

# Terms of Reference

**APRIL 2022**

## OVERVIEW

The Voluntary Assisted Dying Review Board was established by the *Voluntary Assisted Dying Act 2017* (the Act) to 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 opinions. One of key roles of the board is to reassure the public that they are bringing to bear their expertise and experience to oversee the operation of voluntary assisted dying in a safe and compassionate way.

## FUNCTIONS AND POWERS OF THE BOARD

Section 93 of the Act provides for the functions and powers of the Board. It states:

(1) The Board has the following functions—

- (a) to monitor matters related to voluntary assisted dying;
- (b) to review the exercise of any function or power under this Act;
- (c) to provide reports to each House of the Parliament on the operation of this Act and any recommendations for the improvement of voluntary assisted dying;
- (d) to promote compliance with the requirements of this Act by the provision of information in respect of voluntary assisted dying to registered health practitioners and members of the community;
- (e) to refer any issue identified by the Board in relation to voluntary assisted dying that is relevant to the following persons or bodies—
  - (i) the Chief Commissioner of Police;
  - (ii) the Registrar;
  - (iii) the Secretary;
  - (iv) the State Coroner;
  - (v) the Australian Health Practitioner Regulation Agency;
- (f) to promote continuous improvement in the quality and safety of voluntary assisted dying to those who exercise any function or power under this Act;
- (g) to conduct analysis of, and carry out research in relation to, information or forms given to the Board in accordance with this Act

- h) to provide information about voluntary assisted dying, and other matters identified by the Board in the performance of a function under this Act;
- (i) to collect, use and disclose forms and information provided in accordance with this Act for the purposes of carrying out a function of the Board;
- (j) to consult and engage with any of the following persons and groups in relation to voluntary assisted dying—
  - (i) the Victorian community;
  - (ii) relevant groups or organisations;
  - (iii) government departments and agencies;
  - (iv) registered health practitioners who provide voluntary assisted dying services;
- (k) to provide advice to the Minister or the Secretary in relation to the operation of this Act;
- (l) to provide reports to the Minister or the Secretary, in respect of any matter relevant to the functions of the Board as requested.

(2) The Board has all the powers that are necessary or convenient to perform its functions under the Act

## PRINCIPLES

Extract from section 5 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 (optional) and members appointed by Ministerial order. Inaugural board members hold office for six years, as specified in the instrument of appointment.

Members are 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 member of the board 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.

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.

### 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 discussion 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;
- approve minutes (prepared by the board secretariat) for circulation to members.
- be the main liaison for the board 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. In addition, the Secretariat conducts administrative reviews of the Voluntary Assisted Dying assessment forms submitted to the portal.

It is responsible for:

- managing the meeting schedule and preparing the agenda, in consultation with the board members, for approval by the Chairperson;
- confirming appropriate consultation has been undertaken with the relevant groups across the department or external agencies prior to circulation of any papers;
- compiling supporting papers, and ensuring their timely distribution;
- arranging for departmental staff and advisers to provide advice, and if required, to attend meetings of the board to present this advice;
- 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 to establish and maintain operational systems to support the functions of the board, including, but not limited to the following:

- Liaise with relevant external agencies. Where this relates to Statewide VAD Services (Pharmacy and Care Navigator Service) in consultation with the Department of Health as the commissioner of Statewide VAD Services.
- Establish and maintain board processes for the review of voluntary assisted dying cases.
- Manage the **voluntary assisted dying 'portal'**, including quality control processes and online reporting.
- Coordinate information sharing between the board and Births, Deaths and Marriages.
- Undertake contact with medical practitioners and contact persons to promote compliance with the Act.
- Liaise with the department's **drugs and poisons** branch on the process of assessing applications to prescribe the voluntary assisted dying substance.
- Maintain the register of medical practitioners who have undertaken the voluntary assisted dying training and monitor the adequacy and currency of participating medical practitioners' qualifications and registration status.

- Coordinate the periodic reporting process, including drafting, providing analysis of voluntary assisted dying data, publication and provision to the Clerk of each House of the Parliament within statutory time limits.
- Support the Department of Health with review of clinical guidance, approved assessment training, medication protocols, model of care and consumer information.
- Coordinate the board's involvement in a collaborative research program in partnership with Safer Care Victoria.

## **MEETING ARRANGEMENTS**

### **Frequency of meetings**

Meetings are 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 minute five working days following meetings. Members will then have five working days to provide comment on the minutes.

Members who are unable to attend 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:

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 matter 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