




Speech By
Hon. Dr Steven Miles

MEMBER FOR MURRUMBA

Record of Proceedings, 15 September 2021

VOLUNTARY ASSISTED DYING BILL

 **Hon. SJ MILES** (Murrumba—ALP) (Deputy Premier and Minister for State Development, Infrastructure, Local Government and Planning) (8.20 pm), in reply: I would like to thank all members for their contributions to the debate on the Voluntary Assisted Dying Bill 2021. This is an important moment for our parliament and for Queensland. At the outset the Premier expressed her wish that the debate be respectful and I believe it has been.

In the course of this debate we have heard concerns that voluntary assisted dying will be used as a substitute for adequate palliative care. The Palaszczuk government is committed to the provision of compassionate, high-quality and accessible palliative care for all Queenslanders living with a life-limiting illness. The Palaszczuk government has committed to providing an additional investment of \$171 million to palliative care. When added to existing funding, the total investment will reach close to \$250 million per year in 2025-26.

Our government is committed not only to an increase in spending but also to developing a new statewide palliative and end-of-life care strategy and workforce plan. Earlier this week the health minister announced the commencement of consultation with clinicians, non-government organisations and peak bodies.

We have high-quality palliative care services in Queensland and we will continue to make them better. However, as we have heard over the course of this debate, for some people suffering from a life-limiting condition palliative care treatment is unable to effectively manage their pain or suffering. This bill is about providing an additional end-of-life choice.

There is one thing about palliative care that has been restated in this debate as though it was fact that I must correct. In fact, I am concerned that if this is not corrected and if Queenslanders believe it to be true it could prove dangerous. A number of speakers stated that palliative care in Queensland could only be accessed within three months of anticipated death. There is no restriction that people only receive palliative care in the last three months of their life.

Patients can be referred to palliative care at any time, including to receive an initial assessment. Specialist palliative care is available throughout Queensland for patients referred by their treating clinician, including referrals that occur early in the course of a patient's terminal illness. Intensive medical and nursing support in a hospital or community setting at the end of life is typically needed in the last few weeks. However, good palliative care should start the day a patient is diagnosed, although obviously it will need to increase in intensity over time and as death approaches.

Palliative care and voluntary assisted dying are different. I believe Queenslanders deserve both. I urge members not to let a desire for more and better palliative care services to stand in the way of providing a choice to terminally ill Queenslanders who want only to determine the manner and timing of their own inevitable passing.

Many members have talked about the rights of entities. The bill seeks to balance those rights with the rights of patients suffering at the end of their lives to have access to what would become a lawful service. We heard from members who implored the House to ensure the bill allowed health

practitioners and healthcare organisations to opt out of providing voluntary assisted dying services. The bill does just that. It sets a process for objecting entities and, in the very narrow circumstances where the interests of the objecting entity and the interests of the dying patient cannot be reconciled, it provides a mechanism to ensure access for the patient.

I acknowledge how valued the services of faith based providers are. We have listened to their concerns and we will continue to do so throughout the implementation of these laws. The government has committed to developing a clinical guideline to further codify elements of the bill where those providers have expressed concerns.

I thank all members for their contributions over the course of this debate. I thank those members on both sides who have expressed their support for the bill. I thank those members who have expressed their opposition to the bill. While we respectfully disagree, I have listened intently to your contributions and the debate has been richer for them. To the members for Greenslopes and Logan, whom I have known forever, I have appreciated your engagement and I am pleased to say we agree on a lot more things than these few things that we disagree on.

I want to address the members who have expressed support for the bill but also support for amendments. I will turn to those amendments shortly. I would urge members to stand by their support, even if their chosen amendments are unsuccessful.

I also want to acknowledge the members who I know have grappled with this bill. I know these are not easy issues. I thank them for the honest way in which they have engaged in the discussion on it and for the heartfelt insights they have shared.

This is a bill that has been designed by experts. It has been subjected to three rounds of extensive consultation and input. Those proposing major changes at the last minute rightly face a heavy burden in persuading the parliament that these amendments are essential. Last-minute amendments carry the risk of unintended consequences and the effect of making the bill unworkable. The bill includes a mechanism for review after three years of operation, which is a suitable juncture to reconsider how the elements of the bill have operated in practice. I urge members not to disturb careful work by voting for poorly thought out amendments at the last minute.

The member for Toowoomba South has circulated in his name a large number of amendments to the bill. He has done so while stating that he would still vote against the bill even if all of the amendments are accepted. In doing so he is usurping the right of members who want to vote for the bill as it stands, but with no intention of supporting the bill that would exist if his amendments were passed.

The explanatory notes for the amendments provide little in the way of rationale or justification for the proposed changes. They diverge dramatically from the independent evidence based recommendations of the Law Reform Commission. The five pages of explanatory notes stand poorly as justification when weighed next to the 880 pages of careful deliberation in the commission's final report.

The member for Toowoomba South has also tabled a statement of compatibility with the Human Rights Act. The consideration of the human rights impacts of the proposed amendments are cursory at best. The member for Toowoomba South has claimed that voluntary assisted dying 'continues to be legislated disparately by parliaments across our federation, each siloed from the other in a seeming regulatory vacuum.' That is not the case. In fact, ironically, where other legislatures have adopted disparate laws it is as a result of last-minute ad hoc amendments like those that he has moved.

As we have heard, the bill is the product of three long years of work by the former health committee, the Law Reform Commission and the Health and Environment Committee. The bill as drafted is safe, balanced and measured. I cannot think of a single piece of legislation that has been as thoroughly researched, analysed, consulted upon and considered as this one. The learnings of other jurisdictions have been taken on board and a scheme developed to suit Queensland's unique circumstances.

The member for Toowoomba South and those who have spoken in favour of the amendments have not provided adequate justification for why the bill as drafted, with its long and considered development, should be amended. There is no evidence that the amendments proposed would actually improve the bill. They would only serve to hamper access to the scheme, to prolong the suffering of those the bill seeks to help.

As the member for Clayfield said—

... amendments ad nauseam could be made and they would still oppose the bill. We should be wary of amendments that seek to frustrate, delay and deny ...

The true intent of these amendments is not to improve the bill, it is to make it as difficult as possible for people to access the scheme.

Professors Ben White and Lindy Willmott, leading experts in end-of-life law, have considered these 54 amendments. They say the combined effect would be to create an incoherent, unwieldy, inconsistent law. As the member for Kurwongbah said eloquently—

The Gish gallop technique focuses on overwhelming a debate with as many arguments as possible without regard for accuracy or strength of argument ... quantity over quality.

For example, the combined effect of the amendments is that to access voluntary assisted dying, a person would have to see a palliative care specialist, two specialists in the person's condition, and a psychiatrist or psychologist. Some who spoke in support of these amendments have simultaneously noted that members of their communities have little to no access to these specialists. Queenslanders who live in regional or remote areas would be greatly disadvantaged by amendments like this, especially given the effect of the Commonwealth's law on the use of telehealth services. This requirement is far beyond that required in any other state that has legalised voluntary assisted dying.

We have heard from John Ancliffe and his family who are in support of voluntary assisted dying. John has motor neurone disease and can no longer speak. He communicates using gestures and technology. These amendments include an amendment to remove gestures to communicate a request to access voluntary assisted dying. That would preclude people like John who retain capacity but who may not be able to speak as a result of their illness. It will silence those with horrendous cancers of the face, mouth and tongue. This is cruel and unjustified. Just because a person cannot speak does not mean they lack decision-making capacity.

These amendments are a clear attempt to prevent people from accessing the scheme and they ignore the fact that the medical professional who will know their patient best and have the most contact with them is their GP.

Professors White and Willmott say this legislation is safe and measured. We have been warned by the experts against weakening the bill with ad hoc safeguards that are not necessary, restrict access and do not make the process any safer. Ad hoc and unnecessary amendments risk undermining Queensland's measured legislation and purposefully create unworkable barriers to access. Professors White and Willmott have stated—

We urge the Queensland Parliament to avoid the situation that other states have experienced where safeguards are awkwardly added to already sound law in an ad hoc way. This would lead to the VAD law being incoherent or inconsistent in important ways.

The amendments would significantly impact on people's ability to access voluntary assisted dying and, for this reason, I do not support the amendments. I will outline my views on the specific amendments during consideration in detail, but these overarching comments apply to all of the proposed amendments and, for that reason, I urge members to vote against them.

Right now I would like to note some of the amazing, moving, heartfelt contributions we have heard this week. Knowing most of you quite well, hearing your personal experiences of death and dying has been moving. There were a number of occasions where our COVID rules restricting us from moving to sit next to a speaker or to put a hand on their shoulder made it harder.

I would again like to thank the members of the Health and Environment Committee for their detailed consideration of the bill. The committee could not have undertaken such an extensive inquiry or produced such a thorough report without the support of the secretariat. I want to acknowledge Committee Secretary Dr Jacqui Dewar and the staff of the secretariat for their hard work.

I would like to reiterate our thanks to the Law Reform Commission, exceptionally led by Justice Peter Applegarth, for their expertise in developing such a thorough, well thought-through bill. If members pass this bill without amendment, as is my sincere hope, it will be the best voluntary assisted dying framework in the country and we will owe the QLRC a debt.

I thank the member for Thuringowa, chair of the committee, for his passionate contribution to this debate and his tireless work across the two comprehensive committee inquiries.

The Minister for the Environment, Minister for Employment and Small Business, the member for Pine Rivers, the member for Redlands, the member for Caloundra, the member for Hervey Bay and many others have shared personal stories of loss and suffering. Members shared stories of their parents, grandparents, siblings, partners and friends. The Minister for Transport and Main Roads, the member for Pumicestone, the member for Lytton, the member for South Brisbane and the member for Burleigh shared stories of everyday Queenslanders and the intolerable, needless suffering they or their loved ones experienced. I thank all members for sharing their views and the views of their constituents. The House is privileged to have heard their compassionate and considered contributions to the debate. Queenslanders are well served by the members of this parliament.

I also want to thank those members who took the time to consult and listen to their constituents and their views. As parliamentarians we are elected to represent and serve the people of Queensland. We have a unique opportunity to use our position to really make a difference this week, to show compassion and to end unnecessary suffering.

I want to congratulate the Premier for her leadership in taking Queenslanders on the journey considering this issue and for bringing this historic bill to the parliament. As she so often does, the Premier has demonstrated that it is possible as a leader to show both strength and empathy. The Premier spoke powerfully of her grandma and her uncle and their influence on her thinking, of her grandma's painful last days and how she regrets putting her work for the state ahead of spending more time with her grandmother in those final days.

I want to thank the health minister and the Attorney-General for their support and collaboration throughout the entire process and the debate this week, and for their own heartfelt speeches. As the Premier said when introducing the bill, we have worked collaboratively across government on this, reflecting the importance of the issue.

I want to thank the staff of Queensland Health, the Department of Justice and Attorney-General and the Office of the Queensland Parliamentary Council and my department who have worked together. I would like to thank Tricia, Sally, Eve, Rashvin, Karen, Hayley, Maggie, Bree, Jasmina and Keith—the VAD Team. I would also like to thank the staff in my office for their efforts, particularly Danielle Cohen, Ali France and Katharine Wright. I note the work of the member for Pumicestone when she was in my office before her own election.

I want to thank professors Ben White and Lindy Willmott from the Australian Centre for Health Law Research and their fellow end-of-life researchers for their commitment to providing measured, evidence-based research on voluntary assisted dying and their support to lawmakers over an almost 20-year period.

I want to thank the many voluntary assisted dying advocates for their tireless campaigning to ensure this bill becomes a reality, including the Clem Jones Trust, Dying with Dignity Queensland, Go Gentle, VALE and Doctors for Assisted Dying Choice.

I want to take a moment to acknowledge and pay tribute to the advocacy of former Brisbane Lord Mayor Dr Clem Jones AO. In his will in creating the trust, he said—

Having witnessed and experienced the trauma of death, I have become appalled that human beings can impose on their loved ones days, months and years of terrible pain and misery by preserving their life causing them not only to suffer that pain but to suffer too, the mental anguish that comes with it.

...

... when that quality of life falls to a level where life is one of pain and suffering or where one's mind can no longer function ... medical practitioners should have the right and the responsibility of releasing persons from that torture, misery and indignity.

I would like to personally thank David Muir, Lindsay Marshall, Andrew Denton, Stuey Trail and Peter Ong for the advice they have provided to me.

I would like to thank the union movement, the ETU, the QCU, United Workers Union and the QNMU for their support and advocacy.

My mate Everald Compton—I have not forgotten you owe me a whisky after all of this. It is timely that Everald was awarded the Order of Australia this week for services to the age welfare sector as the parliament debated laws for which he had advocated for four decades or more.

More than anything, I want to thank the individual Queenslanders who have taken the time to put forward their views on this bill—Queenslanders who are themselves suffering and dying, Queenslanders who have cared for loved ones right up until the end, Queenslanders who have made it their profession to help the dying, Queenslanders who believe in choice and autonomy, and Queenslanders who believe in compassion. Queenslanders are what matter in this debate.

Most of all, I want to dedicate this bill to the many Queenslanders who supported laws like this but who died before seeing them debated here—Queenslanders like Peter Simpson and Duncan Pegg.

As we have heard, this bill has been carefully drafted and reflects the evidence based recommendations of the Queensland Law Reform Commission. It contains robust safeguards. It both provides access and ensures protection of the vulnerable. If members believe in respecting the wishes of people who are suffering and dying and want to have an additional end-of-life choice then they should vote in favour of this bill. I am deeply proud to commend the bill to the House.

Debate, on motion of Dr Miles, adjourned.