



SOUTH AUSTRALIA

AMA(SA) Position Statement

Criminal Law Consolidation (Medical Defences – End of Life Arrangements) Amendment Bill 2011

The AMA(SA) does not support the above Bill in its present form. The AMA(SA)'s position in relation to *'end of life decisions'* and medical treatment remains as previously described in the AMA's Position statement *'The Role of the Medical Practitioner in end-of-life care – 2007'*. <http://ama.com.au/node/2803>.

In relation to the present Bill, the AMA(SA)'s position is as follows:

1. The inclusion of the term *'intended'* throughout the Bill has significant potential to add objective doubt to a doctor's actions and objectives when prescribing for a patient.

For example:

S13B(i): *'arising out of the death or intended death'*.

S13(3)(b)(ii) *'the conduct of the medical practitioner in relation to the death or intended death'*

S13(4) *'arising out of the death or intended death of the person'*.

2. The term *'intended death'* appears five times in the Bill. The AMA(SA) is concerned as to the effect of the inclusion of this term.

3. The AMA(SA)'s opinion is that an *'intended death'* resulting from a prescribed person's request is euthanasia and in direct contravention to AMA policy. As such we cannot support the amendment in its current form.

4. The AMA(SA) recommends that the term *'intended'* be removed from the Bill in total.

5. We do not wish to have doctors being confused as to the illegality of prescribing medication for the primary intention of hastening death.

6. On this issue, the inclusion of the term *'palliative care'* in the context of a defence against an *'intended death'* has potential to add further confusion.

7. The relevant section of the Bill should be altered to better reflect the AMA's position as contained within our publication *'The Role of the Medical Practitioner in end-of-life care – 2007'*.

10.3 All patients have a right to receive relief from pain and suffering, even where that may shorten their life.

10.4 While for most patients in the terminal stage of an illness, pain and other causes of suffering can be alleviated, there are some instances when satisfactory relief of suffering cannot be achieved.

8. Thus, s13B(5) should be changed to omit the palliative care reference and amended to the following:

*' . . . Parliament intends that conduct bringing about the end of a prescribed person's life is a reasonable response to such suffering in exceptional circumstances, **including where the prescribed person's suffering cannot be effectively relieved other than with treatment that has the effect of shortening life.**'*

9. For reason of clarity the AMA(SA) considers it necessary for there to be a statement at the beginning of the Bill to the effect that the intention of the amendment is not to legalise euthanasia.

10. The Bill has an unintended discriminatory effect to patients without mental capacity by referring to an *'adult person of sound mind'* under s13(1)(b).

Many patients toward the end of life, are not of *'sound mind'* (e.g. the incidence of delirium increases toward the end of life); but it is often possible to find out what they would have wanted, and many have documented their wishes in advance directives.

11. A list of *'qualifying illnesses'* contained within in regulations carries risks of exclusion. For this reason the AMA(SA) recommends the Bill define a *'prescribed person'* (patient) in the following terms;

'an adult person who has expressed their wishes either directly to the treating doctor or by advance directive, who has an irreversible illness, injury or other medical condition that intolerably impairs their quality of life and is likely to cause death in the foreseeable future.'

12. For the above reasons, the AMA(SA) does not support the Bill in its present form.

Adelaide
18 May 2011