SHPA Victorian Branch Committee response to the Review of the operation of the Voluntary Assisted Dying Act 2017, February 2024

The Society of Hospital Pharmacists of Australia (SHPA) Victorian Branch Committee welcomes the opportunity to respond to the Victorian Department of Health's Review of the operations of the *Voluntary Assisted Dying Act 2017*.

SHPA members report that the Victorian Statewide Pharmacy Service continues to provide substantial safeguards in the provision of voluntary assisted dying (VAD) services and demonstrate high quality, compassionate, and timely access to VAD medicines, noting to date there have been:

- No reports of misuse or missing VAD substances in Victoria,
- No reports of incorrect administration of VAD substances,
- No reports of patients that have attempted self-administration not resulting in their death.

Furthermore, under the governance of the Statewide Pharmacy Service, there is scope to explore the establishment of regional hubs to enhance access to VAD services, especially for patients living in rural, remote, or regional areas. However, a significant vacancy rate of pharmacists in these areas present as a key barrier to establishing a full-time pharmacy service until timely access to these services can be supported with the implementation of telehealth.

The continued funding of the Statewide Pharmacy Service is critical to maintaining the high quality of VAD service accessed by patients in Victoria. In this submission, SHPA makes a range of recommendations for consideration by the Victorian Department of Health, in improving the operation the *Voluntary Assisted Dying Act 2017*.

If you have any queries or would like to discuss our submission further, please do not hesitate to contact Jerry Yik, Head of Policy and Advocacy on jyik@shpa.org.au.

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Recommendations

Recommendation 1: **The Victorian Department of Health should continue to fund the Victorian Voluntary Assisted Dying Statewide Pharmacy Service.**

Recommendation 2: **Clarify the definition of 'suicide' in the Commonwealth Criminal Code to exempt voluntary assisted dying from this definition to allow telehealth consultations in the delivery of voluntary assisted dying services.**

Recommendation 3: **Medical practitioners and other health professionals working within the VAD multidisciplinary team should be able to initiate discussions with patients regarding voluntary assisted dying, in line with other jurisdictions.**

Recommendation 4: **Explore the feasibility of establishing regional hubs of the Victorian Voluntary Assisted Dying Statewide Pharmacy Service with potential for integrated hub and spoke pharmacist telehealth service.**

Recommendation 5: **Amend legislation to allow the return of unused voluntary assisted dying substances to an appropriate regional public hospital for subsequent destruction.**

Recommendation 6: **Allow electronic transmission of prescriptions for voluntary assisted dying substances.**

Recommendation 7: **Allow prescriptions for voluntary assisted dying substances to be uploaded by the prescriber onto the Voluntary Assisted Dying Portal and be made accessible to the Statewide Pharmacy Service for dispensing.**

Recommendation 8: **Enable practitioner administration as an option for patients in the first instance, to allow access to a compassionate approach to dying for the patient and their family.**

Recommendation 9: **Implement a single permit process that approves either self-administration or practitioner administration voluntary assisted dying without the need to apply for a separate permit.**

Recommendation 10: **Support the implementation of intravenous self-administration to widen options for patients in the delivery of VAD services.**

Recommendation 11: **Remove the requirement for there to be a contact person designated for practitioner administered voluntary assisted dying.**

Recommendation 12: **The consulting medical practitioner be able to transfer to another appropriate practitioner for the administration of the voluntary assisted dying substance.**

Recommendation 13: **Support the ongoing development of the voluntary assisted dying health practitioner workforce in Victoria to enhance workforce sustainability.**

Recommendation 14: **Nurse practitioners should be supported and enabled to administer voluntary assisted dying substances in line with other jurisdictions.**

Please briefly describe any involvement you or members of your organisation may have had with voluntary assisted dying in Victoria.

SHPA is the national, professional organisation for the 6,100+ Hospital Pharmacists, and their Hospital Pharmacist Intern and Hospital Pharmacy Technician colleagues working across Australia's health system, advocating for their pivotal role in improving the safety and quality of medicines use.

Embedded in multidisciplinary medical teams and equipped with exceptional medicines management expertise, SHPA members are progressive advocates for clinical excellence, committed to evidence-based practice and passionate about patient care. Voluntary Assisted Dying (VAD) services around the country are often a public, state-funded service, and have a multidisciplinary team of doctors, pharmacists, nurses, and care navigators. Many pharmacists working in VAD services and as VAD pharmacists are SHPA members.

Do you think that Victoria's voluntary assisted dying systems, processes and practices meet the needs of people seeking voluntary assisted dying as well as their families and carers? Please explain.

Recommendation 1: The Victorian Department of Health should continue to fund the Victorian Voluntary Assisted Dying Statewide Pharmacy Service.

The Victorian Voluntary Assisted Dying (VAD) Statewide Pharmacy Service has been providing a high-quality, patient-centred service which is largely accessible for all Victorian patients, showing in 2022 to 2023:

- 97% of patients and carers reported that the Statewide Pharmacy Service was excellent.[1]
- 91% of patients reported they strongly agree that the Statewide Pharmacy Service visited at a time that suited them.[1]
- There have been no reports of patients where self-administration has not resulted in death.
- There have been no reported cases in Victoria where the VAD substance has not been used correctly or has been misplaced.

With demonstrated high quality service delivery by the Statewide Pharmacy Service, it is important that its services continue to be funded, with increasing focus on service access for patients living in rural or remote areas of Victoria.

Recommendation 2: Clarify the definition of 'suicide' in the Commonwealth Criminal Code to exempt voluntary assisted dying from this definition to allow telehealth consultations in the delivery of voluntary assisted dying services.

For patients living in rural and remote areas, geographic barriers exist in accessing VAD services. This is exacerbated by the inability to utilise most forms of telehealth for VAD. SHPA is advocating for an urgent clarification on the definition of 'suicide' in the Commonwealth Criminal Code, and the need to exempt VAD from this definition.[2] Currently, the inability to use audio-visual telehealth infrastructure and carriage services causes substantial delays in the provision of VAD to a patient struggling at the end of their life, especially when face-to-face visits are not able to be provided in a timely manner for patient and carer education regarding VAD. Ensuring timeliness of VAD services is imperative, as often patients make decisions to access VAD closer to severe decline or deterioration, requiring urgent care access.

While the amendment to the Commonwealth Criminal Code in 2005 was intended to protect individuals from being incited to suicide, the advancement of telehealth since then in supporting timely access to healthcare

services implies that healthcare professionals can utilise telehealth appropriately to deliver VAD services to ensure all Australians, no matter where they live, can access these services in a timely manner.

Recommendation 3: Medical practitioners and other health professionals working within the voluntary assisted dying multidisciplinary team should be able to initiate discussions with patients regarding voluntary assisted dying, in line with other jurisdictions.

Relevant to Part 1, section 8 of the *Voluntary Assisted Dying Ac 2017*, a registered health practitioner cannot initiate a discussion about voluntary assisted dying until specifically requested by the patient seeking its services. While the intention of this prohibition is to protect persons who may be more open to suggestion or coercion[3], this often presents as a barrier for clinicians to provide a holistic care plan that aligns with patient goals of care. In other jurisdictions such as Western Australia (WA), medical practitioners or nurse practitioners can initiate a discussion about VAD with patients, provided it is part of a broader conversation on other available treatment and palliative care options. This may have influenced wider access to VAD in WA, as they saw a higher percentage of VAD related deaths of 1.1% in the 2022-23 period, compared to Victoria which saw 0.65% of registered VAD related deaths.[1] Allowing health practitioners to initiate discussions about VAD in appropriate circumstances will align it service standard with other jurisdictions across Australia, and ensure potential barriers for patients accessing VAD can be addressed.

Do you think that Victoria's voluntary assisted dying systems, processes and practices meet the needs of people from diverse backgrounds and geographic locations? Please explain.

Recommendation 4: Explore the feasibility of establishing regional hubs of the Victorian Voluntary Assisted Dying Statewide Pharmacy Service with potential for integrated hub and spoke pharmacist telehealth service.

As previously discussed, patients living in rural or remote areas generally have reduced access to health services, and VAD is no exception. To address the geographical barriers in the delivery of VAD services, the potential to have regional hubs of the Victorian Voluntary Assisted Dying Statewide Pharmacy Service has been explored. However current shortage of pharmacists in regional centres is significant, with reported 25% vacancy rate in major regional centres.

SHPA recommends that support is provided to establish regional hubs of the Victorian Voluntary Assisted Dying Statewide Pharmacy Service with potential for integrated hub and spoke pharmacist telehealth service. This will have to be considered in conjunction with the clarification of the Criminal Code to allow delivery of VAD consultations through telehealth. Once achieved, this will potentially enhance timely access to VAD services in meeting the needs of people from diverse geographic locations.

Recommendation 5: Amend legislation to allow the return of unused voluntary assisted dying substances to an appropriate regional public hospital for subsequent destruction.

Division 3 section 55 of the Act states that the person or the relevant contact person must return any unused voluntary assisted dying substance to a pharmacist at the dispensing pharmacy. This can often be an impractical task for patients located in rural or regional areas where they may be clinical unwell to arrange travel back to the dispensing pharmacy to return the kit themselves. In the case of the contact person, this requirement may cause additional distress who may be grieving or otherwise vulnerable. SHPA recommends that legislation is amended to allow the return of unused VAD substances to an appropriate regional public hospital closer to their location and for destruction to be undertaken there. This could be coordinated by the

Voluntary Assisted Dying Statewide Pharmacy Service to ensure clear oversight and safety in these procedures.

Do you think that Victoria's voluntary assisted dying systems, processes and practices are timely, safe and compassionate? Please explain.

The Statewide Pharmacy Service involvement can only commence when the following has occurred:

1. A Permit has been approved by the Department of Health
2. The Coordinating Medical Practitioner (CMP) provides a prescription for the VAD substance
3. The patient contacts the VAD service requesting a visit for the supply of the substance

Visits by the Statewide Pharmacy Service are subsequently organised with the VAD pharmacists travelling to the patient for a face-to-face meeting regardless of where the patient is residing in Victoria.

During 2022 to 2023, the Statewide Pharmacy Service achieved the following[1]:

- 89% of applicants had the substance provided on their preferred delivery day,
- 99% of applicants had the substance provided within two business days of their preferred delivery day.

Recommendation 2: Clarify the definition of 'suicide' in the Commonwealth Criminal Code to exempt voluntary assisted dying from this definition to allow telehealth consultations in the delivery of voluntary assisted dying services.

Recommendation 6: Allow electronic transmission of prescriptions for voluntary assisted dying substances.

Recommendation 7: Allow prescriptions for voluntary assisted dying substances to be uploaded by the prescriber onto the Voluntary Assisted Dying Portal and be made accessible to the Statewide Pharmacy Service for dispensing.

As previously discussed, people who live in rural and regional Victoria experience poorer health than metropolitan Victorians. A key contributing factor is the geographic challenges in patients accessing quality health services in a timely manner. Given the small population that requires VAD, there is often only one Statewide Service team, predominantly located in a metropolitan hospital. In the case of Victoria, the Statewide Pharmacy Service is operated by the Alfred Hospital, located within Melbourne's inner suburbs.

Telehealth is important in supporting timely access to VAD services, especially to those living in rural or remote areas of Victoria. Face-to-face visits can be impractical, especially if urgent access to care is sought, as it is often the case in patients with advanced and rapidly deteriorating conditions. It creates access barriers, further widening inequities in healthcare delivery for a cohort of patients who are already disadvantaged simply due to their choice to live in certain areas of Victoria. Hence urgent clarification and amendment to the Code is important to advance the use of telehealth in the delivery of VAD services to reach all Victorians needing access to services regardless of their location.

Geographic barriers also present challenges in presenting physical copies of VAD substance prescriptions to a dispensing pharmacy for those living in rural or remote areas. This is a particular challenge in cases where

patients make decisions to access VAD services closer to severe decline or deterioration. To address this, SHPA recommends that electronic transmission and subsequent dispensing through the Voluntary Assisted Dying Portal is allowed to improve the clinical workflow for the involved health practitioners, and ultimately improve timeliness of VAD service access for Victorian patients.

Recommendation 8: Enable practitioner administration as an option for patients in the first instance, to allow access to a compassionate approach to dying for the patient and their family.

Recommendation 9: Implement a single permit process that approves either self-administration or practitioner administration voluntary assisted dying without the need to apply for a separate permit.

Currently a practitioner administration permit is only authorised if the patient no longer holds the physical or mental capacity to self-administer. This requirement must be reviewed as there have been many cases where practitioner administered voluntary assisted dying would have been a more compassionate approach for the patient and their family, but was not available as an option in Victoria due to its legislative restrictions. SHPA recommends that this restriction is removed so that patients seeking VAD service can make the choice to request practitioner administration in the first instance, allowing a more compassionate approach to dying for the patient and their family.

Additionally, SHPA supports the implementation of a single permit process that approves either self-administration or practitioner administration voluntary assisted dying without the need to apply for a separate permit when the patient becomes unable to self-administer. This will enhance timely access to care for all patients accessing VAD, allowing for service delivery in a dynamic and changing clinical environment.

Recommendation 10: Support the implementation of intravenous self-administration to widen options for patients in the delivery of VAD services.

SHPA recommends that the potential for intravenous self-administration be explored for implementation, to broaden the options available to suit the needs of the patient. This would require significant consideration of the service design, appropriateness of the facility in which this can be implemented and cost considerations in implementation.

Recommendation 11: Remove the requirement for there to be a contact person designated for practitioner administered voluntary assisted dying.

Recommendation 12: The consulting medical practitioner be able to transfer to another appropriate practitioner for the administration of the voluntary assisted dying substance.

SHPA recommends removing the requirement for a designated contact person to be present for practitioner administered voluntary assisted dying. Enforcing a contact person to be present in the patient's final moments can be distressing for all involved parties. The practicality of this requirement should be assessed and potentially removed to allow a more compassionate approach in substance administration.

Additionally, due to the unpredictable nature and timeline of the disease progression in patients seeking VAD, the consulting medical practitioner may not always be available to also complete the administration of the substance. In these scenarios, the consulting medical practitioner should be supported to transfer responsibilities to another appropriate practitioner in a timely manner for the administration of the VAD substance.

Do you think that Victoria's voluntary assisted dying systems, processes and practices meet the needs of organisations and healthcare practitioners who may be involved, or want to be involved, in supporting people who are seeking voluntary assisted dying? Please explain.

Recommendation 13: Support the ongoing development of the voluntary assisted dying health practitioner workforce in Victoria to enhance workforce sustainability.

As of 30 June 2023, there were 347 trained medical practitioner registration within the Voluntary Assisted Dying portal, indicating a 6% increase since June 2021. 60% of active medical practitioners are based in metropolitan Melbourne, and 40% practice in regional Victoria. Practitioners in regional Victoria are concentrated around the larger towns in central Victoria, Geelong and Bellarine peninsula, and the Hume region. This implies that regional patients and medical practitioners may have to travel significant distances to facilitate face-to-face consultations under current legislative requirements.

Continued support for the ongoing development of the VAD health practitioner workforce is important to ensure workforce sustainability and provision of quality VAD service in Victoria. Focus should be given to promoting the uptake of VAD training by medical practitioners particularly in regional and remote parts of Victoria to address equity gaps in service access. Furthermore, medical practitioners have previously expressed that the clinical time required to complete a voluntary assisted dying assessment process is not adequately compensated through the existing Medicare Benefits Schedule (MBS) remuneration items. Consideration of better remuneration for practitioners providing VAD service should be pursued to ensure financial burdens are alleviated for the practitioner, and potential costs are not subsequently shifted onto the patient to bear.

Recommendation 14: Nurse practitioners should be supported and enabled to administer voluntary assisted dying substances in line with other jurisdictions.

In line with other jurisdictions that have implemented statewide VAD service, nurse practitioners should be supported and enabled to administer VAD substances. With generally low number of VAD practitioners across Australia, it is important to broaden the scope of practice of health practitioners such as nurse practitioners who are already competent to administer VAD substances. This will allow much broader operational capacity for both health providers in providing quality service, and for patients in accessing VAD services.

Are there any unintended consequences of the Act's current implementation? If yes, please describe.

No further comments.

References

[1] Safer Care Victoria. (2023). Voluntary Assisted Dying Review Board Annual report – July 2022 to June 2023. Available from: https://www.safercare.vic.gov.au/sites/default/files/2023-08/VADRB%20Annual%20Report%202022-23.pdf
[2] Media Release - SHPA writes to Attorney General in support of proposed VAD bill 011223.pdf
[SHPA]. (2023). Media Release: SHPA writes to Attorney General in support of proposed VAD bill. Retrieved from Media-Release---SHPA-writes-to-Attorney-General-in-support-of-proposed-VAD-bill_011223.pdf
[3] State of Victoria, Department of Health and Human Services. (2019). Voluntary assisted dying – guidance for health practitioners. Available from: https://www.health.vic.gov.au/sites/default/files/migrated/files/collections/policies-and-guidelines/v/voluntary-assisted-dying-guidance-for-health-practitioners.pdf