

COMMUNITY LEGAL CENTRES TASMANIA

21 September 2020

The Honourable Craig Farrell
President of the Legislative Council
Parliament House
Hobart TAS 7000

via email: craig.farrell@parliament.tas.gov.au

Dear Craig,

Re: *End of Life Choices (Voluntary Assisted Dying) Bill 2020*

Community Legal Centres Tasmania (CLC Tas) is writing to urge members of the Legislative Council to support the passing of the *End of Life Choices (Voluntary Assisted Dying) Bill 2020* ('the Bill').

We strongly support the intent of the Bill and its aim to provide for and regulate access to voluntary assisted dying. In 2013, our submission to the *Voluntary Assisted Dying Consultation Paper* analysed the law in Tasmania and ultimately concluded:¹

Tasmania's laws are confusing, meaning that the boundary between lawful acts and acts warranting prosecution is often blurred. It is also of great concern that doctors, friends and family are unable to seek assistance, advice or guidance in circumstances in which a patient wishes to end their life. A lack of professional supervision means that any assistance offered has to be surreptitious with the concomitant threats of professional sanction, prosecution and imprisonment.

Our submission also noted our concern that voluntary assisted dying was already taking place but without appropriate regulation and public and professional scrutiny. A copy of our submission to the *Voluntary Assisted Dying Consultation Paper* is **attached**.

Whilst we support the Bill currently before the Legislative Council, there are a number of clauses and a proposed clause that we want to highlight.

- **Informed Decision-Making about Medical Treatment**

Clause 7 of the Bill provides that the Commissioner of Voluntary Assisted Dying is to make available "information as to what assistance to die the person may receive from a PMP [primary medical practitioner] or an AHP [administering health

¹ Community Legal Centres Tasmania, Consultation into *Voluntary Assisted Dying Law Reform* (March 2013). Our response can be found at <http://www.clctas.org.au/what/reform/> (Accessed 17 September 2020).

practitioner]”. The information made available will include all options regarding end of life care including palliative care and treatment.

In other words, clause 7 reflects the importance of giving people genuine choice and autonomy in making informed decisions about their medical treatment. Standardised information drafted by the Commissioner of Voluntary Assisted Dying will ensure that everyone is well-informed. In our experience as lawyers and staff in the legal assistance sector, the socially and financially disadvantaged are often not aware of all options available to them. Clause 7 will protect the rights of all who are otherwise eligible to access voluntary assisted dying by ensuring that they are made aware of their legal rights and the options available to them to reduce their suffering.

- **Objectives of Bill**

We support the introduction of an objectives clause as has put forward by the Honourable Michael Gaffney. As we have noted in previous correspondence to the Legislative Council, the objective of statutory interpretation is to give effect to parliament's purpose as expressed in the language of the legislation.² The proposed objectives clause will clarify the Bill ensuring less ambiguity and vagueness and assisting in the judiciary in their interpretation of clauses in the event that matters arise.

- **Dying at a Time and Place of One's Choosing**

Clause 85 of the Bill provides that administering health practitioners will be able to supply and assist the person to self-administer the VAD substance or administer the VAD substance. We strongly support the Bill's broad definition of an administering health practitioner to include registered nurses.³

Allowing registered nurses to assist will ensure greater choice for the person as to the time and place of their death. It will also provide greater comfort to people that their death will not be rushed and can take place at a time when family and friends can be present. This is particularly important for persons who live in rural, regional and remote areas of Tasmania where there may not be an accessible practicing medical practitioner, or if there is, they may conscientiously object to involvement in the patient's voluntary assisted dying.

- **Voluntary Assisted Dying Training**

Clause 115 of the Bill sets out that the Commissioner of Voluntary Assisted Dying can establish a course of voluntary assisted dying training. The training course will consist of modules in assessing eligibility, access to voluntary assisted dying and identifying coercion. Importantly, clause 115(3) sets out that the training course is to be established only after consulting with representatives of medical practitioners, registered nurses, the Public Guardian and the Chief Civil Psychiatrist amongst others. Input from this broad range of professionals will

² *Project Blue Sky Inc v Australian Broadcasting Authority* [1998] HCA 28; (1998) 194 CLR 355 at 381. See also *Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Cross* [2012] HCA 56; 248 CLR 378 at para. [88].

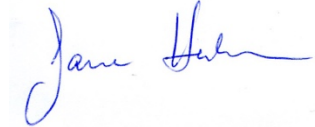
³ See the Interpretation section at clause 4 of the Bill.

ensure that the training provided is best practice, reflective of lived experience and contemporaneous.

In summary, we call on the members of the Legislative Council to support the Bill and provide patients who are suffering in relation to a medical condition that is advanced, incurable and irreversible, with the reassurance that they may end their life at a time of their choosing.

If you have any queries, please do not hesitate to contact us.

Yours faithfully,



Jane Hutchison
Chair

Community Legal Centres Tasmania

cc: All members of the Legislative Council