

**Submission
No 5**

INQUIRY INTO PROVISIONS OF THE VOLUNTARY ASSISTED DYING BILL 2021

Organisation: Doctors for Voluntary Assisted Dying Choice NSW

Date Received: 5 November 2021

**Submission by
Doctors for Assisted Dying Choice NSW
to the NSW Legislative Council Inquiry into
the Voluntary Assisted Dying Bill, 2021**

Doctors for Assisted Dying Choice NSW

Doctors for Assisted Dying Choice (Drs4ADC) NSW is part of Doctors for Assisted Dying Choice (<http://drs4assisteddyingchoice.org>) - a national organisation of medical practitioners who are committed to supporting the right of terminally ill patients who are suffering intolerably, to end their lives at a time of their choosing, and in the company of those whom they love.

NSW Convenor Group / Submission Authors

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The NSW Convenor Group of Doctors for Assisted Dying Choice approves this submission to the Inquiry into the Voluntary Assisted Dying Bill, 2021

Scope of Submission

NSW Legislative Assembly Voluntary Assisted Dying Bill, 2021

Date of Submission

5/11/2021

The People of NSW need their Parliament to pass this Bill

We make this submission as doctors with direct professional knowledge of the terrible suffering that a small but significant number of terminal patients face at the end of their lives. We will not repeat the many valid arguments in favour of Voluntary Assisted Dying (VAD) but rather focus on our expert medical knowledge and professional experience. We write from a perspective of patient-focused care, which is endorsed by all professional organisations. Our professional stance rejects medical paternalism and emphasizes a deep respect for our patients' right to choose the form of treatment best suited to their needs.

There are two key questions that demand a response from doctors:

- Are you in agreement with the concept of VAD?
- Are you in agreement with a patient's right to choose?

Regardless of the answer to the first question, we acknowledge that nothing should give us, as doctors, the right to use our medical authority to obstruct patients who do not share our religious or philosophical beliefs. Indeed, this principle is mandated by the Australian Medical Council (AMC) Code of Conduct.

We also know that many of the submissions made by medical practitioners in relation to VAD do not reflect the opinions of most doctors, but rather the religious and ideological beliefs of a minority. Most doctors choose not to engage openly in the debate because they believe that it is essentially a question for the whole community, and that they have no special right to dictate the outcome. In addition, some doctors fear that their position will be misrepresented or misunderstood and prefer to remain silent.

However, we believe that our role is as advocates for patient's rights to choose.

It is widely accepted that palliative care can do a great deal to alleviate suffering for many terminally ill patients. Most people in NSW have access to, and benefit from, good palliative care, administered by either their GP or a dedicated service. A critical factor, often missed, is that like all other specialties in medicine, palliative care has its limitations. Nor is the demand for the right to VAD linked to lack of access or funding for palliative care.

It is because even the best palliative care cannot address some of the extreme suffering that affects about 4% of terminally ill patients.

This suffering may extend over a prolonged period in which both patients and their loved ones are helpless to find relief. For example, some patients cannot tolerate opioids for pain relief or may have complex neurological pain that is unrelieved by standard techniques, including intrathecal drug delivery. Moreover, not all terminally ill people are in pain. Some patients suffocate or starve to death. Surveys from Oregon, where VAD has been working well since 1997, repeatedly show that pain is the third or fourth most common symptom at end of life that causes patients to choose VAD. Existential suffering - the fear of inevitable and imminent death - ranks the highest amongst these patients. Palliative care cannot alleviate these types of very real symptoms.

We are aware of patients who have taken their own lives, sometimes in advance of the time when they know that they might not be able to make the choice to die. In fact, both the Victorian and South Australian coroners gave evidence in 2017 to their Victorian Parliamentary Inquiries into VAD that they were encountering at least one patient per week who had elected to kill themselves alone when facing a terminal illness. Many of the people in this tragic situation have been discovered by distressed relatives. Some, having failed in their attempt to take their own life, have remained alive with even greater debility.

We are also aware that health care staff have, for many years, assisted suffering patients to end their lives, risking their own professional accreditation and criminal prosecution.

It is for these reasons that Doctors for Assisted Dying Choice (NSW) recommends that VAD be viewed as an optional compassionate component of care at the end of life. In fact, we challenge anyone who does not comprehend the degree of human suffering that we have seen to simply listen to the voices of those who have direct experience of just how extreme it can be.

A critical component of patient-centered care is autonomy and choice. In jurisdictions where VAD is active, patients and their families welcome the right to a peaceful or “beautiful” death.

We believe that the only person who has the right to determine the meaning, value, or significance of terminal suffering is the patient him or herself. To imagine that we have the right, as doctors, to make such a determination on behalf of a patient who does not share our beliefs, is simply cruel, and contrary to our duty of care.

Doctors are routinely responsible for assessing decision-making capacity (informed consent). We are also able to make a careful assessment of the appropriateness of a request for VAD, in the same way that we currently evaluate the removal of futile treatments.

Even the in-principal availability of VAD can allay the anxiety of terminal patients and improve the quality of their remaining life, and, in some cases, extend life by preventing suicide. Interestingly, in all jurisdictions where VAD is available, approximately 30% patients do not use the medication provided to them for VAD purposes. They all say that having the medication accessible to them gives them confidence to face whatever is coming.

The often-used claim that VAD makes “innocent” or “vulnerable” people access VAD is not supported by international or domestic evidence. It is fraudulent for anyone to claim this and usually reflects lack of any other arguments.

There is overwhelming evidence that Australian citizens desire genuine choice concerning the nature of their death in situations where they are terminally ill. They wish to be able to talk openly with their loved ones and plan together for their future.

Assisted dying laws are now operating in two other Australian states and there has been no evidence of abuse of this legislation since its introduction. VAD has been operating well in Canada for several years and is due to come online in early November 2021 in New Zealand.

NSW legislators have the opportunity, through this Inquiry and by subsequently enacting laws to permit VAD, to extend to its citizens the same choice that citizens of other states now possess.

Assisted Dying Legislation is accepted by the medical profession in general

The following peak medical organizations accept the reality of assisted dying legislation and its provisions. Indeed, they have established positions regarding the participation of its members who are willing to be involved in VAD:

- Royal Australian College of General Practitioners
- The Australian College of Rural and Remote Medicine
- Royal Australasian College of Physicians
- Royal Australasian College of Surgeons
- Royal Australian & New Zealand College of Psychiatrists
- Australian and New Zealand College of Anesthetists
- Australian and New Zealand Society of Palliative Medicine
- Australian Medical Association
- Australian Nurses and Midwives Association
- Health Services Union NSW

Recommendations

Doctors For Voluntary Assisted Dying Choice (NSW):

-- recommends that a patient's right to choose the nature and timing of their own death in certain tightly restricted circumstances should be protected by law.

-- recommends that NSW follow the example of all other states of the Commonwealth, New Zealand, and Canada in immediately passing the Assisted Dying Choice Act 2021.