Speech By

Hon. Dr Steven Miles

MEMBER FOR MURRUMBA

Record of Proceedings, 14 September 2021

VOLUNTARY ASSISTED DYING BILL

Second Reading

Hon. SJ MILES (Murrumba—ALP) (Deputy Premier and Minister for State Development, Infrastructure, Local Government and Planning) (11.51 am): I move—

That the bill be now read a second time.

This is an historic debate for the Queensland parliament. Conscience votes are rare. This one comes at the culmination of more than three years work by this parliament's health committee and the Queensland Law Reform Commission. It comes after decades of advocacy by passionate citizens—themselves carrying the trauma of having watched relatives die in pain or facing a traumatic death themselves. Queensland is one of only two remaining states in Australia to have not yet enacted voluntary assisted dying legislation. The time has come to recognise that Queenslanders who are suffering and dying deserve to have choice and autonomy about their end of life.

An overwhelming majority of the Queensland community support voluntary assisted dying, with recent surveys indicating around 80 per cent of people in support. Many Queenslanders have been deeply impacted by the suffering of a family member or friend at the time of their death. It is a fundamental part of the human experience to experience the loss of a loved one, but pain and suffering do not have to go hand in hand with that experience.

I think the strong support for voluntary assisted dying reflects the community's empathy for others and their respect for the choices of people who are suffering and their own wish to have that choice should they get sick themselves. This bill is fundamentally about compassion, but it is also about giving back control to people who have had their autonomy stripped from them by illness. As it has been described to me by so many people who go through this, once a person has access to a voluntary assisted dying scheme they experience a sense of relief. They may never even choose to use it—many do not—but they finally have control, and that is palliative in itself.

Talking about death often makes us uncomfortable. We prefer not to reflect on our own mortality. This week we will spend a whole week talking about death—hearing of others' experiences of death and reflecting on our own experiences. No doubt there will be moments that are very distressing and emotional, and I urge members to be kind to each other throughout.

In hearing these experiences, we will see how all deaths are not equal. While all deaths are tragic, some are much worse than others. Anyone who has watched a loved one die in prolonged pain knows what a bad death looks like. Anyone who has been robbed of the chance to be with a loved one because their loved one chose to end their life alone and avoid incriminating their family knows that is a bad death too. Any one of our loved ones could face such a death. No-one should be forced to die in pain or alone. Why make a rational adult who is begging to die quickly die slowly instead?

As a former health minister, I have the greatest respect for palliative care professionals. They do a very difficult but extremely important job. The Palaszczuk government has committed an additional $171 million over the next four years to expand access to palliative care services across the state, taking total recurrent spending to nearly $250 million in 2025. When staff at the Gold Coast palliative care service asked for double beds at their facility, we had them put in. The staff explained to me how many people want to hold their loved ones in their last days—how a mother who was desperate to hold her dying son just could not in a single bed, and how elderly couples, who had almost never slept apart in their adult lives, were distressed to lose that closeness in their loved ones' last days. It may have been simple, but those double beds had a huge impact on the people in that facility.

It will surprise no-one that people crave the closeness of their loved ones at the time of their death. I thank the member for Gaven for visiting the facility with me. I know she has her own very personal and powerful story to share with us this week. One of my proudest initiatives was Ambulance Wish, a dedicated service giving dying patients one last trip out to do something they love—like Betty who I shared a passionfruit ice cream with before her trip to the Botanic Gardens.

These laws complement caring, compassionate, professional palliative care services. Right now, dying people who choose to hasten their death must do so in secret or risk incriminating their families. We know this happens. The committee heard many examples of people who felt they had no alternative other than to take matters into their own hands—alone and sometimes in very violent and distressing ways.

It does not have to be like this. It should not be like this. Good palliative care should start the day someone is diagnosed and continue until their final days, whether they access voluntary assisted dying or not. For the very small number of people whose suffering cannot be eased, voluntary assisted dying should be available at that person's request. This week in parliament, each one of us has a chance to vote for fewer bad deaths—to honour our loved ones' life with a better death, surrounded by loved ones and free from pain.

The Queensland Law Reform Commission drafted the bill based on extensive research, analysis and consultation with community, health professionals and legal experts. The commission's goal was to draft a bill which is compassionate, safe and practical. At the outset of this debate I want to touch on a few issues that have come up during the committee process and will no doubt dominate much of the debate this week.

Voluntary assisted dying will not be for everyone, and that should be respected. Dying and death are deeply personal issues and, for some people, the idea of voluntary assisted dying goes against their deeply held beliefs. People who are opposed do not have to make that choice for themselves, and they do not have to be involved in the process. Voluntariness is the cornerstone of the scheme. The bill respects these views, enabling both practitioners and institutions to elect not to be involved. The bill provides mechanisms for individuals and institutions to not participate, while also ensuring all Queenslanders who are dying have access to what would become a legal and recognised option for them. For objecting practitioners, this will be as simple as providing the person with enough information to enable them to seek access—for example, by providing details of the care navigator service. Health practitioners and faith based organisations will not be forced to participate in voluntary assisted dying.

The bill recognises that practitioners should be able to conscientiously object to being involved. It recognises that entities should be able to opt out of participating and it requires a person seeking access within a facility to notify the entity that they wish to access the process at which point the requirements under the bill will apply. The bill respects the rights of practitioners and health providers not to participate while also ensuring that people seeking to access voluntary assisted dying are not hindered from doing so. These provisions were carefully considered by the Law Reform Commission.

The bill sets out requirements for entities for each stage of the voluntary assisted dying process. The QLRC considered that if a person is seeking general information or wanting to make a request for access, which are considered early stages in the process, their access should not be hindered by the entity. For later stages of the process, like undertaking an eligibility assessment, making an administration decision or administering the substance, the bill distinguishes between permanent residents and non-permanent residents of facilities.

Residents of aged-care facilities are living in their home. They have legal rights of tenure; they have the right to die in their own home. The bill recognises this. The entity and any staff members who object to voluntary assisted dying can choose not to participate, but they must allow reasonable access by practitioners who are willing to assist.

Short-stay patients in private hospitals or hospices, on the other hand, may be transferred to another facility if they wish to undergo later stages of the process. It is only where the transfer would not be reasonable that such a patient could access voluntary assisted dying in the facility. The QLRC noted that transfer of care comes at a human and financial cost. The bill requires the person's coordinating practitioner to assess whether, for example, the transfer would be likely to cause serious harm to the person or adversely affect their access to voluntary assisted dying.

Some individuals seeking access will be close to death, in great pain or be at a certain facility out of necessity. They may live in a regional area where the only option available is the facility they are in. In these circumstances the QLRC considered that being required to transfer to a different facility may cause significant pain and distress or deny the person access to voluntary assisted dying in a practical sense.

The bill both respects the right of entities and the right of people seeking access to voluntary assisted dying. Just because someone has found themselves in the situation of being in a particular facility, they should not be prevented from accessing a lawful end-of-life option if it is something they qualify for and they want to pursue. This is especially the case for aged care because that facility is their home.

I note again the QLRC and parliamentary committee consulted widely and thought deeply about this particular issue. I know some members might be tempted to support an amendment to block all access for people who are dying in these institutions. I think it is dangerous to start amending a bill that has been deliberated on literally for years. It risks unintended consequences that cannot be properly considered on the floor of the parliament. It is for that reason the government is not proposing amendments, and I urge members not to support amendments.

Faith based institutions deliver services that are greatly valued by Queenslanders. Organisations like Mater and St Vincent's are respected and important contributors to our health system and society. We respect and acknowledge their faith and the concerns they have raised. In recognition of these concerns and the valued place of these institutions in our society, the government wants to provide further comfort to them regarding how the law will apply in practice in their institutions during the implementation phase. It was always intended that clinical guidelines would be developed to guide the implementation of the scheme.

Today I can announce the government has agreed to the outline of a guideline which specifically addresses the concerns raised by faith based hospitals regarding their participation. It should provide some certainty to providers that their concerns such as arrangements for transfers and notification of non-participation prior to admission are clearly outlined. It will also specifically address how practitioners can exercise their right to conscientiously object. I table a copy of that outline.

Tabled paper: Document, undated, titled 'Proposed guidelines regarding participation by entities' 1372.

I also commit on behalf of the government that faith based providers will be consulted throughout the implementation of the scheme including on the preparation of this guideline. I also note that the act will be reviewed after three years of operation. No doubt the real-life experience of these elements in practice will be considered in that review. To be eligible to access voluntary assisted dying, a person must meet strict eligibility criteria that requires them to be dying. This is not a choice between life and death.

On this day I think of our dear friend Duncan Pegg, the former member for Stretton, who tragically passed away in June. I ask members to reflect on his final remarks to this House, just a few weeks before his death, in which he imparted his valuable perspective as both a lawmaker and a person with lived experience of terminal illness. Duncan used his last speech to the parliament to say—

> People with terminal illnesses do not want to die; they want to live. They fight to live every day.

Duncan fought so hard. He fought to beat cancer and he fought to keep representing his community for as long as he could. Duncan said—

> ... if you are diagnosed as terminal then ultimately you are going to face death. People with terminal illnesses want to have an option.

He encouraged members to speak and, more importantly, to listen to people with lived experience of terminal illness and their loved ones. He was of the view that there is a clear consensus from people who have actually lived it. This is not a choice between life and death; it is an additional end-of-life option for someone who is already dying to end their suffering if they meet strict eligibility criteria. I hope that members of this House will remember Duncan's words as they are casting their conscience vote this week.

The Health and Environment Committee has undertaken a thorough 12-week inquiry process on the bill. This enabled the committee to consult extensively with stakeholders and hear a diversity of views across Queensland. Public hearings were held in Townsville, Rockhampton and Brisbane and over 6,000 written submissions were received on the bill. The committee heard from peak medical and nursing bodies, health practitioners, palliative care stakeholders, legal experts, religious groups, and consumer and disability advocates. The committee also heard from individual Queenslanders.

They heard very raw personal experiences from members of our community, and we thank those people for their willingness to share difficult personal stories. They are individuals who have experienced great loss and witnessed immense suffering. They are individuals who have cared for someone up until their final moments. They are individuals who themselves are dying and facing a difficult end-of-life journey. These people had the courage to speak their truth to the committee and, overwhelmingly, their truth was that people deserve a choice about how and when they die when their time is near and they are experiencing intolerable suffering.

They are individuals like Peter Belz, who appeared before the committee in Rockhampton. Peter is living with both motor neurone disease and bowel cancer. He told the committee that people fight tooth and nail to live; they grab hold of life; they struggle like crazy to live. More than fearing death, he fears living, both the physical pain and the mental pain. Despite his difficulties with communicating, Peter wanted to appear before the committee to tell them that he supports the bill.

They are individuals like Marjorie Lawrence in Townsville, who has lost six family members to cancer and who has herself battled pancreatic cancer. Marjorie told the committee of how she nursed her husband until his last breath; how he was bedridden for 18 months, faded away to a skeleton and had no energy to even lift his hand up. She told how she nursed her father-in-law when he was dying of lung cancer, how he begged to end his life. Marjorie thinks everyone deserves the comfort of knowing they do not have to suffer, that they should have the choice.

Tanya Battel and Fiona Jacobs came here to parliament to tell me their story and handed me a petition they started that has now been signed by well over 110,000 people in support of voluntary assisted dying. I would like to table that petition on their behalf today.

Tabled paper: Nonconforming petition regarding voluntary assisted dying for all Queenslanders' 1373.

I thank the community, peak bodies and stakeholders who took the time to provide submissions and attend public hearings. I want to thank each and every member of the public who contributed to ensuring this bill is the best it can be by offering their valuable perspectives. I want to put on record my sincere thanks to the chair of the committee, the member for Thuringowa, Mr Aaron Harper. I also want to thank the government committee members, the members for Lytton and Pumicestone, who have both been crucial contributors on this issue.

I would like to note the thoughtful contribution of the deputy chair, the member for Southport. The deputy chair expressed his belief in the right to die with dignity, free from pain and with choice over our actions. He noted that, while it is one thing to hold certain views and opinions, it is quite another to be confronted with the reality of another person's lived experience. I think it is important to put a human face on this debate because it should not be an ideological battle. I thank the deputy chair for sharing his own personal experiences.

I would also like to thank the members for Oodgeroo and Mirani. While I disagree with their dissenting reports, I think it is important that all views are heard and that we are respectful. I thank them for their deliberation and contribution.

The health committee has now undertaken not one but two inquiries on this issue, in addition to the yearlong inquiry by the Queensland Law Reform Commission. No-one could argue that we have come to this lightly or hastily. This is a serious issue that deserves serious consideration, and that is reflected in the Health and Environment Committee's comprehensive report, which was tabled on 20 August 2021. I note that the committee made three recommendations on the bill. I now table a copy of the government's response to the committee's report.

Tabled paper: Health and Environment Committee: Report No. 10, 57th Parliament—Voluntary Assisted Dying Bill 2021, government response 1374.

The first recommendation of the committee is that the bill be passed. The committee's other recommendations relate to the Commonwealth Criminal Code and the uncertainty this creates about the use of telehealth. The Palaszczuk government will continue to lobby the federal government to change those laws and give certainty to the many people who live outside of the city centres of Queensland.

We have an opportunity this week as parliamentarians to do something truly meaningful, to know that we have really made a difference, that will ease suffering and provide comfort. As members deliberate this week, I am sure they will contemplate what this bill could mean for people who are suffering and dying and consider their vote very carefully. From my conversations with members I know that they are considering the lived experience of Queenslanders at the end of their life very carefully. The views of 80 per cent of the community we represent should not be ignored.

The bill is the result of years of consultation, research and analysis by the Health and Environment Committee, the former health committee and the Queensland Law Reform Commission. The wisdom of other Australian jurisdictions has been harnessed and a scheme developed that reflects Queensland's unique circumstances, protects the vulnerable from coercion and exploitation and allows eligible people access to an additional end-of-life option. It is a good bill that honours choice, autonomy and compassion in end-of-life care. It cannot give people who are dying back their lives. Sadly, we do not have that power, but we can give them some control over the timing and circumstances in which they die: to be surrounded by family and loved ones in a peaceful, private space—their own home if that is what they choose—hands held, farewells said, tears and stories shared—the kind of tearful laughs and memories that make for the most powerful funerals. They may still fear death as the moment nears, but they will not need to fear the pain and suffering of living until they die. They will not need to fear their loved ones watching them dehydrate or suffocate to death in pain. Their death will be no less tragic. Their family will mourn them no more or less. The law will not change that. It will, for at least some people, we hope, ease their suffering before their inevitable death. For me, I do not know if the loved ones I have seen suffer at the end of their life would have wanted access to voluntary assisted dying. I would like them to have known they had a choice. I commend the bill to the House.