

Voluntary Assisted Dying in Victoria

Approved 22/3/2019

Review March 2020

PREAMBLE

In Victoria, Australia, a report titled [Inquiry into end of life choices](#), was tabled by the Legal and Social Issues Committee¹ in 2016. The report made multiple recommendations, including that Victoria should legalise Voluntary Assisted Dying. In September, 2017, the Victorian [Voluntary Assisted Dying Bill 2017](#)² was passed. Now referred to as the Act, it sets out to provide for, and regulate access to, Voluntary Assisted Dying within the State of Victoria. Some key points of the Act are outlined below:

Definition

Voluntary Assisted Dying means 'the administration of a Voluntary Assisted Dying substance and includes steps reasonably related to such administration³.

Eligibility criteria

In order to qualify to access Voluntary Assisted Dying, a person must:

- be 18 years or older;
- be an Australian citizen or permanent resident, who is ordinarily resident in Victoria;
- have decision-making capacity in relation to Voluntary Assisted Dying;
- be diagnosed with a disease, illness or medical condition that is incurable, advanced, progressive and will cause death, and is expected to cause death in less than six months, except when the person has a neurological condition, when the life expectancy is 12 months; and
- be experiencing suffering that cannot be relieved in a manner that the person considers tolerable³

The request process

Access to Voluntary Assisted Dying is via a strict process. Requests must be clear and unambiguous. The person must make two requests on separate occasions, to registered medical practitioners who have completed approved training, with each request followed by an independent medical assessment. One of the two medical practitioners needs to be expert in the person's illness/disease state. Subsequent to this, the person must make a written declaration, witnessed by two independent people, which serves as a formal record of the Voluntary and enduring nature of the person's request to access Voluntary Assisted Dying legislation³. Once a person has made a written declaration, the person may make a final request for Voluntary Assisted Dying, no sooner than nine days after the first request.

Accessing the substance

Where a person is able to self-administer the substance, a self-administration permit will be issued and the person can obtain the substance from a pharmacist, and store in a locked box. Where a person is not physically capable of self-administering or digesting the substance, a medical practitioner may seek an alternate permit to allow practitioner administration of the substance, in the presence of an independent witness³.

Voluntary Assisted Dying Review Board

The Review Board, appointed by the Minister, are responsible for monitoring Voluntary Assisted Dying under the legislation. The Board has a number of functions and responsibilities including monitoring, analysis and reporting of matters related to the Act³.

Conscientious Objections

No medical practitioner or other AHPRA registered health practitioner is obliged to participate in Voluntary Assisted Dying. 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 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 substance².

A health service may assess which medical treatments it can safely provide, and make decisions about Voluntary Assisted Dying in accordance with the capabilities of the health service⁴.

POSITION STATEMENT Voluntary Assisted Dying in Victoria

RELEVANCE TO THE NURSE

The [Code of Ethics for Nurses](#) states that inherent to nursing is a respect for human rights, including the right to life and choice, to dignity and to respect⁵. The [Code of Conduct](#) sets out the legal requirements, professional behaviour and expected conduct for nurses in all practice settings in Australia; endorsing that nurses practice legally; practise safely, effectively and collaboratively; and that nurses embody integrity, honesty, respect and compassion⁶. Every nurse is expected to fulfil their role by providing safe, person-centred care whilst working within their scope of practice.

The Voluntary Assisted Dying Act acknowledges the diversity of personal views and contains provisions for conscientious objection as described above.

THE POSITION OF THE AUSTRALIAN COLLEGE OF NURSING

The Australian College of Nursing (ACN) acknowledges the significance of this Act. Whilst Victoria may currently be the only state to have such legislation, other states and territories may follow. Given the high level of societal and media interest in Voluntary Assisted Dying, it is likely that community members across Australia will have questions about the Victorian legislation and possible implications for how the legislation is enacted and monitored, how vulnerable populations are appropriately safeguarded, and for their individual circumstances.

ACN acknowledges that Voluntary Assisted Dying should not be viewed in isolation from the need to ensure all people with a life-limiting diagnosis receive high quality, evidence-based health care and have access to appropriate services such as specialist palliative care. Indeed, the legislation requires that medical practitioners ensure that the individual is properly informed of all treatment and care options and likely outcomes, including palliative care. Palliative Care provides “an approach that improves the quality of life of patients and their families facing the problem associated with life-threatening illness, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial and spiritual”⁷.

Although, Australia ranks second in the world for palliative care⁸ not all Australians are currently able to access specialist palliative care services and the quality of palliative care services varies⁹.

While Voluntary Assisted Dying is not the same as palliative care, nor are the two mutually exclusive, if a person with a life-limiting illness chooses Voluntary Assisted Dying, this does not preclude the person from ongoing access to specialist palliative care services.

ACN also acknowledges that each nurse will have a personal opinion on Voluntary Assisted Dying, likely influenced by personal and professional experiences, culture, religion and many other factors. Individuals’ views and beliefs on Voluntary Assisted Dying are to be respected. Nurses who have a conscientious objection to Voluntary Assisted Dying should be respected and supported by their colleagues and workplace. A nurse can choose not to engage in any part of Voluntary Assisted Dying, as stipulated in the Act. Such a decision does not negate the need for the nurse to continue to practice according to the profession’s code of conduct when providing care for people who choose Voluntary Assisted Dying. Appropriate provisions should be put in place to ensure safe and high-quality care for the dying person and their family.

While there is no formal role for nurses to participate in Voluntary Assisted Dying, it is recognised that high-quality nursing care for all at end of life is responsive to the needs, preferences and values of people, their families and carers¹⁰. Nurses can and should prioritise, contribute to and promote patient-centred communication which ensures a person’s wishes are acknowledged and autonomy is respected¹⁰. Nurses are likely to be asked about the Act, thus it is essential for each nurse to be familiar with the Act, as well as being skilled in having sensitive conversations about end of life concerns and a person’s choices and preferences.

Health services, professional organisations, policy-makers, managers and nurses are encouraged to read the Act and consider the workplace implications, including the need for education for nurses, other health professionals and the community, if not already doing so. Policies/protocols and other guidance documents are also likely to require revision to ensure the dying person, nurses and other health professionals are adequately informed and supported, particularly in cases where the dying person wishes to access Voluntary Assisted Dying. Whilst the Voluntary Assisted Dying Review Board will have the responsibility to monitor Voluntary Assisted Dying according to the Act, it is incumbent upon health services to monitor the local impact of the legislation on the community and health service workforce.

SUMMARY

- Irrespective of personal views, a nurse is expected to fulfil his/her role by providing safe, person-centred care and working within their scope of practice.
- If a person with a life-limiting illness chooses Voluntary Assisted Dying, this does not preclude the person from ongoing access to palliative care services.
- It is imperative that the workplace implications of Voluntary Assisted Dying are adequately considered, including provision of adequate education opportunities for nurses, and development of appropriate policies, protocols and guidance documents.

POSITION STATEMENT **Voluntary Assisted Dying in Victoria**

Collaborators:

Distinguished Professor Patsy Yates FACN (Chapter Chair), Dr. Melissa Bloomer FACN (Deputy Chair), Dr Lexie Brans FACN, Ms Janice Bartley MACN, Ms Susan Emerson MACN, Ms Musette Healey MACN, Mrs Sara Karacsony MACN, Dr Jason Mills FACN, Dr Carolyn Stapleton FACN, Mr Mark Staaf MACN, Mrs Faye Tomlin MACN and Mrs Claudia Virdun MACN

Content Experts:

Liz Callaghan (Palliative Care Australia), Emeritus Professor Margaret O'Connor (Victoria Voluntary Assisted Dying Review Board) and Professor Jane Phillips (Palliative Care Nurses Association)

Approved:

By ACN Board: 27 August 2018

TERMINOLOGY

The Victorian Ministerial Advisory Panel on Voluntary Assisted Dying⁴ acknowledges that a number of different terms are often used interchangeably when talking about Voluntary Assisted Dying. Other terms include *Euthanasia*, *Assisted Suicide* and *Assisted Dying*, which may suggest a value judgement about the process, who is perceived to be in control and what is perceived to be occurring. The Panel determined 'Voluntary Assisted Dying' to be the most appropriate term, avoiding unnecessary stigmatisation and ensuring the emphasis is on the person.

References

1. Legal and Social Issues Committee, *Inquiry into end of life choices. Final report*, Parliament of Victoria, 2016.
2. Parliament of Victoria, Voluntary Assisted Dying Act 2017. No. 61 of 2017, [http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/B320E209775D253CCA2581ED00114C60/\\$FILE/17-061aa%20authorised.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/B320E209775D253CCA2581ED00114C60/$FILE/17-061aa%20authorised.pdf).
3. Parliamentary Library and Information Service, *Research Note: Voluntary Assisted Dying Bill 2017*, Parliament of Victoria, Victoria, 2017.
4. Department of Health and Human Services, *Ministerial Advisory Panel on Voluntary Assisted Dying: Final Report*, State of Victoria, Department of Health and Human Services, Melbourne, 2017.
5. International Council of Nurses, *The ICN Code of Ethics for Nurses*, International Council of Nurses, Geneva, Switzerland, 2012.
6. Nursing and Midwifery Board of Australia, *Code of Conduct for Nurses*, Nursing and Midwifery Board of Australia, Canberra, 2018.
7. World Health Organization, WHO Definition of Palliative Care, <http://www.who.int/cancer/palliative/definition/en/>, Accessed 28 Feb, 2018.
8. Economist Intelligence Unit, *The 2015 Quality of Death Index: Ranking palliative care across the world. A report from the Economist Intelligence Unit*, Economist Intelligence Unit, London, 2015.
9. Productivity Commission, *Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services, Draft Report*, Australian Government, Canberra, 2017.
10. Palliative Care Australia, *National Palliative Care Standards*, Palliative Care Australia, Griffith, ACT, 5th edn., 2018.

