



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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**SELECT COMMITTEE ON END OF LIFE CHOICES IN THE ACT**

Ms Bec Cody MLA (Chair), Mrs Vicki Dunne MLA (Deputy Chair), Ms Tara Cheyne MLA,  
Mrs Elizabeth Kikkert MLA, Ms Caroline Le Couteur MLA.

## Submission Cover Sheet

### End of Life Choices in the ACT

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Dear Members of the Committee,

Thank you for providing the public the opportunity to comment this matter of importance. The topic, end of life choices in the ACT, encompasses a range of important issues that I have set out below. My thoughts set out below particularly respond to terms of reference 2, 3, 4 and 5 and I approach the matter as a lay individual. The views expressed within are my own as a private citizen, and do not represent views held or endorsed by my employer or any organisation with which I am associated.

Regards

Gregory Lloyd

### [The impact of the \*Euthanasia Laws Act 1997\* \(Cth\) on the ACT's expression of optimal health policy](#)

The introduction of the Euthanasia Laws Bill (the Bill), and subsequent passage of the *Euthanasia Laws Act* (the Act) represents the most severe belittlement of the Australian Capital Territory and its residents in the Territory's history, and was similarly belittling of the Northern Territory and Norfolk Island. The Bill was a reactionary response to courageous leadership of the Parliament of the Northern Territory in delivering an important aspect of health care in a civilised society – life-terminating services to consenting and eligible patients.

While the encumbrance of territory rights by the Commonwealth is likely constitutional, it is not therefore automatically moral nor proper. Behind the paternalistic attitudes of the Act and its supporters, is a predication of immaturity and lack of sophistication of the territories that is insulting to the ACT Legislative Assembly and to ACT residents. The Act's continued force is an ongoing insult to Canberrans, and the Commonwealth's continued control over internal matters underscores the discrimination against the ACT in a federal context. The ACT is inhibited from enacting our own laws, sapped of powers afforded to the states and under-represented in the Parliament of Australia. There is no clear pathway to parity. The Act represents a dinosaur, unwelcome at its inception and even less so in its third decade of force.

As a first step in correcting this outrageous insult to the ACT, the Committee should recommend the use of all available methods to convince the Parliament of Australia to repeal the Act. It behoves every MLA to exert their full influence on colleagues within their respective parties to change Australian law by repealing this insulting legislation.

The Committee should also consider, with appropriate legal advice, the likelihood of success in a High Court challenge to the constitutionality of the law which may have been explicated in the decades of its effect.

## Rights of individuals to choose and enact life-terminating care options

It is a long-held principle that a medical patient who demonstrates a full understanding of the consequences of their decisions and has soundness of mind has unmitigated control over their medical affairs. We afford this right to patients throughout all phases of life: in choosing or refusing treatments for ailments, regardless of the efficacy of the nominated treatment; in avoiding prophylactic procedures such as vaccines or preventative surgery; and in choosing interventions with a high risk of death. We extend this principle of control to include advance instruction of the withholding of life-saving treatment such as resuscitation. In all these cases of highly negative medical decisions, a threshold exists for the patient to demonstrate they understand, to an appropriate extent, the consequence of their decision and is of sound mind. It is a small logical step to extend a patient's right to choose to an actively life-terminating medical intervention.

There are many spurious arguments against the availability of euthanasia in a medical context. For example, it is likely the Committee will receive earnest representations that euthanasia is an affront to any of many gods, religions or supernatural belief systems. It is likely to also receive representations that euthanasia diminishes the value of any individual's life, or tarnishes society's respect for life generally. Any of these arguments could equally, and irrelevantly, be made in respect of existing medical procedures for which there are life-threatening or likely life-ending consequences.

Other jurisdictions have made euthanasia available in a strictly controlled framework of eligibility, and clearly evinced patient consent. In particular, I draw the Committee's attention to the routinely required thresholds which I consider desirable elements of any such eligibility tests:

- Physical suffering as a result of incurable terminal illness
- Active, enduring and unvitiated patient consent
- Full patient understanding of their prospects and the consequences of euthanasia

The Committee should look to other jurisdictions' implementation of euthanasia, and borrow from them the protective measures employed.

The Committee should actively reject religious representations that would seek to withhold, on spiritual or religious grounds, medical treatments from the ACT population generally. There is no role for supernatural belief systems in public policy.

## Consequences of the lack of an existing framework

Australia has been without any serious legal, policy or open social development afforded by the availability of the assisted dying medical procedure. If laws had not inhibited the availability of assisted dying in the 1990s, Australia might have been an active participant in the development of protocols and thresholds in order to ensure the procedure was available to eligible and consenting persons.

With the exception of recent changes in Victoria, legal and policy development has essentially been at a standstill, depriving the medical community of any framework in which to discuss pathways to medico-legal acceptance. Public advocacy has been marginalised and has essentially taken a shortcut to making available information on conducting one's own unassisted dying. This has led to threats to censor and the actual censorship of material that discusses the procedure, or indeed even advocates for it.

Socially, the drive for greater availability of assisted dying has not been delayed in any measure. While assisted dying is not widely openly discussed, it is a rare and fortunate Australian who has not been touched by the painful torture that marks a lingering terminal diagnosis of a loved one. Instead, the formulation of a social position is driven into the psyche of individuals and expressed only in furtive discussions with confidants. Our social conscience, and our desire for change, is shattered into 24 million thoughts not bound together with a common focus or direction. We cannot properly discuss – either at a philosophical or practical level – what our parents would want at the end of their life, nor if we were to discover it, to make their wishes known to their medical practitioners for fear of imprisonment.

Instead, we are left to the unsettling unspecificity of ‘adequate pain relief’ and ‘making them comfortable’ and the doctrine of double effect that may hasten their demise by sheer analgesic power. I want, when the time comes and if I am consenting and eligible, to instruct my own death. I want to ensure that my family, in faithfully enacting my instruction, shoulder no uncertainty as to its desirability or to its lawfulness. This is a right of an individual, but Australia has deprived itself of the capacity or framework for an individual to express it.

The Committee should look to the policy, legal and social development conducted offshore, whilst Australia has idled on the topic of assisted dying. It should draw upon these developments to inform any proposed model of assisted dying, and indeed take heed of the development of social understanding of the procedure. It may be appropriate to adopt the same legal tests in use at the *beginning* of regimes in other jurisdictions rather than those that have incrementally developed over time.

### [Desirability of a nationally uniform framework](#)

It is desirable that Australian states and territories employ a uniform framework for the availability of euthanasia. Such a uniformity would prevent any discrimination of availability of euthanasia, and would simplify navigation of the required thresholds for medical practitioners and patients alike. Additionally, uniformity would ensure patients and medical practitioners do not inadvertently breach laws against interstate access of medical services, such as those that mar the disparate abortion legislations of Australia.

National uniformity is a desirable feature of any euthanasia laws implemented by the ACT. However, I caution that opponents of euthanasia may frustrate its implementation in the ACT in the false pursuit of a national consensus.

The Committee should seek to coordinate a uniform euthanasia framework with other Australian jurisdictions. The pursuit of this objective should not be employed as a means to prevent the implementation of euthanasia in the ACT.