Voluntary Assisted Dying Bill

Discussion paper

PARLIAMENT OF VICTORIA

Legislative Council
Legal and Social Issues Committee

Inquiry into end of life choices

Final Report

PROPOSAL TO LEGALISE VOLUNTARY ASSISTED DYING IN VICTORIA

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Cancer Council Victoria / McCabe Centre

- cancer accounts for approximately one-third of deaths in Victoria
- most people in Victoria who are receiving palliative care have cancer (81% in 2011)
- in the jurisdictions that have legislated for assisted dying in some form, terminal cancer patients have comprised the largest group of patients to access assisted dying (c. 70%)

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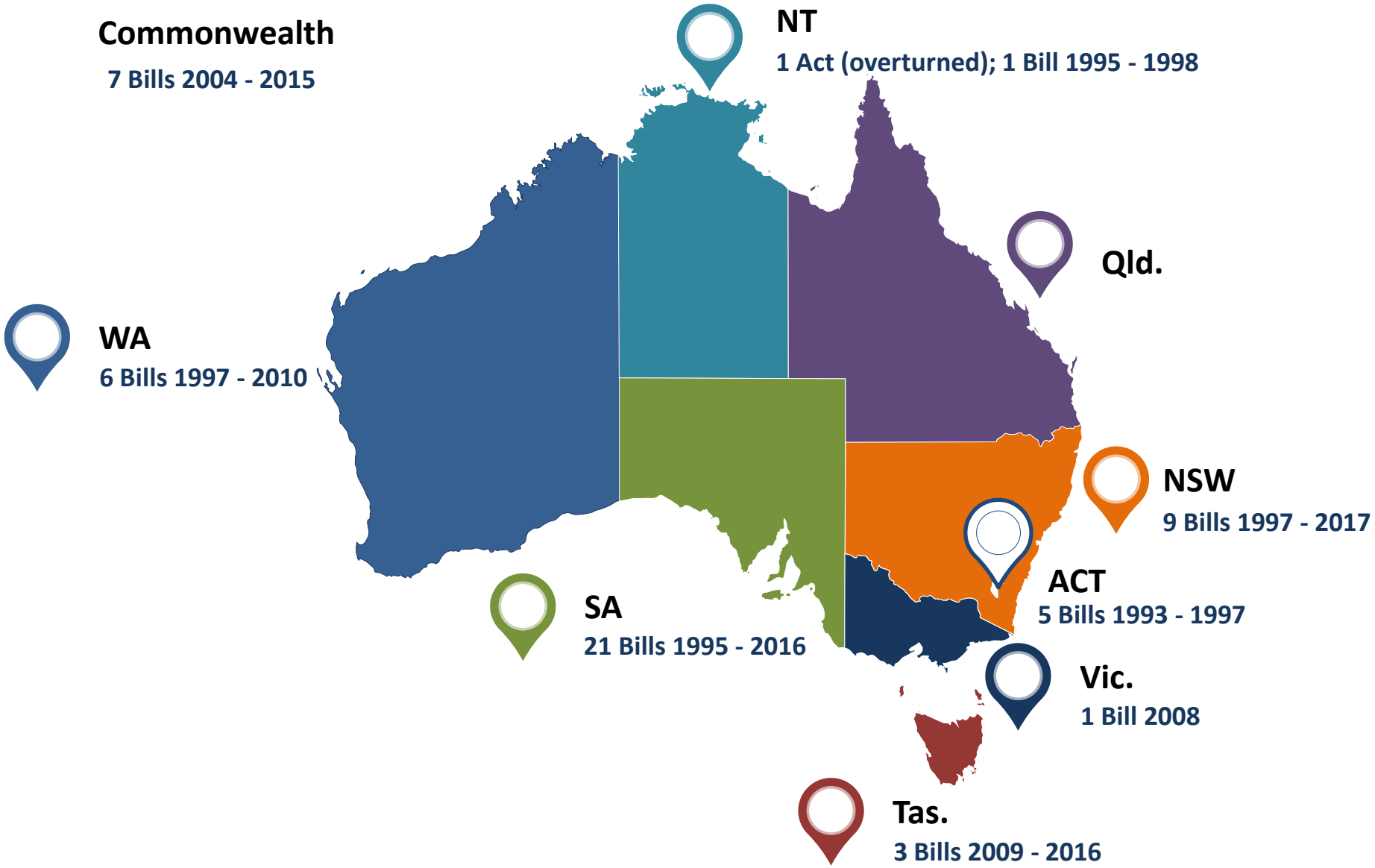
Attempts to legislate assisted dying in Australia



Source: Willmott et al '(Failed) Voluntary Euthanasia Law Reform in Australia' (2016) *UNSW Law Journal*

The process so far

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THE PROPOSED VICTORIAN FRAMEWORK

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The proposed Victorian Framework

“Voluntary assisted dying”

Doctor prescribes a lethal drug which the patient may then take without further assistance.

Where a person is physically unable to take a drug, a doctor can assist.

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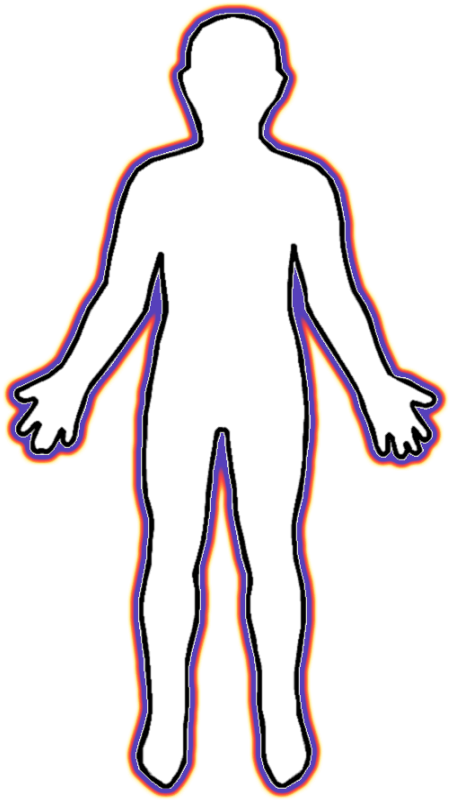
Eligibility

Adults, 18 years +

Resident in Victoria and Australian citizen or PR

Have decision-making capacity in relation to VAD



Diagnosed with **incurable disease, illness or medical condition** that is:

- Advanced, progressive and will cause death
- Expected to cause death within weeks or months, but not longer than 12 months
- Causing suffering that cannot be relieved in a manner the person deems tolerable

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Making a request

"A person should be able to seek information about VAD with a medical practitioner they trust and with whom they feel comfortable"

- All health practitioners have the option to conscientiously object to participating in the VAD process.
- Health services may not conscientiously object, but may make a decision about whether to provide assisted dying.

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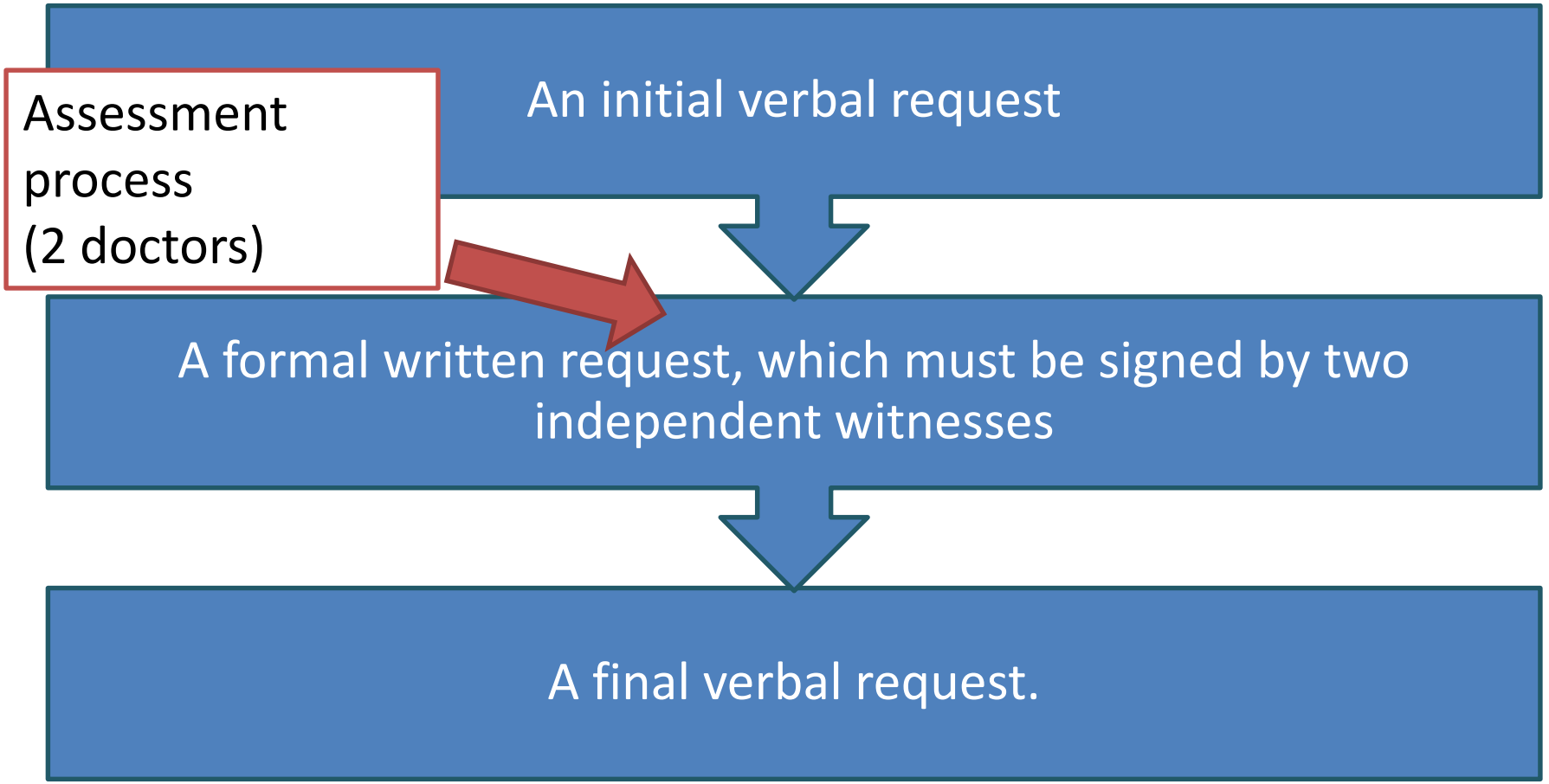
Request and assessment process



Request and assessment process

A request for assisted dying must:

a) come from the patient

b) be completely voluntary, free of coercion, and properly informed; and

c) be enduring and made 3 times
   – and can be withdrawn at any time

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The role of doctors

Coordinating medical practitioner

- Coordinates the process
- Conducts first assessment
- Ensures person is properly informed.
- Assesses against eligibility criteria, and whether request is voluntary and enduring
- Refers person to consulting MP
- Confirms all requirements are met
- Writes the prescription

Consulting medical practitioner

- Conducts 2nd independent assessment
- Ensures person is properly informed.
- Assesses against eligibility criteria, and whether request is voluntary and enduring

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The role of doctors

Coordinating medical practitioner

Consulting medical practitioner

Both required to have minimum qualifications
At least one to have 5 years + post fellowship experience
At least one must have relevant expertise in person's condition
Both will be required to undertake specified training prior to assessing a person

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Information to be provided

- ✓ diagnosis and prognosis;
- ✓ treatment options available and the likely outcomes of these treatments;
- ✓ palliative care and its likely outcomes;
- ✓ the expected outcome of taking the lethal dose of medication (that it will lead to death) and the possible risks of taking the lethal dose of medication;
- ✓ A person is under no obligation to continue with a request for VAD, and may withdraw a request at any time; and
- ✓ any other information relevant to the person's needs.

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The role of doctors

Coordinating medical practitioner

Consulting medical practitioner

Both must undertake independent assessments to form a view as to whether:

a) the person meets the eligibility criteria;
b) the person understands the information provided;
c) the person is acting voluntarily and without coercion; and
d) the person's request is enduring.

Must complete certification of authorisation, confirming that all requirements have been met.

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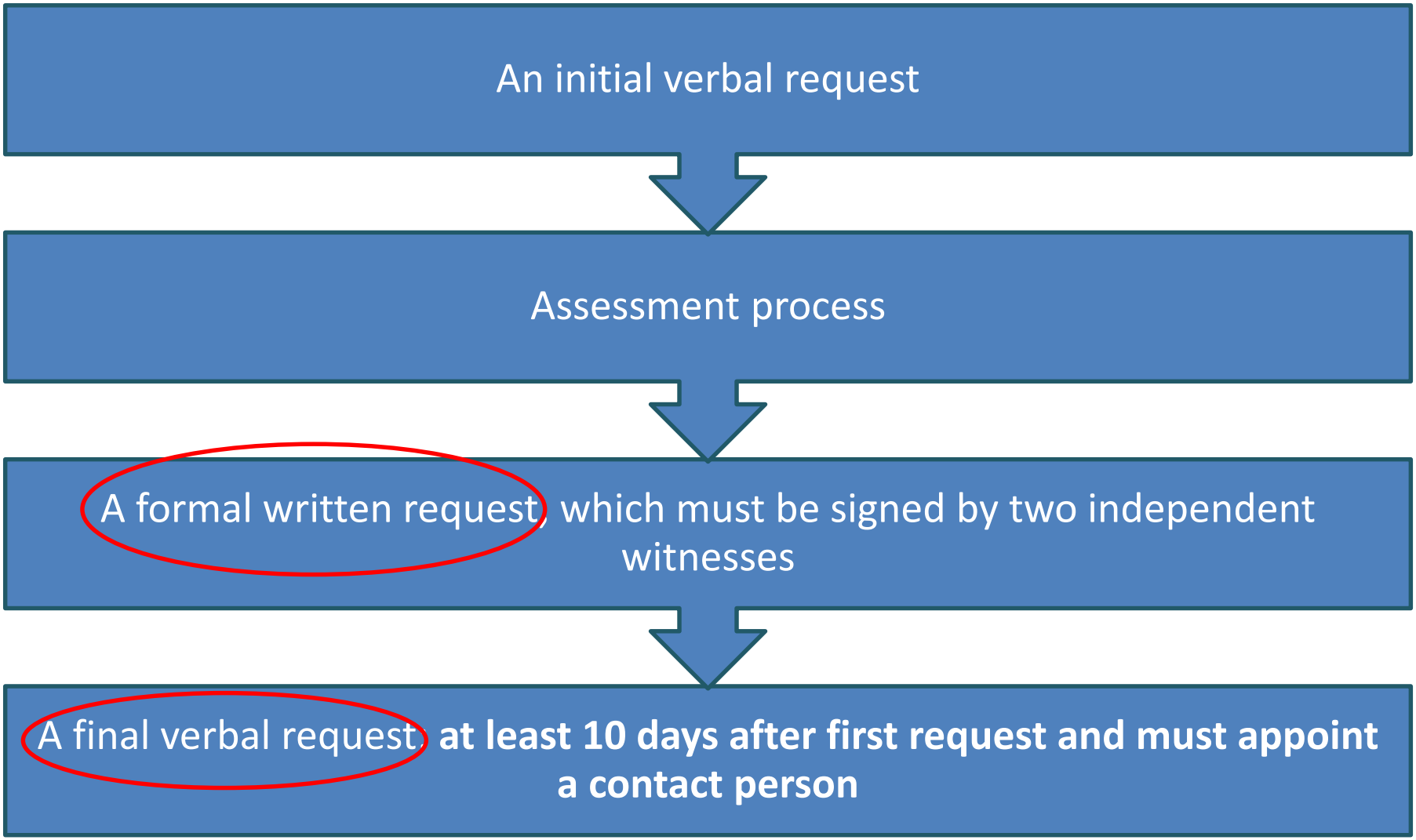
Request and assessment process



Managing the lethal medication

- Coordinating medical practitioner must apply for a permit to prescribe
- Dispensing pharmacist must:
  - Attach labels clearly stating the use, safe handling, storage(in a locked box), and return on the medication
  - Pharmacist to explain to people they are responsible for the medication, and provide information about how to take the dose, and explain the role of the contact person.
- Person is required to keep medication in locked box
- Contact person: responsible for returning unused medication.

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Administering the lethal medication

- A person is required to self-administer the lethal dose of medication, unless physically incapable of self-administering or digesting the medication.
- If incapable of self-administering, the coordinating medical practitioner will be authorised to administer the medication, with a witness.
- A health practitioner may be present when the person self-administers (but does not have to be).

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Oversight

Death Certification

The death certificate will record the underlying disease, illness or medical condition of the person. VAD will not be recorded.

The notification of death will record whether the certifying medical practitioner was either aware the person had been prescribed a lethal dose of medication, or aware the person self-administered a lethal dose of medication.

Notification of death collected by Births, Deaths and Marriages, and will be shared with VAD Review Board

Oversight

Voluntary Assisted Dying Review Board

- Oversee the VAD framework and review every case and every assessment by a medical practitioner to ensure compliance with statutory requirement.
- Receive mandatory reports from:
  - ✓ coordinating and consulting medical practitioners
  - ✓ dispensing pharmacists
  - ✓ medical practitioner certifying a person's death (via Births, Deaths and Marriages)
- Refer improper conduct or criminal action
- Information and data collection
- Monitoring, analysis and reporting on VAD matters

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Oversight

Mandatory reporting(within 7 days)

Medical practitioners

- Completing 1st assessment
- Completing 2nd assessment
- Completing certification for authorisation (incorporating written declaration of enduring request and appointment of contact person)
- When lethal dose of medication is administered by a medical practitioner.

Mandatory reporting

- DHHS when prescription is authorised
- Pharmacist when prescription is dispensed
- Pharmacist when unused lethal medication is returned.

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Annual reporting and review

VAD Review Board to report to Parliament every six months in the first two years post commencement, and thereafter annually.

VAD legislation subject to review 5 years after commencement.

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Implementation

- Implementation of VAD should occur within the context of existing care for people at EOL, and embedded into existing safety and quality processes
- Establishment of an Implementation Taskforce
- 18 month implementation period; VAD Review Board to commence 12 months before commencement.
- Support for health practitioners, patient and health practitioner communication, and informing the community

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Key issues for the Victorian cancer community

- Palliative care – resourcing and availability, the role of palliative care expertise in the VAD process
- Support services – for people affected by cancer to make informed decisions; for cancer clinicians to understand their roles and responsibilities
- Monitoring and evaluation – more than just numbers and compliance

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Palliative care

- The person must have real and practical access to palliative care
- Gaps in palliative care service resourcing, availability and training in Victoria
- Diverging views on involvement of pall care specialists:
  - Ideal, but shouldn't be a requirement:
    - Access issues
    - People might not want to access palliative care
  - Palliative care needs to remain distinct from AD:
    - Different service orientation
    - Many palliative care clinicians opposed = creates risks to access and assessment

Palliative care

Recommendation 1:

- A person has the right to be supported in making properly informed decisions about their medical treatment and should be given, in a manner that they understand, information about medical treatment options, including comfort and palliative care;

Recommendation 1:

- Every person approaching the end of life has the right to quality care to minimise their suffering and maximise their quality of life

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Information and support

Patient information and support needs

- must be tailored to the individual patient's needs and circumstances and communicated sensitively, and their comprehension of the information provided must be checked

Support for family members and carers

- Family members and carers will have specific information, emotional and practical support needs
- Debriefing, counselling and other support services will need to be available prior to, at the time of and after death, and family members and carers must be informed of these services and how to access them.

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Information and support

Recommendation 1:

- A person has the right to be supported in making properly informed decisions about their medical treatment and should be given, in a manner that they understand, information about medical treatment options, including comfort and palliative care;

Recommendation 1:

- Open discussions about death and dying and peoples' preferences and values should be encouraged and promoted

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Support for cancer clinicians

- Support for cancer clinicians talking about death and dying, and end of life choices

- Understanding roles and responsibilities in the framework (whether or not they choose to participate in assisted dying)

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Support for cancer clinicians

Recommendation 1:
Conversations about treatment and care preferences between the health practitioner, a person and their family, carers and community should be supported

Recommendation 18:
A health practitioner may conscientiously object to participating in the provision of information, assessment of a person's eligibility, prescription, supply or administration of the lethal dose of medication

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Monitoring and evaluation

Recommendation 53:
That the voluntary assisted dying legislation be subject to review five years after commencement

Including of:

- the effectiveness of the legislation in allowing appropriate access for those people it intended to provide for;
- the effectiveness of the legislation in providing for the safeguards and protections for individuals and the community generally;
- the effectiveness of the implementation of voluntary assisted dying from a clinical, patient and family perspective;
- the effectiveness of the Voluntary Assisted Dying Review Board in monitoring, reporting and promoting improvements; and
- a review of the costs of voluntary assisted dying to the sector and parts of the community.

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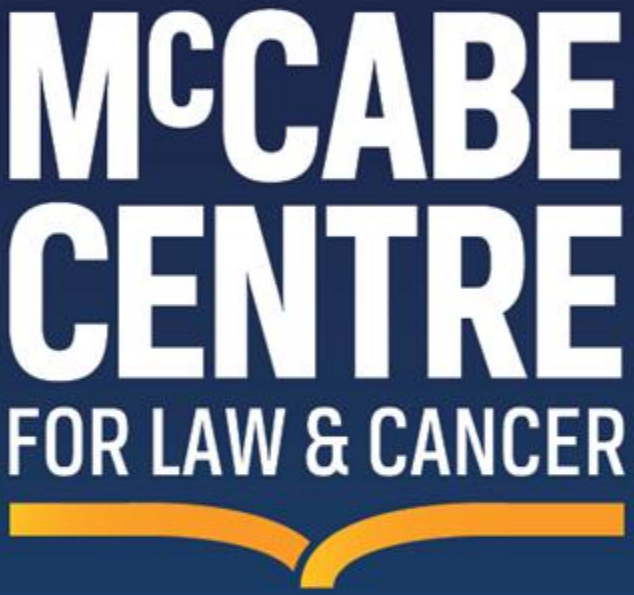
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