

Terms of reference

The terms of reference are due for annual review in October 2021.

Overview

The Voluntary Assisted Dying Review Board was established by the *Voluntary Assisted Dying Act 2017* (the Act) to review every case of voluntary assisted dying, report on the operation of voluntary assisted dying and inform system-wide quality and safety improvements.

Voluntary assisted dying is a sensitive topic that attracts a lot of attention and interest, and is subject to a wide range of viewpoints, concerns and options. One of the key roles of the Board is to reassure the public that every case of voluntary assisted dying is reviewed and checked to ensure there has been compliance with the strict safeguards in the law that surrounds this process.

Functions and powers

- Monitor matters related to voluntary assisted dying.
- Retrospectively review voluntary assisted dying cases to ensure they comply with statutory requirements.
- Promote compliance with statutory requirements by providing information about voluntary assisted dying to registered health practitioners and members of the community.
- Collect, use and disclose information and data provided to the Board.
- Request additional information from medical practitioners, health services and individuals or groups.
- Refer potential breaches of statutory requirements to the appropriate investigative authority, including the Chief Commissioner of Police, the Registrar of Births, Deaths and Marriages, the Secretary of the Department of Health and Human Services (the department), the State Coroner and the Australian Health Practitioner Regulation Agency.
- Report to Parliament on the operation of the Act and any recommendations to improve voluntary assisted dying.
- Provide reports and advice to the Minister or Secretary in respect to the operation of the Act or matters relevant to the functions of the Board as requested.
- Monitor, analyse, consider and report on matters relating to voluntary assisted dying.
- Support research relating to voluntary assisted dying.

Principles

Extract from the S5 of the Act:

1. A person exercising a power or performing a function or duty under this Act must have regard to the following principles-
 - a) every human life has equal value;

- b) a person's autonomy should be respected;
- c) a person has the right to be supported in making informed decisions about the person's medical treatment, and should be given, in a manner the person understands, information about medical treatment options including comfort and palliative care;
- d) every person approaching the end of life should be provided with quality care to minimise the person's suffering and maximise the person's quality of life;
- e) a therapeutic relationship between a person and the person's health practitioner should, wherever possible, be supported and maintained;
- f) individuals should be encouraged to openly discuss death and dying and an individual's preferences and values should be encouraged and promoted;
- g) individuals should be supported in conversations with the individual's health practitioners, family and carers and community about treatment and care preferences;
- h) individuals are entitled to genuine choices regarding their treatment and care;
- i) there is a need to protect individuals who may be subject to abuse;
- j) all persons, including health practitioners, have the right to be shown respect for their culture, beliefs, values and personal characteristics.

Membership

The Board consists of the Chairperson, Deputy Chairperson and members appointed by Ministerial order. Inaugural Board members hold office for six years, as specified in the instrument of appointment. Members are then eligible for reappointment for three years. A member may resign in writing (signed by the member) to the Minister. The Minister may at any time remove a Board member from office.

Responsibility and behaviours

Members are required to act in accordance with behaviours expected of senior public officials and to acquit their executive, legal and regulatory responsibilities. Members are expected to meet the obligations detailed in the 'Code of Conduct for Directors of Victorian Public Entities', and 'Welcome to the Board – Directors' Guide to Public Entity Governance'. Each member is required to complete a Declaration of Private Interests annually and ensure conflicts of interest are raised when they arise.

Furthermore, members are expected to:

- maintain a thorough understanding of, and comply with, the terms of reference and the expectations of members in meetings
- embrace the solidarity principle that applies once a recommendation has been made, and demonstrate collective accountability and responsibility for the direction taken
- demonstrate active listening and provide each member with the opportunity to speak and ask questions
- ensure that a diverse range of views and perspectives are considered, and explicitly and respectfully engage with differing viewpoints
- facilitate an environment for members to behave to the highest standards and provide appropriate ways to report and act on inappropriate behaviours
- participate in activities to optimise the Board's performance, including annual reviews and strategy sessions.

Chairperson

In addition to the expectations for members, the role of the Chairperson is to lead the Board to achieve its objectives and execute its responsibilities in line with its terms of reference.

The responsibilities of the Chairperson are to:

- understand the Board terms of reference and coordinate efforts to meet and uphold them
- ensure the Board's actions are aligned with the Act
- manage Board meetings, including:
 - working with the secretariat to set the meeting schedule
 - calling special meetings as required
 - working with the secretariat to ensure appropriate preparation and consultation has been undertaken to inform the agenda and papers
 - facilitate Board meetings, including keeping discussions on track; ensuring all members have an opportunity to express their views; seeking consensus/agreement on issues; announcing results, actions, and follow up to be taken by whom and by when, and; closing meetings
- be the main liaison for the Board with the department's End of Life Care team, in conjunction with the Board secretariat
- induct new members and make sure they are aware of the terms of reference of the Board.

Secretariat

Safer Care Victoria provides the secretariat function for the Board.

The role of the secretariat is to support the smooth operation of Board proceedings, and ensure members are fully informed and prepared. It is responsible for:

- managing the overall Board calendar, meeting schedule and preparing agendas, in consultation with the Board members, for approval by the Chairperson
- confirming appropriate consultation has been undertaken with relevant groups across the department or external agencies prior to circulating any papers
- compiling supporting papers and case reviews, and ensuring their timely distribution
- arranging for departmental staff and advisers to provide advice or information, and if required, to attend meetings of the Board to present this advice
- recording attendance and apologies for each meeting
- taking minutes of meetings, including preparation of the minutes, circulation of the draft for comment, and finalisation of the minutes in consultation with the Chairperson
- with the Chairperson, ensuring Board actions, owners and timelines are identified in minutes, and are followed up and communicated appropriately
- ensuring members complete an annual Declaration of Private Interests.

Furthermore, the secretariat works with the Board and the department's End of Life Care team to establish and maintain operational systems to support the functions of the Board. This includes:

- liaising with the End of Life Care team and relevant external agencies
- maintaining and reviewing Board processes for the review of voluntary assisted dying cases
- establishing and maintaining the referral process for non-compliant medical practitioners to the relevant regulatory agencies
- managing the voluntary assisted dying 'portal', including quality control processes and online reporting
- coordinating information sharing between the Board and Births, Deaths and Marriages
- contacting medical practitioners and contact persons to promote compliance with the Act
- contacting medical practitioners and contact persons to gather additional information to contribute to the Board's case review and assist the Board undertake its full range of functions and powers
- conducting administrative checks on forms 1 to 5 submitted to the portal and identifying any material non-compliance
- providing information to the Secretary, via the department's Drugs and Poisons branch, when an application to prescribe the voluntary assisted dying substance is submitted, which states that the Chief Medical Officer (or their delegate) is satisfied with the medical practitioner's qualifications and expertise in the person's condition, and advising if administrative checks on forms 1 to 5 have identified any issues of non-compliance
- monitoring the adequacy and currency of participating medical practitioners' qualifications and registration status
- coordinating the periodic reporting process, including drafting content, analysing data, producing and providing reports to the Clerk of each House of the Victorian Parliament within statutory time limits
- coordinating and responding to reporting requests from the Secretary or Minister as required
- coordinating and responding to correspondence sent to the Board, in consultation with the Chairperson
- providing feedback and input to the End of Life Care team in relation to review of clinical guidance, approved assessment training, medication protocols, models of care and consumer information
- coordinating the Board's involvement in a collaborative research program in partnership with Safer Care Victoria and the department.

Meeting arrangements

Frequency of meetings

Meetings are currently held monthly. Special meetings may be convened as required. The Chairperson – or in the absence of the Chairperson, the Deputy Chairperson – must preside over meetings.

A majority of the members of the Board currently holding office constitutes a quorum. Members should seek to attend at least 75 per cent of regular meetings.

The Act states the Board may regulate its own proceedings.

The secretariat will seek to circulate meeting agendas and papers five working days prior to meetings and circulate meeting draft meeting minutes five working days after meetings. Members will then have until close of the business on the Monday prior to the meeting to provide comment on the minutes.

Members who are unable to attend a Board meeting or any part of a Board meeting should notify the secretariat at least one working day prior to the meeting.

Reporting

The Board's reporting requirements are mandated in the Act.

For the first two years of operation, the Board will provide a report to Parliament on the operation of the Act as soon as practicable after 30 June and 31 December each year. After two years, an annual report is required to be provided no more than three months after the end of the financial year.

The report may include any de-identified information of a person, who during the reporting period accessed or requested access to voluntary assisted dying under the Act. The report may also include any recommendations on any systemic voluntary assisted dying matters identified by the Board during the reporting period.

The report must not include any information (including de-identified information) that the Board considers would prejudice any criminal proceeding or investigation, civil proceeding, or any proceeding in the Coroners Court of Victoria.

The Board is also required to respond to reporting requests from the Secretary or Minister as required.