

**Submission
No 51**

**INQUIRY INTO PROVISIONS OF THE VOLUNTARY
ASSISTED DYING BILL 2021**

Organisation: National Secular Lobby

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National Secular Lobby
Advancing Australia's Secular Agenda

Submission to the inquiry into the provisions of the Voluntary Assisted Dying Bill 2021.

22 November 2021

About the National Secular Lobby

The National Secular Lobby (NSL)¹ is a secular, non-profit organisation, supported by pro-secular groups across Australia. The NSL, underpinned by section 116 of the Constitution, aims to promote social and political discussion and actions pertinent to the protection of the separation of Church and State in Australia and the undue privileging of religious interests in law.

The Need for Voluntary Assisted Dying (VAD) Laws

Even a well-funded palliative care system is unable to properly address patient suffering in all cases. Palliative Care Australia estimates that four percent of patients are beyond its help, and a majority of doctors surveyed by the Australian Medical Association in 2016 reported having patients who palliative care could not help.²

There is extensive evidence from inquiries around Australia, as well as the four biannual reviews released by the Victorian Voluntary Assisted Dying Review Board since their state laws came into effect in June 2019, which confirm that VAD laws can be safely and effectively implemented with no evidence of abuse or “slippery slopes”.³

Ultimately, patients should have a right to make decisions about their own medical care, and we must consider the ethics of allowing people with a terminal illness to suffer if that suffering is avoidable.

Provisions of the Bill

It is important that the Bill's safeguards and eligibility criteria balance the protection of patients and healthcare practitioners while ensuring that the regime is workable and that access is not restricted by unnecessary complexity.

The NSW Bill is based on the Western Australian VAD legislation, and we believe this is a sound implementation method. The NSL supports the Bill in its current form.

Some specific points:

Confirmation of voluntary access

It is imperative to confirm throughout the process that a patient's choice to engage with VAD is voluntary and without coercion.

Conscientious objection

We agree that medical practitioners should have the right to refuse to participate in the VAD process on any personal religious or philosophical moral grounds. This is in line with the AMA's view. As in WA's legislation, doctors should be required to inform the patient of the decision and pass on relevant information about VAD.

Discussion of VAD option

We believe that a medical practitioner or nurse should be able to initiate a discussion about VAD or suggest VAD to a person, if they also inform the person, at the same time, about available treatment and palliative care options and their likely outcomes. The current draft supports this.

Waiting periods

We believe the waiting periods as currently laid out are appropriate. A balance must be struck between maintaining process exit options and providing a meaningful and timely outcome to those who are proceeding with the process.

Access in rural areas

We must ensure that patients in remote areas have the same access to VAD as those in major cities. There is a chance that any additional hurdles in the process, such as requiring all consultations to be conducted in-person, will disproportionately affect rural patients, and this should be avoided. It has become clear that the Victorian law contains restrictions which have adversely affected patients outside metropolitan areas.

Decision-making capability assessments

We believe that the current requirement, for doctors to initiate a decision-making capability assessment if they consider it necessary in each case, to be adequate for patient protection. No other Australian VAD legislation requires mandatory assessments.

Assessment by a relevant specialist

In principle, we see the benefit for one of the assessing doctors to be either a specialist in the patient's disease or a palliative care specialist, but the practical outcomes of this requirement have become all too obvious in Victoria where this requirement is present. Very few specialists have undergone the required training and only a tiny number of trained specialists are available in rural areas. This has resulted in this requirement being a significant roadblock to VAD access. Unless there is good reason to believe that this problem would not be repeated in NSW, we believe it is appropriate for this requirement not to be included.

Summary

With every other state in Australia now with VAD legislation finalised, it is only right that NSW residents have access to the same options. The legislation implemented in Victoria and then refined in later models in other states has so far proven to be effective and not open to abuse. We believe that an implementation based on the WA model, as the current NSW draft legislation is, represents the right balance of accessibility and safety.

Footnotes

¹ [The National Secular Lobby.](#)

² [Voluntary Assisted Dying Bill 2021, Second Reading Speech.](#)

³ [Voluntary Assisted Dying Review Board Reports and Publications.](#)

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