

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 169

WEDNESDAY, 27 NOVEMBER 2019

1. Meeting of Council

The Council assembled at 12.30pm pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Petition

Hon Rick Mazza presented a petition from 260 petitioners requesting the Legislative Council to inquire into the practices and policies of Western Australia Police in relation to the administration of firearms. (Tabled Paper 3438).

3. Ministerial Statement — Regional Traineeships

The Minister for Regional Development made a Ministerial Statement with respect to \$1.53 million in grants awarded by Government to regional trainees at community resource centres and local governments across the State.

The Minister for Regional Development tabled a document regarding successful applications for State Government grants for regional trainees at community resource centres and local governments. (Tabled Paper 3439).

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 Adele Farina in the Chair)

Clause 23.

Debate resumed on the amendment of Hon Nick Goiran as follows —

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

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

Amendment — put.

The Committee divided.

Ayes (5)

Hon Adele Farina
Hon Simon O'Brien
Hon Martin Pritchard

Hon Charles Smith
Hon Nick Goiran (*Teller*)

Noes (28)

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 Donna Faragher
Hon Laurie Graham
Hon Colin Holt

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

Amendment thus negatived.

Debate resumed.

The Minister for Environment representing the Minister for Health moved —

Page 17, after line 12 — To insert:

- (3) Nothing in this section prevents the coordinating practitioner from having regard to relevant information about the patient that has been prepared by, or at the instigation of, another registered health practitioner.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 24.

Debate ensued.

Clause agreed to.

Clause 25.

Debate ensued.

Hon Nick Goiran moved —

Page 17, line 20 — To insert after “determine”:

or has any doubt as to

Amendment — put and negatived.

Debate resumed.

Hon Nick Goiran moved —

Page 17, line 24 — To delete “section 15(1)(d).” and insert:

section 15(1)(d), for example due to the patient’s past or current mental illness.

Debate ensued.

Amendment — put and negatived.

Hon Nick Goiran moved —

Page 17, line 27 — To delete “matter.” and insert:

matter, such as a psychiatrist if the matter to be determined involves mental illness.

Debate ensued.

Amendment — put and negatived.

Debate resumed.

Hon Martin Pritchard moved —

Page 18, line 5 — To delete “may adopt” and insert:

must take into account

Amendment — put.

Division called.

Point of Order

Hon Simon O’Brien raised the following Point of Order —

I think the prerogative to call for a division rests with the Member whose view has not prevailed, but if the ayes have it, the Honourable Member should be well satisfied with that and not call for a division.

Deputy Chair’s Ruling

The Deputy Chair ruled as follows —

Members, the point of order from Hon Simon O’Brien went to the calling of a division. I draw Members’ attention to Standing Order 78, which states —

- (1) After the President has declared an opinion on the resolution of a question (Standing Order 77), a Member may challenge that opinion by calling for a division immediately.
- (2) A Member who calls for a division shall not leave the Council, and shall vote with those Members who, in the opinion of the President, were in the minority.
- (3) If the President determines that an absolute majority is required, the President shall advise the Council accordingly and conduct a division.

The Member calling a division would be obliged to vote with the minority. The Chair called the question with the ayes. I said that the ayes have it, and then a division was called, and I gave the instruction to ring the bells, at which time the point of order was made.

I draw Members’ attention to Standing Order 80, “Division May Be Cancelled”, which states —

At any time before the Tellers are appointed, a call for a division may be withdrawn by leave of the Council, and the division shall not be proceeded with. The decision of the President which was challenged shall then stand.

Hon Martin Pritchard sought leave to withdraw his call for a division.

Leave granted.

Debate resumed.

Amendment — put.

The Committee divided.

Ayes (12)

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

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

Noes (23)

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 Laurie Graham

Hon Colin Holt
 Hon Alannah MacTiernan
 Hon Kyle McGinn
 Hon Michael Mischin
 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.

Hon Nick Goiran moved —

Page 18, after line 8 — To insert:

- (5) A registered health practitioner or other person to whom the patient is referred under subsection (2) or (3) must not be —
- (a) a family member of the patient; or
 - (b) a person who knows or believes that they —
 - (i) are 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 in connection with the referral.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

New Clause 25A.

Hon Charles Smith moved —

Page 18, after line 8 — To insert:

25A. Referral to psychiatrist

- (1) The coordinating practitioner must refer the patient to a psychiatrist for a psychiatric assessment to determine whether the patient is suffering from treatable clinical depression or another psychiatric condition that may affect the patient's decision-making capacity in relation to voluntary assisted dying.
- (2) In determining whether the patient meets the requirements of section 15(1)(d), the coordinating practitioner must take the psychiatric assessment required by subsection (1) into account.

Debate ensued.

New Clause — put.

The Committee divided.

Ayes (4)

Hon Nick Goiran
Hon Aaron Stonehouse

Hon Colin Tincknell
Hon Charles Smith (*Teller*)

Noes (30)

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

New Clause thus negatived.

Debate resumed.

Clause 26.

Debate ensued.

Hon Nick Goiran moved —

Page 19, line 13 — To delete “or,” and insert:

and,

Amendment — put and passed.

Debate resumed.

Clause, as amended, agreed to.

Clause 27.

Debate ensued.

Clause agreed to.

Clause 28.

Debate ensued.

Hon Nick Goiran moved —

Page 20, after line 7 — To insert:

- (2A) As soon as practicable after completing the first assessment report form, the coordinating practitioner must give a copy of it to the patient.

Amendment — put and passed.

Debate resumed.

Hon Adele Farina moved —

Page 20, after line 14 — To insert:

- (v) whether the patient's first language is a language other than English;
- (vi) whether the coordinating practitioner engaged an interpreter in accordance with section 160(2) to communicate the information in section 26 to the patient;

Debate ensued.

Amendment — put and passed.

Hon Nick Goiran moved —

Page 20, after line 19 — To insert:

- (ea) a statement outlining the patient's end of life concerns that formed the basis for the first request, for example —
- (i) loss of autonomy;
 - (ii) loss of ability to engage in activities that make life enjoyable;
 - (iii) loss of dignity;
 - (iv) loss of control of bodily functions;
 - (v) being a burden on family members, friends or carers;
 - (vi) inadequate pain control or fear of inadequate pain control;
 - (vii) the financial implications of care and treatment (both curative and non-curative);

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (6)

Hon Adele Farina
 Hon Rick Mazza
 Hon Charles Smith

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

Noes (28)

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 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*)

Amendment thus negated.

Hon Colin Tincknell moved —

Page 20, after line 23 — To insert:

- (ga) whether accessible palliative care is or will be available to the patient in regional Western Australia;

Debate ensued.

Amendment — put and negated.

Debate resumed.

Hon Nick Goiran moved —

Page 20, line 27 — To delete “referral;” and insert:

referral (including a copy of any report given by the registered health practitioner or other person to whom the patient was referred);

Debate ensued.

Amendment — put and passed.

Hon Nick Goiran moved —

Page 20, after line 27 — To insert:

- (ia) if the patient was assisted by an interpreter when having the first assessment, the name, contact details and accreditation details of the interpreter;

Debate ensued.

Amendment — put and passed.

The Minister for Environment representing the Minister for Health moved —

Page 20, after line 27 — To insert:

- (ia) the palliative care and treatment options available to the patient and the likely outcomes of that care and treatment;

Debate ensued.

Amendment — put and passed.

6. Questions Without Notice

Questions without notice were taken.

The Minister for Environment representing the Minister for Transport, by leave, incorporated into *Hansard* information in relation to works on the METRONET Yanchep Rail Extension, in response to a question without notice asked by Hon Peter Collier.

The Minister for Regional Development tabled documents in relation to the Bureau of Meteorology Australian rainfall declines 2016–19, in response to a question without notice asked by Hon Robin Scott. (Tabled Paper 3440).

The Minister for Regional Development tabled documents in relation to the proximity to emerging financial misadministration issues in Warmun Community Inc., in response to a question without notice asked by Hon Peter Collier. (Tabled Paper 3441).

The Minister for Environment representing the Minister for Veterans Issues tabled details of 2009–2018 Anzac Day Trust grant recipients, in response to question on notice 2599 asked by Hon Tjorn Sibma. (Tabled Paper 3442).

The Minister for Regional Development representing the Minister for Mines and Petroleum tabled documents in relation to National Parks, Nature Reserves and other reserves with details of exploration licences or mining leases, in response to question on notice 2596 asked by Hon Diane Evers. (Tabled Paper 3443).

7. 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 28.

Debate resumed.

Clause, as amended, agreed to.

Clause 29.

Debate ensued.

Clause agreed to.

Clause 30.

Debate ensued.

Clause agreed to.

Clause 31.

Debate ensued.

Clause agreed to.

Clause 32.

Debate ensued.

Clause agreed to.

Clause 33.

Debate ensued.

Clause agreed to.

Clause 34.

Debate ensued.

Hon Nick Goiran moved —

Page 23, line 10 — To delete “criteria.” and insert:

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

Debate ensued.

Amendment — put and negatived.

The Minister for Environment representing the Minister for Health moved —

Page 23, after line 10 — To insert:

- (3) For the purposes of subsection (1), the consulting practitioner must independently of the coordinating practitioner form their own opinions on the matters to be decided.

Debate ensued.

Amendment — put and passed.

The Minister for Environment representing the Minister for Health moved —

Page 23, after line 10 — To insert:

- (4) Nothing in this section prevents the consulting practitioner from having regard to relevant information about the patient that has been prepared by, or at the instigation of, another registered health practitioner.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 35.

Debate ensued.

Clause agreed to.

Clause 36.

Hon Nick Goiran moved —

Page 24, after line 5 — To insert:

- (5) A registered health practitioner or other person to whom the patient is referred under subsection (2) or (3) must not be —
- (a) a family member of the patient; or
 - (b) a person who knows or believes that they —
 - (i) are 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 in connection with the referral.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 37.

Debate ensued.

Clause agreed to.

Clause 38.

Debate ensued.

Clause agreed to.

Clause 39.

Hon Nick Goiran moved —

Page 25, after line 2 — To insert:

- (2A) As soon as practicable after completing the consulting assessment report form, the consulting practitioner must give a copy of it to the patient.

Debate ensued.

Amendment — put and passed.

Hon Nick Goiran moved —

Page 25, line 25 — To delete “referral;” and insert:

referral (including a copy of any report given by the registered health practitioner or other person to whom the patient was referred);

Debate ensued.

Amendment — put and passed.

Hon Nick Goiran moved —

Page 25, after line 25 — To insert:

- (ka) if the patient was assisted by an interpreter when having the consultation assessment, the name, contact details and accreditation details of the interpreter;

Hon Nick Goiran, by leave, amended his amendment as follows —

To delete “consultation” and insert:

consulting

Debate resumed.

Amendment — put and passed.

The Minister for Environment representing the Minister for Health moved —

Page 25, after line 25 — To insert:

- (ka) the palliative care and treatment options available to the patient and the likely outcomes of that care and treatment;

Debate ensued.

Amendment — put and passed.

Debate resumed.

Hon Nick Goiran moved —

Page 25, line 30 — To insert after “patient”:

and to the patient

Debate ensued.

Hon Nick Goiran, by leave, withdrew his amendment.

Debate resumed.

Clause, as amended, agreed to.

Clause 40.

Debate ensued.

Hon Nick Goiran moved —

Page 26, line 6 — To delete “assessment.” and insert:

assessment no more than three times.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (10)

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

Hon Simon O’Brien
Hon Robin Scott
Hon Charles Smith
Hon Aaron Stonehouse
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 Matthew Swinbourn
Hon Dr Sally Talbot
Hon Colin Tincknell
Hon Darren West
Hon Alison Xamon
Hon Pierre Yang (*Teller*)

Amendment thus negatived.

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

Clause 41.

Debate ensued.

Hon Adele Farina moved —

Page 26, after line 25 — To insert:

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

Debate ensued.

Amendment — put and passed.

Hon Adele Farina moved —

Page 27, line 7 — To delete “declaration.” and insert:

- declaration; and
- (iii) is not a beneficiary under a will of the patient and will not benefit financially or in any material way from the death of the patient; and
- (iv) is not the coordinating practitioner or consulting practitioner for the patient making the declaration.

Debate ensued.

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

In subpoint (iii) — To delete “is” and insert:

knows or believes that they are

Debate resumed.

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 Robin Scott
 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 Martin Pritchard
 Hon Samantha Rowe
 Hon Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Amendment thus negatived.

Debate resumed.

Hon Nick Goiran moved —

Page 27, line 7 — To delete “declaration.” and insert:

declaration; and

- (iii) is not the coordinating practitioner or consulting practitioner for the patient making the declaration.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 42.

Debate ensued.

The Minister for Environment representing the Minister for Health moved —

Page 27, lines 28 and 29 — To delete the lines.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (16)

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 Matthew Swinbourn
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Pierre Yang (*Teller*)

Noes (18)

Hon Martin Aldridge
 Hon Jacqui Boydell
 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 Robin Scott
 Hon Tjorn Sibma
 Hon Charles Smith
 Hon Aaron Stonehouse
 Hon Colin Tincknell
 Hon Alison Xamon
 Hon Ken Baston (*Teller*)

Amendment thus negatived.

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.

8. Members' Statements

Statements were taken.

Hon Aaron Stonehouse, by leave, tabled a letter to the Premier regarding the removal of headstones at Karrakatta Cemetery. (Tabled Paper 3444).

9. Adjournment

The Council adjourned at 10.40pm until Thursday, 28 November 2019 at 10.00am.

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