

## Submission to the Northern Territory Parliamentary Inquiry into Voluntary Assisted Dying (VAD) by Dying With Dignity Victoria

14 August 2025

### Introduction

Founded in 1974, Dying With Dignity Victoria (DWDV) is a law reform and education organisation pursuing public policies and laws in the state of Victoria to enhance self-determination and dignity at the end of life. The purpose of the association is to relieve distress, helplessness and suffering for Victorians with untreatable, painful or terminal illnesses. DWDV is a member of the World Federation of Right to Die Societies.

Victoria was the first Australian state to legislate voluntary assisted dying in 2017, after about 50 attempts to pass similar legislation in other states had failed. Victoria's *Voluntary Assisted Dying Act 2017* (VAD Act) passed by a very narrow margin, and only after many concessions were made to conservative parliamentarians, resulting in 68 safeguards in the Act. Consequently, the Act is among the most restrictive in Australia and, indeed, the world. Other Australian jurisdictions have subsequently relaxed several of the restrictions that prevail in the Victorian legislation and have proved to deny equity in access for the very individuals that the legislation was designed to help.

Our responses to the four questions raised in the Northern Territory's consultation paper are based on six years of operation of Victoria's VAD Act and feedback from:

- our members and the general public, including people with lived experience of supporting a loved one to access VAD
- medical practitioners on our Board who have been involved in many voluntary assisted dying cases, and
- reports of Victoria's Voluntary Assisted Dying Review Board.

Our responses also reflect issues raised by DWDV in our February 2024 submission to Victoria's Five Year Review of the operation of the VAD Act,<sup>1</sup> where we highlighted numerous ways in which Victoria's VAD system fails to meet the needs of Victorians who may wish to access VAD, as well as the needs of their families and carers.

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<sup>1</sup> <https://www.dwdv.org.au/wp-content/uploads/2024/02/DWDV-submission-to-Victorian-VAD-5-Year-Review.pdf>

## 1. Do you support making VAD legal in the NT?

DWDV strongly supports making VAD legal in the Northern Territory (NT). Once VAD becomes available in the Australian Capital Territory (ACT) in November 2025, NT residents will be the only Australians without access to this end of life choice.

The NT pioneered assisted dying globally with the *Rights of the Terminally Ill Act 1995* (the ROTI Act). The repeal of that law was due to federal intervention rather than shortcomings in the legislation. With the restoration of territory rights, the NT now has an opportunity to implement a model that reflects best practice from other Australian jurisdictions while ensuring equity and cultural sensitivity for its diverse population.

The experience in Victoria, where VAD has been legal since 2017, confirms that VAD legislation can provide a safe, transparent, and compassionate framework for those experiencing intolerable suffering. Evidence from all Australian states shows that VAD laws operate safely, with strong oversight and no credible reports of coercion. The Victorian Voluntary Assisted Dying Review Board's reports consistently demonstrate that the process is robust and effective. Victoria's recently completed Five Year Review of the operation of Victoria's VAD legislation found that VAD is operating as intended and providing a safe and compassionate end of life choice to eligible Victorians.<sup>2</sup> However, the Five Year Review also identified areas where the experience of people who choose to access voluntary assisted dying can be improved, and recommended changes to continue to improve access to VAD and the experience of Victorians who choose this end of life option.

Victoria's VAD Act has both bureaucratic and eligibility barriers that limit access to many people with genuine need, and in some cases this involves denying VAD eligibility to the very individuals that the law had been designed to help in the first place. It is an example of the law protecting hypothetical people from hypothetical harm, at the cost of denying access to a large cohort of people seeking and otherwise qualifying for VAD. The prognosis requirement is the most significant of those barriers. Victoria is currently in the process of preparing to amend its VAD Act and the operation of its VAD scheme, in response to the Five Year Review, to which DWDV contributed with a significant submission.

VAD laws need to balance accessibility and protection. The most recent Australian VAD legislation from the ACT strikes a much better balance between risk and access than in Victoria. We urge the NT to take the opportunity to set the new standard for VAD in Australia by incorporating lessons learned from the experiences of implementing VAD in other jurisdictions and adopting leading practice from other jurisdictions.

## 2. What eligibility criteria should a person need to meet before they can access VAD?

DWDV supports clear but compassionate eligibility criteria that protect vulnerable individuals while ensuring access for those with intolerable suffering. The eligibility criteria recommended by the Northern Territory's 2024 Expert Panel seem appropriate. We make the following additional comments:

- **Age:** While we understand the recommendation that a person should be 18 years or older to seek VAD in the Northern Territory, we think there could be consideration for mature minors under exceptional circumstances.

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<sup>2</sup> <https://www.health.vic.gov.au/voluntary-assisted-dying/five-year-review>

- **Residency:** We support the proposal for exceptions to the Australian and Territory residency requirements for cross-border communities and those with personal connections to the NT, particularly in relation to family, cultural and/or support links. We also support the concept of exemptions from the residency for Aboriginal or Torres Strait Islander individuals with substantial connections with the NT community who wish to finish up on Country. There should also be flexibility to allow compassionate exemptions for any applicant who cannot produce documents due to illness or remoteness.
- **Eligible condition:** We encourage the Northern Territory to consider eligibility based on diagnosis of an advanced and progressive medical condition that will cause death and is causing intolerable suffering, without arbitrary prognosis requirements (e.g., 6 or 12 months), which are often medically inaccurate. This would align the Northern Territory with the ACT's position on VAD, which currently represents leading practice in Australia.
- **Decision-making capacity:** We understand the recommendation for VAD applicants to demonstrate decision-making capacity throughout the VAD process. The question of how to accommodate VAD requests from people who subsequently lose decision-making capacity is yet to be addressed by any other Australian jurisdiction. However, this should not deter the Northern Territory from adopting a leading position in this area. We acknowledge the importance of considering appropriate exemptions or flexibility to accommodate collective decision-making approaches for Aboriginal and Torres Strait Islander people and any exemptions and/or flexibility that would need to be built into potential VAD legislation. We would not support an additional requirement for psychiatrist assessment of applicants to rule out treatable depression, as previously existed in the ROTI Act, particularly given that the Northern Territory has the lowest number of psychiatrists in Australia.<sup>3</sup> This would create an unreasonable and unnecessary barrier to VAD access for Territorians.

### 3. How could the NT ensure safe and effective access to VAD, including for remote areas and Aboriginal and Torres Strait Islander peoples?

The NT's geographic challenges and cultural diversity require a tailored model for safe and equitable VAD access. We offer the following suggestions:

- **Equity of Access Principles:** We note that Western Australia, Queensland, Tasmania and New South Wales have embedded in their legislation principles providing for equity of access to VAD for residents of regional and remote areas. Similar principles may be considered to guide the interpretation of the NT's VAD legislation. However, we acknowledge the particular challenges in realising equity of access in a jurisdiction the size of the NT with a thinly distributed population across poorly serviced remote locations. Ensuring that all Territorians have the same access to VAD services as those living in major towns will require a suitably adapted model of VAD delivery with adequate funding.
- **Centralised VAD Service:** In light of the above, we support the NT's proposal to establish a stand-alone, multidisciplinary team, including VAD care navigators,

<sup>3</sup> <https://www.ranzcp.org/news-analysis/nt-records-critical-shortages-in-mental-health-workforce-new-data-shows>

pharmacists, and trained health practitioners to coordinate the VAD process. We applaud the NT's proposal to include family support, counselling, and social and bereavement support as part of the centralised service. There was no VAD-specific grief and bereavement support available for families and carers of people who choose VAD, either before or after VAD, until DWDV and Griefline launched a pilot program of VAD-specific bereavement support groups in late 2023.<sup>4</sup>

- **Telehealth and Outreach:** Advocate for Commonwealth legislative reform to permit telehealth for VAD. Depending on the scope of the centralised VAD service, consider implementing additional measures to promote access to VAD for non-metropolitan patients, such as providing travel assistance for patients and doctors, and deploying visiting medical officers to remote communities.
- **Cultural Safety:** Co-design VAD services with Aboriginal Community Controlled Health Organisations (ACCHOs) to create culturally sensitive practices that are adapted to local contexts, with particular consideration given to factors such as different cultural beliefs about illness, dying and end-of life care, cross-cultural communication, and practices such as family and kinship-based decision-making. There may need to be careful consideration given to how key concepts that underpin the Australian VAD model, such as voluntariness, are approached in the context of Aboriginal and Torres Strait Islander cultural mores and decision-making practices and conveyed in community languages.
- **Public Awareness:** Provide multilingual, culturally tailored education to ensure people are informed about their options. Victoria's Five Year Review acknowledged that in Victoria, there is low awareness of VAD and limited tailored information and support for Aboriginal and Torres Strait Islander people and people from multicultural communities.
- **Institutional Obligations:** Ensure that publicly funded health and aged care facilities cannot obstruct lawful VAD access and require them to cooperate with external providers. We support the 2024 Expert Panel's proposal that residential facilities in the NT should not be able to hinder permanent residents of the facility from accessing VAD on site, and should allow requests, assessments and administration of VAD for residents who wish to undergo VAD. Victoria's policy approach to institutional participation in VAD has patently failed to meet the needs of people seeking access to VAD, who need legislative safeguards for their right to access VAD. We think a legislative model for regulating institutional objections, such as the Queensland model, is the best way to balance the interests of people seeking VAD and non-participating institutions.

In addition to the above, we consider that the VAD process proposed for implementation in the Northern Territory by the 2024 Expert Panel will support safe and effective access to VAD. We comment on some specific points as follows:

- **VAD practitioner eligibility:** There is a need to strike a balance between ensuring practitioners are appropriately qualified while also ensuring that practitioners are not unnecessarily deterred from participation. Victoria's experience suggests that a small number of practitioners will provide most VAD services, which risks burnout of those

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<sup>4</sup> [https://griefline.org.au/wp-content/uploads/2024/11/Supporting-bereavement-for-families-navigating-voluntary-assisted-dying-VAD\\_white-paper.pdf](https://griefline.org.au/wp-content/uploads/2024/11/Supporting-bereavement-for-families-navigating-voluntary-assisted-dying-VAD_white-paper.pdf)

practitioners. We support establishing an administering practitioner role that nurses can also fulfill.

- **Permits:** We support the NT's proposal to consider alternatives to the bureaucratic permit process that Victoria adopted. Many Victorians have died suffering while awaiting the completion of this time-consuming, unnecessary step in the VAD process. The Victorian Government has announced its intention to simplify the permit process to improve applicant choice and prevent delays due to permit change.
- **Initiating discussions about VAD:** We support the NT's proposal to ensure that medical practitioners should be allowed to introduce the subject of VAD services to patients during discussion about treatment options. In response to Victoria's Five Year Review, the Victorian Government is seeking to amend Victoria's VAD Act to modify the 'gag clause' that currently prevents health practitioners from raising VAD with patients. We commend the ACT's approach to regulating discussions about VAD for consideration by the Northern Territory. The ACT's VAD legislation does not prohibit any person from raising VAD as an end of life choice. Rather, it establishes minimum requirements for certain health professionals who raise VAD as an end of life choice (see section 155 of the ACT VAD law). In our view, this strikes an appropriate balance between patient safety and ensuring that people can be made aware of VAD as an end of life option.
- **Health practitioners who do not want to help with VAD:** We acknowledge that a centralised VAD model is likely to provide a safeguard that does not exist in jurisdictions where patients must source their own VAD practitioners. However, it may still be worthwhile ensuring that the NT's VAD legislation protects the right to conscientious objection for all health practitioners (e.g., nurses, psychologists, social workers) while also requiring objecting practitioners to proactively state their objection and provide patient with information about the centralised VAD service.
- **Method of administration of VAD substance:** We support patient choice of self-administration and practitioner administration of the VAD substance, even if people are capable of ingesting oral medication. People seeking VAD are often anxious about mixing and swallowing the VAD substance on their own. Some VAD providers in Victoria offer to be in attendance when the patient self-administers the medication. A DWDV Board member who is also a VAD provider has stated that when this is offered, around a third of patients accept. Patients want to know that the process will proceed effectively. Both patients and the family and friends who support them are reassured by the presence of a practitioner. Currently, only Victoria and South Australia require self-administration unless the person cannot swallow or digest the substance. Other jurisdictions that allow more choice have much higher rates of practitioner administration. Rather than prescribing a default position, we suggest this matter is best determined between a VAD applicant and their medical team.
- **Contact person:** We think appointment of a contact person is only necessary if the person chooses self-administration. In Victoria, DWDV provides volunteers to act as a contact person for VAD applicants who are unable to find anyone to act in that role.

#### 4. How could the NT monitor the process to ensure VAD is delivered safely and effectively?

DWDV recommends a robust oversight and monitoring framework to ensure public confidence and safety:

- **Independent VAD Review Board:** We note that consideration is being given to whether the NT's review board should provide both prospective and retrospective oversight of the VAD process. We urge the NT to ensure that oversight mechanisms strike an appropriate balance between patient safety and ensuring that the process does not create delays that increase patient suffering.
- **Legislative Review:** Conduct periodic reviews to address operational challenges and refine the law and the VAD system. We think that a three year review cycle is optimal for a jurisdiction like the NT with unique geographic and demographic features that may result in unexpected challenges in implementation. The review cycle could be lengthened once operation of VAD laws has become more settled and is a more familiar part of the end of life landscape.
- **Data Collection:** We encourage the NT to publish de-identified data on usage, demographics, and outcomes to inform continuous improvement.
- **Practitioner Accreditation and Training:** It is appropriate to require VAD practitioners to complete VAD-specific training and adhere to consistent guidelines. However, feedback from medical practitioners in Victoria indicates that the current training is experienced as unduly legalistic and time-consuming and should be reviewed. We encourage the NT to consider strategies to incentivise practitioners to undertake training, such as funding support and professional development credits.

## Conclusion

DWDV urges the NT to legislate VAD in a way that is safe, compassionate, and culturally appropriate. Drawing on the experience of Victoria and other states, we believe that well-designed legislation, combined with appropriate oversight, will provide Territorians with the dignity and autonomy they deserve at the end of life.

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