

**ASSISTED DYING:**  
**SETTING**  
**THE**  
**RECORD**  
**STRAIGHT.**

Dying with Dignity   
New South Wales



# TABLE OF CONTENTS

<b>THE FACTS.....</b>	<b>4</b>
<b>DISPELLING THE MYTHS. ....</b>	<b>5</b>
<b>VULNERABLE PEOPLE.....</b>	<b>6</b>
<b>PUBLIC SUPPORT. ....</b>	<b>8</b>
<b>POLL RESULTS.....</b>	<b>9</b>
<b>MEDICAL PRACTICE.....</b>	<b>10</b>
<b>PALLIATIVE CARE.....</b>	<b>12</b>
<b>THE NUMBERS. ....</b>	<b>13</b>
<b>INCREASING ACCESS TO ASSISTED DYING.....</b>	<b>14</b>
<b>CONCLUSION.....</b>	<b>14</b>
<b>REFERENCES.....</b>	<b>15</b>

# THE FACTS.

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**73%** OF AUSTRALIANS

**SUPPORT THE CHOICE OF  
ASSISTED DYING FOR  
TERMINALLY ILL PEOPLE**

**AND ONLY 15% OPPOSE** <sup>1.</sup>

An assisted dying law is needed because the current law is failing many Australians.

Based on findings from the Victorian Parliamentary Inquiry Into End Of Life Choices, <sup>2.</sup> the most comprehensive inquiry of its kind ever held in Australia, we know every year:

- Desperate, terminally ill Australians are ending their own lives, often in horrific circumstances.
- Families are being traumatised after witnessing the 'bad deaths' of loved ones.
- There are repeated examples of inadequate pain relief being delivered to dying patients by doctors for fear of breaking the law.
- Despite its many benefits, palliative care is unable to relieve all suffering.
- People are being put on trial for helping those they love find a merciful end.
- Doctors are being forced to break the law in order to help their patients die, but are doing so without support, regulation, or accountability.
- With few legal options, some seriously ill Australians are refusing food and water to expedite death and finally relieve their suffering.

**WE CANNOT ALLOW THE SUFFERING TO CONTINUE.**

**WE NEED A VOLUNTARY ASSISTED DYING LAW  
WITH STRICT SAFEGUARDS.**

# DISPELLING THE MYTHS.

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Despite the overwhelming support in the community and despite the evidence that maintaining the status quo is unacceptable, the vocal minority who oppose assisted dying laws have to date been successful in blocking this legislation.

Opponents go to great lengths to plant seeds of fear, uncertainty and doubt in the minds of the general public, but more importantly, in the minds of politicians. They use misinformation and 'cherry picked' statistics to divert the debate away from sensible and evidence-based arguments into the realm of distortion and scaremongering.

Opponents often refer to 'euthanasia', which is misleading in the Australian context. Euthanasia refers to the administration of life-ending medication by a doctor. The proposed Voluntary Assisted Dying laws in NSW and Victoria would legalise voluntary assisted dying – where patients who meet strict eligibility criteria would be prescribed medication to end their own lives. It would only be in rare circumstances, where a patient is unable to self-administer, that a doctor would be able to administer the medication.

The NSW Voluntary Assisted Dying Bill 2017 is modelled on the law in Oregon, USA, with even stricter safeguards. The Death With Dignity Act has been operating safely for twenty years and has since been adopted by five other US states and Washington DC. The NSW Bill would only apply to mentally competent, terminally ill adults who have a prognosis of less than twelve months to live. The NSW Bill is different to the laws in Belgium or the Netherlands, which were much wider in scope from the outset and based on a broad criterion of suffering—not necessarily linked to a terminal illness; comparison to these laws is misleading.

As more and more jurisdictions around the world introduce assisted dying laws, the opponents' arguments are becoming weaker. However, they continue to spread misinformation and create new arguments because, as former New Hampshire legislator, Nancy Elliott, explained at an anti-euthanasia conference in Adelaide in 2015:

*"When you have lots of arguments, if one argument gets blown out of the water, you still have more, and each argument will reach somebody else."*

*"You only have to convince legislators that they don't want this bill. You don't have to win their hearts and minds; all you have to do is get them to say, 'Not this bill', and then you have got your win."<sup>3</sup>*

## AUSTRALIANS DESERVE A DIGNIFIED, RESPECTFUL AND EVIDENCE-BASED DEBATE ABOUT ASSISTED DYING.

We encourage all members of the NSW Parliament, as well as journalists and the general public, to examine the evidence and not be distracted by the 'myths' being promoted by opponents. Decisions should be made on facts, not fear.

Terminally ill people deserve the compassion and protection of a robust law, with strict safeguards. They also deserve an informed, evidence-based debate when lawmakers are determining what end-of-life choices should be available to them. In order for this to be achieved, some common myths must be dispelled.

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# VULNERABLE PEOPLE.

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## MYTH

### POTENTIALLY VULNERABLE PEOPLE, SUCH AS THE ELDERLY OR DISABLED, WILL BE AT RISK UNDER A VOLUNTARY ASSISTED DYING LAW.

Where voluntary assisted dying is legal there is no evidence that potentially vulnerable groups such as the over-85s, disabled people, people of lower socio-economic status and those with mental health problems are adversely affected. <sup>4</sup> Research has found in no jurisdiction was there evidence that vulnerable patients have been receiving euthanasia or voluntary assisted dying at rates higher than those in the general population. <sup>5</sup>

The law proposed in NSW requires that a person be suffering from a terminal illness which, in reasonable medical judgement, will result in the death of the patient within 12 months. They also have to be experiencing severe pain, suffering or physical incapacity to an extent deemed unacceptable to the patient, and eligibility has to be confirmed by two medical practitioners and a psychiatrist, or clinical psychologist to confirm mental competence. The NSW Bill also contains additional safeguards to the Oregon law, including a framework for judicial review to the Supreme Court. There is far more involved in the decision than a patient merely requesting it. <sup>6</sup>

## MYTH

### IN OREGON AND WASHINGTON, WHERE ASSISTED DYING IS LEGAL, 'FEELING A BURDEN' IS REGULARLY CITED AS A REASON FOR A REQUEST.

Patients who request assisted dying in Oregon and Washington give several reasons for their choice - burden falls low on the list. The key reasons for requesting assistance to die in both States are loss of autonomy (c.90%), being less able to engage in enjoyable activities (c.88%) and loss of dignity (c.79%). Burden is less frequently cited (40% in Oregon and 59% in Washington), with research showing that this can reflect patients' own feelings, rather than how caregivers view them. Caregivers find positive meaning in caring for terminally ill family members who have requested assisted dying. <sup>7</sup>

Under the proposed Bill, two doctors and a psychiatrist or clinical psychologist would be required to independently assess the person making a request, including exploring the reasoning and motivations for a request to ensure there is no coercion. The person can also change their mind at any point.

## MYTH

### AN ASSISTED DYING LAW WOULD BE THE START OF A SLIPPERY SLOPE.

In Oregon, where an assisted dying law has operated safely since 1997, there have been no cases of abuse of the law and no widening of its initial, limited scope. Assisted deaths in Oregon account for just 0.4% of total deaths. <sup>8</sup>

Those opposed to assisted dying often cite the wider eligibility criteria of the laws operating in Belgium and the Netherlands, but these have always been much wider in scope than the Voluntary Assisted Dying Bill and do not therefore represent a slippery slope. The law you enact is the law you get.

Research of jurisdictions that allow assisted dying shows that the concerns about abuse have not eventuated. The eligibility criteria and safeguards are restricting access to only those who qualify, and protecting vulnerable people. <sup>2</sup>

**MYTH****MENTAL CAPACITY CANNOT BE RELIABLY ASSESSED.**

Doctors routinely assess mental capacity as part of their day-to-day duties. Determining mental capacity already plays a key role in end-of-life decision making, such as the right to refuse treatment. However, the Voluntary Assisted Dying Bill has the added safeguard of a mandatory assessment by either a psychiatrist or psychologist to confirm the patient is of sound mind, has decision-making capacity, and is making their decision freely and voluntarily and after due consideration.

**MYTH****IN OREGON, PEOPLE WITH DEPRESSION HAVE HAD AN ASSISTED DEATH.**

A level of sadness is normal in terminally ill patients.<sup>9</sup> Research from Oregon found that whilst some requesting patients presented some of the symptoms associated with depression (weight loss, fatigue, loss of appetite etc.), these are common symptoms of terminal illness. There was no evidence to suggest these people were suffering from clinical depression.<sup>10</sup> The mandatory assessment by a psychiatrist or psychologist in the NSW Bill provides an additional safeguard in regard to the question of mental illness.

**MYTH****ASSISTED DYING IS SUICIDE, LEGISLATING FOR IT SENDS A DANGEROUS MESSAGE TO SOCIETY AS A WHOLE.**

Dying people who want to control the manner and timing of their death are not suicidal. Oregon's Death With Dignity Act itself states that a death under its provision is not a suicide — there being major differences between a rational and fully informed choice in the face of intolerable and unrelievable end-of-life symptoms, and irrational choices about transient problems.<sup>11</sup>



# PUBLIC SUPPORT.

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## MYTH

### THE GENERAL PUBLIC IS DIVIDED ON THE ISSUE OF ASSISTED DYING.

The general public overwhelmingly supports a change in the law on assisted dying. Opinion polls conducted in Australia over many years have consistently shown support ranging from 70% to 85%. In 2015, an Ipsos/MORI poll showed 73% of Australians agreed that "it should be legal for a doctor to assist a patient aged 18 or over to end their life, if that is the patient's wish, provided that the patient is terminally ill, of sound mind and expresses a clear desire to end their life." <sup>12.</sup>

## MYTH

### RELIGIOUS PEOPLE ARE OPPOSED TO ASSISTED DYING.

A 2012 Newspoll survey showed that 88% of Anglicans and 77% of Catholics agreed that a doctor should be allowed to meet a request from a hopelessly ill patient for help to die. While the hierarchy of the Catholic Church is opposed to voluntary assisted dying, it does not speak for the majority of Australian Catholics. A number of senior religious figures such as the former Archbishop of Canterbury Lord Carey and Archbishop Desmond Tutu have spoken out in support of the choice of assisted dying.

## MYTH

### DISABLED PEOPLE ARE OPPOSED TO ASSISTED DYING.

Many disabled people are not opposed to assisted dying. A number of well-known disabled people, including Professor Stephen Hawking, have spoken out in support of assisted dying legislation. <sup>13.</sup>

Disabled people would not be eligible for assistance to die under the Voluntary Assisted Dying Bill, unless they are terminally ill and meet all of the other eligibility criteria.

## MYTH

### THE MEDICAL PROFESSION IS OPPOSED TO ASSISTED DYING.

A recent survey showed that 60% of NSW doctors support the Voluntary Assisted Dying Bill and 80% of NSW nurses. <sup>14.</sup> This followed the AMA survey that showed 68% of doctors agree that 'there are patients for whom palliative care or other end of life care services cannot adequately alleviate their suffering'. <sup>15.</sup>

A key voice in the campaign for assisted dying is the nursing profession, with the national arm of the Australian Nursing and Midwifery Federation leading the lobbying effort.

*"As nurses we witness the suffering of patients and their families daily and we are seeking a law that gives people with a terminal illness, at the end stage of life, for whom there is no other option, the right to choose a peaceful death.*

ANMF Federal Secretary Lee Thomas



# 60%

of NSW doctors support the Voluntary Assisted Dying Bill.

# POLL RESULTS.

## Assisted Dying Opinion Poll Results – Australia

Public opinion in support of doctor-assisted dying has been in the majority for more than four decades. Support was in the high 60%<sup>s</sup> in the 1980s, in the mid to high 70%<sup>s</sup> in the 1990s, and in the low 80%<sup>s</sup> in the 2000/2010s.

Polling body	Date	Question	Yes	No
Newspoll	2007	Thinking now about voluntary euthanasia, if a hopelessly ill patient, experiencing unrelievable suffering, with absolutely no chance of recovering asks for a lethal dose, should a doctor be allowed to provide a lethal dose, or not?	80%	14%
Newspoll	2009	Thinking now about voluntary euthanasia, if a hopelessly ill patient, experiencing unrelievable suffering, with absolutely no chance of recovering asks for a lethal dose, should a doctor be allowed to provide a lethal dose, or not?	85%	10%
Australia Institute	2010	This question is about voluntary euthanasia. If someone with a terminal illness who is experiencing unrelievable suffering asks to die, should a doctor be allowed to assist them to die?	75%	13%
Newspoll	2012	Thinking now about voluntary euthanasia, if a hopelessly ill patient, experiencing unrelievable suffering, with absolutely no chance of recovering asks for a lethal dose, should a doctor be allowed to provide a lethal dose?	82.5%	12.7%
Australia Institute	2012	This question is about voluntary euthanasia. If someone with a terminal illness who is experiencing unrelievable suffering asks to die, should a doctor be allowed to assist them to die?	71%	12%
ABC Vote Compass	2013	Terminally ill patients should be able to legally end their own lives with medical assistance.	75.1%	15.5%
Essential Media Communications	2014	When a person has a disease that cannot be cured and is living in severe pain, do you think should or should not be allowed by law to assist the patient to commit suicide if the patient requests it? <b>NB:</b> this poll used the term "commit suicide", which is thought to be the reason for the lower than usual 'Yes' response	66%	14%
Ipsos Mori	2015	What do you think of doctor-assisted dying? Do you think it should be legal or not for a doctor to assist a patient aged 18 or over in ending their life, if that is the patient's wish, provided that the patient is terminally ill (where it is believed that they have 6 months or less to live), of sound mind, and expresses a clear desire to end their life?	73%	15%
Essential Media Communications	2015	When a person has a disease that cannot be cured and is living in severe pain, do you think should or should not be allowed by law to assist the patient to commit suicide if the patient requests it?	72%	12%
ABC Vote Compass	2016	Terminally ill patients should be able to legally end their own lives with medical assistance.	75%	16%

# MEDICAL PRACTICE.

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## MYTH

### **IF ASSISTED DYING WERE LEGALISED, IT WOULD BE SAFER TO REMOVE IT FROM MEDICAL PRACTICE SO THAT DOCTORS WOULD NOT BE REQUIRED TO KILL THEIR PATIENTS.**

If a request for assisted dying is approved, the dying person would administer the life-ending medication themselves. To use the word “kill” is therefore inappropriate.

Doctors are already required to make complex decisions about patients’ end-of-life care; this includes discontinuing futile treatment and respecting patients’ requests to refuse treatment, both of which may hasten death. Diagnosing a terminal illness, assessing mental capacity and providing palliative support and information all require the expertise of a suitably qualified professional.

Evidence from jurisdictions where assisted dying is legal shows that the model proposed in the Voluntary Assisted Dying Bill works. Doctors are best placed to effectively assess a request, removing them from the process would undermine the safeguards of the Bill.

According to the Australian Medical Association’s (AMA) latest survey, the majority of AMA doctors believe if assisted dying is legalised it should be provided by doctors. <sup>15</sup>.

## MYTH

### **ASSISTED DYING IS CONTRARY TO MEDICAL ETHICS AND WOULD VIOLATE THE HIPPOCRATIC OATH.**

A long-standing tenet of the Hippocratic Oath is that doctors ‘do no harm’. It may be argued that to insist that a terminally ill patient who is experiencing unrelievable suffering must endure a ‘natural death’ is paternalistic, and has far greater potential for harm than to allow the patient to exercise autonomy over the manner and timing of their death. In contrast to the claim that assisted dying is a violation of the Hippocratic Oath, many healthcare professionals consider that being prevented from respecting the wishes of dying people is in conflict with their medical ethics.

A conscientious objection clause in the NSW Voluntary Assisted Dying Bill 2017 means no health provider, or other person, is under any duty to participate.

## MYTH

### **DOCTORS ARE NOT WILLING TO PARTICIPATE IN ASSISTED DYING SO A LAW WOULD NOT BE ABLE TO WORK IN PRACTICE.**

While 50% of AMA doctors who responded to their latest survey agreed that ‘doctors should not be involved in interventions that have as their primary purpose the ending of a person’s life, 52% agreed that ‘euthanasia’ can form a legitimate part of medical care and one in three doctors said they would provide voluntary assisted dying if requested, if it is legalised. <sup>15</sup>.

Based on the experience from overseas, although there will be some doctors who will choose not to participate in assisted dying on moral or religious grounds, there will be enough doctors willing to participate. This will ensure that the health care sector can provide better outcomes for all Australians at the end of life, regardless of their treatment preferences.

**MYTH****ASSISTED DYING WOULD DAMAGE THE DOCTOR-PATIENT RELATIONSHIP.**

In Oregon, only 1 in 10 patients who discuss assisted dying with their doctor go on to take the life-ending medication <sup>16</sup>. Changing the law would allow a dying person to have honest, transparent conversations with their care team about their fears and wishes for the end of their life. Many would argue that the doctor-patient relationship is enhanced not damaged.

Emeritus Professor Ian Maddocks, Australia's most eminent palliative care physician, has said: "the existence of an assisted dying law would have made me a better palliative care physician."

**MYTH****DOCTORS CANNOT ACCURATELY PREDICT IF SOMEONE IS EXPECTED TO DIE WITHIN 12 MONTHS.**

Many doctors are experienced in assessing life expectancy. Evidence shows that errors in prognosis are more likely to be over-estimates of life expectancy. <sup>17</sup>. Data from the Oregon Health Authority tells us that only 7% of patients who receive the life-ending medication live for more than six months after being assessed as eligible for assistance. On average these patients outlive their prognosis by two months. <sup>18</sup>.

'Terminal' is already a legally recognised term in Australia. Australian insurance companies accept a prognosis of less than 12 months to live for the payout of a life insurance policy. This is a long-standing practice and is considered uncontroversial.

The assumption underlying concerns around prognosis is that patients are eager to die. This is not correct, as illustrated by the fact that in Oregon assisted dying patients wait an average of seven weeks between their first request and ingesting the life-ending medication. Additionally, around a third of patients who receive assisted dying do not take the life-ending medication, rather they die from their underlying illness. <sup>19</sup>.



# PALLIATIVE CARE.

## MYTH

### AN ASSISTED DYING LAW WILL NEGATIVELY IMPACT PALLIATIVE CARE.

Oregon, Washington and Vermont, which all have assisted dying legislation, are rated amongst the best states in the USA for the quality of palliative care. Ninety percent of patients who have an assisted death in Oregon are enrolled in hospice care. <sup>19.</sup>

The European Association of Palliative Medicine stated, after reviewing available evidence, that: "The idea that legalisation of euthanasia and/or assisted suicide might obstruct or halt palliative care development thus seems unwarranted and is only expressed in commentaries rather than demonstrated by empirical evidence." <sup>20.</sup>



Of patients who have an assisted death in Oregon are enrolled in hospice care.

## MYTH

### IF PALLIATIVE CARE IS IMPROVED THERE WILL BE NO NEED FOR ASSISTED DYING.

Palliative care in Australia is amongst the best in the world, so most Australians die well, however, even Palliative Care Australia acknowledges that: "It cannot relieve all pain and suffering, even with optimal care."

Suffering encompasses much more than just pain; loss of autonomy, being less able to engage in enjoyable activities and loss of dignity can deeply affect those at the end of their lives, but cannot necessarily be relieved by palliative care.

The Australian 'Palliative Care Outcomes Collaboration Report 2016' showed that of patients in the terminal phase of their illness, 4% had severe pain, 3% had severe psychological distress and 6.5% had other severe physical symptoms. <sup>21.</sup>

## MYTH

### A DIGNIFIED DEATH CAN BE ACHIEVED THROUGH PALLIATIVE SEDATION.

Not all terminally ill people view palliative sedation, which is essentially a medically-induced coma, as a satisfactory alternative to assisted dying. Many dying people want choice and control at the end of life, and to be able to communicate with loved ones as they approach their final moments.

Also, under the current law, decisions about when and at what speed palliative sedation is administered are entirely up to the treating doctor. If that doctor, or the institution, holds a core belief that assisting someone to die is killing them, the dying patient must face a slow death and they may experience significant suffering before this last resort treatment is commenced.

# THE NUMBERS.

## MYTH

### THE NUMBER OF ASSISTED DEATHS HAS INCREASED RAPIDLY IN STATES IN THE USA WHERE ASSISTED DYING IS LEGAL.

Claims that there have been significant increases in the number of people having an assisted death obscure the fact that when legislation is passed the number of people using the law is extremely low. In states in the USA where assisted dying is legal, assisted deaths account for approximately 0.4% of total deaths. <sup>4</sup>

While the raw numbers have increased, the percentage of overall deaths has remained consistent and very low. The reality is that overall deaths worldwide are increasing due to an aging population and the numbers of people being diagnosed with terminal cancer is also rising. Under assisted dying laws, no more people would die but fewer people would suffer at the end of their lives.

## MYTH

### THERE IS NO NEED TO CHANGE THE LAW FOR SUCH A SMALL NUMBER OF PEOPLE.

Although the number of assisted deaths would be relatively small, the number who take comfort from knowing the option is there is much higher. In Oregon 1 in 6 dying people speak openly about their options yet only 1 in 350 go on to request and take the life ending medication. <sup>22</sup>

1 IN 6



Dying people in Oregon speak openly to friends and family about whether assisted dying might comfort them.

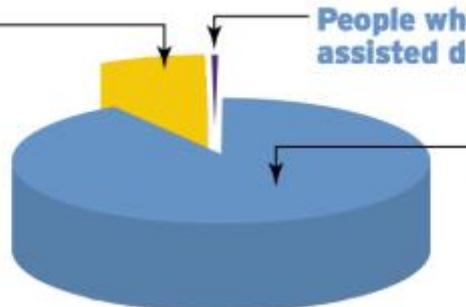
1 IN 350

Go on to request assisted dying and take the life-ending medication.

Dying people who speak openly to their friends and family about assisted dying

People who have an assisted death

Dying people in Oregon



# INCREASING ACCESS TO ASSISTED DYING.

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## Increasing access to legal assisted dying



## CONCLUSION.

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Dying With Dignity NSW supports the recommendation that followed the Victorian Inquiry Into End Of Life Choices, that assisted dying should be incorporated into existing end of life care processes in order to protect and support patients and ensure sound medical practice.

The needs of the patient must be squarely at the centre of an effective framework and ensuring that the rights of patients are respected depends on the expertise and judgment of those working within the framework, particularly doctors.

We support this statement by Emeritus Professor Ian Maddocks AM, who is considered the father of palliative care in Australia:

*"Rather than fighting a rear-guard action, I suggest the proponents of palliative care join forces with advocates of assisted dying, and with mutual respect and dialogue ensure that enabling laws are framed with a care and precision that allows no abuse and promotes best outcomes."* <sup>2</sup>

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