

WESTERN AUSTRALIA
LEGISLATIVE COUNCIL
AMENDMENTS AND SCHEDULES
Supplementary Notice Paper No. 139
Issue No. 15
THURSDAY, 28 NOVEMBER 2019

VOLUNTARY ASSISTED DYING BILL 2019 [139-1]

When in committee on the *Voluntary Assisted Dying Bill 2019*:

[* indicates amendments intended for consideration upon re-committal of Clauses 5, 14, and 26].

Clause 5

***Hon Nick Goiran:** To move –

127/5 Page 4, after line 9 — To insert:

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

***Hon Rick Mazza:** To move –

411/5 Page 4, lines 10 to 12 — To delete the lines.

***Hon Rick Mazza:** To move –

412/5 Page 4, line 30 to page 5, line 2 — To delete the lines.

***Hon Charles Smith:** To move –

25/5 Page 5, after line 15 — To insert:

enduring, in relation to a request for access to voluntary assisted dying, has a meaning affected by section 8A;

***Hon Charles Smith:** To move –

26/5 Page 6, after line 10 — To insert:

palliative care specialist means a medical practitioner who holds specialist registration (as defined in section 16(1)) in palliative medicine;

***Hon Charles Smith:** To move –

27/5 Page 7, after line 20 — To insert:

psychiatrist has the meaning given in the *Mental Health Act 2014* section 4;

***Hon Charles Smith:** To move –

28/5 Page 8, after line 2 — To insert:

self-administration form has the meaning given in section 59A(3);

***Hon Rick Mazza:** To move –

413/5 Page 8, after line 2 — To insert:

self-administration form has the meaning given in section 59A(3);

Clause 14

***Hon Rick Mazza:** To move –

415/14 Page 11, lines 22 and 23 — To delete the lines.

Clause 26

***Hon Rick Mazza:** To move –

416/26 Page 19, lines 1 and 2 — To delete the lines.

Clause 49

Hon Nick Goiran: To move –

87/49 Page 30, after line 31 — To insert:

- (ea) if the patient was assisted by an interpreter when making the final request, the name, contact details and accreditation details of the interpreter;

Clause 50

Hon Adele Farina: To move –

473/50 Page 31, after line 29 — To insert:

- (da) if the patient was assisted by an interpreter, the name, contact details and accreditation details of the interpreter;

New Part 3 Division 7 heading**Hon Charles Smith:** To move –

37/ND7 Page 32, after line 13 — To insert:

Division 7 — General provisions about request and assessment process**New Clause 52A****Hon Charles Smith:** To move –

38/NC52A Page 32, after line 23 — To insert:

52A. Board to be notified if patient decides not to continue or if request for access to voluntary assisted dying ceases to be enduring

- (1) This section applies if —
 - (a) at any time before the request and assessment process in respect of a patient is completed, the patient informs the coordinating practitioner for the patient of a decision not to continue the request and assessment process; or
 - (b) at any time after the request and assessment process in respect of a patient has been completed, the patient informs the coordinating practitioner for the patient of a decision not to take any further step in relation to access to voluntary assisted dying; or
 - (c) at any time after making a first request, a patient's request for access to voluntary assisted dying ceases to be enduring because the patient indicates to the coordinating practitioner or administering practitioner for the patient that the patient does not wish to continue the request and assessment process or access voluntary assisted dying.
- (2) The coordinating practitioner or administering practitioner referred to in subsection (1)(a), (b) or (c) must —
 - (a) record the decision, or that the request has ceased to be enduring, in the patient's medical record; and
 - (b) within 2 business days after being informed of the decision, or after the request has ceased to be enduring, complete the approved form (the *request cessation form*) and give a copy of it to the Board.
- (3) The request cessation form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the person completing the form;
 - (c) if the person completing the form is not the coordinating practitioner for the patient, the name and contact details of the coordinating practitioner;
 - (d) the date when the first request was made;
 - (e) if the request and assessment process in respect of the patient has been completed, the date when the final review form was signed;
 - (f) the date when the coordinating practitioner was informed of the decision referred to in subsection (1)(a) or (b), or the date when the request for access to voluntary assisted dying ceased to be enduring as referred to in subsection (1)(c), as the case requires;

- (g) the signature of the person completing the form and the date when the form was signed.

Clause 53

Hon Nick Goiran: To move –

468/53 Page 33, line 17 — To delete “training.” and insert:

- training;
- and
- (c) the person is not a family member of the patient;
- and
- (d) the person does not know or believe that —
 - (i) they are a beneficiary under a will of the patient; or
 - (ii) they may otherwise benefit financially or in any other material way from the death of the patient, other than by receiving reasonable fees for the provision of services as the administering practitioner for the patient.

Clause 55

Hon Nick Goiran: To move –

207/55 Page 34, line 22 — To insert after “assisted”:

dying

Clause 56

Hon Rick Mazza: To move –

417/56 Page 35, line 12 — To delete “coordinating” and insert:

administering

Hon Rick Mazza: To move –

418/56 Page 35, line 20 — To delete “coordinating practitioner or”.

Hon Rick Mazza: To move –

419/56 Page 35, line 24 — To delete “coordinating practitioner or”.

Hon Nick Goiran: To move –

88/56 Page 36, after line 12 — To insert:

- (ea) if the patient was assisted by an interpreter when revoking the administration decision, the name, contact details and accreditation details of the interpreter;

Clause 57**Hon Adele Farina:** To move –

479/57 Page 36, after line 23 — To insert:

- (2A) At the time of prescribing a voluntary assisted dying substance for the patient, the coordinating practitioner must inform the patient about the following matters —
- (a) the schedule 4 and/or schedule 8 poisons constituting the prescribed substance;
 - (b) the method by which the prescribed substance is to be self-administered;
 - (c) how to prepare and self-administer the prescribed substance;
 - (d) the expected effects of ingesting the prescribed substance;
 - (e) the expected time to death after ingestion;
 - (f) the potential risks of self-administrating the prescribed substance.

Hon Rick Mazza: To move –

420/57 Page 36, line 24 — To delete the line.

Hon Rick Mazza: To move –

421/57 Page 37, lines 1 and 2 — To delete the lines and insert:

- (c) supply the prescribed substance to the administering practitioner for the patient.

Hon Rick Mazza: To move –

422/57 Page 37, lines 3 to 18 — To delete the lines and insert:

- (4A) The administering practitioner for the patient is authorised to —
- (a) receive the prescribed substance from an authorised supplier; and
 - (b) possess the prescribed substance for the purpose of supplying it to the patient; and
 - (c) supply the prescribed substance to the patient immediately before the patient is ready to self-administer the prescribed substance if the administering practitioner is satisfied at the time of supply that —
 - (i) the patient has decision-making capacity in relation to voluntary assisted dying; and
 - (ii) the patient is acting voluntarily and without coercion; and
 - (iii) the patient's request for access to voluntary assisted dying is enduring.
- (5) The patient is authorised to —
- (a) receive the prescribed substance from the administering practitioner for the patient immediately before the patient is ready to self-administer the prescribed substance; and
 - (b) possess the prescribed substance for the purpose of preparing and self-administering it; and
 - (c) prepare the prescribed substance; and

- (d) in the presence of the administering practitioner for the patient and a witness, self-administer the prescribed substance.

Hon Charles Smith: To move –

39/57 Page 37, lines 9 and 10 — To delete the lines and insert:

- (c) if the coordinating practitioner for the patient is present and is satisfied as described in subsection (5A) —
 - (i) prepare the prescribed substance; and
 - (ii) self-administer the prescribed substance.

Hon Charles Smith: To move –

40/57 Page 37, after line 10 — To insert:

- (5A) For the purposes of subsection (5)(c), the coordinating practitioner must be satisfied at the time the patient prepares and self-administers the prescribed substance that —
 - (a) the patient has decision-making capacity in relation to voluntary assisted dying; and
 - (b) the patient is acting voluntarily and without coercion; and
 - (c) the patient’s request for access to voluntary assisted dying is enduring.
- (5B) After the patient self-administers the prescribed substance in the presence of the coordinating practitioner under subsection (5)(c), the coordinating practitioner must remain with the patient until the death of the patient.

Clause 58

Hon Adele Farina: To move –

480/58 Page 37, after line 24 — To insert:

- (2A) At the time of prescribing a voluntary assisted dying substance for the patient to be administered by the administering practitioner, the coordinating practitioner must inform the patient about the following matters —
 - (a) the schedule 4 and/or schedule 8 poisons constituting the prescribed substance;
 - (b) the method by which the prescribed substance is to be administered;
 - (c) the expected effects of the prescribed substance;
 - (d) the expected time to death after the prescribed substance is administered.

Hon Charles Smith: To move –

41/58 Page 38, after line 18 — To insert:

- (6) After administering the prescribed substance under subsection (5), the administering practitioner for the patient must remain with the patient until the death of the patient.

Clause 59

Hon Rick Mazza: To move –

423/59 Page 38, lines 26 to 32 — To delete the lines and insert:

- (b) give the Board a copy of the administration decision and prescription form.

Hon Nick Goiran: To move –

89/59 Page 39, after line 12 — To insert:

- (fa) if the patient was assisted by an interpreter when making the administration decision, the name, contact details and accreditation details of the interpreter;

New Clause 59A

Hon Charles Smith: To move –

42/NC59A Page 39, after line 14 — To insert:

59A. Certification by coordinating practitioner following self-administration of prescribed substance

- (1) This section applies if the patient self-administers the prescribed substance in the presence of the coordinating practitioner for the patient.
- (2) The coordinating practitioner must certify in writing that —
 - (a) the patient made a self-administration decision and did not revoke the decision; and
 - (b) the coordinating practitioner was present when the patient self-administered the prescribed substance and remained with the patient until the death of the patient; and
 - (c) the coordinating practitioner was satisfied at the time the patient self-administered the prescribed substance —
 - (i) that the patient had decision-making capacity in relation to voluntary assisted dying; and
 - (ii) that the patient was acting voluntarily and without coercion; and
 - (iii) that the patient's request for access to voluntary assisted dying was enduring.

- (3) The certificate must be in the approved form (the *self-administration form*) and must include the following —
 - (a) the name and date of birth of the patient;
 - (b) the name and contact details of the coordinating practitioner;
 - (c) the date when the prescribed substance was self-administered;
 - (d) the location where the prescribed substance was self-administered;
 - (e) the signature of the coordinating practitioner and the date when the form was signed.
- (4) Within 2 business days after the patient self-administers the prescribed substance in the presence of the coordinating practitioner, the coordinating practitioner must give a copy of the self-administration form to the Board.

New Clause 59A

Hon Rick Mazza: To move –

424/NC59A Page 39, after line 14 — To insert:

59A. Certification by administering practitioner following self-administration of prescribed substance

- (1) This section applies if the patient self-administers the prescribed substance in the presence of the administering practitioner for the patient.
- (2) The administering practitioner must certify in writing that —
 - (a) the patient made a self-administration decision and did not revoke the decision; and
 - (b) the administering practitioner was present when the patient self-administered the prescribed substance; and
 - (c) the administering practitioner was satisfied at the time of supplying the prescribed substance to the patient —
 - (i) that the patient had decision-making capacity in relation to voluntary assisted dying; and
 - (ii) that the patient was acting voluntarily and without coercion; and
 - (iii) that the patient’s request for access to voluntary assisted dying was enduring.
- (3) The certificate must be in the approved form (the *self-administration form*) and must include the following —
 - (a) the name and date of birth of the patient;
 - (b) the name and contact details of the administering practitioner;
 - (c) the name, date of birth and contact details of the witness to the self-administration of the prescribed substance (the *witness*);
 - (d) the date when the prescribed substance was self-administered;
 - (e) the certificate of the witness required under section 61(2A);
 - (f) the signature of the administering practitioner and the date when the form was signed;
 - (g) the signature of the witness and the date when the form was signed.

- (4) Within 2 business days after the patient self-administers the prescribed substance in the presence of the administering practitioner, the administering practitioner must give a copy of the self-administration form to the Board.

Clause 60

Hon Charles Smith: To move –

43/60 Page 39, after line 29 — To insert:

- and
- (c) the administering practitioner remained with the patient until the death of the patient.

Hon Charles Smith: To move –

44/60 Page 40, after line 10 — To insert:

- (da) the location where the prescribed substance was administered;

Clause 61

Hon Rick Mazza: To move –

425/61 Page 40, line 21 — To delete “section 58(5), a person is eligible to witness” and insert:

sections 57(5) and 58(5), a person is eligible to witness the self-administration of a prescribed substance by a patient or

Hon Rick Mazza: To move –

426/61 Page 40, after line 31 — To insert:

- (2A) The witness to the self-administration of a prescribed substance must certify in the self-administration form for the patient that —
- (a) the patient’s request for access to voluntary assisted dying appeared to be enduring; and
- (b) the patient self-administered the prescribed substance in the presence of the witness and the administering practitioner for the patient.

Clause 62

Hon Rick Mazza: To move –

427/62 Page 41, line 11 — To delete “a practitioner” and insert:

an

Hon Rick Mazza: To move –

428/62 Page 41, line 18 — To delete “administer the prescribed substance to the patient,” and insert:

perform the duties of the administering practitioner under section 57 or 58,

Clause 63

Hon Rick Mazza:

429/63 Page 42, lines 25 to 27 — To oppose the clause.

Clause 64

Hon Rick Mazza:

430/64 Page 43, lines 1 to 17 — To oppose the clause.

Clause 65

Hon Rick Mazza:

431/65 Page 43, line 18 to page 44, line 23 — To oppose the clause.

Hon Nick Goiran: To move –

90/65 Page 44, after line 3 — To insert:

- (ea) if the patient was assisted by an interpreter when making the appointment, the name, contact details and accreditation details of the interpreter;

Clause 66

Hon Rick Mazza:

432/66 Page 44, line 24 to page 45, line 7 — To oppose the clause.

Clause 67

Hon Rick Mazza:

433/67 Page 45, lines 8 to 17 — To oppose the clause.

Clause 68

Hon Rick Mazza: To move –

434/68 Page 46, lines 1 to 3 — To delete the lines.

Hon Rick Mazza: To move –

435/68 Page 46, lines 5 to 10 — To delete the lines and insert:

- (e) that, if the patient decides not to self-administer the substance or dies, the administering practitioner must dispose of any unused or remaining substance.

Hon Rick Mazza: To move –

436/68 Page 46, lines 17 to 22 — To delete the lines and insert:

- (b) that, if the practitioner administration decision is made after the revocation of a self-administration decision, the administering practitioner for the patient must dispose of any prescribed substance received by the administering practitioner.

Clause 71

Hon Rick Mazza:

437/71 Page 48, lines 1 to 21 — To oppose the clause.

Clause 72

Hon Rick Mazza: To move –

438/72 Page 49, lines 1 to 7 — To delete the lines.

Minister for Environment representing the Minister for Health: To move –

462/72 Page 49, lines 6 and 7 — To delete “patient to whom it is supplied or their contact person.” and insert:

contact person for the patient to whom it is supplied.

Clause 73

Hon Rick Mazza: To move –

439/73 Page 49, line 22 — To delete “sections 71 and 72” and insert:

section 72

Clause 74

Hon Rick Mazza:

440/74 Page 50, lines 1 to 13 — To oppose the clause.

Clause 75

Hon Rick Mazza:

441/75 Page 50, line 14 to page 51, line 3 — To oppose the clause.

Hon Nick Goiran: To move –

474/75 Page 50, after line 24 — To insert:

- (da) the type and quantity of the prescribed substance given to the authorised disposer;

Clause 76

Hon Rick Mazza: To move –

442/76 Page 51, line 7 — To delete “a practitioner” and insert:

an

Hon Rick Mazza: To move –

443/76 Page 51, line 18 — To delete “practitioner”.

Hon Rick Mazza: To move –

444/76 Page 51, line 20 — To delete “a practitioner” and insert:

an

Clause 77

Hon Rick Mazza: To move –

445/77 Page 52, line 18 — To delete “practitioner”.

Clause 78

Hon Rick Mazza: To move –

446/78 Page 53, lines 5 to 10 — To delete the lines.

Hon Rick Mazza: To move –

447/78 Page 53, line 12 — To delete “(1) or (3).” and insert:

(1).

Hon Rick Mazza: To move –

448/78 Page 53, line 14 — To delete “and authorised disposers”.

Clause 79

Hon Rick Mazza: To move –

449/79 Page 53, lines 21 and 22 — To delete “patient, the contact person for the patient or an agent of the patient,” and insert:

administering practitioner for the patient,

Clause 81

Hon Charles Smith: To move –

45/81 Page 54, lines 23 to 26 — To delete the lines and insert:

- (3) Subsection (2) does not apply if —
 - (a) the coordinating practitioner for a patient gives the Board a copy of a self-administration form in respect of the patient under section 59A(4); or
 - (b) the administering practitioner for a patient gives the Board a copy of a practitioner administration form in respect of the patient under section 60(4).

Hon Rick Mazza: To move –

450/81 Page 54, line 24 — To insert after “copy of”:

a self-administration form in respect of the patient under section 59A(4) or

Hon Colin Tincknell: To move –

16/81 Page 55, lines 6 to 8 — To delete the lines and insert:

- (6) The medical practitioner must state that voluntary assisted dying was the cause of death.

Hon Nick Goiran: To move –

333/81 Page 55, lines 6 to 8 — To delete the lines.

Clause 96

Hon Nick Goiran: To move –

475/96 Page 64, after line 23 — To insert:

- (da) a former coordinating practitioner or consulting practitioner for the patient if the person is not a party to the proceeding;

Hon Nick Goiran: To move –

476/96 Page 64, lines 25 and 26 — To delete “the administering practitioner for the patient.” and insert:

a person to whom the role has been transferred.

New Clause 101A

Hon Charles Smith: To move –

46/NC101A Page 67, after line 18 — To insert:

101A. Medical practitioner or other person not to be advantaged or disadvantaged in relation to voluntary assisted dying

- (1) A person commits a crime if the person gives or promises any reward or advantage (other than reasonable payment for the provision of health services or other relevant services), or causes or threatens any disadvantage, to a medical practitioner or other person —
- (a) because the medical practitioner or other person has done anything referred to in subsection (2); or
- (b) for the purpose of inducing the medical practitioner or other person to do anything referred to in subsection (2).

Penalty for this subsection: imprisonment for 7 years.

- (2) Subsection (1) applies to the following —
- (a) participating, or refusing to participate, in the request and assessment process;
 - (b) prescribing, supplying or administering a voluntary assisted dying substance;
 - (c) refusing to prescribe, supply or administer a voluntary assisted dying substance.
- (3) A person to whom a reward or advantage is given or promised as referred to in subsection (1) is not entitled to retain or receive the reward or to exercise the advantage, whether or not the person knew of the intention to give the reward or advantage, or the promise, at the time that the person did the thing referred to in subsection (2).

Clause 104

Hon Rick Mazza:

451/104 Page 68, lines 12 to 32 — To oppose the clause.

Clause 106

Hon Nick Goiran: To move –

477/106 Page 70, after line 18 — To insert:

- (da) a former coordinating practitioner or consulting practitioner for the patient if the person is not a party to the proceeding;

Hon Nick Goiran: To move –

478/106 Page 70, lines 20 and 21 — To delete “the administering practitioner for the patient.” and insert:

a person to whom the role has been transferred.

Clause 107

Hon Charles Smith: To move –

47/107 Page 70, after line 27, the Table — To insert in numerical order:

s. 52A(2)(b)

Hon Charles Smith: To move –

48/107 Page 70, after line 27, the Table — To insert in numerical order:

s. 59A(4)

Hon Rick Mazza: To move –

452/107 Page 70, after line 27, the Table — To insert in numerical order:

s. 59A(4)

Minister for Environment representing the Minister for Health: To move –

406/107 Page 70, after line 27, the Table the 1st row the 1st column — To delete:

s. 21(1)

Hon Rick Mazza: To move –

453/107 Page 70, after line 27, the Table the 6th row the 2nd column — To delete:

s. 65(4)

Hon Rick Mazza: To move –

454/107 Page 70, after line 27, the Table the 7th row the 2nd column — To delete:

s. 75(3)

Clause 113

Minister for Environment representing the Minister for Health: To move –

407/113 Page 74, line 12 — To delete “faith,” and insert:

faith and with reasonable care and skill,

Clause 148

Hon Rick Mazza:

455/148 Page 86, lines 7 to 17 — To oppose the clause.

Clause 149

Hon Rick Mazza: To move –

456/149 Page 86, lines 19 and 20 — To delete “(including the contact person for a patient)”.

Clause 151**Hon Martin Aldridge:** To move –

463/151 Page 87, after line 12 — To insert:

- (ba) participation in the request and assessment process, and access to voluntary assisted dying, by patients who are regional residents;

Clause 154**Hon Martin Aldridge:** To move –

464/154 Page 88, after line 27 — To insert:

- (f) information about the extent to which regional residents had access to voluntary assisted dying, including —
 - (i) statistical information recorded and retained under section 151(1)(ba); and
 - (ii) an assessment of the extent to which the access standard under section 154A has been met.

New Part 9A**Hon Martin Aldridge:** To move –

465/NP9A Page 89, after line 11 — To insert:

Part 9A — Accessing voluntary assisted dying in regional Western Australia**154A. Standard about access to voluntary assisted dying for persons in regional Western Australia**

- (1) The CEO must issue a standard (the *access standard*) setting out how the State intends to provide regional residents with access to voluntary assisted dying, including how the State intends to facilitate the residents' access to —
 - (a) the services of medical practitioners and other persons who —
 - (i) are authorised to carry out functions under this Act; and
 - (ii) do not refuse to participate in voluntary assisted dying under section 9;
 and
 - (b) prescribed substances; and
 - (c) information about accessing voluntary assisted dying.
- (2) The CEO may modify or replace the access standard.

154B. Laying access standard before each House of Parliament

- (1) The Minister must, within 14 days after the day on which the access standard is issued, modified or replaced under section 154A, cause a copy of the standard to be laid before each House of Parliament.
- (2) If a House of Parliament is not sitting and the Minister is of the opinion that the House will not sit during the 14-day period, the Minister must instead give a copy of the access standard to the Clerk of that House.

- (3) A copy of the access standard given to the Clerk of a House under subsection (2) is taken to have been laid before the House.
- (4) The laying of a copy of the access standard before a House that is taken to have occurred under subsection (3) is to be reported to the House by the Clerk, and recorded in the Votes and Proceedings or Minutes of Proceedings, on the first sitting day of the House after the Clerk received the copy.

Clause 158

Hon Nick Goiran: To move –

74/158 Page 93, lines 10 and 11 — To delete “abuse or coercion;” and insert:

abuse, coercion, duress or undue influence;

New Clause 160A

Hon Nick Goiran: To move –

93/NC160A Page 94, after line 18 — To insert:

160A. Parliament to establish joint standing committee

- (1) The Houses of Parliament are to establish a joint standing committee on palliative care and treatment and voluntary assisted dying comprising an equal number of members appointed by each House.
- (2) The functions and powers of the joint standing committee are determined by agreement between the Houses and are not justiciable.

New Clause 161A

Hon Nick Goiran: To move –

51/NC161A Page 94, after line 22 — To insert:

161A. Regulations about care navigators

- (1) In this section —
care navigator means a person approved by the CEO to facilitate another person’s access to voluntary assisted dying.
- (2) The Governor may make regulations for or in relation to how the State will regulate the function and powers of care navigators.
- (3) The power to make regulations under section 161A(2) must not be exercised unless —
 - (a) a draft of the regulations to be made under section 161A(2) has been laid before each House of Parliament; and
 - (b) both Houses of Parliament pass a resolution originating in either House approving the draft of the regulations, with or without an amendment.

- (4) If the resolution under section 161A(3) approves the draft of the regulations with an amendment, the power to make regulations under section 161A(2) must not be exercised unless the amendment is made to the draft of the regulations.
- (5) The *Interpretation Act 1984* section 42 does not apply to regulations made under section 161A(2) of this Act.

