



ISSN 2204-4779 (Print) 2204-4787 (Online)

Voluntary Assisted Dying Bill 2017

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Introduced: 20 September 2017

House: Legislative Assembly

2nd Reading: 21 September 2017

Commencement: The earlier day of the day of Proclamation or 19 June 2019.

Links to key documents including the Bill, Explanatory Memorandum, Statement of Compatibility and Second Reading Speech can be found on the Library's New Bills Information Links page for this Bill.

For further information on the progress of this Bill please visit the [Victorian Legislation website](#).

Introduction

In May 2015, the Legislative Council agreed to a motion for the Standing Committee on Legal and Social Issues to inquire into, consider, and report on the need for laws in Victoria to allow citizens to make informed decisions regarding their own end of life choices. In June 2016, the Committee tabled its final report, *Inquiry into End of Life Choices*, and made 49 recommendations, including that Victoria should legalise assisted dying.

The Andrews Government released its [response](#) to the Committee's report in December 2016, committing to review the implementation of an assisted dying framework in Victoria. That led to the establishment of a Ministerial Advisory Panel tasked with looking at how voluntary assisted dying would look in practice. The Panel submitted its [final report](#) in July 2017 and made 66 recommendations, informed by the work previously undertaken by the Standing Committee. This work provides the context and the foundation for the Voluntary Assisted Dying Bill 2017 ('the Bill').

In her [Second Reading Speech](#), Minister for Health Jill Hennessy stated the Bill will provide 'a rigorous process with safeguards embedded at every step to ensure that only those who meet the eligibility criteria and who are making an informed, voluntary and enduring decision will be able to access voluntary assisted dying'.¹ The Bill aims to do this through a range of measures, including the establishment of a Voluntary Assisted Dying Review Board, which will oversee the process.

This Research Note includes a discussion of terminology and of some key aspects of the Bill, including eligibility criteria, the application and review process, the Voluntary Assisted Dying Review Board and some of the proposed offences under the Bill. It then offers an overview of the legislative attempts

¹ J. Hennessy, Minister for Health (2017) '[Second Reading Speech: Voluntary Assisted Dying Bill 2017](#)', *Debates*, Victoria, Legislative Assembly, 21 September, p. 2949.

made in other Australian jurisdictions to introduce similar frameworks and provides a timeline and the details of overseas jurisdictions where euthanasia and/or assisted dying are currently in place.

Terminology

The term euthanasia comes from the Greek word *euthanatos*, which can be translated as ‘easy death’. The Australian Medical Association (AMA) defines euthanasia as ‘the act of deliberately ending the life of a patient for the purpose of ending intolerable pain and/or suffering’.²

According to the Australian Human Rights Commission, euthanasia can be understood as an umbrella term that covers a range of practices, including:

- **Passive voluntary euthanasia**—when medical treatment is withdrawn or withheld from a patient, at the patient’s request, in order to end the patient’s life;
- **Active voluntary euthanasia**—when medical intervention takes place, at the patient’s request, in order to end the patient’s life;
- **Passive involuntary euthanasia**—when medical treatment is withdrawn or withheld from a patient, not at the request of the patient, in order to end the patient’s life; and
- **Active involuntary euthanasia**—when medical intervention takes place, not at the patient’s request, in order to end the patient’s life.³

The terms ‘euthanasia’, ‘assisted dying’ and ‘assisted suicide’ are often used interchangeably; however, they technically have different meanings. Penney Lewis, Professor of Law at King’s College, London, explains:

Euthanasia is an intervention undertaken with the intention of ending a life to relieve suffering, for example a lethal injection administered by a doctor. Assisted suicide is any act that intentionally helps another person kill themselves, for example by providing them with the means to do so, most commonly by prescribing a lethal medication. Assisted dying is usually used to mean assisted suicide for the terminally ill only.⁴

The Standing Committee on Legal and Social Issues’ final report into *Inquiry into End of Life Choices* uses the term ‘assisted dying’ to describe assistance to die provided in a medical context. Whereas, when referring to frameworks in overseas jurisdictions:

... the terms ‘assisted suicide’ and ‘voluntary euthanasia’ are used. In these instances, ‘assisted suicide’ refers to the practice of a doctor providing a patient with the means to end their life. ‘Voluntary euthanasia’ refers to medical assistance to die which is administered by a doctor (such as through a lethal injection).⁵

Under the Voluntary Assisted Dying Bill 2017, *voluntary assisted dying* means ‘the administration of a voluntary assisted dying substance and includes steps reasonably related to such administration’ (clause 3(1)).

² Australian Medical Association (2016) *Euthanasia and Physician Assisted Suicide*, AMA Position Statement, p. 1.

³ Australian Human Rights Commission (2016) *Euthanasia, human rights and the law*, Issues Paper, Sydney, AHRC, May, p. 3.

⁴ P. Lewis (2015) *Assisted dying: What does the law in different countries say?*, *BBC News*, 6 October.

⁵ Legislative Council Legal and Social Issues Committee (2016) *Inquiry into end of life choices: Final report*, Melbourne, The Committee, June, p. 14.

The Bill

The Voluntary Assisted Dying Bill 2017 sets out to provide for, and regulate access to, voluntary assisted dying, to establish the Voluntary Assisted Dying Review Board, and to make consequential amendments to the following Victorian Acts:

- *Births, Deaths and Marriages Registration Act 1996*;
- *Coroners Act 2008*;
- *Drugs, Poisons and Controlled Substances Act 1981*;
- *Health Records Act 2001*;
- *Medical Treatment Planning and Decisions Act 2016*; and
- *Pharmacy Regulation Act 2010*.

This section will look at selected aspects of the Bill, including the proposed eligibility criteria for access to assisted dying, the application and review process, the role of the Voluntary Assisted Dying Review Board, and the proposed offences under the Bill.

Eligibility criteria

Clause 9 of the Bill sets out the eligibility criteria for those wishing to access assisted dying. In order to qualify, a person must:

- be 18 years or older;
- be an Australian citizen or permanent resident who is ordinarily resident in Victoria;
- have decision-making capacity in relation to voluntary assisted dying;
- be diagnosed with a disease, illness or medical condition that is incurable, advanced, progressive and will cause death, and is expected to cause death within less than 12 months; and
- be experiencing suffering that cannot be relived in a manner that the person considers tolerable.

A person is not eligible for access to voluntary assisted dying if they have a mental illness only, or if they have a disability only. Those with a mental illness and/or a disability, however, are not precluded from taking part if they also fulfil the eligibility criteria above (cl 9(2) and (3)).

A person must make the request for access to voluntary assisted dying. The Bill determines that no one can request voluntary assisted dying on someone else's behalf. This means that a medical treatment decision-maker, such as a power of attorney, cannot make the decision. It is also not possible for a person to make a statement to request voluntary assisted dying in an advance care directive (cl 138).

Application and review process

First request

The Bill stipulates that health practitioners must not initiate a discussion about voluntary assisted dying nor suggest it to a patient (cl 8). A person must make a **clear and unambiguous request** to a medical practitioner to access voluntary assisted dying—a request which may be withdrawn at any time. Upon receiving a request, a medical practitioner must determine and inform the person whether they will accept or refuse the request within seven days (cl 11–13). Health practitioners are not required to take part in the process and the Bill makes provision for those health practitioners who wish to conscientiously object to voluntary assisted dying (cl 7).

Assessment

If the health practitioner does not object to taking part, then that person becomes the **coordinating medical practitioner**. The coordinating medical practitioner must conduct a first assessment of the patient and determine whether the person meets all of the eligibility criteria. Only a coordinating medical practitioner who has completed approved assessment training may commence the first assessment (cl 17). If the coordinating medical practitioner assesses the person as eligible, they must

refer the person to another medical practitioner—known as the **consulting medical practitioner**—for a further independent assessment (Part 3, Division 4).

Both the coordinating and consulting medical practitioners must be fellows of a specialist medical college or be vocationally registered general practitioners (cl 10). The Bill also requires that either the coordinating or consulting medical practitioner must have at least five years of experience post-fellowship and that at least one of the practitioners must have relevant expertise and experience in the person's disease, illness or medical condition (cl 10(2)(3)).

The coordinating medical practitioner must inform the person about:

- the diagnosis and prognosis;
- the available treatment options and their likely outcomes;
- the palliative care options and their likely outcomes;
- the potential risks of taking a poison or controlled substance under the Bill;
- that the expected outcome of taking the poison or controlled substance is death; and
- that the person may withdraw from the process at any time (cl 19(1)).

Both practitioners must be satisfied that the person understands the information, that they are acting voluntarily and without coercion, and that their request is enduring (cl 20(1)). Both practitioners must notify the **Voluntary Assisted Dying Review Board** of the outcome of their assessments within seven days of completing them.

Written declaration

If the consulting medical practitioner also assesses the person as eligible, the person may make a **written declaration** (Part 3, Division 5), which will serve as a formal record of the voluntary and enduring nature of the person's request to access voluntary assisted dying. The written declaration will need to be witnessed by two people who are not involved in providing health services or professional care services to the person and who would not materially benefit from the person's death (cl 35). The written declaration must be signed in the presence of the coordinating medical practitioner.

Final request

Once a person has completed their written declaration, they may make their **final request**. The final request can only be made at least nine days after the day on which the first request was made. The only exception to this requirement is if the coordinating medical practitioner is of the view that the person will die before the expiry of the specified time period. In all instances, a final request cannot be made on the same day that the second assessment is completed (cl 38).

As an additional requirement of the Bill, the person must also appoint a **contact person** to monitor the voluntary assisted dying substance. The contact person will be responsible for returning the voluntary assisted dying substance if it is not used and will also be a point of contact for the Voluntary Assisted Dying Review Board (cl 39).

Final review and permits

Following the final request, the coordinating medical practitioner must undertake a **final review** to complete the process and provide copies of all forms and assessments to the Board within seven days of their completion (cl 41). If the request and assessment process has been complied with, the medical practitioner may apply to the Secretary of the Department of Health and Human Services for a permit. There are two forms of permit: a **self-administration permit** and a **practitioner administration permit**. The Secretary may issue a permit if satisfied that the request and assessment process has been complied with. The permit will only authorise administration through the method specified (Part 4).

If the person is physically able to self-administer the voluntary assisted dying substance, the coordinating medical practitioner must apply for a self-administration permit. Once the coordinating medical practitioner has obtained a self-administration permit they may **prescribe** the voluntary assisted dying substance, which the person can obtain from the pharmacist and must then store in a

locked box. If a person is not physically capable of self-administering or digesting the prescribed substance, the coordinating medical practitioner may apply for a practitioner administration permit (Part 4, Division 2).

If the coordinating medical practitioner obtains a self-administration permit and the person subsequently loses the physical capacity to self-administer or digest the prescribed substance, the coordinating medical practitioner will need to apply for a practitioner administration permit. The person will need to return to their coordinating medical practitioner if they wish to proceed. Before applying for this permit, the coordinating medical practitioner will need to **destroy** any prescription under the relevant self-administration permit which has not been filled, and be satisfied that any previously prescribed substance or prescription has been returned (Part 4, Division 3). The coordinating medical practitioner may only administer the voluntary assisted dying substance after a request from the person, and must do so in the presence of a **witness** who is independent of the coordinating medical practitioner (cl 65).

Notification of cause of death

After a person has died, the medical practitioner who was responsible for the person's medical care, or who examines the body of the deceased person, must **notify** the Registrar of Births, Deaths and Marriages if they are aware the person was the subject of a voluntary assisted dying permit. They must also stipulate that the person has been prescribed the voluntary assisted dying substance, if the person has self-administered or been administered the voluntary assisted dying substance, and the disease, illness or medical condition that was the grounds for the person to access voluntary assisted dying (cl 67). This information is provided to the Voluntary Assisted Dying Review Board.

Any unused prescribed substance that has not been self-administered by the person must be returned to the dispensing pharmacist by the contact person within one month of the notification of the person's death. The pharmacist will report the return of the substance to the Voluntary Assisted Dying Review Board.

Additionally, the Bill amends the *Births, Deaths and Marriages Act 1996* to require that the disease, illness or medical condition be recorded as the cause of death in the register, not the voluntary assisted dying act (cl 117). A voluntary assisted dying death will **not** be a 'reportable death' under the *Coroners Act 2008* (cl 119).

Review by VCAT

The Bill provides for an application for review by the Victorian Civil and Administrative Tribunal (VCAT) of certain decisions of the co-ordinating medical practitioners and consulting medical practitioners (cl 68). If an application is made for review of a decision in respect of a person, the principal Registrar of VCAT must give notice of the application and any order or determination made to: the person's coordinating medical practitioner; the Secretary; and the Voluntary Assisted Dying Review Board (cl 69).

Voluntary Assisted Dying Review Board

Part nine of the Bill establishes the Voluntary Assisted Dying Review Board, which is responsible for monitoring voluntary assisted dying activity under the legislation. The Board will consist of a Chairperson, and possibly a Deputy Chairperson, both of whom are appointed by the Minister (cl 98). Members are appointed to the Board if the Minister is satisfied that the person has the appropriate knowledge and skills to perform all of the duties and functions of a member of the Board (cl 95).

Functions of the Board

The Board holds several functions, including:

- to monitor matters related to voluntary assisted dying;
- to review the exercise of any function or power under the Act;
- to provide reports to each House of the Parliament on the operation of the Act and any recommendations for the improvement of voluntary assisted dying;

- to promote compliance with the requirements of the Act by the provision of information in respect of voluntary assisted dying to registered health practitioners and members of the community;
- to refer any issue identified by the Board in relation to voluntary assisted dying that is relevant to either the Chief Commissioner of Police, the Registrar, the Secretary, the State Coroner or the Australian Health Practitioner Regulation Agency;
- to promote continuous improvement in the quality and safety of voluntary assisted dying to those who exercise any function or power under the Act;
- to conduct analysis of, and carry out research in relation to, information or forms given to the Board in accordance with the Act;
- to provide information about voluntary assisted dying, and other matters identified by the Board in the performance of a function under the Act;
- to collect, use and disclose forms and information provided in accordance with the Act for the purposes of carrying out a function of the Board;
- to consult and engage with the Victorian community, relevant groups or organisations, government departments and agencies, and registered health practitioners who provide voluntary assisted dying services, in relation to voluntary assisted dying;
- to provide advice to the Minister or the Secretary in relation to the operation of the Act; and
- to provide reports to the Minister or the Secretary, in respect of any matter relevant to the functions of the Board as requested (cl 93).

The Board's role will include receiving reporting forms and reviewing each request and assessment to access voluntary assisted dying. The coordinating medical practitioner, the consulting medical practitioner, the dispensing pharmacist, the Department of Health and Human Services and the Registrar of Births, Deaths and Marriages will all provide separate information to the Board at several points throughout the process.

The Board must provide an **annual report** to Parliament, and must make six-monthly reports in the first two years (Part 9, Division 5). If the Board identifies wrongdoing, or potential wrongdoing, it will be required to refer the matter to the relevant body, such as the Chief Commissioner of Police, the Registrar, the Secretary, the State Coroner or the Australian Health Practitioner Regulation Agency (cl 93(1)(e)).

Offences

Protection from both criminal and civil liability is afforded to those who act in accordance with the Bill. However, the Bill includes a number of specific offences that relate to the voluntary assisted dying framework.

The Bill creates an offence for a coordinating medical practitioner to knowingly administer a voluntary assisted dying substance other than in accordance with a practitioner administration permit if they intend to cause death; the recommended penalty is life imprisonment (cl 83). Similarly, the Bill creates an offence for anyone other than the person themselves to knowingly administer a voluntary assisted dying substance dispensed under a self-administration permit; the recommended penalty is also life imprisonment (cl 84).

The Bill also creates offences of inducing another person to request voluntary assisted dying (cl 85), or of inducing another person to self-administer a voluntary assisted dying substance (cl 86). Under the Bill, it will also be an offence to falsify forms or records (cl 87) or to make false statements or reports (cl 88) that are required under the Bill. In all of these cases, the recommended penalty is level six imprisonment (maximum of five years) or 600 penalty units, or both.

Additionally, should a contact person fail to return any unused or remaining prescribed voluntary assisted dying substance within one month after the death of a person who is the subject of a self-administration permit, the recommended penalty is level eight imprisonment (maximum of 12 months) or 120 penalty units, or both (cl 89).

Other Jurisdictions

Previous attempts in Australia to legislate for voluntary euthanasia and/or assisted dying

Victoria

In 2008, a Private Member's Bill known as the [Medical Treatment \(Physician Assisted Dying\) Bill 2008](#) was introduced into the Legislative Council by Greens MLC, Ms. Colleen Hartland, and was co-sponsored by Mr. Ken Smith of the Liberal Party, then-MLA for the electoral district of Bass.⁶ The Bill was subsequently **defeated**. The Parliamentary Library Research Service prepared a comprehensive issues brief on the Bill at the time, which can be accessed on the Parliament's [website](#).

A considerable number of attempts have been made in other Australian jurisdictions to introduce an assisted dying/voluntary euthanasia framework, and these are detailed below.^{7,8} To date, the only jurisdiction to successfully introduce an assisted dying framework is the Northern Territory which, with the passing of the *Rights of the Terminally Ill Act 1995*, became the first jurisdiction in the world to pass laws allowing a doctor to end the life of a terminally ill patient at the patient's request. The legislation was subsequently overruled by the federal *Euthanasia Laws Act 1997* (Cth).

Commonwealth⁹

- [Restoring Territory Rights \(Assisted Suicide Legislation\) Bill 2015](#); D. Leyonhjelm (LDP)
- [Restoring Territory Rights \(Voluntary Euthanasia Legislation\) Bill 2012](#); R. Di Natale (AG)
- [Restoring Territory Rights \(Voluntary Euthanasia Legislation\) Bill 2010](#); B. Brown (AG)
- [Restoring Territory Rights \(Voluntary Euthanasia Legislation\) Bill 2008](#); B. Brown (AG)
- [Rights of the Terminally Ill \(Euthanasia Laws Repeal\) Bill 2008](#); B. Brown (AG)
- [Australian Territories Rights of the Terminally Ill Bill 2007](#); B. Brown (AG)
- [Euthanasia Laws \(Repeal\) Bill 2004](#); L. Allison (AD)

Australian Capital Territory¹⁰

- [Crimes \(Assisted Suicide\) Bill 1997](#); M. Moore (IND)
- [Euthanasia Referendum Bill 1997](#); M. Moore (IND)
- [Medical Treatment \(Amendment\) Bill 1997](#); M. Moore (IND)
- [Medical Treatment \(Amendment\) Bill 1995](#); M. Moore (IND)
- [Voluntary and Natural Death Bill 1993](#); M. Moore (IND)

New South Wales

- [Voluntary Assisted Dying Bill 2017](#); T. Khan (NAT)
- [Rights of the Terminally Ill Bill 2013](#); C. Faehrmann (AG)
- [Rights of the Terminally Ill Bill 2010—Notice of Motion](#), 19 Oct 2010; C. Faehrmann (AG)
- [Rights of the Terminally Ill Bill 2010—Notice of Motion](#), 22 Sep 2010; C. Faehrmann (AG)
- [Rights of the Terminally Ill Bill 2003—Notice of Motion](#); I. Cohen (AG)
- [Voluntary Euthanasia Trial \(Referendum\) Bill 2003](#); I. Cohen (AG)

⁶ G. Gardiner (2008) *Medical Treatment (Physician Assisted Dying) Bill 2008*, Current Issues Brief no. 2, Melbourne, Parliamentary Library, Parliament of Victoria, June.

⁷ Liberal Democratic Party (LDP), Australian Greens (AG), Australian Democrats (AD), Independent (IND), Nationals (NAT), Australian Labor Party (ALP), Country Liberal Party (CLP).

⁸ For further information on dates and Houses, please consult the appendix, 'Legislative Reform Attempts in Australia', in L. Willmott et al. (2016) '(Failed) voluntary euthanasia law reform in Australia: Two decades of trends, models and politics', *UNSW Law Journal*, 39(1), pp. 44–46.

⁹ See also: [Medical Services \(Dying with Dignity\) Exposure Draft Bill 2014](#); Senator Richard Di Natale, Australian Greens.

¹⁰ Since the *Euthanasia Laws Act 1997* (Cth) came into effect, the ACT Assembly has been unable to legislate in regards to voluntary euthanasia or assisted dying.

- [Voluntary Euthanasia Trial \(Referendum\) Bill 2002—Notice of Motion](#); I. Cohen (AG)
- [Rights of the Terminally Ill Bill 2001](#); I. Cohen (AG)
- [Voluntary Euthanasia Referendum Bill 1997](#); E. Kirkby (AD)

Northern Territory

- [Criminal Code \(Euthanasia\) Amendment Bill 1998](#); J. Bailey (ALP)
- [Rights of the Terminally Ill Act 1995](#); M. Perron (CLP)

Queensland¹¹

- No bills introduced.

South Australia

- [Death with Dignity Bill 2016](#); D. McFetridge (IND)
- [Voluntary Euthanasia Bill 2016](#); S. Key (ALP)
- [Ending Life with Dignity \(No 2\) Bill 2013](#); B. Such (IND)
- [Ending Life with Dignity Bill 2013](#); B. Such (IND)
- [Voluntary Euthanasia Bill 2012](#); B. Such (IND)
- [Criminal Law Consolidation \(Medical Defences—End of Life Arrangements\) Amendment Bill 2011](#); S. Key (ALP)
- [Consent to Medical Treatment and Palliative Care \(End of Life Arrangements\) Amendment Bill 2010](#); M. Parnell (AG)
- [Consent to Medical Treatment and Palliative Care \(End of Life Arrangements\) Amendment Bill 2010](#); S. Key (ALP)
- [Voluntary Euthanasia Bill 2010](#); B. Such (IND)
- [Consent to Medical Treatment and Palliative Care \(Voluntary Euthanasia\) Amendment Bill 2008](#); M. Parnell (AG)
- [Voluntary Euthanasia Bill 2008](#); B. Such (IND)
- [Voluntary Euthanasia Bill 2007](#); B. Such (IND)
- [Voluntary Euthanasia Bill 2006](#); B. Such (IND)
- [Dignity in Dying Bill 2005](#); B. Such (IND)
- [Dignity in Dying Bill 2003](#), 24 Sep 2003; B. Such (IND)
- [Dignity in Dying Bill 2003](#), 26 Mar 2003; B. Such (IND)
- [Dignity in Dying Bill 2002](#); S. Kanck (AD)
- [Dignity in Dying Bill 2001](#); B. Such (IND)
- [Dignity in Dying Bill 2001](#); S. Kanck (AD)
- [Voluntary Euthanasia \(Referendum\) Bill 1996](#); S. Kanck (AD)
- [Voluntary Euthanasia Bill 1996](#); A. Levy (ALP)
- [Voluntary Euthanasia Bill 1995](#); J. Quirke (ALP)

Tasmania

- [Voluntary Assisted Dying Bill 2016](#); L. Giddings (ALP) & C. O'Connor (AG)
- [Voluntary Assisted Dying Bill 2013](#); L. Giddings (ALP) & N. McKim (AG)
- [Dying with Dignity Bill 2009](#); N. McKim (AG)

¹¹ In 2016, the Speaker asked the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee to use its powers of self-referral to initiate an inquiry into end of life choices; however, the Committee could not reach agreement on whether or not to initiate such an inquiry. See: F. Caldwell (2016) [Voluntary euthanasia: Calls for Queensland parliamentary inquiry](#), *Brisbane Times*, 17 October; and N. Zhou (2017) [Assisted dying: states rally as bills offer chance to legalise voluntary euthanasia](#), *The Guardian*, 17 May.

Western Australia¹²

- Voluntary Euthanasia Bill 2010; R. Chapple (AG)
- Voluntary Euthanasia Bill 2002; R. Chapple (AG)
- Voluntary Euthanasia Bill 2000, 19 Oct 2000; N. Kelly (AD)
- Voluntary Euthanasia Bill 2000, 10 May 2000; N. Kelly (AD)
- Voluntary Euthanasia Bill 1998; N. Kelly (AD)
- Voluntary Euthanasia Bill 1997; N. Kelly (AD)

Jurisdictions where voluntary euthanasia and/or assisted dying are currently in operation

Jurisdiction	Date	Details
Switzerland	1942	<p>Swiss assisted suicide law is found principally in the country's <i>Criminal Code</i>. Under Article 114, active euthanasia is illegal—though it is treated as a lesser offence than murder or manslaughter.¹³ Under Article 115, assisted suicide is a crime if and only if the motive is 'selfish'; this effectively allows for assisted suicide for non-selfish or altruistic reasons.¹⁴</p> <p>As the law in Switzerland does not specifically contain a statute with an assisted suicide framework of eligibility criteria and safeguards, there is no requirement that the person seeking assistance have a terminal illness or be experiencing unbearable suffering. Further, assisted suicide need not be performed by a doctor (though a doctor is required if a person wishes to use a prescription drug) and most assisted deaths that take place are not supervised by doctors. Assisted suicide is also available to non-Swiss nationals.¹⁵</p>
Oregon, USA ¹⁶	1997	<p>Oregon was the first US state to legalise assisted dying, with the law taking effect in 1997. The <i>Death with Dignity Act</i> allows terminally ill Oregonians to end their lives through the voluntary self-administration of lethal medications, expressly prescribed by a physician for that purpose.¹⁷</p> <p>The law states that, in order to participate, a patient must be: 18 years of age or older; a resident of Oregon; capable of making and communicating health care decisions for him/herself; and diagnosed with a terminal illness that will lead to death within six months.¹⁸</p> <p>If the patient meets the criteria, then the following steps must be fulfilled:</p> <ol style="list-style-type: none">1. The patient must make two oral requests to the attending physician, separated by at least 15 days;

¹² In August 2017, the WA Parliament established a [Joint Select Committee on End of Life Choices](#), which is currently undertaking an inquiry 'into the need for laws in Western Australia to allow citizens to make informed decisions regarding their own end of life choices'. The Committee is due to report by August 2018.

¹³ R. Andorno (2013) [Nonphysician-Assisted Suicide in Switzerland](#), *Cambridge Quarterly of Healthcare Ethics*, 22, pp. 246–253.

¹⁴ S. A. Hurst & A. Mauron (2003) [Assisted suicide and euthanasia in Switzerland: allowing a role for non-physicians](#), *British Medical Journal*, 326(7383), pp. 271–273.

¹⁵ Legislative Council Legal and Social Issues Committee (2016) op. cit., pp. 272–273.

¹⁶ Euthanasia is illegal in every state in the USA.

¹⁷ Oregon Health Authority (date unknown) [Death with Dignity Act](#), Oregon Health Authority website.

¹⁸ Oregon Health Authority (date unknown) [Death with Dignity Act: Who can participate in the Act?](#), Oregon Health Authority website.

		<ol style="list-style-type: none"> 2. The patient must provide a written request to the attending physician, signed in the presence of two witnesses, at least one of whom is not related to the patient; 3. The attending physician and a consulting physician must confirm the patient's diagnosis and prognosis; 4. The attending physician and a consulting physician must determine whether the patient is capable of making and communicating health care decisions for him/herself; 5. If either physician believes the patient's judgment is impaired by a psychiatric or psychological disorder (such as depression), the patient must be referred for a psychological examination; 6. The attending physician must inform the patient of feasible alternatives to the Act, including comfort care, hospice care, and pain control; 7. The attending physician must request, but may not require, the patient to notify their next-of-kin of the prescription request. A patient can rescind a request at any time and in any manner. The attending physician will also offer the patient an opportunity to rescind his/her request at the end of the 15-day waiting period following the initial request to participate.¹⁹
<p>The Netherlands</p>	<p>2002</p>	<p>In 2002, the <i>Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2000</i> (Netherlands) came into force, allowing euthanasia (the administering of lethal medication by a physician at the request of the patient) and physician-assisted suicide (providing lethal medication by a physician to a patient at the patient's request) to patients who meet the legal due care criteria.</p> <p>Euthanasia (termination of life on request and assisted suicide) is still a criminal offence in the Netherlands, but the Criminal Code has been amended to exempt doctors from criminal liability if they report their actions and show that they have satisfied the due care criteria formulated in the Act.²⁰ According to the government website, the position in the Netherlands is that patients have no absolute right to euthanasia and doctors no absolute duty to perform it.²¹</p> <p>Legal Due Care Criteria for Euthanasia and Physician-Assisted Suicide in the Netherlands:</p> <ol style="list-style-type: none"> 1. The attending physician has come to the conviction that the request from the patient is voluntary and well considered. 2. The attending physician has come to the conviction that the suffering of the patient is unbearable and without prospect of improvement. 3. The physician has informed the patient about his or her situation and prospects. 4. There are no more reasonable alternatives for the patient. 5. The physician has consulted at least one other, independent physician.

¹⁹ Oregon Health Authority (date unknown) *Death with Dignity Act: How does a patient get a prescription from a participating physician?*, Oregon Health Authority website.

²⁰ Netherlands Ministry of Foreign Affairs (2010) *The Termination of Life on Request and Assisted Suicide (Review Procedures) Act in practice*, Euthanasia FAQ, p. 4.

²¹ Government of the Netherlands (date unknown) *Euthanasia, assisted suicide and non-resuscitation on request*, Government of the Netherlands website.

		6. The physician has terminated the patient's life or provided assistance with suicide with due medical care and attention. ²²
Belgium	2002	<p>Belgium legalised euthanasia through its <i>Act on Euthanasia 2002</i>. The law states that doctors can help patients to end their lives if they are suffering intractable and unbearable pain and have freely expressed their wish to die. As the law does not specify a method of euthanasia, physician-assisted dying is also practised. However, the physician has to be present at the bedside of the patient to their last breath.²³ Patients can also receive euthanasia if they have clearly stated it before entering a coma or similar vegetative state.²⁴</p> <p>In 2014 the Belgian euthanasia law was expanded to include competent minors (with a terminal illness), as Belgian policymakers had decided it was better to assess the minor's competence directly, instead of assuming incompetence based on the minor's age.²⁵ This view was supported by the Belgian Royal Academy of Medicine in a unanimous recommendation to government.²⁶</p>
Luxembourg	2009	<p>Luxembourg adopted legislation on euthanasia and assisted suicide in 2009, making it the third European country to do so after the Netherlands and Belgium. The <i>Law of 16 March 2009 on euthanasia and assisted suicide</i> defines euthanasia as a medical procedure by which a doctor intentionally ends the life of another person at the express and voluntary request of the latter. The assisted suicide consists in helping another person to commit suicide, including by providing the necessary means for this purpose.²⁷</p> <p>Certain conditions must be met, including that the patient be legally competent at the time of the request, that the request be made voluntarily, be considered and not be the result of external pressure, that the patient finds themselves in constant and unbearable physical or psychological pain resulting from a serious and incurable disorder, with no prospect of improvement, and that the request for euthanasia or assisted suicide be made in writing.²⁸</p>
Washington, USA	2009	<p>The measures approved in Washington state are modelled on Oregon's legislation.²⁹ The <i>Washington Death with Dignity Act</i> came into effect in 2009 and permits terminally ill adults, who are Washington residents and have less than six months to live, to request lethal doses of medication from medical and osteopathic physicians.³⁰</p> <p>Patients who qualify under the Act must make an initial oral request, a written request, and then a second oral request after at least 15 days. The written</p>

²² M. C. Snijdewind et al. (2015) 'A Study of the First Year of the End-of-Life Clinic for Physician-Assisted Dying in the Netherlands', *JAMA Internal Medicine*, 175(10), pp. 1633–1640.

²³ L. Cendrowicz (2014) *Euthanasia and assisted suicide laws around the world: Belgium*, *The Guardian*, 18 July.

²⁴ *ibid.*

²⁵ K. Chambaere (2016) *Separating fact from fiction about euthanasia in Belgium*, *The Conversation*, 22 April.

²⁶ K. Chambaere, M. Roelands & L. Deliens (2014) *Euthanasia for Minors in Belgium*, letter to the Editor, *JAMA*, 312(12), pp. 1258–1259.

²⁷ Grand Duchy of Luxembourg (2015) *Euthanasia and palliative care*, Grand Duchy of Luxembourg website.

²⁸ Grand Duchy of Luxembourg (2009) *Loi du 16 mars 2009 sur l'euthanasie et l'assistance au suicide*, Chapter 2, Article 2(1), Grand Duchy of Luxembourg website.

²⁹ L. Gambino (2014) *Euthanasia and assisted suicide laws around the world: United States*, *The Guardian*, 18 July.

³⁰ Washington State Department of Health (date unknown) *Death with Dignity Act*, Washington State Department of Health website.

		request must be witnessed by at least two people permitted under the Act. When the qualified patient makes the second oral request, the attending physician must offer an opportunity to rescind that request. ³¹
Montana, USA	2009	<p>Although Montana does not have a ‘death with dignity’ statute, it allows physician-assisted dying through the 2009 Montana Supreme Court ruling in <i>Baxter v Montana</i>. The Baxter case was filed by a patient, Robert Baxter, four Montana physicians, and the national patient advocacy organisation, Compassion and Choices.³²</p> <p>The basis for the trial court ruling was to determine whether the privacy and dignity provisions of the Montana Constitution recognised the right of a terminally ill patient to access a lethal prescription. Though the Court declined to address this question, it determined that there was nothing in the current state law that would permit the prosecution of a physician who responded to such a request by a terminally ill patient with decisional capacity.³³ This ruling effectively legalised physician-assisted dying.</p>
Vermont, USA	2013	<p>The <i>Patient Choice and Control at End of Life Act</i> came into effect in Vermont in 2013.³⁴ To qualify under the Act, patients must be suffering from a terminal condition, be capable (i.e. have the ability to make and communicate healthcare decisions to a physician), be making an informed decision, be making a voluntary request for medication to hasten their death and be at least 18 years old and a Vermont state resident.³⁵</p> <p>The patient must make two oral in-person requests to their physician, as well as a written request. The oral request must be at least 15 days apart. The physician must also provide the patient, both orally and in writing, information on the medical diagnosis, prognosis, the range of treatment options available, all feasible end-of-life services, and the range of possible results.³⁶</p>
Province of Quebec	2014	<p>The Province of Quebec adopted its <i>Act Respecting End-of-Life Care</i> in 2014, with provisions set out in the Act coming into force on 10 December 2015.³⁷ Only a person of full age and capable of giving consent to care may request to receive medical aid in dying, and it is only for those whom all therapeutic, curative and palliative options have been deemed unsatisfactory and who would rather die than continue to suffer.³⁸</p> <p>According to the Act, only a patient who meets all of the following criteria may obtain medical aid in dying. They must:</p> <ol style="list-style-type: none"> 1. be an insured person within the meaning of the <i>Health Insurance Act</i> (Chapter A-29);

³¹ *ibid.*

³² B. A. Rich (2011) *Baxter v. Montana: What the Montana Supreme Court said about dying, dignity, and palliative options of last resort, Palliative and Supportive Care*, 9(3), pp. 233–237.

³³ *ibid.*

³⁴ J. McLure (2013) *Vermont passes law allowing doctor-assisted suicide, Reuters*, 21 May.

³⁵ Vermont Department of Health (2013) *Patient Choice at End of Life – Physician Reporting Form*, Vermont Department of Health website.

³⁶ Vermont General Assembly (date unknown) *Vermont Statute 18: Health, Chapter 113: Patient Choice At End Of Life*, s. 5283(6), Vermont General Assembly website.

³⁷ Government of Quebec (2017) *Act Respecting End-of-Life Care*, Government of Quebec website.

³⁸ Government of Quebec (2017) *Medical aid in dying*, Government of Quebec website.

		<ol style="list-style-type: none"> 2. be of full age and capable of giving consent to care; 3. be at the end of life; 4. suffer from a serious and incurable illness; 5. be in an advanced state of irreversible decline in capability; and 6. experience constant and unbearable physical or psychological suffering which cannot be relieved in a manner the patient deems tolerable.³⁹ <p>There are a set of regulations that exist under the Act to support the administration of medical aid in dying.⁴⁰ When the federal enactment amending provisions of the <i>Criminal Code</i> that deal with medical assistance in dying came into force in Canada in June 2016, the required modifications were incorporated into the Act.⁴¹</p>
Colombia	2015	<p>The Colombian Constitutional Court approved assisted dying in the 1990s; however, no procedures were performed as the practice was not regulated until 2015, when the health ministry intervened and issued a set of guidelines.⁴² The debate in Colombia is based on the right to ‘die with dignity’.⁴³ The measure applies to terminally ill legal adults only, and not to minors.⁴⁴</p> <p>In the case of conscious patients, they first have to be informed of all their treatment options by their physician. If the patient then insists on dying, the physician has to obtain authorisation from a special panel made up of a doctor specialising in the patient’s condition, a lawyer, and either a psychiatrist or psychologist. In the case of unconscious patients, relatives are required to prove patients previously expressed their desire to end their lives, in writing or by a video or audio recording.⁴⁵</p>
California, USA	2016	<p>The <i>End of Life Option Act</i> came into effect in California on June 9 2016 and allows a terminally ill adult with the capacity to make medical decisions to make a request to receive a prescription for an aid-in-dying drug. The patient must meet the following conditions:</p> <ol style="list-style-type: none"> 1) The individual’s attending physician has diagnosed the individual with a terminal disease; 2) The individual has voluntarily expressed the wish to receive a prescription for an aid-in-dying drug; 3) The individual is a resident of California; 4) The individual documents his or her request pursuant to the requirements set forth in the Act; and 5) The individual has the physical and mental ability to self-administer the aid-in-dying drug.⁴⁶

³⁹ Province of Quebec (2014) *Act Respecting End-of-Life Care*, Chapter IV, Division II, s. 26.

⁴⁰ Province of Quebec (2015) *Regulation respecting the procedure followed by the Commission sur les soins de fin de vie to assess compliance with the criteria for the administration of medical aid in dying and the information to be sent to the Commission for that purpose*.

⁴¹ Government of Quebec (2017) *Medical aid in dying*, op. cit.

⁴² (2015) *Cancer patient becomes Colombia’s first legal euthanasia case*, *BBC News*, 3 July.

⁴³ Colombian Ministry for Health and Social Protection (2015) *Euthanasia – A step to a dignified death*, media release, 7 January.

⁴⁴ (2015) *Step closer to legal euthanasia*, *The Bogota Post*, 10 May.

⁴⁵ S. Tegel (2015) *Colombia just legalized euthanasia. Here’s why that’s a big deal*, *Public Radio International*, 29 April.

⁴⁶ State of California (2016), *End of Life Option Act*, s. 443.2(a), California Legislative Information website.

		The patient must submit to their attending physician two oral requests—a minimum of 15 days apart—and a written request, which must be signed and dated in the presence of two witnesses who satisfy the criteria in the Act. ⁴⁷
Canada	2016	<p>In the 2015 <i>Carter v Canada</i> case, the Supreme Court of Canada ruled that the laws prohibiting assistance in dying limited the rights to life, liberty and security of the person under section 7 of the <i>Canadian Charter of Rights and Freedoms</i>.⁴⁸ The Supreme Court gave the government until 6 June 2016 to legislate in the area, leading to Bill C-14, <i>An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)</i>, which received Royal Assent on 17 June 2016.⁴⁹</p> <p>There are two types of medical assistance in dying available to Canadians. Each must include a physician or nurse practitioner who: directly administers a substance that causes death, such as an injection of a drug; or provides or prescribes a drug that the eligible person takes themselves, in order to bring about their own death. In Canada, these have been termed ‘clinician-assisted medical assistance in dying’ and ‘self-administered medical assistance in dying’, respectively.⁵⁰</p> <p>According to the Criminal Code, to be eligible for medical assistance in dying a patient must meet all of the following criteria:</p> <ol style="list-style-type: none"> 1. they are eligible—or, but for any applicable minimum period of residence or waiting period, would be eligible—for health services funded by a government in Canada; 2. they are at least 18 years of age and capable of making decisions with respect to their health; 3. they have a grievous and irremediable medical condition; 4. they have made a voluntary request for medical assistance in dying that, in particular, was not made as a result of external pressure; and 5. they give informed consent to receive medical assistance in dying after having been informed of the means that are available to relieve their suffering, including palliative care.⁵¹
Colorado, USA	2016	<p>In 2016, Colorado voters approved Proposition 106,⁵² ‘Access to Medical Aid-in-Dying Medication’, which amends Colorado statutes to include the <i>End-of-Life Options Act</i> and allows an eligible terminally ill individual, with a prognosis of six months or less to live, to request and self-administer medical aid-in-dying medication in order to voluntarily end their life.⁵³</p> <p>Those eligible under the Act must make two oral requests, separated by at least fifteen days, and a valid written request to their attending physician.⁵⁴</p>

⁴⁷ State of California (2016) op. cit., s. 443.3.

⁴⁸ Department of Justice (2017) [Legislative Background: Medical Assistance in Dying \(Bill C-14\)](#), Government of Canada website.

⁴⁹ (2016) [An Act to amend the Criminal Code and to make related amendments to other Acts \(medical assistance in dying\)](#), Government of Canada website.

⁵⁰ Government of Canada (2017) [Medical assistance in dying](#), Government of Canada website.

⁵¹ (2016) [Criminal Code \(R.S.C., 1985, c. C-46\)](#), s. 241.2.

⁵² Colorado General Assembly (2016) [Proposition 106: Access to Medical Aid-in-Dying Medication](#), Colorado General Assembly website.

⁵³ Colorado Department of Public Health and Environment (2017) [Medical Aid in Dying](#), Colorado Department of Public Health and Environment website.

⁵⁴ Colorado Revised Statutes (2016), [End of Life Options Act](#), s. 104(1), Colorado Secretary of State website.

<p>Washington D.C., USA</p>	<p>2017</p>	<p>The <i>Death with Dignity Act</i> was signed by the mayor of Washington, D.C. in December 2016. In January 2017, the Act was transmitted to Congress for a 30-day review and came into effect on 18 February 2017, with implementation from 6 June 2017.⁵⁵</p> <p>The law allows terminally ill adults seeking to voluntarily end their life, to request lethal doses of medication from licensed physicians in the District. Terminally ill patients must be DC residents who have been medically confirmed to have less than six months to live.⁵⁶ The patient must make an initial oral request, a written request, and then a second oral request. The second oral request cannot be made any sooner than 15 days after the first oral request.⁵⁷</p>
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⁵⁵ Council of the District of Columbia (2017) *Notice: D.C. LAW 21-182 "Death with Dignity Act of 2016"*, Government of D.C. Department of Health website.

⁵⁶ Government of D.C. Department of Health (date unknown) *Death with Dignity Act of 2016*, Government of D.C. Department of Health website.

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- [Historic voluntary assisted dying bill now in Parliament](#) / Premier, 20 September 2017
- [Voluntary assisted dying model established ahead of vote in Parliament](#) / Premier, 25 July 2017
- [Better end-of-life care in Regional Victoria](#) / Minister for Health, 17 May 2017
- [\\$5 million palliative care boost to support more Victorians to die at home](#) / Premier, 1 March 2017
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The author would like to thank her colleagues Debra Reeves, Bella Lesman, Igor Dosen, Marianne Aroozoo and Jon Breukel for their assistance in reviewing this research note.

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