



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

Submission Number: 016

Date Authorised for Publication: 04 December 2023

Committee Secretariat
Ms Suzanne Orr, Chair
Select Committee on the Voluntary Assisted Dying (VAD) Bill 2023
Office of the Legislative Assembly for the ACT
Canberra ACT 2601

Email: LACommitteeVAD@parliament.act.gov.au

Dear Ms Orr

Re: Voluntary Assisted Dying Bill 2023 (the Bill)

The Australian College of Nursing (ACN) would like to thank the Legislative Assembly for the Australian Capital Territory for the opportunity to comment on the Voluntary Assisted Dying Bill 2023. ACN has distributed the Bill to all members living and working in the ACT, and their responses are incorporated into ACN's response.

Earlier in the year, ACN responded to a discussion paper distributed by the Justice and Community Safety Directorate in conjunction with the ACT Health Directorate and Canberra Health Services on how Voluntary Assisted Dying (VAD) should be approached in the ACT. ACN's members in the ACT had many ideas and views, some contradictory and some in alignment. ACN collated and submitted the responses (VAD Response). We now welcome the next stage in the process of establishing a safe and accessible VAD process for the ACT. ACN congratulates all those people who have worked hard to make this happen. This response draws upon feedback our members gave to the initial consultation in February 2023, and feedback received about the draft Bill.

Response

ACN acknowledges this is a significant Bill with significant engagement with the *Human Rights Act 2004* (ACT) (HRA). A bill dealing with end-of-life decisions and the choice to end one's life will, by definition, engage with the HRA. The Bill addresses Section 9 of the HRA, Right to Life. ACN's members concur with the statements that 'the right to life does not impose a duty on individuals to live' nor should there be seen to be 'a duty ... to keep a terminally ill patient alive for an indefinite period'¹ responding in the VAD Response that for those wishing to access VAD, VAD should be considered as a healthcare intervention.

¹ The Legislative Assembly for the Australian Capital Territory 2023. Voluntary Assisted Dying Bill 2023: Explanatory Statement and Human Rights Compatibility Statement p6

Members were pleased that the Bill also protects a person's life or decisions to access VAD from any third party who attempts to coerce a person into or from accessing VAD. This was a concern raised in ACN's VAD Response, with members concerned that the applicant must not be put under duress by friends or family to access or not access VAD in contravention of the person's wishes.

In ACN's VAD Response, ACN members argued that there are circumstances where people under 18 should have access to VAD. Gillick's Competency would enable the baseline for allowing access to VAD. ACN acknowledges that the Bill does not allow access to VAD for young people under 18 and recognises the complexity surrounding instituting such a provision. ACN does urge that this matter is not forgotten and that a future review may resolve some of the issues, such as developing the safeguards essential to enabling such a decision. As mentioned, an adult will be able to halt a life lived with intolerable suffering while the child has to endure suffering until death or until they reach the age of 18.

ACN members generally support the ACT Government's continuing consideration of enabling those who have lost decision-making capacity to engage in VAD. ACN members suggested instructions for VAD be incorporated into an enduring power of attorney, advanced care planning documents, or be given as a health direction accessible when the person would be deemed incapable of decision-making when their capacity is diminished. Although no other state or territory has incorporated the ability to access VAD once decision-making capacity is lost, Canada provides a process that could be adopted under their Medical Assistance in Dying law.²

ACN welcomes the decision to allow access to VAD for those people living outside of the ACT who have connections to the ACT. This would allow people to die close to friends and family and would allow those living close to the ACT border who access health care in the state to access VAD in the ACT.

As mentioned by many of ACN's ACT members, importantly, the Bill ensures that those accessing VAD will not be considered to be committing suicide, and their death cannot be deemed as suicide in relation to life insurance, superannuation or as recorded in their death certificate. Those assisting

² White, B. P., Willmott, L., Del Villar, K., Hewitt, J., Close, E., Greaves, L. L., ... & Downie, J. (2022). Who is eligible for voluntary assisted dying? Nine medical conditions assessed against five legal frameworks. *The University of New South Wales Law Journal*, 45(1), 401-444.

the individual with VAD are not seen to be assisting suicide. This is a very welcome inclusion in the Bill.

ACN also welcomes the definitions of 'authorised practitioner', recognising that members of ACN may volunteer to complete the required education and training and apply to take on the role of authorised practitioner. Nurses are well-placed to adopt this role.

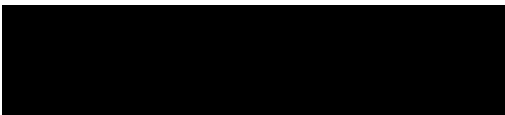
In conclusion

ACN agrees that the Bill weighs up the value of human life against the value of the individual's autonomy to end intolerable suffering. ACN's ACT members also acknowledge that the Bill will not come into effect for 18 months after its notification, providing time for education and training, establishing essential services to support VAD, developing guidelines and governance arrangements, and ensuring potential consumers, carers, community and made aware of their rights, access and limitations surrounding VAD.

ACN welcomes further consultations during the 18-month implementation period. ACN envisages that a proportion of its members will seek training opportunities enabling them to assist those with intolerable suffering to end their lives with dignity.

If you have any questions in relation to ACN's response to the Bill, please do not hesitate to contact me at [REDACTED]

Yours sincerely,



Dr Carolyn Stapleton FACN
Director – Policy and Advocacy
Australian College of Nursing

27 November 2022