

**Submission
No 67**

**INQUIRY INTO PROVISIONS OF THE VOLUNTARY
ASSISTED DYING BILL 2021**

Name: The Hon. Greg Donnelly MLC

Date Received: 22 November 2021

Sent: Monday, 22 November 2021 4:10 PM
To: Law
Subject: Inquiry into the provisions of the Voluntary Assisted Dying Bill 2021
Attachments: Letter of response to Greg Don~MLC - palliative care services.pdf

22nd November 2021

Director
Standing Committee on Law and Justice
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Director,

Re: Inquiry into the provisions of the *Voluntary Assisted Dying Bill 2021*

Thank you for the opportunity to make a submission to the inquiry being undertaken by the Legislative Council's Standing Committee on Law and Justice that is examining the provisions of the *Voluntary Assisted Dying Bill 2021*.

I seek in this submission to both list and provide the electronic links to a number of significant parliamentary and public inquiries in recent years that have exposed, so painfully to everybody in New South Wales and indeed all of Australia, what can only be described as appalling and inhumane treatment of some of our most vulnerable, frail, weak, incapacitated, neglected, uncared for and unloved citizens. And as these inquiries have placed a large mirror up in front of us all, what we have seen is not just isolated cases, but inhumane treatment on an industrial scale. Some of the most egregious examples relate specifically to the elderly and those with a disability, both physical and intellectual.

The, what are now multiple volumes of parliamentary and official reports written and published on these and related matters demonstrate that as a state and nation we have, and continue to face, fundamental existential questions about how we, both individually and collectively think about, support and care for those around us; particularly those who do not or may not have good health and strength of body and mind.

All that I have referred to above is in the public domain for everybody to see, absorb and reflect on. For these reasons alone, I find it incongruous and ultimately tragic that attempts are being made to pursue the introduction of assisted suicide and euthanasia laws in New South Wales.

The parliamentary and public inquiries I wish to draw to the inquiry's attention include:

1. New South Wales Legislative Council inquiry, General Purpose Standing Committee No.2, Elder abuse in New South Wales, Report 44, June 2016;
<https://www.parliament.nsw.gov.au/committees/Pages/inquiryprofile/elder-abuse-in-new-south-wales.aspx>
2. New South Wales Auditor-General's Report: Performance Audit, Planning and evaluating palliative care services in NSW: NSW Health, August 2017;
https://www.audit.nsw.gov.au/sites/default/files/pdf-downloads/01_Palliative_Care_Full_Report.pdf
3. Letter from Auditor-General of New South Wales regarding query by the Hon. Greg Donnelly MLC into follow-up report on palliative care services in the state, 11th of August 2021;
Attachment
4. New South Wales Legislative Council inquiry, Select Committee on the provisions of the Public Health Amendment (Registered Nurses in Nursing Homes) Bill 2020, June 2021;
[Select Committee on the provisions of the Public Health Amendment \(Registered Nurses in Nursing Homes\) Bill 2020 \(nsw.gov.au\)](http://www.parliament.nsw.gov.au/committees/Pages/inquiryprofile/select-committee-on-the-provisions-of-the-public-health-amendment-(registered-nurses-in-nursing-homes)-bill-2020.aspx)
5. New South Wales Legislative Council inquiry, Portfolio Committee No.2, Health outcomes and access to health and hospital services in rural, regional and remote New South Wales (ongoing);
[Health outcomes and access to health and hospital services in rural, regional and remote New South Wales \(nsw.gov.au\)](http://www.parliament.nsw.gov.au/committees/Pages/inquiryprofile/health-outcomes-and-access-to-health-and-hospital-services-in-rural-regional-and-remote-new-south-wales.aspx)
6. Royal Commission into Aged Care Quality and Safety; and
<https://agedcare.royalcommission.gov.au/>
7. Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.
<https://disability.royalcommission.gov.au/>

I conclude my submission by quoting a statement made by Professor Theo Boer on the 16th July 2014 titled "Assisted Dying: Don't Go There". Professor Boer had been a member of a Regional Review Committee since 2005. For the Dutch Government, five such committees assess whether a euthanasia case was conducted in accordance with the law. At the time of making his statement, Professor Boer had reviewed almost 4,000 euthanasia cases. The views expressed in the statement represent his views as a professional ethicist, not of any institution. His statement said:

"In 2001 The Netherlands was the first country in the world to legalise euthanasia and, along with it, assisted suicide. Various 'safeguards' were put in place to show who should qualify and doctors acting in accordance with these 'safeguards' would not be prosecuted. Because each case is unique, five regional review committees were installed to assess every case and to decide whether it complied with the law. For five years after the law became effective, such physician-induced deaths remained level - and even fell in some years. In 2007 I wrote that 'there doesn't need to be a slippery slope when it comes to euthanasia. A good euthanasia law, in combination with the euthanasia review procedure, provides the warrants for a stable and relatively low number of euthanasia.' Most of my colleagues drew the same conclusion.

But we were wrong - terribly wrong, in fact. In hindsight, the stabilisation in the numbers was just a temporary pause. Beginning in 2008, the numbers of these deaths show an increase of

15% annually, year after year. The annual report of the committees for 2012 recorded 4,188 cases (compared with 1,882 in 2002). 2013 saw a continuation of this trend and I expect the 6,000 line to be crossed this year or the next. Euthanasia is on the way to become a 'default' mode of dying for cancer patients.

Alongside this escalation other developments have taken place. Under the name 'End of Life Clinic,' the Dutch Right to Die Society NVVE founded a network of travelling euthanizing doctors. Whereas the law presupposes (but does not require) an established doctor-patient relationship, in which death might be the end of a period of treatment and interaction, doctors of the End of Life Clinic have only two options: administer life-ending drugs or send the patient away. On average, these physicians see a patient three times before administering drugs to end their life. Hundreds of cases were conducted by the End of Life Clinic. The NVVE shows no signs of being satisfied even with these developments. They will not rest until a lethal pill is made available to anyone over 70 years who wishes to die. Some slopes truly are slippery.

Other developments include a shift in the type of patients who receive these 'treatments'. Whereas in the first years after 2002 hardly any patients with psychiatric illnesses or dementia appear in reports, these numbers are now sharply on the rise. Cases have been reported in which a large part of the suffering of those given euthanasia or assisted suicide consisted in being aged, lonely or bereaved. Some of these patients could have lived for years or decades.

Whereas the law sees assisted suicide and euthanasia as an exception, public opinion is shifting towards considering them rights, with corresponding duties on doctors to act. A law that is now in the making obliges doctors who refuse to administer euthanasia to refer their patients to a 'willing' colleague. Pressure on doctors to conform to patients' (or in some cases relatives') wishes can be intense. Pressure from relatives, in combination with a patient's concern for their wellbeing, is in some cases an important factor behind a euthanasia request. Not even the Review Committees, despite hard and conscientious work, have been able to halt these developments.

I used to be a supporter of the Dutch law. But now, with twelve years of experience, I take a very different view. At the very least, wait for an honest and intellectually satisfying analysis of the reasons behind the explosive increase in the numbers. Is it because the law should have had better safeguards? Or is it because the mere existence of such a law is an invitation to see assisted suicide and euthanasia as a normality instead of a last resort? Before those questions are answered, don't go there. Once the genie is out of the bottle, it is not likely to ever go back in again."

Do not hesitate to contact me on this email or any matters.

if you have any questions or wish to raise

Yours sincerely,

Greg Donnelly MLC
Parliament of New South Wales



The Hon. Greg Donnelly MLC
Parliament House
Macquarie Street
SYDNEY NSW 2000

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Our ref: D2116366

11 August 2021

Dear Mr Donnelly

RE: Query in relation to a follow-up report of palliative care services

Thank you for your query regarding a follow-up to my 2017 audit report *Planning and Evaluating Palliative Care Services in NSW* via the Audit Office website on 26 July 2021.

The Public Accounts Committee of Parliament examines my performance audits to investigate action taken by agencies in response to my recommendations 12 months post-tabling of a report. The Committee questions agencies on measures they have taken and, if required, conducts public hearings to gather additional information from agency representatives.

The Committee elected to examine this report at a public hearing in November 2019. The report from this hearing is available on the NSW Parliament website ([Report 3/57](#)).

Due to the Audit Office's finite resources, I must target my efforts to make the most of what I have at my disposal. As outlined in my forthcoming 2021-22 annual work program, I have chosen to focus the work program on local and state government responses to recent emergencies including bushfires, floods and the COVID-19 pandemic. While my focus is currently on these emergencies, I will take your suggestion on board, monitor the government's reported progress in this area and may consider a follow-up audit at a later date.

Thank you again for your query.

Yours sincerely

Margaret Crawford
Auditor-General for New South Wales