

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 172

TUESDAY, 3 DECEMBER 2019

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Petition

Hon Aaron Stonehouse presented a petition from 1,088 petitioners requesting the Legislative Council to oppose potential water license allocation reductions or charges for water to farmers and landowners in the North Wanneroo area. (Tabled Paper 3468).

3. Ministerial Statement — International Day of People with Disability

The Minister for Disability Services made a Ministerial Statement with respect to a Government commitment to set a target to increase the percentage of people with disability employed in the public sector.

The Minister for Disability Services tabled a report entitled, *Public Sector Commission — Action Plan to Improve WA Public Sector Employment Outcomes (2020-2025)*. (Tabled Paper 3469).

4. Papers

The following Papers were laid on the Table by —

Minister for Environment

Regulations —

Police Act 1892 (Police (Medical Retirement) Regulations 2019 G.G. 29/11/2019 and Police Force Amendment Regulations (No. 3) 2019 G.G. 29/11/2019)..... 3464

Minister for Regional Development

Regulations —

Fish Resources Management Act 1994 (Fish Resources Management Amendment Regulations (No. 3) 2019 G.G. 29/11/2019) 3465

Industrial Relations Act 1979 (Industrial Relations Commission Amendment Regulations (No. 2) 2019 G.G. 29/11/2019) 3466

Liquor Control Act 1988 (Liquor Control (Bayulu Restricted Area) Amendment Regulations (No. 2) 2019 G.G. 29/11/2019 and Racing and Gaming Regulations Amendment (Liquor Control) Regulations (No. 2) 2019 G.G. 29/11/2019)..... 3467

5. Order of Business

Ordered — That Order of the Day No. 1, *Petroleum and Geothermal Energy Resources (Hydraulic Fracturing) Amendment Regulations 2019 — Disallowance*, be taken after Order of the Day No. 18, *High Risk Offenders Bill 2019*. (Leader of the House).

6. Voluntary Assisted Dying Bill 2019

The Order of the Day for the further consideration of this Bill, in Committee of the Whole House, having been read.

The President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Clause 60.

Debate resumed.

Hon Adele Farina moved —

Page 40, lines 9 and 10 — To delete the lines and insert:

- (d) the date and time when the prescribed substance was administered;
- (da) the date and time of the patient's death;
- (db) the period of time that lapsed between the administration of the prescribed substance and the patient's death;
- (dc) details of any complications relating to the administration of the prescribed substance, for example —
 - (i) the patient regained consciousness after the administration of the substance; or
 - (ii) the period of time that lapsed between the administration of the substance and the patient's death was longer than 2 hours; or
 - (iii) the patient had difficulty ingesting the substance or regurgitated the substance; or
 - (iv) the patient suffered any other kind of adverse reaction to the substance;

Debate ensued.

The Minister for Environment representing the Minister for Health moved to amend the amendment as follows —

In paragraph (d) — To delete “and time when” and insert:

, time and location where

In paragraph (dc) — To delete all words after “substance”.

Debate ensued.

Amendments to the amendment — put and passed.

Amendment, as amended — put and passed.

Debate resumed.

Hon Adele Farina moved —

Page 40, lines 17 and 18 — To delete “administering the prescribed substance,” and insert:

the patient dies,

Hon Adele Farina, by leave, withdrew her amendment.

Clause, as amended, agreed to.

Clause 61.

Debate ensued.

Hon Nick Goiran moved —

Page 41, line 5 — To insert after “appeared to be”:

free, voluntary and

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 62.

Debate ensued.

Hon Nick Goiran moved —

Page 41, line 17 — To insert after “unable”:

or unwilling

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 63.

Debate ensued.

Clause agreed to.

Clause 64.

Debate ensued.

Clause agreed to.

Clause 65.

Debate ensued.

Hon Nick Goiran moved —

Page 44, line 3 — To delete “disposer);” and insert:

disposer and the penalties for offences under that section);

Debate ensued.

Amendment — put and passed.

Hon Nick Goiran moved —

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;

Debate ensued.

Amendment — put and passed.

Hon Nick Goiran moved —

Page 44, line 11 — To delete “patient.” and insert:

patient if —

- (a) the patient directs the person to complete the contact person appointment form; and
- (b) the person has reached 18 years of age.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 66.

Debate ensued.

Hon Adele Farina moved —

Page 45, after line 3 — To insert:

- (1A) The contact person for the patient must —
 - (a) be present when the patient self-administers the prescribed substance; and
 - (b) witness the self-administration.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (8)

Hon Adele Farina
 Hon Rick Mazza
 Hon Martin Pritchard
 Hon Charles Smith

Hon Dr Steve Thomas
 Hon Colin Tincknell
 Hon Alison Xamon
 Hon Nick Goiran (*Teller*)

Noes (27)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Jacqui Boydell
 Hon Robin Chapple
 Hon Jim Chown
 Hon Tim Clifford
 Hon Alanna Clohesy
 Hon Peter Collier
 Hon Stephen Dawson
 Hon Colin de Grussa
 Hon Sue Ellery
 Hon Diane Evers
 Hon Donna Faragher
 Hon Laurie Graham

Hon Colin Holt
 Hon Alannah MacTiernan
 Hon Kyle McGinn
 Hon Michael Mischin
 Hon Simon O'Brien
 Hon Samantha Rowe
 Hon Robin Scott
 Hon Tjorn Sibma
 Hon Aaron Stonehouse
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Question, That the clause stand as printed — put and passed.

Clause 67.

Debate ensued.

Clause agreed to.

New Clause 67A.

Hon Adele Farina moved —

Page 45, after line 19 — To insert:

67A. Co-ordinating practitioner for a patient must not prescribe a voluntary assisted dying substance that is not therapeutic good registered

- (1) The co-ordinating practitioner for a patient must not prescribe a voluntary assisted dying substance for the patient unless the substance is a therapeutic good registered in the Australian Register of Therapeutic Goods under the *Therapeutic Goods Act 1989* of the Commonwealth.
- (2) An authorised supplier who is given a prescription for a voluntary assisted substance must not supply the substance in accordance with the prescription unless the substance is a therapeutic good registered in the Australia Register of Therapeutic Goods under the *Therapeutic Goods Act 1989* of the Commonwealth.

Debate ensued.

The Deputy Chair left the Chair at 12.21pm
The Deputy Chair resumed the Chair at 12.45pm

Debate resumed.

Hon Adele Farina, by leave, amended her amendment as follows —

In subclause (2) — To insert after “assisted”:

dying

Debate resumed.

New Clause, as amended — put.
The Committee divided.

Ayes (7)

Hon Adele Farina
Hon Nick Goiran
Hon Rick Mazza
Hon Charles Smith

Hon Aaron Stonehouse
Hon Colin Tincknell
Hon Ken Baston (*Teller*)

Noes (26)

Hon Martin Aldridge
Hon Jacqui Boydell
Hon Robin Chapple
Hon Jim Chown
Hon Tim Clifford
Hon Alanna Clohesy
Hon Peter Collier
Hon Stephen Dawson
Hon Colin de Grussa
Hon Sue Ellery
Hon Diane Evers
Hon Donna Faragher
Hon Laurie Graham

Hon Colin Holt
Hon Kyle McGinn
Hon Michael Mischin
Hon Simon O'Brien
Hon Martin Pritchard
Hon Samantha Rowe
Hon Robin Scott
Hon Tjorn Sibma
Hon Matthew Swinbourn
Hon Dr Sally Talbot
Hon Darren West
Hon Alison Xamon
Hon Pierre Yang (*Teller*)

New Clause thus negatived.

Clause 68.

The Minister for Environment representing the Minister for Health moved —

Page 45, after line 20 — To insert:

(1A) In this section —

Schedule 4 poison and *Schedule 8 poison* have the meanings given in the *Medicines and Poisons Act 2014* section 3.

Amendment — put and passed.

Hon Nick Goiran moved —

Page 45, line 24 — To insert after “patient,”:

including

Amendment — put.

The Committee divided.

Ayes (13)

Hon Martin Aldridge
Hon Jacqui Boydell
Hon Donna Faragher
Hon Adele Farina
Hon Nick Goiran
Hon Rick Mazza
Hon Simon O'Brien

Hon Martin Pritchard
Hon Charles Smith
Hon Aaron Stonehouse
Hon Colin Tincknell
Hon Alison Xamon
Hon Ken Baston (*Teller*)

Noes (20)

Hon Robin Chapple
 Hon Jim Chown
 Hon Tim Clifford
 Hon Alanna Clohesy
 Hon Peter Collier
 Hon Stephen Dawson
 Hon Colin de Grussa
 Hon Sue Ellery
 Hon Diane Evers
 Hon Laurie Graham

Hon Colin Holt
 Hon Alannah MacTiernan
 Hon Kyle McGinn
 Hon Michael Mischin
 Hon Samantha Rowe
 Hon Robin Scott
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Amendment thus negated.

The Minister for Environment representing the Minister for Health moved —

Page 45, after line 24 — To insert:

- (aa) the Schedule 4 poison or Schedule 8 poison, or combination of those poisons, constituting the substance;

Amendment — put and passed.

The Minister for Environment representing the Minister for Health moved —

Page 46, after line 4 — To insert:

- (da) the method by which the substance will be self-administered;
- (db) the expected effects of self-administration of the substance;
- (dc) the period within which the patient is likely to die after self-administration of the substance;
- (dd) the potential risks of self-administration of the substance;

Amendment — put and passed.

The Minister for Environment representing the Minister for Health moved —

Page 46, after line 14 — To insert:

- (aa) the Schedule 4 poison or Schedule 8 poison, or combination of those poisons, constituting the substance;

Amendment — put and passed.

The Minister for Environment representing the Minister for Health moved —

Page 46, after line 16 — To insert:

- (ab) the method by which the substance will be administered;
- (ac) the expected effects of administration of the substance;
- (ad) the period within which the patient is likely to die after administration of the substance;
- (ae) the potential risks of administration of the substance;

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 69.

Debate ensued.

Clause agreed to.

Clause 70.

Debate ensued.

Clause agreed to.

Clause 71.

Debate ensued.

Clause agreed to.

Clause 72.

The Minister for Environment representing the Minister for Health moved —

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.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 73.

Debate ensued.

Clause agreed to.

Clause 74.

Debate ensued.

Clause agreed to.

Clause 75.

Debate ensued.

Clause agreed to.

Clause 76.

Debate ensued.

Clause agreed to.

Clause 77.

Debate ensued.

Clause agreed to.

Clause 78.

Debate ensued.

Clause agreed to.

Clause 79.

Debate ensued.

Clause agreed to.

Clause 80.

Debate ensued.

Clause agreed to.

Clause 81.

Debate ensued.

Hon Colin Tincknell moved —

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.

Debate ensued.

7. Questions Without Notice

Questions without notice were taken.

The Minister for Regional Development representing the Minister for Forestry tabled the *Annual Report on State Finances 2018-19 — Biological Assets*, in response to a question without notice asked by Hon Diane Evers. (Tabled Paper 3470).

The Leader of the House representing the Minister for Child Protection, in accordance with Standing Order 108(2), advised that an answer to question on notice 2581 asked by Hon Nick Goiran will be provided on 12 February 2020.

The Minister for Education and Training tabled documents in relation to Western Australian schools that have suspended at least three students in 2019, in response to a question without notice asked by Hon Jacqui Boydell. (Tabled Paper 3471).

The Minister for Environment tabled documents in relation to the number of fauna causing damage licences issued, in response to question on notice 2645 asked by Hon Alison Xamon. (Tabled Paper 3472).

The Minister for Regional Development representing the Minister for Racing and Gaming, by leave, incorporated into *Hansard* the completion date of a comprehensive Western Australian racehorse census of all current and post-racing thoroughbreds and standardbreds in Western Australia, in response to a question without notice asked by Hon Alison Xamon.

The Minister for Regional Development tabled documents in relation to Regional Traineeship Grants — successful organisations grant allocations, in response to a question without notice asked by Hon Martin Aldridge. (Tabled Paper 3473).

The Parliamentary Secretary to the Minister for Health, by leave, incorporated into *Hansard* information in relation to the final report of the Sustainable Health Review, Recommendation 2a, in response to a question without notice asked by Hon Alison Xamon.

8. Voluntary Assisted Dying Bill 2019

Resumption of consideration of this Bill in Committee of the Whole House (*see item 6 above*).

The President left the Chair.

In Committee

(Hon Adele Farina in the Chair)

Clause 81.

Debate resumed on the amendment of Hon Colin Tincknell.

Amendment — put.

The Committee divided.

Ayes (17)

Hon Martin Aldridge
 Hon Jim Chown
 Hon Peter Collier
 Hon Donna Faragher
 Hon Adele Farina
 Hon Nick Goiran
 Hon Rick Mazza
 Hon Michael Mischin
 Hon Simon O'Brien

Hon Martin Pritchard
 Hon Tjorn Sibma
 Hon Charles Smith
 Hon Aaron Stonehouse
 Hon Dr Steve Thomas
 Hon Colin Tincknell
 Hon Alison Xamon
 Hon Ken Baston (*Teller*)

Noes (18)

Hon Jacqui Boydell
 Hon Robin Chapple
 Hon Tim Clifford
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Colin de Grussa
 Hon Sue Ellery
 Hon Diane Evers
 Hon Laurie Graham

Hon Colin Holt
 Hon Alannah MacTiernan
 Hon Kyle McGinn
 Hon Samantha Rowe
 Hon Robin Scott
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Debate resumed.

Question, That the clause stand as printed — put.

The Committee divided.

Ayes (19)

Hon Martin Aldridge
 Hon Jacqui Boydell
 Hon Robin Chapple
 Hon Tim Clifford
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Colin de Grussa
 Hon Sue Ellery
 Hon Diane Evers
 Hon Laurie Graham

Hon Colin Holt
 Hon Alannah MacTiernan
 Hon Kyle McGinn
 Hon Samantha Rowe
 Hon Robin Scott
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Noes (14)

Hon Jim Chown
 Hon Peter Collier
 Hon Donna Faragher
 Hon Adele Farina
 Hon Nick Goiran
 Hon Rick Mazza
 Hon Michael Mischin

Hon Simon O'Brien
 Hon Martin Pritchard
 Hon Charles Smith
 Hon Aaron Stonehouse
 Hon Colin Tincknell
 Hon Alison Xamon
 Hon Ken Baston (*Teller*)

Question thus passed.

Clause agreed to.

Clause 82.
Debate ensued.
Clause agreed to.
Clause 83.
Debate ensued.
Clause agreed to.
Clause 84.
Debate ensued.
Clause agreed to.
Clause 85.
Debate ensued.
Clause agreed to.
Clause 86.
Debate ensued.
Clause agreed to.
Clause 87.
Debate ensued.
Clause agreed to.
Clause 88.
Debate ensued.
Clause agreed to.
Clause 89.
Debate ensued.
Clause agreed to.
Clause 90.
Debate ensued.
Clause agreed to.
Clause 91.
Debate ensued.
Clause agreed to.
Clause 92.
Debate ensued.
Clause agreed to.
Clause 93.
Debate ensued.
Clause agreed to.
Clause 94.
Debate ensued.
Clause agreed to.
Clause 95.
Debate ensued.
Clause agreed to.
Clause 96.
Debate ensued.

Hon Nick Goiran moved —

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;

Debate ensued.

Amendment — put and passed.

Hon Nick Goiran moved —

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.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 97.

Debate ensued.

Clause agreed to.

Clause 98.

Debate ensued.

Hon Michael Mischin, by leave, tabled a submission to the *Voluntary Assisted Dying Bill 2019* from the Law Society of Western Australia. (Tabled Paper 3474).

Debate resumed.

Clause agreed to.

Clause 99.

Debate ensued.

Interruption pursuant to order.

The President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again.

Ordered — That the Committee of the Whole House sit again.

9. Members' Statements

Statements were taken.

10. Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2019

The President reported the receipt of Message No. 151 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Attorney General moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House representing the Attorney General moved, That the Bill be read a second time.

The Leader of the House representing the Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3475).

Debate stands adjourned.

11. Adjournment

The Council adjourned at 10.55pm until Wednesday, 4 December 2019 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members.

NIGEL PRATT

Clerk of the Legislative Council

HON KATE DOUST MLC

President of the Legislative Council