

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 168

TUESDAY, 26 NOVEMBER 2019

1. Meeting of Council

The Council assembled at 1.00pm pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Ministerial Statement — Trandos 80th Anniversary

The Minister for Agriculture and Food made a Ministerial Statement with respect to the Trandos family celebrating their 80th anniversary in the horticulture industry.

3. Papers

The following Papers were laid on the Table by —

President

Reports —

Inspector of Custodial Services, Office of the — 2019 Inspection of Pardelup Prison
Farm (Report No. 124) (September 2019) 3428

Leader of the House

Annual Reports —

Mentally Impaired Accused Review Board (2018-19) (Date received 22/11/2019)..... 3429

Prisoners Review Board (2018-19) (Date received 22/11/2019) 3430

Regulations —

Lotteries Commission Act 1990 (Lotteries Commission Amendment
Regulations 2019 G.G. 19/11/2019)..... 3431

Reports —

Ministerial Office Staffing Report (as at 31 October 2019)..... 3432

Minister for Regional Development

Management Plans —

Fish Resources Management Act 1994 (Pilbara Crab Managed Fishery Management Plan
Amendment 2019 G.G. 22/11/2019 and Southern Demersal Gillnet and Demersal Longline
Managed Fishery Management Plan Amendment 2019 G.G. 22/11/2019) 3433

Parliamentary Secretary to the Deputy Premier

Regulations —

Medicines and Poisons Act 2014 (Medicines and Poisons Amendment
Regulations (No. 2) 2019 G.G. 19/11/2019)..... 3434

4. Order of Business

Ordered — That Orders of the Day Nos 1, *Transport Regulations Amendment (Road Passenger Services) Regulations (No. 2) 2019 — Disallowance*, and 2, *Petroleum and Geothermal Energy Resources (Hydraulic Fracturing) Amendment Regulations 2019 — Disallowance*, be taken after Order of the Day No. 19, *High Risk Offenders Bill 2019*. (Leader of the House).

5. 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 14.

Debate resumed on the amendment of Hon Charles Smith as follows —

Page 11, after line 10 — To insert:

- (ba) the person has been assessed by a palliative care specialist who has advised the person about the palliative care and treatment options and other services available to the person to treat their pain symptoms and discomfort and address their physical, psychosocial and existential distress; and

Amendment — put.

The Committee divided.

Ayes (11)

Hon Peter Collier
Hon Donna Faragher
Hon Nick Goiran
Hon Rick Mazza
Hon Michael Mischin
Hon Simon O'Brien

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

Noes (23)

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

Hon Colin Holt
Hon Alannah MacTiernan
Hon Kyle McGinn
Hon Martin Pritchard
Hon Samantha Rowe
Hon Robin Scott
Hon Tjorn Sibma
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 15.

Debate ensued.

Hon Nick Goiran moved —

Page 12, after line 3 — To insert:

(ia) is ordinarily resident in Western Australia; and

Debate ensued.

Amendment — put and negatived.

Debate resumed.

Hon Nick Goiran moved —

Page 12, line 9 — To insert after “progressive”:

and incurable

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (11)

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

Hon Simon O’Brien
Hon Robin Scott
Hon Charles Smith
Hon Colin Tincknell
Hon Ken Baston (*Teller*)

Noes (22)

Hon Martin Aldridge
Hon Jacqui Boydell
Hon Robin Chapple
Hon Jim Chown
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 Martin Pritchard
Hon Samantha Rowe
Hon Aaron Stonehouse
Hon Matthew Swinbourn
Hon Dr Sally Talbot
Hon Darren West
Hon Alison Xamon
Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Debate resumed.

The Minister for Environment representing the Minister for Health tabled a document in relation to proposed obligations on registered practitioners and penalties for contravention. (Tabled Paper 3435)

Debate resumed.

Hon Nick Goiran moved —

Page 12, line 21 — To delete “without coercion;” and insert:

not as a result of abuse, coercion, duress or undue influence;

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (14)

Hon Jim Chown
 Hon Donna Faragher
 Hon Adele Farina
 Hon Rick Mazza
 Hon Simon O'Brien
 Hon Martin Pritchard
 Hon Robin Scott

Hon Tjorn Sibma
 Hon Charles Smith
 Hon Aaron Stonehouse
 Hon Dr Steve Thomas
 Hon Colin Tincknell
 Hon Alison Xamon
 Hon Nick Goiran (*Teller*)

Noes (21)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Jacqui Boydell
 Hon Robin Chapple
 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 Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Amendment thus negated.

Hon Charles Smith moved —

Page 12, after line 23 — To insert:

- (g) the person has considered the impact that the person accessing voluntary assisted dying may have on the person's family.

Debate ensued.

Amendment — put and negated.

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

Clause 16.

Debate ensued.

Hon Nick Goiran moved —

Page 13, line 19 to page 14, line 5 — To delete the lines and insert:

- (2) A medical practitioner is eligible to act as a coordinating practitioner for a patient if —

- (a) the medical practitioner —

- (i) holds specialist registration, has practised the medical profession for at least 1 year as the holder of specialist registration and meets the requirements approved by the CEO for the purposes of this subparagraph; or
- (ii) holds general registration, has practised the medical profession for at least 10 years as the holder of general registration and meets the requirements approved by the CEO for the purposes of this subparagraph; or

- (iii) is an overseas-trained specialist who holds limited registration or provisional registration and meets the requirements approved by the CEO for the purposes of this subparagraph;
- and
- (b) the medical practitioner is not a family member of the patient; and
 - (c) the medical practitioner does not know or believe that the practitioner —
 - (i) is a beneficiary under a will of the patient; or
 - (ii) 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 coordinating practitioner for the patient.
- (3) A medical practitioner is eligible to act as a consulting practitioner for a patient if —
- (a) the medical practitioner —
 - (i) holds specialist registration, has practised the medical profession for at least 1 year as the holder of specialist registration and meets the requirements approved by the CEO for the purposes of this subparagraph; or
 - (ii) holds general registration, has practised the medical profession for at least 10 years as the holder of general registration and meets the requirements approved by the CEO for the purposes of this subparagraph; or
 - (iii) is an overseas-trained specialist who holds limited registration or provisional registration and meets the requirements approved by the CEO for the purposes of this subparagraph;
- and
- (b) the medical practitioner is not a family member of —
 - (i) the patient; or
 - (ii) the coordinating practitioner for the patient;
- and
- (c) the medical practitioner does not know or believe that the practitioner —
 - (i) is a beneficiary under a will of the patient; or
 - (ii) 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 consulting practitioner for the patient;
- and
- (d) the medical practitioner —
 - (i) does not own a health facility or medical facility with the coordinating practitioner for the patient; and
 - (ii) is not a supervisor of, or supervised by, the coordinating practitioner for the patient at a health facility or medical facility; and
 - (iii) is not employed or engaged under a contract for services, or a consultant, at a health facility or medical facility where the coordinating practitioner for the patient is also employed or engaged or a consultant.
- (4) The CEO must publish the requirements approved for the purposes of subsections (2)(a)(i), (ii) and (iii) and (3)(a)(i), (ii) and (iii) on the Department’s website.
- (5) In this section **medical facility** means a medical centre, medical clinic or similar facility.

Debate ensued.

The Deputy Chair left the Chair at 4.01pm
The President resumed the Chair at 4.30pm

6. Questions Without Notice

Questions without notice were taken.

The Minister for Environment, by leave, incorporated into *Hansard* information in relation to the Government's election promise to employ 50 new apprentices each year at Western Power, in response to a question without notice asked by Hon Peter Collier.

The Minister for Education and Training tabled extracts from the Department of Education website regarding programs at Western Australian schools, in response to a question without notice 1375 asked by Hon Donna Faragher. (Tabled Paper 3436).

The Minister for Environment representing the Minister for Transport, by leave, incorporated into *Hansard* information in relation to the road closure by Apple Street and Railway Parade near Bullsbrook, in response to question without notice 1488 asked by Hon Charles Smith.

The Minister for Environment, by leave, incorporated into *Hansard* information in relation to contaminated material used as engineering fill on the Northlink Project, in response to a question without notice 1407 asked by Hon Dr Steve Thomas.

The Minister for Environment representing the Minister for Housing tabled documents in relation to the maintenance budget and actual spend for 2017–18, 2018–19 and 2019–20, in response to a question without notice 1393 asked by Hon Peter Collier. (Tabled Paper 3437).

7. Statement by President — Asbestos Awareness Month

The President made the following Statement —

Members, November is Asbestos Awareness Month, which aims to educate Australians about the dangers of asbestos in and around homes. Tomorrow, Wednesday, 27 November 2019, the Parliament will hold its third annual Blue Lamington Drive to help raise awareness of the dangers of asbestos when renovating. As in previous years the lamingtons will be available for purchase via a gold coin donation during the afternoon tea break. In 2017, \$450.00 was raised for medical research into asbestosis and mesothelioma, and last year, \$578.20. I encourage Members to join me in supporting Asbestos Awareness Month by enjoying a blue lamington tomorrow.

8. Voluntary Assisted Dying Bill 2019

Resumption of consideration of this Bill in Committee of the Whole House (*see item 5 above*).

The President left the Chair.

In Committee

(Hon Martin Aldridge in the Chair)

Clause 16.

Debate resumed on the amendment of Hon Nick Goiran.

Hon Adele Farina moved to amend the amendment as follows —

To delete subclauses 3(d) and (5).

Debate ensued.

Amendment — put and negatived.

Debate resumed.

Amendment — put.

The Committee divided.

Ayes (14)

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

Hon Robin Scott
 Hon Tjorn Sibma
 Hon Charles Smith
 Hon Aaron Stonehouse
 Hon Dr Steve Thomas
 Hon Colin Tincknell
 Hon Ken Baston (*Teller*)

Noes (20)

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 Adele Farina

Hon Laurie Graham
 Hon Colin Holt
 Hon Kyle McGinn
 Hon Martin Pritchard
 Hon Samantha Rowe
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Alison Xamon
 Hon Pierre Yang (*Teller*)

Amendment thus negated.

The Minister for Environment representing the Minister for Health moved —

Page 13, line 19 to page 14, line 2 — To delete the lines and insert:

- (2) A medical practitioner is eligible to act as a coordinating practitioner or consulting practitioner for a patient if —
- (a) the medical practitioner —
- (i) holds specialist registration, has practised the medical profession for at least 1 year as the holder of specialist registration and meets the requirements approved by the CEO for the purposes of this subparagraph; or
 - (ii) holds general registration, has practised the medical profession for at least 10 years as the holder of general registration and meets the requirements approved by the CEO for the purposes of this subparagraph; or
 - (iii) is an overseas-trained specialist who holds limited registration or provisional registration and meets the requirements approved by the CEO for the purposes of this subparagraph;
- and
- (b) the medical practitioner is not a family member of the patient; and
- (c) the medical practitioner does not know or believe that the practitioner —
- (i) is a beneficiary under a will of the patient; or
 - (ii) 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 coordinating practitioner or consulting practitioner for the patient.

Debate ensued.

Amendment — put and passed.

Hon Colin Tincknell moved —

Page 14, after line 2 — To insert:

- (2A) A medical practitioner is eligible to act as a consulting practitioner for a patient if the medical practitioner —
- (a) holds specialist registration covering either or both of the following —
 - (i) palliative medicine;
 - (ii) at least 1 disease, illness or medical condition with which the patient has been diagnosed and which the coordinating practitioner for the patient has determined meets the requirements of section 15(1)(c);
 - and
 - (b) has practised the medical profession for at least 1 year as the holder of specialist registration as referred to in paragraph (a); and
 - (c) meets the requirements approved by the CEO for the purposes of this paragraph.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (4)

Hon Nick Goiran
Hon Charles Smith

Hon Colin Tincknell
Hon Ken Baston (*Teller*)

Noes (30)

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 Adele Farina
Hon Laurie Graham
Hon Colin Holt

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

Amendment thus negatived.

The Minister for Environment representing the Minister for Health moved —

Page 14, line 4 — To delete “subsection (2)(a), (b) and (c)” and insert:

subsection (2)(a)(i), (ii) and (iii)

Amendment — put and passed.

Debate resumed.

Clause, as amended, agreed to.

Clause 17.

Debate ensued.

The Minister for Environment representing the Minister for Health moved —

Page 14, after line 11 — To insert:

(aa) made during a medical consultation; and

Debate ensued.

Amendment — put and passed.

Debate resumed.

Clause, as amended, agreed to.

Clause 18.

Debate ensued.

Clause agreed to.

Clause 19.

Debate ensued.

Hon Aaron Stonehouse moved —

Page 15, lines 19 to 26 — To delete the lines and insert:

- (5) If the medical practitioner refuses the first request under subsection (2)(a), the practitioner must, immediately after the first request is made, inform the patient that the practitioner refuses the request.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (7)

Hon Nick Goiran
Hon Rick Mazza
Hon Simon O'Brien
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 Adele Farina

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

Amendment thus negatived.

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

Clause 20.

Debate ensued.

Clause agreed to.

Clause 21.

Debate ensued.

Hon Nick Goiran moved —

Page 16, lines 24 and 25 — To delete the line and insert:

patient of the practitioner's decision;

(ga) the date when the medical practitioner gave the patient the information referred to in section 19(4)(b);

Amendment — put.

The Committee divided.

Ayes (7)

Hon Martin Aldridge
Hon Rick Mazza
Hon Martin Pritchard
Hon Charles Smith

Hon Aaron Stonehouse
Hon Colin Tincknell
Hon Nick Goiran (*Teller*)

Noes (28)

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 Adele Farina
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 Matthew Swinbourn
Hon Dr Sally Talbot
Hon Dr Steve Thomas
Hon Darren West
Hon Alison Xamon
Hon Pierre Yang (*Teller*)

Amendment thus negatived.

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

Clause 22.

Debate ensued.

Clause agreed to.

Clause 23.

Debate ensued.

Hon Nick Goiran moved —

Page 17, line 12 — To delete “criteria.” and insert:

criteria and take into account the medical history of the patient.

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. Adjournment

The Council adjourned at 10.38pm until Wednesday, 27 November 2019 at 12.30pm.

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