



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON END OF LIFE CHOICES IN THE ACT

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Submission Cover Sheet

End of Life Choices in the ACT

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15th March 2018

RE: Inquiry into End of Life Choices in the ACT

Dear Committee Members,

Please let me start by saying thanking the members of the committee for your time and consideration. The issue of end of life choices is an important one. There are strong, valid opinions on either side of the discussion which are often intertwined with very powerful emotional experiences. I make no efforts to hide the fact that I would strongly support the development of ACT legislation governing the rights of people in certain circumstances to make choices which would effectively end their life. However, I also acknowledge that it is unlikely that there will be a panacea solution. No legislation will be able to appease everyone, it is more likely that the process will need to be iterative. Initial legislation should be reviewed after a period of time and assessed as to whether it needs to be scoped to aid more people in different sets of circumstances.

Below I speak to the key points laid out in the terms of reference.

1) Current practices utilised in the medical community to assist a person to exercise their preference in managing the end of their life, including palliative care;

I have heard anecdotally that in practice there are ways the medical community can assist a person to exercise their preference in managing the end of their life. This ranges from removing life preserving devices to giving doses of pain relieving or other medications far above a patient's requirement in cases where a patient's prognosis is that they won't recover from their illness or injury. I understand that strictly speaking some of these actions by medical practitioners would be considered illegal, but wrongdoing would be difficult to prove in court and thus these practices continue in an unofficially sanctioned grey area. Ideally legislation on assisted dying would mean that practitioners operating in this grey area would no longer need to do so, with the legislation hopefully offering protection from criminal and civil liability for those people who act in accordance with the laws.

I personally have no strong opinions on the exact method available to individuals to end their life if they choose to. There appears to be several methods prevalent around the world in the various countries where provisions have been made for citizens to end their lives. An edible, digestible substance (poison) and intravenous drug delivery appear to be the most common. I think either is entirely acceptable as long as they are administered in a controlled way under the supervision of a professional or nominated person.

2) ACT community views on the desirability of voluntary assisted dying being legislated in the ACT;

As I mentioned above I am certainly in favour of introducing assisted dying legislation in the ACT. I would be surprised if this was not the majority opinion in the ACT. Certainly, amongst my network of friends, family and work colleagues I would be hard pressed finding anyone that would not support legislation in some form or another. There will of course be sections of our community that

would not be in favour of assisted dying legislation, particularly the religious. It is impossible to appease everyone on this issue. If assisted dying legislation is introduced I would hope that there would be some efforts made to explain to people who are opposed to it why the decision was made and attempt to allay any fears they may have.

3) risks to individuals and the community associated with voluntary assisted dying and whether and how these can be managed;

Sadly, there are risks involved in allowing voluntary assisted dying and they cannot be ignored. The most obvious and sinister is of course the coercion of vulnerable individuals to request assisted dying services by people who seek to gain financial or material benefit. I refer to the Victorian legislation which I believe takes adequate steps to mitigate this risk. By having two medical practitioners involved sequentially in assessing a person's eligibility and understanding of the process and outcomes, and by insisting on a declaration and waiting period, it makes it incredibly difficult for any type of coercion to go undetected.

Unfortunately it is here that I must make the concession that while I am in favour in principle of having provisions made for people who cannot for whatever reason make the necessary declarations to access assisted dying services themselves, I lack the knowledge or experience to functionally resolve the inherent issue of agency and in preventing unscrupulous people from abusing their power over the infirm in their care. As I mentioned at the beginning of the letter, I think an iterative approach might be the best way forward. Enacting legislation that would immediately benefit the majority of people wishing to make dignified decisions about their end of life choices should not be delayed because this issue can't be resolved at the moment. Legislation could be enacted now, with amendments at a later stage once a further study is conducted around the mechanism of having services made available to those people who can no longer speak for themselves.

4) the applicability of voluntary assisted dying schemes operating in other jurisdictions to the ACT, particularly the Victorian scheme;

The Victorian legislation sets an excellent standard. While the administration initially appears burdensome particularly to a patient whose current situation might be painful or deteriorating rapidly, I acknowledge that this is probably necessary, first as a safeguard to see how this potentially controversial legislation plays out functionally in our community, and second it is a situation that could be abused, which I have already spoken about.

The only major issue I take with the Victorian Legislation is in the eligibility criteria. The legislation makes no provision for people who no longer have the ability to communicate their wishes to end their life. I would like to see some provision in any potential ACT legislation that would cover situations where a person had previously expressed a desire to end their life should they contract a terminal illness but has since become unfit to request such services. Again, I'm not entirely sure how this would work. Perhaps a combined panel of doctors and legal experts could make an assessment at the behest of a person who has power of attorney relating to the individual. As I have said above, as much as I would like to see this in legislation, I admit that the better option would be to limit potential legislation to the more straightforward situations and amend the legislation at a later date to allow more in depth patient assessments.

5) the impact of Federal legislation on the ACT determining its own policy on voluntary assisted dying and the process for achieving change; and

My understanding is that currently Federal Legislation prevents the ACT and the Northern Territory from introducing their own legislation around euthanasia. Obviously regardless of any

community support within the ACT the federal legislation must be changed before our community can do anything. I am not a politician and I lack any intimate knowledge of how the ACT could go about influencing this change at the federal level. I should think that the findings of this committee of inquiry into End of Life Choices in the ACT would go some way to convincing the Federal government to overturn the 1996 legislation. Again, I proclaim no great knowledge of the intricacies of Parliament but perhaps the ACT's federal members of parliament could introduce a private member's bill effectively amending the 1996 legislation.

In any case, without change at the federal level there appears to be little the Legislative Assembly can do to enact territory laws.

I would like to say thank you again to the committee. The ability to discuss and consider important issues such as this is the hallmark of a free and democratic society. I genuinely hope that the ACT can introduce legislation around End of Life Choices. It will go a long way to easing the pain and suffering of a great many people in our community and allow them the right to determine their own fate with dignity.

Please do not hesitate to contact me should you wish to discuss the contents of this submission.

Sincerely,
Chris Dennis