



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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Submission

ACT Legislative Assembly Select Committee on End of Life Choices in the ACT

1. The purpose of this submission is to explain why I wholeheartedly agree with comments to the following effect that Chief Minister Andrew Barr made after the Council of Australian Governments (COAG) meeting on 9 February 2018:
 - 1.1 that the ACT should step up its campaign to persuade the Federal Government to repeal Kevin Andrews' *Euthanasia Laws Act 1997 (C'th)* so that the ACT can legislate on voluntary assisted dying; and
 - 1.2 that it is completely absurd for the *Euthanasia Laws Act 1997 (C'th)* to remain in force now that Victoria has enacted the *Voluntary Assisted Dying Bill 2017* (the "Victorian Bill").

The Euthanasia Laws Act 1997 (C'th) unfairly removes the right of Territorians (both ACT and NT) to make their own democratic decisions about voluntary euthanasia

2. In 1997 the Federal Parliament enacted the *Euthanasia Laws Act 1997 (C'th)*, which:
 - repealed Marshall Perron's *Rights of the Terminally Ill Act 1995 (NT)*; and also
 - prohibited the enactment of voluntary assisted dying legislation in the ACT and Norfolk Island.

World's best palliative care therapies cannot prevent up to 4% of terminally-ill patients suffering a prolonged, agonising and / or distressing death

3. Although some palliative care specialists dishonestly maintain the fiction that palliative care therapies are so effective that there is no need for voluntary euthanasia, other palliative care specialists have been willing to acknowledge the reality that even world's best palliative care therapies cannot prevent up to 4% of terminally-ill patients from suffering an agonising and / or distressing death.
4. When a terminally-ill patient is in a state of unbearable suffering, misery and distress, voluntary euthanasia is a kinder and more compassionate option than prolonging the patient's suffering. For example, in 2009 Perth quadriplegic Christian Rossiter had no option but to take legal proceedings in the Western Australian Supreme Court to win the right to refuse food from his care provider and end his life by starvation. An item on the ABC's website quotes Mr Rossiter as having said after having won the right to refuse food that "*It's comforting to know that when you say you're going to starve yourself to death no one's going to come along in the night when you've lost consciousness and keep you alive to suffer a bit longer.*" The relevant item on the ABC's website can be accessed via the following webpage:

<http://www.abc.net.au/news/2009-08-14/perth-quadriplegic-wins-landmark-right-to-die/1391380>

5. Anyone who has been up close and personal while a loved one has had to endure the agony of end-stage pleural mesothelioma, as the malignant tumour grows inside their lungs and pleural cavity and eats away their lungs and rib cage, would be acutely aware of the limitations of palliative care in alleviating their loved one's pain, suffering and distress. Indeed, I submit that if a dog owner were to allow a dog to suffer the same sort of agonising and distressing death that my father-in-law suffered during end-stage pleural mesothelioma they could justifiably be accused of animal cruelty and he supposedly had world best palliative care in a hospice.
6. See also Shayne Higson's opinion piece in the Sydney Morning Herald on 16 November 2017, "*Assisted dying: My mother had the best palliative care – and even that was not enough*", with respect to the 'bad death' that his mother suffered with supposedly world's best palliative care. Shayne Higson's opinion piece can be accessed from the following webpage:

<http://www.smh.com.au/comment/assisted-dying-my-mother-had-the-best-palliative-care--and-even-that-was-not-enough-20171115-gzln3m.html>

The Voluntary Assisted Dying Bill 2017 (NSW) has an extremely limited scope

7. Despite having followed the passage of the *Voluntary Assisted Dying Act 2017 (Vic)* reasonably closely in the media, I have only a fairly general understanding of the provisions of that Act. However, in November 2017 I was fortunate to be able to attend a seminar that was presented by NSW Legislative Council MLC Lynda Voltz at South Newcastle Rugby League Club, Merewether with respect to the NSW *Voluntary Assisted Dying Bill 2017* (the "NSW Bill").
8. Not only did I get the benefit of Lynda Voltz's detailed explanation of the NSW Bill's multiple layers of legal safeguards and protections, the majority of which she delivered in response to questions from the audience, I was also provided with a copy of the Bill. Having attended the seminar gave me a real incentive to read the Bill.
9. The application of the NSW Bill is specifically limited to persons who are suffering from a "*terminal illness*" that will, in reasonable medical judgement, result in their death within the next 12 months (see clause 4) and who, as a consequence of such terminal illness, have been experiencing severe pain, suffering, or physical incapacity to an unacceptable extent (see paragraph 9(2)(e)).
10. The application of the NSW Bill is further restricted to Australian citizens / permanent residents who make a formal request to a registered medical practitioner in accordance with the requirements in the Bill (see sub-clause 9(2)) and who have to:
 - 10.1 be at least 25 years of age and ordinarily resident in NSW (see paragraphs 9(2)(a) and 9(2)(b)); and

- 10.2 possess sufficient *decision-making capacity* to understand the facts of their *terminal illness*, the medical treatment / other options that are available to them and the consequences of making a request for assistance to end their life (see clause 7).
11. The NSW Bill provides that a medical practitioner is only authorised assist a terminally-ill person to die pursuant to the Bill if the person has been examined by:
- 11.1 a primary medical practitioner (GP) (see sub-clause 17(1)); and
- 11.2 a *specialist* in the diagnosis / treatment of the terminal illness from which the person is suffering (see sub-clause 17(3)), whose examination of the person must be independent of the GP's examination (see sub-clause 17(2)); and
- 11.3 a qualified psychiatrist / psychologist, who has to certify that the person possesses the required decision-making capacity and has made the assisted dying request freely, voluntarily and after due consideration (see clause 20).
12. The terminally-ill person must also sign a formal declaration on the request certificate in the presence of the GP (see sub-clauses 22(2) and 22(5) and Schedule 1), who together with the specialist must then certify that they have satisfied the NSW Bill's requirements with respect to their medical examinations / assessments (see sub-clauses 22(6) and 22(7) and Schedule 1).
13. A person who makes a request under the NSW Bill can rescind the request at any stage (see clause 10) and there is also a 48-hour cooling off period (see clause 12).
14. Clause 15 of the NSW Bill makes it an indictable offence punishable by imprisonment for 4 years to engage in conduct that influences the provision of assisted dying under the Bill.

The Voluntary Assisted Dying Bill 2017 (NSW) was defeated in the Legislative Council

15. Notwithstanding the extremely limited scope of the NSW Bill and its multiple layers of legal safeguards and protections, the Legislative Council voted it down 20 – 19.

Religious institutions and believers are implacably opposed to voluntary euthanasia for irrational, religious reasons

16. I submit that belief in God without any objective (rational) evidence and on the basis of subjective faith alone can properly be described as "*irrational*", the dictionary definition of which word is "*not logical or reasonable*". I share Sigmund Freud's view that all religious belief is a form of mass delusion.
17. Religious belief is relic / hang-over from the Bronze Age that has persisted into the 21st Century largely due to the pernicious practice of religious believers indoctrinating young, vulnerable children (long before they have developed an independent intellectual capacity to make a rational decision whether or not to believe) to

unquestioningly accept their particular brand of religious beliefs on the basis of subjective faith.

18. Given that the sacred texts of the three monotheistic / Abrahamic religions are predicated on Moses' First Commandment, or some variation thereof, "*I am the Lord, your God. You shall have no other Gods before me*" it is hardly surprising that all three religions (particularly Christianity and Islam) have been reluctant to recognise that non-believers have a right to live their lives free from religious interference.
19. Religious institutions and believers seem to regard suicide as 'self-murder' and mis-interpret the 'right to life' as if it constitutes an onerous duty that is imposed upon a terminally-ill person to keep on 'living', regardless of the amount of pain, suffering and distress / lack of dignity that the person has to endure.
20. Despite opinion polls that show up to 80% of Australian voters support voluntary euthanasia, religious institutions and believers keep on drinking the 'theocracy Kool Aid' that inspires them to:
 - 20.1 believe they have a God-given right to control social morality, even for non-believers; and
 - 20.2 stubbornly refuse to accept that terminally-ill Australians should have the right to have a dignified death.
21. Religious institutions and believers are so implacably opposed (for irrational religious reasons) to any form of suicide and voluntary assisted dying that they:
 - 21.1 casually dismiss the suffering and distress of terminally-ill patients whose condition is *not* alleviated by palliative care therapies and who want to die with dignity; and
 - 21.2 cruelly condemn such patients to suffer and die with less dignity than would be accorded to a dog. For example, in September 2008 Pope Benedict XVI pronounced that the terminally-ill should pray to find "*the grace to accept, without fear or bitterness, to leave this world at the hour chosen by God.*"
22. In a desperate attempt to stall / kill the Victorian Bill religious institutions and believers resorted to every trick in the scare campaign book, including:
 - 22.1 scare mongering about aged / incapacitated relatives being emotionally pressured by family members to agree to a medically-assisted death for the sake of convenience;
 - 22.2 reprehensible slippery slope arguments along the lines that voluntary assisted dying will lead to Nazi Germany style eugenics policies pursuant to which involuntary euthanasia will be practiced against disabled / infirm people and anyone who is considered to be of little value to society;
 - 22.3 dire 'end of the world as we know it' warnings from tired, old Roman Catholic luminaries such as journalist Paul Kelly and former Prime Minister Paul Keating; and
 - 22.4 dishonest claims that improved access to palliative care services would eliminate the need for voluntary assisted dying legislation.

Overseas experience with voluntary assisted dying legislation gives the lie to religious-inspired scare campaign

23. On 8 November 1994, a slim majority of Oregon voters voted to approve Measure 16 with 627,980 (51.3%) voting in favour and 596,018 (48.7%) voting against. The adoption of Measure 16 of 1994 led to the enactment of the *Death with Dignity Act* (ORS 127.800-995), which subject to certain restrictions and safeguards legalises medically-assisted suicide with certain restrictions. Oregon was the first U.S. state and one of the first jurisdictions in the world to establish a legislative scheme for voluntary-assisted dying.
24. In 2006, the legality of Oregon's *Death with Dignity Act* was challenged by George W Bush's Republican administration but was upheld by the United States Supreme Court in *Gonzales v Oregon* 546 US 243.
25. During the 16 year period from 1 January 1999 to 31 December 2015, a total of 1,545 people have had prescriptions filled for lethal medication pursuant to the provisions of the *Death with Dignity Act* and 991 patients have used such prescribed medications to end their lives.
26. According to an opinion piece by Thaddeus Mason Pope in the New York Times on 7 October 2014, "*Oregon Shows That Assisted Suicide Can Work Sensibly and Fairly*", Oregon's *Death with Dignity Act* has been a success:

"... due to many safeguards in Oregon's law, which only allows participation by defined categories of patients. Patients must be mentally healthy residents of Oregon, 18 or older, who have had two physicians determine that they have no more than six months to live.

The safeguards [in the Act] also ensure that patients are making a voluntary and informed decision. A physician must educate the patient about all options, including palliative care, pain management and hospice. The patient must make three separate requests (two oral and one written). The oral requests must be separated by at least 15 days, and the written request must be independently witnessed by two people. The patient can rescind these requests at any time. Finally, to further ensure that patients remain in full control of the process, they must administer the medication themselves.

These safeguards work. There is no evidence of an inordinate impact on vulnerable populations. Indeed, over 97 percent of the patients who died from ingesting a lethal dose of medication were white. Over 98 percent had health insurance, over 90 percent were enrolled in hospice and over 72 percent had gone to college. Nor does available research show any negative impact on the availability of palliative care or on the physician-patient relationship. Today Oregon is a universally recognized leader in end-of-life care across the entire continuum of options."

27. Thaddeus Mason Pope's New York Times' opinion piece, "*Oregon Shows That Assisted Suicide Can Work Sensibly and Fairly*", can be accessed via the following web page:

<https://www.nytimes.com/roomfordebate/2014/10/06/expanding-the-right-to-die/oregon-shows-that-assisted-suicide-can-work-sensibly-and-fairly>

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