ANZSGM Queensland Division

ANZSGM Qld Response to QLD Voluntary Assisted Dying Bill 2021

INTRODUCTION

The Australian and New Zealand Society for Geriatric Medicine (ANZSGM) represents specialist geriatricians and medical professionals who strive to provide the best possible health care and support for older people, working to improve their quality of life.

We have over 1,200 members in Australia and New Zealand who work across all healthcare settings, including residential and community aged care, and are experts in managing the complex medical and health related problems faced by older people.

The ANZSGM strongly believes that access to high quality medical care is a critical component of the overall well-being of older people. All older people deserve better access to specialists who are experts in managing their specific medical problems. Supporting General Practice and Primary Care services to older people's place of residence, either in the community or in residential aged care is core business for geriatricians.

The ANZSGM supports older people's rights to refuse or discontinue burdensome or futile treatment. The ANZSGM supports a dying older person's rights to a death characterised by dignity, adequate symptom control and optimal access to expert palliative care. The ANZSGM's view is that policy makers and funders of health care can best help patients nearing the end of their life by ensuring adequate provision and funding of high-quality community-care, palliative care, and geriatric medicine services.

The ANZSGM acknowledges the wide range of perspectives and ethical views held by people living in Australia and New Zealand of all ages on Voluntary Assisted Dying (VAD). Likewise, ANZSGM members hold differing views in good faith and the views of all members are respected. Despite these differing views there are areas of common ground in terms of what are important considerations specifically with regards to older people should legislation allowing VAD come into effect.

It is important to note that the Queensland ANZSGM State committee has sought the views of its members and members have been given an opportunity to give their views on the Queensland Law Reform Commission report (A legal framework for voluntary assisted dying)

POINTS FOR REFERENCE WITH REGARD TO ANZSGM AND EUTHANASIA

Definitions

Euthanasia	An action which of itself and by intention causes a person's death with the purpose of relieving suffering (actual or perceived).
Physician-Assisted Suicide	As per above, but where a physician facilitates an individual's act of self-euthanasia.

ANZSGM Queensland Division

The following are ANZSGM's four most important concerns:

1. Frail older people should not be put in a position where they consider VAD because they feel they are 'a burden' on others. Such feelings are often due to underlying depression, financial concerns, lack of availability of community services or family dynamics. An older person requesting VAD should have access to a comprehensive assessment which addresses medical, psychological and social aspects of health.

2. Dementia and other cognitive disorders become more common with age therefore there will be older people may have impaired capacity to make decisions regarding VAD. It is important that a process to adequately assess capacity is in place. We do not support other decision makers having the ability to make decisions about VAD on behalf of someone who does not have capacity to do so.

3. With an increasing the number of frail older people it is important that the development of VAD services does not detract from the increased resources that are needed to look after older people at the end of their life (palliative care, geriatric medicine and community services)

4. Experts in Palliative Care agree that with best practice palliative care, the number of people experiencing unrelievable pain is small. Losing autonomy and decreasing ability to participate in activities far out-rank pain as reasons for accessing VAD. Ensuring Queenslanders have community support to maintain autonomy and activity participation as far as possible, as well as timely access to control pain and alleviate their suffering, should be promoted rather than VAD.

SPECIFIC VIEWS ON THE PROPOSED LEGAL FRAMEWORK

Eligibility Criteria for Access to Voluntary Assisted Dying (VAD)

The following are the most important issues to consider:

A person must have an incurable, advanced and progressive disease, illness, or medical condition, assessed by two medical practitioners to be expected to cause death within 12 months (different from Victorian criteria).

Persons wishing to access VAD who have a disability or mental illness are at risk of coercion and should have a capacity assessment prior to accessing the scheme.

A person with intolerable suffering that cannot be relieved in a manner the person considers tolerable should have referral to palliative care consultation prior to accessing VAD.

Patients should have access to Specialist Assessment in the field of terminal illness prior to accessing VAD. (i.e., geriatrician for dementia, neurologist for Motor Neuron Disease, oncologist for terminal malignancy). Ideally the specialist should be the consulting medical practitioner for VAD as legislated in Victoria. This is to ensure patients are given all potential management options at the end of life.

Eligibility criteria for the scheme must carefully balance the right of an individual to make choices with respect to accessing health services, with the need to ensure the scheme includes protections to ensure that access is made voluntarily without coercion, and with informed consent of the individual.

Safeguards are needed to ensure that the scheme will always be voluntary. If medical practitioners are able to suggest VAD it opens the door to subtle coercion by well meaning practitioners not fully aware of palliative care or treatment options. If VAD is initiated by a patient, their medical practitioner should inform the patient of all treatments and palliative care options. For an example, it would be expected that people contemplating VAD due to symptoms they are suffering from will have been seen by palliative care services, and people who could have clinical depression will have a psychiatric assessment.

Capacity Assessment

The ANZSGM agrees people requesting VAD should have a capacity assessment prior to accessing the scheme as per Guardianship and Administration Act 2000.
Capacity should be assessed by a specialist medical practitioner who has expertise in capacity assessment.

One of the difficulties is there may be people who did had capacity that allowed them to assess the VAD scheme who have diminished capacity close to the time of the actual VAD act. Capacity may need to be re-assessed again to ensure that any action taken is consistent with the person's wishes.

INITIATING A DISCUSSION ABOUT VAD

The consulting practitioner and coordinating practitioner who conduct the assessments must be independent. Consulting and Coordinating practitioners must have a permit for access to the scheme. Each coordinating doctor must hold a fellowship with a college, registered as a specialist or be a registered GP. The consulting doctor and coordinating doctor must have relevant experience and expertise with the person's terminal diagnosis. Medical practitioners seeking to participate in VAD must obtain a permit via an approved training program.

Consulting practitioners and coordinating practitioners must report to an independent oversight body through all steps of the VAD scheme. The Voluntary Assisted Dying Review Board (the Board) will monitor all activity under the law and will receive reports from all health practitioners who participate. The Board will make sure that the Act is being complied with and will also monitor substance permit applications so there is close monitoring of this practice. Medical practitioners must have a permit to participate in the VAD process after completing approved training program.

ANZSGM Queensland Division

CONSCIENTIOUS OBJECTION

We agree that Medical Practitioners who hold a conscientious objection to VAD should not be required to refer patients to practitioners who participate in the VAD scheme.

Clear protections for practitioners should include:

a. That a medical practitioner is not required or compelled to comply with a person's request, or to be involved in voluntary assisted dying at all (whilst in compliance with the settled Act).
b. That a medical practitioner should not face any criminal, civil, administrative, or disciplinary action for refusing to participate, or for choosing to participate (in compliance with the settled Act).
c. That a medical practitioner should be immune from criminal and civil liability, and disciplinary action for providing treatment that causes death if they have acted in accordance with the requirements of the legislation in good faith and without negligence.
d. That medical practitioners acting in accordance with the law are protected from retrospective or current prosecution should laws change.
e. That this immunity be extended to a medical practitioner being present when the person takes the medication.
f. Deaths should be reported and noted as VAD on death certificate with primary aetiology as cause of death.

CONCLUSION

If the proposed VAD Scheme is to be legislated in Queensland then the most prerequisites are that persons accessing the scheme must have capacity at the time of application, must be fully informed of all treatment and palliative options, and have the capability of changing their decision prior to the final act. Coordinating and consulting medical practitioner must have specialised experience in the care of older people with terminal illness and capacity assessment. Medical practitioners and health professionals who conscientiously object must have a right not to participate in any part of the process.