

Voluntary Assisted Dying in Victoria

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related developments in Victoria

- Vic. Charter of Human Rights (2016)
<http://www.humanrightscommission.vic.gov.au/upcoming-changes-to-medical-decision-making-laws>
- 'End of Life & Palliative Care Strategy' (2016) www2.health.vic.gov.au/hospitals-and-health-services/patient-care/end-of-life-care/palliative-care/end-of-life-and-palliative-care-framework
- Powers of Attorney Act 2014 (2015)
<http://www.publicadvocate.vic.gov.au>
- Medical Treatment Planning & Decisions Act 2016 (2018)
<http://www.publicadvocate.vic.gov.au>

Voluntary Assisted Dying in Vic

2016 - Social & Legal Issues Parliamentary Committee on End of Life Choices – consultation, public hearings, international visits.



49 recommendations – community-palliative care (29), advance care planning (18), assisted dying (1)



2017 - Ministerial Advisory Panel (MAP) – consultation, interim & final reports



Parliamentary debate & vote Oct-Nov 2017

guiding principles

- every human life - equal value
- a person's autonomy should be respected
- informed decision making
- quality care - minimises suffering & maximises quality of life
- therapeutic relationships supported & maintained
- open discussions about death & dying
- conversations about treatment & care preferences
- genuine choice balanced with safeguards
- the right to - respect for culture, beliefs, values & personal characteristics

Voluntary Assisted Dying Act 2017

The Act provides for & regulates access to voluntary assisted dying (VAD). Like any other clinical intervention - practice considerations to be addressed. The Act:

1. establishes clear **eligibility criteria**
 2. steps through a detailed **request and assessment process**, including requirements for medical practitioners
sets up a voluntary assisted dying **permit process** which authorises the prescribing & dispensing of a voluntary assisted dying substance
 3. **governance** - establishes the Voluntary Assisted Dying Review Board (Review Board)
- provides for a range of **additional safeguards** including substance monitoring, practitioner protections, offences, and a five year review.

eligibility criteria

to access VAD, a person must meet **all** the following:

- be aged 18 years or more; and
- be an Australian citizen or permanent resident; and be ordinarily resident in Victoria for at least 12 months; and
- have decision-making capacity in relation to voluntary assisted dying; and
- be diagnosed with a disease, illness or medical condition, that:
 - is incurable; and
 - is advanced, progressive and will cause death; and
 - is expected to cause death within weeks or months, not exceeding 6 months (12 months for a neurodegenerative condition); and
 - is causing suffering that cannot be relieved in a manner the person considers tolerable.

request and assessment

a person must make three separate, formal requests:

- the person makes their **first request** to a medical practitioner (who becomes the co-ordinating medical practitioner if they accept)
 - the person undergoes a first assessment by the co-ordinating medical practitioner
 - the person undergoes a consulting assessment by a consulting medical practitioner
- the person makes a **written request**, which is signed by two independent witnesses
- the person makes a **final request** to the co-ordinating medical practitioner
 - the person's final request must be made at least 9 days after the day on which they made their first request (exception if they are likely to die within that time)

if the person is eligible

- the co-ordinating medical practitioner applies for a VAD permit from DHHS to prescribe the voluntary assisted dying substance (opportunity to ensure compliance with the request & assessment process)
- if the person is physically able to self-administer & digest the substance, the practitioner must apply for a self-administration permit
- (if the person is not physically able to self-administer or digest the substance - practitioner administration permit)
- administration by a medical practitioner will only occur in very limited circumstances to ensure those who are physically unable to self-administer are not discriminated against.

roles of medical practitioners

- the roles of the two assessing medical practitioners are clearly defined as the co-ordinating medical practitioner and the consulting medical practitioner
- the **co-ordinating medical practitioner** supports the person, undertakes the first assessment, receives the requests, and is responsible for reporting
- the **consulting medical practitioner** provides a consulting assessment
- both practitioners must ensure the person is properly informed of all treatment and care options, including palliative care and likely outcomes
- both practitioners must undertake independent assessments to form a view as to whether:
 - the person meets the eligibility criteria
 - the person understands the information provided
 - the person is acting voluntarily and without coercion; and
 - the person's request is enduring

health practitioners

- a health practitioner is not required to participate. Conscientious objection enshrined in Vic law.
- a health practitioner must not initiate the discussion about voluntary assisted dying with a patient while providing a health service.
- there are protections for health practitioners & paramedics who act in good faith & in accordance with the Act.
 - this includes not providing life-sustaining treatment that has not been requested if they believe the person has accessed VAD.
- range of offences, including –
 - to induce a request or self-administration
 - falsifying records or making a false statement
 - providing or administering a voluntary assisted dying substance without a permit

which medical practitioners can participate?

- only specialist medical practitioners (including GPs) can conduct the assessment process and prescribe the substance.
- between them (co-ordinating and consulting medical practitioner) must have:
 - at least five years post-fellowship experience
 - experience and expertise in the person's disease, illness or medical condition
- both medical practitioners must:
 - be a Fellow of a specialist Medical College (inc College of General Practitioners)
 - complete training before conducting an assessment (legal & practical requirements of VAD).

conscientious objection

'the right to refuse to do any of the following:

- (a) to provide information about VAD
- (b) to participate in the request & assessment process
- (c) to apply for a VAD permit
- (d) to supply, prescribe or administer a VAD substance
- (e) to be present at the time of administration of a VAD substance
- (f) to dispense a prescription for a VAD substance'

reporting requirements

mandatory reporting to the VAD Review Board following the:

- first assessment (co-ordinating medical practitioner);
 - consulting assessment (consulting medical practitioner);
 - final review, following third request (co-ordinating medical practitioner);
 - dispensing of the substance (pharmacist);
 - disposal of the substance (pharmacist);
 - administration of the substance by a co-ordinating medical practitioner.
- reporting forms are detailed in Schedule to the Act
 - VAD Review Board reports to Parliament 6 monthly

role of health services

- health services must decide whether or not they will provide VAD – no compulsion
- regardless of whether a health service will provide voluntary assisted dying, it must be prepared for the new legislation. Things to consider include:
 - how will individual staff respond to questions & requests for information?
 - how will staff be supported in managing these requests?
 - if VAD will/will not be provided, what will be the model of care?
 - how will staff be educated & supported if VAD will be provided at a health service?

organisational readiness

communication, information and education – how?

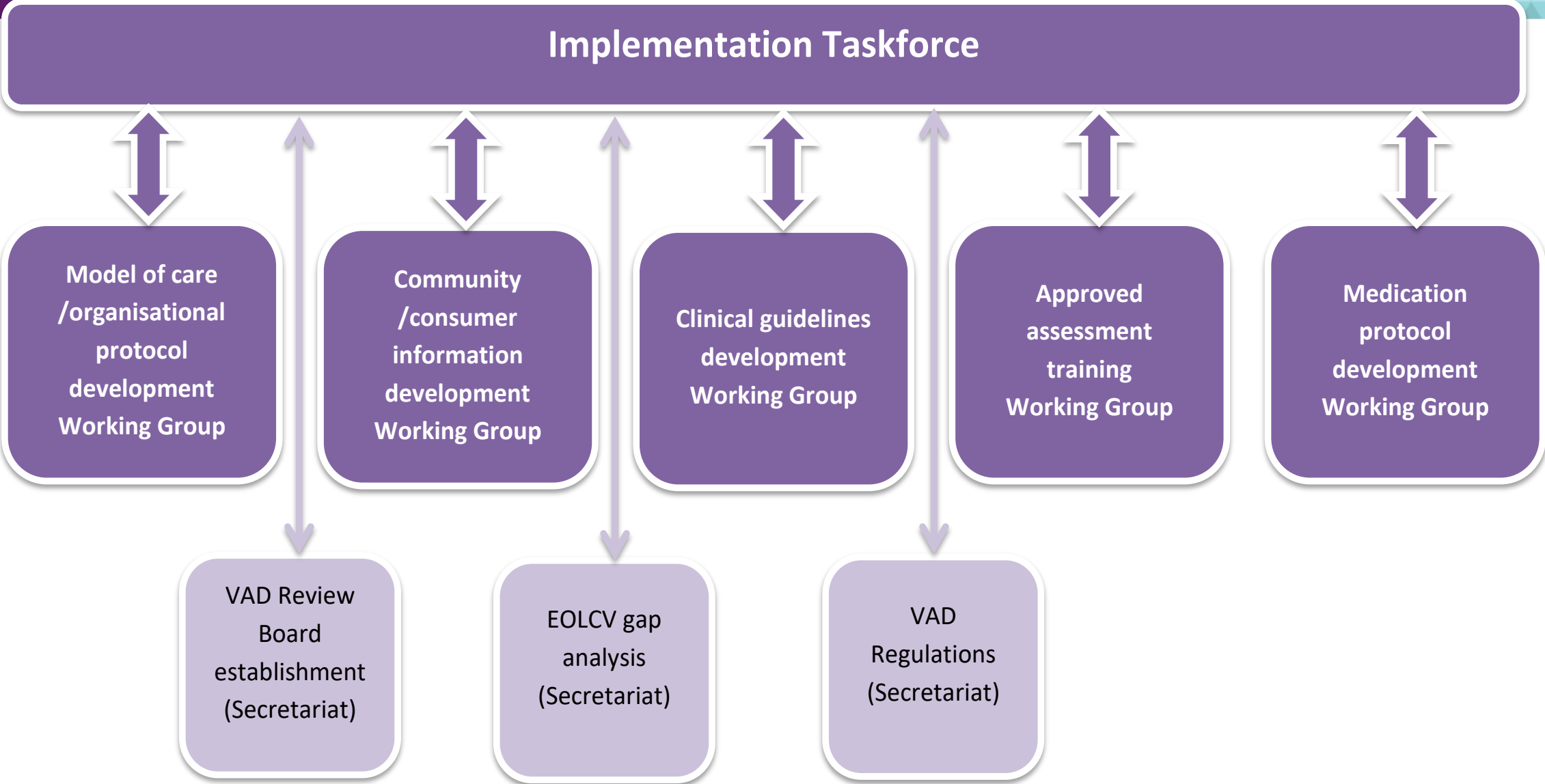
policies, procedures and guidelines ready? – update/develop

familiarity with documentation and process of VAD

readiness of systems – IT, legal, alerts, tracking of request process, reporting

staff support systems

Implementation Taskforce: projects and governance- to 19th June 2019



<https://www2.health.vic.gov.au/hospitals-and-health-services/patient-care/end-of-life-care/voluntary-assisted-dying>

<https://www.betterhealth.vic.gov.au/health/ServicesAndSupport/voluntary-assisted-dying>