government agree that social workers will not be captured by this principle?

Hon STEPHEN DAWSON: Honourable member, it is our view that a social worker would be captured and the court would recognise that. Specialist palliative care teams often include a social worker. Principles may well come before a court at some stage in the future, but specialist palliative care teams can already include a social worker. We think that, as this clause is written, it would be recognised by a court to include a social worker.

Hon NICK GOIRAN: Minister, that is impossible, for this reason: the minister will appreciate that in the absence of a definition of "health practitioner" in this bill, a court will have to go to another Western Australian statute to determine the definition of a health practitioner. The minister has told us that there is one other statute. Originally, the advice was that there was none, but the more recent updated advice is that there is one statute that defines "health practitioner". The court will go to that other statute in Western Australia and use those words to determine what "health practitioner" means, and it will go no further. It will not go to the dialogue between the minister and I; it will not go that far. It will stop at that statute in Western Australia. The minister has indicated to us that the other statute does not include the words "social worker", and the government wants social workers to be included. Any contrary advice to the chamber is wrong advice, and members are going to be misled by wrong advice. I seek for the record to be corrected and for the minister to confirm that it is not possible for a competent court in the circumstances that he has just told us to interpret "health practitioner" to include "social worker".

Hon STEPHEN DAWSON: I will not attempt to say what a court will or will not do. However, in the absence of a mention in statute, I would not rule out a court going back to look at the parliamentary debate on the bill if it were not satisfied by the Health Practitioner Regulation National Law (WA) Act 2010, which states —

health practitioner means an individual who practises a health profession;

health profession means the following professions —

The act continues to outline other things.

Hon Nick Goiran: It does not include "social worker".

Hon STEPHEN DAWSON: I think the court would recognise that, in that case, a social worker providing assistance and service of care to a person would be recognised as a health practitioner.

Hon NICK GOIRAN: Can the minister explain to the chamber how a social worker is engaged in a therapeutic relationship with a person?

Hon STEPHEN DAWSON: I do not propose to answer any more questions on this issue. The honourable member has his proposed amendment before the chamber. I have given an indication from government that we are not in a position to support it. If the member is intent on moving his proposed amendment, then now is probably the right time.

Hon NICK GOIRAN: Mr Chairman, I seek leave to withdraw the amendment currently standing in my name.

Amendment, by leave, withdrawn.

Hon NICK GOIRAN: I move —

Page 3, line 4 — To insert after "practitioner" —

or social worker

I seek the support of members for this amendment, which will facilitate precisely what the government would like to see happen. In response to my last amendment, which I have withdrawn, the government indicated that it sees the scope of individuals to be captured by this principle as greater than registered health practitioners, hence why

it has deliberately used the words "health practitioner". Members who have been following this debate will recall that when I asked earlier whether any other statute in Western Australia defines health practitioner, the minister, on more than one occasion, said no. He subsequently indicated that there is actually one statute in Western Australia that defines "health practitioner". The minister and his advisers know full well that a court of law will go to that particular statute to define what a health practitioner is. It is clear that that does not include a social worker; it is clear that the government would like social workers to be captured by this particular principle, and my amendment will give effect to that.

Hon ALISON XAMON: I rise to raise a potential issue with the drafting of the amendment in front of us. Because it would read "health practitioner or social worker", I would hate that to be read as an exclusionary measure. My concern is that multiple relationships may need to be maintained, and as a form of drafting I am concerned that the use of the word "or" might limit the provisions in a way that is not necessarily intended.

Hon STEPHEN DAWSON: I appreciate the spirit in which Hon Nick Goiran is trying to be helpful to the debate this afternoon. I reiterate that we do not think this is necessary. We think that health practitioner, as it stands in the principle at clause 4(1)(e), could include social worker, so we do not see the inclusion of the amendment proposed by Hon Nick Goiran as being necessary. We will not be in a position to support it.

Hon NICK GOIRAN: I take the point raised by Hon Alison Xamon and, subject to the Chair's guidance, I am happy for my amendment to read "and social worker" rather than "or social worker". I am happy to hand up a signed amendment to that effect, if that would assist progress.

The CHAIR: I think Hon Nick Goiran sought the advice of the Chair as to how to achieve what he wants to achieve. There are several avenues of recourse you might choose to follow. One of those, if it works, is the easiest way, which is to seek leave to amend the amendment you have moved. That will be very quick, if it works, but if leave is not granted, it will leave you in an awkward position. Another option is to deal with the current amendment, see it defeated, and then move a fresh amendment. The other option is to seek leave to withdraw the current amendment and then move a fresh one, so there is an absolute wealth of options available to you! I can only advise on what they are, never on which one you should pursue.

Hon NICK GOIRAN: Thank you, Mr Chairman. I will take the most expedient option, which is to seek leave so that my amendment will read "and social worker" rather than "or social worker".

Amendment, by leave, altered.

The CHAIR: The amendment we are now dealing with is —

Page 3, line 4 — To insert after "practitioner" —

and social worker

Hon STEPHEN DAWSON: This gives undue weight to a role that does not necessarily have a primary function in the bill, so we are not in a position to support Hon Nick Goiran's amendment, as altered.

Hon NICK GOIRAN: I will finish on this point, minister. We have come full circle. The only reason the minister previously gave for opposing the earlier amendment, which was to insert the word "registered" health practitioner so that it was consistent with the entirety of the bill, was that the government was concerned that people such as social workers would not be captured. That was the explanation that was provided, but now when we want to insert "social worker", the government says they do not really have a primary role, so do not worry about it; it is not necessary. The minister will understand how difficult it is to make efficient progress in this debate when that is what is happening here today. That is not to say anything about the fact that when I asked earlier whether there was any statute in Western Australia that included a definition of "health practitioner", we were told "no" on multiple occasions, but now we find that the answer is "yes". I obviously respect the government's right to do whatever it likes with regard to the amendment, but I seek support for it.

Hon AARON STONEHOUSE: I appreciate the effort to which Hon Nick Goiran has gone in trying to clarify the principle at clause 4(1)(e). However, I am not inclined to support this amendment, despite the fact that it might make clearer the government's intent to include social workers and to support and maintain the relationship between a person and their social worker and health practitioner. I have a problem with the idea of elevating a therapeutic relationship between a person and their social worker because I am not quite sure there is necessarily a therapeutic relationship in that situation. I could be proven wrong, but the minister declined to answer questions about what the nature of a therapeutic relationship between a person and their social worker might be. I do not necessarily see a therapeutic relationship between a person and a social worker; there may well be a therapeutic relationship between someone and their psychologist or psychiatrist, or some other mental health practitioner.

I am therefore not inclined to support this amendment in this case. I think the principle at clause 4(1)(e) reads quite well as it is, even with the somewhat general or vague understanding of what a health practitioner may or may not be. The fact that there is a therapeutic relationship probably provides enough clarity for my comfort in this instance.

Hon ALISON XAMON: I indicate that I have sympathy for what the mover of the amendment is trying to achieve, which is to ensure that ongoing therapeutic relationships are maintained. That is an important principle, and one that needs to be encapsulated. I recognise that very often social workers in certain settings provide therapeutic relationships, although not always; there is a wide range of social work settings, but certainly in the settings that I think are envisaged around this bill, that can be the case. I am also seeking the comfort from government that "health practitioner" will be broad enough to be able to incorporate "social worker". I understand that for the purposes of the second reading debate, perhaps it could be argued that it is sufficient to put on the record that that is the intent of this bill. That would need to be made unequivocally clear. I think it is important to note that the intent of the amendment is sound. The issue is just whether this chamber believes that it is necessary.

Hon STEPHEN DAWSON: I appreciate Hon Alison Xamon's comments. We are certainly of the view that this amendment is not needed. My advisers also tell me that if there was any doubt in the future, in the absence of a piece of legislation out there, a court would indeed look at this debate and recognise that the government's view is that the words "health practitioner" include these other things. So we do not need to include the words "and social worker".

Hon NICK GOIRAN: I would encourage members to ignore that advice that has just been given by the minister, because it is wrong. There will not be a court that will look at the dialogue between us today. We identified early in this debate, and the minister has said himself, that there is a statute in Western Australia that defines "health practitioner". A court does not go beyond another statute when the words are clear; that is done only in the absence of anything else. That other statute will not confirm that social workers will be included. If the government wants social workers to be included, this amendment will give effect to that.

Hon Alannah MacTiernan: It is not going to not include them, either. It is a very general wording that could include social worker.

Hon NICK GOIRAN: I missed that. Could the minister please repeat it?

Hon Alannah MacTiernan: I said it is a very general wording. The definition that you refer to is a general wording. It would also potentially include social workers. You are saying that they would go to the statute. The statute itself has the capacity to allow social workers to be included.

Hon NICK GOIRAN: Is the minister saying that the existing statute in Western Australia that defines the words "health practitioner" includes social workers?

Hon Alannah MacTiernan: I am saying that the court will go to that and look at it, and, if the court is unclear about what that means, it will look at this debate. So I do not accept your argument that the discussion here will not be considered because of that other definition.

Hon NICK GOIRAN: Sure. Ultimately, it boils down to whether the minister or any other member here wants social workers to be included. Members have two options. They can support my amendment, and then social workers will definitely be included, because there will be clear words from this Parliament and this chamber that they are to be included. Members may or may not agree with that. I hear what Hon Aaron Stonehouse is saying. He does not agree that social workers should be included, and the reason is that he says they do not have a therapeutic relationship. I have a lot of sympathy for what the honourable member has said. However, the point is that the government wants social workers to be included. If the government wants them to be included, this form of words will ensure that that is the case. The second option is that we can just leave it to chance and hope that Hon Alannah MacTiernan or anybody else is right and that a court might look into that statute and somehow wriggle its way around and determine that it includes social workers. That is poor lawmaking, members. We have the opportunity now to make sure that the government's intention is clear. We could have facilitated this half an hour ago if the government had decided that it wanted to make progress and facilitate the easiest of amendments, but instead it has chosen the hardest way possible. I seek support for the amendment.

Amendment, as altered, put and negatived.

Hon NICK GOIRAN: We are making our way through the supplementary notice paper. Members will see that there is an amendment standing in my name at 54/4. That amendment refers to page 3, line 11, and particularly deals with

the principle at clause 4(1)(g). I would like to ask the minister one question about the principle at clause 4(1)(f). Is this principle a reference to advance care planning?

Hon STEPHEN DAWSON: Not necessarily, I am told, but it may include advance care planning.

Hon NICK GOIRAN: For the benefit of members, I note that, as I indicated earlier, my amendment that currently sits on the supplementary notice paper at 54/4 deals with the principle at clause 4(1)(g). Although I do not propose to move that amendment standing in my name—the reason being that I had withdrawn the earlier amendment, 53/4, and there would be no purpose in moving this further amendment—I have a series of questions for the minister about the principle at clause 4(1)(g). I note that the next amendment on the supplementary notice paper is in the name of Hon Martin Aldridge, pertaining to a proposed new principle, clause 4(1)(ha). With regard to the principle at clause 4(1)(g), can the minister advise the chamber what is meant by a person having supported conversations with community?

Hon STEPHEN DAWSON: The principle at clause 4(1)(g) reads —

> a person should be supported in conversations with the … community …

That refers to the people around them.

Hon MARTIN PRITCHARD: I have a quick question about the principle at clause 4(1)(g). The minister indicated previously that the singular will also cover the plural when talking about health practitioners. I presume that means that "the person's health practitioners" will also cover the singular. I am just wondering why this is not constant throughout the bill. I notice that it comes up quite often throughout the bill, and I just wondered why there is not a constant practice to use just singular or plural.

Hon STEPHEN DAWSON: It is a good question. It does include both. It is about the reading flow more than anything else. This is how it has been drafted. Certainly, "health practitioner" and/or "practitioners" include each other.

Hon NICK GOIRAN: In light of the principle at clause 4(1)(g), how will the legislation facilitate family being made aware of a person's decision to access voluntary assisted dying?

Hon STEPHEN DAWSON: It is the person's choice. If the person wants to have a conversation with their family about this issue, then it will be supported.

Hon NICK GOIRAN: One of concerns that has been raised with me by the community is that it will be possible under this prospective regime for a person, let us say an 18-year-old, with a terminal illness to access voluntary assisted dying and no family member would be aware of that. Any parent of an adult teenager would understand why some people in the community are concerned that an 18-year-old diagnosed with a terminal illness could access VAD having had no conversations with family whatsoever. I support the principle set out at clause 4(1)(g) —

> a person should be supported in conversations with the person's health practitioners, family and carers and community about treatment and care preferences;

I draw members' attention to one of the cases from the Northern Territory that highlights the problem here. Members will be aware that for a brief period voluntary euthanasia was available in the Northern Territory. Members will also be familiar with the fact that I authored a minority report dealing with this issue amongst many other things. In particular, I draw members' attention to finding 73 in the minority report, which reads —

> When assisted suicide was legal in the Northern Territory one patient, who had received counselling and anti-depressant medication for several years, was euthanised after a psychiatrist from another State certified that no treatable clinical depression was present, notwithstanding that neither the patient's adult sons nor the members of the community palliative care team who were caring for him were told he was being assessed for assisted suicide.

That was a very disturbing case that arose in the Northern Territory experience and it is for that reason that I would like to see this particular principle broadened to elevate the role of family in those conversations. I accept what the minister has said about it needing to be the individual patient's choice—no question. But, equally, should there not be some form of safeguards around whether, for example, an 18-year-old who has just been diagnosed with a terminal illness can access voluntary assisted dying without any family member being aware of it? That is the concern I have, particularly from the lived experience in the Northern Territory. This is no longer a theoretical argument; this is what has happened in our own country. Minister, has the government considered the role between the family and the patient who wants to access voluntary assisted dying?

Hon STEPHEN DAWSON: Consideration was given to that, but we cannot discriminate between an 18-year-old and a 58-year-old. An 18-year-old is an adult and 18 years is the age that is set in this bill. We cannot discriminate against one or the other. The bill does not prohibit family or next of kin from providing support for the patient, but the involvement of family or next of kin is dependent upon the patient's wishes, and that is where we have landed.

Hon NICK GOIRAN: What measures could be put in the bill to ensure that there is facilitation for a conversation between a family member and the patient, perhaps a young patient? I accept that we cannot discriminate on age; nevertheless, if we are mutually concerned about the possibility that a young person could access voluntary assisted dying without any reference to their family, what kind of safeguards could be put in place to address that concern?

Hon STEPHEN DAWSON: Plainly and simply, we do not believe that they are needed. This is a choice. An adult can make a choice to participate in voluntary assisted dying. People in this place might not like it, but the fact is the law will allow for an 18-year-old to make the decision. I guess, in many cases, an 18-year-old could talk to family and friends, but the member is right to identify that in some cases that might not happen. The reality is that this legislation will allow an 18-year-old to go through the process and potentially access voluntary assisted dying. We do not believe anything else needs to be inserted in the bill in relation to this issue.

Hon NICK GOIRAN: To be clear, minister, it is the government's position that if an 18-year-old with a terminal illness wants to access voluntary assisted dying and they choose never to tell a family member about that, the government supports that choice?

Hon STEPHEN DAWSON: The government respects that choice.

Hon NICK GOIRAN: The principle at clause 4(1)(g) is inherently linked with the principle at clause 4(1)(c); it also refers to supported decision-making. Clause 4(1)(c) states —

> a person has the right to be supported in making informed decisions about the person's medical treatment, and should be given, in a manner the person understands, information about medical treatment options including comfort and palliative care and treatment;

Are the principles that refer to supported conversations and the like—references to a person's right to be supported in making informed decisions—intended to be references to supported decision-making?

Hon STEPHEN DAWSON: No, this is not about supported decision-making.

Hon NICK GOIRAN: Is supported decision-making permitted under this regime?

Hon STEPHEN DAWSON: No, it is not, because a person would have to have capacity; supported decision-making is something else.

Hon NICK GOIRAN: I did say "supported decision-making", not "substitute decision-making". Is the minister sure that we are talking about the same thing?

Hon Stephen Dawson: The answer remains the same.

Hon NICK GOIRAN: To be crystal clear, minister, is there no capacity under this legislation for substitute decision-making or supported decision-making?

Hon STEPHEN DAWSON: The member is correct.

Hon NICK GOIRAN: My last question relates to the link between the principles in clause 4(1)(g) and (c) about supported and informed decision-making. Is the reference to the phrase "a manner the person understands" the need for translators and interpreters or is it a reference to a person's capacity?

Hon STEPHEN DAWSON: One example of this could be an interpreter. It could be that sign language is needed for the person or the document needs to be in plain English or it could be for somebody who needs to use an iPad, for example, to read the document or is voice activated. One of those things.

Hon MARTIN ALDRIDGE: I seek some advice, Deputy Chair. In a moment, I want to move my amendment on the supplementary notice paper. If I do that, will it preclude amendments being made to earlier principles in this clause? If it is the case, I want to make members aware of that. I will take my seat if members have an interest in principles before where I intend to insert words at page 3, after line 16.

The DEPUTY CHAIR (Hon Adele Farina): Honourable member, that is a very good question. Yes, we would need to recommit and go back to earlier principles if members wanted to then consider earlier principles. I think this is a good time for me to alert members who would like to speak to clause 4(1)(a) through to (g) to seek the

call now because once Hon Martin Aldridge has moved his amendment, they will be precluded from doing so unless we recommit any of those earlier sections. No-one is seeking the call.

Hon MARTIN ALDRIDGE: Thank you, Madam Deputy Chair. I move —

> Page 3, after line 16 — To insert —
>
> (ha) a person who is a regional resident is entitled to the same level of access to voluntary assisted dying as a person who lives in the metropolitan region;

I gave some thought to this before this bill was introduced into the other place. If I am not mistaken, I made some remarks in my second reading contribution that, in effect, said that I recognised the overwhelming support in the community for the concept of voluntary assisted dying and the personal choice of somebody being able to end their suffering and end their life. I also said that I thought there was a reasonable, not an unreasonable, expectation that those same people in Western Australia would have access to the regime. I have heard some members, not necessarily through the course of this debate, in other places, express the view that this would be another matter of health care, if you like, that regional and remote Western Australians will have to expect and realise they live in regional and remote places and they will not have the same level of access. To me, that is not an acceptable outcome, particularly in the circumstances in which this bill has been brought to the house, which have been well canvassed. It is about people being able to express a personal and voluntary choice to end their suffering and, in turn, end their life. In these times, it is not unreasonable to expect that a person in Western Australia no matter where they live, no matter their postcode, will be able to express that choice as close to their community, their home, their family or indeed at a location of their choosing and that they will not be discriminated against or disadvantaged by the mere fact that they do not live in a metropolitan area of Western Australia.

We also have to consider the added difficulty of delivering voluntary assisted dying and the restrictions that will be placed on it by provisions of the federal Criminal Code Act. I have said previously during the course of the debate that I sympathise with the government's position. Hopefully, in time, we will see some change by the commonwealth with the application of the provisions of the Criminal Code Act, which may, at least in the near term, cause some difficulty for the government in delivering the voluntary assisted dying process more easily across Western Australia. There is obviously a range of other aspects, which I do not intend to go into in detail. Obviously, I could refer to the dispensing of the voluntary assisted dying substance as well as the review by the tribunal and a range of other functions in the bill whereby distance, geography and remoteness may well play a factor in one's ability to have some equity in access to voluntary assisted dying. With those remarks, I hope that I have set it out in a simple way and reinforced the public comments of the Minister for Health and the government about doing whatever it takes to deliver voluntary assisted dying to all Western Australians. We recognise that it would not be an acceptable outcome to have, say, Harry from Halls Creek, who is dying of cancer, which is the example that I have used previously, to have to travel to Broome or Perth to access voluntary assisted dying in Western Australia.

The addition of this principle recognises that a regional resident is entitled to the same level of access to voluntary assisted dying as a person who lives in the metropolitan region. Obviously, there will be some subsequent or some consequential amendments to clause 5 to define regional resident and metropolitan region and obviously that will be a matter that I consider when and if this amendment standing in my name at clause 4 is supported by this place. I hope that members will find a way to support this amendment. I think it is an important principle that recognises that all Western Australians should have equity in access to voluntary assisted dying.

Hon STEPHEN DAWSON: I indicate the government will support the amendment moved by Hon Martin Aldridge. It reflects the government's commitment to the accessibility of voluntary assisted dying for all Western Australians, for the Western Australian community both regional and metropolitan residents. It is also consistent with the government's commitment to enabling real end-of-life choices to the Western Australian community, so we think this is a good amendment and we are happy to give our support to it.

Hon ROBIN CHAPPLE: I want to touch on the amendment. Clause 4(1)(h), which is just above proposed clause 4(1)(ha), refers to —

> a person is entitled to genuine choices about the person's care, treatment and end of life, irrespective of where the person lives in Western Australia and having regard to the person's culture and language;

Got it. The amendment contains the word "access". I am mindful that the government is going to support this amendment, but I would really like to know what access means. Does it mean that somebody living in Tjuntjuntjara can walk out the door and speak to a medical practitioner? What is the level of access? That worries me to a large degree, because if it is how we understand the concept of "access", it would mean that the government would literally have to provide access to voluntary assisted dying in every small community, whether it has only one or two people. I am actually quite supportive of what Hon Martin Aldridge is saying, but I worry about the word

"access" and whether it could be used as a negative at some stage in the future. The minister will, correctly, respond to Hon Martin Aldridge's amendment, so I note for him that I worry a little about the level of access. I really do want better access everywhere, but to what extent is "access" defined?

Hon MARTIN ALDRIDGE: I would like to thank the minister for confirming the government's support for this amendment. In response to Hon Robin Chapple, I guess what members need to consider is that we are dealing with principles at clause 4. I think a similar argument could be made or a similar question asked about the specificity of the terms used in clause 4(1)(a) to (j). For instance, to what extent should a person be supported? To what extent should a person be encouraged? To what extent should a relationship be supported and maintained? These paragraphs have been drafted in the sense that they are overarching principles. Therefore, the principle I intend to insert through this amendment essentially reflects the intent that a person should not be disadvantaged in their access to voluntary assisted dying. I agree with Hon Robin Chapple that there is a real risk of disadvantage in some communities in terms of access to the provisions of the bill. I have certainly said during the course of this debate that I will consider the amendments through that prism as we work through them on the supplementary notice paper. Obviously, the merit of an amendment is important, but, as a regional member, I also cannot deny the fact that the passage of some amendments might unnecessarily add to the burden or barrier for regional people. As a regional member, they are two key factors that I will use in trying to weigh up whether to support or oppose amendments to the bill.

Coming back to my amendment, it simply reflects the government's commitment. A person's ability, naturally, to obtain the same level of access will depend on where a person lives and the circumstances in which they live; therefore, it could mean access to registered practitioners or it could mean access to other services. As I have said, and as I think the Minister for Health has articulated, the state's intent and commitment is to make sure that those services are provided. Both the minister in this house and the Minister for Health have said that services may need to be provided by mobile teams. A similar approach has been taken in Victoria to ensure that regional Victorians are not disadvantaged through their scheme.

Hon STEPHEN DAWSON: I am happy to agree with Hon Martin Aldridge on this one; he has answered the question very eloquently. We are committed to ensuring that regional Western Australians will be able to participate in the scheme, as metropolitan residents will be able to participate. I think Hon Martin Aldridge answered Hon Robin Chapple's question as well as I could have done.

Hon AARON STONEHOUSE: I certainly appreciate the sentiment behind the amendment that Hon Martin Aldridge has moved and I can appreciate what he is trying to achieve with this amendment, but I am very uncomfortable with the language used, and it might take a little while to unpack and explain why that is. My support for voluntary assisted dying is on the basis that I would like to see restrictions, coercion by the state, removed to allow people to make their own choices about their end of life. I feel rather uncomfortable about the idea of the state moving from being merely a regulator of voluntary assisted dying into the space of being a facilitator or, in fact, a service provider of voluntary assisted dying. I think this amendment starts to place upon government an obligation to provide voluntary assisted dying, which I am rather uncomfortable with. There is certainly an aspect of that already in the bill, but look at the language used already in the principles in clause 4(1). Clause 4(1)(c) states —

> a person has the right to be supported in making informed decisions …

Absolutely; I agree with that. There is a right there, but there is not necessarily an obligation on government to provide people with anything. It would seem that there is merely a prohibition on government from interfering with that ability to make informed decisions. Clause 4(1)(e) states —

> a … relationship between a person and the person's health practitioner should, wherever possible, be supported and maintained;

That is still not so much an obligation on government to provide voluntary assisted dying, but merely an expression of a principle that a relationship between a person and health practitioner should be supported and maintained. Similar language is used throughout the principles. It is not until we get to paragraph (h) that the word "entitled" is used, but even then it is only used in a very limited sense. It states —

> a person is entitled to genuine choices about the person's care, treatment and end of life, irrespective of where the person lives …

What is the obligation on government to ensure that a person has genuine choice? When I read that through the classical liberal lens that I look at something like that with, a genuine choice would merely be the absence of coercion; that is, people are free to pursue whatever end-of-life care or end-of-life choices they like in the absence of coercion. In the current status quo there is certainly coercion on the part of the state preventing people from

seeking advice and support in accessing voluntary assisted dying. I see this bill as an opportunity to remove that coercion by the state so people will be free to make those choices. The language used by the honourable member in the amendment is —

> a person who is a regional resident is entitled to the same level of access to voluntary assisted dying as a person who lives in the metropolitan region;

I could be wrong, and I am happy to have a bit of a back-and-forth dialogue about this, but that seems to place upon government an obligation to at least try to live up to that principle of providing the same level of access for voluntary assisted dying to regional people that metropolitan people may have. How would that be done by the government? It seems it would be done by the government through the provision of these travelling, roaming voluntary assisted dying services, as have been announced in Victoria and which the government here has announced it may look into. I am very uncomfortable with that idea. Removing coercion, providing a regulatory framework with oversight to prevent coercion, is one thing. That is allowing people to make choices. If they want to go to their doctor who is willing to participate in this scheme and they find a pharmacist who is willing to participate in this scheme, that is all voluntary. The state is merely providing oversight to ensure that no inappropriate or accidental deaths and no coercion take place. If we look at the logical conclusion of a principle such as making the state perhaps a provider of last resort, it puts taxpayers in the position of funding a regime of voluntary assisted dying that they may disagree with, and that goes far beyond what I think would otherwise be merely removing restrictions on or the prohibition of voluntary assisted dying, which is what I support in principle.

I would also like to point out what I think might be a missed opportunity here. Proposed new paragraph (ha) states —

> … a regional resident is entitled to the same level of access to voluntary assisted dying …

If we are talking about this idea of trying to correct the limited access to services that regional people experience due to the tyranny and scale of distance—someone living in a remote community of a few hundred or a few thousand people not having access to the same services that someone in Perth enjoys—it is concerning that proposed paragraph (ha) does not include any reference to other forms of end-of-life care such as palliative care. This might merely be an oversight. I do not want to reflect on the intentions of the mover of the amendment. Unless such an amendment is intended to be moved at a later time—I would be interested to hear from the mover if he has that intention or if any other member in the chamber has that intention—it is a little concerning that there should be universal access to voluntary assisted dying, regardless of where someone lives. Even if they live in the middle of nowhere on a cattle station, they should have the same access to voluntary assisted dying. However, that same access to palliative care is not considered in the amendment. I think that is worth highlighting and contemplating.

At this point I am very uncomfortable with the amendment based on my view that the state should act as an impartial regulator of voluntary assisted dying and not as a service provider. This principle would shift the focus of this bill to making the government a service provider. I am a little concerned, and I am interested to hear what members have to say, about the lack of universal provision of palliative care if this amendment is agreed to.

Hon MARTIN ALDRIDGE: I would like to respond to the comments made by Hon Aaron Stonehouse. I understand the position that he holds on my amendment; it is one formed on principle. I will go to his last comment first. I remind members that this is a bill for an act to provide for and regulate access to voluntary assisted dying and to establish the Voluntary Assisted Dying Board and to make consequential amendments to other acts. This is not a bill for an act to provide palliative care. It is not a bill for an act to provide oncologists. It is not a bill for an act to provide general practitioners. It is not a bill for an act to provide the patient assisted travel scheme. I suspect that any amendments moved that go to the provision of those services would likely fall foul of the scope of the bill, which is clearly defined by those three points that I just raised. The opportunity to insist on, regulate or mandate a level of service with respect to every other possible healthcare profession and healthcare service provider is not possible through the opportunity that exists within the Voluntary Assisted Dying Bill 2019.

Hon Aaron Stonehouse has expressed some concern about the involvement of the state in the voluntary assisted dying process. When we read this very lengthy bill, I would argue that the state is involved at just about every turn, whether it be through some regulatory function, through some funding, through review, through the board, through the minister or through the CEO. There is certainly no independence of state in the voluntary assisted dying process.

I respect Hon Aaron Stonehouse's position, and also that he represents South Metropolitan Region. The landscape outside the metropolitan area with respect to health service provision and health care is quite different. The reality is that we do not have doctors in many of our communities and the only healthcare workers in many of our communities are those employed by the state—often in the local nursing post or hospital. They are the realities of living outside Perth. Indeed, many regional and remote Western Australians understand those realities. Delivering healthcare services in regional and remote Western Australia is very difficult. We have had many debates about

that in this place. We have very thin markets. We have a dispersed population. I think the WA Country Health Service has the largest health jurisdiction in the world. It is simply not possible to have the types of health services that have been described, whether it be oncologists or neurosurgeons, available seven days a week, even in our largest communities outside of Perth.

I think some of the comments made by Hon Aaron Stonehouse do not go to the reality of delivering health care in our regions. I understand that he has some concern that there is not a principle on entitlement to the same level of care such as palliative care, and I have outlined the reasons why that cannot easily be the case in this bill. The next best thing is to make sure that the new scheme that is intended to be created in Western Australia through the Voluntary Assisted Dying Bill 2019 recognises that there should not be an expectation that regional and remote Western Australians should be treated any differently or, indeed, have any difference in access to voluntary assisted dying by the simple nature of where they live. I hope I have addressed the amendment, although I probably have not convinced Hon Aaron Stonehouse to support it. I have identified some of the challenges that I think we all share, and certainly I sympathise with the government on the implementation phase that will occur over the next 18 months or so if this bill passes.

Hon RICK MAZZA: I will support the amendment proposed by Hon Martin Aldridge. Members may recall that in my second reading contribution, I moved a motion to refer the bill to a committee to investigate how this will be delivered to regional Western Australia. We have a very vast state. As Hon Martin Aldridge pointed out, palliative care is very difficult and challenging for the WA Country Health Service to deliver. I can see that voluntary assisted dying will be very similar. Subclause (1)(h) states "irrespective of where the person lives". Hon Robin Chapple pointed out that it had been covered in paragraph (h), but that the amendment proposed by Hon Martin Aldridge clarifies the fact that regional Western Australia has some challenges and, if we are going to have this legislation, we should make sure that voluntary assisted dying is accessible to all Western Australians across the state. I think the government will have some very big challenges ahead to cover that, but I am pleased that, if this amendment is successful, at least the legislation will state that it is the intention of the government to make sure that all Western Australians have access to voluntary assisted dying regardless of where they live and that the level of care is comparable with that in metropolitan Perth.

Hon NICK GOIRAN: I rise to speak on the amendment moved by Hon Martin Aldridge. I am pleased that the government has indicated its support for the amendment and I congratulate the honourable member for achieving that mighty feat. I move the following amendment to the amendment of Hon Martin Aldridge —

To insert after "dying" —

and palliative care

The DEPUTY CHAIR (Hon Dr Steve Thomas): Honourable members, while that is being distributed, I will summarise the situation. We are on clause 4 and are dealing with amendment 408/4 under the name of Hon Martin Aldridge on issue 7 of supplementary notice paper 139. Hon Nick Goiran has moved to amend the motion of Hon Martin Aldridge to insert "and palliative care" after "dying".

Hon NICK GOIRAN: It should be self-evident to members that if we a chamber are passionate about the rights of regional Western Australians and their right to access the same level of voluntary assisted dying as a person who lives in the metropolitan area, it follows that we should be equally passionate about their access to palliative care. Throughout the course of the debate, the government has made it very clear that these should not be seen as either/or scenarios and that the government is very passionate about palliative care, as we all are. This is something that I have taken up since the last debate we had in this place on this issue in 2010. With the member for Girrawheen, I established the Parliamentary Friends of Palliative Care. I believe this is something that we can all support on a bipartisan or tripartisan basis. I seek the support of members to insert "and palliative care", so that as a chamber we make it clear that every Western Australian should have equal access and rights to both voluntary assisted dying and palliative care.

Hon STEPHEN DAWSON: I reiterate the earlier comments of Hon Martin Aldridge. When responding to the words of a previous speaker, he identified that the bill before us is about voluntary assisted dying. He went through page 1 of the bill, which states that this is a bill for —

An Act —

- **to provide for and regulate access to voluntary assisted dying; and**
- **to establish the Voluntary Assisted Dying Board; and**
- **to make consequential amendments to other Acts.**

This is not a bill about palliative care. In fact, as Hon Nick Goiran outlined, there has been a commitment from this government to addressing issues with access to palliative care around the state. We have made commitments

both in this year's state budget and, indeed, recently about further funding of palliative care around the state. I think this amendment would be outside the scope of the bill. I am certainly not in a position to support it. It is simply not needed. These principles are about the Voluntary Assisted Dying Bill 2019 before us and not about palliative care, which is a very different issue.

Hon NICK GOIRAN: With all due respect, the minister says that the bill is not about palliative care. I draw the minister's attention to supplementary notice paper issue 8, in which there is an amendment in the minister's name that seeks to insert a definition of palliative care into the bill. But this bill has nothing to do with palliative care, members!

Hon Aaron Stonehouse: Not to mention, honourable member, clause 4(1)(d).

Hon NICK GOIRAN: Indeed. With all due respect, I do not think that is a satisfactory response, but I do not want to delay progress. I would be keen to seek that members simply support the insertion of "and palliative care" so that we send a message to the community that regional Western Australians have as much right to palliative care and voluntary assisted dying as metro members, and we do not fall into the trap of sending people in regional Western Australia a message that says, "We'll make sure that you have access to voluntary assisted dying—we'll definitely make sure that you have access to that—but, sorry, we won't give you access to palliative care. Only first-class citizens in metropolitan Western Australia can access palliative care—not regional ones." I am sure that members do not want to send that message, so I seek their support for the proposed amendment.

Hon AARON STONEHOUSE: I thank Hon Martin Aldridge for his comments in response to my remarks. I disagree with what he said about the scope of the bill. As Hon Nick Goiran pointed out, the words "palliative care" appear in this very part of the bill, at clause 4(1). In fact, amendments on the supplementary notice paper consider defining "palliative care". However, I do heed comments that I am sure will be made that it would be rather impractical to try to ensure universal access to something as complex as palliative care regardless of where someone is in Western Australia. I think it is also rather impractical to try to ensure universal access to voluntary assisted dying regardless of where someone resides in the state. In fact, it is impractical to place an obligation on government to ensure universal access to any service or product regardless of where someone lives. There is obviously a trade-off and a limit to the amount of money that government or policymakers are willing to spend to ensure universal access to a service. It is simply impractical to try to ensure that someone who lives in a caravan 100 kilometres away from the nearest settlement has high–speed fibre broadband. There are obviously scales and issues, which is why there are issues of service provision to regional Western Australia. It is something we should try to address, of course, but the idea of universal access, and the same level of access, to any service regardless of where someone resides in the state is rather impractical and perhaps an aspirational principle rather than something that the government can practically deliver.

Prices change from region to region and town to town. The price of bread or fuel is not the same in any one area. Universal access suggests that we can provide people with the same level of care, whether it be palliative care, voluntary assisted dying, paediatrics or any other kind of care, regardless of the supply of medical practitioners and the cost of shipping resources and supplies, providing electricity or insurance for buildings—all those costs that go into the provision of services. However, if it is the will of Parliament to ensure universal access to one kind of health care—although I still support voluntary assisted dying in principle, I do not really think it is a type of health care. It is an alternative to health care; it is an option out when health care has perhaps failed someone and there is no alternative. If we are to ensure universal access to one type of service, it seems only appropriate to ensure that the alternative to voluntary assisted dying, or perhaps a supplementary form of care—palliative care may be supplementary to other types of treatment—gets the same priority in the principles of this bill.

I am mindful that my concern about turning the state into a service provider for voluntary assisted dying is probably not shared by other members of the chamber, so I am likely to not be successful in convincing members to adopt my position on how the state should act when it comes to voluntary assisted dying. That being the case, I would not want to see the state subsidise and ensure universal access to voluntary assisted dying and not at least try to ensure the same level of access to palliative care for regional Western Australians. That would be inappropriate and rather unfortunate. Although it would represent a further commitment from taxpayers, it would at least be more equitable than subsidising the choice of death and not subsidising the choice of genuine medical care and treatment. On that basis, I am inclined to support Hon Nick Goiran's amendment to the amendment as perhaps the least uncomfortable option available to me at this time.

Hon STEPHEN DAWSON: I want to make the point that it is not that the bill has nothing to do with palliative care; it is that the bill does not relate to the service provision of palliative care. Hon Martin Aldridge's amendment is about access to voluntary assisted dying. This principle is not about end-of-life choices or all medical options

available; these are wider principles. Today we are dealing with voluntary assisted dying. This amendment is essentially picking one aspect of end-of-life choices. Why not include advance health directives or others? The bill before us is not about the service provision of palliative care; it is about access to voluntary assisted dying, which is a very, very different thing.

Hon DONNA FARAGHER: I heard what the minister just said, but I also heard his earlier comments. I would like some clarification of how he sees his comments made just now with regard to clause 4(1)(d), which specifically refers to palliative care.

Hon STEPHEN DAWSON: I think I have answered the question already. I will say it again. Hon Martin Aldridge's amendment on the supplementary notice paper before us is about access to the outcome of this bill. The other principles are more general regarding end-of-life choices. It is not that there are no mentions of palliative care in the bill; there are, but the bill is about voluntary assisted dying. The bill is not about the service provision of palliative care. Palliative care is mentioned, but Hon Martin Aldridge's amendment is, as I said, about access to the outcome of this bill. Palliative care is something different.

Hon PETER COLLIER: It is very difficult for me not to support this amendment; in fact, I spent an enormous amount of time during my contribution to the second reading debate talking about the lack of palliative care facilities in the regions. The reason I did that was to point out the enormous disparity between what is provided in the metropolitan area compared with that in the regions. I said that we were putting the cart before the horse: we need to get the palliative care facilities right first before we even think about the prospect of moving down the path of voluntary assisted dying. That was the basis of what I said in my contribution to the second reading debate.

I have some sympathy with Hon Nick Goiran's amendment to Hon Martin Aldridge's amendment. If the Deputy Chair and the minister will allow me a little self-indulgence here, I will give members an example of exactly why we need palliative care in the regions. When I was 16 years of age in Kalgoorlie, I had everything I ever wanted. I had my family and my friends, and my parents had a corner store. I had my horse, I had my tennis; I had everything I wanted. Just a week before Christmas of that year, Dr King came into our shop, went out the back and into our house next door, and told my mum and dad that my mother had cancer of the uterus, and that they did not have the facilities in Kalgoorlie to deal with her cancer.

Suffice it to say, the whole world came crumbling down. My mum and dad had to then go down to Perth so that my mother could be treated. Had that operation not been successful, she would not have been able to live in Kalgoorlie. However, the operation was successful. She had to have chemotherapy, and so for that she had to make periodic trips to Perth from Kalgoorlie. As a result, they had to sell their shop and I had to take my horse to some friends in Toodyay. I went to live with my sister to do my final year of school.

I am not looking for sympathy here, guys; I am just telling members that these sorts of things happen in the regions every single day. This was in 1975, everyone. This happened 45 years ago. That was a terrible time; I remember it vividly. We had to sell the shop and we had to sell the house within a couple of months. My parents had moved to Perth and three months after that time I went to live with my newly married sister. She got married in August 1975, and in 1976, when I did year 12, my whole stable life was uprooted.

I was relatively resilient, so I was able to get through that, and I got through it. A lot of people would not. I am not saying that I am any champion or anything; all I am saying is that it was a really tough time, and people in the regions have to deal with this on a daily basis. We are moving down a path that changes a fundamental tenet of our society, yet we are still questioning whether we have adequate palliative care in the regions. That was 45 years ago. People who live in Kalgoorlie now still have to come down to Perth to have that operation and still have woeful palliative care facilities in that town, and it is one of the largest regional centres in Western Australia.

I take my mum out each Sunday. She is 86 now, everyone. She survived that and another bout of cancer in 1989 and bypass surgery in 2009. They make them tough in Kalgoorlie, let me tell you. Last Sunday we were sitting out in the courtyard and we always reflect back on times past. We talked about them having to sell the house and the shop et cetera, and she again apologised to me. She feels so sorry and guilt-ridden about leaving me during a period of my life, year 12, when I really needed support mechanisms. It had nothing to do with my mum; she did not want to get cancer. That was one of the things that were thrust upon her with regard to her health. She feels terrible about that because we as a society and a community could not provide those facilities for her. I keep on telling her how much I love her and that it was nothing to do with her and that things turned out all right: "I've lived a great life and you're still here at 86, so, Beryl, you know, the best is yet to come, mate!" I keep telling her that and I give her a big hug. Everything is wonderful; do not get me wrong. The reason I am saying that and giving that personal story is that, guys, we are still not even close to having adequate palliative care in the regions. With all due respect, I cannot work out why we are having an argument over whether we should perhaps include in this bill the same level of

palliative care for people in the regions as is enjoyed by people in the metropolitan area. I will support the amendment on the amendment from a personal perspective, but I also think we should support it from a practical perspective.

Hon MARTIN ALDRIDGE: I want to respond to the amendment to the amendment. I also want to add further to some of the comments that I have made about palliative care and the amendment that I have moved. I do not want this debate to become "who can out–palliative care one another". We have had plenty of those debates. We have had conversations about the government's investment in palliative care and what that will look like and whether it is enough. I think we are united as a chamber in the view that there is still work to be done on improving palliative care services, as well as other health services, in our regions. It is rather simplistic to draw a direct comparison between access to voluntary assisted dying and access to palliative care. Palliative care is obviously a broad-ranging, detailed and specific area of health care. It involves many health professionals across Western Australia, and the models of care are different. If we compare palliative care with voluntary assisted dying, a person who wants to access voluntary assisted dying is principally required to access two registered medical practitioners who are willing to participate in the scheme, over a period that I think can be as short as nine or 10 days. When I talk about entitlement to the same level of access, in the context that I have just described, that is achievable with respect to voluntary assisted dying. The government has made that commitment, and my amendment reflects the commitment of the government. If palliative care were included in my proposed amendment, it would read —

> (ha) a person who is a regional resident is entitled to the same level of access to voluntary assisted dying and palliative care as a person who lives in the metropolitan region;

I want to say a couple of things about this. One is that we identify palliative care, and therefore exclude every other type of health service that is available. I have already mentioned some of those services. Access to general practitioners is probably the biggest challenge facing regional Western Australia. Why not lob them in; and, while we are at it, let us include oncologists and radiotherapy services? If members reflect on this argument, it does not make sense. I understand the intent. I understand people's passion. However, the way in which the amendment to my amendment has been constructed is just not practical. It is not fair. It does not recognise the complexity and difficulty in delivering health services in regional Western Australia. The models of care are different. They will always be different.

If this amendment to my amendment were to pass, we would essentially be saying that a regional resident is entitled to the same level of access to voluntary assisted dying and palliative care as a person who lives in the metropolitan region, to the exclusion of all other health services, some of which I have just described. The health services that are available in Perth and regional Western Australia are obviously quite different. We need to deliver services differently, as I have said, and the models of care will be different. One example to which I wish to draw members' attention, as I have previously, I am sure, is the telehealth palliative care service that was designed and implemented in the wheatbelt as a pilot and is now being implemented across other regions in the WA Country Health Service. That is about delivering an increased level of service. However, the model of care is different. It is not practical to have a hospice or palliative care specialist in every town, nor is it practical to have an oncologist in every town. It would not be a good use of public money to fund a palliative care specialist in Halls Creek for Harry, or for the next person after Harry, because the model of care for Harry in Halls Creek will be different. I do not think it is fair to draw a comparison between the delivery of a palliative care system and access to the very specific and defined regime that is voluntary assisted dying, which principally requires access to two registered practitioners willing to participate in the scheme. That is why I will not support the amendment to my amendment in the way in which it has been proposed.

Hon ROBIN CHAPPLE: I really want to agree with the comments made by Hon Martin Aldridge. I think they go to the substance of the matter; that is, we are actually dealing with the Voluntary Assisted Dying Bill, and those issues of whether we have different medical professionals in different places and different services in different places do not have a place in this bill.

Hon MARTIN PRITCHARD: I am concerned with the problems that this amendment on the amendment might cause. It is particularly difficult, being on the government side, because it will cause problems for the government. In my view, the concern is that we are not talking about all patient care. These two issues are joined because we are talking about people in their last months of life having an alternative in the regions. We are not talking about the fact that we are going to reconstruct everything in each town, but the amendment provides that patients should have an alternative to voluntary assisted dying, and palliative care is probably the closest to it. The distinction can be drawn in that way.

Hon MICHAEL MISCHIN: I am a little confused by the government's opposition to this, particularly in light of what we have managed to tease out over the past several days about these principles. I get back to the point that

I made on Thursday, 31 October, that there is no objects clause in this bill that might assist us in understanding what exactly it is aimed at. We are told, on the one hand, that it is to do only with voluntary assisted dying, and has nothing to do with palliative care, and then we find that the principles clause is replete with references to palliative care and to palliative treatment. I again refer the minister and members to clause 4(1), which begins —

> A person exercising a power or performing a function under this Act must have regard to the following principles —

It then goes through a number of more general principles, and then paragraph (c) states —

> a person has the right to be supported in making informed decisions about the person's medical treatment, and should be given, in a manner the person understands, information about medical treatment options including comfort and palliative care and —

We are told it should be read disjunctively, so palliative —

> treatment;

Hon Nick Goiran is proposing simply to reinforce that. Paragraph (d) reads —

> a person approaching the end of life —

Or death, we should say; approaching death —

> should be provided with high quality care and treatment, including palliative care and —

Since it is to be read disjunctively, palliative —

> treatment —

Hon Colin Tincknell: Not if you're in the country.

Hon MICHAEL MISCHIN: Except, apparently, if a person is living in the country. The paragraph concludes —

> … to minimise the person's suffering and maximise the person's quality of life;

These are broad statements of principle and entitlements. Then we get on to paragraph (h), which reads —

> a person is entitled to genuine choices about the person's care, treatment and end of life, irrespective of where the person lives in Western Australia and having regard to the person's culture and language;

All that is being proposed here is to reinforce those principles through Hon Martin Aldridge's amendment, which states, among other things, that a person exercising a power or function under the act must have regard to a person who is a regional resident being entitled to the same level of access to voluntary assisted dying as available to a person who lives in the metropolitan area. There is no question there of resources being a problem for the government. It is quite happy to do that, but now it is cavilling at reflecting genuine choices about how people approach the end of their lives—oh, no; that is too difficult.

This bill has nothing to do with palliative care; it is about directing people and assisting them towards voluntary assisted dying. I find that that is wrong and that it is the government that has defined the terms of this particular debate with these general principles. There is no objects clause, as I have indicated, yet the principles are quite plain that there ought to be genuine end-of-life choices, including palliative care and treatment choices and access to them. I see nothing inconsistent with what Hon Nick Goiran proposes with his amendment to Hon Martin Aldridge's otherwise worthy amendment. It just reinforces the principles that we heard before, so what is the problem? I just do not get it. Why is it that this bill is suddenly being narrowed in its scope and its operation and people in the regions are being directed to only one choice and access to services? It could be that the proposed amendment could have been framed slightly differently—that is, as a motherhood principle, "people living in the regions should have access to the same level of voluntary assisted dying and palliative care and palliative treatment as people in the metropolitan area". That would be unobjectionable, too, and it would remove the entitlement aspect and simply leave it as a principle, but I am not going to move any amendments to it. Given the other entitlements stated in clause 4, I see nothing objectionable about what has been proposed. I would be supporting Hon Nick Goiran's amendment if we were really genuine about having voluntary assisted dying as one of the options for how people will be cared for when they are reaching the end of their life and are suffering.

Hon ADELE FARINA: I think Hon Aaron Stonehouse's argument about whether the state should be the provider of the VAD service was very interesting and it has certainly given me food for thought. I note that neither Hon Martin Aldridge nor the minister have responded to the point that the member raised, but it certainly caused me to stop and give that some more thought. I suppose the difficulty I am having is that we are talking about

general principles and I am not too sure how valuable this whole clause is; nevertheless, it is in the bill. As other speakers have said, we have clause 4(1)(d), which states —

> a person approaching the end of life should be provided with high quality care and treatment, including palliative care and treatment, to minimise the person's suffering and maximise the person's quality of life;

That clause does not refer to a person living in the metropolitan area; it says "a person". Arguably, that clause already provides cover for people living in the metropolitan area or in regional WA. In which case, why would anyone object to Hon Nick Goiran's proposed amendment to Hon Martin Aldridge's amendment, because it simply endorses what is already stated in paragraph (d)? I do not understand why we are creating a distinction here because paragraph (d) refers to "a person" so that is a person in Western Australia living anywhere in Western Australia and we are already saying that that person should be provided with high quality care and treatment, including palliative care and treatment. Supporting Hon Nick Goiran's amendment to Hon Martin Aldridge's amendment does no harm; it is simply endorsing what is already stated in clause 4(1)(d), and I do not see the problem with that. As a member representing regional WA, I will do everything that I can to ensure that the provision of services, medical care and treatment improves in regional WA. If this is one way to achieve that, I fully support it.

Hon STEPHEN DAWSON: I have spoken at length in this place about palliative care. Hon Adele Farina talks about her role as a regional representative in this Parliament and doing all she can to make better the services in regional Western Australia. Can I say that I and, indeed, every single one of us in this place who represents regional Western Australia supports the further expansion of services in Western Australia. On 29 October, in the last sitting week, I outlined the state government's significant investment in palliative care in this year's state budget and the announcements made since then about expanding palliative care services throughout the state, including an additional commitment to a significant number of staff—medical professionals—in the palliative care space.

This is not about the government's commitment or lack thereof to palliative care. The government is supportive of it. We had a great, long debate about palliative care in this place when we last sat.

I also want to say that I am very grateful to the Leader of the Opposition, and I thank him for being brave and sharing his personal story about his mum and the challenges that his family faced many years ago. The reality is, as Hon Martin Aldridge pointed out, we all face a great many challenges in regional Western Australia in accessing medical services. Hon Martin Aldridge pointed out that we are never going to be able to have oncology services in all our communities; it does not make financial sense to have all those things in those communities. In fact, in some cases now, Western Australian patients have to travel to the eastern states to access certain medical care by virtue of it being new, not available elsewhere, costly or not being rolled out. That happens here and now, so Hon Peter Collier's story from 45 years ago is transferrable to today for some families.

I want to say that clause 4(1)(d) is about the general, but what is before us is specific. The specific amendment moved by Hon Martin Aldridge, which would be paragraph (ha), is about voluntary assisted dying; it is not about general practice or access to general practice in regional Western Australia. It is not about access to advance health directives or other specialist services in regional Western Australia; it is about access to voluntary assisted dying. Hon Martin Aldridge's amendment is specific. I think that Hon Nick Goiran's amendment to the amendment detracts from that. Let this not be an argument about the government's commitment to palliative care, because can I say, as I have said before, we are committed to ensuring that people in regional Western Australia can access palliative care.

Hon Martin Aldridge mentioned the telehealth palliative care service that is available over the phone. That, together with the investment made in the budget this year and, indeed, made since the budget, will ensure that palliative care services are broadened and available to people in regional Western Australia. Members, do not let that be your argument or thought on this issue. The amendment moved by Hon Martin Aldridge is specific and relates to voluntary assisted dying. It states —

> (ha) a person who is a regional resident is entitled to the same level of access to voluntary assisted dying as a person who lives in the metropolitan region;

It is not about any other issue; it is simply about this sole issue. I urge members to not support Hon Nick Goiran's amendment to the amendment, but simply to support the amendment moved by Hon Martin Aldridge today.

Hon JACQUI BOYDELL: Very briefly, I concur with and support the minister's comments. Hon Martin Aldridge's amendment is about ensuring regional people have access to voluntary assisted dying. As pointed out by other members, other clauses in the bill cover people's access to high-quality end-of-life and palliative care services that support their quality of life. At the outset, the amendment moved by Hon Martin Aldridge specifically refers to regional people's access to the voluntary assisted dying scheme. It should not be diluted by any other type of service,

whether that is palliative care or not. This is purely about delineating access for regional people to the scheme. Therefore, I will not be supporting the amendment to the amendment.

Hon RICK MAZZA: The differences of opinion in this debate are very interesting. There are a couple of things to look at here. First of all, there is no doubt that delivering high-quality palliative care in the regions is a conundrum. It is very, very difficult. There cannot be an oncologist on every street corner in every country town along with other specialists. I think everyone gets that. But in clause 4, we are referring to some guiding principles for what we would like to see for voluntary assisted dying. Clause 4(1)(d) refers to high-quality palliative care. They go hand in hand. I expect that in many cases, palliative care would precede voluntary assisted dying. As a principle, to include palliative care in the amendment put forward by Hon Martin Aldridge will do no harm. I think it will give some guidance for what we would like to achieve in the future for palliative care in the regions. It is very difficult for regional people. I do not expect that we could wave a wand and provide perfect palliative care in the regions tomorrow. However, we could work towards improving it all the time. Telehealth has gone a long way towards that. There are many stories about how telehealth has assisted people in regional and remote Western Australia to stay at home during their palliative care time. With that, I will support the amendment to the amendment put forward by Hon Nick Goiran.

Hon ROBIN SCOTT: From living in the regions, no-one I have spoken to expects to have palliative care facilities in every single town. If we pick out, say, six towns in the whole of the Mining and Pastoral Region, such as Kalgoorlie, Meekatharra, Carnarvon, Port Hedland, and maybe Broome and Kununurra, that would service everyone in the regions. Take Kalgoorlie, for example. For people who live in Tjuntjuntjara, which is 700 kilometres east of Kalgoorlie, travelling into Kalgoorlie is like going around a corner to them. It is the same for the people in Warburton, which is 900 kilometres out of Kalgoorlie. They are more than happy to go to Kalgoorlie for palliative care. Unfortunately, it is not there at the moment. The people from Burringurrah near Meekatharra have a choice of whether to go to Carnarvon, which is about 300 kilometres, or to go to Meekatharra, which is 360 kilometres. People in these regional remote communities are more than happy to travel to palliative care facilities. It is nothing like the metropolitan area. If those towns had those six major palliative care facilities, we would solve this problem. It would not be too expensive to set up proper palliative care facilities in those six towns.

Hon KYLE McGINN: In response to what the honourable member said, Kalgoorlie does have a palliative care unit. I want to put that on the record. It has three beds. It is correct that Kalgoorlie has a palliative care unit. I understand that Meekatharra is still pushing to have a palliative care unit. I think it is the only region the member mentioned that does not have palliative care.

Hon Robin Scott: There are no palliative care nurses.

Hon KYLE McGINN: Yes, there are in Kalgoorlie. I want to make sure the record is correct. Meekatharra definitely needs to be a focus for that, but the rest of the towns have a palliative care unit.

Hon ADELE FARINA: In relation to the comments made, I need to seek some clarification from the minister. We have been told that it is unreasonable to expect an oncologist to be in every town. Implied in that is the suggestion that the amendment to insert a new paragraph (ha) would provide a VAD team in each town. I do not think anyone is suggesting that is the case, which makes the "we cannot expect to see an oncologist in every town" argument pointless. I am trying to understand: What will proposed paragraph (ha) actually deliver to regional people? Will a mobile VAD team go to the town if that is needed and provide the voluntary assisted dying service? Given that the voluntary assisted dying service requires nine days for completion of those steps, will that team stay in that town to complete that service over that nine days or are we proposing that in regional WA, the nine days will be contracted under exceptional circumstances so that there is no cooling-off period for the patient if they want to reconsider? It then raises questions about that criterion of enduring, which is part of the elements that need to be satisfied to access voluntary assisted dying in the first place. I am a bit unclear about what this amendment to insert paragraph (ha) will actually deliver. What will it mean for people living in regional WA? How are we going to ensure that a regional resident is entitled to the same level of access to VAD as a metropolitan resident? The government is supporting this, so it has obviously given some thought to how it is going to deliver this. I think it is really important for us to put on the record exactly what is intended to ensure that those elements of access to voluntary assisted dying, such as a person having an enduring wish to access voluntary assisted dying, are not diluted in any way.

Hon STEPHEN DAWSON: I do not propose to go into anything that will be dealt with in a later clause, so the level of detail that the honourable member is talking about will be up for further debate later on. I will just remind people that this is in the "Principles" part of the bill. Clause 4(1) reads —

> A person exercising a power or performing a function under this Act must have regard to the following principles —

We as a government will have regard to these principles. The amendment that Hon Martin Aldridge seeks to put in the bill states —

> (ha) a person who is a regional resident is entitled to the same level of access to voluntary assisted dying as a person who lives in the metropolitan region;

This is a principle that we can agree with. People in regional Western Australia should be entitled to the same level of access. What does it deliver practically? This is not about concrete now; this is saying that we believe in the principle that a person who lives in regional Western Australia should have the same level of access. In terms of the detail —

Hon Donna Faragher: Then what's the problem?

Hon STEPHEN DAWSON: This principle is about voluntary assisted dying. Other issues have been raised, and palliative care is mentioned earlier in the principles, but this is about the specific principle of voluntary assisted dying. This is a specific amendment dealing with a specific issue.

In terms of how it might work, during the implementation phase, the government, together with all stakeholders—WA Country Health Service, WA Primary Health Alliance, Australian College of Rural and Remote Medicine and other stakeholders in regional Western Australia—will work out how, in practice, this will operate in regional Western Australia. But, I say again, this is a principle in the bill, and Hon Martin Aldridge is seeking to include a principle that we can certainly support. People should have equality of access whether they live in regional Western Australia or in the metropolitan area.

Hon MICHAEL MISCHIN: I have a question about that, minister. I refer the minister to clause 4(1)(d). This is one of the principles that the minister says is important and that anyone performing a power or function under the act will have to have regard to it. We are not getting into specifics of detail as to how any of this will be provided. It states —

> a person approaching the end of life should be provided with high quality care and treatment, including palliative care and treatment, —

I note that this means "palliative care" and "palliative treatment", according to what the minister told us the last time we sat —

> to minimise the person's suffering and maximise the person's quality of life;

Should a distinction be drawn, or is a distinction drawn, in that general principle between whether a person lives in the metropolitan area or a regional area?

Hon STEPHEN DAWSON: No.

Hon MICHAEL MISCHIN: The government accepts the proposition that a regional resident should be entitled to the same level of access to voluntary assisted dying as a person who lives in the metropolitan area, but it does not want to go so far as to say that a regional resident should be entitled to the same level of access to palliative care as a person who lives in the metropolitan region. Why is that? On the one hand, it is a general principle about there being no discrimination because of where a person lives. The government says that there is a principle on the equal provision of high-quality care and treatment, including palliative care and treatment, to minimise suffering. However, it wants to draw a distinction between the metropolitan region and regional areas in terms of the level of access to palliative care. Why is that? If this is simply a general principle, what is the harm? It simply will be something that a person who exercises a power under the legislation will have to have regard to and try to achieve. However, the government says that we should make a distinction, because this bill is about voluntary assisted dying rather than palliative care. On the one hand, all the principles reinforce equality across the board for every resident of this state, but, in this one case, when we are focusing on access, it is only those who live in the metropolitan region who ought to have that level of access to, and entitlement to access, palliative care. Does that not create a problem with the rest of the general principles stated in subclause (1)?

Hon STEPHEN DAWSON: I do not think there are any problems with the principles. I have been asked numerous times now about this issue—the honourable member may have been away from the chamber on urgent parliamentary business—so I do not propose to go around in circles again. I remind members that the substantive amendment was moved by Hon Martin Aldridge. I have indicated that the government is supportive of that amendment and I indicated the reasons behind our support for it. I also indicated that we do not support the amendment to the

amendment moved by Hon Nick Goiran, and I also outlined the reasons why we do not support it. I do not think it is appropriate that I keep going around in circles on this issue. These amendments have been moved by other members. In one case, I am supporting the amendment; in the other case, I am not. I have identified the reasons why, and that is probably all I will say about it.

Hon COLIN TINCKNELL: Hon Michael Mischin made a very valid point. The principles in paragraphs (a) through to (j) of subclause (1) do not mention "regional". However, Hon Martin Aldridge has moved an amendment that talks about access to voluntary assisted dying by regional residents. This is the point. That is the difference—the word "regional"—and that is why this debate is taking place. Many members have asked why people in regional areas are not getting the same level of access, whether or not it is about having an oncologist on every corner, but the amendment that has been put up will insert a principle that includes the word "regional". The amendment to the amendment makes it clear that palliative care should also be available to people in regional areas. That is why this debate is happening in this chamber and that is why it is taking time. This will be the only principle to include the word "regional". Hon Michael Mischin's point is very valid. That is the reason this debate is taking place.

Hon JACQUI BOYDELL: I am just trying to reiterate why Hon Martin Aldridge moved this amendment. I refer to members' comments in the second reading debate about how regional people gain access to the voluntary assisted dying scheme. That was a major concern of a lot of members in the house and it was raised by them, quite rightly so. Clause 4(1)(d) and other principles in the bill set out the way in which people's quality of life, end-of-life choices, palliative care and therapeutic treatments should be supported. Those things are stated in the bill and they are the principles of the bill for the people of Western Australia. The original amendment moved by Hon Martin Aldridge seeks to support the minister's comments that the government will ensure that there is a legislative regime with in-principle support for regional people having access to the voluntary assisted dying scheme. That is the legislation before us. The original amendment moved by Hon Martin Aldridge seeks to ensure that the legislative principle that the government has supported is set out. It is about ensuring that it is very clear in the principles of the bill that regional people should have equity of access to voluntary assisted dying. Other principles of the bill set out the fact that all Western Australians should be entitled to high-quality end-of-life care et cetera. By moving this amendment we seek to ensure that the principle of regional people having access to voluntary assisted dying is underpinned by parts of the legislation, and it should not be diluted by the addition of "and palliative care", because the bill is not about palliative care; it is about voluntary assisted dying. Our aim is to ensure that regional people have fair and equitable access to the scheme, should the bill pass the house.

Hon RICK MAZZA: The amendment moved by Hon Martin Aldridge really reinforces clause 4(1)(h), which, as you, Deputy Chair (Hon Robin Chapple), mentioned, covers people living in regional Western Australia; it refers to all Western Australians. It is interesting to note that paragraph (h) states —

> a person is entitled to genuine choices about the person's care, treatment and end of life, …

If we are going to reinforce clause 4(1)(h), then to me care and treatment include palliative care. I think the amendment on the amendment moved by Hon Nick Goiran expands on the original amendment moved by Hon Martin Aldridge to reinforce paragraph (h) for regional Western Australians. That is a reason that I support the amendment to the amendment. The amendment in its original form, and with this amendment to it, talks about access. We are not talking about having oncologists on every street corner; we are talking about access to palliative care and end-of-life choices. How that access is delivered is for the government to work out. I think palliative care is really part of that and it is highlighted in clause 4(1)(h).

Hon MARTIN ALDRIDGE: I hope we can get to a vote on this shortly, but I take on board that a lot of members have expressed the view that they take very seriously the provision of palliative care. I put to the members who support this amendment to my amendment to insert these words that the proper place to have given consideration to this matter is at clause 4(1)(d), which is a specific principle that relates to the provision of high-quality care and treatment, including palliative care and treatment. I would have thought that if members felt compelled to support the amendment before the Chair, that would have been the appropriate place to have supported it. It could have included words similar to those in paragraph (h), which states —

> … irrespective of where the person lives in Western Australia and having regard to the person's culture and language;

It may not have included all those words but certainly the words "irrespective of where the person lives in Western Australia". That would have been a more appropriate amendment, because high-quality care can mean different things to different people in different places. That better reflects the reality; that is, we do not have a one-size-fits-all approach to the delivery of healthcare services in Western Australia, and we never will. I think it is

unfair to include these words and say that we will be able to deliver palliative care in the same way as we deliver palliative care in Perth, or at least deliver the same level of access, excluding all the other medical services.

Hon Adele Farina commented that I had not responded to Hon Aaron Stonehouse and his concern that the inclusion of this principle would create a circumstance in which the state would provide voluntary assisted dying. I think I did respond to Hon Aaron Stonehouse. I do not deny the fact that the state of Western Australia will be intrinsically involved in just about every step of voluntary assisted dying. They may not be the private practitioner who is assessing the patient but they could be the public practitioner who is assessing the patient, the public hospital who is looking after the patient, the State Administrative Tribunal that is reviewing a decision or the CEO of the Department of Health exercising a power under the provisions of this bill, and potentially under this act. I do not deny that the state will be involved in voluntary assisted dying. I think the inclusion of this principle in the form that I propose better reflects the commitment by the government and the reality that we face.

Division

Amendment on the amendment put and a division taken, the Deputy Chair (Hon Robin Chapple) casting his vote with the noes, with the following result —

Ayes (17)

Hon Jim Chown	Hon Rick Mazza	Hon Tjorn Sibma	Hon Alison Xamon
Hon Peter Collier	Hon Michael Mischin	Hon Charles Smith	Hon Ken Baston *(Teller)*
Hon Donna Faragher	Hon Simon O'Brien	Hon Aaron Stonehouse	
Hon Adele Farina	Hon Martin Pritchard	Hon Dr Steve Thomas	
Hon Nick Goiran	Hon Robin Scott	Hon Colin Tincknell	

Noes (18)

Hon Martin Aldridge	Hon Stephen Dawson	Hon Colin Holt	Hon Dr Sally Talbot
Hon Jacqui Boydell	Hon Colin de Grussa	Hon Alannah MacTiernan	Hon Darren West
Hon Robin Chapple	Hon Sue Ellery	Hon Kyle McGinn	Hon Pierre Yang *(Teller)*
Hon Tim Clifford	Hon Diane Evers	Hon Samantha Rowe	
Hon Alanna Clohesy	Hon Laurie Graham	Hon Matthew Swinbourn	

Amendment on the amendment thus negatived.

The DEPUTY CHAIR: Members, we return to the original amendment 408/4 moved by Hon Martin Aldridge —

Page 3, after line 16 — To insert —

(ha) a person who is a regional resident is entitled to the same level of access to voluntary assisted dying as a person who lives in the metropolitan region;

Hon AARON STONEHOUSE: Now that we are back to discussing the substantive amendment, it would be a good opportunity to further clarify why I oppose the amendment. It is true that in responding to my comments, Hon Martin Aldridge pointed out that the state will be intimately involved in every aspect of voluntary assisted dying as a result of this bill. That is certainly true, but I feel that putting in place an entitlement to voluntary assisted dying places an obligation on the state that pushes it beyond a level of facilitation of VAD that I am comfortable with. It stems from my view that, ultimately, individuals have a right to make choices about their end-of-life care, but then we weigh into issues such as what is a right and what is the state's obligation for an individual's rights. It is a weird political science space that we start wandering into.

To try to put it into really simple terms, I will use a couple of analogies to help illustrate to members where I am going with this. People have a right to free speech in a natural justice sense, but also, as interpreted by the High Court, people have a right to political communication. But we will deal with the natural justice sense of a right to free speech, which is recognised in common law and in the broad political consensus that we have in Australia. People have a right to free speech. Some people on certain ends of the political spectrum may place limitations on that, but a person's right to free speech ensures that the government cannot act to curtail their free speech. It does not mean that the government needs to give them a megaphone, a soapbox to stand upon, a website, a TV show, or a radio station. Their right to free speech simply means that the government cannot interfere with their right to speak freely and communicate with other people.

I am an advocate of the decriminalisation or legalisation of cannabis for recreational use. It is a rather controversial position to some. My belief that the government should not criminalise the consumption or cultivation of cannabis does not mean that I believe the government should provide cannabis to people who wish to use it. Removing

criminal penalties for smoking cannabis is very different from the government becoming a cannabis dispensary, getting into the business of producing cannabis and ensuring that every citizen, regardless of where they live and their economic means, has access to cannabis.

I hope members will forgive me if this is a rather controversial topic. I will choose another contentious social issue that has weighty moral and ethical issues at its heart—that is, abortion. To argue that abortion should be decriminalised is very different from arguing that the state should provide abortion services at the expense of the taxpayer. They are very different things. To remove criminal penalties or a constraint on someone seeking to access a service is very different from the state becoming the primary service provider or taking a central role in the provision of that service.

A right to exercise freedom is very different from an obligation on government to provide people with that service. We have the right to buy and own private property. At least, I think everyone except those on the political fringe left believe that people have a right to private property. That does not mean that the government has an obligation to provide people with a house. We have a right to own clothing and to buy food and water, but there is no obligation on the state to provide people with clothing, food or water. We certainly provide welfare and have a social safety net. Some acts and statutes may have in their principles the principle that the state should provide those services. However, if we are talking about the natural justice sense of rights and what government is instituted to protect and provide for citizens, there is a real distinction between what people should be free to pursue on their own terms without unnecessary government interference and what the government has an obligation to provide to them. Regardless of whether members see voluntary assisted dying as I do—as something people should have a right to access if they choose to, but that the government should not be obliged to provide to them as a subsidised service—they should at least recognise a distinction between the two. There is a distinction between the right for citizens to pursue something and an obligation on the state to provide that service.

Taking the classical liberal view that government should be instituted to protect rights such as life, liberty and property, and that people are autonomous, own their own bodies, and have a right to make their own choices about their own life and their own bodies as long as they do not harm anybody else, I am rather uncomfortable with this amendment and I will not be supporting it. Regardless of the fact that I do not think anybody should be blocked from accessing voluntary assisted dying, as long as they are exercising their own conscience and are fully informed and have capacity, putting an obligation on the state to provide voluntary assisted dying to anyone regardless of where they live is a step too far for me.

Hon NICK GOIRAN: I rise briefly to indicate that, like Hon Aaron Stonehouse, I will be opposing this amendment that has been moved. I do that for two reasons. One is that I share the reasons he has just articulated. Secondly, if we as a chamber support this now, having defeated the previous amendment, we absolutely send the wrong message to regional Western Australia, and that is something I cannot support.

Committee interrupted, pursuant to standing orders.

[Continued on page 8986.]

Sitting suspended from 4.15 to 4.30 pm