

JOINT SELECT COMMITTEE ON END OF LIFE CHOICES



Our ref: 678670

29 March 2018

Professor Lindy Willmott & Professor Ben White
Australian Centre for Health Law Research
Queensland University of Technology
GPO Box 2434
BRISBANE QLD 4000

Via email:

Dear Professor Willmott and Professor White

Questions on notice from public hearing

Thank you for appearing before the Joint Select Committee on End of Life Choices on Monday, 26 February 2018.

My apologies for the delay, but as you might recall, at the hearing you undertook to provide information in relation to several questions taken on notice.

1. Could you please provide the references to the additional literature that you suggested would provide the committee with a wider body of peer-reviewed evidence to consider in relation to your research on how the law was operating in various jurisdictions in relation to the protection of vulnerable people? The details can be found on page 12 of the transcript.
2. In addition, could you also provide a reference for the article that you referred on page 20 of the transcript, an article regarding doctors' assessments of capacity in the Queensland context from some years ago, by Professor Malcolm Parker?

It would be appreciated if you could provide this information to the Committee by **Wednesday, 11 April 2018**.

Unless otherwise directed by the Committee, your evidence is public and will be published on the WA Parliament website.

If you require any further information, please contact Dr Jeannine Purdy on 9222 7442.

Yours sincerely

MS A. SANDERSON, MLA
CHAIR

Please note that correspondence addressed to or received from the Committee becomes the property of the Legislative Assembly and cannot be forwarded to any other party without the authorisation of the Committee.

Questions on notice

Question 1

We are aware of the following peer-reviewed material that are relevant to the issue of the protection of vulnerable under assisted dying legislation:

- Huong Q Nguyen, Eduard J Gelman, Tracey A Bush, Janet S Lee, Michael H. Kanter, 'Characterizing Kaiser Permanente Southern California's Experience With the California End of Life Option Act in the First Year of Implementation' (2018) 178(3) *JAMA Intern Med* 417
- Charles Blanke et al, 'Characterizing 18 years of the Death with Dignity Act in Oregon' (2017) *JAMA Oncology* doi: 10.1001/jamaoncol.2017.0243
- Ezekiel J Emanuel et al, 'Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada and Europe' (2016) 316(1) *JAMA* 79
- Chambaere et al, 'Recent Trends in Euthanasia and Other End-of-Life Practices in Belgium' (2015) 372 *New England Journal of Medicine* 1179
- Onwuteaka-Philipsen et al, 'Trends in end-of-life practices before and after the enactment of the euthanasia law in the Netherlands from 1990 to 2010: a repeated cross-sectional survey' (2012) 380 *The Lancet* 908
- Chambaere et al, 'Trends in medical end-of-life decision making in Flanders, Belgium 1998-2001-2007' (2011) *Medical Decision Making* 500
- JAC Rietjens et al, 'Medical End- of- life Decisions: Does its Use Differ in Vulnerable Patient Groups? A Systematic Review and Meta- analysis' (2012) 74(8) *Social Science and Medicine* 1282
- Margaret P Battin et al, 'Legal Physician-Assisted Dying in Oregon and the Netherlands: Evidence Concerning the Impact on Patients in Vulnerable Groups' (2007) 33(10) *Journal of Medical Ethics* 591

We also note that the trial judge in *Carter v. Canada (Attorney General)* [2012] BCSC 886 [852], [1242] found that empirical evidence does not support the claim that vulnerable individuals could not be protected. (This finding was not disturbed by the Canadian Supreme Court which noted that the trial judge's findings were 'reasonable and open to her': *Carter v Canada (Attorney General)* [2015] 1 SCR 331 [109].)

Question 2

Parker, Malcolm H. (2008) Patient competence and professional incompetence: Disagreements in capacity assessments in one Australian jurisdiction, and educational implications. *Journal of Law and Medicine*, 16 1: 25-35