



COMMITTEE SUPPORT

Select Committee on the Inquiry into the
Voluntary Assisted Dying Bill 2023

ANSWER TO QUESTION TAKEN ON NOTICE

Asked by Suzanne Orr on 2 February 2024: Janet Zagari took on notice the following question:

Reference: Hansard [uncorrected] proof transcript 2 February 2024 [PAGE 32]

In relation to:

THE CHAIR: So in the application of the clause that says disability is not a reason to access the scheme, and you have got the combined criteria, how do the two interact when the condition that might be life-limiting and leading to the end of your life - and be advanced and be progressive - is a disability.

Ms Zagari: I am not quite sure how to frame an answer to that because there will be certain conditions that might be considered a disability and are at end-of-life.

THE CHAIR: That is exactly the point I am getting to is when the two of—when they are the same thing, yes.

Ms Zagari: Correct. There will be a need for a clinician assessment to determine whether that is at a sufficient stage. I could not comment further than that. Whether we need to take something on notice but it would be difficult to frame.

THE CHAIR: Maybe you could consider that and take it on notice. That would be helpful.

Minister for Human Rights: The answer to the Member's question is as follows:—

Clause 11(1)(b) of the Bill provides that one of the eligibility requirements to access VAD is that 'they have been diagnosed with a condition that, either on its own or in combination with 1 or more other diagnosed conditions, is advanced, progressive and expected to cause death' (the **relevant conditions**).

Clause 11(2) clarifies that 'an individual does not meet the eligibility requirement mentioned in subsection (1) (b) only because they have a disability, mental disorder or mental illness'. The intent to clause 11(2) is to clarify that a disability, mental disorder or mental illness does not satisfy the eligibility

requirement in clause 11(1)(b) unless it is, either on its own or in combination with 1 or more other diagnosed conditions, advanced, progressive and expected to cause death. Like other Australian jurisdictions, the Bill makes this explicit to signal to disability communities, health practitioners and the broader community that VAD is only an option for people with disabilities if they meet all of the eligibility requirements.

The Bill provides for an assessment of an individual by two independent practitioners, against *all* eligibility requirements in 11(1)(b), including that the individual is suffering intolerably, has decision-making capacity in relation to VAD, and is acting voluntarily and without coercion.

Whether an individual's condition(s) meet the eligibility requirement thresholds will be a case by case assessment undertaken by the coordinating practitioner, followed by an independent second assessment by the consulting practitioner.

Approved for circulation to the Select Committee on the Inquiry into the Voluntary Assisted Dying Bill 2023

Signature:



Date:

9/2/24

By the Minister for Human Rights, Ms Tara Cheyne