

VOLUNTARY ASSISTED DYING

End of life decisions are immensely personal, and reasonable minds differ, as each person approaches their end of life with different values, morals, and ideals that inform their views. That's why end of life decisions should be considered a matter of individual conscience, and why the ability to end one's life with dignity, at a time of one's choosing, should be an option for those with a terminal illness who deem it appropriate. The Victorian AIDS Council (VAC) supports the right of every person to make informed decisions regarding their own health, including their right to make end of life decisions.

END OF LIFE DECISIONS

End of life decisions are choices concerning the medical interventions a person might wish to receive in their final months of life. This includes palliative care, in which a person with a terminal illness and experiencing chronic pain is made more comfortable. It also includes the decision to end one's life in a manner and at a time of one's choosing. This is known as voluntary assisted dying.

Voluntary assisted dying is the administration of life-ending drugs by a medical practitioner or their provision to a person who self-administers the drug.

End of life decisions should be able to be articulated in advance care plans, which provide directives on how a person would like to proceed should they lose the capacity to communicate their wishes. Unfortunately, many people fail to plan ahead and prepare advance care directives, which will not be legally enforceable in Victoria until 12 March 2018, and even then directives relating to voluntary assisted dying will not be authorised.¹

CURRENT LAW AND PRACTICE

Ending one's own life is not illegal; however, voluntary assisted dying remains illegal throughout Australia, including Victoria.² Despite being illegal, doctors and family members regularly assist people to die in ways that reduce their suffering at end of life.³ Due to its illegality and the subsequent lack of reporting, it is impossible to know how frequently this occurs.

The lack of a regulated voluntary assisted dying scheme also gives rise to troubling practices, such as people committing suicide in painful and traumatic ways,⁴ and life-terminating acts being performed without the explicit consent of the person; the latter of which often happens to people who lack competency or capacity to explicitly request assistance but have discussed it informally with their family and doctors. In such cases people are usually given high doses of sedatives that ultimately result in death.⁵

In the countries and jurisdictions where some form of assisted dying is available, these practices are significantly reduced, as the majority of people who decide to die choose to use the established legal framework. This avoids unnecessary pain and ensures individuals' wishes are both clearly stated and properly respected.⁶

ASSISTED DYING AND HIV/AIDS

In 1998, working with Liberty Victoria, VAC developed a guide titled *The Final Choice: Considerations on Choosing to Die*. This guide, aimed primarily at people living with AIDS, canvassed the various issues related to voluntary assisted dying. The guide espoused principles of personal autonomy and human dignity and recognised that "the law must secure personal autonomy in so far as it does not put in jeopardy the safety of others."⁷

The prognosis for people living with HIV has dramatically improved since this guide was published. Advances in medical treatment mean HIV is no longer a terminal illness, but is instead considered a manageable chronic condition. Few people living with HIV are likely to find themselves in a situation in which they might contemplate voluntary assisted dying. Under the proposed Victorian framework, HIV and AIDS would not in themselves satisfy the criteria for accessing methods of voluntary assisted dying.

Despite the need for end of life options in relation to HIV and AIDS having diminished, the principles of personal autonomy and human dignity remain true and relevant today.

RECOMMENDATIONS

The Victorian Government should adopt all of the recommendations made by the Parliament of Victoria's Inquiry into End of Life Choices,⁸ with one exception: Recommendation 49 should be amended to allow requests for voluntary assisted dying to be included in advance care directives.

The Victorian Government should develop awareness campaigns on end of life choices for the general public, but which also take into account the needs of vulnerable and historically marginalised communities. This should include people living with HIV, LGBTI people, and other communities with demonstrably worse outcomes than the general population. This should be done to increase individual autonomy over people's own health care and to increase uptake of advance care planning among these groups.

REFERENCES

- ¹ Department of Health and Human Services. Advance care planning: Medical Treatment Planning and Decisions Act 2016. <<https://www2.health.vic.gov.au/hospitals-and-health-services/patient-care/end-of-life-care/advance-care-planning/medical-treatment-planning-and-decisions-act>> (last accessed 12/09/17).
- ² Crimes Act 1958 (Vic) section 6B(2).
- ³ Kuhse, H., Singer, P., Baume, P. et al. (1997). End-of-life decision-making in Australian medical practice. *Medical Journal of Australia*, 166(2): 166-191.
- ⁴ Ibid. p.172.
- ⁵ Schüklenk, U., van Delden, J.J.M., Downie, J. et al. (2011). End-of-life Decision-Making in Canada: The Report by the Royal Society of Canada Expert Panel on End-of-Life Decision-Making. *Bioethics*, 25(S1): 61-62.
- ⁶ White, B. and Willmott, L. (2012). A background paper: How should Australia regulate voluntary euthanasia and assisted suicide. Health Law Research Centre, Queensland University of Technology, pp.21-25.
- ⁷ Liberty Victoria, the Victorian AIDS Council-Gay Men's Health Centre. (1998). *The Final Choice: Considerations on Choosing to Die*. (ed. Joseph O'Reilly), p.7.
- ⁸ Parliament of Victoria. (2016). Inquiry into end of life choices: final report. Legislative Council Legal and Social Issues Committee, LSC Report No. 5, 58th Parliament.