

Statement in Support of the McArthur Assisted Dying Bill for Scotland

Philosophers' Consortium on Assisted Dying in Scotland (PCADS)

22 May 2023

Professor Michael Cholbi, University of Edinburgh
Professor Ben Colburn, University of Glasgow
Professor Michael Gill, University of Edinburgh
Dr. Joseph Millum, University of St Andrews
Professor Glen Pettigrove, University of Glasgow

MSP Liam McArthur has recently won the right to introduce a Member's Bill to the Scottish Parliament to permit assisted dying for terminally ill residents of Scotland. His bill would allow terminally ill competent patients over the age of 16 to request access to a lethal medication. As philosophers with research expertise in end of life ethics, as well as extensive first-hand experience with physicians, dying patients, and their families, we believe that the Assisted Dying for Terminally Ill Adults Scotland Bill represents a positive step to improve how people die in Scotland. We urge residents of Scotland and their elected representatives in Parliament to support its passage.

The majority of people in Scotland die of chronic illnesses with lengthy decline phases, such as cancer and heart disease. As a result, dying is often laborious, undignified, and painful, depriving us of opportunities to enjoy the activities that make our lives worth living. Current law allows patients to refuse medical interventions that might extend their lives, as well as permitting medication that relieves pain or discomfort but that may hasten the patient's death. In so doing, current law already acknowledges the fundamental ethical principle that patients have the right to determine for themselves how their lives are brought to a close. That fundamental ethical principle also supports allowing an assisted death.

For many of us, the best life will not turn out to be the longest possible life. For a handful of patients, the best life — and the best death — may be achieved by collaborating with their physicians to shorten their lives with the help of a life ending medication. Kerry Robertson, the first patient to take advantage of legalised assisted dying in the Australian state of Victoria, ceased treatment for her breast cancer, only to have her cancer metastasize to her liver. Robertson then suffered a rapid loss of quality of life. Unable to walk and in unmanageable pain, Robertson lost her vision and was unable to perform everyday tasks. She sought assisted dying because, she said, life had lost its joy.

Critics of medically assisted dying often express reservations about medical professionals agreeing to help end patients' lives. Such reservations are understandable: The extension of life, and in particular the cure and treatment of potentially fatal conditions, are among physicians' central ethical duties to their patients. But these are not physicians' *only* ethical duties. They also have duties to relieve pain and suffering. For some terminally ill patients, actively shortening their lives may be the best way for them to avoid the forms of pain, incapacity, and indignity they fear most.

Under the McArthur bill, no medical professional, nor any patient, is legally compelled to participate in assisted dying. Medical professionals whose moral or religious principles speak against their participation are not required to do so, and patients (in conversation with family, loved ones, and their care providers) would have the autonomy to decide whether assisted dying is best for them. The experience of other jurisdictions that have legalised assisted dying suggests that patients and their families also appreciate knowing that assisted dying is an option, even when they ultimately decide against it.

As it stands, it is virtually certain that medically assisted dying occurs now in Scotland, but without regulation or transparency. Far better, in our estimation, for medically assisted dying to be legally available to a small segment of qualified patients and carried out conscientiously and in the open by trained professionals. By allowing for the lawful provision of assisted dying under limited circumstances, the McArthur bill would bring needed legal clarity and protection to conscientious medical professionals seeking to provide their patients the highest level of end of life care.

Some worry that legalised assisted dying will undermine our commitment to palliative care for the dying. However, research investigating this issue in Europe and the United States has shown that such worries are unfounded. In those jurisdictions where medically assisted dying has previously been legalised, there is no evidence that the medical community's commitment to palliative care for the dying has weakened. Rather, medically assisted dying has come to be seen as a palliative last option, reserved solely for consenting patients for whom continued living has become more than they can bear.

Some representatives of disabled communities express the concern that legalised medically assisted dying fails to respect the rights of the disabled. They worry that it will result in disabled individuals being subject to pressure to die, as well as conveying the message that their lives are not worth living. We too would have reservations if the law posed such dangers to the disabled community. But this concern is unfounded. The McArthur bill allows only the terminally ill to seek assisted dying and makes no reference whatsoever to disability. The evidence from other jurisdictions shows clearly, moreover, that feared 'slippery slopes' largely do not materialise. Indeed, in those jurisdictions whose assisted dying laws most closely resemble the McArthur bill, such as the US states of Oregon and California, safeguards concerning patient competency, eligibility, and autonomy function as intended. And as groups such as Disability Rights UK emphasise, disabled individuals hold a diversity of views about assisted dying, with the majority supporting its legalisation. The McArthur bill eschews paternalism toward the disabled, extending them the same right to have control over their lives — and their deaths — that it extends to anyone else in Scotland.

We candidly acknowledge the place for reasoned disagreement about some aspects of this bill — for example, about whether patients or physicians should administer the lethal medication; about whether to establish a waiver of the waiting period for severe 'emergency cases'; and about whether assisted dying should be available to individuals with extremely serious but non-lethal conditions. But the weight of reasons speaks strongly in favour of the heart of the McArthur bill. For at its heart is the fundamental ethical principle that competent terminally ill individuals should have the right to decide for themselves how

to die. The bill offers undeniable benefits to medical professionals, dying patients, and families, and its safeguards meet the concerns raised by critics of assisted dying.

The McArthur bill has already served to stimulate wider, healthier discussion about the place of assisted dying in a just and compassionate society. We welcome further discussion, which, we hope, will demonstrate that the bill's essential provisions are clearly defensible and deserve the support of the people of Scotland and their MSPs.