Inquiry Name: Inquiry into End of Life Choices

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SUBMISSION CONTENT:

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The gradual decline and death in a nursing home of my Mother inspired me to convene the first Port Macquarie Dying with Dignity NSW meeting in June 2014. This submission is on behalf of our ever growing 391 supporters.

1. Assess the practices currently being utilised within the medical community to assist a person to exercise their preferences for the way they want to manage their end of life, including the role of palliative care;

From a patient perspective, the lack of physician training in addressing end of life choices is very evident. It is currently against the law for a Dr and patient to have meaningful discussions about end of life choices - the Dr can only discuss how to live, not how to die. Unless of course a patient is very lucky to stumble on a compassionate Dr who shares a belief in medically assisted dying. In this context, medical practices and application of patient choice are, at best, haphazard and unregulated. A compassionate act to stop suffering should never be illegal and physicians shouldn't be fearful of discussing and following the end of life directions of their patients.

Various studies have highlighted that the majority of the population want to die at home when in practice they die in hospital or nursing homes. Our experience is that Advance Healthcare Directives are often overlooked in hospitals and more frequently in nursing homes, particularly when operated by religious institutions.

Palliative care resources are grossly inadequate throughout Australia. In this NSW region there is 8 dedicated beds to service a population catchment of 180,000. This means that families/friends may be living 110kms away from where their family member is receiving care, placing an additional burden and stress on everyone. Patients are being moved from palliative care into nursing homes which lack trained and available staff to manage appropriate palliative treatment.

It has been reported that up to 10% of people in palliative care do not have their pain and suffering adequately treated. Palliative care is not always a panacea for
pain nor for existential suffering. No-one should have to endure what medical advances have made possible - futile, often expensive medical treatments leading to a long, drawn out, suffering and often undignified end to one's life. Medically assisted dying for the terminally and chronically ill, supported by appropriate safeguards, should be a legal choice for all.

2. Review the current framework of legislation, proposed legislation and other relevant reports and materials in other Australian states and territories and overseas jurisdictions

The Northern Territory "Rights of the Terminally Ill Act" was overturned by the Commonwealth Parliament of Australia in 1997 (the infamous Andrews Bill). The Northern Territory law required that the patient be over 18, be mentally and physically able to request his or her own death and have the approval of three doctors, including an appropriate specialist and a psychiatrist. If all of those criteria were met, a nine-day cooling-off period would follow. We consider these safeguards to be more than adequate.

Bills on legalising assisted dying have been put forward in the state parliaments of Tasmania, Victoria, South Australia, New South Wales and Western Australia, but all have failed to pass. Queensland has legislated the use of Advance Healthcare Directives.

Switzerland (1940s), Netherlands (2000), Belgium (2002) and Luxembourg (2009), have passed assisted dying legislation, and five (5) states of the United States of America have also. Legislation or legal cases are in progress in Britain, Canada, Germany, South Africa and around 20 American states.

Stipulations vary from country to country but all have sufficient safeguards to prevent abuse of the system. In each case, the patient must ask to use the legislation. Some require the patient to self-administer life ending pharmaceuticals. However it is known that in Oregon some physicians choose not take part in the practice. That often makes it difficult for a patient, especially in a rural area, to obtain the barbiturates which the law designates.

Switzerland is the only country where non-residents can avail themselves of a medically assisted death, via Dignatas. The process of accessing this from Australia can take around 3 months, and the person has to be able to travel independently to Switzerland.

The Canadian Supreme Court recently struck down legislated law against medically assisted dying and ordered the Canadian Parliament to re-draft and pass into law new legislation allowing medically assisted dying. This was to be done within one year of their decision, otherwise the Supreme Court ruling on the law would stand as the supreme law of Canada.

The Australian Senate Constitutional & Legal Affairs Committee has recommended, following public consultation, that the Medical Services (Dying with Dignity) 2014 Draft Exposure Bill be redrafted and resubmitted to Parliament. The Bill relies on Section 51 of the Constitution. We consider the safeguards contained therein, similar to those of the NT legislation, to be more than adequate.

3. Consider what type of legislative change may be required, including an examination of any federal laws that may impact such legislation.
The only Australian statutes of the Commonwealth Parliament that may impact such legislation are the Euthanasia Laws Act 1997, the Australian Capital Territory (Self-Government) Act 1988 and the Norfolk Island Act 1979.

We urge the Victorian Government to separately pursue medically assisted dying legislation and, at the very least, legislate so that physicians:
- can have meaningful end of life discussions with their patients, and
- have immunity from prosecution when they follow the expressed Advance Healthcare Directives of their patients.

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File1:

File2:

File3: