NSW Health

Background paper:

NSW Voluntary Assisted Dying Act 2022 – Legislative review

1. Introduction

The *Voluntary Assisted Dying Act 2022* (NSW) (the Act) commenced on 28 November 2023 and allows eligible people to ask for medical help to end their life. A person must meet the eligibility criteria and follow all the legal steps for voluntary assisted dying to happen. This will allow them to take or be given a medication to bring about their death at a time that they choose. The eligibility criteria to access voluntary assisted dying in NSW is outlined in Appendix 1.

Only eligible medical and nurse practitioners who have completed comprehensive training and gone through an authorisation process can provide voluntary assisted dying services in NSW.

The NSW Voluntary Assisted Dying Board (the Board) monitors and reports on voluntary assisted dying activity across NSW. Since commencement of the Act on 28 November 2023 to 30 June 2025, a total of 1,426 deaths were reported to the Board following administration of a voluntary assisted dying substance. A full summary of voluntary assisted dying activity in NSW is available in the Voluntary Assisted Dying Board's 2024-25 Annual Report at health.nsw.gov.au/voluntary-assisted-dying/Pages/board.aspx.

1.1 Purpose and conduct of review

Under the Act, the NSW Minister for Health must review the operation and effectiveness of the Act. The Minister must prepare a report based on the review as soon as practicable after the second anniversary of the Act, and after that, at intervals of not more than 5 years. The NSW Ministry of Health will complete the review and the report on behalf of the Minister. Under the Act, the review is to begin after 28 November 2025, which is 2 years after the commencement of the Act. This background paper provides information about the key themes that will be explored during the review.

Please note that the content of submissions will inform the final legislative review report and may be utilised for publications about the report. All submissions will be deidentified in the final report.

1.2 Scope of the review

Section 186 of the Act stipulates that a review of the operation and effectiveness of the Act must be conducted and include consideration of the principles of the Act, in particular, the following 2 principles:

- a person is entitled to genuine choices about the person's care, treatment and end of life, irrespective of where the person lives in NSW and having regard to the person's culture and language,
- a person who is a regional resident is entitled to the same level of access to voluntary assisted dying and high quality care and treatment, including palliative care and treatment, as a person who lives in a metropolitan region.

A full list of the principles of the Act is available at Appendix 2.

The focus of this review is on strengthening the model and frameworks that support voluntary assisted dying in NSW. The review will not examine whether voluntary assisted dying should be precluded.

The review will focus on 4 key themes:

1. Patient choice
2. Equitable access, respect and inclusion
3. Safeguards for patients and healthcare workers
4. Service delivery and sustainability

Theme 1: Patient choice

Patient choice is a cornerstone of medical ethics and health policy. Respecting patient autonomy means ensuring that individuals are empowered to make informed decisions about their care, with healthcare providers supporting those decisions. In the context of voluntary assisted dying, it is essential that patients have genuine choice in how they are cared for at the end of life. Notably, 7 of the legislative principles focus on supporting informed decision-making and ensuring that patients' choices are respected.

The relevant principles of the Act are:

- a person's autonomy, including autonomy in relation to end of life choices, should be respected,
- a person has the right to be supported in making informed decisions about the person's medical treatment and should be given, in a way the person understands, information about medical treatment options, including comfort and palliative care and treatment,
- a person approaching the end of life should be provided with high quality care and treatment, including palliative care and treatment, to minimise the person's suffering and maximise the person's quality of life,
- a therapeutic relationship between a person and the person's health practitioner should, wherever possible, be supported and maintained,
- a person should be encouraged to openly discuss death and dying, and the person's preferences and values regarding the person's care, treatment and end of life should be encouraged and promoted,
- a person should be supported in conversations with the person's health practitioners, family, carers and community about care and treatment preferences,
- a person is entitled to genuine choices about the person's care, treatment and end of life, irrespective of where the person lives in NSW and having regard to the person's culture and language.

The review will seek to understand if these principles are being effectively upheld and explore opportunities to strengthen their application, with the aim of better supporting patients who choose to access voluntary assisted dying as part of their end of life care.

The Board's 2024–25 Annual Report includes data that reflects patients' choices throughout the process:

- Between 1 July 2024 and 30 June 2025:
  - 2295 people made a first request to access voluntary assisted dying.
  - Of the 2146 people who had a first assessment for voluntary assisted dying, 87.6% were receiving palliative care at the time of first assessment.
  - Of the 1028 people who died following administration of a voluntary assisted dying substance:
    - 81.6% of people chose practitioner administration of the voluntary assisted dying substance and 18.4% chose self-administration of the voluntary assisted dying substance.
    - 51.6% of people died in a hospital or other health facility, 39.7% died in a private residence, 8.5% died in a residential aged care or residential disability care facility and 0.3% died in another setting.
  - The median timeframe from first request to death following administration of a voluntary assisted dying substance was 20 days.

Theme 2: Equitable access, respect and inclusion

Equitable access means ensuring that all people have fair and just opportunities to obtain services and resources, regardless of their background, location, socioeconomic status or other potential barriers. End of life care takes place within a social context, and Australia's diverse population highlights the importance of addressing these differences. Promoting equity is particularly critical given the impact of social determinants of health, which shape people's health and social care needs long before the end of life.

Respect and inclusion are essential to equitable healthcare, including in end of life care. Person-centred, culturally appropriate and holistic approaches ensure that patient's autonomy, wishes, values and cultural needs are upheld. Communities are diverse and not homogeneous, and each person should be understood as a unique individual with different needs and preferences.

Relevant principles of the Act include:

- every human life has equal value
- a person who is a regional resident is entitled to the same level of access to voluntary assisted dying and high quality care and treatment, including palliative care and treatment, as a person who lives in a metropolitan region
- a person is entitled to genuine choices about the person's care, treatment and end of life, irrespective of where the person lives in NSW and having regard to the person's culture and language
- the right of all persons, including health practitioners, to have their culture, religion, beliefs, values, and personal characteristics respected
- a person's autonomy, including autonomy in relation to end of life choices, should be respected.

The review will seek to understand whether these principles are being effectively upheld and explore opportunities to strengthen their application, with a focus on ensuring equitable access to voluntary assisted dying for eligible individuals when this aligns with their end of life care goals. The review may also capture perspectives on whether current care pathways effectively support people living in regional areas and those from culturally and linguistically diverse backgrounds and may identify challenges that need to be addressed to ensure equitable access.

The Board's 2024–25 Annual Report includes data that reflects access and inclusion:

- Of the 2146 people who had a first assessment for voluntary assisted dying between 1 July 2024 and 30 June 2025:
  - 54.1% people identified as male and 45.8% identified as female
  - 2.7% of people identified as Aboriginal
  - 25.5% were born overseas
  - 5.7% identified a language other than English as their first language
  - 1.5% required an interpreter as part of the first assessment
  - 58.5% lived in a major city, 34.5% lived in inner regional areas and 7% lived in outer regional, remote and very remote areas.
  - the majority had cancer as a primary diagnosis (71.4%), followed by a respiratory condition (8.6%), neurodegenerative condition (7.7%) cardiovascular conditions (6.0%) and 'other' diagnosis (6.2%).

Theme 3: Safeguards for patients and healthcare workers

Safeguards are protections or checks put in place to make sure things are done safely, fairly and properly. Safeguards in healthcare, particularly in the context of voluntary assisted dying, are essential to ensure that the process remains ethical, lawful, and compassionate for all involved. Some of the key safeguards are set out in the Act, while others are embedded in policy and practice. As outlined in the Board's report and in Appendix 3, examples of safeguards in voluntary assisted dying include:

- Strict eligibility requirements, all of which must be met for a person to be considered eligible

- The patient must be assessed by two independent medical practitioners (a coordinating and consulting practitioner) against each of the eligibility criteria.
- The patient's decision to request access to voluntary assisted dying must be assessed as voluntary and free from pressure or duress at multiple stages of the process. Their decision-making capacity must also be maintained throughout the process.
- A healthcare worker is not obliged to participate in the voluntary assisted dying process if they have a conscientious objection. However, they cannot impede or obstruct access to the voluntary assisted dying process.

These measures provide critical protections for patients as well as healthcare practitioners, including those who deliver voluntary assisted dying services and those who conscientiously object.

Relevant principles of the Act include:

- the need to protect individuals who may be subject to pressure or duress
- the right of all persons, including health practitioners, to have their culture, religion, beliefs, values, and personal characteristics respected

This review will seek perspectives on the effectiveness of current safeguards in both legislation and practice. It may also consider views on the appropriateness of the existing eligibility criteria.

The Board's 2024–25 Annual Report demonstrates that a proportion of patients who request to access voluntary assisted dying are unable to proceed as they are found to not meet all eligibility criteria.

- Between 1 July 2024 and 30 June 2025:
  - Of the 2146 patients who had a first assessment, 91.8% were found eligible and 8.2% were found ineligible for voluntary assisted dying.
  - Of the 1806 patients who had a consulting assessment, 98.1% were found eligible and 1.9% were found ineligible for voluntary assisted dying.

Theme 4: Service delivery and sustainability

Service delivery in healthcare refers to how health services are provided to people. This includes where, when and by who the services are provided. Service delivery in relation to voluntary assisted dying is about the systems, processes and workforce arrangements that enable eligible people to access voluntary assisted dying in a timely, safe and legal way. This includes:

- care and referral pathways
- training and education for healthcare workers
- the NSW Voluntary Assisted Dying Portal
- voluntary assisted dying resources
- voluntary assisted dying workforce

Sustainability in healthcare is critical to ensuring that health systems can continue to provide safe, high-quality care now and into the future, without compromising the wellbeing of people, the environment, or the economy. For NSW Health, embedding voluntary assisted dying within existing end of life care pathways and governance frameworks is central to supporting both equitable access and the long-term sustainability of service delivery.

This review will assess whether current systems, processes, and practices effectively support a sustainable voluntary assisted dying service in NSW. A critical component of sustainability is ensuring that authorised practitioners are not only legally permitted to provide voluntary assisted dying services, but also adequately trained and supported. This includes maintaining a sufficient workforce, providing appropriate wellbeing supports, and acknowledging the emotional and professional demands of the role. To ensure long term sustainability, it is also important for voluntary assisted dying pathways to be embedded into broader palliative and end of life care services, and clinical streams that are likely to see patients who are eligible for voluntary assisted dying, such as oncology, respiratory medicine and neurology.

Identifying the key enablers and barriers to maintaining this workforce will be essential for building a resilient and sustainable model of care, one that can reliably meet community need, uphold legislative intent, and remain responsive to the evolving health system context.

Some of the key things to be considered to support sustainability of services include, but are not limited to:

- workforce retention
- appropriate remuneration
- support for practitioners and other care providers involved in providing care to patients accessing voluntary assisted dying
- succession planning
- appropriateness of care and referral pathways
- training for healthcare workers
- integration of voluntary assisted dying into existing end of life care services, and clinical streams that are likely to see patients who are eligible for voluntary assisted dying, such as oncology, respiratory medicine and neurology.

The Board's 2024–25 Annual Report provides data on the authorised voluntary assisted dying practitioner workforce.

At 30 June 2025, there were 346 authorised voluntary assisted dying practitioners. Of these:

- 316 were medical practitioners and 30 were nurse practitioners.
- 304 were eligible to act in a coordinating, consulting and administering practitioner role and 42 were eligible to act in an administering practitioner role only
- 188 supported patients seeking to access voluntary assisted dying between 1 July 2024 and 30 June 2025, of which:
    - 73 (21.1%) supported more than 21 patients at any stage of their application process
    - 27 (7.8%) supported between 11-20 patients
    - 57 (16.5%) supported between 2-10 patients
    - 31 (9.0%) supported one patient.

Appendix 1 - Eligibility criteria for voluntary assisted dying in NSW

The Act outlines strict eligibility criteria for access to voluntary assisted dying. A person must meet all criteria to be considered eligible.

To be eligible for access to voluntary assisted dying, the person must:

- be an adult (18 years and older) who is an Australian citizen, permanent resident of Australia, or who has been resident in Australia for at least three continuous years,
- at the time of making a first request, have been ordinarily resident in NSW for a period of at least 12 months (or have a residency exemption granted by the Voluntary Assisted Dying Board),
- have at least one disease, illness or medical condition that:
    a. is advanced and progressive
    b. will, on the balance of probabilities, cause their death within six months (or within 12 months for neurodegenerative diseases), and
    c. is causing the person suffering that cannot be relieved in a way the person considers tolerable,
- have decision-making capacity in relation to voluntary assisted dying,
- be acting voluntarily and without pressure or duress, and
- have an enduring request for access to voluntary assisted dying.

Appendix 2 – Principles of the Act

- every human life has equal value,
- a person's autonomy, including autonomy in relation to end of life choices, should be respected,
- a person has the right to be supported in making informed decisions about the person's medical treatment and should be given, in a way the person understands, information about medical treatment options, including comfort and palliative care and treatment,
- a person approaching the end of life should be provided with high quality care and treatment, including palliative care and treatment, to minimise the person's suffering and maximise the person's quality of life,
- a therapeutic relationship between a person and the person's health practitioner should, wherever possible, be supported and maintained,
- a person should be encouraged to openly discuss death and dying, and the person's preferences and values regarding the person's care, treatment and end of life should be encouraged and promoted,
- a person should be supported in conversations with the person's health practitioners, family, carers and community about care and treatment preferences,
- a person is entitled to genuine choices about the person's care, treatment and end of life, irrespective of where the person lives in NSW and having regard to the person's culture and language,
- a person who is a regional resident is entitled to the same level of access to voluntary assisted dying and high quality care and treatment, including palliative care and treatment, as a person who lives in a metropolitan region,
- there is a need to protect persons who may be subject to pressure or duress,
- all persons, including health practitioners, have the right to be shown respect for their culture, religion, beliefs, values and personal characteristics.

Appendix 3– Key safeguards in the voluntary assisted dying process

Key safeguards in the voluntary assisted dying process include that:

- A person can only request voluntary assisted dying for themself. No one can request voluntary assisted dying on someone's behalf.
- The patient will need to make three separate requests for voluntary assisted dying (a first request, a written declaration, and a final request).
- The patient's decision to request access to voluntary assisted dying must be assessed as voluntary and free from pressure or duress at multiple stages of the process. Their decision-making capacity must also be maintained throughout the process.
- The patient must be assessed by two independent medical practitioners (a coordinating and consulting practitioner) against each of the eligibility criteria.
- A patient's decision to seek information about, or access to, voluntary assisted dying has no impact on their access to high quality palliative care. Every patient seeking access to voluntary assisted dying must be informed about all palliative care and treatment options available to them, and the likely outcomes of the care and treatment. They must also be provided with information about their diagnosis, prognosis and any available treatment options.
- The patient can be referred to another person with appropriate skills and training to confirm the patient is eligible to access voluntary assisted dying.
- The patient can pause or stop the voluntary assisted dying process at any time.
- It is a criminal offence for anybody to induce another person to request or access voluntary assisted dying.
- Practitioners who provide voluntary assisted dying services must meet professional qualifications and eligibility requirements, including successfully completing mandatory training.
- A confidential authorised voluntary assisted dying practitioner community of practice ensures practitioners are supported with a forum for peer support, interactive case-based discussions, and on-going education.
- Persons acting in accordance with the Act are protected from liability.
- A healthcare worker is not obliged to participate in the voluntary assisted dying process if they have a conscientious objection. However, they cannot impede or obstruct access to the voluntary assisted dying process.
- The Voluntary Assisted Dying Board (the Board) has been established to monitor the operation of the Act and make decisions about applications for patients to access voluntary assisted dying.
- In line with the Act, Board membership includes two senior legal practitioners, two medical practitioners and one member with knowledge, skills or experience relevant to the Board's functions.
- The Board must grant a Voluntary Assisted Dying Substance Authority (substance authority) before a prescription for the voluntary assisted dying substance can be issued.
- Prescribing and administration of voluntary assisted dying substances only occurs in accordance with approved NSW protocols.
- NSW Voluntary Assisted Dying Pharmacy Service pharmacists provide in-person information on safe use, storage and disposal of substances directly to patients (self-administration) and administering practitioners (practitioner administration).
- The voluntary assisted dying substance must be stored in a locked box and any unused or remaining substance must be returned and disposed of. The NSW Voluntary Assisted Dying Pharmacy Service supports contact persons and authorised disposers in this role and monitors the safe and timely disposal of unused or remaining substance.
- If a patient changes their administration decision (either from self-administration to practitioner administration or vice versa) and the voluntary assisted dying substance has already been supplied, the NSW Voluntary Assisted Dying Pharmacy Service ensures that a patient would not have access to two voluntary assisted dying substance kits simultaneously.

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