

**Submission  
No 62**

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

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### **Parliamentary Submission: The Voluntary Assisted Dying Bill 2021 (NSW)**

I write to express my concern at the introduction of the Voluntary Assisted Dying Bill 2021 into NSW Parliament. The bill has been touted as a well-crafted, conservative piece of legislation by its proponents. Yet I feel that there are a number of general issues concerning euthanasia legislation that the bill's authors have not, to my mind, adequately addressed.

First, there is a disconnect between the ostensible justification for euthanasia legislation and the main population groups who actually avail themselves of euthanasia or assisted suicide once it is available. A key argument in favour of euthanasia legislation is that euthanasia provides a last resort for patients who are experiencing refractory pain and suffering. But the reality is that the most common reasons given for assisted suicide in the US jurisdiction of Oregon are decreasing ability to participate in activities that made life enjoyable (94%), loss of autonomy (93%) and loss of dignity (72%).<sup>1</sup> My concern is that there is a 'bait-and-switch' taking place in the legislative debate. VAD legislation is described as a narrowly applicable medical service to relieve suffering when patients are nearing death. The reality, however, is that this end of life option will be primarily used by patients who feel like they have lost their dignity and freedom.

Second, I am concerned that this legislation is the gateway to euthanasia for reasons other than terminal illness. Multiple jurisdictions that have legalised euthanasia have subsequently passed legislation to liberalise existing euthanasia laws. Belgium legalised euthanasia in 2002 for people experiencing "a condition of constant and unbearable physical or psychological suffering resulting from a serious and incurable disorder caused by illness or accident".<sup>2</sup> In 2014, the country's parliament voted to amend existing legislation to make it legally permissible for competent minors to pursue euthanasia in situations where they are in a "medically futile condition of constant and unbearable physical suffering that cannot be alleviated and that will, within a short period of time, result in death, and results from serious and incurable disorder caused by illness or accident".<sup>3</sup> Similarly, Canada legalised euthanasia in 2016 for terminally ill individuals. In 2021 that legislation was extended to include people who are suffering intolerably but who are not near the end of their lives. It will eventually include people experiencing intolerable psychiatric suffering.<sup>4</sup>

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<sup>1</sup> Oregon Health Department. *Oregon Death With Dignity Act: 2020 Data Summary*. Salem: Oregon Health Department, 2020.

<sup>2</sup> Belgian Parliament. "The Belgian Act on Euthanasia of May 28<sup>th</sup> 2002". *European Journal of Health Law* 10 (2003): 329-335.

<sup>3</sup> Kasper Raus. "The extension of Belgium's euthanasia law to include competent minors". *Journal of Bioethical Inquiry* 13;2 (2016): 305-315.

<sup>4</sup> Joan Bryden. Canadian Senate passes Bill C-7, expanding assisted dying to include mental illness. *Global News* 17<sup>th</sup> March 2021. Available from <https://globalnews.ca/news/7703262/canada-senate-passes-bill-c-7/>.

My concern is that New South Wales will eventually follow a similar path to these jurisdictions. The reality is that suffering and pain are the primary moral considerations that proponents of assisted dying use to justify euthanasia legislation. But if intolerable suffering is not confined to the end of life, then why ought we limit our legislation to terminally ill patients? The legislation is arbitrary and open to future criticisms of unprincipled exclusivity.

Finally, I am concerned about the implications that euthanasia legislation will have for members of the community experiencing mental illness. Euthanasia legislation undercuts society's efforts to ensure that its most vulnerable members receive one clear message: that life is worth living.

Here's one example: search engines fortunately block access to information about self-harm and suicide, yet in lieu of this one is instead flooded with information about access to voluntary assisted dying. Similarly, the media filter news about suicides and publish the details of mental health services in articles containing sensitive content. Yet they supply great detail about the implementation of assisted dying in states and territories, often illustrated by vignettes of terminally ill individuals who have taken their lives.

There is an insidious subtext to euthanasia laws, namely, that life can lose its meaning and value. This message has consequences for people living with mental illness.

At a time when Australia's mental health crisis is worse than ever, we should heed the warning that American philosopher David Velleman makes about euthanasia, namely, that "[providing people with] the option of dying may give people new reasons for dying".<sup>5</sup> We ought not simply focus on the benefits of a right to die, but also the burden that assisted dying legislation imposes on more vulnerable members of the community for whom the value of life is constantly in question.

If you are depressed, you crave hope – and you find it in the kindness and optimism of those around you. MPs need to consider whether the legalisation of assisted dying sends hope to the vulnerable or gives social sanction to their feelings of despair.

Yours sincerely,

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<sup>5</sup> J. David Velleman. "Against the right to die". *The Journal of Medicine and Philosophy* 17 (1992): 665-681.