



SUBMISSION

to

The Parliament of Western Australia

JOINT SELECT COMMITTEE ON END OF LIFE CHOICES

on the

Inquiry into the need for laws in Western Australia to allow citizens to make informed choices
regarding their own end of life choices

Submitted by Most Rev Timothy Costelloe SDB DD
 Roman Catholic Archbishop of Perth

In this Submission in the name of the Roman Catholic Archdiocese of Perth, I confirm that

- we support certainty in end-of-life choices, and
- we do not support 'assisted dying' in any form.

I would welcome an invitation to appear before the Committee in person to present our case.

We actively care for all West Australians

1. The Roman Catholic community in Western Australia has made and continues to make a substantial contribution to the health and welfare of our entire community, including major financial and organisational commitments to care for those suffering chronic and terminal illnesses.
 - The Catholic Church in WA owns and operates seven public and private acute hospitals offering over 1800 beds. In the year ending 30 June 2016 we employed over 7000 staff, had over 2800 doctors accredited, and delivered over 282,000 separations (patient episodes);
 - We are a major provider of aged care and mental health services to over 6000 clients;
 - We provide supported housing and in-home care for more than 200 disabled persons;
 - Our dedicated palliative care and hospice facilities totalling 26 beds are in addition to 80-90 patients receiving palliative care in our hospital wards and aged care at any given time;
 - Although our 160 parishes serve around 500,000 Roman Catholics, we care for all West Australians by providing pastoral care and spiritual support services to all WA hospitals.
2. This is a timely inquiry for the increasing number of persons in our State who experience vulnerability through age, disability, dementia, cultural and linguistic diversity, and many forms of social disadvantage. All of these deserve greater certainty and protection as well as genuinely compassionate care in all of their physical, psychological and spiritual challenges, and especially as many contemplate their end-of-life choices.



TOR 4 : We support certainty in end-of-life choices

3. Addressing the general rationale of this inquiry: a previous State Government created several instruments to offer citizens a higher degree of certainty that their end-of-life choices would be respected: Advance Health Directives (AHD) and Enduring Power of Guardianship (EPG) in addition to the existing Enduring Power of Attorney (EPA). All of these are helpful but none is perfect, principally because none can guarantee absolutely that when they become operative (that is, when the citizen loses competence to make medical decisions) that a citizen's personal preferences will certainly be followed.
4. AHD and EPG can only work within the existing framework of laws operative at the time. They provide the option only of refusing an offered medical treatment. They do not guarantee that a citizen can request or receive a preferred treatment if the treating medical professional does not offer that option. We believe this is appropriate and should remain unchanged: citizens should rely on their medical professional to offer only those treatments that (a) the medical professional believes may offer reasonable therapeutic benefit in the circumstances, and (b) are lawful in this State.

TOR 1 : We do not support 'assisted dying' in any form

5. WA citizens cannot now request a medical professional to intentionally end their life, or assist them to end their own life, because both of these fail both tests noted above. We believe this wise arrangement should not be altered under any circumstances.
6. In the interests of our citizens' certainty and safety we reject absolutely any move to legalise so-called 'assisted dying' in any form, in particular
 - 'euthanasia' by which we mean an action which of itself and by intention causes death, and
 - 'assisted suicide' by which we mean an action performed by one person in order to enable another person to take their own life.
7. Excluded from any definition of 'euthanasia' are medically-indicated treatments whose primary intention and modality is to relieve pain, even if a patient's life is shortened thereby. These cannot be classed as 'euthanasia' because their sole intention is to relieve pain, not to kill the patient. Nevertheless doctors providing such treatments may feel exposed, so we call upon Parliament to strengthen legal protections for all medical professionals acting solely on medical indications and according to the accepted standards and protocols of their professions.
8. We submit that any legislation to permit 'assisted dying' will only serve to heighten and not diminish levels of anxiety and uncertainty among our many vulnerable populations, especially in relation to end-of-life decisions.
9. **First:** the safety and security of our society, and citizens' confidence in our social system, rest heavily on foundational propositions enshrined in law. One such proposition is that one person must not intentionally kill another, for any reason. If a Parliament were to legalise 'assisted dying', it would create a fundamental and irreversible breach in this foundational principle of social order. Regardless of any 'safeguards' it may place around such a law, no Parliament can guarantee its citizens that a future Parliament will not vary those safeguards and extend the reach of that law to even more classes of



citizens. Indeed, since any restriction of access to 'assisted dying' could be characterised as discriminatory, future Parliaments will almost certainly be obliged to extend its reach. One inevitable effect of that initial breach, therefore, is a decline in citizens' confidence in legal protection of their safety and an increase in uncertainty especially among our most vulnerable. The only way to maintain our citizens' certainty and confidence, and avoid future erosion in citizens' sense of safety, is to refuse to legislate 'assisted dying' in the first place.

10. **Second:** currently legal instruments empowering citizens' end-of-life decision-making (AHD, EPG) do not permit an enduring guardian or a 'responsible person' (as defined in s.110ZE of the *Guardianship and Administration Act 1990*) to choose 'assisted dying' for that citizen. Were Parliament to authorise any form of 'assisted dying', a medical professional might offer that as a potential 'treatment option', and the enduring guardian or responsible person might choose that option, regardless of the citizen's own preferences. In short, if 'assisted dying' were to be legalised, the patient would have no guarantee that it would not be chosen for them against their own will – which can only increase and not decrease levels of anxiety and uncertainty among our vulnerable populations.
11. **Third:** Western Australia suffers a high rate of suicide, and the State Government rightly prioritises strategies to reduce the suicide rate. It is self-evident that a person contemplating suicide is in a very vulnerable state, is probably depressed, and on these grounds deserves every medical and social support we can offer. But in some circumstances legalised 'assisted dying' would offer this person State-sanctioned help to end their own life. This would place the State in general, and Parliament in particular, in a situation of profound self-contradiction: attempting to reduce suicide rates on one hand, while approving and mandating some suicides on the other. Laws to enable 'assisted dying' must be rejected as profoundly damaging not only to vulnerable populations but to the State's own integrity.
12. **Fourth:** it is abundantly clear that 'intractable pain' is not the sole or even the principal rationale behind pressure on Parliament to legislate 'assisted dying'. Repeated studies reveal that 'treatment of pain' figures well down on the list of reasons given for supporting 'assisted dying', behind
 - (i) 'feeling weak, tired or uncomfortable',
 - (ii) 'fear of loss of function',
 - (iii) 'fear of loss of sense of self',
 - (iv) 'desire for control',
 - (v) 'fear of future quality of life' and
 - (vi) 'negative past experiences of death'.¹
13. None of these is a medical condition requiring a medical treatment. Perversely, therefore, there would be no need for a doctor to be involved in the vast majority of cases should 'assisted dying' be legalised in this State. Others have suggested that in the interests of greater accountability and compliance with legislation, 'assisted dying' would be better left in the hands of lawyers rather than doctors. But no-one really wants that.

¹ Robert A Pearlman MD et al (2005). Motivations for Physician-assisted Suicide. Patient and Family Voices. *Journal of General Internal Medicine* March 2005. 20(3): 234–239; see also *Oregon Death with Dignity Act. Data Summary 2016*. Online at <http://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year19.pdf> ; and Linda Ganzini MD et al (2002). Experiences of Oregon Nurses and Social Workers with Hospice Patients Who Requested Assistance with Suicide. *New England Journal of Medicine* 2002; 347:582-588. Online at <http://www.nejm.org/doi/full/10.1056/NEJMSa020562#t=article>



14. On the contrary, all six of these more common reasons for seeking 'assisted dying' can be managed effectively by the provision of targeted psychological counselling and social support, and by better access to excellent palliative care. We submit that, in view of the research data, providing all West Australians with better access to all of these supports will be a more effective, efficient and ultimately respectful way to meet the real needs of WA citizens, and to reduce their levels of anxiety and uncertainty as they consider their own end-of-life decisions.
15. In particular we call upon the WA Government to send a clear signal to the WA public that it has its priorities right: to invest substantially in giving all West Australians, especially those in rural and remote areas, equal access to the best possible counselling and palliative care services. In the current parlous condition of State finances, to legislate for 'assisted dying' without guaranteeing funding for equal access to palliative care risks being interpreted by some voters as driven principally by financial concerns. **We call upon Parliament to put people first: reject any form of 'assisted dying' and guarantee better access to palliative care for all.**
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Recommendations

Term of Reference 1

- We call upon Parliament to strengthen protections for all medical professionals providing end-of-life care within the current legal framework, especially those described in paragraph 7 above.
- We reject any move to introduce so-called 'assisted dying' in this State and we call upon Parliament to reject any proposals to introduce such laws in Western Australia.
- We call upon the State Government to ensure that all West Australians, especially those in rural and remote areas, have equal access to excellent palliative care and other services to better inform and empower their end-of-life choices.

Term of Reference 4

- We endorse the current framework allowing citizens to make informed decisions regarding their own end-of-life choices (Advance Health Directive, Enduring Power of Guardianship, Enduring Power of Attorney) and we call upon Parliament to retain the current legal framework within which these instruments operate.
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