LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON VOLUNTARY ASSISTED DYING BILL
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Submission Cover Sheet

Inquiry into the Voluntary Assisted Dying Bill 2023

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Submission to the Select Committee on the Voluntary Assisted Dying Bill 2023
by
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Introduction

This submission outlines a few of the problems with the Voluntary Assisted Dying Bill 2023 and some of the reasons why it should not proceed. I would welcome the opportunity to address the Select Committee on these issues.

Inquiry on end-of-life choices in the ACT and progress since reporting

In 2019 the Select Committee on end-of-life choices in the ACT, of which I was a member, presented its report to the ACT Legislative Assembly.

The Select Committee made strong recommendations about advance care planning and palliative care. While the government agreed with many of the recommendations, there has not been adequate implementation.

For instance, while there was the roll out of modest funds to assist with the provision of palliative care in aged care, the recommendation for a dedicated palliative care ward has been bogged down in "future planning".

The implementation of the Productivity Commission's recommendations on palliative care has resulted in letters being written to the Medicare Benefits Schedule (MBS) Review Taskforce, referral to the Australian Health Ministers' Advisory Council (AHMAC), and the collection of data, amongst other things[1]. However apart from dollar matched funding of $1.850 million, $0.925 million each from the Commonwealth and the ACT Government, little material contribution has been made to the necessary expansion of palliative care.

The Select Committee made no recommendations about the implementation of euthanasia in the ACT although the narrative of the report (paragraph 9.40) set out how some members of the committee thought that such a scheme might operate.

The Select Committee Report also highlighted overwhelming community opposition to euthanasia. Of the 274[2] submissions received from individuals who had an ACT residential address, over 60% or 160 submitters were opposed to euthanasia[3].

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[1] https://www.parliament.act.gov.au/__data/assets/pdf_file/0006/1616838/9th-SelCom-on-EOLC-in-the-ACT-GR-Rec-12-Timetable-and-progress-of-actions-GR-tabled-2020-08-20.pdf.

[2] There were close to 500 submissions in all received by the Select Committee.

[3] https://www.parliament.act.gov.au/__data/assets/pdf_file/0004/1334992/9th-EOLC-Report.pdf, pp 88-89.

Proposed Bill represents a policy failure on a multitude of fronts

Failure in palliative care

The objects (s 6) of the Voluntary Assisted Dying Bill 2023 represent a policy failure on behalf of the residents of the ACT, whom this Assembly was established to serve. The whole aim of the palliative care policies attested to by the ACT government along with all other states, the Northern Territory and the Commonwealth is to provide care that should obviate the need to introduce euthanasia.

The World Health Organisation (WHO) has drawn up a lengthy and comprehensive definition of palliative care which: neither hastens nor postpones death; provides support to patients, families and carers; and affirms life while recognising that death is part of life [4]. Definitions of palliative care do not include reference to euthanasia or voluntary assisted dying. The bill before the Select Committee represents either a failure to implement, or a determination against, comprehensive and wholistic palliative care for Canberrans. This has clearly been done without real consultation with Canberrans.

Principles contradict the objects

Further, the objects contradict the principles outlined in section 7 of the Bill The notion of introducing euthanasia is completely at odds with the fundamental importance of human life (s7(a)), the inherent dignity of each individual (s7(b)), and providing each individual approaching death with high quality, person-centred palliative care (s7(d)). One cannot hold these notions to be true while introducing euthanasia to the community.

Impact on suicide

In addition, section 8 (Voluntary assisted dying is not suicide) seeks to create a legal fiction that seriously undermines the multitude of suicide prevention programs and actions funded by the Canberrans. As submitters to the previous inquiry of the Select Committee on end-of-life choices in the ACT pointed out, there is a clear tension between taxpayer-funded suicide prevention programs and a taxpayer-funded, government-endorsed euthanasia program. It is particularly hard to tell those at risk of suicide that their lives are worth living, that they are valued and we want what's best for them, while at the same time legislating for euthanasia. Section 8 creates the merest fig leaf of cover while actively undermining the work of legions of mental health workers and families across the territory.

And while we are considering the issue of suicide, recent research indicates that the introduction of euthanasia leads to an increase in suicide across the board, while some research indicates a particular increase in suicide in women, especially older women.[5]

No protection for conscientious objection

Section 94 proports to give protections to health practitioners and health service providers who do not wish to participate in the scheme proposed by the bill. However, these protections are completely undermined by a strict liability offence in Section 95, with a

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[4] Op. cit., pp 43-44.

[5] https://jemh.ca/issues/open/documents/JEMH%20article%20EAS%20and%20suicide%20rates%20in%20Europe%20-%20copy-edited%20final.pdf

maximum penalty of 20 penalty units, of failing to refer a patient on to a provider. While the Bill anticipates that some will have a conscientious objection to participating in this scheme for euthanasia, they will be committing a strict liability offence if they do not assist access to the scheme. This is a fundamental failure to comprehend the notion of conscientious objection and provide appropriate safeguards for health workers.

Similarly, Part 7 of the Bill would put unreasonable obligations and substantial penalties on facilities whose operators might have a conscientious objection to the provision of euthanasia on their premises. While the ACT Government may have smoothed the path for the provision of euthanasia at Clare Holland House by way of its compulsory acquisition, there are other facilities which may face similar difficulties to those experienced by individual practitioners.

Added to the problem of having to co-operate with euthanasia, the provisions of Part 7 reduce the autonomy of institutions by compelling them to allow practitioners to operate within their facilities effectively against the will of management. It means that hiring policies will effectively be undermined by this legislation, and it creates a regime of forcible entry to premises. Such a policy might affect an institution's ability to obtain and retain registration, indemnify staff, or meet their contractual obligations to their clients. In addition, having practitioners foisted on the institution would undermine the day-to-day operations.

No definition of practitioner

Division 5 envisages a broad scope of eligible practitioners who will be eligible to participate in any euthanasia scheme. The vagueness and the breadth of these provisions are clearly intended to catch a variety of practitioners. It seems that this is to undermine the work of acknowledged diagnosticians and could lead to considerable pressure on vulnerable patients.

Conclusion:

I recommend that the Voluntary Assisted Dying Bill 2023 not proceed because:

1. of the lack of support in the ACT evidenced in the submissions to the Report of the Select Committee on end-of-life choices;
2. the recommendations of that Inquiry have not been adequately implemented;
3. its implementation would seriously undermine suicide prevention programs in the ACT; and
4. the provisions actively undermine conscientiously objection protections for individuals and institutions who might not want to participate in the provision of euthanasia

Vicki Dunne