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# New South Wales Parliamentary Working Group on Assisted Dying

## Voluntary Assisted Dying Bill 2017 (NSW)

### NSW Parliamentary Working Group on Assisted Dying

The Voluntary Assisted Dying Bill 2017 (NSW) has been prepared by the NSW Parliamentary Working Group on Assisted Dying, consisting of Trevor Khan MLC (Nationals), Lee Evans MP (Liberal), Alex Greenwich MP (Independent), Lynda Voltz MLC (Labor), and Mehreen Faruqi MLC (Greens).

### Eligibility under the Voluntary Assisted Dying Bill 2017 (NSW)

The Bill establishes a framework for certain terminally ill persons to request and receive assistance to end their lives voluntarily. To be eligible, a patient must be:

- At least 25 years of age, an Australian citizen or a permanent resident, and ordinarily live in New South Wales,
- Suffering from a terminal illness with a 12 month prognosis, and
- Experiencing severe pain, suffering or physical incapacity.

At any time and in any manner the patient will be able rescind a request for assistance.

### Framework under the Voluntary Assisted Dying Bill 2017 (NSW)

To receive assistance, eligible patients must be assessed by:

- A primary medical practitioner,
- A secondary medical practitioner who is a specialist in the patient's terminal illness, and
- A psychiatrist or clinical psychologist to confirm the patient has decision-making capacity, and is making a free, voluntary and considered decision.

The primary medical practitioner must provide the patient written information about: the nature of the illness and its likely course; medical treatment available, including palliative care, counselling and psychiatric support; measures for keeping the patient alive; and the patient's right to rescind a request.

The primary medical practitioner must offer to refer a patient who requests assistance to a palliative care specialist. The patient is not required to accept the offer of referral.

The patient, primary medical practitioner, secondary medical practitioner, and psychiatrist or psychologist will need to sign a certificate confirming that eligibility requirements have been met before assistance is provided. The patient cannot sign the certificate until seven days have passed

since they made the initial request for assistance and a further 48 hours must pass after the certificate is completed before the primary medical practitioner can prescribe the lethal substance.

The patient must self-administer the lethal substance, however if the patient is physically unable to self-administer, the primary medical practitioner or a designated doctor or nurse can administer the substance. The lethal substance must be an authorised substance set out in the regulations. A patient is under no obligation to actually administer after having gone through the process.

### **Additional protections under the Voluntary Assisted Dying Bill 2017 (NSW)**

Medical practitioners, health facilities, and health care providers reserve the right to conscientiously object to being involved in providing someone assistance.

The Bill establishes a framework for judicial review by the Supreme Court. Close relatives of the patient may request the Supreme Court to make an order to make the request certificate not effective on the grounds that the patient does not satisfy the eligibility criteria or did not possess decision-making capacity, or that the patient's request was not made freely, voluntarily and after due consideration.

The Bill establishes a Voluntary Assisted Death Review Board that will review each assisted death under the Act. The Review Board will also monitor the scheme, refer breaches to authorities, conduct research, make recommendations, and report to Parliament and the public.

### **Difference between voluntary assisted dying and voluntary euthanasia**

The Voluntary Assisted Dying Bill 2017 (NSW) provides for physician-assisted dying based on the conservative and narrow Oregon model, not voluntary euthanasia per broader European models. Physician-assisted dying involves a medical practitioner making a substance available to an eligible patient (after having gone through a medical assessment process) which the patient then uses to end their lives at a time and place of their choosing. The patient is in control at all stages of the process. Whereas voluntary euthanasia involves a medical practitioner carrying out a patient's request to end their life up until the point of death, including administration of the substance to the patient.

### **Consultation on the Voluntary Assisted Dying Bill 2017 (NSW)**

The Working Group has consulted extensively since 2015 with key stakeholder organisations and NSW parliamentarians on the Bill. Since the release of the Exposure Draft in May 2017 the Working Group assessed more than 70 substantive submissions and made a number of key improvements to the Bill. The Working Group has hosted community information sessions in collaboration with Dying with Dignity NSW and other organisations and parliamentarians across Sydney and key regional centres of NSW.