



VADANZ
Voluntary Assisted Dying Australia and New Zealand

Submission to

NSW Voluntary Assisted Dying Act 2022 –Legislative review

February 2026

Dear Voluntary Assisted Dying Policy team,

We welcome the opportunity to submit evidence to the New South Wales review of the Voluntary Assisted Dying Act 2022 (hereafter ‘the Act’). Please find our submission attached.

VADANZ (Voluntary Assisted Dying Australia and New Zealand) is the peak body representing health professionals working in voluntary assisted dying (VAD).

This submission is informed by the collective experience of our members; health professionals working in VAD. Our membership has suggested improvements, based on what is working well in other jurisdictions and their understanding of the issues faced in delivering high-quality VAD care in NSW. Any quotes included in our submission were received directly from our NSW membership regarding this review.

We would welcome the opportunity to share more of our expertise and insights with your committee in-person.

The following submission responds to the four key themes put forward for review;

- Patient choice
- Equitable access, respect and inclusion
- Safeguards for patients and healthcare workers
- Service delivery and sustainability

I have attached a copy of the recent **VADANZ National Remuneration Survey of VAD Practitioners**, as this is referenced in our submission.

Thank you again for the opportunity to contribute to the review process.

Yours sincerely,

Dr Andrea Bendrups
President

Operation and effectiveness of the Act

1. Regarding the operation of the Voluntary Assisted Dying Act 2022, what has worked well, what has not, and what should be considered for change?

VADANZ is the peak body representing practitioners working in VAD in Australia. Prior to this submission, VADANZ requested feedback from its members on their experiences working with patients accessing VAD in NSW. The following is a summary of our NSW-based members' feedback.

What works?

- The Act has established a safe and compassionate legal framework for VAD that is working well and largely achieving its aims. It provides dying people with **choice, control and reduces suffering** at the end of life.
- The Act also provides health professionals with a **mostly clear system** under which to support our patients to access this additional end-of-life option. Despite its challenges, this is work that many VAD health professionals in NSW find intensely rewarding.
- **Statewide services** are operating well and ensure continuity of practice across NSW.
- The **VADANZ National Remuneration Survey of VAD Practitioners** found that NSW performed the best of all the states for VAD practitioner satisfaction with state remuneration arrangements. 51% of the 38 NSW respondents were satisfied with the current payment model for VAD services, citing government-funded full-time equivalent (FTE) positions and visiting medical officer (VMO) arrangements.
- The **language** used in the VAD information and resources developed by NSW Health is easy to understand for patients and their families.
- The **portal design** is easy to access and use for health practitioners.
- The ability to **expedite urgent cases** through the process gives peace of mind to patients and their loved ones.

What has not worked?

- Determining **prognostic eligibility** remains challenging, particularly in the context of rigid 6 or 12 month timeframes which have little clinical applicability. Furthermore, many patients have multiple comorbidities which when assessed alone, may not make them eligible for VAD, but when taken often in the context of advanced age and frailty, paint a different picture.
- Some **conscientiously objecting health professionals** are obstructing access for patients seeking VAD. They are not required to provide the 'First Request Patient Information Guide' (as other health professionals are required to do in NSW).
- Some members expressed frustration with **low awareness of VAD among some health professionals**, with some reports that patients have been told incorrect or incomplete information.

- Some residential facilities such as aged care homes continue to **deny on-site VAD access** to residents. This is contrary to expectations contained in the NSW Act, which respects the resident's right to access VAD in their own home, and guidance from the Aged Care Quality and Safety Commission.
- Some VAD patients **struggle to access VAD in hospitals**. The Act makes no provision for what happens to a person who can't be transferred to another facility; a not uncommon scenario for a dying person at the end of their lives.
- **Remuneration challenges remain**, despite NSW's generally strong performance in this area. Of the NSW practitioners surveyed, 41% of 38 practitioners surveyed said they were not satisfied with the current payment model for VAD services. Further, 11% of survey respondents told us they were unpaid for their VAD work. This should be considered to ensure the current VAD-trained workforce is supported and retained in order to accommodate growing demand for VAD care in NSW.
- The issue of patients who **lose decision-making capacity** during the VAD process.
- **Restrictions on telehealth** continue to delay and disrupt the delivery of VAD care to patients. The restrictions also disproportionately hinder regional and remote patients from the equity of access to VAD ensured by the Act.

What should change?

VADANZ recommends that:

- prognostic eligibility criteria is changed to 12 months for all conditions. This is consistent with Queensland and Victoria's recent amendments to their VAD legislation (to take effect by April 2027). Close attention should be paid to the ACT to monitor the impact of their legal framework which does not rely on prognosis timeframes.
- health professionals who are conscientious objectors should be expected to provide VAD information to patients who ask them about VAD. This could include a referral to the Care Navigators or to the government website. This is consistent with Western Australia, Tasmania, Queensland, the ACT and Victoria's recent amendments.
- investigation should take place into instances where a patient's request for VAD information has not been referred to an appropriate source.
- the 12-month state residency requirement is removed from the NSW VAD eligibility criteria.
- additional guidance is issued to residential aged care providers to ensure they are aware of their obligations towards their residents under the Act, and moreover that they comply.
- VAD access in hospitals is guaranteed as a matter of equity.
- the NSW government continues to advocate for amendments of the Criminal Code Act 1995 (Cth) where it impacts the delivery of VAD care.

- an update to the VAD practitioner's handbook specifically addresses the restrictions on VAD and telehealth.
- a dedicated VAD grief and bereavement service is established.
- further training and resources for the VAD Care Navigation service to improve the support offered to family and carers of the deceased.
- the NSW government addresses the discontent with NSW VAD remuneration arrangements among 40% of the VAD practitioners in NSW in our survey. This is vital to maintain a consistent pipeline of VAD health professionals to meet growing demand for services in NSW.
- the NSW Government work with the Federal Government to allow MBS items to be used for VAD care.
- registered nurses are permitted to act as administering practitioners.
- VAD is incorporated into the next End of Life and Palliative Care Framework.
- a full legislative review is undertaken after five years of the law's operation (e.g. three years from now).

2. Do you think the NSW voluntary assisted dying legislation, systems, processes and practices support patient choice in relation to voluntary assisted dying in NSW?

Prognosis requirement should be 12 months for all conditions

Currently the prognosis requirement in NSW is six months, or 12 months for neurological conditions. A timeframe of six months often results in the demanding VAD assessment process being undertaken in haste in the final months of life. A narrow timeframe in which to complete the VAD process is challenging given its complexity and the increasing likelihood that a person loses decision-making capacity later in their disease's progression. In the most recent Review Board data, 33% of people who started the VAD did not complete it.

The historical basis for the use of a six month prognosis lacks foundation. It was contained in the Victoria legislation which preceded all the other States. In Victoria, the Ministerial Advisory Panel (MAP) which made recommendations to the government, proposed a period of 12 months. This was specified in the bill introduced to parliament. The requirement for a six-month prognosis in non-neurodegenerative conditions was introduced during the debates in Parliament. However, at the time the only comparable legislation to draw upon was that in the USA in which a six month time limit was used to comply with administrative requirements in the U.S. for eligibility to hospice care. No similar requirement exists in Australia.

The MAP also noted that six months "does not necessarily reflect the clinical trajectories of people who have other non-malignant incurable diseases...or conditions...such as MND or chronic heart failure." Twelve months was consistent "with existing end-of-life policy documents including the National Consensus Statement on essential elements for safe and high-quality care and Victoria's end-of-life and palliative care framework". In addition, it fitted with the widely used "surprise question" (namely, "would you be surprised if this patient were to die within the next 12 months?"). (MAP Final Report July 2017 at 72-73)

A 12-month prognosis requirement would be consistent with Queensland and Victoria (once amendments to its law take effect by April 2027). We note that ACT does not include a prognosis requirement in its eligibility criteria. While we need more data to understand the impact of this on VAD applications, there was support for the model among VADANZ members:

"I also think we should follow the Canberra/ACT VAD legislation in waiving the strict 6/12 month timeframe and going instead to the advanced/progressive/terminal disease version of eligibility. Prognosticating exactly to the 6/12 month timeline has caused considerable distress.

Recommendations:

Prognostic eligibility criteria is changed to 12 months for all conditions. This is consistent with Queensland and Victoria's recent amendments to their VAD legislation (to take effect by April 2027). Close attention should be paid to the ACT to monitor the impact of their legal framework which does not rely on prognosis timeframes.

Obligation of medical practitioners to provide minimal levels of information

NSW law permits medical practitioners to discuss VAD with patients provided other end-of-life options have also been discussed.

However, under NSW legislation, medical practitioners who are conscientious objectors are not obliged to provide their patients information on VAD. This means that practitioners can impede access to treatments that are legal in NSW. Patients are required to look outside their medical team for guidance, leading to delays in the process.

Medical practitioners cannot be allowed to use their moral or religious views to deny patients access to medical care. Requiring medical practitioners who are conscientious objectors to provide information to their patients on VAD is consistent with legislation in Western Australia, Tasmania, Queensland, the ACT, and also in Victoria after their recent amendments come into play in April 2027. NSW is in the minority by not providing minimal information to patients.

Recommendations:

Health professionals who are conscientious objectors should be expected to provide VAD information to patients who ask them about VAD. This could include a referral to the Care Navigators or to the government website. This is consistent with Western Australia, Tasmania, Queensland, the ACT and Victoria's recent amendments.

VADANZ recommends investigation into instances where a patient's request for VAD information has not been referred to an appropriate source.

3. Do you think the NSW voluntary assisted dying legislation, systems, processes and practices support equitable access, respect and inclusion in relation to voluntary assisted dying in NSW?

Remove state residency requirements

State residency requirements have become increasingly redundant as all Australian states and the ACT have passed and implemented VAD laws. The requirement that a person must have lived in the state for a minimum of 12 months was included in the Act to prevent Australians in other parts of the country where VAD laws had not yet passed from travelling to New South Wales for an assisted death and potentially overwhelming local health services. This has become increasingly irrelevant.

The compassionate exemption is an administrative burden and unnecessary additional hassle for patients in their final months of life.

Recommendations:

The 12-month state residency requirement is removed from the NSW VAD eligibility criteria.

Additional guidance issued to residential care providers to ensure they comply with their obligations

Residential facilities such as care homes must allow access to VAD if that is the patient's choice. This recognises that people have a right to access legal medical care in their own homes without interference, including access to VAD.

VADANZ strongly opposed the recent tabling of a private members bill in NSW which attempted to allow residential aged care facilities to deny their residents access to VAD services. We joined respected health peak groups such as the Royal Australian College of General Practitioners NSW and ACT, the Australian Nursing and Midwifery Federation NSW and the Australian College of Nurse Practitioners to sign a joint statement to oppose the bill.

Under the Act, residents of aged care facilities have the right to arrange and access all parts of the VAD process on the premises. The Act requires providers to allow reasonable access to all authorised VAD health professionals.

A person's care should not be dependent on the place they happen to be, whether that be a residential facility, a hospital, or at home. The elderly and bed-bound are particularly vulnerable.

No aged care provider is forced to deliver VAD. They are required only to allow reasonable on-site access for external health professionals. This makes sure that older people – who have paid to live in these homes – are not deprived of a lawful, carefully safeguarded choice at the end of life.

Reports have shown that some people attempting to access VAD within their aged care facility are facing difficulties and pushback from staff. Some people are left with the difficult decision to leave the facility, which has served as their home, to access VAD elsewhere. Transfers cause serious harm, delays, prevent VAD access and prolong suffering for dying people.

The ACT has been the first jurisdiction to impose fines on institutions that don't comply with their law, which says everyone - no matter permanent and non-permanent residents, hospital or aged care, must

have access to VAD. We urge the NSW Government to follow the ACT and ensure all NSW residents have access to VAD, no matter where they reside.

Recommendations:

Additional guidance is issued to residential aged care providers to ensure they are aware of their obligations towards their residents under the Act, and moreover that they comply.

VAD access in hospitals is guaranteed as a matter of equity

VAD access in hospitals should be guaranteed as a matter of equity. Patients should not have to be transferred elsewhere. Unfortunately, there is no provision in the Act for what should happen to those patients who cannot be transferred elsewhere, either because they are too unwell or there is nowhere else suitable for them to go. The latter is increasing in likelihood as NSW faces a critical shortage of aged care beds. The NSW government should address this issue without delay.

Recommendations:

VAD access in hospitals is guaranteed as a matter of equity.

Continued advocacy for amendments of the Criminal Code Act 1995 (Cth) where it impacts VAD care delivery

VADANZ recommends that the NSW government continues to advocate for a clear resolution to the ambiguity and uncertainty caused by the Criminal Code's impact on VAD care.

VAD practitioners should have reassurance that when they act in good faith within the NSW law that they are not at risk of prosecution under Federal law.

In the most recent New South Wales VAD Review Board report, 67% of applicants were from regional New South Wales. A further 7% of applicants live in an outer regional or remote area. The inability to use a now-established and accepted mode of care delivery to provide equitable access to VAD for rural and regional patients who are by definition in the last 6 to 12 months of their lives and have a high rate of self-reported pain, is unconscionable.

It is the position of VADANZ that people can receive high-quality and effective VAD services using telehealth and that telecommunications are important for the timely access and delivery of health information and care.

Telecommunications such as phone, email and even text message are routinely used by pharmacy teams and nurses to provide timely information, support and advice to patients. The inability to do this adds complexity, delays and potential risks for patients. In addition, telehealth is valuable and appropriate for communication between health professionals especially between those in rural and remote areas with metropolitan colleagues.

Videoconference is widely and safely used in assisted dying services in New Zealand to great benefit, avoiding delays in VAD care and improving equity for patients too unwell or far away to access in-person care.

VADANZ members indicated that they would benefit from clearer guidance as to what is and is not permitted with regards to electronic communications and the Cth Criminal Code in the VAD practitioners handbook.

Feedback from NSW practising members:

“The guidelines should specifically state what can be done within the federal legislation, especially around consulting assessments. The safeguards are good, but again telehealth is allowed within the parameters of the Federal law. This should be spelled out in detail in the Handbook.”

Recommendations:

The NSW government continues to advocate for amendments of the Criminal Code Act 1995 (Cth) where it impacts the delivery of VAD care.

VADANZ recommends an update to the VAD practitioner’s handbook that specifically addresses the restrictions on VAD and telehealth.

4. Do you think that the safeguards for patients and healthcare workers in relation to voluntary assisted dying in NSW are appropriate?

Introduce dedicated VAD grief and bereavement service

The grief and bereavement experience for friends and family members of those who opt for VAD is not well-documented. It has been assumed the grief and bereavement support would be integrated into usual care provision, however experience is showing this to not always be the case. Challenges have been encountered when bereavement support is provided by a non-supportive agency, when the agency has no VAD experience or when the family had the perception or experience of a VAD request being not supported.

Further resourcing and training in this area would greatly assist in the grief process.

Recommendations:

A dedicated VAD grief and bereavement service is established.

Further training and resources for the VAD Care Navigation service to improve the support offered to family and carers of the deceased.

5. Do you think the NSW voluntary assisted dying legislation, systems, processes and practices support sustainability and service delivery in NSW?

Explore discontent with VAD remuneration among VAD practitioners

VADANZ congratulates the NSW Government that 51% of VAD practitioners felt state remuneration arrangements were adequate; the highest percentage of any jurisdiction and more than double the national survey average.

Respondents praised the dedicated VMO roles and permanent FTE positions within NSW Health that ensure certainty, continuity, and legitimacy of VAD services. They also highlighted the role that minimum hours per week and flexible arrangements, such as VMO zero-hour contracts, play in balancing capacity with demand. We applaud NSW's initiatives in this area and encourage their expansion.

However, 41% (15) of respondents stated that remuneration for VAD was inadequate. Further, 11% of NSW respondents said they were not paid at all for their VAD practice.

VADANZ recommends that the NSW government explores the reasons behind this discontent to ensure there is a consistent pipeline of VAD health professionals to meet growing demand for services in NSW.

Recommendation:

The NSW government addresses the discontent with NSW VAD remuneration arrangements among 40% of the VAD practitioners in NSW in our survey. This is vital to maintain a consistent pipeline of VAD health professionals to meet growing demand for services in NSW.

Continued federal advocacy to allow MBS items to be used for VAD care

Feedback from NSW practising members:

"VAD is poorly remunerated and practised mainly by committed volunteers. It is still new and exciting but it needs to become mainstream and properly funded."

It is essential that changes be made to the MBS explanatory notes, which currently prohibit Medicare benefits being claimed for "Euthanasia and any service directly related to the procedure". The language in this explanatory note is outdated, unclear and leaves medical practitioners to use their discretion when claiming appropriate MBS items based on the clinical circumstances. The NSW Government must work with the Federal Government to allow MBS items to be used for VAD care.

Recommendations:

VADANZ recommends the NSW Government work with the Federal Government to allow MBS items to be used for VAD care.

Allow registered nurses to act as administering practitioners

The Act in NSW allows nurse practitioners to perform the role of administering practitioner. NSW may want to consider allowing registered nurses with at least five years' post-qualification experience to also act as an administering practitioner.

This would be consistent with Queensland, Tasmania and Victoria (from April 2027), all of whom allow registered nurses to act as administering practitioners provided they are five years' post qualification.

This acknowledges the close connection nurses often have with their patients and allows for more timely care. Administering VAD medication is well within a registered nurse's scope of practice.

Recommendations:

Registered nurses are permitted to act as administering practitioners.

Incorporate VAD in end-of-life funding and frameworks

As a legal end-of-life choice, VAD must be incorporated in the next 2025-2029 NSW Health End-of-Life and Palliative Care Framework. With an increase in interest and desire to access VAD, this framework will need to incorporate this valid end-of-life choice. VAD needs recognition, support and funding commensurate with its contribution to palliative and end-of-life care in NSW.

NSW has seen the number of people accessing VAD increase since legislation passed. While reporting is limited due to how long VAD has been available in NSW, we can see that a total of 1,028 patients died following the administration of a voluntary assisted dying substance between 1 July 2024 and 30 June 2025. This is an increase of numbers per month from the previous reporting dates. The number of people accessing VAD is likely to only grow as awareness in the community increases. The government urgently needs to increase funding for the service to ensure it is able to meet the needs of the community and the ability of practitioners to undertake their work.

Recommendations:

VAD is incorporated into the next End of Life and Palliative Care Framework.

Legislative review to take place after 5 years of the Act's operation

A review of the Act is legislated to take place within five years of this initial review. VADANZ urges the next review to be conducted after three years to ensure the Act remains consistent with other jurisdictions and reflects the developing body of evidence and research in this area.

Recommendations:

A full legislative review is undertaken after five years of the law's operation (e.g. three years from now).