

VOLUNTARY ASSISTED DYING BILL 2019

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 85: Consequences of review application —

Debate was interrupted after the clause had been partly considered.

Mr Z.R.F. KIRKUP: Subclause (1) states —

This section applies if a review application is made in relation to a patient.

Can the minister define the need to include that subclause? I assume there is no capacity for there to be a review application made on anyone other than a patient, or can there be a review application made on a practitioner or someone else?

Mr R.H. COOK: This clause clarifies the effect that an application to the tribunal has on the existing voluntary assisted dying process. I gave this response to the earlier question of the member for Cottesloe. Essentially, it stops the process. Whether that process is midway or has been completed and is awaiting the voluntary assisted dying part of the process, it is essentially to clarify that the consideration of the application stops everything.

Mr Z.R.F. KIRKUP: I refer to subclause (2). I am curious to understand whether the coordinating practitioner is informed about the review that is being undertaken. I appreciate that they will obviously be informed in relation to their patient, but are they advised of this as part of the consequences of a review application? I imagine they might have to be informed, but I am not entirely certain.

Mr R.H. COOK: Yes, that is correct, member. They are informed in order for the process to stop, and I am informed that is effected by clause 93, “Notice requirements”.

Mr Z.R.F. KIRKUP: Subclause (3) states —

If the request and assessment process in respect of the patient has been completed, the process for accessing voluntary assisted dying under Part 4 is suspended and no step under that Part ... is to be taken in relation to the patient until the review application is determined or otherwise disposed of.

Can I have a bit of exposure as to what would occur if the administration decision has already been made, unless I am reading it wrong, and the patient is already in receipt of this substance, for example? How does that have a practical impact under this subclause?

Mr R.H. COOK: Obviously, as the member observed, it is pretty straightforward if the person has made an administration decision that involves an administering practitioner, but this is not part of the process if the person has made a decision around self-administration. This is not the staff of the State Administrative Tribunal seeking an intervention by the police or something of that nature, if they were at that end of the process. From that perspective, if it is self-administering, obviously, they would take other remedies.

Mr Z.R.F. KIRKUP: I thank the minister. In practical terms, if a review has been lodged with the State Administrative Tribunal after the administration decision has been made, it has the ability to refer that to the police if it has some concerns and it finds that there is an issue, or something like that, and the clock has to stop. If the clock stops and there has been no issue found at this point in time, would it still dispatch police or some other intervention mechanism to stop the access to that substance while the clock has been stopped, whilst the application is under review?

Mr R.H. COOK: I am seeking advice in relation to how clause 85, which essentially stops the process, might be affected. I am advised that clause 97, “Interim orders”, on page 65, would essentially provide the SAT with the authority to undertake the interventions that the member spoke of.

Ms M.M. QUIRK: I probably should have asked this question when we were debating clause 83, but given that the minister made some remarks about expediting matters under clause 85, I crave his indulgence. Clearly, in these applications, the intention or objective is not to delay the nine-day process too much. Would that be correct?

Mr R.H. COOK: Yes.

Ms M.M. QUIRK: I understand from the remarks made by the minister earlier that the minister has already been in some preliminary discussions with SAT concerning this process.

Mr R.H. COOK: Yes.

Ms M.M. QUIRK: The third issue is that I had occasion to make an application for guardianship recently with SAT, and I found the process very cumbersome. The application had to be done online. If there was a semicolon

or a dial code in a phone number in the wrong place, I literally could not go on to the next screen. I also could not print off a hard copy of the application. I have complained to the Attorney about that. This is really by way of editorial comment. I think an easier form of application has to be made than the one that currently exists, for example, for getting guardianship over an individual, because it is a shocker.

Mr R.H. COOK: I thank the member.

Mr Z.R.F. KIRKUP: I have one other question that I just thought of then. As part of the review process, we spoke about the coordinating practitioner being informed. I assume that if other parties are part of this process, such as the contact person, they will be equally informed. Would that be an appropriate assumption? I think this falls under clause 93 or clause 97; is that right?

Mr R.H. COOK: Yes. The member will see in clause 93 a list of parties who must be informed. It is not an exhaustive list. It simply suggests those people who must be informed about tribunal decisions. I am reluctant to go into detail because I will go into more detail on clause 93. It also relies upon the State Administrative Tribunal Act for other notice-giving powers.

Clause put and passed.

Debate interrupted, pursuant to standing orders.

[Continued on page 7004.]