

What next for voluntary assisted dying in Australia?

Ben P. White^{A,*} (DPhil, LLB(Hons), Professor of End-of-Life Law and Regulation) and Lindy Willmott^A (PhD, LLM, LLB(Hons), BCom, Professor of Law)

For full list of author affiliations and declarations see end of paper

***Correspondence to:**

Ben P. White
Australian Centre for Health Law Research,
Faculty of Law, Queensland University of
Technology, 2 George Street, Brisbane,
Qld 4000, Australia
Email: bp.white@qut.edu.au

ABSTRACT

As all Australian states now have voluntary assisted dying legislation, and with territories likely to follow, the focus shifts to how these systems are operating in practice and can be improved. Evidence to date shows voluntary assisted dying has been implemented safely, but some access challenges remain. The legislation in each state requires the voluntary assisted dying system must be reviewed and such reviews must be evidence-based.

Keywords: end-of-life care, euthanasia, evidence-based reform, health law, health policy, implementation, oversight, voluntary assisted dying.

Five years ago, when only Victoria had passed its *Voluntary Assisted Dying Act*, we predicted that the other states (and eventually territories) would follow suit and pass their own laws.¹ What we did not foresee was how quickly that would happen. As we write, all six Australian states have passed voluntary assisted dying laws and only the New South Wales law is yet to commence. The territories have also just had their legislative power on this topic returned to them by the Commonwealth. There is now a shift in the national conversation from whether or not voluntary assisted dying should be legal, to how should it be implemented and the system's subsequent operation.

Implementation of this new practice is challenging.² The Australian model of voluntary assisted dying legislation is complex and requires the establishment of infrastructure, training and systems to support the process. Early evidence is that voluntary assisted dying has generally been implemented successfully. Victoria has over 3 years of operative voluntary assisted dying and Western Australia over a year. There have not been cases of ineligible patients being granted access to voluntary assisted dying and the reports of oversight boards conclude the systems are operating safely and as intended.^{3,4}

Indeed, to the extent that access has been an issue, it has been that some patients have reported finding applying for voluntary assisted dying too challenging.^{5,6} More work is needed to ensure that this choice is accessible for eligible patients in a timely way.

Other challenges remain. The Commonwealth Criminal Code may prohibit using telehealth and related technology for voluntary assisted dying, causing delay and hardship for patients.^{7,8} Some institutions have objected to voluntary assisted dying occurring on its premises, again sometimes with adverse consequences for terminally-ill patients and their families.^{4,9} The law in some states prohibits doctors and others from raising the topic of voluntary assisted dying, compromising frank discussions about end-of-life choices with potentially eligible patients.⁵ There are a relatively small pool of doctors (and nurses where permitted) who have trained and are available to provide voluntary assisted dying, causing access issues, particularly in some areas.^{3,4}

There is scope to consider these and other issues in the formal reviews that each of the states' voluntary assisted dying legislation require occur. First up are Victoria and Western Australia. Such reviews must utilise the growing body of data collected by the oversight bodies and the emerging research evidence about how these systems are operating in practice.

The introduction and implementation of voluntary assisted dying systems has been a success across Australian jurisdictions. But all systems, and the laws that underpin them, can be improved. Challenges in the early days of implementing any new practice in the

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health system are to be expected, and this is particularly so for a complex system such as voluntary assisted dying. The forthcoming reviews present an opportunity to address these challenges. As we argued when the original laws permitting voluntary assisted dying were debated,¹⁰ such reviews must be evidence-based.

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Author affiliation

^A Australian Centre for Health Law Research, Faculty of Law, Queensland University of Technology, 2 George Street, Brisbane, Qld 4000, Australia.