

The Medical Journal of Australia • MJA

MEDIA RELEASE

VOLUNTARY DYING LEGISLATION: LESSONS FROM THE DUTCH

EMBARGOED UNTIL 12:01am Monday 9 September 2019

AUSTRALIAN states considering the introduction of voluntary assisted dying legislation can learn much from Dutch feedback on the Victorian legislation which came into effect on 19 June 2019, according to the authors of a Perspective published online today by the *Medical Journal of Australia*.

Voluntary assisted dying has been regulated for over 25 years in the Netherlands.

“Australian legislators can learn much from the many Dutch experiences and studies of the practical operation of their laws,” wrote the authors, led by Professor Bregje Onwuteaka-Philipsen, professor of End of Life Research at the Amsterdam Public Health Research Institute.

The authors focused on three areas of the Victorian legislation which they saw as “potential limitations”:

Pre-authorisation

In the Victorian legislation, the coordinating doctor must review all relevant documentation, complete a final review form and apply for a permit from the Secretary of the Department of Health and Human Services. The Secretary must then determine whether to issue a permit within 3 business days.

“Our concerns about pre-authorisation are two-fold,” the authors wrote. “The first is the extra time this process will take. Existing safeguards require at least 9 days between a patient’s first request and the final request ... and at least one day between the second doctor’s assessment and the final request. Permitting a further 3-day delay for consideration by the Secretary may cause hardship for a terminally ill patient who is suffering and unnecessarily impede access to VAD.

“The second point concerns the utility of the Secretary’s review. It appears that the review’s purpose is ensuring all paperwork has been appropriately completed rather than reviewing individual cases, including checking the reliability of eligibility assessments. If so, this raises doubts about the effectiveness of such a safeguard, particularly given the delays it will cause.”

In the Netherlands, the majority of patients who receive euthanasia or physician-assisted suicide have a short estimated life expectancy.

“The pre-authorisation requirement may adversely affect patients, especially more severely ill ones, from receiving an assisted death. This may be particularly problematic when a limited life expectancy is an eligibility criterion, as it is in Victoria, especially as it is known that physicians tend to overestimate life expectancy in seriously ill patients.”

Administration by patient or doctor

Under the Victorian legislation, the default method of VAD is self-administration. Practitioner administration is only permitted if the patient has lost the “physical capacity to self-administer or digest” the medication.

“In the Netherlands, while both euthanasia (practitioner-assisted) and assisted suicide (self-administration) is permitted, the incidence of self-administration is very low,” the authors wrote. “Practitioner administration is preferred in the Netherlands for a range of reasons. First, about half of the patients are too weak to self-administer. Second, doctors prefer to control the process or take responsibility for effective provision of VAD. Third, and related to the second reason, complications occur more frequently in self-administration.”

Dutch guidelines state that if self-administration fails, the doctor is obliged to administer the medication.

Transparency and evaluation

The Victorian legislation mandates that the Minister for Health review the legislation after 5 years. In the Netherlands, the government funds an evaluation of the law by independent researchers every 5 years.

“The research considers the nature of the review processes by the Committees, any litigation that has occurred, as well as the way the law works in practice. This has resulted in a wealth of empirical data,” wrote the authors.

The Western Australian government is currently developing its own VAD legislation, and Parliamentary committees have been established in Queensland and South Australia to consider reform. Onwuteaka-Philipsen and colleagues concluded that the “potential limitations” of the Victorian legislation need to be considered by the other states.

“A key learning from the Dutch experience is that rigorous evaluation of VAD is critical to promote transparency in decision making in the system and to drive practice improvements,” they wrote.

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CONTACTS: Professor Ben White
Australian Centre for Health Law Research
Queensland University of Technology
Ph: 0422 538 895
Email: bp.white@qut.edu.au

Professor Lindy Willmott
Australian Centre for Health Law Research
Queensland University of Technology
Ph: 0419 706 214
Email: l.willmott@qut.edu.au