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21 June 2021

Mr Aaron Harper
Chair
Health and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: hec@parliament.qld.gov.au

Dear Chair

Thank you for providing AMA Queensland with the opportunity to provide feedback on the *QLRC draft Voluntary Assisted Dying Bill 2021.*

AMA Queensland is the state's peak medical advocacy group, representing over 9,600 doctors across Queensland and throughout all levels of the health system. AMA Queensland believes that laws are a matter for society and government. What's critical from our perspective is that doctors and patients have their rights and beliefs protected and the options provided as a result of the legislation are equitable.

Overall AMA Queensland is pleased that the *draft Voluntary Assisted Dying Bill 2021* reflects the majority of AMA Queensland's answers in our submission back to the QLRC in December 2020 (*attachment 1*). The answers in our submission were based on the results of a survey on VAD sent to all AMA Queensland members which resulted in the largest response to any survey in AMA Queensland's history; an indication of the importance of this topic to Queensland doctors.

There are however, some parts of the *draft Voluntary Assisted Dying Bill 2021* which we recommend the Health and Environment Committee consider in their deliberations on the draft Bill.

1. Add the words *incurable* to the eligibility criteria for patients wishing to access the proposed VAD scheme

In the eligibility section the draft bill indicates; "the person must have been diagnosed with a disease, illness or medical condition that is advanced, progressive and will cause death."

AMA Queensland recommends this section of the Bill change to "the person must have been diagnosed with a disease, illness or medical condition that is incurable, advanced, progressive, and will cause death."

2. Add Organisational Conscientious objection to the Bill

AMA Queensland is pleased with the conscientious objection section of the draft Bill that a doctor who has a conscientious objection has the right to refuse to:

- Provide information about VAD
- Participate in the request and assessment process
- Participate in an administrative decision
- Prescribe, supply or administer a VAD substance
- Be present at the time of the administration or self-administration

However, we recommend this section of the Bill be changed to include organisational conscientious objection as we believe that some health care facilities which provide care may have a distinctive mission or ethos which should permit it to refuse to provide particular services due to an 'institutional conscientious objection'. In that situation, the institution should inform the public of this so that patients can seek care elsewhere.

3. Change the current Commonwealth Law regarding the use of Telehealth to allow doctors to use telehealth to provide care options for patients with terminal conditions

AMA Queensland agrees with the Queensland Premier's request that the Commonwealth Law (*Commonwealth Criminal Code Act 1995, sections 474.29A and 474.29B)* as we believes doctors should be able to use telehealth to provide care options for patients with terminal conditions.

4. Self-administration of the VAD medication should not be the default option

AMA Queensland believes self-administering the voluntary assisted substance should not be the default option. The decision whether to self-administer the voluntary assisted dying substance or practitioner administered should be for the patient to decide based on the advice provided by the coordinating practitioner.

5. A patient's request to access the proposed VAD scheme should be enduring

AMA Queensland believes that a patient's request to access the proposed VAD scheme should be enduring (unless it is rescinded by the patient) as it is a fundamental safeguard to protect those seeking VAD. This will ensure that the person's request is well considered and is more than a short-term reaction to their condition.

6. Permit patients who have in their Advanced Health Directive a request to access the proposed VAD scheme but subsequently loses their capacity, for their wishes to be followed

The *draft Voluntary Assisted Dying Bill 2021* indicates that patients wishing to access the scheme should have capacity at all times. AMA Queensland believes that if a patient who is in the process of accessing VAD, has an advanced health directive and subsequently loses capacity, their wishes in their advance health directive should be followed.

The purpose of having an advance health directive is for the patient to maintain their autonomy once they lose their capacity, and this should apply to accessing VAD. AMA Queensland's position on this issue is also justified by the *Powers of Attorney Act 1998 (Qld*) (see chapter 3, part 3), which governs advanced health directives in Queensland. Importantly, an advance health directive can only be revoked while the patient has capacity to do so (section 48(2)). This is why it is encouraged that reviewing advance health directives should occur every 2 years.

7. Referral to a psychiatrist for mental health and/or capacity assessment should not be mandatory before patients can access the proposed VAD scheme

AMA Queensland believes the decision to refer the patient to a psychiatrist for mental health and/or capacity assessment should be made by the coordinating medical practitioner if they are unable to assess the person's capacity but that the requirement to refer to a psychiatrist for mental health and/or capacity assessment should not be mandatory.

AMA Queensland also needs to point out the disparity between the time-period to access palliative care (3 months) compared to the proposed VAD scheme in Queensland (12 months).

Thank you again for providing AMA Queensland with the opportunity to provide feedback on the *QLRC draft Voluntary Assisted Dying Bill 2021.*

Yours sincerely

Professor Chris Perry
President
AMA Queensland

Dr Brett Dale
Chief Executive Officer
AMA Queensland

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1 December 2020

The Honourable Justice Peter Applegarth AM
Chair
Queensland Law Reform Commissions
PO Box 13312
George Street Post Shop
Brisbane QLD 4003

By email: lawreform.commission@justice.qld.gov.au

Dear Chair

Thank you for providing AMA Queensland with the opportunity to provide input on the *QLRC Consultation Paper WP 79 - A legal framework for voluntary assisted Dying.*

AMA Queensland is the state's peak medical advocacy group, representing over 9600 doctors across Queensland and throughout all levels of the health system.

AMA Queensland wishes to state at the onset that we remain opposed to the introduction of voluntary assisted dying in Queensland and believe that doctors should not be involved in interventions that have as their primary intention the ending of a person's life.

However, given that the current Queensland Government has decided to proceed with the development of legislation to introduce a Voluntary Assisted Dying Scheme in Queensland we want to ensure the medical profession is involved in the development of relevant legislation, regulations and guidelines which protect:

- all doctors acting within the law;
- vulnerable patients – such as those who may be coerced or be susceptible to undue influence, or those who may consider themselves to be a burden to their families, carers or society; patients and doctors who do not want to participate; and
- the functioning of the health system as a whole.

Please note: AMA Queensland sent the QLRC questions to all our members and received the largest response to any survey in AMA Queensland's history, an indication of the importance of this topic to Queensland doctors. The answers to the contained questions are based on feedback from members of AMA Queensland across the State.

Q 2 Should the draft legislation include a statement of principles"
- ***a. that aids in the interpretation of the legislation?***
- ***b. to which a person must have regard when exercising a power or performing a function under the legislation (as in Victoria or Western Australia)?***

AMA Queensland believes there should be a statement of principles similar to section 5(1) of the *Voluntary Assisted Dying Act 2017* (Vic); (b) section 4(1) of the *Voluntary Assisted Dying Act 2019* (WA); or (c) clause 5 of the *W&W Model.*

Q5.	***Should the eligibility criteria for a person to access voluntary assisted dying require that the person must be diagnosed with a disease, illness or medical condition that:*** ***(a) is incurable, advanced, progressive and will cause death (as in Victoria); or*** ***(b) is advanced, progressive and will cause death (as in Western Australia)***

AMA Queensland agrees with (a). The word "incurable" must be included otherwise the legislation could include curable conditions such as depression, anxiety about future financial independence and lifestyle, and anxiety about the possibility of cancer which seemed to be the issue in the most well-known patient to receive euthanasia the Northern Territory's voluntary assisted dying pathway.

AMA Queensland believes that the timeframe should be consistent with Western Australia and Victoria.

Q6	***Should the eligibility criteria for a person to access voluntary assisted dying expressly state that a person is not eligible only because they:*** ***(a) have a disability; or*** ***(b) are diagnosed with a mental illness?***

AMA Queensland believes that if a patient meets the eligibility criteria to access the proposed VAD scheme in Queensland (i.e. has a disease, illness or medical condition that is incurable, advanced, progressive and will cause death);

a. has a disability

AMA Queensland believes patients who have a disability should be able to access the scheme.

b. are diagnosed with a mental illness?

AMA Queensland believes the definitions section in the proposed VAD legislation should clearly state which diagnosed mental illnesses render the patient ineligible to access the scheme, as some people may have been diagnosed with a mental illness but still have capacity but other diagnosed mental illnesses (including but not limited to dementia, intellectual disability, acquired brain injury) may mean the patient has impaired capacity.

In this case, AMA Queensland does believe a patient's decision-making capacity' be defined in the same terms as the definition of 'capacity' in the *Guardianship and Administration Act 2000* and the *Powers of Attorney Act 1998*. AMA Queensland has taken this position because we are a strong believer in Advance Health Directives (AHDs), and as AHDs also fall under the *Guardianship and Administration Act 2000* we agree with this position. Question 13 part C asks whether someone who has requested access to the proposed VAD scheme in an advance health directive, whether their access to the proposed VAD scheme continue if they have lost capacity. Our members strongly believe this should be the case.

Q7: Should the eligibility criteria for a person to access voluntary assisted dying require that the person must be diagnosed with a disease, illness or medical condition that is expected to cause death within a specific timeframe

AMA Queensland agrees with this (see response to Q8). AMA Queensland believes that the timeframe should be consistent with Western Australia and Victoria.

Q8: If yes to Q-7, what should the timeframe be? Should there be a specific timeframe that applies if a person is diagnosed with a disease, illness or medical condition that is neurodegenerative? For example, should the relevant timeframe be within six months, or within 12 months in the case of a disease, illness or medical condition that is neurodegenerative (as in Victoria and Western Australia)?

The timeframe should be within six months, or within 12 months in the case of a disease, illness or medical condition that is neurodegenerative as this allows the person to determine this themselves while maintaining their autonomy. AMA Queensland agrees with the Victorian Ministerial Advisory Panel's final report, where it was stated that "'suffering' is not limited to the physical symptoms of a person's disease, illness or medical condition, such as pain. It can also include 'non-physical aspects such as loss of function, control and enjoyment of life."

Q9: Should the eligibility criteria for a person to access voluntary assisted dying require that the person must be diagnosed with a disease, illness or medical condition that is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable (as in Victoria and Western Australia)?

AMA Queensland agrees with this as it is subjective and allows the person to determine this themselves and maintaining their autonomy. AMA Queensland agrees with the Victorian Ministerial Advisory Panel's final report, where it was stated that "'suffering' is not limited to the physical symptoms of a person's disease, illness or medical condition, such as pain. It can also include 'non-physical aspects such as loss of function, control and enjoyment of life."

Q10: Should the eligibility criteria for a person to access voluntary assisted dying require that the person must be:
(a) an Australian citizen or permanent resident; and
(b) ordinarily resident in Queensland?

AMA Queensland agrees with the requirement for (a) and (b) as this will prevent residents from other jurisdictions travelling to Queensland for the purpose of accessing VAD.

AMA Queensland agrees that there should be a residency requirement for a minimum period. This will put a stop to any concerns people may have of "opening the flood gates" to VAD tourism. This requirement will also ensure that the person wanting to access VAD is an 'ordinary resident' of Queensland.

Q11:	***If yes to Q-10(b), should that requirement also specify that, at the time of making the first request to access voluntary assisted dying, the person must have been ordinarily resident in Queensland for a minimum period? If so, what period should that be?***

AMA Queensland agrees that there should be a residency requirement for a minimum period. This will put a stop to any concerns people may have of "opening the flood gates" to VAD tourism. This requirement will also ensure that the person wanting to access VAD is an 'ordinary resident' of Queensland. AMA Queensland members support a 12 months' residency requirement.

Q12:	***Should decision-making capacity' be defined in the same terms as the definition of 'capacity' in the Guardianship and Administration Act 2000 and the Powers of Attorney Act 1998, or in similar terms to the definitions of 'decision-making capacity' in the voluntary assisted dying legislation in Victoria and Western Australia? Why or why not?***

AMA Queensland agrees that 'decision-making capacity' be defined in the same terms as the definition of 'capacity' in the *Guardianship and Administration Act 2000* and the *Powers of Attorney Act 1998*.

Q13:	***What should be the position if a person who has started the process of accessing voluntary assisted dying loses, or is at risk of losing, their decision-making capacity in relation to voluntary assisted dying before they complete the process?*** ***For example:*** ***(a) Should a person who loses their decision-making capacity become ineligible to access voluntary assisted dying?*** ***(b) Should there be any provisions to deal with the circumstance where a person is at risk of losing their decision-making capacity, other than allowing for a reduction of any waiting periods? If so, what should they be?*** ***Note: see also [6.16] ff and Q-20 and Q-21 below as to waiting periods.*** ***(c) Should a person be able, at the time of their first request, to give an advance directive as to specific circumstances in which their request should be acted on by a practitioner administering a voluntary assisted dying substance, despite the person having lost capacity in the meantime?***

a. AMA Queensland believes a person who has started the process of accessing voluntary assisted dying, and loses decision-making capacity, should be ineligible to access the scheme.
b. AMA Queensland believes if a person wishes to access the proposed VAD scheme but is at risk of losing their decision-making capacity, their medical practitioner should recommend they complete an advanced health directive to ensure this request is completed.
c. Our members strongly believe the request in the advance health directive should be acted upon by the practitioner administering a voluntary assisted dying substance.

Q14	***Should the eligibility criteria for a person to access voluntary assisted dying require that the person's request for voluntary assisted dying be enduring?***

AMA Queensland agrees that the request to access VAD should be enduring (unless it is rescinded by the patient) as it is a fundamental safeguard to protect those seeking VAD. This will ensure that the person's request is well-considered and is more than a short-term reaction to their condition.

Q15	***Should the draft legislation provide that a health practitioner is prohibited from initiating a discussion about voluntary assisted dying as an end of life option?***

AMA Queensland believes doctors should not be prohibited from initiating a discussion about voluntary assisted dying and similar to Western Australia, the practitioner should be able to inform the patient about other care options including palliative care and treatment options available to the patient at the same time.

Q16	***Should If yes to Q-15, should there be an exception to the prohibition if, at the same time, the practitioner informs the person about the treatment options available to the person and the likely outcomes of that treatment, and the palliative care and treatment options available to the person and the likely outcomes of that care and treatment (as in Western Australia)?***

See *Q15.*

Q17	***Should the draft legislation provide that the person who makes a written declaration must sign the written declaration in the presence of:*** ***(a) two witnesses (as in Western Australia); or iv QLRC WP No 79 (2020)*** ***(b) two witnesses and the coordinating practitioner (as in Victoria)?***

AMA Queensland agrees with (b) as it is important that the coordinating practitioner is a witness to the declaration being signed as it is the coordinating practitioner who makes the decision as to whether the patient meets the eligibility requirements.

Q18	***Should the draft legislation that a person is not eligible to witness a written declaration if they:*** ***(a) are under 18 years (as in Victoria and Western Australia);*** ***(b) know or believe that they:*** ***(i) are a beneficiary under a will of the person making the declaration (as in Victoria and Western Australia);*** ***(ii) may otherwise benefit financially or in any other material way from the death of the person making the declaration (as in Victoria and Western Australia);*** ***(c) are an owner of, or are responsible for the day-to-day operation of, any health facility at which the person making the declaration is being treated or resides (as in Victoria);*** ***(d) are directly involved in providing health services or professional care***

services to the person making the declaration (as in Victoria);
(e) are the coordinating practitioner or consulting practitioner for the person making the declaration (as in Western Australia);
(f) are a family member of the person making the declaration (as in Western Australia)?

AMA Queensland agrees with all of the subsections in Q 18 as this will ensure that there is no coercion.

Q19. Alternatively to Q-18(f), should the draft legislation provide that not more than one witness may be a family member of the person making the declaration (as in Victoria)?

AMA Queensland agrees with this can act as a safeguard against any possible coercion.

Q20 Should the draft legislation include provisions about the prescribed period that must elapse between a person's first request and final request for access to voluntary assisted dying, in similar terms to the legislation in Victoria and Western Australia?

AMA Queensland agrees that there should be a prescribed period which should elapse between a person's first and final request. AMA Queensland believes nine days as per Victoria and Western Australia seems reasonable, although in some circumstances that should be shortened for people who are in significant suffering and whose life, even without assistance, would be expected to be shorter than that nine days. AMA Queensland agrees with the explanatory memorandum for the Western Australia model and the final report from the Victorian Ministerial Advisory Panel, where it was stated that nine days strikes an appropriate balance between ensuring the decision is well-considered and avoiding unnecessarily prolonging a person's suffering.

Q 21 If yes to Q-20, should the draft legislation provide that the final request can be made before the end of the prescribed period if:
(a) the person is likely to die within that period; or
(b) the person is likely to lose decision-making capacity for voluntary assisted dying within that period?

AMA Queensland agrees that the final request can be made before the end of the prescribed period if (a) the person is likely to die within that period; or (b) the person is likely to lose decision-making capacity for voluntary assisted dying within that period?

Q 22: Should the draft legislation provide that the coordinating practitioner and the consulting practitioner must each assess whether the person is eligible for access to voluntary assisted dying and that:
(a) the consulting assessment must be independent from the coordinating assessment (as in Victoria and Western Australia); and
(b) the coordinating practitioner and the consulting practitioner who conduct the assessments must be independent of each other?

AMA Queensland agrees with this as this will ensure that both doctors come to their own conclusion and make independent decisions. However, AMA Queensland does also

question whether this is possible. AMA Queensland would also recommend that the definition for "independent" be made clear to avoid ambiguity.

Q23:	***Should the draft legislation provide that, if the coordinating practitioner or consulting practitioner: (a) is not able to determine if the person has decision-making capacity in relation to voluntary assisted dying—they must refer the person to a health practitioner with appropriate skills and training to make a determination in relation to the matter (as in Victoria and Western Australia); (b) is not able to determine if the person has a disease, illness or medical condition that meets the eligibility criteria—they must refer the person to: (i) a specialist medical practitioner with appropriate skills and training in that disease, illness or medical condition (as in Victoria); or (ii) a health practitioner with appropriate skills and training (as in Western Australia)***

AMA Queensland would recommend (b)(i). AMA Queensland wishes to stress that the Queensland legislation include specific provisions as to who qualifies as a "health practitioner with appropriate skills and training."

Q24:	***Should the draft legislation provide (as in Western Australia) that the coordinating practitioner, the consulting practitioner, any health practitioner (or other person) to whom the person is referred for a determination of whether the person meets particular eligibility requirements, or the administering practitioner must not: (a) be a family member of the person; or (b) know or believe that they are a beneficiary under a will of the person or may otherwise benefit financially or in any other material way from the person's death?***

AMA Queensland agrees with all of the above to ensure that any medical practitioners who are providing VAD are acting independently and reflect good medical practice.

Q25:	***Should the draft legislation provide for an eligible applicant to apply to the Queensland Civil and Administrative Tribunal for review of a decision of a coordinating practitioner or a consulting practitioner that the person who is the subject of the decision: (a) is or is not ordinarily a resident in the State (as in Victoria); (b) at the time of making the first request, was or was not ordinarily a resident in the State for a specified minimum period (as in Victoria and Western Australia); (c) has or does not have decision making capacity in relation to voluntary assisted dying (as in Victoria and Western Australia); (d) is or is not acting voluntarily and without coercion (as in Western Australia)?***

AMA Queensland believes that review should be conducted by QCAT as to remain consistent with the *Guardianship and Administration Act 2000* and the *Powers of Attorney Act 1998*.

Q27	***At what points during the request and assessment process should the coordinating practitioner or consulting practitioner be required to report to an independent oversight body? For example, should it be required to report to an independent oversight body:*** ***(a) after each eligibility assessment is completed (as in Victoria and Western Australia);*** ***(b) after the person has made a written declaration (as in Western Australia);*** ***(c) after the person has made their final request (as in Victoria and Western Australia);*** ***(d) at some other time (and, if so, when)?***

AMA Queensland agrees with the W&W Model (section 6.55): the W&W model requires the coordinating practitioner to report the outcome of eligibility assessments to the Board in the approved form within 14 days of the assessment being made. The coordinating practitioner must also report to the Board in the approved form within 14 days of providing access to voluntary assisted dying. This final report is to be provided together with relevant documentation, including the written declaration, the eligibility assessment reports, and a record of the first and final request.

Q28:	***Is it necessary or desirable for the draft legislation to require that the coordinating practitioner apply for a voluntary assisted dying permit before the voluntary assisted dying substance is can be prescribed and administered?***

AMA Queensland does not consider a permit necessary for the prescribing and administration of the VAD substance. AMA Queensland recognises that the doctor receives adequate training to ensure that they are qualified to prescribe and administer the substance.

Q29	***Should the draft legislation provide that practitioner administration is only permitted if the person is physically incapable of self-administering or digesting the voluntary assisted dying substance (as in Victoria)?***

See answer to Q30.

Q30	***Alternatively to Q-29, should the draft legislation provide (as in Western Australia) that:*** ***(a) the person can decide, in consultation with and on the advice of the coordinating practitioner, whether the voluntary assisted dying substance will be self-administered or practitioner administered; and*** ***(b) practitioner administration is only permitted if the coordinating practitioner advises the person that self-administration is inappropriate, having regard to one or more of the following:*** ***(i) the ability of the person to self-administer the substance;*** ***(ii) the person's concerns about self-administering the substance; or*** ***(iii) the method for administering the substance that is suitable for the person?***

AMA Queensland believes the decision whether to self-administer the voluntary assisted

dying substance or whether the voluntary assisted dying substance should be practitioner administered should be for the patient to decide based on the advice provided by the coordinating practitioner. Self-administering the voluntary assisted substance should not be the default option.

Q31 Should the draft legislation provide that the coordinating practitioner or another health practitioner must be present when the person self-administers the voluntary assisted dying substance?

On this particular issue, there is divided opinion in our members. AMA Queensland believes that the patient should have the autonomy to choose who they have as witnesses of their death, including the coordinating practitioner or other practitioner (provided that they agree to being present).

Q32 Should the draft legislation provide that a witness, who is independent of the administering practitioner, must be present when the practitioner administers the voluntary assisted dying substance?

AMA Queensland believes the proposed VAD legislation should not provide that a witness, who is independent of the administering doctor, must be present when the coordinating doctor or another doctor administers the voluntary assisted dying substance.

Q33: Should the draft legislation provide that an interpreter who assists a person in requesting or accessing voluntary assisted dying must be accredited and impartial, in similar terms to the legislation in Victoria and Western Australia?

AMA Queensland agrees with the Victorian and Western Australian models while recognising that an interpreter who is well qualified as an interpreter and understands the importance of the information that they are giving needs to be accurate, may be all that could be available for a particular ethnic group.

Q35: Should the draft legislation provide that only a medical practitioner can act as a coordinating practitioner or a consulting practitioner and assess the person's eligibility for access to voluntary assisted dying?

AMA Queensland agrees with this and reaffirms that the medical practitioner must undertake adequate VAD training.

Q36 Should the draft legislation set out minimum qualification and experience requirements that a medical practitioner must meet in order to act as a coordinating practitioner or a consulting practitioner?

AMA Queensland believes, similar to the existing VAD schemes (VIC and WA), that the coordinating and consulting doctor must have practiced as a registered doctor for at least 5 years after completing a fellowship and must have relevant experience in treating or managing the medical condition of the patient.

Q37: If yes to Q-36, what should the minimum qualification and experience requirements be? For example, should it be a requirement that either the coordinating practitioner or the consulting practitioner must:
(a) have practised as a medical specialist for at least five years (as in Victoria); and
(b) have relevant expertise and experience in the disease, illness or medical condition expected to cause the death of the person being assessed (as in Victoria)

AMA Queensland agrees with both (a) and (b) being a requirement.

However, AMA Queensland believes that the requirements may be exempt for rural GPs and Rural Generalists who provide the bulk of medical care in rural and remote Queensland and are highly and broadly qualified. AMA Queensland considers this exemption may be necessary as delays were reported in rural and remote Victoria due to shortages of specialist doctors willing to participate in this scheme rural Victoria.

Q38 Should the draft legislation provide that the voluntary assisted dying substance can be administered by:
(a) the coordinating practitioner (as in Victoria and Western Australia);
(b) a medical practitioner who is eligible to act as a coordinating practitioner for the person (as in Western Australia); or
(c) a suitably qualified nurse practitioner (as in Western Australia)?

AMA Queensland believes the proposed VAD legislation in Queensland should provide that the voluntary assisted dying substance can be administered by a coordinating practitioner but suitably qualified nurse practitioners should not be eligible to either assess a patient's eligibility nor be provided authority to supply and administer the voluntary assisted dying substance.

Q39: Should the draft legislation require health practitioners to complete approved training before they can assess a person's eligibility for access to voluntary assisted dying?

AMA Queensland agrees with this. AMA Queensland believe that training requirements should be in line with Western Australia and Victoria.

Q40 Should the draft legislation provide that a registered health practitioner who has a conscientious objection to voluntary assisted dying has the right to refuse to do any of the following:
(a) provide information about voluntary assisted dying;
(b) participate in the request and assessment process;
(c) if applicable, apply for a voluntary assisted dying permit;
(d) prescribe, supply, dispense or administer a voluntary assisted dying substance;
(e) be present at the time of the administration of a voluntary assisted dying substance; or
(f) some other thing (and, if so, what)?

AMA Queensland believes the proposed VAD legislation in Queensland should provide that a registered doctor who has a conscientious objection to voluntary assisted dying has the right to refuse to do any of the following:

(a) refuse to provide information about voluntary assisted dying;
(b) participate in the request and assessment process;
(c) if applicable, apply for a voluntary assisted dying permit;
(d) prescribe, supply, dispense or administer a voluntary assisted dying substance; and
(e) be present at the time of the administering of a voluntary assisted dying substance.

AMA Queensland agrees with this statement with reference being made to the AMAs 2019 Conscientious Objection Position Statement. https://ama.com.au/position-statement/conscientious-objection-2019

Q41	***Should a registered medical practitioner who has a conscientious objection to voluntary assisted dying be required to refer a person elsewhere or to transfer their care?***

In accordance with the AMA Federal position on conscientious objection, AMA Queensland believes that a doctor with a conscientious objection should inform the patient that they have the right to see another doctor and ensure the patient has sufficient information to enable them to exercise that right, and to take whatever steps are necessary to ensure the patient's access to care is not impeded.[1] AMA Queensland members support that practitioners who are conscientious objectors should refer a person elsewhere or to transfer their care.

Q42	***Should the draft legislation make provision for an entity (other than a natural person) to refuse access to voluntary assisted dying within its facility? If so, should the entity be required to:*** ***(a) refer the person to another entity or a medical practitioner who may be expected to provide information and advice about voluntary assisted dying; and*** ***(b) facilitate any subsequent transfer of care?***

AMA Queensland wishes to reinforce AMAs position.[2] The position statement specifically states that some health care facilities may refuse to provide particular services due to an 'institutional conscientious objection'. In that situation, the institution should inform the public of this so that patients can seek care elsewhere.

Q43	***Should the draft legislation provide for an independent oversight body with responsibility for monitoring compliance with the legislation?***

AMA Queensland agrees that there should be an oversight body to act as an extra safeguard against coercion, similar to that established in Victoria with a mix of legal, medical practitioners, academics and consumer representatives.

[1] https://ama.com.au/position-statement/conscientious-objection-2019
[2] Ibid.

Q44	***If yes to Q-43, should the oversight body have some or all of the functions and powers conferred on: (a) the Voluntary Assisted Dying Review Board under the Voluntary Assisted Dying Act 2017 (Vic); or (b) the Voluntary Assisted Dying Board under the Voluntary Assisted Dying Act 2019 (WA)?***

AMA Queensland agrees with (a) as AMA Queensland believes that the oversight body should have additional functions such as community engagement and promoting compliance and continuous improvement of the VAD system.

Q 45	***Should notifications to the Health Ombudsman of concerns about health practitioners' professional conduct relating to voluntary assisted dying: a. be dealt with by specific provisions in the draft legislation, as in Victoria, which provide for mandatory and voluntary notification in particular circumstances; or b. as in Western Australia, be governed by existing law under the Health Practitioner Regulation National Law (Queensland) which states when mandatory notification is required and voluntary notification is permitted?***

AMA Queensland agrees with (a) as Queensland generally directs all complaints to the Office of the Health Ombudsman (OHO) who first review the complaint and then refer the complaint onto AHPRA, depending on the severity.

Q 46	***Should the draft legislation include specific criminal offences related to non-compliance with the legislation, similar to those in the Voluntary Assisted Dying Act 2017 (Vic) or the Voluntary Assisted Dying Act 2019 (WA)?***

AMA Queensland agrees with this. AMA Queensland recommends that a specific list of offences is needed in the definitions section of the legislation to avoid ambiguity.

Q 47	***Should the draft legislation include protections for health practitioners and others who act in good faith and without negligence in accordance with the legislation, in similar terms to those in the Voluntary Assisted Dying Act 2017 (Vic)?***

AMA Queensland agrees that there should be protections in place for health practitioners and others acting in good faith and without negligence. It is important for this Legislation to establish very clear parameters as to the scope the doctor can act within.

Q 48	***Should there be a statutory requirement for review of the operation and effectiveness of the legislation?***

AMA Queensland agrees that there should be a statutory requirement for review of the operation and effectiveness of the legislation. AMA Queensland believes that the legislation should be reviewed within 3 years of commencement to ensure that the legislation is operating effectively.

Q 49	***How should the death of a person who has accessed voluntary assisted dying be treated for the purposes of the Births, Deaths and Marriages Registration Act 2003 and the Coroners Act 2003?***

AMA Queensland believes that the death certificate should record the person's underlying disease, illness or medical condition but not the manner of death, being self-ingestion of VAD medication. Regarding the duties of the Coroner, under the *Coroners Act 2003* (Qld), the Coroner is responsible for investigating reportable deaths, which are deaths caused by accident, suicide, drug overdose or homicide, and does not relate to natural deaths. AMA Queensland believes that it is not necessary for deaths by VAD to be classified as reportable deaths as these deaths are unlikely to be suspicious. However, AMA Queensland believes that if the VAD oversight board has any concerns about the death, they can report it to the Coroner for further investigation.

Q 50	***What key issues or considerations should be taken into account in the implementation of voluntary assisted dying legislation in Queensland?***

AMA Queensland wishes to raise two additional considerations for the Queensland Law Reform Commission:

1. AMA Queensland believes the State should provide all of the funding and facilities for VAD services when VAD is provided in QLD.
2. AMA Queensland recommends that data of how many people accessed VAD should not be publicly available, however, should be available if requested by an organisation or government body requiring the information for professional use.
3. Insurance companies should not be able to access certain patient information including a person's request to access the scheme.

Thank you again for providing AMA Queensland with the opportunity to provide input on the *QLRC Consultation Paper WP 79 - A legal framework for voluntary assisted Dying.*

Yours sincerely

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