

Chapter 5

Committee comment and recommendation

5.1 The committee acknowledges and thanks the many thousands of people who, either through a representative organisation or as individuals, contributed to its inquiry. The level of engagement suggested to the committee that, although it was examining an exposure draft Bill rather than the broader policy issue of voluntary euthanasia, it is important that this very complex and emotive issue may be considered by the Parliament at some time in the future. Any debate needs to be undertaken in a sensitive, respectful and constructive manner and the committee is pleased to note that all who gave evidence to the committee did so in this mature way.

5.2 As mentioned, the Bill referred to the committee is an exposure draft prepared by an individual Senator. Therefore, as the Bill is not yet before the Senate, the committee is limited in the recommendations it can make.

5.3 Although the evidence received enabled the committee to consider some of the provisions of the Bill in detail, there remain some technical issues with a number of the provisions of the Bill. These include clarification of the definition of a dying with dignity service, clarification around the definition of a terminal illness, the number of medical practitioners required to consider the request, consistency of definition around decision-making capacity, and the serious consequences for medical practitioners who relied upon the immunities in the Bill if such immunities were later found to be unconstitutional.

5.4 The committee notes conflicting evidence it received in relation to the primary constitutional basis for the Bill under paragraph 51(xxiiiA). The committee was told that there could be very serious consequences for medical practitioners who relied upon the immunities in the Bill, if such immunities were later found to be unconstitutional. This concern is enlivened by the virtual certainty that any federal legislation dealing with voluntary euthanasia will face constitutional challenge.

Recommendation 1

5.5 The committee suggests that the proponent of the Exposure Draft of the Medical Services (Dying with Dignity) Bill 2014 might address the technical and other issues raised in evidence to the committee and seek the advice of relevant experts before the Bill is taken further.

Recommendation 2

5.6 The committee recommends that, if a Bill dealing with this broad policy issue is introduced in the Senate, Party Leaders should allow Senators a conscience vote.

Senator the Hon Ian Macdonald

Chair