

## **Voluntary Assisted Dying**

### **A Position Statement for the Presbyterian Church of Victoria**

#### ***Introduction—Voluntary Assisted Dying now available in Victoria***

On 19 June 2019, Victoria became the first Australian jurisdiction to allow eligible residents to end their lives, under the provisions of the *Voluntary Assisted Dying Act 2017*.

#### ***Background***

What is Voluntary Assisted Dying? Voluntary Assisted Dying (VAD) refers to a process whereby an eligible person legally ends their life by taking a lethal substance prescribed by a doctor. It is governed by the *Voluntary Assisted Dying Act 2017*.

Who is eligible for VAD? VAD is only available to people who:

1. Are 18 years or older; have lived in Victoria for at least 12 months; and have decision-making capacity;
2. Are Australian citizens or permanent residents;
3. Are experiencing intolerable suffering from an incurable, advanced and progressive disease, illness or medical condition;
4. Are assessed by two separate medical practitioners who agree the disease, illness or medical condition is expected to cause death within six months.

What conditions are excluded? Disability or mental illnesses in and of themselves are not eligible conditions for VAD.

What is the process? A request for VAD can only be initiated by the person experiencing the disease, illness or medical condition. It cannot be requested by any other person. The person's eligibility must be confirmed by two separate medical practitioners. Where eligibility is confirmed by both medical practitioners, the person must sign a witnessed written declaration confirming they wish to end their life, and then make a final subsequent request for VAD. An authorised medical practitioner will then prescribe a lethal substance (often euphemistically referred to as 'medication'). This substance will ordinarily be administered by the person themselves, at a time of their choosing.

Are medical practitioners compelled to participate in VAD? The Act allows Victorian health services, medical and other health practitioners (including doctors, nurses and specialists) to choose whether or not they participate in the VAD scheme in any way. Under the Act individual practitioners cannot be required to:

1. provide information or support about VAD;
2. assess a person for VAD;
3. supply or give the medication used for VAD;
4. refer interested patients to practitioners willing to facilitate VAD.

What conduct is prohibited by the legislation? The legislation introduces a range of offences for prohibited conduct, including:

1. administering the VAD substance to another person;
2. inducing another person to request VAD;
3. inducing another person to take the VAD substance;

4. failing to return any unused quantity of the VAD substance.

Why introduce VAD and what are its underlying principles? Proponents of VAD argue that state sanctioned assisted suicide of this kind is necessary to grant terminally ill individuals experiencing intolerable suffering the opportunity to die with dignity at a time of their choosing. Compassion, they say, demands legislation like the *Voluntary Assisted Dying Act 2017*.

The Act includes reference to a number of guiding principles, including ‘every human life has equal value’ and ‘a person's autonomy should be respected.’<sup>1</sup> The conscientious application of these principles is intended to protect vulnerable persons from unintended violation and harm through the scheme.

### ***Summary response***

It is the contention of the Church and Nation Committee that the *Voluntary Assisted Dying Act 2017* is based upon an inadequate understanding and application of the two principles cited above, and that tragically all who access VAD will in fact be violated and harmed in the name of the State.

### ***The value of human life and the limits of human autonomy***

It is true that every human life has equal value, the question is, how much value? Since the *Voluntary Assisted Dying Act 2017* contains stringent limitations on access to state assisted suicide, the legislation implicitly acknowledges that human life is indeed very valuable. Yet this is still inadequate.

According to the Bible, the value of a human life is beyond estimation. The inestimable value of every human life is grounded in each person's status as a being who bears the image of the Creator (Gen 1:26–28). Prohibitions of and punishments for murder are based upon this awesome reality (Gen 9:5–6). Even ‘mercy-killing’ is to be shunned and assumed to be a capital offense (1 Sam 31:3–5; 2 Sam 1:1–16).

In the Bible, the value of human life is so great that each person's life is inviolable. Any action intended to kill (apart from the State's use of the sword, sanctioned by Scripture) is an unconscionable evil, even in the context of extreme suffering and imminent death. God alone has the right to determine if a person lives or dies. God alone may end a life or command others to do so.

Though suicide itself is not directly addressed in the Bible, the same principle applies. Personal autonomy—a justifiable consideration in relation to curative, life-sustaining or palliative medical intervention—meets its proper limit in relation to suicide. A person's autonomy should be respected, but the individual has no right to initiate measures to actively kill the self.

### ***VAD, self-determination and sin***

We acknowledge that terminal illness sometimes involves experiencing severe pain and other horrendous indignities. The best of palliative care may be able to relieve a large part of this

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<sup>6</sup> *Voluntary Assisted Dying Act 2017*, 11.

suffering for the vast majority of dying patients, but many people would still rather not endure this experience. Indeed, many would rather die than experience palliation until their illness results in death.

We also acknowledge that modern palliative medicine has limits and that there are a relatively small percentage of patients for whom symptom control cannot be readily achieved. The awful reality is that some people die experiencing great pain. It is understandable that those who have witnessed such a distressing death might determine that they would rather die than undergo such an experience themselves. We understand the reason a significant percentage of the population are in favour of VAD of some kind.

Yet according to the Bible, to destroy human life is evil. Victoria's VAD scheme entails state support for ultimate self-harm (the self-destruction of the divine image bearing self) and ultimate self-violation (the self-termination of the life God declares inviolable). VAD is therefore a great evil, even if compassion was a motive for those who campaigned and voted for and drafted the legislation. Even if those who access VAD are terminally ill adults with decision making capacity experiencing great suffering, it remains a great evil.

Those who would rather die than experience the suffering and indignity associated palliation unto death may be unmoved by arguments based upon the inviolability of humanity made in God's image, appeals to the will and laws of God or the sanctity of life. It should not surprise us if people say, 'I don't care what the Bible says; I choose to die with dignity.' It should not surprise us when those who lack the Spirit opt for VAD and thereby manifest personal autonomy and self-determination as their highest principle, because the single-minded pursuit of self-determination and refusal to submit to divine authority are the essence and starting point of sin.

The Church and Nation Committee recognises that every VAD death represents a recapitulation of the primordial sin of Genesis 3 when universal disobedience arose from a desire to gain and assert independence from God.

### ***Practitioner-administered VAD moves beyond assisted suicide***

It is the intention of the *Voluntary Assisted Dying Act 2017* that most who access the scheme will do so on the understanding that the lethal substance will be self-administered, meaning the individual experiencing advanced terminal illness themselves will access, prepare and swallow the poison prescribed to them without the assistance of another person. As such, Victoria's VAD scheme in its most common application represents state-supported suicide.

However, the Act does contain provisions for terminally ill individuals who are physically incapable of digesting or self-administering the lethal substance, for example those suffering advanced neuro-degenerative diseases who are unable to lift the poison to their mouth. If this is the case, the Act sanctions medical practitioner administration of the lethal substance. In any scenario like this Victoria's VAD scheme clearly becomes something other than state assisted suicide. Proponents would concede that in these circumstances Victoria's VAD scheme represents active euthanasia or mercy-killing. Prior to the introduction of this legislation such action would be grounds for a medical practitioner to be charged with murder.

The position of the Church and Nation Committee is that murder remains a fitting label for medical practitioner administered VAD, and that state sanctioned murder is even more sinister than the great evil of state sanctioned suicide.

### ***A root of many evils***

The Church and Nation Committee is also concerned that the introduction of VAD in Victoria may have tragic consequences unintended by its legislators. Victoria's *Voluntary Assisted Dying Act 2017* places emphasis on the notion of free voluntary participation and contains measures intended to protect the vulnerable from suggestion and coercion from unscrupulous individuals. We contend that the very existence of the State's VAD legislation and its inevitable practice will suggest to many terminally ill individuals that their value as human beings has been altered by their illness and that their lives are no longer sacrosanct.

Of particular concern is the pressure that may be felt by the most vulnerable terminally ill individuals, especially those who are elderly, disabled or suffering poor mental health, that they should end their lives because they are a burden on their families, carers or the state. The right to die could thus so easily become the duty to die.

Such concerns are in fact borne out in experience in Oregon, USA, where a comparable VAD scheme has been in place for more than two decades. The vast majority of those choosing to kill themselves in Oregon are doing so for existential reasons rather than on the basis of medical symptoms.<sup>2</sup> Many give concerns about being a burden on others as the reason for accessing assisted dying schemes.<sup>3</sup>

Prior to the introduction of VAD, aged care facilities, hospitals, hospices and palliative care units have hitherto been places where individuals with terminal illnesses (an extremely vulnerable subsection of society) only receive medical interventions intended to preserve life or relieve suffering. Even so, many individuals find these places frightening.

Now, however, some of these institutions have also become centres that facilitate or actively participate in the VAD deaths of terminally ill individuals, regrettably giving patients another reason to fear these places. Some may even be afraid that they too may be euthanised against their will. Though the VAD Act prohibits involuntary euthanasia, the reality is that many terminally ill patients will not be familiar with the details of the Act, and that some of them already have low levels of trust in healthcare and aged care systems.

It is also important to note that this legislation has reversed and confused the role of the family doctor or specialist, whose sacred task has hitherto been to protect and preserve life

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<sup>2</sup> The official summary of the 2018 *Oregon Death with Dignity Act Report* states that for who died through Oregon's VAD scheme, 'the most frequently reported end-of-life concerns were loss of autonomy (91.7%), decreasing ability to participate in activities that made life enjoyable (90.5%), and loss of dignity (66.7%).' <https://www.deathwithdignity.org/oregon-death-with-dignity-act-annual-reports>.

<sup>3</sup> According to the *Oregon Death with Dignity Act 2018 Report*, 54.2% of those who died through Oregon's VAD scheme reported 'burden on family, friends/caregivers' as an end-of-life concern. Source: <https://www.oregon.gov/oha/ph/providerpartnerresources/evaluationresearch/deathwithdignityact/documents/year21.pdf>.

and health. Now it falls to willing members of Victoria's medical fraternity to also become the means by which life is destroyed. Such a change can only undermine the public's trust in the medical profession; doctors now have permission, in certain circumstances, to kill.

Lastly, it is the grave concern of the Church and Nation Committee that the *Voluntary Assisted Dying Act 2017* may pave the way for a far more radical VAD scheme lacking the Act's stringent eligibility criteria, whereby terminally ill children and even adults with disability or mental illness (but no terminal illness) may be given access to VAD substances or subject to euthanasia. This too has been borne out in experience in other jurisdictions where assisted suicide has been legalised. If it is evil to offer VAD to terminally ill adults with decision making capacity, a more radical VAD scheme would represent a slide into even greater darkness.

### ***VAD and members of our churches***

As Premier Daniel Andrews stated on ABC radio shortly after the first Victorian VAD death, terminally ill Victorians who are experiencing intolerable suffering now have a legal option that they did not have before—they can commit suicide with the aid and sanction of the state. Terminally ill members and adherents of the Presbyterian Church of Victoria may consider this option, and for those who are experiencing great suffering and distress the temptation to access VAD may prove difficult to resist.

Medical practitioners (and other health and aged care workers) who are part of our churches are now also faced with decisions about how they will respond when a patient of theirs, expresses an interest in VAD. Though the Act allows individuals and institutions to refuse to participate in VAD entirely, some Christian workers may be influenced by assertions that facilitating and supporting VAD for those who seek it is the more compassionate 'Christian' response.

It is therefore essential that members and adherents of our congregations be prepared to deal with temptations and pressures of this kind through teaching and preaching that sets forth biblical reasons to shun participation in VAD even when experiencing or anticipating terrible suffering near the end of life, and to choose not to facilitate or administer VAD even when the recipient of one's care is dying in great distress. In this season, and for as long as the *Voluntary Assisted Dying Act 2017* remains law in Victoria, God's people must be thoroughly convinced from the texts of Scripture of the inviolability of each human life and the great evil of facilitating, assisting or committing suicide (and the even greater evil of practitioner administered VAD) at any stage of life, even for the terminally ill.

In this season, it is also essential that churches be equipped to engage in the ministry of providing compassionate, emotional and spiritual support to those who are experiencing terminal illness and profound distress. Woe to us, if we insist that those who suffer greatly must have nothing to do with VAD, if we ourselves do not do what is within our power to maintain the hope, courage and patient endurance of dying individuals known to us who are keenly drawn to the option of assisted suicide yet recognise that accessing VAD is contrary to divine law.

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