

VOLUNTARY ASSISTED DYING BILL 2019

Second Reading Speech

Opening

Mr Speaker I move that the Bill now be read a second time.
The Bill before you today deals with the introduction of voluntary assisted dying in Western Australia.

Introduction

This is a landmark piece of legislation, of which this Government is exceptionally proud.

This is a Bill that provides a **safe and compassionate** approach to voluntary assisted dying, providing a workable legal framework that will address an issue for which the community has consistently expressed support over many years.

The Bill reflects the extensive consultation conducted in the State over the last two years, and indeed globally on this issue over the last 25 years.

Mr Speaker, voluntary assisted dying is not a matter of a choice between life and death.

It is a choice for those who are going to die, for whom death is inevitable and imminent, but who can exercise the autonomy which is at the heart of what it is to be human – the exercise of free will.

On 15 July 2019, Kerry Robertson became the first person to end her life under the Victorian voluntary assisted dying laws. Her two daughter's said of their mother's death:

"Palliative care did their job as well as they could. But it had been a long battle. She was tired, the pain was intolerable and there was no quality of life left for her. We were there with her; her favourite music was playing in the background and she was surrounded by love. She left this world with courage and grace, knowing how much she is loved."

This does not seem an unreasonable expectation. It embodies compassion – to relieve unbearable suffering, it embodies respect – for the choice of the dying person. Death comes to us all. For some in our community the death to which they will succumb requires us to really examine what it means to be compassionate.

It will challenge Members to consider the views of their communities and also to inform themselves of the facts – and the myths – associated with voluntary assisted dying.

And, as we enter this debate, I ask that all Members do so respectfully, in good faith and conduct themselves with dignity. It will take leadership and courage to introduce voluntary assisted dying in Western Australia.

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Joint Select Committee

Mr Speaker, in August 2017, the Western Australian Parliament appointed a Joint Select Committee (**the Committee**) to inquire into End of Life Choices.

The Committee ran for a year and received over **700** submissions. It held **81** hearings and heard from more than **130** witnesses. A year later, the Committee tabled its report: My Life, My Choice (**the Report**).

The Report reflected the broad community agreement about the importance of individual autonomy and choice over end of life matters. The Committee recommended that the Government introduce legislation for voluntary assisted dying having regard to the framework recommended in their Report.

I take this opportunity to recognise the considerable work undertaken by the Committee and in particular acknowledge the contribution of the Chairperson, the Member for Morley and also the Honourable Colin Holt MLC, the Member for South West Region.

I also place on record my thanks to those courageous Western Australians who gave evidence to the Committee and shared deeply personal stories of their loved ones in their final days.

Government Response

Mr Speaker, the Government responded to the Report and supported all of the Committee recommendations.

Work is underway to improve the quality of advance health directives, and to strengthen and resource palliative care services.

Palliative Care

I would like to address palliative care in more detail.

As Members will be aware I am hosting a palliative care summit on 24 August 2019 and I look forward to continuing to work with the sector.

In the context of this debate, **Members are not considering voluntary assisted dying *instead of* palliative care.** We are considering the compassion we should show to those people for whom palliative care does not relieve their suffering.

Palliative Care Australia has acknowledged that while pain and other symptoms can be helped, complete relief of suffering is not always possible, even with optimal palliative care.

Equally, when members of the Australian Medical Association were surveyed on this issue in 2016, **67.9%** of respondents agreed that there are patients for whom palliative care or other end of life care services cannot adequately alleviate their suffering.

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There have been significant advances in end of life care and as a community we are indebted to the professionalism and expertise of the Doctors, Nurses, Carers and other health professionals who provide palliative care across our State.

This Government is wholeheartedly committed to improving palliative care services and announced **\$47.4 million** towards palliative care in the 2019-20 budget taking **expenditure over the four years to 2023** to a record **\$206.2 million**.

This is the largest investment into palliative care in the State's history and will boost services, in particular to our regional and rural communities.

I might also advise Members that detailed planning is underway to implement the WA Department of Health Ten-year End-of-Life and Palliative Care Strategy which was released in 2018. The Strategy will ensure a strategic state-wide policy direction for quality end-of-life and palliative care.

Ministerial Expert Panel

Mr Speaker, this Bill comes to the House following a long and considered process of community consultation.

Arising from the recommendations of the Joint Select Committee, a Ministerial Expert Panel (**the Panel**) was appointed to undertake consultation and develop legislation for voluntary assisted dying in Western Australia.

The Panel was chaired by Malcolm McCusker, AC QC; former Governor of Western Australia. Panel members included senior palliative care physicians, two former AMA (WA) Presidents, a former WA Chief Medical Officer and a former WA Chief Nurse. Lawyers, including a law reform Commissioner, a leading disability advocate, representatives from the Culturally and Linguistically Diverse and Indigenous communities, and a community representative with personal lived experience.

The Panel heard from **867 participants** and organisations during the consultation process. It received **541 submissions**. More than **60 organisations** were consulted. The consultation process is outlined in the Panel's Final Report.

This was an in-depth, comprehensive consultative process that respectfully heard the views, comments and suggestions of the public as well as health professionals and other subject matter experts.

The Panel's comprehensive Final Report provided Government with recommendations for the introduction of voluntary assisted dying legislation.

The Government carefully considered all the Panel's recommendations, however has chosen to adopt a cautious approach.

The Western Australian community would expect nothing less than a careful and considered response from its Government on this issue.

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The case for voluntary assisted dying

Mr Speaker, this debate will be a deeply personal one and from the outset I want to acknowledge the Western Australians and Members of this place who will share with us experiences about their loved ones and what they witnessed in the final days.

As a society we don't talk enough about death. While we are comfortable discussing how to lead good lives, we are less at ease talking about how we might have a good death.

By opening up the conversation about death we are also opening up the conversation about palliative care and making it easier for patients to access it. In those jurisdictions with voluntary assisted dying, they are accessing palliative care at increasing rates.

Palliative Care Australia has reported that if anything, in jurisdictions where assisted dying is available, the palliative care sector has further advanced.

Giving people who are at the end of their lives a choice about the timing and circumstances of their death, whilst ensuring strong protections, is the compassionate thing to do.

Western Australians should be supported in making informed decisions about their medical treatment, and should be able to choose to spend their last days surrounded by loved ones, coherent and without pain, and ideally at home. This is a rational choice.

Mr Speaker, witnesses to the Joint Select Committee shared their experiences. Personal stories are compelling and I am sure Members will be moved by these experiences as I have been. One witness, William Philip shared the story of his wife:

"In the next 10 days she basically drowned slowly. Her lungs continued to fill up. No matter what the doctors did, they were not able to do anything about it, nor were they able to put her out sufficiently that she was unaware of it...Her eyes were bugging out and she was throwing herself around: she was terrified and that should not have happened. The palliative care people came that day, they helped stabilise her and they were as good as they possibly could have been.

I think they were there three or four times that day and she should have settled down, but from then on she just gradually, quietly drowned."

Another witness described the terrible suffering their Mother experienced in her final days with these words:

"A nurse said: "Look, it's her last, final hours...what's going to happen is we're going to give her some morphine when she starts twitching. She will settle – give it some time to kick in – and just keep calling us when she twitches. So it was four or five cycles of madness.

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So my mum twitches, we call the nurse, they come within five minutes, they press the button to give her more morphine... It takes her 15, 20 minutes to settle. There is peace and quiet for a little while – maybe half an hour if we are lucky – and then she starts twitching again, and then we call the nurse again and then they inject her again, and then we wait and then she twitches and then we inject and then we wait and then she twitches and then they inject and then we wait!

It was absolutely pointless. Then mum was pronounced dead at 8.20am.”

Yesterday with the Premier, and with other Members present, I greeted Belinda Teh on the steps of Parliament House.

Belinda walked three and a half thousand kilometres from Melbourne to Perth in honour of her mother who endured a painful and agonising death.

An advocate for voluntary assisted dying laws in Western Australia, Belinda acknowledged her mother received the best possible palliative care anyone could wish for - here in Western Australia.

But it simply wasn't enough. Belinda said:

“My mother died in a way that will haunt me for the rest of my life. There are some things we cannot change and there are some things we can.”

Mr Speaker, the current laws are outdated and put patients and health practitioners at risk. Some Doctors have acknowledged people are being assisted to die right now. But this practice is hidden, unregulated and potentially unsafe.

This Bill provides a legal framework ensuring protections for the person and for health practitioners. No health practitioner who follows the requirements of the Bill should be worried about being prosecuted.

The Coroner tells us that in Western Australia around 10% of suicides are linked to chronic disease or terminal illness – these include deaths from plastic bag asphyxiation, hanging and gunshot.

These are the wrongful deaths we should be concerned about. This is where our compassion is lacking. We can do better than condemn people to suicide.

There is also an unknown cost – the consequences of unsuccessful suicides. That people are left so desperate is shocking, the distress for their families unimaginable.

The Joint Select Committee reported that there are currently several lawful options available to those with harrowing suffering due to terminal or life-limiting illness.

Commonly, individuals choose comfort care and refuse further medical treatment in place of continued invasive treatments that incur distressing side effects.

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Less commonly, individuals with extreme suffering elect to refuse food and water – deliberately striving to hasten their death. These deaths can be painful and distressing. As a civilised, compassionate society we should not accept this situation.

Mr Speaker, I would like to emphasise that this Bill has nothing to do with euthanasia. This is about providing assistance to someone who is dying. It is not euthanasia. And it is not suicide.

It would be wrong to confuse voluntary assisted dying with suicide. The Bill specifically provides that a voluntary assisted death is not a suicide.

Suicide involves the tragic loss of life of a person who is otherwise not dying. Voluntary assisted dying involves a person's choice about the manner of their death when faced with their inevitable and imminent death as a result of an incurable disease, illness or medical condition.

I might also say that voluntary assisted dying does not detract from our determination to reduce the incidence of suicide in our community.

Background to the Bill

Mr Speaker, while the Joint Select Committee was conducting its inquiry in this State, the Victorian Parliament passed the *Voluntary Assisted Dying Act 2017* (Vic).

The Victorian legislation presented Western Australia with the opportunity to examine the approach taken in Victoria. However, during the development of the Bill, the circumstances and needs of Western Australia have been kept in mind.

Western Australia has different clinical models than Victoria due to our geographical size and location. WA is the most culturally diverse state in Australia with Aboriginal people, migrants and refugees accounting for nearly 30% of our population.

Where possible, consistency with the Victorian legislation has been maintained, however this Bill reflects what is suitable for the needs of Western Australians.

Before I move on to provide a more detailed explanation of the Bill, I would like to bring to the attention of Member's some key elements of the eligibility requirements:

- At all stages this is voluntary process for people and health practitioners.
- The person must be 18 years or older, an Australian citizen or permanent resident and ordinarily resident in WA, for the past 12 months.
- The person must be:
 - Diagnosed with a disease, illness or medical condition that is advanced and progressive and will cause death;
 - The condition will, on the balance of probabilities, cause death within 6 months (or 12 months in the case of neurodegenerative illness); and
 - The person is experiencing suffering that cannot be relieved in a manner that the patient considers tolerable.

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- Eligibility will be assessed independently by two Doctors who must have completed mandatory training to:
 - Understand the legislation
 - Assess decision-making capacity
 - Detect coercion
 - Communicate with patients at end of life, and
 - Understand the patients palliative care options

Mr Speaker, the Government carefully considered the question of coercion.

Under the Bill it will be a crime to induce or coerce another person to participate in voluntary assisted dying.

There have been numerous inquiries both internationally and in Australia that have considered the issue of coercion. These inquiries concluded there is no evidence the vulnerable are being coerced into accessing voluntary assisted dying.

Patients already make a range of life and death medical decisions. For example, decisions to undergo, or withdraw from chemotherapy, to remove assisted ventilation, to commence or cease medical hydration and nutrition, or to commence or cease renal dialysis.

Such decisions, routinely made by patients in collaboration with their doctors, do not have the legislative safeguards proposed for voluntary assisted dying.

If in assessing eligibility, a doctor is unable to determine whether the decision is voluntary and free from coercion, the doctor must refer to a suitably qualified and experienced person for further assessment.

As an additional safeguard, the CEO of the Health Department and the Police have powers to investigate the process, including powers of entry, search and seizure regarding any concerns with conduct under this law.

We take the risk of coercion seriously. The Bill provides robust and rigorous safeguards to ensure access to voluntary assisted dying will only be for those who are assessed to be eligible.

The Government will also provide an implementation phase for the law, which we anticipate will take eighteen months to complete. It will enable the development of policies and protocols, and the establishment of a Voluntary Assisted Dying Board to ensure compliance with the law.

Safeguards

Mr Speaker, there are **102** safeguards within the Bill and I will provide a document to outline these for Members.

The Government has worked hard to find the right balance in this Bill -between the safeguards necessary to ensure the integrity of the model, and ensuring we do not

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prevent those eligible who genuinely wish to access voluntary assisted dying from doing so.

Overview of the Bill

Pursuant to Standing Order 126(1), I advise this Bill is not a uniform legislation Bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the Government of the State is a party. Nor does this Bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the Commonwealth.

Mr Speaker, I now turn to a more detailed explanation of the Bill.

The Bill proposes a systematic process through which a person may access voluntary assisted dying. From requesting access to voluntary assisted dying, to the prescription, dispensing, administration and disposal of a voluntary assisted dying substance, the Bill includes a number of safeguards that reflect the needs of the Western Australian community.

[Part 1 of the Bill- preliminary]

Part 1 of the Bill sets out the principles and the key themes for voluntary assisted dying in Western Australia. The principles will serve as a guide in interpreting and applying the Bill - they reflect the importance of giving people genuine choice and autonomy over their decision making, while also recognising the need to protect individuals who may be vulnerable to undue influence.

Notably, the Bill enshrines the right of registered health practitioners to refuse to participate in the voluntary assisted dying process. A health practitioner may be a conscientious objector, or they may object for other reasons such as not meeting essential qualifications, or being unable or unwilling to perform the training and duties required by the Bill.

The Bill reflects the position that participation in the voluntary assisted dying process is completely voluntary and there is no obligation for anyone to participate.

Health practitioners must still provide general information about voluntary assisted dying to the person who has requested access to voluntary assisted dying. After all, this person is still a patient to whom a duty is owed under the Western Australia Health care system.

That the person's decision is well informed throughout the process is a fundamental safeguard to the proposed model for voluntary assisted dying in Western Australia.

Standardised information regarding the voluntary assisted dying process will be developed during the implementation phase and be made available to all health practitioners for provision to patients who make a request or require information.

A registered health practitioner will be able to begin a discussion about voluntary assisted dying with a patient to whom they are providing health or professional care

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services. There should not be an attempt to censor the conversations that health practitioners have with patients and they should be able to raise and discuss voluntary assisted dying in the same way as other serious health or medical decisions at end of life.

The Bill also makes clear that a person who seeks to access voluntary assisted dying may, at any time, decide not to proceed with the process. This provision reflects the voluntary nature of voluntary assisted dying, and that in order for the process to continue, the person's choice to participate is paramount.

The entire process must be driven by the person. Their decision to participate must be enduring. The person is not obliged at any stage of the process to take any further action to continue.

[Part 2 of the Bill - Requirements for access to voluntary assisted dying]

Part 2 of the Bill sets out the requirements for access to voluntary assisted dying, including the **eligibility criteria** against which a patient is assessed. The Government acknowledges that the criteria will prevent some from gaining access. However, the criteria are a necessary safeguard to ensure that people can be appropriately assessed and only those at end of life have access.

The **first criterion** is that a patient seeking to access voluntary assisted dying must be at least 18 years old. It is the position of this Government that only adults should be eligible to make this choice about their death.

The **second criterion** is that the patient must be an Australian citizen or permanent resident, and at the time of making the request for voluntary assisted dying and have been resident in Western Australia for a minimum of 12 months.

The **third criterion** is that the patient must be diagnosed with a disease, illness or medical condition that has certain characteristics - namely, it must be: advanced, progressive and will cause death. It must also, on the balance of probabilities, cause death within 6 months, or in case of a disease, illness or medical condition that is neurodegenerative, within 12 months.

These factors will be determined on a clinical basis by the medical practitioner based on an individual's particular circumstances, including their overall condition and their comorbidities.

The disease, illness or medical condition must also cause suffering to the patient that cannot be relieved in a manner that the patient considers tolerable. This is a subjective element to be determined by the patient and is consistent with the person-centred approach of the Bill to voluntary assisted dying.

The Government carefully considered the recommendation of the Ministerial Expert Panel regarding the timeline until death. A timeline of six months, or twelve months in the case of neurodegenerative illness, reflects that to be eligible, a person must truly be at the end stage of their life. This is consistent with the Victorian Act.

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The **fourth criterion** that must be satisfied by the person is they must have decision-making capacity in relation to voluntary assisted dying.

A person's decision-making capacity is assessed at several stages throughout the voluntary assisted dying process. This staged approach, as set out in the Bill, reflects that a person's capacity to make decisions about voluntary assisted dying may fluctuate, and that in order to access it there must be enduring decision making capacity.

The assessment process reflects current clinical practice in Western Australia and endorses the position of the Royal Australian and New Zealand College of Psychiatrists that referral for specialist assessment only occur where there is doubt about decision-making capacity.

Concerns were raised during the public consultation that the system should include a mandatory psychiatric review. The Royal Australian and New Zealand College of Psychiatrists submission to the Joint Select Committee indicated that referral should only be mandatory where there is doubt about decision-making capacity.

Doctors assess decision-making capacity every day as part of ordinary clinical practice. Doctors have to determine if a person has capacity to decide to undergo chemotherapy, or life-saving surgery. They have to decide if a person has capacity to refuse life-sustaining treatment, such as dialysis. This is part of routine clinical practice.

Notwithstanding this, the Bill requires that a doctor must refer the person to a psychiatrist, other appropriate health practitioner, if they are unable to determine capacity.

In addition, further training to assess decision-making capacity and to identify signs of coercion will be an important part of the mandatory training for participating health practitioners.

In deciding if a person has decision-making capacity, the assessor must be satisfied of five things in relation to the voluntary assisted dying – that the person has the capacity to: understand any information or advice about the decision that is required under the Act to be provided to the person; understand the matters involved in the decision; understand the effect of the decision; weigh up these factors for the purpose of making the decision; and communicate the decision in some way.

For example, the patient has the capacity to understand that he or she will die if they self-administer or are administered a voluntary assisted dying substance.

In addition, the State Administrative Tribunal may review any determination about decision-making capacity. This review process can be commenced by the person, their agent or any person who the Tribunal is satisfied has a special interest in the medical care and treatment of the person.

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The **fifth criterion** is that the person must be acting voluntarily and without coercion. Participation in the voluntary assisted dying process will always be completely voluntary. Furthermore, it is fundamental that a person is not being coerced or unduly influenced to request or access voluntary assisted dying.

The **sixth criterion** is that the person's request for access to voluntary assisted dying must be enduring. This enshrines the position that in order for the voluntary assisted dying process to continue, the person's continuing decision to participate is paramount.

[Part 3 of the Bill -Request and assessment process]

Part 3 of the Bill sets out the request and assessment process for voluntary assisted dying. This is a robust process that ensures an accurate assessment of the person's eligibility criteria can be made. Rigorous criteria and safeguards throughout the process actively prevent a person from being coerced or manipulated into engaging in the voluntary assisted dying process.

Request and assessment requires three requests by the person - two verbal requests with a written declaration in between that must be witnessed by two independent people who will not benefit financially in any way from the death of the person.

Assessments must be conducted by two independent registered medical practitioners. Both medical practitioners must independently come to the view that the patient satisfies all the eligibility criteria.

In accordance with best clinical practice, both medical practitioners are also able to refer any part of the assessment to a suitably qualified professional with specialised skills and training.

Where a doctor is unable to determine the diagnosis, the prognosis, decision-making capacity or whether the person is acting voluntarily and without coercion, the Bill requires that the doctor must refer to a registered health practitioner or another person who has the skills and training to make a determination.

This may include a psychiatrist, neurologist, clinical psychologist or other health professional. In the case of coercion, it may also include referral to a social worker, a police officer or other suitable experienced and qualified person for investigation.

Following these assessments, there is also a final review to ensure that all the proper steps have been followed. The Bill balances the need for a thorough assessment of eligibility whilst ensuring the process is not too cumbersome for the person seeking to access voluntary assisted dying.

The Bill sets out the minimum experience requirements that a medical practitioner must have before they may carry out specific roles under the Bill.

Only qualified and suitably experienced and trained medical practitioners may assess a person's eligibility. The minimum requirements are supported by advice from the

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Western Australian branch of the Medical Board of Australia and are consistent with recommendations by the Ministerial Expert Panel.

The Doctor must either be a specialist with at least one year's experience as a specialist, or a generalist doctor with at least 10-years-experience as a doctor or an overseas trained specialist who meets the requirements set down by the CEO.

In all cases, each medical practitioner must have also successfully completed the approved voluntary assisted dying training. The training will ensure that the medical practitioners are: aware of their legal obligations under the Act; understand the eligibility criteria that must be met; and are able to assess the person against the eligibility criteria.

Training will be developed during the implementation period of the Bill. The Royal Australian College of General Practitioners has indicated that the College is prepared to assist in the development of appropriate training and provide accreditation for health practitioners.

A person who meets all the eligibility criteria is not automatically able to access voluntary assisted dying. Each medical practitioner, having assessed that a person meets the eligibility criteria, must inform the person about a number of matters related to the voluntary assisted dying process and the person's specific circumstances and options under the process.

Only where both the medical practitioners are also satisfied that the person understands the information provided, will they be able to conclude that the patient is eligible for access to voluntary assisted dying.

[Part 4 of the Bill – Accessing voluntary assisted dying and death]

Part 4 of the Bill provides that a person may only progress to the next stage of the voluntary assisted dying process if the request and assessment process has been properly completed. The patient may then make an administration decision – about either self-administration or by practitioner administration of the voluntary assisted dying substance.

This administration decision must be made in consultation with, and on the advice of, the person's coordinating practitioner. It must be a decision that both the coordinating practitioner and the person discuss, and to which the person consents and the coordinating practitioner agrees to. This position has been strongly supported through the public consultation process.

It is clear that practitioner administration should not be limited to circumstances where only people who are physically incapable of self-administration.

For example, a physically-capable person may still have an inability to self-administer due to concerns about being able to ingest or absorb the medication.

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In certain circumstances the Bill provides that a qualified nurse practitioner, who has also undergone the training, may be able to administer the voluntary assisted dying substance to the patient.

Practitioner administration requires an independent witness to be present.

If a person makes a decision to self-administer the voluntary assisted dying substance, the coordinating practitioner will only prescribe a voluntary assisted dying substance if the person has appointed a contact person.

The contact person's role is to ensure that once supplied, a voluntary assisted dying substance can be monitored and safely disposed of, if unused.

This ensures that a patient is supported in the management of the voluntary assisted dying substance. Clearly identifying who will be responsible for returning any unused substance to the authorised disposer is another safeguard in the process of accessing voluntary assisted dying in this State.

Part 4 of the Bill also sets out the requirements for prescribing, dispensing, administration and disposal of a voluntary assisted dying substance, consistent with the *Medicines and Poisons Act 2014* (WA) and the safeguards afforded by that Act.

The Bill authorises the coordinating practitioner to prescribe the voluntary assisted dying substance from an approved list. Regardless of whether a self-administration or practitioner administration decision is made, the coordinating practitioner will send the prescription directly to the authorised supplier, who will supply the prescribed substance to the patient or their agent when required.

This is another safeguard built into the legislation as it negates the ability for another person to copy the patient's prescription, or for the type of substance being used for voluntary assisted dying to be made public.

The type of voluntary assisted dying substance prescribed will depend on the person's illness, disease or medical condition and the ability of the person to self-administer.

The Bill makes provision for authorised suppliers and authorised disposers to deal with the proper supply and disposal of substances prescribed for the purposes of voluntary assisted dying. Only registered health practitioners who are authorised to supply or dispose of a Schedule 4 and 8 poison will be designated as an authorised supplier or authorised disposer.

As noted earlier, where there are any concerns around the medication process, the Bill provides for WA Police, or an investigator appointed by the CEO, to conduct an investigation under the *Medicines and Poisons Act*. They will be empowered to enter premises, search, seize items, question and use reasonable force to conduct their investigation.

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The Victorian Act provides for a 'permit' system however, this is not a further clinical review. It is an opportunity to ensure compliance with the request and assessment process.

This reflects processes consistent with this State. It includes express authorisations that enable the prescription, supply, preparation, possession and disposal of the voluntary assisted dying substance.

These authorisations offer protection for health practitioners performing functions under the Bill, and a safeguard for patients seeking to access voluntary assisted dying.

The prescription must include a statement that clearly indicates it is for a voluntary assisted dying substance and certifies that:

- a. The request and assessment process has been completed in respect of the patient in accordance with the Voluntary Assisted Dying Act,
- b. The patient has made an administration decision and
- c. Whether the decision is for self-administration or practitioner administration.

The first request, the assessments, the written declaration, the final review, the contact person, the prescription and dispensing of medication must all be reported to the Voluntary Assisted Dying Board within two days of each step taking place.

The supplier of the substance is prohibited from supplying the substance unless they have confirmed the authenticity of the prescription, the identity of the person who issued the prescription, and the identity of the person to whom the substance is to be supplied.

There are also specific labelling requirements for a prescribed substance. These requirements are in addition to any labelling requirements under the *Medicines and Poisons Act 2014* (WA).

[Part 5 of the Bill - Matters reviewable to the State Administrative Tribunal]

Part 5 of the Bill establishes the review jurisdiction of the State Administrative Tribunal (**the Tribunal**), whereby an eligible applicant may apply to the Tribunal for a review of particular decisions the medical practitioner makes under the Bill - namely:

- a. Whether the patient is or is not ordinarily resident in Western Australia for 12 months at the time of making the first request, or
- b. Has or does not have decision-making capacity in relation to voluntary assisted dying, or
- c. Is or is not acting voluntarily and without coercion.

An applicant who is eligible to apply to the Tribunal will include the patient or their agent, and any other person that the Tribunal is satisfied has a special interest in the medical care and treatment.

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The requirement of 'special interest' excludes people who simply oppose voluntary assisted dying - they cannot interfere with the autonomous decision of the person.

Merely being a member of the person's family or their primary caregiver is not, on its own, intended to be sufficient to constitute having a special interest – 'special interest' will be determined on a case by case basis by the Tribunal.

[Part 6 to 8 of the Bill – Offences, Enforcement and Protection from liability]

Part 6 of the Bill creates a number of indictable offences for breaches of conduct that could occur as a result of the legalisation of voluntary assisted dying. Existing criminal laws will still apply.

The Bill makes it a crime for a person to administer a prescribed substance to another person other than as authorised under the Bill. The penalty attributed to this offence is life imprisonment.

This reflects the seriousness of anyone administering a voluntary assisted dying substance outside the process allowed under the Bill.

Administration (of the substance) may only occur via practitioner administration to the person, or via self-administration (by the person to themselves). This offence provision is a clear warning to all that there are strong repercussions for anyone who intentionally contravenes the fundamental requirements of the voluntary assisted dying process under the Bill.

The Bill also creates a number of other offences, including those related to inducement, making or giving false or misleading statements or information and failure to return a prescribed substance to an authorised disposer.

The penalties attributed to each offence reflect the severity of particular conduct and breaches of the provisions of the Bill. They are also consistent with the penalties in Western Australia for similar offences. WA Police, the Department of Justice and the Director of Public Prosecutions provided feedback on the offence provisions.

Part 7 of the Bill will allow for the contraventions of a Voluntary Assisted Dying Act to be investigated and the provisions of the Act to be enforced.

Part 8 of the Bill creates a number of express protections from liability that may arise due to the voluntary assisted dying process. These protections are important, as it would be unfair and unreasonable for a person to be found liable for doing, or not doing, something which is complementary to the process being enabled under this Bill. These protections do not exempt a person who acts contrary to their obligations, or contrary to what is enabled, under the Bill.

[Part 9 of the Bill –Voluntary Assisted Dying Board]

Part 9 of the Bill establishes a statutory board to ensure proper adherence to the Bill and to recommend safety and quality improvements.

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The Voluntary Assisted Dying Board (**the Board**) will primarily have a monitoring and advisory role on matters related to voluntary assisted dying - collecting and maintaining data, reporting to the Houses of the Parliament on the operation of voluntary assisted dying in Western Australia and making recommendations on best practice or areas needing improvement.

The Bill sets out comprehensive reporting requirements that enable the Board to check that each stage of the voluntary assisted dying process is being correctly followed. Each step must be recorded in an approved form and provided to the Board.

The Board will have a holistic view of the process and will maintain complete and accurate statistics of participation in voluntary assisted dying in Western Australia.

The Bill also enables the Board to make essential notifications or refer suspected contraventions of the Bill to bodies such as the Western Australia Police, the Coroner's Court and the Australian Health Practitioner Regulation Agency. This is a critical safeguard as it enables the appropriate authorities to investigate potential criminal conduct, professional misconduct, or any other wrongdoing.

Conclusion

Mr Speaker, this is not a slippery slope. Parliamentary processes, such as those in Victoria, Canada, Oregon and other American states have demonstrated that considered, evidence-based reform sought by the community can be appropriately legislated by parliaments.

There is no reason why we can't do the same in Western Australia for our community. For us to meet the test of what it means to show genuine compassion for those in our community who are enduring a level suffering most of us would be unable to imagine. In other jurisdictions, introducing a legal framework for assisted dying reduced the incidence of unlawful activity. Australian and international inquiries demonstrate that the vulnerable can be protected.

The Government recognises the importance of all end of life care. The Bill does not create a lower standard of care for people who are coming to the end of their lives. We are not replacing palliative care. We are providing another option for those who are dying.

What emerged from the Joint Select Committee and the Ministerial Expert Panel is that the current legal framework and medical interventions surrounding end of life care do not adequately meet the needs of a small but significant group of people.

This Bill is an answer to those who are at the end of life and who so often lack the health, strength or voice to be heard.

People want their loved ones around them as they die, they want to be able to say goodbye properly. It doesn't seem to be too much to ask.

VOLUNTARY ASSISTED DYING BILL 2019

Second Reading Speech

Today we say to those Western Australians, *“We hear you. We want you to have a choice at the end of your life, when the end is inevitable. We want you to be able to make your own decision.”*

The Bill includes safeguards embedded at each step to ensure that only those persons who meet the eligibility criteria and who make an informed, voluntary and enduring decision, are able to partake in the process.

Mr Speaker, there have been six attempts to pass similar legislation through the Western Australian Parliament.

The time has come for us to provide safe and compassionate legislation to end the most severe suffering of those Western Australians who are currently dying without dignity. Who are dying without those they love being present, and who are often dying in the presence of their families in such terrible circumstances.

It is my hope that Members acknowledge community concerns and the calls for compassion to support people at the end of their lives. To provide dignity; to provide choice because Western Australians are ready for voluntary assisted dying.

Voluntary assisted dying enjoys huge public support: Newspoll, Vote Compass and other surveys over the last 10 years consistently show 80-88% support. This includes support of around 70% from people who identified as members of major religions.

Finally, Mr Speaker, this is a deeply personal matter. The public has asked us to grapple with this issue and we should do so.

In doing so we must ensure that we meet the standards the community expects of its leaders. I again ask Members to ensure our debate is respectful, compassionate and dignified.

Mr Speaker I now table documents outlining the proposed process, and the comprehensive safeguards built into the process.

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And, I commend the Bill to the House.