

Written evidence submitted by Queensland Government (ADY0272)

I write to the Health and Social Care Select Committee on behalf of the Queensland Government to outline our experience in enacting voluntary assisted dying.

I am immensely proud of the Queensland Government's contribution to this debate and in our commitment to enact voluntary assisted dying in Queensland. Commencing 1 January 2023, the *Voluntary Assisted Dying Act 2021* (The Act) is the culmination of years of work and implementation, and decades of advocacy from Queenslanders who watched their loved ones needlessly suffer.

Many Queenslanders have been deeply impacted by the suffering of a family member or friend at the time of their death. It is a fundamental part of the human experience to experience the loss of a loved one, but pain and suffering do not have to go hand in hand with that experience.

Voluntary assisted dying is not a choice between life and death, it is a choice for those who are dying to have more control over the time and circumstances of their death.

We undertook extensive consultation before the passage of the Act on 23 September 2021, including review by two parliamentary health committees and the Queensland Law Reform Commission. Queenslanders were also encouraged to tell their stories and make public submissions.

We heard some deeply harrowing stories. Patients whose suffering was prolonged by archaic laws and loved ones who faced severe penalties for doing what they could to ease that suffering.

In Queensland we use the term 'voluntary assisted dying' to emphasise the voluntary nature of the procedure and stress that it is not suicide, rather an additional end-of life choice for people who are suffering and dying.

We have been determined that in no instance should voluntary assisted dying replace palliative care, in fact we committed to an additional record investment in palliative care services across Queensland ahead of the Act coming into effect.

Voluntary assisted dying should complement a person's right to access high-quality palliative care and other services to relieve their suffering and support dignity at end of life.

It is my deep belief that these decisions should only be made by patients and their health professionals, not politicians or bureaucrats. The *Voluntary Assisted Dying Act 2021* allows for this this deeply personal decision to be made by patients.

In the months before our bill became law, we lost one of our colleagues to terminal cancer. He was also a close friend of mine. The Member for Stretton Duncan Pegg used his last speech to the parliament to advocate for voluntary assisted dying laws. He said, "people with terminal illnesses do not want to die; they want to live. They fight to live every day."

The Act came too late for Duncan, but I know that he would have wanted that choice, as did countless Queenslanders who have had to suffer needlessly.

We know from other jurisdictions that many patients who access voluntary assisted dying medications do not ever use them. They report that just having the option gives them a greater sense of control and in many cases greater peace of mind to face the challenges of a terminal illness.

Our law is fundamentally about compassion, but it is also about giving back control to people who have had their autonomy stripped from them by illness. Giving them the choice to ease their

suffering. Certainly, some Queenslanders do not want to make that decision, but they should have every right to choose.

Ensuring the rights of patients to make this choice unhindered whilst also allowing for the right of practitioners and health providers to not participate in voluntary assisted dying is a fundamental tenet of the Act. To this end there are protections in the Act for conscientious objections that also require practitioners to refer their patients to a provider without an objection.

The voluntary nature of voluntary assisted dying is enshrined in the Act, with provisions to prevent coercion or exploitation. No one should be forced or pressured into this procedure and the Act reflects that.

Further detail about Queensland's experience over the last few years can be found enclosed along with our recommendations. However, in summary I would encourage you to engage in extensive consultation with all key stakeholders and with the public, to use objective, neutral and appropriately descriptive language, and to ensure the availability of high quality, accessible palliative care services, emphasising that it is not mutually exclusive with voluntary assisted dying.

Finally, I would encourage your lawmakers to act with compassion, to give the people of England and Wales the same end of life options as people in Australia, and to give them peace of mind that they will not be forced to endure a needlessly painful death.

Jan 2023

**Written evidence submitted by the Acting Premier of Queensland, the Honourable Dr Steven Miles,
on 19 January 2023**

Health and Social Care Select Committee

Inquiry: Assisted dying/assisted suicide

Introduction

1. The following submission represents the views of the Acting Premier of Queensland (acting to 23 January 2023), the Honourable Dr Steven Miles, on behalf of the Queensland Government. The Queensland Government is well placed to respond to this inquiry's second term of reference as we have recent experience of passing the [Voluntary Assisted Dying Act 2021](#) ('the Act') on 23 September 2021 and implementing a voluntary assisted dying scheme, which commenced on 1 January 2023.
2. Queensland Health was responsible for putting in place the clinical and administrative arrangements needed to ensure that voluntary assisted dying in Queensland is high quality, safe, accessible and compassionate. Queensland Health is the legally recognised body responsible for the overall management and system stewardship of the public health and hospital system for the Australian state of Queensland.
3. The voluntary assisted dying scheme in Queensland has three phases (see the [Queensland Voluntary Assisted Dying Handbook](#) for further information about the scheme):
 - a. Phase 1: Request and assessment
 - first request (made to a doctor)
 - first assessment (completed by the coordinating doctor)
 - consulting assessment (completed independently by a second doctor)
 - second request (made by the person in writing to the coordinating doctor)
 - final request (made by the person using any means of communication to the coordinating doctor)
 - final review (undertaken by the coordinating doctor).
 - b. Phase 2: Administration of the voluntary assisted dying substance
 - administration decision (self-administration or practitioner administration)
 - appointing the contact person (responsible for certain actions following the person's death)
 - prescription of the voluntary assisted dying substance
 - supply of the voluntary assisted dying substance
 - administration and death.
 - c. Phase 3: After the person dies
 - disposal of the substance
 - death notification.
4. This submission will focus on the inquiry's second term of reference – what can be learnt from the evidence in countries where assisted dying is legal?

Executive summary

5. The passage of the Act on 23 September 2021 was preceded by an extensive period of research, analysis and consultation by two parliamentary health committee inquiries and the

Queensland Law Reform Commission ('the QLRC'). This was followed by further consultation with relevant stakeholders as part of the 15-month implementation period before the Act commenced on 1 January 2023.

6. The legislation in Queensland uses the term 'voluntary assisted dying' to emphasise that the process is accessed *voluntarily, assisted* by doctors and nurses and only available to people who are suffering and *dying*. Voluntary assisted dying is not suicide and a person who accesses voluntary assisted dying is taken to have died from their underlying illness, disease or medical condition.
7. Voluntary assisted dying is an additional end-of-life choice for people who are suffering and dying and meet strict eligibility criteria. Voluntary assisted dying should complement, not detract from, a person's right to access high-quality palliative care and other services to relieve their suffering and support dignity at end of life.
8. The Act seeks to allow for the rights of practitioners and organisations not to participate in voluntary assisted dying whilst also ensuring that people seeking to access voluntary assisted dying are not hindered from doing so.
9. The Act contains a number of safeguards to ensure that people who access voluntary assisted dying are acting voluntarily and without coercion, and meet other eligibility criteria.

What can be learnt from the evidence in countries where assisted dying is legal?

10. Voluntary assisted dying has only been lawfully available in Queensland since 1 January 2023. This submission will instead focus on the process leading to the legalisation of voluntary assisted dying in Queensland, the key issues which were considered and debated as part of this process and the benefits that legislative change will offer to individuals and their family, carers and friends.

Legalisation of voluntary assisted dying in Queensland

11. The former Health, Communities, Disability Services and Domestic and Family Violence Prevention Parliamentary Committee undertook an inquiry into aged care, end-of-life care and palliative care, and voluntary assisted dying from November 2018 - March 2020. [Their report](#) contained 21 recommendations for a voluntary assisted dying scheme in Queensland.
12. In March 2020, the Queensland Government asked the QLRC (similar in purpose and functions to the Law Commission of England and Wales) to undertake a review and develop a legislative scheme for voluntary assisted dying. [The QLRC's report](#) was tabled in Parliament, along with the draft Voluntary Assisted Dying Bill 2021 ('the Bill'), on 18 May 2021.
13. On 25 May 2021, the Premier of Queensland introduced the Bill into the Legislative Assembly and referred it to the Health and Environment Parliamentary Committee for a 12-week inquiry. As part of this inquiry, the Health and Environment Committee held a week of public hearings across the state and received over 6000 submissions on the Bill. The Health and Environment Committee tabled [their report](#), recommending that the Bill be passed, on 26 August 2021.
14. The Bill was debated in Parliament during September 2021 and passed on 23 September 2021. The Act commenced on 1 January 2023.
15. There was a 15-month implementation period, during which Queensland Health worked collaboratively with public and private hospitals, primary care services, hospices and residential aged care providers to assist them in operationalising the scheme and ensuring

that organisations and practitioners were aware of their rights and responsibilities under the legislation.

16. Queensland is the fourth state in Australia to operationalise a voluntary assisted dying scheme. In addition to the extensive consultation processes undertaken as part of the parliamentary committee inquiries and the QLRC's review, lessons were learned from the implementation of voluntary assisted dying in other Australian and international jurisdictions. The key issues to emerge during the development of the legislative scheme are outlined below, including how they were addressed in the legislation.

Consultation

17. Polling conducted in 2020 indicated that 77% of Queenslanders supported legalising voluntary assisted dying, where a person was in the late stages of an advanced disease. It was acknowledged during the process of developing the new legislative scheme that voluntary assisted dying and other end-of-life choices are complex and many people hold deeply personal views for reasons that are important to them. The process involved extensive research, analysis and consultation over a number of years with members of the community, consumer and disability advocates, health professionals, peak medical and nursing bodies, palliative care stakeholders, legal experts, and religious groups.
18. This consultation continued during the implementation process. The implementation process was overseen by Queensland Health, under the direction of the Queensland Voluntary Assisted Dying Taskforce ('the Taskforce'). The Taskforce provided specialist knowledge, leadership and guidance across seven workstreams, with each workstream directed by subcommittees that included representatives from health consumer organisations, relevant health professions, peak bodies, and experts in relevant fields. Subcommittee members and other stakeholders were consulted with, and actively involved in, the following developments (see the [Queensland Health website](#) for further information):
 - a. establishing the Queensland Voluntary Assisted Dying Support Service ('QVAD-Support'), a statewide service staffed by care coordinators, which can provide information, advice and support for people wishing to access voluntary assisted dying, their family, carers and friends and health professionals;
 - b. establishing the Queensland Voluntary Assisted Dying Pharmacy Service ('QVAD-Pharmacy'), which is the statewide authorised supplier of the voluntary assisted dying substance;
 - c. a dedicated information technology system to enable practitioners to electronically submit mandatory forms throughout the voluntary assisted dying process;
 - d. coordination of the application process, training and approval for doctors and nurses who apply to be authorised voluntary assisted dying practitioners;
 - e. a range of guidelines and resources to support clinical practice in relation to voluntary assisted dying;
 - f. a range of information resources for consumers about voluntary assisted dying.

Terminology

19. The Queensland legislation, like all other similar legislation in Australia, uses the term 'voluntary assisted dying', rather than 'assisted suicide' or 'euthanasia'. This is to make clear that it is a *voluntary* practice that is undertaken at the person's request and direction, is *assisted* by doctors and nurses and only accessible to people who are suffering and *dying*. Furthermore, terms such as 'euthanasia' and 'assisted suicide' are potentially stigmatising and can be used pejoratively.

20. The Act makes clear that voluntary assisted dying is not suicide and a person who dies as a result of the administration of a voluntary assisted dying substance is taken to have died from the disease, illness or medical condition from which they suffered. This is further reinforced by a provision in the legislation which states that the cause of death recorded on the death certificate for a person who has died following administration of a voluntary assisted dying substance must not include any reference to voluntary assisted dying.

Voluntary assisted dying as an additional end-of-life choice

21. Access to voluntary assisted dying is not a choice between life and death. Access to voluntary assisted dying gives people who are suffering and dying and who meet strict eligibility criteria, an additional end-of-life choice and the opportunity to control the nature and timing of their inevitable death. In Queensland, there are strict eligibility criteria for access to voluntary assisted dying, one of which is a diagnosis of a disease, illness or medical condition that is advanced and progressive, causing intolerable suffering and is expected to cause death within 12 months.
22. Any scheme for voluntary assisted dying should complement, rather than detract from, the provision of high quality and accessible palliative care. This was recognised in the terms of reference for [the QLRC's review](#), which stated that the provision of 'compassionate, high quality and accessible palliative care for persons at the end of life is a fundamental right of the Queensland community'. The QLRC also acknowledged that palliative care 'needs to be adequately resourced and supported irrespective of whether voluntary assisted dying legislation is introduced' and 'if it is introduced, it is imperative that people have the full range of options available to them so that they can make an informed choice'. Voluntary assisted dying is distinct from palliative care but a person's decision to seek information about, or access to, voluntary assisted dying has no impact on their access to palliative care.
23. The Queensland Government has recognised the importance of high quality and accessible palliative care by implementing the Palliative Care Reform Program, which includes developing and implementing a new [Palliative and End-of-Life Care Strategy](#) and a commitment to additional investment of \$AUD171 million for palliative care from 2021-22, so that by 2025-26, the total approximate spend on palliative care is expected to be close to \$AUD250 million each year in Queensland. The Queensland Palliative and End-of-Life Care Strategy also enables Queensland to meet its commitments under Australia's [National Palliative Care Strategy 2018](#).
24. The availability of high quality and accessible palliative care is a crucial part of any end-of-life care program. However, even the best palliative care will not effectively manage the suffering of some people who are approaching the end of their life. The former Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee noted in [their report](#) on voluntary assisted dying that 'the final stages of life can involve a range of pain and other symptoms and, for around five per cent of people, this suffering can be extremely distressing'. Furthermore, 'even with access to the best quality palliative care... sometimes not all suffering can be palliated'.

Conscientious objection

25. The Act seeks to allow for the rights of practitioners and health provider organisations not to participate in voluntary assisted dying whilst also providing a responsibility to ensure that people seeking access to voluntary assisted dying are not hindered from doing so. This was achieved by including provisions in the legislation that:
- a. give registered health practitioners and speech pathologists (speech and language therapists) the right to refuse to participate in voluntary assisted dying but requires

- them to inform the person that other health practitioners, health service providers or services may be able to assist them or provide information about QVAD-Support;
- b. gives private entities the right not to provide voluntary assisted dying services but requires them to publish information about the fact that services are not provided at their facilities and not hinder access at their facilities to voluntary assisted dying services.
26. As part of the implementation process in Queensland, dedicated committees were established with representatives from hospices, residential aged care organisations and private hospitals to ensure that the views of a range of providers, including those with in-principle or faith-based objections to voluntary assisted dying, were heard and considered. Queensland Health developed '[Private entity guidance – voluntary assisted dying](#)' to support private entities to meet their obligations under the Act, whilst also ensuring that a person's right to access voluntary assisted dying is supported.

Protection from coercion and ensuring voluntariness

27. The Act and the guidelines that support its implementation contain a number of provisions to ensure that a person's request to access voluntary assisted dying is enduring and voluntary and mitigate against the risk of potential coercion or exploitation, including:
- a. 'acting voluntarily and without coercion' is one of the eligibility criteria for access to voluntary assisted dying outlined in the Act;
 - b. a doctor or nurse practitioner may initiate discussion about voluntary assisted dying if, at the same time, they also inform the person about the treatment options available to the person and the likely outcomes of that treatment, and the palliative care and treatment options available to the person and the likely outcomes of that care and treatment;
 - c. other healthcare workers are not permitted to initiate discussions about voluntary assisted dying with people in their care;
 - d. it is an offence to dishonestly or by coercion induce another person to make, or revoke, a request for access to voluntary assisted dying;
 - e. it is an offence to dishonestly or by coercion induce another person to self-administer a voluntary assisted dying substance;
 - f. the person must make three requests on three separate occasions to access voluntary assisted dying;
 - g. two doctors must independently assess the person as acting voluntarily and without coercion, in addition to assessing whether they meet all other eligibility criteria;
 - h. the assessing doctors may refer the person to any other person with appropriate skills and training (e.g., a social worker, psychologist, solicitor) to assist in determining whether the person is acting voluntarily and without coercion;
 - i. the mandatory training undertaken by authorised voluntary assisted dying practitioners includes guidance regarding how to assess whether the person is acting voluntarily and without coercion;
 - j. 'coercion' is specifically defined in the Act to mean 'intimidation or a threat or promise, including by an improper use of a position of trust or influence'; and
 - k. independent oversight by a Review Board.
28. In addition to the above-mentioned safeguards, one of the eligibility criteria for access to voluntary assisted dying in Queensland is that the person must have decision-making capacity in relation to voluntary assisted dying. The person's decision-making capacity in relation to voluntary assisted dying is assessed independently by two doctors and confirmed for a third time when the person's coordinating doctor undertakes a final review. Voluntary assisted dying cannot be accessed through a request in advance care planning documents or by a substitute decision-maker.

Benefits of legislative change

29. The Queensland Government considers that the benefits of legalising voluntary assisted dying in Queensland include:
- a. promoting dignity, personal autonomy and respect for choice when someone is suffering and approaching the end of their life;
 - b. maintaining a commitment to high quality, accessible palliative care with voluntary assisted dying as an additional end-of-life choice;
 - c. equity and fairness in terms of access to an additional end-of-life choice which is available in other Australian and international jurisdictions;
 - d. protection of vulnerable people by introducing a highly regulated scheme, which includes safeguards to ensure that only those people who have capacity to decide to access voluntary assisted dying, are acting voluntarily and without coercion and meet other strict eligibility criteria can access voluntary assisted dying.

Recommendations

30. We recommend that extensive consultation be undertaken, both as part of the process of considering legislative change and implementation of a voluntary assisted dying scheme, should relevant legislation be passed in England and Wales. Our experience demonstrated the value and importance of respectfully listening to a range of views, acknowledging concerns and complexities, and ensuring the rights and interests of organisations and individuals who do not wish to participate whilst also ensuring the rights of individuals seeking access to voluntary assisted dying.
31. We recommend using objective, neutral and appropriately descriptive terminology to refer to the process where an eligible person diagnosed with a life-limiting condition, who is suffering intolerably and dying, voluntarily accesses medical assistance to choose the timing and circumstances of their death. In Australia, the term 'voluntary assisted dying' is used in all jurisdictions where relevant legislation has been passed. We recommend that potentially stigmatising and pejorative terms that refer to 'suicide' or 'euthanasia' be avoided.
32. We recommend that at all stages of legislative reform, consideration is given to ensuring the availability of high quality, accessible palliative care services and clearly communicating the message that voluntary assisted dying and palliative care are not mutually exclusive, but rather are complementary. The availability of voluntary assisted dying should not detract from an accessible, effective and well-resourced palliative care scheme.

Contact

We would be pleased to speak further about our response please contact my Chief of Staff Katharine Wright at Katharine.Wright@ministerial.qld.gov.au

References

[A legal framework for voluntary assisted dying. Report No. 79. Queensland Law Reform Commission, May 2021.](#)

[National Palliative Care Strategy 2018. Australian Government, Department of Health.](#)

[Private entity guidance – voluntary assisted dying \(Version 1.1\). State of Queensland, December 2022.](#)

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[Queensland Voluntary Assisted Dying Handbook \(Version 2.0\). State of Queensland, 2022.](#)

[Voluntary assisted dying. Report No. 34, 56th Parliament, Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, March 2020.](#)

[Voluntary Assisted Dying Bill 2021. Report No. 10, 57th Parliament, Health and Environment Committee, August 2021.](#)