

# HANSARD CHAMBER GREEN

Memo for Ms CHANEY at 10:14 on 12/02/2024

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Donna Christophers  
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## BILLS

### **Criminal Code Amendment (Telecommunications Offences For Suicide Related Material— Exception For Lawful Voluntary Assisted Dying) Bill 2024**

#### **First Reading**

**Ms CHANEY (Curtin)** (10:14): I move:

That this bill be now read a second time.

I am pleased to introduce this bill today because unlike many issues we face in this House, this is a policy problem with a simple solution.

Currently, doctors and pharmacists are at risk of criminal prosecution if they use telehealth, email, text or phone calls in relation to any lawful voluntary assisted dying services.

This means people who are:

- terminally ill and suffering;
- and have the right to VAD services

have to travel for face-to-face appointments.

Even worse, patients that rely on telehealth services due to distance or discomfort don't have equal access to end-of-life services that are supposed to be available to anyone who qualifies.

This problem can be fixed by passing this bill, which makes a minor amendment to the federal Criminal Code to make it clear that voluntary assisted dying is not suicide.

This change has the broad backing of the states, medical professionals, academics and patient advocate groups.

It is simple and could be done today.

So what's the problem the bill aims to fix?

Let's look at four facts.

#### **First: VAD is an accepted part of our health system**

Since 2019, every state has passed legislation allowing VAD under strict conditions, with territories expected to legislate soon.

Within this legislation, every state already has strong safeguards—at least three requests that are voluntary and enduring, at least two assessments by medical practitioners, the consideration of all treatment options and detailed processes set out to ensure this very serious decision is given appropriate weight.

**Second: telehealth is an integral part of our health system**

Telehealth has been hugely important in improving the access of people in rural and remote Australia to a variety of health services, especially where specialists are needed.

**Third: there's an anomaly in the federal Criminal Code that prevents telehealth from being used for anything to do with VAD**

An amendment to the Commonwealth Criminal Code Act was passed in 2005, making it an offence to counsel, promote or provide instruction on suicide through the use of a carriage service. That was 12 years before any jurisdiction in Australia had a VAD law. The stated intent of the amendment was to target pro-suicide websites, internet chat rooms and online cyberbullying.

'Suicide' is not defined in the code, but has been construed in its literal sense as 'intentional self-killing'.

The federal Criminal Code over-rides state legislation so the laws made by the states allowing telehealth VAD services do not protect doctors and other medical practitioners.

But VAD is not suicide.

There is a huge difference between the act of a desperate person who takes their own life because they see no other way out and a rational decision made by a terminally ill person enduring intolerable suffering, after discussion of their options with their medical professionals.

Voluntary assisted dying is not about a choice between life and death.

It's a choice between a painful, drawn-out and possibly traumatic death, or a peaceful death with dignity.

Those who access VAD services are making a choice between a hard death or a calm death.

**Fourth: there is a need for access to VAD services via telehealth**

The way VAD laws have been taken up in every state shows the importance of choice, dignity and compassion when it comes to people who are terminally ill and suffering.

Not allowing the use of telehealth in relation to VAD undermines all three of these core values—people are robbed of the choice, or travel distances in pain, which robs them of dignity, in a system that lacks compassion.

At the moment, doctors have three choices for patients who want to discuss VAD services but can't get actually get to the doctors:

- deny their lawful right to medical assistance in dying;
- risk prosecution to deliver compassionate care using telehealth; or
- insist on face-to-face consultations only. This involves not only pain and indignity for patients but also significant expense and inconvenience for doctors.

This means in many, many cases people are suffering greatly, especially outside capital cities. This is particularly bad in WA with our vast distances—there is a significant lack of equity in the provision of VAD services.

This tragic anomaly is causing unnecessary harm, pain and distress to dying people and also to their friends and families.

- I have heard heartbreaking stories of terminally ill people travelling long distances in agony to meet doctors for a consultation in a car park or to pick up a prescription.
- Pharmacists are afraid to even discuss processes with doctors over the phone.
- The NSW VAD Board can't even have its meetings online, because members are concerned they may be in breach of this law.
- When people don't have many hours left to live, it is not compassionate or dignified to make them spend those hours travelling long distances, often in pain.
- I have heard WA stories like a man who was left deteriorating and in pain because his assessing medical practitioners were away in rural WA when the time came and he requested administration.
- I have heard about the ridiculous logistics of trying to get a practitioner, a Care Navigator and an interpreter to a rural location in person, which proved too challenging and meant the man died in pain, without access to his preferred end-of-life choice. The stories are plentiful and heartbreaking.

### **How the Bill solves the problem**

This Bill makes a simple amendment, clarifying that lawful VAD is not within the definition of suicide under the relevant section. That's it. It's that simple. That's all it takes and it could be done today.

### **This Bill has very broad support**

It is supported by medical professionals—VAD doctors, nurses, hospital pharmacists.

- It was identified as the number one reform priority at the inaugural VAD ANZ conference in Sydney last year.

- I want to thank Dr Cameron McLauren, medical oncologist and President of the VAD ANZ who is in the gallery today for his tireless work in making sure this issue is understood.
- [I also want to thank Dr Nick Carr, Ben White, Lindy Wilmott, and Steve Walker for all their support in bringing this Bill to Parliament.]

It is supported by State A-Gs—this has come up repeatedly on the agenda of the regular meeting of the Attorneys-General of all the States.

[Multiple State Attorneys-General and Health Ministers have told me they are keen to see the Act amended to protection partitioners and enable greater access, particularly for regional patients.]

### **It is supported by the community**

There is an active Dying with Dignity community group in every State and Territory in Australia as well as the impressive Go Gentle working on this issue nationally.

### **In conclusion:**

- This a significant problem with a very simple solution.
- It's good for patients and medical professionals. It's backed by State Attorneys-General, Health Ministers and academics.
- We have introduced VAD because as a society, we value choice, compassion and dignity.
- I'm now calling on the Federal Government to fix this problem so that:
- all Australians, irrespective of their postcode, have equal access to this choice if they qualify and comply with the strict conditions.
- And so that we show them compassion and dignity by not asking them to spend their precious last days travelling in pain.
- And so that we respect the medical professionals who undertake this important work by not prosecuting them as criminals.

I commend the Bill to the House.

I cede the remainder of my time to the member for Kooyong.