

## Victoria: Assisted suicide and euthanasia (updated 20 May 2021)

Assisted suicide and euthanasia become legal in Victoria on 19 June 2019 when the [Voluntary Assisted Dying Act 2017](#), which [passed the Legislative Council on 22 November 2017](#) by just two votes (22-18) came into full operation.

As of [30 June 2023](#), 912 people died under the Act – 775 by assisted suicide and 137 (15%) by euthanasia. In the twelve-months period, July 2022-June 2023, 306 people died under the Act – 2.33 times the 131 who died in the first twelve months of its operation. This represents 0.65% of all deaths in Victoria for that period – a rate Oregon has not reached after 25 years of legalised assisted suicide.

### Eligibility criteria

During debate on the Bill it became clear that there are uncertainties around the meaning of “incurable” and “will cause death” so that, for instance an insulin dependent diabetic who declines to take insulin may qualify under this criterion. There have been some deaths under the Act (number not given) of people with diabetes. It was also accepted that there are [misdiagnoses](#) and [errors in prognosis](#) so that there will inevitably be some wrongful deaths.

The criterion relating to “suffering” is specifically NOT to be assessed by doctors. It is entirely subjective and therefore entirely meaningless. A person is suffering in the required sense simply if the person asserts that this is the case. Suffering may include loss of autonomy, lack of capacity to enjoy former hobbies, feeling a burden on family or financial concerns to be the only suffering experienced. [There is absolutely no requirement for the person to be experiencing pain or other physical symptoms](#). Nor are these reported as reasons for requesting it in the official reports.

### Mental illness

It is entirely up to the assessing doctors to form their own view as to their expertise in assessing decision-making capacity. This provision is weaker than the [corresponding provision in Oregon](#) which refers to “impaired judgement” rather than a lack of “decision-making capacity” which is defined in section 4 in purely cognitive terms, taking no account of the effects, say, of depression or demoralisation on a person judging what is truly in his or her best interests. While 31 people were referred for specialist assessment in ten first 3 years, this dropped to zero in 2022/23.

### Disability

There are no explicit provisions to protect people with disability from discriminatory by doctors who consider a person with a disability as “better off dead”. People with disability [are more likely to experience undiagnosed depression](#) especially following initial acquisition of a disability or adverse developments in their physical, psychological or social conditions. The Act explicitly provides for requests for assisted suicide or euthanasia to be made by gestures. It is unclear whether an accredited interpreter is required. A [recent court case in the Netherlands](#) determined that “hand squeezes, nods, eye blinking and crying were all sufficient signs of” a request for euthanasia.

### Coercion

Assessing doctors will be required to complete training approved by the Secretary of the Department of Health on “identifying and assessing risk factors for abuse or coercion”. This training consists of less than 5 minutes in an online module and obviously cannot guarantee that assessing doctors never miss the signs of coercion or abuse [given the well-documented evidence of failure by professionals in Australia to identify elder abuse](#).



### State issued permits

Form 3 in the [Regulations](#) sets out what a “voluntary assisted dying self-administration permit” (VADSAP) looks like: “*This self-administration permit in respect of Mary Brown authorises Dr John Smith for the purpose of causing Mary Brown death, to prescribe and supply the substance specified in this permit to Mary Brown that is able to be self-administered; and is of a sufficient dose to cause death*”.

Permits are signed by the Secretary of the Department of Health and Human Services or his or her delegate. The permit will also directly authorise Mary Brown to “use and self-administer the substance” specified in the permit in order to cause her death. This is clearly not just State sanctioned suicide but – in a world first since ancient times – **State authorised suicide of a particular, named person using a specified lethal substance.**



Form 4 in the [Regulations](#) sets out what a VADPAP or “voluntary assisted dying practitioner administration permit” will look like: *“This practitioner administration permit is issued to Dr John Smith ... this practitioner administration permit in respect of Jim Brown for the purpose of causing Jim Brown death, authorises Dr John Smith to administer the substance to Jim Brown.”* This is **State authorised euthanasia of a named individual by a named doctor using a specified lethal substance**. It was last done in Germany in the 1940s.

The [Regulations](#) specify that the Secretary of the Department of Health and Human Services or his or her delegate will have 3 business days from receiving a VADSAP or VADPAP application form to either issue the permit or refuse to do so. All that the Secretary or his or her delegate will do is to check that two doctors have ticked the right boxes and filled in the blanks on the six forms. The 2022/23 Report boasts that 95% of permits were issued within two business days. Such unheard-of efficiency – in the “public service” of poisoning Victorians.

### *Assisted suicide*

The Alfred Hospital pharmacy is “the sole service for dispensing” the lethal poison across Victoria. “For people too sick to travel, the pharmacy service will deliver them their medication and provide information on administration”. The notion of a kind of “uber-poison” service to country Victoria - where there is a chronic shortage in ready access to palliative care medicines as needed - is particularly disturbing. There is no requirement for any doctor or other health practitioner to be present when the poison is ingested.

In [Oregon](#), under a similar scheme, in 2018 one in eight (12.5%) had difficulty ingesting or regurgitated the lethal dose or had other complications or regained consciousness and died subsequently from the underlying illness. The interval from ingestion of lethal drugs to unconsciousness has been as long as 4 hours and from ingestion to death as long as 104 hours. Imagine these complications occurring for a person who is home alone when they ingest the poison.

There are no requirements in Victoria for where the locked box containing the lethal poison is to be kept. However, the Act does specifically exclude it from the usual protective requirements for dangerous medication in aged care services - so it may have to **be kept under grannie’s bed in her aged care room**. Nor are there any limits on how many keys there can be to the box or on who can have a key. If there is no witness we will never know if the person really self-administered the poison or if it was administered to them by a family member or other person under duress, surreptitiously or violently.

### *Euthanasia*

Section 48 of the Act allows for euthanasia as an alternative to assisted suicide in the case where a single doctor certifies that *“the person is physically incapable of the self-administration or digestion of an appropriate poison or controlled substance or drug of dependence”* and provides a reason for this incapacity. The Board actively encouraged recourse to euthanasia in its Jan-June 2020 Report:

*“While self-administration might be appropriate for the applicant initially, it may not always be when close to death. Coordinating medical practitioners can apply for a new practitioner administration permit if the applicant has lost the physical capacity to swallow or digest the medication. ‘I was worried she wouldn’t be able to swallow the medication.’ – Contact person.”*

The Reports do not provide any data on how often, if ever, this has occurred to date. It does indicate that the threshold for justifying euthanasia as the method of bringing about death is so low that vague concerns about an ability to swallow the (liquid) medication would be sufficient.

### *Conclusion*

On 19 June 2019 Victoria embarked on the fifteenth in a series of experiments in legalised euthanasia or assisted suicide begun in the Northern Territory in 1996. Each of these experiments has proved to be [fatally flawed](#) resulting in wrongful deaths. There is nothing in the design of the Victorian experiment or the data reported to date to justify any expectation of better results. See <https://www.australiancarealliance.org.au/victoria> for more information.