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*--Other (Mr Conolly)

LEGISLATIVE ASSEMBLY

Voluntary Assisted Dying Bill 2021

First print

Proposed amendments

No. 1 **Eligibility to act as practitioner—relevant specialist**

Page 9, clause 18. Insert after line 22—

(2) At least one of the medical practitioners acting as coordinating practitioner or consulting practitioner for a patient must hold specialist registration in a speciality that is relevant to the disease, illness or medical condition with which the patient has been diagnosed for the purposes of section 16.

No. 2 **Eligibility to act as practitioner—independence**

Page 9, clause 18. Insert before line 23—

(2A) A medical practitioner is not eligible to act as the consulting practitioner for a patient unless the medical practitioner is independent from the coordinating practitioner.

(2B) Without limiting subsection (2A), a medical practitioner is not independent from the coordinating practitioner if the medical practitioner is—

(a) a family member of the coordinating practitioner, or

(b) employed at, or is a partner in, the same medical practice as the coordinating practitioner.

(2C) The regulations may provide for additional matters in relation to the requirement for the consulting practitioner to be independent from the coordinating practitioner.

No. 3 **First request—not before 21 days after diagnosis**

Page 9, clause 19. Insert after line 26—

(1A) The request must not be made until at least 21 days after the person was diagnosed with at least 1 disease, illness or medical condition that is advanced, progressive and will cause death.

No. 4 **Making a first request—gestures**

Page 9, clause 19. Insert after line 36—

(5) A request made in a way other than verbally may be made only with the assistance of an interpreter.

No. 5 **Making a first request—person must be alone**

Page 9, clause 19. Insert before line 37—

(5A) A request under this section may be made only if—

(a) for a request made without the assistance of an interpreter—the person making the request is alone with the medical practitioner, or

(b) for a request made with the assistance of an interpreter—the person making the request and the interpreter are both present, and are the only persons present, with the medical practitioner.

No. 6 **Refusing a first request—any reason**

Page 10, clause 21, lines 7—13. Omit all words on those lines. Insert instead—

(2) The medical practitioner may refuse the request for any reason.

No. 7 **Refusing a first request—patient with suicidal ideation or mental health impairment**

Page 10, clause 21, line 17. Insert "(4A) or" before "(5)".

No. 8 **Refusing a first request—suicidal ideation or mental health impairment**

Page 10, clause 21. Insert after line 22—

(4A) Subsection (4)(b) does not apply if the medical practitioner believes, on reasonable medical grounds, that—

(a) the patient may be significantly impacted by a mental health impairment within the meaning of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* that may affect the patient's decision-making capacity in relation to voluntary assisted dying, or

(b) the patient is considering, or at risk of considering, attempting to commit suicide.

No. 9 **Refusing a first request—conscientious objection**

Page 10, clause 21(5), lines 23—28. Omit all words on those lines. Insert instead—

(5) If the medical practitioner decides to refuse the first request because the practitioner has a conscientious objection to voluntary assisted dying, the practitioner must, immediately after the request is made, inform the patient the practitioner has decided to refuse the request because of the conscientious objection.

No. 10 **Board to send information to coordinating practitioner**

Page 11. Insert after line 18—

24A Board to give information to coordinating practitioner

(1) Within 5 business days after receiving a first request form for a patient from a coordinating practitioner, the Board must—

(a) acknowledge receipt of the first request form from the practitioner, and

(b) give the practitioner—

(i) if the Board has previously been notified of a first request by the patient—copies of any documents previously received by the Board in relation to the patient, or

(ii) if the Board has not previously been notified of a first request by the patient—a notice advising the practitioner that the Board has not been notified of any previous first request by the patient.

(2) The coordinating practitioner must not begin a first assessment of the patient until receiving an acknowledgement under subsection (1)(a).

No. 11 **Informing the treating practitioner**

Page 11, clause 25. Insert after line 22—

(1A) Before starting the first assessment, the coordinating practitioner must, if the coordinating practitioner is not the patient's treating practitioner—

(a) inform the patient's treating practitioner that the coordinating practitioner has accepted a first request from the patient, and

(b) request the following—

(i) a copy of any part of the patient's medical record that the treating practitioner considers may be relevant to assessing whether the patient meets the eligibility criteria,

(ii) any other information the treating practitioner considers may assist the coordinating practitioner in assessing whether the patient meets the eligibility criteria.

(1B) If the coordinating practitioner is not the patient's treating practitioner, the coordinating practitioner must not complete the first assessment until the treating practitioner has responded to the request by—

(a) giving the coordinating practitioner the information requested, or

(b) advising the coordinating practitioner that the treating practitioner does not have any relevant information.

No. 12 **Informing the treating specialist practitioner**

Page 11, clause 25. Insert before line 23—

(1C) Before starting the first assessment, the coordinating practitioner must, if the coordinating practitioner is not the patient's treating specialist practitioner—

(a) inform the patient's treating specialist practitioner that the coordinating practitioner has accepted a first request from the patient, and

(b) request the following—

(i) a copy of any part of the patient's medical record that the treating specialist practitioner considers may be relevant to assessing whether the patient meets the eligibility criteria,

(ii) any other information the treating specialist practitioner considers may assist the coordinating practitioner in assessing whether the patient meets the eligibility criteria.

(1D) If the coordinating practitioner is not the patient's treating specialist practitioner, the coordinating practitioner must not complete the first assessment until the treating specialist practitioner has responded to the request by—

(a) giving the coordinating practitioner the information requested, or

(b) advising the coordinating practitioner that the treating specialist practitioner does not have any relevant information.

No. 13 **Informing the treating practitioner**

Page 11, clause 25. Insert after line 27—

(4) In this section—

treating practitioner, for a patient, means the medical practitioner from whom the patient generally receives ongoing health services.

No. 14 **Informing the treating specialist practitioner** (if amendment no 13 succeeds the form of this amendment needs to be changed so that only the definition itself is inserted)

Page 11, clause 25. Insert before line 28—

(4) In this section—

treating specialist practitioner, for a patient, means the medical practitioner from whom the patient is receiving, or has most recently received, treatment or care in relation to the disease, illness or medical condition in relation to which an assessment is being made about whether the patient meets the requirements of section 16(1)(d).

No. 15 **Unable to decide**

Page 11, clause 26, lines 30–34. Omit all words on those lines. Insert instead—

(1) If the coordinating practitioner for a patient does not hold specialist registration in a speciality for the disease, illness or medical condition in relation to which an assessment is being made about whether the patient meets the requirements of section 16(1)(d), the coordinating practitioner must refer the patient to a medical practitioner who holds specialist registration in a specialty for the disease, illness or medical condition.

No. 16 **Must adopt report**

Page 12, clause 26, lines 3–5. Omit "the coordinating practitioner may adopt the decision of the medical practitioner about the matter in relation to which the referral was made". Insert instead—

the coordinating practitioner—

(a) if the decision is that the patient does not meet the eligibility criteria in relation to the matter for which the referral was made—must adopt the decision of the medical practitioner about the matter, or

(b) if the decision is that the patient meets the eligibility criteria in relation to the matter for which the referral was made—may adopt the decision of the medical practitioner about the matter.

No. 17 **Independence**

Page 12, clause 26. Insert before line 6—

(4A) A medical practitioner must not accept a referral under this section unless the medical practitioner is independent from the coordinating practitioner.

(4B) Without limiting subsection (4A), a medical practitioner is not independent from the coordinating practitioner if the medical practitioner is—

(a) a family member of the coordinating practitioner, or

(b) employed at, or is a partner in, the same medical practice as the coordinating practitioner.

(4C) The regulations may provide for additional matters in relation to the requirement for the medical practitioner to be independent from the coordinating practitioner.

No. 18 **Coercive and controlling behaviour**

Page 12, clause 27. Insert after line 32—

(2A) If the coordinating practitioner has reasonable grounds to suspect the patient is, or has within the last 5 years been, subject to abusive behaviour from a family member or a carer, the coordinating practitioner must refer the patient to a psychiatrist, or another registered health practitioner or person who has appropriate skills and training, to make a decision about whether the patient—

(a) is or is not acting voluntarily, and

(b) is or is not acting because of pressure or duress.

No. 19 **Coercive and controlling behaviour**

Page 12, clause 27. Insert after line 44—

(5) In this section—

abusive behaviour means behaviour that is violent, menacing or intimidating, or has or is reasonably likely to have 1 or more of the following effects—

(a) making a person dependent on or subordinate to another person,

(b) isolating a person from the person's friends, relatives or other sources of support,

(c) controlling, monitoring or regulating a person's day-to-day activities,

(d) depriving a person of, or restricting a person's, freedom of action,

(e) degrading, frightening, humiliating or punishing a person.

No. 20 **Must adopt report**

Page 12, clause 27(3), lines 33–36. Omit from ", coordinating practitioner" to "referral was made". Insert instead—

, coordinating practitioner—

(a) if the decision is that the patient does not meet the eligibility criteria in relation to the matter for which the referral was made—must adopt the decision of the psychiatrist, other registered health practitioner or other person about the matter, or

(b) if the decision is that the patient meets the eligibility criteria in relation to the matter for which the referral was made—may adopt the decision of the psychiatrist, other registered health practitioner or other person about the matter.

No. 21 **Independence**

Page 12, clause 27. Insert after line 44—

(5) A psychiatrist or other registered health practitioner or person must not accept a referral under this section unless the psychiatrist, registered health practitioner or person is independent from the coordinating practitioner.

(6) Without limiting subsection (5), a psychiatrist or other registered health practitioner or person is not independent from the coordinating practitioner if the psychiatrist, registered health practitioner or person is—

(a) a family member of the coordinating practitioner, or

(b) employed at, or is a partner in, the same medical practice as the coordinating practitioner.

(7) The regulations may provide for additional matters in relation to the requirement for a psychiatrist or other registered health practitioner or person to be independent from the coordinating practitioner.

No. 22 **Assessing whether suffering can be relieved**

Page 12. Insert after line 44—

27A Referral for opinion—palliative care

(1) If the coordinating practitioner is not a specialist palliative medicine physician, the coordinating practitioner must refer the patient to a specialist palliative medicine physician to make a decision about whether the patient meets the eligibility criteria mentioned in section 16(1)(d)(iii).

(2) If the coordinating practitioner makes a referral under subsection (1)—

(a) if the decision is that the patient does not meet the eligibility criteria in section 16(1)(d)(iii)—the coordinating practitioner must adopt the decision of the specialist palliative medicine physician, or

(b) if the decision is that the patient does meet the eligibility criteria in section 16(1)(d)(iii)—the coordinating practitioner may adopt the decision of the specialist palliative medicine physician.

(3) A specialist palliative medicine physician must not accept a referral under this section unless the specialist palliative medicine physician is independent from the coordinating practitioner.

(4) Without limiting subsection (3), a specialist palliative medicine physician is not independent from the coordinating practitioner if the specialist palliative medicine physician is—

(a) a family member of the coordinating practitioner, or

(b) employed at, or is a partner in, the same medical practice as the coordinating practitioner.

(5) The regulations may provide for additional matters in relation to the requirement for a specialist palliative medicine physician to be independent from the coordinating practitioner.

No. 23 **Informing the treating practitioner**

Page 16, clause 36. Insert after line 32—

(1A) Before starting the assessment, the consulting practitioner must, if the consulting practitioner is not the patient's treating practitioner—

(a) inform the patient's treating practitioner that the consulting practitioner has accepted a referral for a consulting assessment in relation to the patient, and

(b) request the following—

(i) a copy of any part of the patient's medical record that the treating practitioner considers may be relevant to assessing whether the patient meets the eligibility criteria, and

(ii) any other information the treating practitioner considers may assist the consulting practitioner in assessing whether the patient meets the eligibility criteria.

(1B) If the consulting practitioner is not the patient's treating practitioner, the consulting practitioner must not complete the assessment until the treating practitioner has responded to the request by—

(a) giving the consulting practitioner the information requested, or

(b) advising the consulting practitioner the treating practitioner does not have any relevant information.

No. 24 **Informing the treating specialist practitioner**

Page 16, clause 36. Insert before line 33—

(1C) Before commencing the assessment, the consulting practitioner must, if the consulting practitioner is not the patient's treating specialist practitioner—

(a) inform the patient's treating specialist practitioner that the consulting practitioner has accepted a referral for a consulting assessment in relation to the patient, and

(b) request the following—

(i) a copy of any part of the patient's medical record that the treating specialist practitioner considers may be relevant to assessing whether the patient meets the eligibility criteria,

(ii) any other information the treating specialist practitioner considers may assist the consulting practitioner in assessing whether the patient meets the eligibility criteria.

(1D) If the consulting practitioner is not the patient's treating specialist practitioner, the consulting practitioner must not complete the assessment until the treating specialist practitioner has responded to the request by—

(a) giving the consulting practitioner the information requested, or

(b) advising the consulting practitioner the treating specialist practitioner does not have any relevant information.

No. 25 **Informing the treating practitioner**

Page 16, clause 36. Insert after line 39—

(4) In this section—

treating practitioner, for a patient, means the medical practitioner from whom the patient generally receives ongoing health services.

No. 26 **Informing the treating specialist practitioner** (if amendment no 25 succeeds the form of this amendment needs to be changed so that only the definition itself is inserted)

Page 16, clause 36. Insert after line 39—

(4) In this section—

treating specialist practitioner, for a patient, means the medical practitioner from whom the patient is receiving, or has most recently received, treatment or care in relation to the disease, illness or medical condition in relation to which an assessment is being made about whether the patient meets the requirements of section 16(1)(d).

No. 27 **Unable to decide**

Page 17, clause 37, lines 3–5. Omit all words on those lines. Insert instead—

(1) If the consulting practitioner for a patient does not hold specialist registration in a speciality for the disease, illness or medical condition in relation to which an assessment is being made about whether the patient meets the requirements of section 16(1)(d), the consulting practitioner must refer the patient to a medical practitioner who does hold specialist registration in a specialty for the disease, illness or medical condition.

No. 28 **Must adopt report**

Page 17, clause 37, lines 19–21. Omit "the consulting practitioner may adopt the decision of the medical practitioner about the matter in relation to which the referral was made". Insert instead—

the consulting practitioner—

(a) if the decision is that the patient does not meet the eligibility criteria in relation to the matter for which the referral was made—must adopt the decision of the medical practitioner about the matter, or

(b) if the decision is that the patient meets the eligibility criteria in relation to the matter for which the referral was made—may adopt the decision of the medical practitioner about the matter.

No. 29 **Independence**

Page 17, clause 37. Insert before line 22—

(4A) A medical practitioner must not accept a referral under this section unless the medical practitioner is independent from the consulting practitioner.

(4B) Without limiting subsection (4A), a medical practitioner is not independent from the consulting practitioner if the medical practitioner is—

(a) a family member of the consulting practitioner, or

(b) employed at, or is a partner in, the same medical practice as the consulting practitioner.

(4C) The regulations may provide for additional matters in relation to the requirement for the medical practitioner to be independent from the consulting practitioner.

No. 30 **Coercive and controlling behaviour**

Page 18, clause 38. Insert after line 2—

(2A) If the consulting practitioner has reasonable grounds to suspect the patient is, or has within the last 5 years been, subject to abusive behaviour from a family member or a carer, the consulting practitioner must refer the patient to a psychiatrist, or another registered health practitioner or person who has appropriate skills and training, to make a decision about whether the patient—

(a) is or is not acting voluntarily, and

(b) is or is not acting because of pressure or duress.

No. 31 **Must adopt report**

Page 18, clause 38(3), lines 3–6. Omit from ", the consulting practitioner" to "referral was made". Insert instead—

, the consulting practitioner—

(a) if the decision is that the patient does not meet the eligibility criteria in relation to the matter for which the referral was made—must adopt the decision of the psychiatrist, registered health practitioner or person about the matter, or

(b) if the decision is that the patient meets the eligibility criteria in relation to the matter for which the referral was made—may adopt the decision of the psychiatrist, registered health practitioner or person about the matter.

No. 32 **Independence**

Page 18, clause 38. Insert after line 14—

(5) A psychiatrist or other registered health practitioner or person must not accept a referral under this section unless the psychiatrist, registered health practitioner or person is independent from the consulting practitioner.

(6) Without limiting subsection (5), a psychiatrist or other registered health practitioner or person is not independent from the consulting practitioner if the psychiatrist, registered health practitioner or person is—

(a) a family member of the consulting practitioner, or

(b) employed at, or is a partner in, the same medical practice as the consulting practitioner.

(7) The regulations may provide for additional matters in relation to the requirement for a psychiatrist or other registered health practitioner or person to be independent from the consulting practitioner.

No. 33 **Coercive and controlling behaviour**

Page 18, clause 38. Insert after line 14—

(8) In this section—

abusive behaviour means behaviour that is violent, menacing or intimidating, or has or is reasonably likely to have, 1 or more of the following effects—

(a) making a person dependent on or subordinate to another person,

(b) isolating a person from the person's friends, relatives or other sources of support,

(c) controlling, monitoring or regulating a person's day-to-day activities,

(d) depriving a person of, or restricting a person's, freedom of action,

(e) degrading, frightening, humiliating or punishing a person.

No. 34 **Assessing whether suffering can be relieved**

Page 19. Insert after line 22—

41A Referral for opinion—palliative care

(1) If the consulting practitioner is not a specialist palliative medicine physician, the consulting practitioner must refer the patient to a specialist palliative medicine physician to make a decision about whether the patient meets the eligibility criteria mentioned in section 16(1)(d)(iii).

(2) If the consulting practitioner makes a referral under subsection (1)—

(a) if the decision is that the patient does not meet the eligibility criteria in section 16(1)(d)(iii)—the consulting practitioner must adopt the decision of the specialist palliative medicine physician, or

(b) if the decision is that patient does meet the eligibility criteria in section 16(1)(d)(iii)—the consulting practitioner may adopt the decision of the specialist palliative medicine physician.

(3) A specialist palliative medicine physician must not accept a referral under this section unless the specialist palliative medicine physician is independent from the consulting practitioner.

(4) Without limiting subsection (3), a specialist palliative medicine physician is not independent from the consulting practitioner if the specialist palliative medicine physician is—

(a) a family member of the consulting practitioner, or

(b) employed at, or is a partner in, the same medical practice as the consulting practitioner.

(5) The regulations may provide for additional matters in relation to the requirement for a specialist palliative medicine physician to be independent from the consulting practitioner.