



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 Andrew Braddock MLA, Mr Ed Cocks MLA, Dr Marisa Paterson MLA

Submission Cover Sheet

Inquiry into the Voluntary Assisted Dying Bill 2023

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Ms Suzanne Orr MLA
Chair Select Committee on the Voluntary Assisted Dying Bill 2023
Sent via: LACommitteeVAD@parliament.act.gov.au

8 December 2023

Dear Ms Orr

Speech Pathology Australia thanks the Committee overseeing the inquiry into the Voluntary Assisted Dying (VAD) Bill 2023 for the opportunity to make a submission.

Speech Pathology Australia is the national peak body for speech pathologists in Australia, representing more than 14,000 members. Speech pathologists are university trained allied health professionals with expertise in the diagnosis, assessment, and treatment of communication and swallowing difficulties.

Speech Pathology Australia welcomes the commitment shown to date in the Voluntary Assisted Dying Bill 2023 to ensure accessibility for people living with complex communication disabilities (including those with little or no speech, or speech that others find difficult to understand). Many of the known populations accessing VAD (e.g., progressive neurological conditions such as Motor Neurone Disease, brain tumours and cancers of the head and neck) have the potential to experience difficulties with their speech, communication and swallowing.

In addition to actively supporting people who are undertaking the VAD eligibility process, speech pathologists can provide medical practitioners with information regarding how to best support communication during conversations about VAD and to enable appropriate assessment of decision-making capacity. Additionally, speech pathologists may advise on the most appropriate medication administration route following an assessment of swallowing where there is a suspicion of or known swallowing difficulty.

We provide recommendations in the following areas:

1. **Access:** Ensure the communication accessibility of all points of access by outlining specific support requirements for capacity assessment and second request (written request)
2. **Workforce:** Provide further clarity regarding the definition of 'relevant health professional' with permission to initiate a conversation about VAD
3. **Workforce:** Include a mechanism to ensure appropriate certification of speech pathologists is included within the accompanying guidance material.

Access

Recommendation

Speech Pathology Australia recommends that the communication accessibility of the request process be improved by clarifying the wording of the support requirements.

Speech Pathology Australia acknowledges the attempt within the Bill to promote access to the VAD process for those with communication difficulties. Accessibility could be enhanced within two other points:

1. Support requirements for capacity assessment to include '*relevant communication aids and strategies*'.

It is a common misconception, even amongst some medical practitioners, that people without speech cannot have legal capacity. Concurrently there is limited understanding of the range of ways someone can be assisted to communicate to demonstrate this capacity. Speech Pathology Australia has received recent feedback from members that some medical practitioners have advised people that they should immediately undertake the VAD process “before they lose their speech”. This may discourage those who may wish to access the process using a different form of communication and indicates there may be misunderstanding regarding the determination of capacity for people who do not use speech.

Speech Pathology Australia strongly recommends that the wording under ‘Capacity’ specifically outline examples of support such as “*relevant communication aids or strategies*”. The *South Australian Voluntary Assisted Dying Act 2021*¹ (Part 1 subsection 4 *Meaning of decision making capacity*, page 11) has best-practice examples of wording regarding supports for decision making, including examples of practicable supports for the person looking to access VAD.

2. Support requirements to include ‘*alternate format pre-filled written templates with required request information*’ for those with limited literacy skills to participate in the second request (written) process.

Given the requirement that the second request must be in writing and contain specific information, there is a risk that this may disadvantage those with low literacy levels, including where reading, writing or spelling skills have been impacted by the nature of their disease. Enabling someone to sign this request on their behalf assists a person with physical limitations but may not alleviate barriers and potential risks when someone also has language-based reading difficulties. It is recommended that the Bill reflect the use of a standard approved template with pre-filled declarations for signing for persons who have limited or impacted literacy skills.

Workforce

Recommendation

Speech Pathology Australia recommends that speech pathologists are recognised as ‘relevant health professionals who may initiate a conversation about VAD’ with the same requirements and protections under the Act.

Speech Pathology Australia commends the Bill in enabling a range of relevant health professionals to be involved in initial conversations about VAD. It should be noted that speech pathologists may be called on to program vocabulary into an individual’s communication aid as the person may not have this specific vocabulary pre-existing within the device to enable them to make a request for VAD to their medical practitioner. It is essential that this support can be provided, and that speech pathologists are protected under the legislation in providing this service, despite being self-regulated health professionals. In Victoria this has not been the case where the Victorian Bill only discusses ‘registered health professionals’ as being protected from criminal and civic prosecution, and able to initiate the use of the vocabulary of VAD.

The definition given of ‘relevant health professional’ in this section (*a health practitioner other than a doctor or nurse practitioner who may initiate a conversation under subsection (1)*) should be clarified further to enable determination of certain self-regulating health professionals including speech pathologists.

1

<https://www.legislation.sa.gov.au/lz?path=%2FC%2FA%2FVOLUNTARY%20ASSISTED%20DYING%20ACT%202021>

Recommendation

Speech Pathology Australia recommends that a mechanism is included to ensure the appropriate certification and qualifications of speech pathologists supporting the VAD process.

Speech pathology is a self-regulating profession and member of the National Alliance of Self-Regulating Health Professions. Speech Pathology Australia oversees the standards and auditing of the credential of 'Certified Practising Speech Pathologist' which denotes that a speech pathologist has met requirements that mirror those of registered health professionals including having appropriate qualifications. VAD regulations should therefore ensure that speech pathologists are 'Certified Practising' as part of robust governance processes.

Speech Pathology Australia is keen to engage further with the Legislative Assembly Committee to ensure the development of the Voluntary Assisted Dying Bill 2023 (and associated guidance and training materials for its implementation) enables access for people with communication and swallowing difficulties and the speech pathology workforce is able to provide appropriate supports as part of this process.

Please contact Mr John Foley, General Manager Policy and Advocacy, if Speech Pathology Australia can assist in any other way or provide additional information.

Yours sincerely

Kathryn McKinley
National President
Speech Pathology Australia