



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON VOLUNTARY ASSISTED DYING BILL

Ms Suzanne Orr MLA (Chair), Ms Leanne Castley (Deputy Chair),
Mr Ed Cocks MLA, Dr Marisa Paterson MLA

Submission Cover Sheet

Inquiry into the Voluntary Assisted Dying Bill 2023

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**Responses to the Voluntary Assisted Dying Bill 2023,
submitted by Mr Michael Boesen on behalf of 14 ACT Residents**

This submission is made on behalf of 14 people. Our names and addresses are provided at the end of this submission. In April 2023 we were signatories to a detailed submission comprising *Responses to the ACT Government's Discussion paper on VAD*. The views expressed in the following pages are totally consistent with the views expressed in that earlier submission.

In developing our responses we have given consideration to the content of these three documents published by the ACT Government: *Voluntary Assisted Dying Bill 2023*, the *Explanatory Statement and Human Rights Compatibility Statement* and the *Summary of the ACT's framework for voluntary assisted dying*.

In summary, our Responses are these:

1. We commend the ACT Government for its decision to implement legislation that will provide access to provisions for VAD in the ACT.
2. We support the intention to NOT include a "time left to live" eligibility requirement.
3. We agree that people who are suffering intolerably because of an "advanced, progressive condition that will cause death" should be given access to VAD. However we feel that access to VAD should also be possible for people whose condition is less dire, but who are suffering intolerably as a consequence of an advanced, serious physical or psychological condition or conditions, or in the case of persons aged 81 or older, an intolerable quality of life with no prospect for improvement.
4. We are in favour of providing access to VAD by some people who have lost their decision-making capacity and some people younger than 18, providing that such people are able to satisfy other specific criteria for access. We are disappointed that the Government has decided to not implement such provisions in the initial legislation. However we accede to its approach of reconsidering this matter after evaluating the operation of the legislation for a number of years.

We commend the ACT Government for its decision to implement legislation that will provide access to provisions for VAD in the ACT

We believe that when the legislation for VAD is implemented in the ACT it will provide a means of achieving a peaceful and dignified death for people who are suffering grievously and who wish to end their life at a time and in a situation of their choice. We urge the Government to implement legislation for VAD at the earliest possible date.

We support the Bill's approach of NOT having a "limited time left to live" eligibility requirement

In our April 2023 submission we expressed our concern about the possibility of implementing legislation that would restrict access to VAD so that it is only available

to people who have a specified limited time left to live. We strongly endorse the Government's decision to not include any such restriction in its legislation.

We do NOT support limiting access to VAD so that it is only available to people who have an "advanced, progressive condition that will cause death"

The Eligibility Requirements proposed in the Bill indicate that to be given access to VAD, the person's "relevant condition(s)" must be advanced, progressive and expected to cause death and they are suffering intolerably. We strongly support access to VAD being provided to people who are in such a dire situation.

However, in our April 2023 submission, we proposed that the eligibility requirements for access to VAD should not be limited to being available to only people who have a condition that is "advanced, progressive, and will cause death". We proposed that consideration for admission to provisions for VAD should also be given to people whose condition is not of a severity that is "advanced, progressive, and will cause death", but who have a serious condition or conditions causing intolerable suffering and for which there is no prospect of improvement. We also proposed that the VAD eligibility requirements should also allow consideration to be given to people who are aged 81 or older and whose quality of life is intolerable. We repeat those proposals in this submission.

In developing our proposals for less restrictive criteria for admission to VAD provisions, we were conscious of the needs that had been evidenced in survey research studies undertaken by National Seniors Australia in 2019 and 2021 and also evidenced in discussions undertaken amongst the membership of National Seniors Australia in the ACT.

Our proposals are also influenced by our understanding of the successful operation of less restrictive systems that have been in operation for decades in countries such as The Netherlands, Belgium, Canada and Switzerland. One very noteworthy indication of the extent to which the citizens in such systems endorse the need for less restrictive eligibility criteria is a Bill being given consideration currently in the Dutch Parliament that would enable access to VAD for people who have "a long-term and unchanging desire to die".

We feel that in determining eligibility requirements that are appropriate for the ACT, too much credence has been given by the developers of the ACT Bill to a strategy of matching the States' restrictive approach that requires a person to have a condition that is "advanced, progressive, and will cause death". It appears that only cursory consideration has been given to the operation of less restrictive systems in overseas jurisdictions.

Our view is that the Bill's eligibility requirements relating to "relevant conditions" are too restrictive and propose below that they be less restrictive. We feel that if our proposed change were to be implemented, the provisions of the Bill would then provide an end of life VAD option that a large majority of people of our advanced years would endorse. Taking into account the evidence about attitudes to VAD amongst people in the ACT, we are confident that the less restricted eligibility criteria that we propose would be accepted as being better suited to meeting our needs than would the more restricted criteria being implemented in Australian States.

We believe that some people who have lost their decision-making capacity should be given consideration for access to VAD

We are concerned about the Bill's eligibility requirement that the person must have decision-making capacity at all stages of the request, assessment and substance administration processes. In our April 2023 submission we proposed that if a person does not currently have decision-making capacity they should not be precluded from access to provisions for VAD providing that these additional specific criteria are satisfied:

- a) their desire to access VAD was stated in an advance care plan or other legally recognised document that was formally registered prior to losing their decision-making capacity;
- b) while they no longer have decision-making capacity, they continue to consistently and repeatedly express their desire to undertake VAD.

We note from the Explanatory Statement for the Bill that the Government will give consideration to permitting access to VAD for such people once the ACT's VAD system has been in operation for three years. That could mean a delay of access to VAD for such people for possibly six years or so. However, in the interests of minimising the possibility of delaying implementation of the legislation - which will meet the needs of a considerable number of folk - we accede to the Government's evaluation strategy.

We believe that some people who are younger than 18 should be given consideration for access to VAD

We are also concerned about the Bill's eligibility requirement that the person be at least 18 years of age. In our April 2023 submission we proposed that if a person is aged 12 to 17 and has the maturity and capacity to make their own decisions about major health matters and the option of undertaking VAD, and has the support of their parents/guardian, then they should be given consideration for access to VAD.

We note from the Explanatory Statement that the Government will give consideration to permitting access to VAD for people younger than 18 once the ACT's VAD system has been in operation for three years. Again, in the interests of minimising the possibility of delaying implementation of the legislation we accede to the Government's evaluation strategy.

WE PROPOSE that the following changes be made to the Bill's "relevant conditions" provisions

We propose that the specification in the Bill of what comprises a "relevant condition" should be extended so that in addition to providing access to VAD for people who have an "advanced, progressive condition that will cause death", access to VAD should also be possible for this type of person (providing of course, that they meet the other relevant eligibility requirements):

- a) while their conditions may not be classed as being "advanced, progressive and expected to cause their death", they are experiencing intolerable suffering as a consequence of an advanced, serious physical or psychological condition or conditions, or in the case of persons aged 81 or older, an intolerable quality of life; and
- b) they are suffering intolerably in relation to their relevant conditions; and
- c) their suffering cannot be relieved to a tolerable extent through currently available means of remediation that are acceptable to them or through

means of remediation which have a reasonable probability of becoming available in the future.

Persons making this submission

This submission is made on behalf of the following 14 persons. We are all Senior Citizens. We all meet the residency requirements that are reflected in the VAD Bill.

Questions relating to our submission can be made to me in my capacity of Convenor of the group.

I would welcome the opportunity of presenting our views to the Select Committee and to acquaint its members with the findings from survey research on which we have based our views.

Michael T Boesen

4 December 2023

The 14 persons making this submission

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Name: Jennifer Anne Boesen

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