



## Euthanasia and assisted suicide

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### 1. Introduction

This updated version of a May 2013 [issues backgrounder](#) takes account of the release of the draft [Voluntary Assisted Dying Bill 2017](#) in NSW on 16 May 2017. The paper canvasses recent Australian cases along with proposed reforms and recommendations in selected Australian jurisdictions: notably Victoria, South Australia, and Tasmania. Recent developments in countries that allow voluntary euthanasia and/or assisted suicide are included in this update, and there is an overview of recent developments in the United Kingdom, Scotland and New Zealand. Key journal articles and media reports have also been added, with links provided to the full text of sources. For copyright reasons, some linked items are only available to Members and staff of the NSW Parliament.

## 2. Developments in NSW

The draft [Voluntary Assisted Dying Bill 2017](#) is co-sponsored by a cross-party working group of NSW MPs who formed the NSW Parliamentary Working Group on Assisted Dying (PWGAD). PWGAD comprises Mr Alex Greenwich MP, the Hon Trevor Khan MLC, Mr Lee Evans MP, Dr Mehreen Faruqi MLC and the Hon Lynda Voltz MLC. The overview of the Bill in the Explanatory Note states:

The object of this Bill is to provide a legislative framework for the rights of terminally ill persons to request and receive assistance to end their lives voluntarily. Under this framework, certain terminally ill persons may be assisted by their medical practitioners and other nominated persons to administer a substance to themselves.

The Bill provides protection for persons providing such assistance and sets up safeguards against possible abuse of the right recognised by the Bill.

A number of previous attempts have been made to introduce similar bills. The most recent was [The Rights of the Terminally Ill Bill](#), which was introduced in the Legislative Council on 2 May 2013 by Greens MLC Cate Faerhmann. The Bill was [defeated](#) at the Second Reading stage by 23 votes to 13. For previous bills, see the May 2013 [issues backgrounder](#). For an earlier discussion of the issues surrounding this subject, see the March 2001 NSW Parliamentary Research Service paper [Euthanasia: An Update](#).

## 3. Terminology and definitional issues

A number of difficult definitional and philosophical distinctions are involved with the issue of euthanasia. Key definitions are outlined below.

**Euthanasia** is defined by the [Australian Medical Association](#) (AMA) as: “The act of deliberately ending the life of a patient for the purpose of ending intolerable pain and/or suffering”. Various sub-categories are referred to in the literature, notably: voluntary, non-voluntary, or involuntary euthanasia and/or active or passive euthanasia.

- **Voluntary euthanasia** is generally defined as: ending the life of a competent, informed patient at their request.
- **Passive euthanasia** is generally defined as: not initiating or no longer continuing life-sustaining treatment that results in death as a direct consequence of the underlying disease.

A related term is **physician assisted suicide**, applied by the [AMA](#) “where the assistance of the doctor is intentionally directed at enabling an individual to end his or her own life”. This has also been referred to as **assisted suicide** or **voluntary assisted dying**.

#### 4. Ethical arguments for and against

There are many accounts of the ethical arguments for and against voluntary euthanasia and assisted suicide. See for example:

Stanford Encyclopaedia of Philosophy, [Voluntary Euthanasia](#), revised December 2014

M Somerville, [Death talk: the case against euthanasia and physician-assisted suicide](#), Second edition. Montreal, McGill-Queen's University Press, 2014\*

E Jackson and J Keown, [Debating Euthanasia](#), Oxford, Portland, Hart Publishing, 2012\*

L Sumner, [Assisted Death: A Study in Ethics and Law](#), Oxford: Oxford University Press, 2011\*

\*The NSW Parliamentary Library can request these books on interlibrary loan.

#### 5. End-of-life treatment: Australian guidelines and legislation

On 24 November 2016, the AMA [released](#) an updated [Position Statement on Euthanasia and Physician Assisted Suicide 2016](#). The updated position statement was the result of a comprehensive year-long policy review by the AMA, which included a survey of AMA members. The AMA is opposed to euthanasia and physician-assisted suicide, arguing that doctors should not be involved in interventions that have as their primary intention the ending of a person's life. However, the AMA's position excludes the discontinuation of treatments that are of no medical benefit to a dying patient.

While acknowledging that changing the laws in this area is a matter for society and government, the AMA notes that in the event that the law is changed, the medical profession must be involved in the development of any relevant legislation, regulations and guidelines. These laws should protect:

- all doctors acting within the law;
- vulnerable patients – such as those who may be coerced or be susceptible to undue influence, or those who may consider themselves to be a burden to their families, carers or society;
- patients and doctors who do not want to participate; and
- the functioning of the health system as a whole.

According to the AMA, the [key message](#) of the 2016 position statement is the need for greater investment in quality end of life care, especially the provision of nationally consistent palliative care services.

In March 2014, the Medical Board of Australia published a [Code of Conduct for Doctors in Australia](#) which provides guidelines on the conduct of physicians in relation to end of life care. In providing these guidelines, the Board does not comment on euthanasia or physician assisted suicide.

In March 2005, the NSW Department of Health published [Guidelines for end-of-life care and decision-making](#). Since 2013, the NSW Government has identified advanced planning for quality care at the end of life stage as a priority in health and has developed an [action plan](#) for the 2013-2018 period.

In June 2016, the Victorian Government released a new [end of life and palliative care framework](#), and in November 2016 the Victorian Parliament passed the [Medical Treatment Planning and Decisions Act 2016](#), providing statutory recognition of advance care directives.

## 6. Criminal law in NSW

In NSW both euthanasia and physician assisted suicide carry heavy penalties under the criminal law. A person found guilty of engaging in active voluntary euthanasia could be convicted of murder and liable to life imprisonment under s 19A of the [Crimes Act 1900](#). A person found guilty of aiding or abetting the suicide of another person would be liable to a penalty of 10 years imprisonment per s 31C of the *Crimes Act 1900*.

Under s 31B of the *Crimes Act 1900* a survivor of a 'suicide pact' is not to be found guilty of murder or manslaughter, but may be guilty of aiding or abetting suicide or attempted suicide under s 31C. Section 31C of the *Crimes Act 1900* provides in full:

- (1) A person who aids or abets the suicide or attempted suicide of another person shall be liable to imprisonment for 10 years.
- (2) Where: (a) a person incites or counsels another person to commit suicide, and (b) that other person commits, or attempts to commit, suicide as a consequence of that incitement or counsel,

the first mentioned person shall be liable to imprisonment for 5 years.

[R v Justins](#) [2008] NSWSC 1194 is a sentencing decision. Shirley Justins had been found guilty by a jury of the manslaughter of her partner Graeme Wylie who suffered from Alzheimer's disease. Mr Wylie died on 22 March 2006 from a lethal dose of a substance known as Nembutal (which had been obtained from overseas by a co-offender—Caren Jennings—who had since committed suicide). It was accepted by the Crown that the deceased voluntarily drank this substance and that the chief motivation of Justins in providing the drug to the deceased was so that he could take his own life in accordance with what she believed to be his wishes. Justins was sentenced to a non-parole period of 22 months with a balance of term of eight months, the sentence to be served by way of periodic detention.

A later development in the above case is the decision by the NSW Court of Criminal Appeal in [Justins v Regina](#) [2010] NSWCCA 242, which overturned the manslaughter conviction and ordered a new trial. In a complex judgment, Spigelman CJ, Simpson and Johnson JJ all agreed that the trial judge had given incorrect instructions to the jury about what they had to consider when deciding if Mr Wylie had the capacity to commit suicide.

For further commentary see: G Jacobsen, '[Conviction overturned but retrial is pending](#)', *Sydney Morning Herald*, 29 October 2010; and T Faunce, '[Justins v The](#)

[Queen: Assisted Suicide, Juries and the Discretion to Prosecute](#), (2011) 18 *Journal of Law and Medicine* 706.

In April 2011, the Crown accepted Justins' plea of guilty to aiding and abetting suicide. In the sentencing decision, [R v Justins](#) [2011] NSWSC 568, the judge noted that the offender had already served the manslaughter sentence (a more serious offence) and did not impose any further sentence.

A more recent case is [R v Mathers](#) [2011] NSWSC 339. Mathers, a 64 year old man, assisted his female partner of 22 years, who suffered pain from a spinal condition, to commit suicide when she was aged 78. His assistance involved bringing her a large number of anti-depressant/pain relief pills and suffocating her. Mathers was charged with murder but the Crown accepted a plea of guilty to manslaughter. The sentencing judge imposed a suspended sentence of two years imprisonment. In imposing this suspended sentence, the judge took into account several mitigating factors including:

- The motives of love and compassion which attended his acts;
- The fact that she was very ill and in severe pain and wanted to end her life;
- The medical evidence that he suffered a depressive reaction and the development of an adjustment disorder and depression with anxiety, which impaired his perception of events and decision-making capacity;
- His plea of guilty and genuine remorse for his actions.

For a media report, see ['Mercy killer escapes jail over 'agonising conflict'](#), Sydney Morning Herald, 28 April 2011.

## 7. Criminal laws and cases in Australia

For a review of Australian legislation and case law see: L Bartels and L Otlowski, [A right to die? Euthanasia and the law in Australia](#) (2010) 17(4) *Journal of Law and Medicine* 532. There have been some recent cases in other States where people have been convicted of offences in relation to assisted suicide.

In Victoria, Victor Rijn, a 64 year old man, assisted his 70 year old wife who was suffering chronic hip pain to commit suicide. He pleaded guilty to inciting suicide and a magistrate placed him on a good behaviour bond for three years. The sentencing decision is not available online: for a media report, see A Lowe, ['Husband's suicide push driven by 'love''](#), *The Age*, 23 May 2011.

In Queensland, Merin Nielsen, a 46 year old man, assisted a 76 year old man to commit suicide by obtaining and supplying him with Nembutal. The man had several medical conditions but the extent of his pain and suffering were not clear. The accused was a beneficiary under the man's will. In the sentencing decision, [R v Nielsen](#) [2012] QSC 29, he was sentenced to three years imprisonment with a non-parole period of six months. For a media report, see R Barrett, ['Queensland teacher Merin Nielsen jailed for aiding suicide of man, 76'](#), *The Australian*, 16 February 2012.

In the ACT, a 35 year old man and his 25 year old girlfriend, who were both addicted to drugs and feeling depressed, attempted to commit suicide by overdosing on heroin. The woman died but the man did not. A jury found the man guilty of aiding

and abetting suicide and he was sentenced (on appeal) to imprisonment for two years and nine months with a non-parole period of one year and eight months: see [Walmsley v R](#) [2014] ACTCA 24. For a media report, see '[Jail sentence cut for drug addict who helped partner commit suicide](#)', *ABC News*, 2 August 2014.

## 8. Recent parliamentary material in other Australian jurisdictions

### Overview

Bills have recently been introduced and debated in two States: the [Voluntary Assisted Dying Bill 2016](#) in Tasmania, and the [Death with Dignity Bill 2016](#) in South Australia. The Victorian Government is [proposing to introduce](#) a Voluntary Assisted Dying Bill in the second half of 2017. In Western Australia, Labor and Greens MPs are working towards introducing a bill to allow assisted dying.

### Western Australia

In May 2010 WA Greens MLC Robin Chapple introduced the [Voluntary Euthanasia Bill 2010](#) to the Western Australian Parliament. The Bill was defeated at the [Second Reading](#) stage by 24 votes to 11 on 23 September 2010. A commentary on the Bill can be found [here](#).

In early 2017, WA Health Minister Roger Cook called for euthanasia to be legalised in response to a “growing demand” for terminally ill patients to have the right to end their life. According to a PerthNow newspaper [article](#), the WA Government will allow MPs to “exercise a conscience vote on euthanasia”, with Labor MLC Alannah MacTiernan and Greens MLC Robin Chapple working towards introducing a Bill to allow assisted dying. A copy of the WA Greens policy on voluntary euthanasia can be found [here](#).

### Tasmania

The [Voluntary Assisted Dying Bill 2016](#) was introduced by Labor MP Lara Giddings and Greens leader Cassy O' Connor, and tabled in the Tasmanian Parliament on 17 November 2016. Tasmanian MPs were allowed a conscience vote on the Bill on 24 May 2017. The Bill was defeated, with 16 against and eight in favour. Media [reports](#) on the defeat of the bill cited the high level of public support for voluntary assisted dying legislation across Australia and in Tasmania. These reports also highlighted the Tasmanian Parliament's concerns regarding the risks associated with voluntary euthanasia being available to vulnerable members of the community.

The 2016 Bill followed the [Voluntary Assisted Dying Bill 2013](#) which was defeated at the [second reading](#) stage, with 13 against and 11 in favour.

In preparation for the 2013 Bill, the then Premier, Lara Giddings, and Greens leader, Nick McKim, jointly released a consultation paper entitled [Voluntary Assisted Dying: A Proposal for Tasmania](#). For a media report, see G Williams, '[Tasmania leads the way on voluntary euthanasia](#)', *Sydney Morning Herald*, 27 February 2013.

Additionally, McKim had previously introduced the [Dying with Dignity Bill 2009](#) to the Tasmanian Parliament. The Bill was [defeated](#) by 15 votes to 7 in the Lower House on 4 November 2009.

### **South Australia**

The [Voluntary Euthanasia Bill 2016](#) was introduced into the House of Assembly by the ALP MP Stephanie Key on 11 February 2016. The second reading speech can be found [here](#). Debate on the Bill continued on 20 October with seven speakers but the Bill was subsequently withdrawn by Key on 2 March 2017.

After an eight month consultation period, Liberal MP Dr Duncan McFetridge and Stephanie Key prepared a new Bill, the [Death with Dignity Bill 2016](#). The Bill was introduced on 20 October 2016 and the second reading speech can be found [here](#).

The Death with Dignity Bill 2016 states that the only person who will be able to request voluntary euthanasia will be an adult who is diagnosed with a terminal medical condition and is mentally competent to make the request. Voluntary euthanasia would be allowed if, based on available medical evidence, a person's death is inevitable due to the terminal nature of their condition; the suffering of the person has become intolerable to them; and there is no reasonably available medical treatment or palliative care option that could relieve their suffering. Under the Bill, the person must be a resident of South Australia for at least 12 months.

The request must be made by the person and must be voluntary. The person making the request must be examined and assessed by two independent doctors; and the request must be witnessed by two independent witnesses. Furthermore, the Death with Dignity Bill 2016 specifically excluded anyone making a request for voluntary euthanasia on the grounds of their disability, age, or mental health condition.

On 16-17 November 2016, the Death with Dignity Bill 2016 initially passed a second reading stage with a vote of 27 to 19. The Bill was rejected following a six hour clause by clause debate which eventuated in the final vote occurring around 4:00am. A conscience vote was tied 23 votes all. The Speaker, ALP MP Michael Atkinson then used his casting vote to decide against the Bill.

Following this decision, ABC News [noted](#) that the defeat of the Death with Dignity Bill 2016 meant that a total of 15 voluntary euthanasia bills had been defeated in the South Australian Parliament.

Information on earlier voluntary euthanasia proposals in South Australia are listed below:

RG Richardson, [Euthanasia: an issues review](#), South Australian Parliament Research Library, Research Paper 25/2010.

Dr Bob Such MP (Independent), June 2010, [Voluntary Euthanasia Bill 2010](#). The Second Reading debate was adjourned on 1 July 2010.

Dr Bob Such MP (Independent), October 2008, [Voluntary Euthanasia Bill 2008](#).

Greens MLC Mark Parnell, November 2008, [Consent to Medical Treatment and Palliative Care \(Voluntary Euthanasia\) Amendment Bill 2008](#). The Bill was defeated by 11 votes to nine in the Upper House on 19 November 2009. For a commentary on the Bill see: B Pollard, [‘Fatal licence: commentary on the Consent to Medical Treatment and Palliative Care \(Voluntary Euthanasia\) Amendment Bill 2008’](#) (2010) 22(2) Bioethics Research Notes 19.

### **Victoria**

On 9 June 2016, the Victorian Parliament’s Legal and Social Issues Committee tabled its [final report](#) on its inquiry into end of life choices. During ten months of investigation, the Committee received more than 1,000 submissions and held 17 days of public hearings, hearing from 154 witnesses. Its final report included 49 recommendations to improve end of life care in Victoria. The Committee recommended that the Victorian Government should, in certain limited circumstances, legalise assisted dying. The [Government’s response](#) accepted 44 of these recommendations, including recommendations about improving palliative care and advance care planning. It also stated that the recommendation to legalise assisted dying was under review.

Following the inquiry the Government determined that the preparation of the Voluntary Assisted Dying Bill would be supported by expert legal advice and a [Ministerial Advisory Panel](#) that would provide advice on the practical and clinical implications of the Bill. The Ministerial Advisory Panel would build on the findings and recommendations of the Parliamentary Committee by seeking advice on what is required to develop and implement a legislative framework for voluntary assisted dying. On 25 January 2017, the Victorian Health Department released a [Voluntary Assisted Dying Bill discussion paper](#) to assist this process. The Panel issued an [interim report](#) in April 2017 with a final report due in July 2017.

As reported by the national press, Victoria could become [the first state in Australia to legalise assisted dying](#) for the terminally ill, when the Government introduces its bill to the Parliament in the second half of 2017.

Earlier attempts to introduce a voluntary euthanasia scheme in Victoria are discussed in the following sources:

Greens MLC Coleen Hartland [Medical Treatment \(Physician Assisted Dying\) Bill 2008](#).

Victorian Parliamentary Library Research Service, [Medical Treatment \(Physician Assisted Dying\) Bill 2008](#), Current Issues Brief 2/2008.

### **Commonwealth**

Greens Senator Richard Di Natale, [Restoring Territory Rights \(Voluntary Euthanasia Legislation\) Bill 2012](#).

Greens Senator Bob Brown, October 2010, [Restoring Territory Rights \(Voluntary Euthanasia Legislation\) Bill 2010](#). For a brief comment see M Metherell, [‘NT rights bill splits parties’](#), *Sydney Morning Herald*, 29 October 2010.



Greens Senator Bob Brown, February 2008 [Rights of the Terminally Ill \(Euthanasia Laws Repeal\) Bill 2008](#).

The Senate, Standing Committee on Legal and Constitutional Affairs, [Rights of the Terminally Ill \(Euthanasia Laws Repeal\) Bill 2008](#), June 2008.

Greens Senator Bob Brown, September 2008 [Restoring Territory Rights \(Voluntary Euthanasia Legislation\) Bill](#).

## 9. Recent media coverage in Australia

### **(a) Select articles canvassing the current debate:**

N Zhou, [‘Assisted dying: States rally as bills offer chance to legalise voluntary euthanasia’](#), The Guardian, 17 May 2017.

C Cartwright and C Douglas, [‘FactCheck Q&A: do 80% of Australians and up to 70% of Catholics and Anglicans support euthanasia laws?’](#), The Conversation, 1 May 2017.

X Symons, [‘When it comes to euthanasia, not all slippery slope arguments are ‘bullshit’](#)’, The Conversation, 13 April 2017.

K Aubusson, [‘Facts must win out over smear campaigns in NSW euthanasia debate, expert warns’](#), Sydney Morning Herald, 16 January 2017.

P Singer, [‘The tide is turning in Australia's euthanasia debate’](#), Sydney Morning Herald, 2 March 2016.

A McGee, [‘Why Australia hesitates to legalise euthanasia’](#), The Conversation, 12 November 2015.

C Aird, [‘NSW election 2015: Almost three quarters of voters support euthanasia, Vote Compass finds’](#), ABC News, 15 March 2015.

G Williams, [‘Changing minds on the right to die’](#), ABC News, The Drum, 25 February 2015.

### **(b) Select articles canvassing opposition to voluntary euthanasia:**

J Morgan [‘I'm terminally ill and the debate on euthanasia scares me’](#), Sydney Morning Herald, Comment, 17 January 2017.

A Shanahan, [‘Euthanasia: power to kill should not be state-sanctioned’](#), The Australian, 14 January 2017.

T Nightingale, [‘Palliative care doctors warn Victoria against legalising euthanasia’](#), ABC News, 5 December 2016.

P Kelly, [‘Legalise euthanasia, and compassionate society dies too’](#), The Australian, 1 October 2016.

S Hussein, [‘Why I don't support euthanasia \(and you shouldn't either\)’](#), Crikey, 17 May 2016.

Peter A Comensoli, [‘Growing euthanasia statistics should be a warning’](#), Sydney Morning Herald, 19 April 2016.

K Hitchcock, [‘The right to die or the right to kill? The argument against euthanasia’](#), The Monthly, December 2015 - January 2016.

**(c) Select articles canvassing support for voluntary euthanasia:**

L Cornies, [‘Assisted dying: The complications of legalising killing humans’](#). ABC News, 26 January 2017.

S Edelman, [‘They said my dad wouldn't suffer as he died, but he did’](#) Sydney Morning Herald, Comment, 17 January 2017.

J Robertson, [‘Euthanasia should be option for those unable to travel, says widow Angelika Elliott’](#), Sydney Morning Herald, 16 January 2017.

J Medew, [‘Four in 10 doctors want voluntary euthanasia, Australian Medical Association survey shows’](#), Sydney Morning Herald, 24 November 2016.

J Medew, [‘Doctors slam AMA position on euthanasia as ‘out of touch’](#)’, The Age, 24 November 2016.

A Wrigley, [‘Marieke Vervoort – and how the right to euthanasia can help some people to live better’](#), The Conversation, 21 September 2016.

A Denton, [‘Why are we so scared of euthanasia?’](#), Sydney Morning Herald, 25 February 2016.

## 10. Recent academic commentary in Australia

### **Journal articles**

N Cowdery, [A dignified ending](#) (2017) 33 *Law Society of NSW Journal*, pp.28-29

I Maddocks, [Palliative care and voluntary-assisted dying: the common ground](#), *Medical Journal of Australia Insight*, 6 February 2017

L Willmott, B White, C Stackpoole, K Purser and A McGee, [\(Failed\) voluntary euthanasia law reform in Australia: Two decades of trends, models and politics](#).(2016) 39(1) *University of New South Wales Law Journal*, pp. 1-46

N Bhatia, B White and L Deliens, [How should Australia respond to media-publicised developments on euthanasia in Belgium?](#) (2016) 23(4) *Journal of Law and Medicine*, pp.835-848

B White, L Willmott and J Savulescu, [Voluntary palliated starvation: A lawful and ethical way to die](#). (2014) 22 *Journal of Law and Medicine*, pp. 276-386

A Plumb, [The future of euthanasia politics in the Australian state parliaments](#) (2014) 29(1) *Australasian Parliamentary Review*, pp. 67-86

## Reports

H Swerissen and S Duckett, [Dying Well](#). Grattan Institute Report No. 2014-10, September 2014.

## Books

D Campbell, [Doing us slowly: What's happened to the Australian voluntary euthanasia debate](#), Griffin Press Australia, 2016.

## Websites

The Queensland University of Technology's [Australian Centre for Health Law Research](#) has an [End of Life Law in Australia](#) website which includes a dedicated section on [euthanasia and assisted dying](#).

## 11. Countries that permit assisted suicide or euthanasia

### Overview

Several countries have laws that permit assisted suicide and/or euthanasia:

Country	Laws	The laws permit
US – some States	e.g. Oregon: <a href="#">Death with Dignity Act</a> (1997)	Assisted suicide
Netherlands	<a href="#">Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2002</a>	Euthanasia / assisted suicide
Belgium	<a href="#">Act on Euthanasia 2002</a>	Euthanasia / assisted suicide
Switzerland	<a href="#">Swiss Criminal Code</a> , Art 115 (1942)	Assisted suicide
Canada	<a href="#">An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)</a> (2016)	Euthanasia / assisted suicide
Luxembourg	Loi du 16 mars 2009 sur l'euthanasie et l'assistance au suicide (no English version)	Euthanasia / assisted suicide
Columbia	Constitutional Court <a href="#">decision</a> and <a href="#">Ministry of Health Resolution 1216 of 2015</a>	Euthanasia

Recent publications that provide an overview of the laws in these countries include:

Legislative Council Legal and Social Issues Committee, [Inquiry into end of life choices: Final Report](#), Parliament of Victoria, June 2016, Appendix 3

J Nicol and M Tiedemann, [Euthanasia and Assisted Suicide: The Law in Selected Countries](#), Canada Parliamentary Library, October 2015

P Lewis, [Assisted dying: What does the law in different countries say?](#) BBC News, 6 October 2015

O Dyer and others, [Assisted dying: law and practice around the world](#) (2015) 351 *British Medical Journal* h4481

The following sub-sections cover all of the above countries except Luxembourg and Colombia. They contain a brief summary of the laws, government and parliamentary publications where available, and academic commentary. The [final sub-section](#) lists recent comparative studies examining several of these countries.

## **United States**

Four US States have passed legislation allowing for physician-assisted suicide: [Oregon](#) (1997), [Washington](#) (2009), [Vermont](#) (2013) and [California](#) (2015). In addition, the Supreme Court of Montana has ruled that doctors can use the existing defence of consent if charged with homicide for assisting a competent, terminally ill patient to die by suicide: [Baxter v State of Montana](#) [2009] MT 449. The following section contains key sources relating to Oregon.

### **Oregon**

The [2016 summary](#) of the report on Oregon's Death with Dignity Act states:

Oregon's Death with Dignity Act (DWDA), enacted in late 1997, allows terminally ill adult Oregonians to obtain and use prescriptions from their physicians for self administered, lethal doses of medications. The Oregon Public Health Division is required by the DWDA to collect compliance information and to issue an annual report.

These annual reports, which contain a range of statistical and other material, are available at: Oregon Public Health Division, [Death with Dignity Act](#). Oregon State Government also provides [FAQs about Oregon's Death with Dignity Act](#).

Academic commentary on Oregon includes:

L Ganzini, [Legalised physician-assisted death in Oregon](#) (2016) 16(1) *Queensland University of Technology Law Review* 76-83

M Plumer, [The Oregon Experience: What Do We Really Know?](#) (2016) 19(8) *Journal of Palliative Medicine* (2016) 19(8) 803

D Orentlicher and others, [Clinical Criteria for Physician Aid in Dying](#) (2016) 19(3) *Journal of Palliative Medicine* 259-262

K Hedberg and others, [The 10-year experience of Oregon's Death with Dignity Act: 1998-2007](#) (2009) 20(2) *Journal of Clinical Ethics* 124-32

KA Chamberlain, [Looking for a "good death": the elderly terminally ill's right to die by physician assisted suicide](#) (2009) 17(1) *Elder Law Journal* 61.

H Herbert and K Foley, [Physician-Assisted Suicide In Oregon: A Medical Perspective](#) (2008) 24(2) *Issues in Law & Medicine* 121-145

L Ganzini and E Dahl, [Physician-assisted suicide in Oregon](#) in *Giving Death a Helping Hand*, edited by D Birnbacher and E Dahl, Springer-Verlag, 2008.

TE Quill, [Legal regulation of physician-assisted death – the latest report cards](#) (2007) 356(19) *The New England Journal of Medicine* 1911

A Rothschild, [Oregon: does physician assisted suicide work?](#) (2004) 12(2) *Journal of Law and Medicine* 21

R Steinbrook, [Physician assisted suicide in Oregon – an uncertain future](#) (2002) 346(6) *New England Journal of Medicine* 460

### **The Netherlands**

In 2002, the Netherlands legalised euthanasia. Euthanasia is still a criminal offence but the law codified a 20 year old convention of not prosecuting doctors who have committed euthanasia in specific circumstances. The Dutch [Termination of Life on Request and Assisted Suicide \(Review Procedures\) Act 2002](#) states that euthanasia and physician assisted suicide are not punishable if the attending physician acts in accordance with criteria of due care. These criteria concern the patient's request; the patient's suffering (unbearable and hopeless); the information provided to the patient; the presence of reasonable alternatives; consultation of another physician; and the applied method of ending life. To demonstrate their compliance, the Act requires physicians to report euthanasia to a review committee.

On 7 January 2016, the guidelines for performing euthanasia on people with severe dementia were relaxed so that patients can be helped to die even if they are incapable of making their current feelings known. However, they will have to have signed a euthanasia declaration with their family doctor before they became seriously ill: [Euthanasia rules relaxed for people with serious dementia](#), *DutchNews.nl*, 7 January 2016. In October 2016, it was reported that the Dutch government intends to draft a law that would legalise assisted suicide for people who feel they have “completed life” but are not necessarily terminally ill: [Netherlands may extend assisted dying to those who feel 'life is complete'](#), *The Guardian*, 13 October 2016.

#### **Government sources**

[Regional Euthanasia Review Committee](#)

#### **Academic commentary**

S Kim and others, [Euthanasia and Assisted Suicide of Patients with Psychiatric Disorders in the Netherlands 2011 to 2014](#) (2016) 73(4) *JAMA Psychiatry* 362-368

J Koopman and T Boer, [Turning Points in the Conception and Regulation of Physician-Assisted Dying in the Netherlands](#) (2016) 129(8) *American Journal of Medicine* 773–775

B Lerner and A Caplan, [Euthanasia in Belgium and the Netherlands: On a Slippery Slope?](#) *JAMA Internal Medicine*, 10 August 2015.

M Snijdewind and others, [A Study of the First Year of the End-of-Life Clinic for Physician-Assisted Dying in the Netherlands](#) (2015) 175(10) *JAMA Internal Medicine* 1633-1640

C Ruijs and others, [Unbearable suffering and requests for euthanasia prospectively studied in end-of-life cancer patients in primary care](#) (2014) 13 *BMC Palliative Care* 62

B Onwuteaka-Philipsen and others, [Trends in end-of-life practices before and after the enactment of the euthanasia law in the Netherlands from 1990 to 2010: a repeated cross-sectional survey](#) (2012) 380(9845) *The Lancet* 908-915

M Rurup and others, [The first five years of euthanasia legislation in Belgium and the Netherlands: Description and comparison of cases](#) (2012) 26(1) *Palliative Medicine* 43-49

J Rietjens and others, [Two decades of research on euthanasia from the Netherlands: what have we learnt and what questions remain?](#) (2009) 6(3) *Journal of Bioethical Inquiry* 27

H Buiting and others, [Reporting of euthanasia and physician-assisted suicide in the Netherlands: descriptive study](#) (2009) 10(1) *BMC Medical Ethics* 18

J Griffiths, [Physician-assisted suicide in the Netherlands and Belgium](#) in *Giving Death a Helping Hand*, edited by D Birnbacher and E Dahl, Springer-Verlag, 2008

A van der Heide and others, [End-of-Life Practices in the Netherlands under the Euthanasia Act](#) (2007) *New England Journal of Medicine*, 356 (19) pp.1957-1965

J Legemaate, [The Dutch Euthanasia Act and related issues](#) (2004) 11(3) *Journal of Law and Medicine* 312

F Parkes, [Tolerance and pragmatism in the Netherlands: euthanasia, coffeeshops and prostitution in the purple years, 1994-2002](#) (2003) 5(4) *International Journal of Police Science and Management*

## **Belgium**

[The Belgian Act on Euthanasia](#) is similar to the Dutch Euthanasia Act, including similar criteria of due care. In February 2014, the Belgian Parliament passed a bill (by 86 votes to 44) extending the existing legislative scheme by allowing euthanasia for terminally ill children without any age limit: see [Belgium's parliament votes through child euthanasia](#), BBC News, 13 February 2014.

### **Academic commentary**

S Dierickx and others, [Euthanasia in Belgium: trends in reported cases between 2003 and 2013](#) (2016) 188(16) *Canadian Medical Association Journal* E407-E414

K Chambaere and others, [Recent Trends in Euthanasia and Other End-of-Life Practices in Belgium](#) (2015) 372 *New England Journal of Medicine* 1179-1181

B Lerner and A Caplan, [Euthanasia in Belgium and the Netherlands: On a Slippery Slope?](#) *JAMA Internal Medicine*, 10 August 2015

S Dierickx and others, [Comparison of the Expression and Granting of Requests for Euthanasia in Belgium in 2007 vs 2013](#) (2015) 175(10) *JAMA Internal Medicine* 1703-1706

J Cohen and others, [Nationwide survey to evaluate the decision-making process in euthanasia requests in Belgium: do specifically trained 2nd physicians improve quality of consultation?](#) (2014) 14 *BMC Health Services Research* 307

R Cohen-Almagor, [First do no harm: pressing concerns regarding euthanasia in Belgium](#) (2013) 36 *International Journal of Law and Psychiatry* 515-521

M Rurup and others, [The first five years of euthanasia legislation in Belgium and the Netherlands: Description and comparison of cases](#) (2012) 26(1) *Palliative Medicine* 43-49

Y Van Weasemael and others, [Process and outcomes of euthanasia requests under the belgian act on euthanasia: a nationwide survey](#) (2011) 42(5) *Journal of Pain and Symptom Management* 721-733

T Smets, [Legal euthanasia in Belgium: characteristics of all reported euthanasia cases](#) (2010) 48(2) *Medical Care* 187

T Smets and others, [The medical practice of euthanasia in Belgium and The Netherlands: legal notification, control and evaluation procedures](#) (2009) 90(2) *Health Policy* 181

J Bilsen and others, [Medical End-of-Life Practices under the Euthanasia Law in Belgium](#) (2009) 361 *New England Journal of Medicine* 1119

J Bilsen and others, [Changes in medical end-of-life practices during the legalization process of euthanasia in Belgium](#) (2007) 16(4) *Social Science & Medicine* 803

## **Switzerland**

### **Legislation**

The offence of assisted suicide in Article 115 of the [Swiss Criminal Code](#) is only committed if the person providing assistance does so “for selfish motives”. This means that it is not an offence for a person who assists a suicide without any self-interested motivation. Swiss law does not otherwise regulate the practice of assisted suicide. There is no requirement that the person seeking assistance have a terminal illness or that the assistance be provided by a physician. However, a physician’s prescription is needed to obtain the lethal drugs that are used in assisted suicide. The Swiss Academy of Medical Sciences has published guidelines on assisted suicide as part of its [Medical-Ethical Guidelines on End of Life Care](#). With no legal requirement of Swiss residency, Switzerland has become a destination for foreigners who are seeking assistance to die by suicide. A number of right-to-die associations, such as [Dignitas](#), assist foreigners and residents to die by suicide.

### **Academic commentary**

S Gauthier and others, [Suicide tourism: a pilot study on the Swiss phenomenon](#) (2015) 41 *Journal of Medical Ethics* 611-617

S Luley, [Suicide tourism': creating misleading 'scientific' news](#) (2015) 41 *Journal of Medical Ethics* 618-619

S Brauer, [Swiss physicians' attitudes to assisted suicide: A qualitative and quantitative empirical study](#) (2015) 145 *Swiss Medical Weekly* w14142

N Steck and others, [Time-trends in assisted and unassisted suicides completed with different methods: Swiss National Cohort](#), (2015) 145 *Swiss Medical Weekly* w14153

N Steck and others, [Suicide assisted by right-to-die associations: a population based cohort study](#) (2014) 43(2) *International Journal of Epidemiology* 614-622

R Andorno, [Nonphysician-Assisted Suicide in Switzerland](#) (2013) 22(3) *Cambridge Quarterly of Healthcare Ethics* 246-53

S Fischer and others, [Reasons why people in Switzerland seek assisted suicide: the view of patients and physicians](#) (2009) 139 *Swiss Medical Weekly* 333-338

## **Canada**

### **Cases**

In February 2015, the [Supreme Court of Canada](#) declared that sections of the Criminal Code which prohibit a physician's assistance in terminating life were unconstitutional for unjustifiably infringing upon the right to life, liberty and security of the person in section 7 of the [Canadian Charter of Rights and Freedoms](#). The Court declared that the provisions in the Criminal Code were:

... void insofar as they prohibit physician-assisted death for a competent adult person who (1) clearly consents to the termination of life; and (2) has a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition.

The Court suspended its declaration so that it would not come into effect for 12 months, stating that "it is for Parliament and the provincial legislatures to respond, should they so choose by enacting legislation consistent with the constitutional parameters set out in the judgment". On 15 January 2016, the Court granted a four-month extension of the suspension, to 7 June 2016.

### **National legislation**

On 17 June 2016, the Parliament of Canada enacted [An Act to amend the Criminal Code and to make related amendments to other Acts \(medical assistance in dying\)](#). Subject to eligibility requirements and safeguards, the Act permits medical practitioners and nurse practitioners to provide medical assistance in dying, which is defined under clause 241.1 as:

- (a) the administering by a medical practitioner or nurse practitioner of a substance to a person, at their request, that causes their death; or
- (b) the prescribing or providing by a medical practitioner or nurse practitioner of a substance to a person, at their request, so that they may self-administer the substance and in doing so cause their own death.



In brief, the eligibility requirements for a person are all of the following (cl 241.2(1)):

- (a) they are eligible — or, but for any applicable minimum period of residence or waiting period, would be eligible — for health services funded by a government in Canada;
- (b) they are at least 18 years of age and capable of making decisions with respect to their health;
- (c) they have a grievous and irremediable medical condition;
- (d) they have made a voluntary request for medical assistance in dying that, in particular, was not made as a result of external pressure; and
- (e) they give informed consent to receive medical assistance in dying after having been informed of the means that are available to relieve their suffering, including palliative care.

### **Quebec legislation**

In June 2014, Quebec's National Assembly passed [Bill 52, An Act respecting end-of-life care](#), which came into force on 10 December 2015. The Act establishes specific requirements for certain types of end of life care—namely palliative sedation and medical aid in dying—which is defined as a physician administering a substance that ends the life of a patient at their request. A mentally competent adult who is “at the end of life”; has an incurable illness; is in an advanced state of declining capacities; and is suffering unbearably can request medical aid in dying. The Act creates the Commission on End-of-life Care to review reports to determine whether the physician complied with all the requirements of the law.

In October 2016, the Minister of Health and Social Services tabled the first annual activities report of the Commission on End-of-life Care: see [Commission on end-of-life care: Tabling of the first report](#), CIUSSS - MWI News, 24 October 2016.

### **Government sources**

Government of Canada, [Medical assistance in dying](#), 26 April 2017.

External Panel on Options for a Legislative Response to Carter v. Canada, [Consultation on Physician-Assisted Dying: Summary of Results and Key Findings](#), Final Report, December 2015

[Provincial-Territorial Expert Advisory Group on Physician-Assisted Dying: Final Report](#), November 2015

### **Parliamentary sources**

Canada Parliamentary Library, Bill C-14, [An Act to amend the Criminal Code and to make related amendments to other Acts \(medical assistance in dying\)](#), April 2016

Special Joint Committee on Physician-Assisted Dying, [Medical Assistance in Dying: A Patient-Centred Approach](#), February 2016

Canada Parliamentary Library, [Euthanasia and Assisted Suicide in Canada](#), December 2015

Canada Parliamentary Library, [Carter v. Canada: The Supreme Court of Canada's Decision on Assisted Dying](#), October 2015.

Quebec National Assembly Select Committee on Dying with Dignity, [Dying with Dignity Report](#), March 2012

**Other reports**

Royal Society of Canada Expert Panel, [End-of-Life Decision-Making](#), Report, November 2011

**Academic commentary**

H Chochinov and C Frazee, [Finding a balance: Canada's law on medical assistance in dying](#) (2016) 388(10044) *The Lancet* 543–545

R Upshur, [Unresolved issues in Canada's law on physician-assisted dying](#), (2016) 388 (10044) *The Lancet* 545–547

B Chan and M Somerville, [Converting the 'Right to life' to the 'Right to Physician-assisted suicide and euthanasia': An analysis of Carter v Canada \(Attorney General\), Supreme Court of Canada](#). (2016) 24 (2) *Medical Law Review* 143-175

**Recent comparative studies**

E Emanuel and others, [Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe](#) (2016) 316(1) *JAMA* 79-90

N Steck and others, [Euthanasia and assisted suicide in selected European countries and US states: systematic literature review](#) (2013) 51(10) *Medical Care* 938-944

P Lewis and I Black, [Adherence to the Request Criterion in Jurisdictions Where Assisted Dying Is Lawful? A Review of the Criteria and Evidence in the Netherlands, Belgium, Oregon, and Switzerland](#) (2013) 41(4) *Journal of Law, Medicine & Ethics* 885-898

B Mishara and D Weisstub, [Premises and evidence in the rhetoric of assisted suicide and euthanasia](#) (2013) 36(5-6) *International Journal of Law and Psychiatry* 427-435

I Levene and M Parker, [Prevalence of depression in granted and refused requests for euthanasia and assisted suicide: a systematic review](#) (2011) *Journal of Medical Ethics* 37(4) 205-211

G Lewy, [Assisted Death in Europe and America: Four Regimes and Their Lessons](#), Oxford, New York, Oxford University Press, 2011 (the NSW Parliamentary Library can request a copy of this book on interlibrary loan)

## 12. Developments in other countries

This section focuses on developments in the United Kingdom, Scotland and New Zealand. For media articles reporting on developments in these and other countries, see The Guardian's [Assisted Suicide](#) webpage.

## **United Kingdom**

### **Bills**

Several Private Member Bills on assisted dying have been introduced into the UK Parliament without success. In the House of Commons, the most recent Bill was the [Assisted Dying \(No. 2\) Bill](#), introduced by Labour MP Rob Marris. In September 2015, the Bill was defeated at the second reading stage with 330 MPs voting against and 118 voting for the Bill. In the House of Lords, the most recent Bill is the [Assisted Dying Bill](#), which is sponsored by Conservative Peer Lord Hayward. The Bill had its first reading on 6 June 2016 but has not had a second reading.

### **Parliamentary sources**

S Barber, S Lipscombe and J Dawson, [The Assisted Dying \(No 2\) Bill 2015](#), House of Commons Library, Briefing Paper No. 7292, September 2015

### **Cases**

Debbie Purdy had multiple sclerosis and had indicated that, at some stage, she may have wanted her husband to help her to travel to a jurisdiction where assisted suicide was permitted. She asked the Department of Public Prosecutions (DPP) to identify the factors he would need to take into account in deciding whether to give his consent, subject to prosecution for the offence of assisting suicide contrary to section 2 of the [Suicide Act 1961](#) (UK). The DPP declined to assist, and Purdy sought judicial review. In [R \(on the application of Purdy\) v DPP](#) [2009] UKHL 45 the Law Lords granted her application and ordered the DPP to set out a policy identifying the facts and circumstances her husband would have to take into account in a case such as hers. The [Policy for prosecutors in respect of cases of encouraging or assisting suicide](#) was published in February 2010 by the Crown Prosecution Service (England and Wales).

In [R \(Nicklinson\) v Ministry of Justice](#) [2012] EWHC 2381, the High Court rejected an application for judicial review by two persons (Nicklinson and Martin) who were suffering from catastrophic physical difficulties and who wished to obtain assistance to end their lives. The claimants unsuccessfully sought declarations in relation to a number of issues, including whether voluntary euthanasia was a possible defence to murder; whether the *Suicide Act* was incompatible with the European Convention on Human Rights; and whether the DPP had a duty to clarify existing policy on assisted suicide so that third parties providing assistance in Switzerland would know whether they faced prosecution in the UK. Mr Nicklinson died shortly after the decision. His wife was granted leave to appeal his case in relation to the human rights issue and another man (Paul Lamb) joined the appeal. The Supreme Court dismissed the Nicklinson/Lamb appeal by a majority of seven to two: see [R on the application of Nicklinson and Lamb v Ministry of Justice](#) [2014] UKSC 38.

### **Reports**

The Commission on Assisted Dying, [The Commission on Assisted Dying Final Report](#), Demos, January 2012

### **Academic commentary**

E Wicks, [The Supreme Court Judgment in Nicklinson: One step forward on assisted dying; two steps back on human rights](#) (2015) 23(1) *Medical Law Review* 144-156

C Dyer, [Supreme Court says law on assisted dying may change in the future](#) (2014) 348 *British Medical Journal* g4290

R Daw and A Solomon, [Assisted suicide and identifying the public interest in the decision to prosecute](#) [2010] Issue No 10 *Criminal Law Review* 737.

B Murphy, [Human rights, human dignity and the right to die: lessons from Europe on assisted suicide](#) (2009) 33(6) *Criminal Law Journal* 341.

J Keown, [Purdy: assisted suicide by judicial legislation](#) (2009) Vol 159, No 7387 *New Law Journal* 1340.

M Hirst, [Assisted suicide after Purdy: the unresolved issue](#) [2009] Issue 12 *Criminal Law Review* 870.

S McLean, [Assisted dying: the view from the United Kingdom](#) in *Giving Death a Helping Hand*, edited by D Birnbacher and E Dahl, Springer-Verlag, 2008.

D Bell, [The legal framework for end of life care: a United Kingdom perspective](#) (2007) 33 *Intensive Care Med* 158.

## **Scotland**

### **Bills**

In November 2013, the [Assisted Suicide \(Scotland\) Bill](#)—a Private Members Bill—was introduced in the Scottish Parliament. Following the stage one debate on 27 May 2015, a motion on the general principles of the Bill was put to a division. The result was a decision against the motion by 82 votes to 36.

### **Parliamentary sources**

Health and Sport Committee, [Stage 1 Report on Assisted Suicide \(Scotland\) Bill](#), Scottish Parliament, 15 April 2015

Scottish Parliament Information Centre, [Assisted Suicide \(Scotland\) Bill](#), January 2015

## **New Zealand**

### **Bills**

In 2003, Peter Brown introduced a Private Members Bill, [Death with Dignity Bill 2003](#). The Bill was defeated on 30 July 2003 by 60 votes to 58. In October 2015, David Seymour MP (ACT New Zealand) entered the [End of Life Choice Bill](#) into the [Members Bill Ballot](#). The Bill has not yet been introduced into Parliament.

### **Cases**

In a 2012 case, a man who pleaded guilty to assisting his wife to die by suicide was discharged without conviction (previous sentencing decisions in New Zealand are referred to in the judgment): [R v Mott](#) [2012] NZHC 2366.

In a 2015 case, a woman who was dying from a brain tumour applied to the High Court for declarations concerning the meaning of two provisions of the *Crimes Act*

1961 to determine whether or not her doctor could lawfully accede to her requests for assistance in dying. The court refused to make these declarations: [Seales v Attorney General](#) [2015] NZHC 1239.

**Parliamentary sources**

Health Committee, [New Zealanders' thoughts on medically-assisted dying](#), *Media Release*, 24 August 2016

M Street, [End of Life Choice Bill](#) (Draft for Consultation), July 2012

New Zealand Parliamentary Library, [Voluntary Euthanasia and New Zealand](#), Background Note 07/2003, 22 September 2003

### 13. Advocacy group websites for and against euthanasia

[Australian Nursing and Midwifery Federation \(SA Branch\) – Be the Bill: Support Voluntary Euthanasia](#)

[Christians supporting choice for voluntary euthanasia](#)

[Doctors Opposed to Euthanasia](#)

[Dying with Dignity NSW](#)

[Dying with Dignity Victoria](#)

[Dying with Dignity Western Australia](#)

[Euthanasia.com](#)

[Exit International Australia](#)

[Go Gentle Australia](#)

[HOPE: preventing euthanasia & assisted suicide](#)

[Lives Worth Living](#)

[Right to Life NSW](#)

[Real Dignity Tasmania](#)

[Right to Life Australia](#)

[South Australian Voluntary Euthanasia Society \(SAVES\)](#)

[Voluntary Euthanasia Party](#)

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