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Dear fellow South Australian,

First of all, I thank you for taking the time to contact me regarding the Consent to Medical Treatment and Palliative Care (Voluntary Euthanasia) Amendment Bill 2008.

My office has received many calls and emails in connection with this Bill, with approximately half of contacts supporting the Bill and half opposing. Although I firmly believe that the public should participate in any legislative decisions made on their behalf it is also my belief that many who both support and oppose this controversial Bill have not taken the time to fully understand what is being proposed.

Voluntary euthanasia has been a topic of concern for me since entering the Legislative Council in 2006. It is a topic that is emotionally charged (and rightly so) and I make no apologies for taking an extended period of time to consider my opinion based on the evidence.

Many who oppose voluntary euthanasia believe that in passing such a Bill the Parliament would be giving a 'green light' to suicide and sending the 'wrong message'. This argument ignores that a form of physician assisted suicide is already occurring and has been legal for many years under the 'double effect' provision of the *Consent to Medical Treatment and Palliative Care Act*. This allows a medical practitioner to deliver a lethal dose of pain relieving medication for those in the latter stages of a terminal illness, provided the practitioner's intention is relieve the patient's pain. Death brought on by the 'double effect' is listed as a result of the patient's illness and a medical practitioner cannot be charged.

'Double effect' has raised some serious concerns for me in my deliberations regarding the voluntary euthanasia Bill before the Legislative Council. For example:

- There is no record kept of the number of cases where the 'double effect' comes into play.
- Additionally, there is no record kept of what doctors are delivering fatal doses of pain relief by this method or how frequently it is occurring in any particular facility.

Given there are no methods of accountability or transparency required, from my perspective this practice does allow for abuse. There is no authority specifically established to oversee the operation of 'double effect' and there is no reporting mechanism to Parliament. 'Double effect' may be undesirable to some as it empowers the medical practitioner and not the patient to determine when a patient's pain and suffering will end. It is also curious to me that during the public consultation and debate on the 'double effect' provision that the churches remained silent.

In my Second Reading contribution, I stated that I will not support the Bill in its present form. However, I did support the Bill progressing to Committee stage, as it is my firm belief that this is an essential part of the democratic process. Members who had already drafted amendments deserved the opportunity to put the amendments to others Members and have them debated. Additionally, I also held the view that I may have some amendments to put forward myself to improve the Bill. If my amendments are unacceptable to members who have indicated their support for the Bill, then it remains my intention not to support the Bill.

It has been a significant concern for me over the past three and half years that the level of accountability of Ministers and their bureaucracy was, in real life, having a negative impact on many South Australians. It seems that certain Statutory Authorities such as WorkCover, Office of the Public Trustee and others have built up a brick wall over the years consisting of political double speak and rhetorical motherhood statements in place of the truth. It has also been obvious to me over the past three and half years that 'covering up' for mismanagement and professional misconduct seems to be expected in Statutory Authorities as well as Government departments and agencies such as Families SA.

Another of my concerns about voluntary euthanasia is the possibility that decisions based on the budgetary 'bottom line' of the Health Department would over time corrupt the intended processes of the Bill and that voluntary euthanasia may eventually become involuntary and the criteria relaxed as to who qualifies for access. I am not opposed to relieving the pain and suffering of the terminally ill and who would be? I am however opposed to the possibility of a system being established that would be easily corrupted and open to abuse, as has occurred in the Netherlands.

In March 2010, half the Members of the Legislative Council will be up for re-election and it is suspected that, with the resulting new Members, the number of Members supporting voluntary euthanasia will be in the majority. This is also of concern to me as this could potentially result in a future Bill being rushed through with no input from 'moderate' members (which I consider myself to be), leaving a Bill with fewer safeguards than I will be proposing in my amendments.

As an example, I have had a number of amendments drafted that will ensure not only parliamentary scrutiny of voluntary euthanasia, but will also compel ministerial action and accountability. These amendments, in part, attempt to remove power from the Health bureaucracy.

I will also be moving an amendment that restricts those with a treatable mental illness from accessing voluntary euthanasia. It is a great concern of mine that people, particularly young adults, with mental illness may seek to access voluntary euthanasia, something my amendments will prevent.

While the Bill provides steps to ensure that no undue influence can be applied by the family of a person seeking voluntary euthanasia, I will, however, be moving a further amendment that compels the Voluntary Euthanasia Board to investigate each claim of undue influence unless the claim is considered vexatious or frivolous. Also, every voluntary euthanasia death will be referred to the Coroner for potential inquiry. Additionally, my amendments will make it a criminal offence for any person to ignore and not report a patient's 'revocation' or suspicion of undue influence.

My amendments also ensure that someone reporting an abuse of the processes required by the Bill will have the power to instigate a Parliamentary inquiry via the Statutory Authorities Review Committee. This is intended to prevent bureaucratic 'brick walls' and red tape, that too often stifle and bury complaints. One report will be sufficient for such an inquiry, which will have the powers to direct a Minister towards a course of action and refer to the police for investigation.

I will also be moving amendments to ensure that any person accessing voluntary euthanasia is a resident of South Australia and has been so for 6 months. This is intended to prevent the 'suicide tourism' experienced by other countries such as Switzerland. Another amendment will give require the Public Advocate to be a member of the Voluntary Euthanasia Board. The Public Advocate, while a statutory position, is independent of Government and has a mandate to promote and protect the rights of people with mental incapacity.

A further amendment will require the doctor administering voluntary euthanasia to be present at the time of death, even when the patient is self-administering. This is designed to prevent diversion of medication and also to ensure a doctor is present in case of a revocation or something goes amiss. If the patient does decide to revoke their request, the doctor will be required to retrieve the medication prescribed.

I have given my amendments much thought and, as always, I am basing my decision on ensuring that all have the opportunity and support to 'live well'. Of course this must also apply to those in the terminal phase of a terminal illness. I believe my amendments strike the balance between protecting the rights of our elderly, while at the same time giving them a right to chose how and when they end their life. I also believe my amendments address the concerns raised above. I hasten to add that my support of the Bill is conditional upon the support of my amendments.

This has been a difficult decision for me because, as usual, there is much research to consider, the varied views of all those who have been pro-active in their lobbying for and against the Bill, and of course the stories of pain and suffering in the few cases where palliative care is not working and pain relief is not available. As an Independent member of the Legislative Council it is my responsibility to take all these issue into consideration, which I believe I have done to the best of my ability.

Again I thank you for contacting me about this most important issue and hope this letter has clarified to you my position.

Yours sincerely,

Hon Ann Bressington  
Independent MLC