

Dying *with* Dignity

Tasmania (Inc)

APRIL 2019 (at 27 Apr with updates on Leg Co candidates' views)

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WHAT WE'VE BEEN DOING!

This first newsletter for 2019 is later than usual – but not because the President and Committee have been inactive. We've been doing the ongoing monitoring and research of VAD worldwide, updating the website and keeping up with Facebook posts. Other major activities include:

- **THE VOLUNTARY ASSISTED DYING BILL 2019**

The time-consuming work of the last few months has been to prepare our proposal for the next Voluntary Assisted Dying Bill and to start detailed consultation about it. We would like feedback from members about our proposal. We include some details in the following section on which we'd welcome comments. We would also be very pleased to meet with interested members to go through it in more detail so you can provide feedback in person. Please contact us on the DwDTas number if you would like to be part of that.

The aim of the consultation with members, MPs, relevant groups and individuals is to finalise a Bill for debate later in 2019 that represents a broad consensus on a principles and evidence-based safe and effective voluntary assisted dying option for Tasmanians. We believe this is the best way to achieve a cross-party broad consensus that reflects the support for voluntary assisted dying legislation across the community and a well-informed rational debate that rejects the 'fear and smear' rubbish that opponents continue to peddle.

- **VAD - OVERVIEW OF THE CURRENT SITUATION**

A detailed information paper has been done. For those with internet access you'll find it on our website in the new section, <http://dwdtas.org.au/the-next-tasmanian-vad-bill-2019/>. If you can't access it there and would like a copy, please contact us.

- **SUBMISSIONS**

DwDTas has made a detailed submission to the Queensland inquiry into aged care, end-of-life and palliative care and voluntary assisted dying. If you would like a copy please contact us. Work has started on a response to the WA discussion paper on their proposed VAD Bill.

YOUR RIGHT TO CHOOSE

PO Box 1022, Sandy Bay TAS 7006 0450 545 167 info@dwdtas.org.au www.dwdtas.org.au

PROPOSAL FOR TASMANIAN VOLUNTARY ASSISTED DYING BILL 2019

The major challenge for the next Tasmanian VAD Bill is to ensure it is effective in its safeguards and in meeting the needs and wishes of Tasmanians particularly those who are eligible for VAD. We want to prevent the unnecessary and burdensome hurdles of the Victorian *Voluntary Assisted Dying Act* which will come into operation in June 2019.

In developing our proposed Bill, we have relied on the ongoing in-depth research and analysis of existing legislation elsewhere, particularly the most relevant for Tasmania in Canada. We had contact with some MPs and a discussion with a representative of Doctors for Assisted Dying Choice and will be continuing those valuable working relationships.

Since the proposal was done, we have had one meeting which was very positive with the Policy Council of the Council on the Ageing (COTA) and agreed to maintain that contact and work together. Letters are about to go out to MPs in the House of Assembly and Legislative Council inviting them to meet with us to go through our proposal in detail. Contact will also be made with other relevant and interested groups and individuals with particular expertise to contribute to the Bill. WE would like to include medical groups such as the AMA, the Royal College of Physicians and the Royal College of GPs, Palliative Care Tasmania, groups like the CWA (which has been supportive in WA) and people with special expertise such as Professors Margaret Otlowski and Michael Ashby.

Our proposal is that the VAD Bill 2019 should be largely the same as the 2016 Bill debated on 24 May 2017. That Bill was an updated improvement on the 2013 Bill and provides a very sound basis for a safe and effective law to meet the needs and wishes of Tasmanians. It is underpinned by years of extensive, ongoing

research, analysis and broad consultation. This work has been done by people with significant knowledge, skills and experience in relation to the issue of voluntary assisted dying and in the development and implementation of policy and legislation.

The Bill we propose has three key aims:

1. To provide a last resort VAD option for people who are seriously ill, with no chance of recovery or improvement, and with intolerable suffering which is otherwise unrelievable
2. To ensure a proven rigorous and accountable system with effective safeguards
3. To be effective in meeting the needs and wishes of Tasmanians requesting VAD and of their doctors.

We are committed to the retention of key provisions of the Bill, in particular:

- the eligibility requirements, including age (18 and over), competence, residency, voluntariness and eligible medical condition (with potentially some changes to the wording of the competence requirement).
- eligible medical condition with no requirement to be added for a prognosis of months to live (as in Victoria) or for the person's death to be "reasonably foreseeable" (as recommended in WA)
- the current requirements for the doctors involved to be registered medical practitioners and that there be no restrictive and unnecessary additional requirements as in Victoria
- voluntary assisted dying may be provided through doctor-administration or self-administration of the drugs
- there must be effective medical support and assistance to people who self-administer the drugs to ensure that any

complications are dealt with quickly and effectively for the patient.

One of the amendments we propose is the waiving of the waiting periods, as in Victoria and Canada, where the person is likely to die or lose competence before they expire. We also propose that consideration be given in the consultation process to other possible amendments including:

- allowing VAD for people who have completed all the requirements and procedures for eligibility but have subsequently lost competence before they have received assisted dying. (There are examples in Canada where this loss of competence has been due to the effects of pain relief or other treatment to relieve their unbearable suffering. To demonstrate their competence at the very end in order to remain eligible for VAD, it has been necessary for those people to withdraw from or refuse that treatment and consequently experience even greater suffering. We think this is cruel and unacceptable when people have demonstrated beyond doubt their voluntary, informed choice of VAD.)
- allowing the primary medical practitioner to delegate to another medical practitioner (or someone else) the collection and return of drugs to the pharmacy; the administration of assisted dying drugs; and being present to support the people in self-administration of the assisted dying drugs and to respond to possible complications.

We had hoped the report by the Canadian Council of Academies on advance requests would be helpful in arguing that our Bill should allow access to VAD through advance requests, ie for people who are not currently competent but have made requests when they were competent, through advance care directives or in directions to Enduring Guardians, for VAD under certain conditions. Unfortunately, the report's research is mixed and it does not include a recommendation for an amendment

to the Canadian legislation which would have provided a model for our approach.

We are only too well aware, as you are, that dementia is serious and increasing and can cause great end of life suffering to people who have lost competence, as can some other medical conditions. This is a source of great anxiety for many people particularly those with a family history of those conditions and who have seen loved ones experience terrible end of life situations as a result.

We know that many of our members and other people support VAD through advance requests. However, at this stage we would like to wait on the outcome of the in-depth considerations in Canada before proposing a provision in a Tasmanian Bill.

As commented in our first section, we would like to hear the views of members on our proposed Bill. Please contact us if you would like more information and provide feedback.

In the meantime, please continue to do what you can to help –

- tell your MPs in both the House of Assembly and the Legislative Council that you support voluntary assisted dying and why
- write to the papers and phone in to talkback programs
- encourage others to join us and donate – campaigns cost money and every bit helps.

ELECTIONS – THINK DYING WITH DIGNITY BEFORE YOU VOTE

(1) LEGISLATIVE COUNCIL

On 4 May, there will be elections for three Legislative Council seats of Nelson, Montgomery and Pembroke. We are still waiting on information about some candidates' views but based on what we know at time of writing:

Nelson: Candidates who support VAD legislation include: Independents Vica Bayley, John "Polly" Farmer, Richard Griggs, Meg

Webb and Blair Brownless, and Liberal Nic Street (the only Liberal to vote for the last Bill). We also assume Greens Deborah Brewer supports it.

Madeleine Ogilvie is a strong opponent, who made a disgraceful speech against the last Bill when she was a member of the House of Assembly.

Pembroke: Labor candidate Jo Siejka supports VAD legislation. Tony Mulder is another Pembroke candidate who has advised us in the past of his support. We have yet to hear from Liberal Kristy Johnston but her response to the Australian Christian Lobby at the time of the State election when she was a candidate was not reassuring.

Montgomery: Cheryl Fuller is supportive and has a humane and thoughtful approach. We are waiting to hear but expect that the Labor candidate, Michelle Rippon, supports VAD but the Liberal one, Leonie Hiscutt, doesn't. Check with us for extra information closer to the elections.

(2) FEDERAL

The ABC's Vote Compass Survey has a question on attitudes to voluntary assisted dying laws. Make sure you complete the survey to show MPs the huge level of community support for VAD - <https://votecompass.abc.net.au/>.

Supporters we know of among candidates: Andrew Wilkie (Ind for Clark); Julie Collins (Labor for Franklin) and Justine Keay (Labor for Braddon); Jacqui Lambie candidate for Senate.

The relevant Federal issue is restoration of the powers of the Territories (NT and ACT) to debate and pass voluntary assisted dying legislation if their democratically elected Parliaments decide to do so. Those powers were removed by the *Euthanasia Laws Act 1998* which, to the shame of our Australian Parliament, remains in place.

The most recent information about the views of some candidates for the Federal election

comes from the 2018 vote in the Senate on the last Bill to restore the powers. (We reported about it in the last newsletter in Nov – Dec 18.)

Candidates standing in this election who voted for the Bill include Labor Senators Lisa Singh, Carol Brown and Catryna Bilyk. Candidates who voted against the Bill include Liberal Senator Richard Colbeck and Nationals Steve Martin.

NEWS - AUSTRALIA

WA: In the last newsletter we reported at length on the findings and recommendations of the WA inquiry into end of life choices and the decision of the State Government to develop a voluntary assisted dying Bill for debate later in 2019.

The Government then appointed an Expert Panel to make recommendations on the Bill. The Panel has issued a Discussion Paper for comment. You can find a copy at <https://ww2.health.wa.gov.au/>. DwDTas will be making a submission because of our concerns about a few aspects of their proposed Bill.

VICTORIA: The *Voluntary Assisted Dying Act 2017* is on track to come into operation in mid-June. DwDTas will have two representatives at a forum on 9 and 10 May in Melbourne providing detailed information on the preparation for its implementation.

There has recently been truly appalling behaviour by Catholic opponents of VAD in Victoria. Patients and staff were accosted by pro-life campaigners outside the Peter MacCallum Cancer Centre because the hospital and its staff are preparing to meet people's voluntary, well-informed, legal choices to end their suffering through a peaceful death.

According to an ABC report, the group were led by former Catholic priest, Eugene Ahern, and distributed flyers that said that staff were "murderers," "patient killing by doctors" would be legal, "doctor-prescribed suicides and state-sanctioned extra-judicial executions will be

legal here at Peter Mac", "Peter Mac recruits suicide facilitator" and "assisted suicide is not medical treatment".

The Victorian Government is considering the establishment of 'safe access zones' for facilities that provide VAD as they have had to do near facilities providing legal abortions.

QUEENSLAND: Submissions to the Parliamentary inquiry closed on 15 April and are slowly being posted to their website. Hearings have also commenced. It will consider voluntary assisted dying legislation along with palliative care and aged care. The inquiry will report by 30 November 2019.

ACT: The Select Committee on End of Life Choices established by the ACT's Legislative Assembly released its report in March 2019. The section on voluntary assisted dying legislation is very limited and disappointing. It looks as if any effective attention will not happen until the disgraceful *Euthanasia Laws Act 1998* has been repealed.

NSW: DwDNSW are continuing their active advocacy and planning for the next voluntary assisted dying Bill now that their State election has been held.

SA: Legalising voluntary assisted dying may be investigated by a SA parliamentary committee. You may remember the last Bill was defeated by an agonisingly small margin on the deciding vote of the Speaker. Opposition frontbencher Kyam Maher has been reported as saying the traumatic death of his mother led him to mount the latest push to allow assisted dying.

PALLIATIVE CARE: Palliative Care Australia has received two important relevant reports on VAD in relation to palliative care to inform their policy and advice to politicians. The report, [Experience internationally of the legalisation of assisted dying on the palliative care sector, October 2018](#) found: *An assessment of the palliative care sectors*

following the introduction of assisted dying for each of the in-scope jurisdictions provided no evidence to suggest that the palliative care sectors were adversely impacted by the introduction of the legislation. If anything, in jurisdictions where assisted dying is available, the palliative care sector has further advanced. Where jurisdictional data is available, there are consistently high levels of patient involvement in palliative care services at the time of the death through assisted dying". (p5).

[Reflections and Learnings: Assisted Dying in Canada and the United States, November 2018](#) provides valuable first-hand observations from people with experience where VAD is legal and can help to inform the law and its implementation here.

AMA: The AMA has issued a new policy on conscientious objection. It's interesting to see this example: "A hospice patient may request access to a voluntary assisted dying service (in a jurisdiction where this is legal) but the facility does not provide such a service due to conscientious objection. In these cases, doctors should be allowed to refer patients seeking such a service to another doctor outside the facility".

NEWS - OVERSEAS

US: In March 2019, the New Jersey Parliament passed their VAD legislation, the *Medical Aid in Dying for the Terminally Ill Act*. The Assembly passed it by a 41-33 vote, while the Senate voted 21-16 in favour. Governor Phil Murphy, reportedly "a lifelong Catholic", signed it into law. It is also reported that he stated: *I have concluded that, while my faith may lead me to a particular decision for myself, as a public official I cannot deny this alternative to those who may reach a different conclusion. I believe this choice is a personal one and, therefore, signing this legislation is the decision that best respects the freedom and humanity of all New Jersey residents.*

On 1 January 2019, the **Hawaii** *Our Care Our Choice Act* came into operation.

There are a number of other US States moving towards legislation including New York and Maine.

Canada: We are continuing to follow the implementation of the Canadian medical assistance in dying (MAiD) law with great interest, particularly the hurdles to access to MAiD by those who are eligible. Key issues include the impacts of allowing healthcare facilities to ban assisted dying on their premises and the challenges to the requirement for effective referrals if the doctor is not prepared to provide MAiD.

We are also following the work of Dying with Dignity Canada and their excellent website with real life stories of people who have accessed VAD. They are moving and inspiring for our own efforts.

(<https://www.dyingwithdignity.ca/>)

We have been very impressed by positive comments from doctors about their experiences in providing MAiD. This includes those of the President-elect of the Canadian Medical Association, Sandy Buchman, who is reported to have stated in a trip to speak about the issue in Scotland: "It's serious to be a provider and it's hard. It stays with me. At first, I wasn't sure how I would react. My first case, my colleagues gave me the day off. I found that because it felt so right and so consistent, that I haven't experienced anxiety or regret or any negative emotions. In fact, I've felt that I've helped my patients in ways that I could never have helped them before. I feel better about it as a physician, as a professional, to be able to finally alleviate their suffering."

NZ: The David Seymour *End of Life Choice Bill* continues to wend its way through a tortuous, time-consuming process. The inquiry by the Justice Select Committee failed to make a recommendation and the likely outcome will be a destructive referendum – and more delay. Fanatical opposition to the Bill has been driven by well-resourced Catholic opponents, including former Prime Minister, Bill English and his wife.

MEMBERSHIP

Our financial year will end soon. If your membership is due, you will have received a message with the newsletter. If you're in any doubt about whether you are a paid-up member, please ring us on the DwDTas number.

We always appreciate your renewal and it continues to be important for our ongoing existence and the campaign for the *Voluntary Assisted Dying Bill*.

Memberships are only \$20 per annum for individuals and \$30 per annum for family membership. You can renew for up to 3 years. Donations are also very welcome.

Members are very welcome to attend Committee meetings and participate in the discussion. The next scheduled meetings are the second Wed of the month in June and July. The meetings start at 2pm and are held in D Block, Old School Building, Hutchins St, Kingston. Just check beforehand that the meeting is going ahead by ringing us on the DwDTas number.

The AGM is coming up in August and we are hoping to have a very interesting guest speaker – more on that in the next newsletter.