Dying with Dignity Tasmania (Inc)

29 November 2016

TASMANIAN *VOLUNTARY ASSISTED DYING BILL 2016* – SUMMARY

BACKGROUND

- The *Tasmanian Voluntary Assisted Dying Bill 2016* was moved in the House of Assembly on 17 November as a Private Member's Bill. It will be debated sometime after Parliament sits again in March 2017. The Bill is available on the Tasmanian Parliament website.
- The co-sponsors of the Bill are Lara Giddings, former Premier and now MP for Franklin, and Cassy O'Connor, Leader of the Greens and MP for Denison. The Bill does not yet have a Liberal sponsor but we are hopeful there will be one before the debate.
- Last time a similar Bill was debated in October 2013, it was defeated at the Second Reading stage and was no debate din detail. It was supported by 12 MPs and voted against by 13. There are 9 new MPs since 2013.
- The new Bill has been based on a thorough reconsideration of the 2013 Bill in the light of comments at the time and information and evidence since then, including from Victoria, South Australia and Canada. (See Issues Paper 1, VAD – The Basics.) The requirements and processes are closest to the detailed proposal of the Canadian Medical Association in its policy document, "Principles-based Recommendations for a Canadian Approach to Assisted Dying", based on the Canadian Supreme Court decision in *Carter vs Canada*.
- Because of its aims and provisions, the Bill is also consistent with the new policy of the Australian Medical Association (AMA) on what it calls "euthanasia and physician-assisted suicide", particularly its focus on good quality end of life care, the right of all dying patients to receive relief from pain and suffering, even where this may shorten their life, and support for patients' requests for assisted dying to be fully explored by doctors whose primary intention is to relieve suffering.

AIMS

- The principal aim of the Bill is to provide a last resort option for seriously ill competent adults and their doctors to end intolerable and unrelievable suffering through assisted deaths. The other aims are to prevent desperate suicides with devastating consequences; to provide comfort which can have a palliative effect when people know there may be an option for them if they end up with intolerable and unrelievable suffering and have no chance of recovery or relief; and to protect doctors, families and others from the risk and considerable fear of prosecutions for acts of compassion and kindness that may be regarded as criminal acts.
- The Bill establishes a doctor-safeguarded system of assisted dying, which is also safeguarded through an independent Registrar with significant powers and responsibilities to monitor and review all assisted deaths and report to Parliament annually.

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KEY DETAILS

- **Eligibility:** as required in Section 10, a person eligible for an assisted death has to be an adult (18 or over), a Tasmanian resident and making requests voluntarily. The person has to be competent and have an eligible medical condition.
- **Informed decision:** The person must make an informed decision (S9(c)) to end their life and S12 sets out detailed requirements about the information to be provided by the primary medical practitioner.
- **Competent and voluntary:** Competent is defined in S3. The person must be able to make and communicate an informed decision and not be suffering from a mental condition that may cause their judgement to be impaired. In accordance with S14(2), if the primary medical practitioner reasonably suspects the person is not competent or is not making the request voluntarily, he/she must refer the person to a psychiatrist or psychologist for counselling and report to the primary doctor.
- **Eligible medical condition:** Under Section 11, the person:
  - has to be in the advanced stages of a serious, incurable and irreversible medical condition, whether caused by illness, disease or injury, as diagnosed by a medical practitioner who has specialised qualifications or experience in diagnosing and treating the medical condition; and
  - experiencing persistent suffering that is intolerable for the person as a result of their medical condition, or associated medical treatment, or complications resulting from them; and
  - there is no reasonably available medical treatment or palliative care options that would relieve the person's suffering in a manner that is acceptable to them, taking into account both the treatment and any consequences of the treatment; and
  - must have no reasonable prospect of a permanent improvement in the medical condition.
- **Last resort:** At the time of the third request (S22), the primary medical practitioner and the person must agree they are satisfied that there are no relevant treatment options that will improve the person's medical condition or relieve their suffering satisfactorily.
- **Three requests:** The person must initiate three requests, including an initial oral request (S13); a written request (S17) that must be witnessed by two witnesses that meet specified requirements; and a subsequent oral request. There must be 2 days between the first two, and at least 7 between the second two. There is provision for interpreters and signing by others under the direction of the person.
- **Doctors:** At least two registered medical practitioners, independent of each other, are voluntarily involved in the process. Their responsibilities at each stage of the process are specified in detail, including the safe control of the prescribed drugs and being present when they are administered.
- **Administration of the lethal drugs:** The person may self-administer through oral ingestion or activation of a medical device, or the primary medical practitioner may administer the drugs.
- **Monitoring, review, education and reporting:** Part 4 of the Bill covers the appointment of a Registrar and staff, functions and powers, reporting requirements and annual report to Parliament.
- **Immunities and offences:** The Bill includes details of immunities and liabilities in Part 3 and offences in Part 5.