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VOLUNTARY ASSISTED DYING BILL 2017

*Statement of compatibility***Ms HENNESSY (Minister for Health) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the ‘charter’), I make this statement of compatibility with respect to the Voluntary Assisted Dying Bill 2017.

In my opinion, the Voluntary Assisted Dying Bill 2017, as introduced to the Legislative Assembly, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview*Background to the bill*

In June 2016, a cross-party parliamentary committee tabled its final report on its inquiry into end-of-life choices. The inquiry was conducted over a year and included extensive consultations and research.

The parliamentary committee made a number of recommendations in relation to palliative care and advance care planning. The committee also found that there were a small number of circumstances in which palliative care cannot provide the relief needed to address the suffering at the end of a person’s life. The committee’s final recommendation was that, in these very limited cases, medical practitioners should be allowed to assist people to die.

Building on the work of the parliamentary committee, the government established the Voluntary Assisted Dying Ministerial Advisory Panel to develop a safe and compassionate voluntary assisted dying framework for Victoria. The panel was made up of clinical, legal, consumer, health administrator and palliative care experts. In July 2017, the panel delivered its final report outlining how the committee’s recommendation could work in practice, and to ensure only those making voluntary and informed decisions and at the end of their life could access voluntary assisted dying.

The panel’s report was informed by an extensive consultation process with a range of stakeholders, relevant research on end-of-life care and other medical treatment, research on voluntary assisted dying frameworks in other jurisdictions, and the panel’s own expertise and experience. In providing its recommendations, the panel used the charter as a framework for considering the rights of all Victorians when making decisions and resolving complex issues in relation to voluntary assisted dying, noting that every human life has equal value, and human rights provide guidance for upholding and safeguarding this value. The human rights in the charter uphold the rights of people to live their lives with freedom and dignity but also protect against exploitation, violence and abuse.

Overview of the bill

To implement the recommendation of the parliamentary committee and consistent with the framework developed by the ministerial advisory panel, the Voluntary Assisted Dying

Bill 2017 (the bill) provides for, and regulates access to, voluntary assisted dying for Victorian people at the end of their lives. The bill establishes a mechanism for adults with decision-making capacity, who are suffering from a serious and incurable condition at the end of their life, to be provided with assistance to die in certain circumstances, by means of self-administering a lethal dose of medication. It also establishes a new Voluntary Assisted Dying Review Board, to monitor and provide oversight in relation to the provision of voluntary assisted dying under the bill.

The framework established by the bill strikes an appropriate balance between ensuring all Victorians have access to high quality end-of-life care, consistent with their preferences, while requiring robust eligibility criteria for adults with decision-making capacity to protect against abuse, such as through undue influence or coercion. The framework includes a prescriptive, multi-stage assessment process with numerous safeguards and comprehensive oversight.

Recognising that some people have strong objections to voluntary assisted dying, the bill provides health practitioners with the right to conscientiously object to participating in a voluntary assisted dying process, and does not require practitioners to refer a patient who has requested access to voluntary assisted dying to another practitioner.

The objectives of the bill, and the balance struck between the rights of individuals who may want to access the scheme, their families, medical practitioners and staff who provide end-of-life care, and the wider community, are demonstrated by a number of principles set out in the bill. A person exercising a power or performing a function or duty under the bill must have regard to the following principles:

every human life has equal value;

a person’s autonomy should be respected;

a person has the right to be supported in making informed decisions about the person’s medical treatment, and should be given, in a manner the person understands, information about medical treatment options including comfort and palliative care;

every person approaching the end of life should be provided with quality care to minimise the person’s suffering and maximise the person’s quality of life;

a therapeutic relationship between a person and the person’s health practitioner should, wherever possible, be supported and maintained;

individuals should be encouraged to openly discuss death and dying and an individual’s preferences and values should be encouraged and promoted;

individuals should be supported in conversations with the individual’s health practitioners, family and carers and the community about treatment and care preferences;

individuals are entitled to genuine choices regarding their treatment and care;

there is a need to protect individuals who may be subject to abuse; and

all persons, including health practitioners have the right to be shown respect for their culture, beliefs, values and personal characteristics.

Human rights issues

Right to life (section 9) and personal autonomy and dignity (sections 13(a) and 21(1))

Section 9 of the charter provides that every person has the right to life and has the right not to be arbitrarily deprived of life.

The right to life is said to be an inherent and 'supreme' right, without which all other human rights would be devoid of meaning. However, despite the fundamental nature of the right, it is not absolute, meaning that it can be limited where justifiable. The right in section 9 of the charter includes an obligation on the government to refrain from conduct that results in the arbitrary deprivation of life, as well as a positive duty to introduce appropriate safeguards to minimise the risk of loss of life.

At international law, and in other countries including Canada, an assisted dying regime can be compatible with the right to life, provided that there are sufficient safeguards to prevent abuse of vulnerable people.

Both the parliamentary committee and the ministerial advisory panel examined models of voluntary assisted dying that exist in overseas jurisdictions and their reports reflect lessons learned from those jurisdictions for the voluntary assisted dying framework proposed for Victoria. The model for voluntary assisted dying contained in the bill is, comparatively, a very conservative model; but it is, in my view, the right model for Victoria. The bill provides a compassionate option for people who are suffering and are dying of a disease, illness or medical condition, but it is also safe, with effective protections for the person, health practitioners and the community.

The voluntary assisted dying framework provided under the bill is carefully and appropriately confined through stringent eligibility criteria, a multi-stage request and assessment process, and other strong safeguards to protect against potential abuse. Further, by enabling people's decisions at the end of their life to be given effect, the bill also recognises and promotes other important rights, such as the individual rights to liberty and security, and to dignity and autonomy (which form part of the charter's privacy right).

For the reasons set out below, I am satisfied that the bill does not limit the right to life. I acknowledge that others may take the view that the bill will limit the right to life, in which case, in my view, it would do so in a demonstrably justifiable way.

Eligibility criteria

Clause 9 of the bill sets out the eligibility criteria for accessing voluntary assisted dying. Under the bill, only adults with an incurable, advanced, progressive disease, illness or medical condition that is expected to cause death within 12 months and is causing suffering that cannot be relieved in a manner that is tolerable to the person will be able to access voluntary assisted dying. The person seeking to access voluntary assisted dying must be ordinarily resident in Victoria and either an Australian citizen or permanent resident, and must have decision-making capacity as defined in the bill. A person with a mental illness alone or a disability alone will not satisfy the eligibility criteria; however, a person with a mental illness

or a disability who meets all the eligibility criteria will have the same opportunity as anyone else to request and be assessed for voluntary assisted dying.

The bill's voluntary assisted dying framework respects the informed and voluntary choice of a person with decision-making capacity from beginning to end. Only the person seeking to access voluntary assisted dying can make the request. No-one can request voluntary assisted dying on behalf of someone else and a health practitioner cannot initiate a discussion that is in substance about voluntary assisted dying, or, in substance, suggest voluntary assisted dying to their patients. Under clause 4 of the bill, decision-making capacity in relation to voluntary assisted dying means being able to do each of the following:

understand the information relevant to the decision to access voluntary assisted dying and the effect of the decision;

retain that information to the extent necessary to make the decision;

use or weigh that information as part of the process of making the decision; and

communicate the decision and the person's views and needs as to the decision in some way, including by speech, gestures and other means.

Clause 4 includes a presumption that a person has decision-making capacity unless there is evidence to the contrary, and sets out a number of other matters relevant to the assessment of whether or not a person has decision-making capacity. The bill requires that a person's decision-making capacity in relation to voluntary assisted dying to be reassessed throughout the request and assessment process.

Request and assessment process

Part 3 of the bill prescribes a rigorous, multi-stage request and assessment process for a person seeking to access voluntary assisted dying. A person must make three separate requests to access voluntary assisted dying. One of these requests must be in writing in the form of a 'written declaration', specifying that it is made voluntarily and without coercion and that the person understands the nature and effect of their declaration, and be signed by the person and two independent witnesses in the presence of the person's coordinating medical practitioner. If the person making the written declaration is unable to sign it, another person aged over 18 may sign it on that person's behalf, at their direction and in their presence, but in those circumstances the person who signs the declaration may not also witness the declaration. The person seeking to access voluntary assisted dying will need to make their final request at least nine days after the first request, unless the person's medical practitioners consider that the person's death will occur within nine days. A person who has requested access to voluntary assisted dying may decide at any time not to take any further step in relation to the process. As part of the process, they will appoint a contact person who will take responsibility for returning any unused or remaining medication.

The bill stipulates clear roles and responsibilities for medical practitioners involved. The person's 'coordinating medical practitioner' is responsible for receiving the initial request, conducting the first assessment, coordinating the process and

reporting to the Voluntary Assisted Dying Review Board. If the coordinating medical practitioner assesses the person as eligible, they must refer the person to another medical practitioner for a further assessment. That practitioner, if they accept the referral, becomes the 'consulting medical practitioner' and is responsible for conducting a second, independent assessment and reporting to the board.

Both assessing medical practitioners must assess that the person's request is voluntary, informed and continuing, and independently inform the person about all the care and treatment options available to them. Both medical practitioners need to be experienced practitioners, at least one must have relevant expertise and experience in the disease, illness or medical condition expected to cause the death of the person being assessed, and both must undertake further approved training before they are permitted to conduct assessments under the bill. If the person has completed the request and assessment process and is eligible, their coordinating medical practitioner may apply for a permit to prescribe the medication. The coordinating medical practitioner is responsible for certifying that all the steps have been completed. The Secretary to the Department of Health and Human Services (the secretary) will determine applications for permits. Once the permit is issued, only the coordinating medical practitioner can prescribe the medication. The person will be prescribed the medication which they can self-administer at a time of their choosing. They must keep the medication in a locked box for safe keeping. In very limited circumstances, when a person is physically unable to self-administer or digest the medication, the coordinating medical practitioner may administer the medication in the presence of an independent witness. However, in order for the medical practitioner to administer the substance in these limited circumstances, the person must still have decision-making capacity at the time of making the request, must be acting voluntarily and without coercion in making the request, and their request must be enduring.

Other legislative safeguards and oversight mechanisms

There is an extensive oversight framework in the bill to ensure compliance by health practitioners and continuous monitoring of medication. The Voluntary Assisted Dying Review Board, established under clause 92 of the bill, will receive reports from every health practitioner involved, the Department of Health and Human Services and the registrar of births, deaths and marriages (the registrar). The board's functions include ensuring compliance with the framework, and it will have the responsibility for identifying and referring any issues identified in relation to the provision of voluntary assisted dying, as relevant, to the Chief Commissioner of Police, the registrar, the secretary, the State Coroner and the Australian Health Practitioner Regulation Agency.

The board will monitor the use of any voluntary assisted dying substance dispensed in accordance with the bill to ensure that any unused or remaining substance is returned. The board will receive reports about the prescription, dispensation, and return of the medication, as well as the person's death.

The board must provide reports on matters relevant to its functions to the minister and the secretary upon request. For the first two years of the bill's operation, the board must also make reports on the operation of the bill for every six-month period, to be tabled in each house of Parliament. As an ongoing duty, the board must make an annual report

on the operation of the bill for each financial year, which will also be tabled in Parliament. The board's regular reports may make recommendations on any systemic matter identified by the board, and may include any de-identified information of a person who has accessed or requested to access voluntary assisted dying under the bill during the relevant reporting period.

The Voluntary Assisted Dying Review Board's oversight functions and reporting obligations are key mechanisms to promote transparency and accountability on the operation of the voluntary assisted dying framework, and will enable it to identify trends and make recommendations for continuous improvement in the quality and safety of voluntary assisted dying in Victoria.

The bill also contains a number of offences with significant penalties to protect against abuse and ensure the integrity of the framework. These offences include:

- an offence for a coordinating medical practitioner to administer a voluntary assisted dying substance to a person other than in accordance with a practitioner administration permit;

- an offence for a person to knowingly administer to another person a voluntary assisted dying substance dispensed in accordance with a self-administration permit;

- offences for inducing another person to request voluntary assisted dying, or inducing the self-administration of a voluntary assisted dying substance;

- offences for falsifying forms or records, and for making false or misleading statements or reports.

Finally, the bill provides for mandatory and voluntary notifications to be made the Australian Health Practitioner Regulation Agency, in relation to any health practitioner who is believed on reasonable grounds to be acting outside of the legislative framework.

Promotion of personal autonomy and dignity

The right to privacy under section 13 of the charter recognises the need to respect and prevent the unlawful or arbitrary interference with a person's privacy. The fundamental values which the right to privacy protects include physical and psychological integrity, individual and social identity, and the autonomy and inherent dignity of the person. In my view, the bill promotes the right to privacy by allowing Victorians who are suffering at the end of their life, in very limited circumstances, to choose to end their life according to their own preferences.

Section 21(1) of the charter provides that every person has the right to liberty and security. The right to liberty and security of the person also encompasses the principle of autonomy. The Canadian Supreme Court has held that a prohibition on voluntary assisted dying contravened the right to life, liberty and security of the person, which were all taken to relate to autonomy and quality of life. The court found that denying a person the opportunity to determine the manner and timing of their death in response to serious pain and suffering impinged on their liberty and security.

Section 21(1) of the Victorian charter differs from the equivalent Canadian provision in that it does not include the word 'life'. It has been suggested by the Victorian courts that the right to security of person in section 21(1) may be broader than just physical freedom and is an instance of the human right to personal integrity or inviolability, which in turn is an expression of the bedrock value of human dignity. To the extent that the right to liberty and security in section 21(1) is relevant, the bill promotes this right by enhancing the ability of Victorians at the end of their life to make choices about the manner and timing of their death, consistent with their preferences and values (noting that the scope of the right to security, separate from the right to liberty, under section 21(2) of the charter has not been directly considered by the Victorian courts).

Under the bill, the entry on the register kept by the registrar of births, deaths and marriages about the death of a person who was the subject of a voluntary assisted dying permit will identify the underlying disease, illness or medical condition that was the grounds for a person accessing voluntary assisted dying as the cause of death. This will protect the privacy of the person and their families by not disclosing that they accessed voluntary assisted dying. Further, this approach reflects the fact that the person would not be accessing voluntary assisted dying without the underlying condition that would inevitably cause their death in the immediate future, and is consistent with the fact that the person has not made a decision to end their life prematurely; rather, they have made a decision about the manner of their death.

In my opinion, the very limited circumstances in which voluntary assisted dying may be accessed, the careful balance of rights struck by the bill, and the numerous safeguards mean that any limit to right to life is demonstrably justified in a free and democratic society.

Privacy and reputation (section 13)

The privacy and reputation rights recognised in section 13 of the charter are also relevant to provisions of the bill that permit or require the use or disclosure of personal information. Under section 13, the right to privacy will be limited by an unlawful or arbitrary interference with a person's privacy, family, home or correspondence.

At various points during the request and assessment procedures under the bill, coordinating or consulting medical practitioners are required to provide information to the Voluntary Assisted Dying Review Board relating to the outcomes of the assessments, the final review and the administration of a substance in relation to persons requesting voluntary assisted dying. Once a person is assessed as eligible to access voluntary assisted dying, their coordinating medical practitioner must make an application to the secretary for a voluntary assisted dying permit, in order to prescribe the voluntary assisted dying substance. The secretary may refuse to issue a voluntary assisted dying permit, including if not satisfied that the request and assessment process has been completed as required by the bill. A pharmacist who dispenses a voluntary assisted dying substance must provide a form with the details related to that dispensing to the board, as well as a form when they dispose of a returned voluntary assisted dying substance. It is an offence under the bill for a person who is required under the bill to give a form to the board to fail to do so in accordance with the bill. The board may also request that any person (including a contact person)

give to the board any information to assist the board in carrying out any of its functions.

Under clause 104 of the bill, the board may use and disclose any identifying information obtained as a result of the board performing a function or exercising a power, for the purpose of referring a matter to the Chief Commissioner of Police, the registrar, the secretary, the State Coroner and the Australian Health Practitioner Regulation Agency. However, the board must not refer a matter to one of those bodies unless the board reasonably believes the identifying information discloses a matter that is relevant to the functions and powers of that person or body.

Each of these processes which require or permit a person to provide information to the board or to the secretary, or which permit the board to provide information to a law enforcement or other body with relevant functions, will necessarily involve the sharing of detailed personal and medical information. The information may relate to the person requesting to access voluntary assisted dying as well as other individuals such as the person's nominated contact person, or a medical practitioner. As such, each of these processes constitutes a potential interference with privacy. However, I am satisfied that any interference will be both lawful and not arbitrary and therefore the right to privacy protected under the charter is not limited.

The provisions that require or facilitate the use or disclosure of information are clearly set out in the bill and appropriately circumscribed, having regard to the purposes for which the information will be collected and shared. In order to support the board's functions, it is essential that the bill enables it to collect and monitor information and data in relation to the requests for and accessing of voluntary assisted dying. It is also important that it can oversee the operation of the legislative framework directly, rather than having this data reported through another body. The board must have sufficient data and oversight to be certain of the overall safety and quality outcomes and to provide necessary assurance to the community that all providers are consistently providing high-quality care, as well as to fulfil its reporting requirements. Further, the board must be able to lawfully share relevant information with the Chief Commissioner of Police, the registrar, the secretary, the State Coroner and the Australian Health Practitioner Regulation Agency as required, where that information is relevant to their functions.

I am satisfied that the board's public reporting requirements discussed above do not limit the charter rights to privacy and reputation, as the bill only permits the inclusion of de-identified information of a person who has accessed or requested access to voluntary assisted dying under the bill. The board is also prohibited from including in those reports any information that would prejudice any criminal proceeding or investigation, civil proceeding, or any proceeding in the Coroner's Court.

Protection from cruel, inhuman or degrading treatment (section 10)

Section 10 of the charter provides that a person must not be subjected to torture, treated or punished in a cruel, inhuman or degrading way, or subjected to medical treatment without his or her full, free and informed consent.

In my view, the rights protected by section 10 are not engaged by the bill. However, arguments may be made as to their

relevance, and so I will briefly address certain aspects of the rights in this statement.

It may be argued that the deprivation of life amounts to inhuman or degrading treatment, if one considered the authorised termination of life as destroying the sanctity of life. This view would emphasise the importance of ensuring that requests are voluntary and decisions to access voluntary assisted dying are properly informed, each of which are key features of the bill.

On the other hand, it could be said that it is contrary to the protection against cruel, inhuman or degrading treatment not to recognise a person's autonomy and allow a safe and compassionate response for people who are dying and suffering, to choose the timing and manner of their death. On this view, the right in section 10(b) of the charter may be promoted by the bill.

In my opinion, the protection in section 10(c) of the charter against being subjected to medical treatment without consent is not relevant to the bill, given the bill's overwhelming emphasis on decision-making capacity, voluntariness and, in most cases, self-administration.

Freedom of thought, conscience, religion and belief (section 14)

Section 14 of the charter recognises the right of every person to freedom of thought, conscience, religion and belief. These rights encompass people's right to hold their own views and to express them. The right is grounded in the principles of personal autonomy and self-determination. It also acknowledges that people may live their lives in accordance with their beliefs and that the state should not arbitrarily interfere with the expression of people's beliefs.

The bill's provision for health practitioners to conscientiously object to participating in voluntary assisted dying recognises their right to freedom of thought, conscience, religion and belief. Clause 7 of the bill expressly provides that a registered health practitioner who has a conscientious objection to voluntary assisted dying has the right to refuse:

- to provide information about voluntary assisted dying;
- to participate in the request and assessment process;
- to apply for a voluntary assisted dying permit;
- to supply, prescribe or administer a voluntary assisted dying substance;
- to be present at the time of administration of a voluntary assisted dying substance;
- to dispense a prescription for a voluntary assisted dying substance.

Whilst the bill recognises health practitioners' rights, health practitioners should also recognise their patients' right to freedom of thought, conscience, religion and belief and should not allow their own beliefs to interfere with their patients' access to lawful medical treatment. Although the bill does not require a mandatory referral if a health practitioner has a conscientious objection, it is not intended that practitioners may use their conscientious objection to impede people's access to voluntary assisted dying.

For these reasons, I am of the opinion that the rights to freedom of thought, conscience, religion and belief are protected and promoted by the bill.

Equality rights (section 8) and the best interests of children (s 17(2))

Section 8(1) of the charter provides that every person has the right to recognition as a person before the law. Section 8(3) of the charter relevantly provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination. Discrimination in relation to a person means discrimination within the meaning of the Equal Opportunity Act 2010 (EO act) on the basis of an attribute set out in section 6 of that act, including age, race and disability. Under the EO act, direct discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute. Indirect discrimination occurs if imposes, or proposes to impose, a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons with an attribute; and that is not reasonable.

Eligibility criteria relating to age

Under the eligibility criteria in clause 9(1) of the bill, voluntary assisted dying may only be accessed by an individual who is aged 18 years or more. A child who is under 18 may meet all of the other eligibility criteria for voluntary assisted dying but will nevertheless be ineligible to access it. As such, the bill directly discriminates against persons who are under 18 on the basis of their age and, in doing so, constitutes a limit on the right to equality under the charter. However, I am of the opinion that, in the circumstances, the limitation imposed by this age-based eligibility criteria is demonstrably justified in accordance with section 7(2) of the charter. It can also be balanced against the protection of children as in their best interests under section 17(2) of the charter, due to the particular vulnerabilities of children, as discussed further below.

All people aged 18 years and over are presumed to have decision-making capacity to consent to medical treatment in Victoria. A person under 18 years may have decision-making capacity to make certain medical treatment decisions where they are able to understand the nature and consequences of the decision that needs to be made. Decision-making capacity under current Victorian law is decision-specific; while a person under 18 years may have decision-making capacity to consent to some medical treatment, this does not necessarily mean they have decision-making capacity to make decisions about medical treatment with more severe consequences.

A decision to access voluntary assisted dying is complex, requiring a person to have a well-developed capacity for abstract reasoning — a capacity that young people develop at different ages. Victorian law uses the age of 18 years to clearly identify the point at which people are generally deemed to have developed the necessary capacity to make important decisions about their life. I also note that the majority of feedback the ministerial advisory panel received about age limitations revealed strong support for a requirement that a person be 18 years and over to access voluntary assisted dying because it signals a level of maturity reflected in other responsibilities taken up by a person at the age of 18 years.

In my opinion, requiring a person to be at least 18 years to access voluntary assisted dying represents an appropriate safeguard by striking a balance between providing choice for adults who are at the end of their life, and protecting young people who do not have the appropriate level of maturity, capacity for abstract reasoning, or life experience to make the decision to access voluntary assisted dying. I acknowledge that age limits necessarily involve a degree of generalisation, without regard for the particular abilities, maturity or other qualities of individuals within that age group. In this bill, age is being used as a proxy measure of the maturity and capacity of an individual for abstract reasoning, which are necessary in this complex and most serious context. I consider that it is reasonable for Parliament to set an age limit reflecting its assessment of when most persons will have sufficient maturity to make a decision of this nature.

Section 17(2) of the charter provides that children are entitled to protection of their best interests. The application of the right to the protection of the best interests of children is not clear in the context of voluntary assisted dying because it depends on how the 'best interests' of the child are conceived. Some international jurisprudence suggests that it can be in a terminally ill child's best interests to withdraw medical treatment and allow them to die, but it is not clear when this point is reached and whether this could extend to causing the child's death. After careful consideration, as outlined above, the ministerial advisory panel recommended that only people aged 18 years and over should be able to access voluntary assisted dying, in recognition of the complexity of the decision to access voluntary assisted dying and the requisite capacity for mature thought and decision-making. As discussed above, it also recognises that children have the right to protection as is in their best interests, and access to the voluntary assisted dying framework in the bill might not be in their best interests due to their particular vulnerabilities. Equality of access to the framework must be balanced against protection of children, including from potential abuse. In light of the fundamental importance of individuals making their own decision under the bill's framework, I am satisfied that there is no less restrictive option available, such as enabling substitute decision-making by parents, to achieve this protective purpose.

Consequently, I consider that any limit on the right to equality that will occur due to the age criteria under the bill is reasonable, necessary and justifiable in a democratic society.

Eligibility criteria relating to citizenship status

Under the bill, only a person who is ordinarily resident in Victoria and either an Australian citizen or permanent resident may access assisted dying. The responsibility for determining whether a patient is a Victorian resident and Australian citizen or permanent resident lies with the coordinating and consulting medical practitioners.

Although citizenship or permanent residency status is not a protected attribute under the EO act, the attribute 'race' is in turn defined to include 'nationality or national origin'. Courts have considered that the term 'nationality' can be equivalent to citizenship, and the attributes in section 6 of the EO act include characteristics that 'a person with that attribute generally has'.

Although the requirement that a person requesting to access voluntary assisted dying be an Australian citizen or permanent resident may amount to discrimination on the

ground of race, in the circumstances, I am of the view that any limit on the charter right to equality is demonstrably justified. This criterion is designed to ensure safety and prevent people coming from outside Victoria to obtain access to voluntary assisted dying, in circumstances where such persons are unlikely to have a therapeutic relationship with a Victorian medical practitioner.

Exclusions from access to voluntary assisted dying on grounds of mental illness or disability alone

Clauses 9(2) and 9(3) of the bill provide that a person is not eligible for access to voluntary assisted dying only because that person:

is diagnosed with a mental illness, within the meaning of section 3 of the Mental Health Act 2014; or

has a disability, within the meaning of section 3(1) of the Disability Act 2006.

These provisions confirm that, under the bill, having a mental illness or a having disability alone will not satisfy the eligibility criteria for access to voluntary assisted dying. However, having a mental illness or a disability will not exclude a person from accessing voluntary assisted dying if they meet all of the eligibility criteria in clause 9(1), including that they have been diagnosed an incurable disease, illness or medical condition that is advanced, progressive and will cause death.

Accordingly, clauses 9(2) and 9(3) the bill do not treat persons diagnosed with a mental illness or who have a disability unfavourably; any individual who meets the eligibility criteria in clause 9(1), whether or not they also have a mental illness or disability, will have the same opportunity as other members of the community to access voluntary assisted dying under the bill. These provisions, therefore, do not limit the right to equality.

Requirement for decision-making capacity

The bill requires that individuals seeking to access voluntary assisted dying must be assessed as having decision-making capacity in relation to a decision to access voluntary assisted dying. Although this may appear to constitute a requirement that has, or is likely to have, the effect of disadvantaging persons with certain disabilities, in my opinion the requirement that persons requesting access to voluntary assisted dying have decision-making capacity does not constitute indirect discrimination, because the requirement is reasonable in the circumstances.

The parliamentary committee recommended that voluntary assisted dying be accessible only to people who have decision-making capacity about their own medical treatment, a recommendation that was supported by the ministerial advisory panel. The bill's multi-stage assessment process ensures there are mandated points at which a person is given the opportunity to review and reflect on their decision to access voluntary assisted dying, which will enable medical practitioners to reassess a person's decision-making capacity and confirm they still want to proceed with voluntary assisted dying. The requirement for decision-making capacity is fundamental to ensuring a person's decision to access voluntary assisted dying is their own, is voluntary, and is not the product of undue influence or coercion.

Given the fundamental importance of the assessment of a person's decision-making capacity for accessing voluntary

assisted dying, the bill provides for oversight and an appropriate avenue of review of a decision as to whether a person has decision-making capacity. It facilitates referral for a specialist opinion where a medical practitioner is unable to determine whether the person has decision-making capacity, and also provides for VCAT to review a decision of an assessing medical practitioner that a person does, or does not, have decision-making capacity.

For the above reasons, I am of the opinion that the right to equality in section 8 of the charter is not limited by clauses 9(2) and 9(3) of the bill, nor by the requirement that a person requesting access to voluntary assisted dying have decision-making capacity.

Presumption of innocence (section 25(1))

Section 25(1) provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. This right may be relevant to clause 91 of the bill which provides for the deemed criminal liability for officers of bodies corporate for a failure to exercise due diligence.

Under clause 91, if a body corporate commits an offence against specified provisions, an officer of the body corporate also commits that offence if the officer failed to exercise due diligence to prevent the commission of the offence by the body corporate. As such, the provision may operate to deem as ‘fact’ that an individual has committed an offence for the actions of the body corporate.

A person who elects to undertake a position as officer of a body corporate accepts that they will be subject to certain requirements and duties in participating in these regulated industries, including a duty to ensure the body corporate does not commit offences under the relevant acts. In my view, this provision does not limit the right to presumption of innocence as the prosecution is still required to prove that the officer failed to exercise due diligence to prevent commission of the offence. In determining whether or not an officer failed to exercise due diligence, a court may have regard to a number of factors, including the knowledge of the officer, the officer’s position of influence on the body corporate and what steps the officer took to prevent the commission of the offence by the body corporate. Accordingly, the burden of proving the main element of the offence, which is the ‘failure’ to exercise due diligence, remains on the prosecution. Even if the right was limited, courts in other jurisdictions have held that protections on the presumption of innocence may be subject to limits particularly in the context of compliance offences in regulated industries or professions. Accordingly, I am of the view that these provisions are compatible with the charter’s right to the presumption of innocence, in light of the special responsibilities attached to officers of a body corporate operating in a regulated environment in which persons choose to participate.

Conclusion

I consider that the bill is compatible with the charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Hon. Jill Hennessy, MP
Minister for Health

Second reading

Ms HENNESSY (Minister for Health) — I move:

That this bill be now read a second time.

Far too many Victorians have suffered too much and for too long at the end of their lives.

Talking about death is a challenging and confronting issue. For too long end-of-life issues have been in the too hard basket. This needs to change. Improving policy and community awareness about the end of life, and death, are essential if we are to improve Victorians’ choices about how and where they experience both.

Encouragingly, in recent years, Victoria has been leading the way on end-of-life issues — talking about them, and putting in place reforms for improved choices and better services.

In consulting the community about these reforms, the evidence is clear that we have not been providing enough Victorians with the genuine choices they need, in line with their preferences, to have a good end of life and death.

For a small number of people at the end of their life, having a personal choice may mean having control over the timing and manner of their impending death to alleviate suffering they can no longer tolerate. The Voluntary Assisted Dying Bill 2017 balances a compassionate outcome for these people at the end of their lives who are suffering, and providing community protection through the establishment of robust safeguards and comprehensive oversight.

The Legislative Council’s Standing Committee on Legal and Social Issues undertook a comprehensive inquiry into end-of-life choices. The committee received a great deal of evidence about the pain and suffering being experienced in the community today. It heard harrowing stories of many Victorians taking their own lives in painful, lonely and unacceptable ways. Evidence from the coroner indicated that one terminally ill Victorian was taking their life each week. This evidence resulted in one of the key recommendations of the parliamentary committee report, which was that Victoria should legalise voluntary assisted dying.

The parliamentary committee identified appropriate restrictions for the introduction of voluntary assisted dying in Victoria. This choice of voluntary assisted dying should only be implemented within the context of existing care options available to people at the end of their life. Voluntary assisted dying is not a substitute for

palliative care, and will not preclude access to the high standards of palliative care enjoyed by Victorians.

I appointed a ministerial advisory panel to develop the detail of a voluntary assisted dying framework for Victoria and to ensure that it would be a safe, compassionate and workable one. The ministerial advisory panel has combined its considerable expertise with extensive consultation with stakeholders across Victoria to ensure legislation could be effectively and safely implemented. I commend the ministerial advisory panel for their considered recommendations and their comprehensive report. The Voluntary Assisted Dying Bill will give effect to the ministerial advisory panel's recommendations for a safe and compassionate legislative framework.

Making a decision about the timing and manner of one's death may be an immensely personal and private decision or it may be a decision that is openly shared and discussed with family, friends and community. What is important is that the decision is the person's own decision, based on their own values and beliefs. This bill recognises that some people may prefer to choose to hasten their impending death, rather than continue to endure suffering that has become intolerable to them. The bill only allows the person themselves to make the decision to access voluntary assisted dying, and there are strong safeguards in place to ensure the decision is the person's own, and that it is voluntary, informed and enduring.

The bill will provide a small number of people in very limited circumstances an additional choice about the timing and manner of their death. For many more people, just knowing this option is available if they are confronted with such circumstances will provide them with comfort. Some may choose to access voluntary assisted dying but ultimately not administer the substance because they feel a greater sense of control. The vast majority of Victorians will never want or choose to access voluntary assisted dying.

It is important to recognise that most people at the end of their life will be cared for by our excellent palliative care services. In 2016–17 across Victoria 17 000 people and their families and carers were supported in their homes by specialist palliative care. Palliative care in Victoria is first class and palliative care services in Australia have been assessed as one of the world's best over many years.

But we know that for some people at the end of their life palliative care cannot ease their pain and suffering. This bill focuses on providing genuine choice to this small

number of people who are at the end of their life and who are suffering with no hope of recovery or relief.

Voluntary assisted dying should never be seen as an inevitable extension of palliative care. But I also believe that voluntary assisted dying and palliative care are not mutually exclusive options. The experience in North America shows that between 80 per cent to 90 per cent of people who access voluntary assisted dying are supported by palliative care. While palliative care practitioners will be able to conscientiously object to providing voluntary assisted dying, I am confident that palliative care services will continue to provide expert palliative care and support based on the needs of the person, not on the personal choices they may make about their end of life.

Palliative care responds to the needs of people and their families facing problems associated with life-threatening illnesses, regardless of how close a person is to death. Victoria's end-of-life and palliative care framework commits government to strengthening the palliative care sector and ensuring that all providers across health, community and social care sectors take responsibility for delivering high-quality end-of-life care.

Victorians are already provided with high-quality palliative care. Significant additional funding has been provided in recent years, and the government is committed to further investing in and improving palliative care services. Voluntary assisted dying is not an alternative to palliative care and, if the bill is passed, every Victorian will remain entitled to high-quality palliative care. The request and assessment process in the bill, which clearly requires medical practitioners to discuss palliative care options, will also ensure that people will never turn to voluntary assisted dying because they have not been provided with other options, including palliative care.

The bill recognises that people are entitled to have different values and beliefs and that these should never be imposed on others. Just as it will be a matter for an eligible person whether or not they access voluntary assisted dying, health practitioners will also be able to determine the extent of their involvement in voluntary assisted dying. Given the small number of people who will be eligible, the bill will not affect the practice of most health practitioners. In the limited circumstances where it does, a health practitioner may choose to conscientiously object to participating in any part of the process. While some organisations may opt not to provide voluntary assisted dying, it is expected that they will continue to support all of their patients by providing access to high-quality healthcare services.

This bill is uniquely Victorian and has been developed recognising the diversity of Victorians. This includes Victorians who live in regional and rural areas, those from different cultural backgrounds, and those who use different forms of communication. In recognising our strong Victorian values, the bill also includes a set of principles that establish a sound framework for its operation. These principles recognise the value of every human life, respect for autonomy and a person's preferences, choices and values, and the provision of high-quality care. In keeping with these principles, the therapeutic relationship should be supported and the role of the person's family, friends and carers acknowledged.

The bill sets out when a person may access voluntary assisted dying. The decision to access voluntary assisted dying must always be made by the person themselves. The framework established by the bill will ensure that only those making voluntary, informed and enduring decisions will be able to request and access voluntary assisted dying.

Criteria for access to voluntary assisted dying

The Voluntary Assisted Dying Bill sets out clear parameters that will only allow people to access voluntary assisted dying in very limited circumstances. Health practitioners must not initiate a discussion about voluntary assisted dying or suggest voluntary assisted dying to a patient when they are providing them with a health service or professional care service. This includes providing people with written materials if the person has not initiated a discussion or requested information. This will ensure health practitioners do not pressure or inadvertently encourage a person to access voluntary assisted dying.

In order to be eligible to access voluntary assisted dying, a person will need to be an adult, an Australian citizen or permanent resident who is ordinarily resident in Victoria and they must have decision-making capacity in relation to voluntary assisted dying. The person must also be diagnosed with an incurable disease, illness or medical condition that is advanced, progressive and will cause death. The disease, illness or medical condition must be expected to cause death within weeks or months, not exceeding 12 months. The defined 12-month limit provides clarity for medical practitioners and the community and is consistent with Victorian practice in defining the end of life. The disease, illness or medical condition must also be causing suffering that cannot be relieved in a manner the person considers tolerable. The extent to which the person's suffering may be relieved or is tolerable will always be a matter for the person to determine

themselves. This is because suffering is subjective and cannot be assessed by others. All of the criteria must be met for a person to be eligible.

For the avoidance of doubt, the bill explicitly provides that mental illness only will not meet the eligibility criteria. Similarly, disability only will not satisfy the eligibility criteria. While disability may be caused by, or be a symptom of, a disease, illness or medical condition, disability itself will not constitute a disease, illness or medical condition. For example, a person with motor neurone disease may have a range of disabilities that are a result of their disease. These disabilities are not the reason the person may be eligible. The motor neurone disease, which is a disease that will cause death, is what would make the person eligible.

If a person with mental illness or disability satisfies all of the eligibility criteria because of another disease, illness or medical condition, they may be eligible for voluntary assisted dying. This recognises that people with mental illness or disability should not be discriminated against and if they fulfil all of the other eligibility criteria, they should not be excluded just because of their mental illness or disability.

The bill clearly sets out that a person must have decision-making capacity in relation to voluntary assisted dying and that they must make their request personally. A person will not be able to request voluntary assisted dying in an advance care directive, and if this request is made it will be invalid. Likewise, no-one else will be able to make a request on behalf of someone else — not a medical treatment decision-maker, or a family member or carer. The eligibility criteria will prevent many people who want to access voluntary assisted dying from doing so. This includes those who may want to make the request in advance of losing decision-making capacity, and those who have dementia. This is because having decision-making capacity throughout the entire process is an important safeguard in ensuring that a person's decision is voluntary, informed and enduring.

To support the diversity of Victorians, the bill also allows for the person to receive the assistance of an accredited independent interpreter in accessing voluntary assisted dying.

Request and assessment process

The bill sets out a clear and rigorous request and assessment process to provide clarity about the obligations for health practitioners who choose to be involved. The process also incorporates strong

safeguards at each step to protect those who may be vulnerable to abuse.

The bill recognises that a request for information about voluntary assisted dying should not commence the request and assessment process. A person is likely to approach a health practitioner they know and trust to seek information about voluntary assisted dying and this discussion should occur as part of a broader discussion about the person's goals, care needs and treatment options. In this way existing therapeutic relationships are supported and the person is able to consider the information without feeling pressured to continue.

A person must make a clear and unambiguous request to a medical practitioner to access voluntary assisted dying. A person may withdraw from the process at any time. If a person decides not to continue, they may subsequently decide they want to request voluntary assisted dying but they will need to commence the request and assessment process from the beginning again.

Upon receiving a request, a medical practitioner must determine and inform the person whether they will accept or refuse the request within seven days. The medical practitioner may conscientiously object to participating or may choose not to accept the role because they do not meet the minimum requirements or would not be able to perform the duties. A medical practitioner must inform the person why they are not accepting the role of coordinating medical practitioner as it is important for the person to know the reason for that choice.

The coordinating medical practitioner must conduct a first assessment and determine whether the person meets all of the eligibility criteria. If the coordinating medical practitioner assesses that the person does not meet any one of the eligibility criteria the request and assessment process will end. If the coordinating medical practitioner assesses the person as eligible, they must refer the person to another medical practitioner for a further independent assessment. If this practitioner accepts the referral, they will become the consulting medical practitioner. The consulting medical practitioner undertakes their own independent assessment of the person's eligibility. If either practitioner is unable to determine whether the person has decision-making capacity, or whether the person's disease, illness or medical condition meets the eligibility criteria, they must refer the person to an appropriate specialist practitioner.

Both the coordinating and consulting medical practitioners must be fellows of a specialist medical college. This means both medical practitioners will have

considerable training and experience. Prior to the first time they conduct an assessment, both the coordinating medical practitioner and the consulting medical practitioner must have completed training approved by the Secretary of the Department of Health and Human Services. The training will ensure that the participating medical practitioners understand their obligations under the bill and receive further training in making assessments about decision-making capacity, including training in identifying and assessing the risk factors associated with abuse or coercion. In addition, the bill requires that either the coordinating or consulting medical practitioner must have at least five years of experience post-fellowship and that one of the practitioners must have relevant expertise and experience in the person's disease, illness or medical condition.

Both the coordinating and consulting medical practitioners will be required to fully inform the person about all of the available treatment and palliative care options. This will ensure the person is able to make a properly informed decision. Both practitioners must be satisfied that the person understands the information, that they are acting voluntarily and without coercion, and that their request is enduring. Both practitioners must notify the Voluntary Assisted Dying Review Board of the outcome of their assessment.

If the consulting medical practitioner assesses the person as ineligible, they may not access voluntary assisted dying. If the person and their coordinating medical practitioner decide they would like another opinion, they may undertake the consulting assessment process again with another consulting medical practitioner. It is standard medical practice to seek a second opinion and there is no reason to prevent this in voluntary assisted dying as it supports patient choice. The Voluntary Assisted Dying Review Board will review each assessment and will identify any instances of 'doctor shopping' and potential inconsistencies in assessments.

If the consulting medical practitioner assesses the person as eligible, the person will make a written declaration. The written declaration will be a formal record of the voluntary and enduring nature of the person's request to access voluntary assisted dying. The written declaration will need to be witnessed by two people who are not involved in providing health services or professional care services to the person and who would not materially benefit from the person's death. The written declaration must be signed in the presence of the coordinating medical practitioner.

Once a person has completed their written declaration, they may make their final request. The final request may only be made after a period of at least 10 days has

passed since the first request. This will ensure that the person has had sufficient time to consider their decision. The only exception to this requirement is if the coordinating medical practitioner is of the view that the person will die within 10 days of making their first request. If this assessment is consistent with the prognosis of the consulting medical practitioner, the requirement may be waived. In all instances, a final request cannot be made on the same day that the second assessment is completed.

As an additional safeguard to monitor the voluntary assisted dying substance, the person must also appoint a contact person. The contact person will be responsible for returning the voluntary assisted dying substance if it is not used and will also be a point of contact for the Voluntary Assisted Dying Review Board.

Following the final request, the coordinating medical practitioner must undertake a final review to complete the process and provide copies of all forms and assessments to the board. This process does not require the coordinating medical practitioner to conduct any further assessments of the person; instead they must check that each procedural step has occurred.

If the request and assessment process has been complied with, the medical practitioner may apply to the secretary of the Department of Health and Human Services for a permit. There are two forms of permit: a self-administration permit and a medical practitioner administration permit. The secretary may issue a permit if they are satisfied that the process has been complied with. The permit will only authorise administration through the method specified.

If the person is physically able to self-administer the voluntary assisted dying substance, the coordinating medical practitioner must apply for a self-administration permit. Once the coordinating medical practitioner has obtained a self-administration permit they may prescribe the voluntary assisted dying substance. When presented with an authorised prescription, a pharmacist may dispense the voluntary assisted dying substance and will report this to the Voluntary Assisted Dying Review Board. The pharmacist must label the voluntary assisted dying substance and must provide information about the substance and their obligations to safely store it. The person must store the voluntary assisted dying substance in a locked box. The person will be free to self-administer the substance at a time of their choosing.

In the rare circumstances where the person is not physically able to self-administer or digest the voluntary assisted dying substance, the coordinating medical practitioner may apply for a practitioner

administration permit. This provision has been included to ensure that the bill does not discriminate against those who are not physically able to self-administer and includes additional safeguards. It is the responsibility of the coordinating medical practitioner to determine whether the person is physically able to self-administer or digest the voluntary assisted dying substance. Only the coordinating medical practitioner may apply for a practitioner administration permit and provide the medication in accordance with this.

If the coordinating medical practitioner obtains a self-administration permit and the person subsequently loses the physical capacity to self-administer or digest the voluntary assisted dying substance, the coordinating medical practitioner will need to apply for a practitioner administration permit. Before applying for this permit, the coordinating medical practitioner will need to be satisfied that any previously prescribed substance or prescription has been returned. If a person loses the physical capability to self-administer or digest the substance, they will need to return to their coordinating medical practitioner if they want to proceed, because no other person is authorised to administer the voluntary assisted dying substance.

If the coordinating medical practitioner has obtained a practitioner administration permit, the person may request that the coordinating medical practitioner administer the voluntary assisted dying substance. The person must determine when this occurs. As a further safeguard the coordinating medical practitioner may only administer the voluntary assisted dying substance in the presence of a witness who is independent of the coordinating medical practitioner. The coordinating medical practitioner and the witness must certify that the person appeared to have decision-making capacity in relation to voluntary assisted dying and that they were acting voluntarily.

To ensure all deaths under the legislation are identified, after a person has died the medical practitioner who notifies the registrar of births, deaths and marriages of the person's death must notify if they are aware the person has been prescribed the voluntary assisted dying substance or if the person has self-administered or been administered the voluntary assisted dying substance. This information is provided to the Voluntary Assisted Dying Review Board.

Any unused voluntary assisted dying substance that has not been self-administered by the person must be returned to the pharmacist by the contact person within one month of the notification of the person's death. The pharmacist will report the return of the substance to the Voluntary Assisted Dying Review Board. These

measures will support the safe monitoring of the voluntary assisted dying substance in the community and ensure clear accountability for the return of any unused voluntary assisted dying substances.

Protections and offences

The bill provides protection from both criminal and civil liability to those who act in accordance with the bill. There are specific immunities for medical practitioners undertaking roles in accordance with the bill, as well as other health practitioners including pharmacists and people who provide assistance to those accessing voluntary assisted dying.

The bill includes a number of specific offences that relate to the voluntary assisted dying framework. These offences address particular risks that may arise as a result of the legislation, such as the misuse of a voluntary assisted dying substance. Existing criminal offences will continue to apply to those acting outside the legislation, for example to those who misuse medications that are not prescribed in accordance with the legislation.

The bill creates an offence for a coordinating medical practitioner to knowingly administer a voluntary assisted dying substance other than in accordance with a practitioner administration permit if they intend to cause death. This offence will require the coordinating medical practitioner to act in accordance with the requirements of the permit and ensure, for example, that the person has decision-making capacity and is acting voluntarily.

There is also an offence for anyone other than the person themselves to knowingly administer a voluntary assisted dying substance dispensed under a self-administration permit. These new offences provide a clear deterrent and ensure that there are strong penalties for anyone who intentionally misuses medications prescribed under the bill.

The bill also creates offences of inducing another person to request voluntary assisted dying or to self-administer a voluntary assisted dying substance. A decision to access voluntary assisted dying must always be the person's own decision, and any undue influence or dishonesty to induce a person will be criminal.

The bill also creates offences to falsify forms or records or to make false statements or reports that are required under the bill. These offences will ensure accurate records are available for review by the Voluntary Assisted Dying Review Board. It will also be an offence to fail to provide forms to the board within seven days of completing the form.

Voluntary Assisted Dying Review Board

The bill will establish the Voluntary Assisted Dying Review Board. The board will be responsible for monitoring voluntary assisted dying activity under the legislation. This will include receiving reporting forms and reviewing each request and assessment to access voluntary assisted dying. The coordinating medical practitioner, the consulting medical practitioner, the dispensing pharmacist, the Department of Health and Human Services and the registrar of births, deaths and marriages will all provide separate information to the board at several points throughout the process. Receiving reports from these five independent sources will support the board in its comprehensive oversight of the operation of the bill. The board will also use this information to improve the quality of the voluntary assisted dying experience and practice.

The board will ensure transparency through annual reporting to Parliament, and six-monthly reporting to Parliament in the first two years. This will allow the public to be fully informed about the number of people accessing voluntary assisted dying and the reasons for access.

If the board identifies wrongdoing, or potential wrongdoing, it will be required to refer the matter to the relevant body. This may be the Chief Commissioner of Police, the secretary, the State Coroner, or the Australian Health Practitioner Regulation Agency.

Consequential amendments

The bill recognises that only people who are already dying may access voluntary assisted dying, and as such, their death should not be treated as unexpected or avoidable. For this reason, a voluntary assisted dying death will not be a 'reportable death' under the Coroners Act 2008. This will not preclude the coroner from investigating a death, but this will not be an automatic requirement.

As people may only access voluntary assisted dying if they are suffering from a disease, illness or medical condition that will cause death, this disease, illness or medical condition should be recorded as their cause of death. The Births, Deaths and Marriages Act 1996 will be amended to require that the disease, illness or medical condition be recorded as the cause of death in the register. That act will also be amended to require the registrar of births, deaths and marriages to notify the board that the person was prescribed, self-administered, or administered the voluntary assisted dying substance.

The bill amends the Drugs, Poisons and Controlled Substances Act 1981 to recognise the bill and the legal use of drugs in accordance with the bill.

The bill also amends the Health Records Act 2001 to recognise that voluntary assisted dying activity under the bill will be a health service, for the purposes of the Health Records Act. This will ensure that the health privacy principles apply to information collected when health practitioners perform activities under the bill.

The bill amends the Medical Treatment Planning and Decisions Act 2016 to make it clear that a person may not make a statement in an advance care directive about voluntary assisted dying. For the avoidance of doubt, it also provides that a medical treatment decision-maker cannot make a decision about voluntary assisted dying.

The bill amends the Pharmacy Regulation Act 2010 to recognise the bill and to authorise disclosure in accordance with the bill.

The commencement of the bill will allow for an extended implementation period to provide adequate time for planning and establishment of the necessary reporting, practical and clinical practices to support the operation of a voluntary assisted dying framework.

This bill establishes a safe and compassionate framework to give Victorians who are suffering the ability to choose the timing and manner of their death. The bill provides a rigorous process with safeguards embedded at every step to ensure that only those who meet the eligibility criteria and who are making an informed, voluntary and enduring decision will be able to access voluntary assisted dying. The clear and considered details reflected in this bill will provide the Victorian community with the confidence that voluntary assisted dying can be safely provided to give Victorians genuine choice at the end of their lives.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Tuesday, 17 October.