Voluntary Assisted Dying Bill 2019 needs amendments

The following are some serious problems in the Bill that even some supporters of the concept of VAD acknowledge need to be amended:

1. **Doctors' conscientious objection not respected**
   The provision of a lethal substance to a person, or knowingly facilitating their access to such a substance so they can end their life is forbidden by all major religious traditions. Yet Section 19(5) (b) obligates a doctor to provide the patient with '*information approved by the CEO*', which presumably would be a booklet that contains information about how they can access VAD. This provision requires a doctor to be an accessory to the person's suicide, something that is forbidden by all major religious traditions. Under current law to do so is a serious criminal offence.

   Under Section 10 (1), a doctor who refuses to provide the '*information approved by the CEO'* will be guilty of '*professional misconduct or unprofessional conduct'*, which can result in the doctor no longer being allowed to practice medicine.

   Thus the Bill does not adequately protect the freedom of conscientiously objecting doctors which is enshrined in Article 18 of the International Covenant on Civil and Political Rights, to which Australia is a signatory. This article requires signatory states to only limit religious freedom when '*necessary…to ensure public safety, order, health or morals, or the fundamental right of others.'*

   The provision that doctors who have a conscientious objection, must still be an accessory to a person's suicide, is a serious flaw in the Bill, which needs to be remedied.

2. **Treating Doctor need not be informed**
   The Bill does not require a person to inform his/her treating doctor(s) that they are making arrangements for VAD with another doctor.

   Section 26(j) states: *that if the patient is receiving on going health services from a medical practitioner other than the coordinating practitioner, the patient is encouraged to inform the medical practitioner of the patient's request for access to voluntary assisted dying."*

   There is no requirement for the co-ordinating doctor to inform the person's treating doctor either. Thus, a scenario can be created, where the treating doctor comes to visit the patient, only to discover that some hours earlier the patient has ended their life with the assistance of other doctors. This is a totally unacceptable situation, and inevitably will lead to damaging the trust relationships that medical practitioners should be able to have with their colleagues.

3. **Family need not be consulted**
   There is no requirement in the Bill for the patient nor the co-ordinating doctor to communicate with the next of kin. This can create the kind of situations that are documented in the film Fatal Flaws where a son was informed by the hospital that his mother had just died. He had a good relationship with his mother and visited her regularly and had visited her the day before and was aware she was somewhat depressed. He was told that she had been euthanised One needs to consider the long-term impact that such a situation can have on family members. The VAD Bill is supposed to be about being compassionate, but such a scenario shows no compassion to the surviving family.

4. **Coercion – no checks required**
   The Bill states in Section 15 (e) that for a person to be eligible, the person must be *acting voluntarily and without coercion.* It is impossible for a doctor to be certain that no subtle coercion has been at play. The doctor is required to ask the question of the patient. If the patient declares there has been no coercion, the doctor will have fulfilled his duty.

   The fact is that one family member can impress on the patient that he/she is a burden on loved ones, and that out of thoughtfulness for them, the patient should apply for physician assisted suicide. There simply is no way of ensuring that such a conversation has not taken place.

   At the very least, the next of kin should be asked if they are aware of any possibility of subtle pressure being applied. Without such a conversation with the next of kin, the coordinating doctor may get an incomplete picture of the dynamics at play. Such a check was recommended by the Chief Psychiatrist but is not in the Bill.

   What Senator Patrick Dodson has written [1] about the problems VAD would create for aboriginal people, given their much more communal view of the world, rather than an atomistic individual view of life, is another reason consultation with next of kin should be mandatory.

5. **Doctor can raise the subject of VAD**
   The Bill allows doctors to initiate conversations about euthanasia or physician assisted suicide. This puts vulnerable patients at risk of undue influence from inexperienced, incompetent, exhausted or even unscrupulous doctors. If you watch the conduct of Dr Alida Lancee on Flashpoint [2] (9th Sept, 2019) , you will see a very forceful doctor who shows no respect for anyone who thinks differently to herself – she talks across the top of Dr Andrew Miller (AMA), the host and myself. A vulnerable patient, weakened physically and mentally by their illness, would not have the capacity and stamina to push back against a doctor who is presenting physician assisted suicide as the best treatment option. Dr Tony Buti in the

[1] The Australian 15/10/2019
[2] https://7plus.com.au/flashpoint

Legislative Assembly addressed this issue very poignantly using the very personal situation of his own daughter.

It is imperative that the Bill be amended so that doctors are not permitted to raise the option of terminating the patient's life. For very good reason, this provision is part of the Victorian legislation.

6. **Doctors do not need to be specialists in the patient's condition**
   Neither of the two co-ordinating doctors needs to be a specialist in palliative medicine or the terminal illness suffered by the patient. This will allow a repeat of what occurred under the NT legislation in the 1990s, where an orthopaedic surgeon was the second doctor to authorise the person's access to physician assisted suicide.

   The patients treating oncologist was of the view that the woman's condition was not terminal, and therefore had refused to authorise her access to physician assisted suicide. As the case demonstrated, Dr Nitschke going "doctor shopping' till he found one who would authorise the patient's access was easy.

   The Bill should be amended to require one of the coordinating doctors to be a specialist in the patient's condition, or a palliative care specialist.

Having worked in Palliative Care in the 1980s in Victoria providing pastoral care, I sat with many dying cancer patients, and can assure you that I never once saw anyone dying with significant pain. Many people suffer fear and anxiety when they receive their diagnosis, but with appropriate pastoral care, medical support and social work support, these things can all be addressed to provide a person with the support they need.

Dying is not an individual or personal affair – the death of a person affects the lives of others.

Call to Action

It would be very helpful for people to call the offices of the their MLCs and tell the staff to please convey to the Member that they urge them to vote against the Bill. But if they are going to support the Bill to only do so if it is amended to address its shortcomings and ensure that WA residents have no less protections than what the Victorian Bill provides.

South Metropolitan Region
Call offices of MLCs Aaron Stonehouse 9226 3550 and Pierre Yang 9337 9176

North Metropolitan Region
Call offices of MLCs **Martin Pritchard** 9201 0582 and **Tjorn Sibma** 9440 4422

South West Region:
Call offices of MLCs **Adele Farina** 9721 1165 and **Colin Tincknell** 9486 8106

Mining and Pastoral Region
Call offices of MLCs **Robin Scott** 9093 1455 and **Kyle McGinn** 9022 7003

Agricultural Region
Call office of MLCs **Martin Aldridge** 9576 0141 **& Jim Chown** 9481 0082