Australian Capital Territory

Voluntary Assisted Dying Regulation 2025

Subordinate law SL2025–19

made under the

Voluntary Assisted Dying Act 2024, s 161 (Regulation-making power)

EXPLANATORY STATEMENT

This explanatory statement relates to the *Voluntary Assisted Dying Regulation 2025* (**Regulation**) as made by the Executive. It has been prepared to assist the reader of the Regulation. It does not form part of the Regulation and has not been endorsed by the Legislative Assembly.

This statement must be read in conjunction with the Regulation. It is not, and is not meant to be, a comprehensive description of the Regulation. What is said about a provision is not taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

OVERVIEW

The Regulation contains administrative and process provisions which support the operation of the *Voluntary Assisted Dying Act 2024* (**Act**). The Regulation does not alter the scope of the Act nor imposes additional substantive obligations beyond those already set out in the Act. Rather, it provides supplementary detail on how the obligations under the Act are to be fulfilled in practice to ensure the Act is administered safely, consistently, and in accordance with its intent.

Voluntary assisted dying refers to a medical process that gives an eligible individual the option to end their suffering by choosing to die through the administration of an approved substance. Voluntary assisted dying is not a choice between life or death, it is an additional choice that can be made by an eligible individual about the circumstances of their death.

The Act establishes a legal framework for voluntary assisted dying in the ACT, with key features including:

- Clear eligibility requirements to ensure voluntary assisted dying is only available to adults with decision-making capacity who are dying and suffering intolerably and acting voluntarily.
- A thorough process for requesting, and being assessed as eligible, to access voluntary assisted dying.

- Clearly defined roles, requirements, protections and training for health practitioners who wish to be involved in voluntary assisted dying.
- Minimum standards that must be followed by individuals and facility operators that are unwilling or unable to assist with voluntary assisted dying, including conscientious objectors.
- Strict requirements and safeguards for prescription, supply, administration and disposal of an approved substance.
- The establishment of an independent oversight body to monitor and report on the operation of the Act.
- Criminal offences for non-compliance with the Act.

While the Act sets out the legal framework for voluntary assisted dying in the ACT, the purpose of the Regulation is to operationalise that framework by elaborating on the requirements that must be followed by individuals and health practitioners involved in requesting and accessing voluntary assisted dying.

The supplementary detail in the Regulation about the various obligations under the Act uphold the core principles of the Act—respect for autonomy, protection of vulnerable individuals, and the provision of a compassionate and dignified end-of-life choice for eligible Canberrans. The Regulation is a critical component in ensuring that voluntary assisted dying is delivered in a manner that is safe, ethical, and consistent with community expectations.

The Regulation gives effect to certain aspects of the Act, notably by providing supplementary requirements in relation to:

- Forms and documentation related to the process of requesting and accessing voluntary assisted dying, to be given to individuals accessing voluntary assisted dying, their contact persons, the voluntary assisted dying oversight board, and the director-general.
- Eligibility for authorised practitioners, approved suppliers and disposers, and couriers.
- Information required on forms relating to the approved substance, such as the prescription, supply record, and disposal record.
- Supply, storage and disposal of the approved substance.
- Information required on notices relating to change in administration decisions, transfer of practitioners, and change in contact persons.
- The type of information to be kept by the voluntary assisted dying oversight board.
- How the voluntary assisted dying oversight board may achieve a valid vote and decision.
- Information required on other documents such as, reviewable decision notices and residency exemptions.

CONSULTATION

Consultation undertaken during the development of the Act

Significant consultation was undertaken during the development of the Act, including with the public, key stakeholders, subject matter experts, and other Australian jurisdictions. The policy positions arising from those consultations contributed not only towards the development of the Act but also this Regulation.

Practitioner authorisation

During the Select Committee's inquiry into the Voluntary Assisted Dying Bill 2023 (Select Committee Report), several submissions raised concerns about the scope and requirements for practitioner authorisation. In response, the Act was amended to specify the types of health practitioners eligible for authorisation (medical practitioners, nurse practitioners, and registered nurses) while the Regulation was reserved for detailing the qualifications and experience requirements. Submissions informing this change included those from:

- Australian Care Alliance
- Australian Lawyers' Alliance
- Catholic Health Australia
- Calvary Health Care
- Catholic Archdiocese of Canberra and Goulburn

Further targeted consultation was undertaken with the Queensland Voluntary Assisted Dying team, whose experience informed the disqualifying conditions for practitioners and the information required in practitioner applications.

Raising voluntary assisted dying

Submissions also informed requirements for health professionals who may raise voluntary assisted dying as an end-of-life option under section 155 of the Act. For example:

- Speech Pathology Australia advocated for the inclusion of speech pathologists in the process. Speech pathologists are included under clauses 36 and 45.
- The Government Response to the Select Committee Report committed to defining the roles of social workers and counsellors in the Regulation to provide clarity. These further definitions are provided under clauses 43 and 44.

Information provided to individuals

The ACT Law Society provided in their submission, feedback on the information to be given to an individual following a request for voluntary assisted dying or during an assessment, which has been incorporated into the Regulation (clauses 5 and 6).

Consultation undertaken during the implementation of the Act

Additionally, targeted consultation about the more granular detail of implementing voluntary assisted dying in the ACT has also been undertaken, including consultation which affected the policy positions for the Regulation. This includes:

- Canberra Health Services were closely consulted on all aspects of the Regulation and reviewed multiple iterations of the draft Regulation. Their feedback was incorporated throughout the Regulation.
- The information prescribed on the various forms, notices, and documents required as part of the voluntary assisted dying process was developed with reference to analogous documents that interstate counterparts provided. Analysis of interstate processes helped inform the approach undertaken in the Regulation.
- The Office of Professional Leadership and Education (OPLE) and the Chief Health Officer of ACT Health Directorate were consulted on the eligibility criteria for practitioner authorisation.
- The Pharmacy Consultation Group which consisted of the Chief Pharmacist (ACT Health), Public Health Regulation team (ACT Health), the Director of Pharmacy (Canberra Health Services) and the Canberra Health Services Voluntary Assisted Dying team were closely consulted on all the substance-specific aspects of the Regulation. Their feedback was incorporated.
- Targeted consultation with interstate voluntary assisted dying pharmacists was undertaken and provided valuable insights in relation to storage, labelling, and prescription requirements for an approved substance, as well as the role of suppliers, disposers, and couriers.
- The Voluntary Assisted Dying Clinical Expert Panel (VAD CEP) and Voluntary Assisted Dying Clinical Advisory Committee (VAD CAC), both consisting of a range of health practitioners and health professionals, reviewed the eligibility of authorised practitioners. Initial concerns were raised regarding the inclusion of overseas-trained doctors and those with provisional registration and this was later removed from the Regulation (clauses 32 and 33). The VAD CEP and VAD CAC also reviewed storage requirements for an approved substance and raised no concerns.
- Around 13 private hospital facilities were consulted on the practitioner authorisation processes. No concerns were raised.
- The Community and Consumer Consultation Group (CCCG) includes representatives from Health Care Consumers ACT, Canberra Health Services, Palliative Care ACT, Carers ACT, Advocacy for Inclusion, Office for Aboriginal and Torres Strait Islander Affairs, ACT Ministerial Advisory Council on Ageing, Office of Multicultural Affairs, ACT Human Rights Commission, ACT Health Disability Reference Group, ACT Down Syndrome and Intellectual Disability, and Dying with Dignity ACT. The CCCG provided feedback on a range of implementation material such as the first request information pack (clause 5) which informed changes to the Regulation.

Consultation with the Parliamentary Counsel's Office, and Legislation, Policy and Programs (ACT Government Justice and Community Safety Directorate) informed the development of the Regulation to ensure consistency with the ACT's drafting principles, and the requirements of the *Human Rights Act 2004* (Human Rights Act). Economic and Regulatory Policy (ACT Government Treasury) was consulted for advice on the requirements for a regulatory impact statement.

CLIMATE IMPACT

No climate impact is anticipated for this Regulation which supports the operationalisation of voluntary assisted dying in the ACT.

REGULATORY IMPACT STATEMENT

A regulatory impact statement is not required as the Regulation does not impose any new obligations that are likely to result in appreciable costs on the community, or part of the community. The Regulation instead gives effect to aspects of the Act and provides supplementary detail on how the obligations under the Act are to be fulfilled in practice. Overall, given that access to voluntary assisted dying is only appropriate for a small percentage of the ACT community, the mechanisms set out in the Regulation which operationalise voluntary assisted dying do not pose an appreciable cost to the community.

It has been specifically considered whether the courier requirements in the Regulation limit commercial opportunities for private couriers and might be considered an appreciable cost to the community. However, the requirement of the Act is that a substance must be supplied personally by a supplier, unless the requirements in relation to couriers specified in the Regulation are met. Therefore, the limitations around how a substance is supplied flow from the Act rather than because of the Regulation. Given the dangerous nature of the substance, the safest way to handle dispensing is for approved suppliers to supply it personally to the person or administering practitioner. The use of couriers is only anticipated to occur in rare circumstances and this Regulation ensures the safety of the scheme by requiring couriers to possess necessary skills and experience to perform this role. Therefore, limiting couriers to health practitioners employed by Canberra Health Services does not pose an appreciable cost to the community.

It has also been considered whether the cost implications of the storage requirements for an approved substance pose an appreciable cost for individuals. However, an appropriate receptacle to store the substance will be provided to the individual when dispensing an approved substance. This means there will be no additional cost or burden on an individual to acquire the necessary locked box within which the substance is required to be stored.

CONSISTENCY WITH HUMAN RIGHTS

During the development of this Regulation, due regard was given to its compatibility with human rights as set out in the Human Rights Act. An assessment of the Regulation against section 28 of the Human Rights Act is provided below. Section 28 provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

Rights engaged

The Regulation engages the following sections of the Human Rights Act:

- Section 9 – Right to life (*promoted*)
- Section 10 – Right to not be subjected to medical treatment without consent (*promoted*)
- Section 12 – Right to privacy (*limited*)
- Section 14 – Right to freedom of thought, conscience, religion and belief (*limited*)
- Section 21 – Right to a fair trial (*promoted*)
- Section 22 – Rights in criminal proceedings (*limited*)
- Section 27B – Right to work (*limited*)

The Act itself interacts with human rights in a number of complex ways, notably in seeking to strike a balance between the fundamental value of human life and the values of individual autonomy in order to reduce suffering.

By introducing voluntary assisted dying in the ACT, the Act promotes the human rights of individuals who are suffering and dying by enabling an eligible individual to both 'enjoy a life with dignity' and 'die with dignity', by providing choices for a person about the circumstances of their death. The Regulation supports this purpose by providing supplementary detail to the requirements under the Act.

The Regulation itself does not create any new substantive obligations and engages with human rights (both promoting and limiting) only in so far as the supplementary detail that it provides engages with human rights. Ensuring the effective administration of the voluntary assisted dying framework in the ACT through the Regulation promotes an individual's right to life and the right not to be subjected to medical treatment without consent.

Rights promoted

Section 9 – Right to life
Section 10 – Right to not be subjected to medical treatment without consent

Section 9 of the Human Rights Act provides that everyone has a right to life, and no-one may be arbitrarily deprived of life. This Regulation primarily engages the second obligation: to support the right not to be arbitrarily deprived of life. Arbitrariness

includes concepts of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality.[1]

Section 10(2) of the Human Rights Act provides that no-one may be subjected to medical or scientific experimentation or treatment without their free consent. The requirement for informed consent in medical treatment is a crucial safeguard against violating this right.[2] Informed consent ensures that individuals are fully aware of the nature, risks, and benefits of medical interventions before agreeing to them.

The United Nations Committee on Human Rights has commented in relation to voluntary assisted dying, the importance of 'the existence of robust legal and institutional safeguards to verify that medical professionals are complying with the free, informed, explicit and unambiguous decision of their patients, with a view to protecting patients from pressure and abuse'.[3]

This Regulation bolsters the legal safeguards of the Act so that an individual's life may not be ended arbitrarily or involuntarily and to ensure that an individual has given their informed consent. The Regulation promotes the right to life and right to not be subjected to medical treatment without consent by ensuring that voluntary assisted dying as an additional end of life choice cannot become available to an individual unless they are informed, and acting voluntarily, without coercion, and with decision-making capacity. Key aspects of the Regulation that promote these rights are outlined below.

Alternative services

The Regulation requires information be given to individuals seeking voluntary assisted dying about the alternative services for support and care available to an individual who has been diagnosed with a relevant condition, such as palliative care options. This information must be given to an individual after an authorised practitioner accepts the individual's initial request for voluntary assisted dying (first request) and at the first assessment and consulting assessment stage (clauses 5 and 6). Ensuring an individual is aware of and understands the alternative options available to them is critical in ensuring their decision to undertake voluntary assisted dying is informed.

Understanding of key information

In addition to assessing the eligibility of an individual, an authorised practitioner must also provide a standardised set of information and decide whether the individual understands that information during the first and consulting assessment. This information includes the individual's diagnosis and prognosis, the treatment and palliative care options available, the request and assessment process for voluntary assisted dying, the options for administering the approved substance, the potential complications (other than death) of an approved substance, that death is the expected

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[1] UN Human Rights Committee, *General comment no. 36, Article 6 (Right to Life)*, 3 September 2019, CCPR/C/GC/35, accessed 23 May 2025, available at: https://www.refworld.org/docid/5e5e75e04.html.

[2] Australian Law Reform Commission, *Informed consent to medical treatment*, 20 May 2014, accessed 20 May 2025, available at: https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-dp-81/10-review-of-state-and-territory-legislation/informed-consent-to-medical-treatment/.

[3] Above n 2.

outcome of administering the approved substance, and that at no point does the individual need to continue their request to access voluntary assisted dying (clause 6). An individual can only be assessed as eligible for voluntary assisted dying if the authorised practitioner decides the person understands this information. The standardised set of information in clause 6 ensures that all individuals are assessed for their understanding of the same core information, which promotes consistency in practitioner decision-making and reduces the risk of arbitrary or subjective judgements about an individual's understanding (which in turn affects an individual's eligibility).

Before issuing a prescription for the approved substance, the approved practitioner must give the individual further information orally and in writing if the individual has elected to self-administer the approved substance (clause 13). This information includes specificities around the approved substance and its effects and a reiteration that at no point does the individual need to continue their request to access voluntary assisted dying. If an individual has a self-administration decision in effect, the supplier will also verbally go through this information again with the individual when supplying the approved substance. As above, this provides an additional safeguard to ensuring that when deciding to access voluntary assisted dying, an individual is fully informed in relation to their options and acting voluntarily.

Dealing with an approved substance

The Regulation also supports the right to life through its provisions detailing additional requirements for the supply, storage, and disposal of an approved substance. The right to life requires the ACT Government to take reasonable measures to safeguard against identifiable direct or indirect risks to life.[4] This includes protecting health consumers and communities in the ACT against the harm caused by the misuse, abuse and diversion of substances or medicines. The Regulation includes safeguards to prevent the misuse, abuse and diversion of an approved substance. These include:

- Labelling requirements on the packaging of an approved substance to clarify the purpose of the dose of the substance is to cause death (clause 15).
- Supply requirements such as keeping a supply record or obtaining a delivery confirmation if delivered by a courier (clauses 18 and 19).
- Limitations on who may be a supplier, disposer, or courier (clauses 12 and 20).
- Requirement for written notices when an approved substance is transferred (clauses 21 and 22).
- Disposal requirements, including that the disposer must personally dispose of the approved substance and keeping a disposal record (clauses 25 and 26).
- Storage requirements for an approved substance for an individual, their contact person or an administering practitioner (clause 27).

Section 21 – Right to a fair trial

Section 21 of the Human Rights Act protects the right to a fair trial and fair hearing. This right includes access to clear information about decisions that affect an

[4] UN Human Rights Committee, *General Comment No. 36: Article 6: Right to life (2019)*, [20]. See also *Osman v United Kingdom* [1998] ECHR 101, [115]–[116].

individual's rights and the ability to challenge those decisions through an independent and impartial process.

Clause 41 of the Regulation promotes this right by prescribing the information that must be included in a reviewable decision notice under section 135 of the Act. Specifically, it requires that the decision-maker provide:

- details about the reviewable decision,
- a statement that an affected person may apply to the ACT Civil and Administrative Tribunal (ACAT) for review of the decision, and
- a statement about how an affected person may apply to ACAT for review.

By requiring that this information be included in the reviewable decision notice, the Regulation provides individuals a clear pathway to seek review about decisions made about their participation in voluntary assisted dying. By clearly outlining the decision, the right to seek review, and the steps to do so, the Regulation guarantees that affected individuals are equipped with the necessary information to exercise their legal rights effectively. Clause 41 supports procedural fairness and helps prevent barriers to justice, such as confusion or lack of awareness about available pathways.

Rights limited

Section 12 – Right to privacy

1. Nature of the right and the limitation (s28(a) and (c))

Section 12 of the Human Rights Act provides that a person has the right not have their privacy, family, home or correspondence interfered with unlawfully or arbitrarily. Of relevance, the right to privacy encompasses the protection of personal or confidential information.[5] The Regulation engages the right to privacy as it requires various individuals involved in the voluntary assisted dying scheme to provide or obtain personal information, sensitive information and health information. Requiring individuals to disclose this information in order to access voluntary assisted dying may be perceived as an intrusion into their private sphere.

Individuals and their contact persons

The personal and health information of individuals requesting voluntary assisted dying is collected and shared as part of the voluntary assisted dying scheme. More limited personal information of contact persons is also collected and shared.

The Regulation sets out what information must be included in the various reports, forms and records that must be completed as part of the process for requesting and accessing voluntary assisted dying, most of which are then shared with the voluntary assisted dying oversight board. Documents which ask for an individual's personal and health information include the:

[5] UN Human Rights Committee, *General Comment No. 16: Article 17, the Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation (1988)* [10].

- first assessment report (clause 7)
- consulting assessment report (clause 8)
- final request report (clause 9)
- final assessment report (clause 10)
- contact person appointment (clause 11)
- prescription (clause 14)
- supply record (clause 19)
- disposal receipt (clause 24)
- disposal record (clause 26)
- administration certificate (clause 28)
- residency exemption application (clause 42)

Most of the documents request the individual's name, date of birth, home address and telephone number. The 'reports' request a greater amount of personal and health information from the individual. For example, their medical condition, whether they have a disability (if any), gender identity (if known), whether the individual is an Aboriginal or Torres Strait Islander person (if known), whether the individual is from a culturally and linguistically diverse background (if known), the language used by the individual at home (if known) (clause 7).

The Regulation also sets out information to be included in documents which ask for a contact person's name, home or business address, and telephone number. Documents which ask for a contact person's personal information include the contact person appointment form (clause 11) and the written notice about transfer of approved substance by the original contact person (clause 22). Both these documents are shared with the voluntary assisted dying oversight board.

Health practitioners

Health practitioners who elect to participate in the voluntary assisted dying scheme will also have their personal information requested and to a more limited extent, shared. The Regulation prescribes supplementary detail about the types of information required:

- The application form for authorisation as a coordinating, consulting, or administering practitioner (clause 31) asks for a health practitioner's name, business address, telephone number, registration number, any adverse findings or notifications made against the practitioner, and details about their professional experience. The application is provided to the director-general of Health and Community Services Directorate and/or their delegate.

- The name, business address and telephone number of the new administering practitioner is recorded in the written notice about the original administering practitioner transferring the approved substance (clause 21). This written notice is given to the voluntary assisted dying oversight board and director-general of Health and Community Services Directorate.

- Under the Act, the director-general of Health and Community Services Directorate must keep a register of authorised practitioners (see section 96 of the Act). The register of authorised practitioners will not be public, but a copy will be given to the voluntary assisted dying oversight board and the approved care navigator service. The Regulation prescribes that the register will include personal information such as a practitioner's name, business address, telephone number, registration number, and any conditions placed on the practitioner's authorisation.

2. Legitimate purpose (s28(b))

The Regulation supports the Act's objective to deliver voluntary assisted dying in the ACT in a manner that is safe, ethical, and consistent with community expectations. Collecting personal information from individuals involved in the voluntary assisted dying scheme helps uphold operational safeguards and the oversight of the voluntary assisted dying oversight board that are essential to maintaining the integrity and safety of the scheme.

The UN Human Rights Committee has emphasised that laws allowing for euthanasia must provide effective procedural safeguards against abuse if they are to be compatible with the State's obligation to protect the right to life.[6] For instance, the UN Committee recommended to the Netherlands that it re-examine its law on euthanasia and assisted suicide to ensure that the procedures employed offer adequate safeguards against abuse or misuse, including undue influence by third parties.[7]

3. Rational connection between the limitation and the purpose (s28(d))

The Regulation requires the collection of information as a rational means of achieving its legitimate purpose. It enables:

- verification of eligibility criteria (e.g. age, residency, decision-making capacity);
- oversight and accountability through accurate record-keeping;
- prevention of misuse or diversion of approved substances;
- protection of vulnerable individuals from coercion or undue influence;
- evidence-based monitoring and continuous improvement of the scheme.

Without access to personal information of the kinds contemplated by the Regulation, the voluntary assisted dying oversight board and the Health and Community Services

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[6] Above n 2. See also Australian Human Rights Commission, *Euthanasia, human rights and the law*, May 2016, accessed 26 May 2025, available at: https://humanrights.gov.au/our-work/age-discrimination/publications/euthanasia-human-rights-and-law#fn214.

[7] UN Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations Of The Human Rights Committee – Netherlands*, Human Rights Committee, 72nd sess, UN Doc CCPR/CO/72/NET (27 August 2001) para 5(d). See also Australian Human Rights Commission, *Euthanasia, human rights and the law*, May 2016, accessed 26 May 2025, available at: https://humanrights.gov.au/our-work/age-discrimination/publications/euthanasia-human-rights-and-law#fn214.

Directorate would not be able to fulfil its functions of providing critical oversight of the scheme.

Individuals and their contact persons

Clauses 7 to 10 outline the details required for the various assessment reports. Accurate personal data collection allows health practitioners and the voluntary assisted dying oversight board to verify that individuals meet the strict eligibility criteria set out in the Act. This includes confirming their age and residency. By documenting these details, this provides procedural safeguards to protect vulnerable individuals from being coerced or unduly influenced in their decision making. Documenting each step in the voluntary assisted dying process creates a transparent trail that can be audited if any issues occur.

Oversight bodies such as the voluntary assisted dying oversight board rely on collected data to monitor compliance with legal requirements. This includes tracking the use of authorised substances and ensuring that all required assessments are completed. Furthermore, demographic information such as an individual's cultural background, forms key insights into how different groups are accessing the scheme. This data can help identify whether certain populations, such as people with disability, people from culturally and linguistically diverse backgrounds, or Aboriginal and Torres Strait Islander peoples, may be experiencing barriers to accessing voluntary assisted dying or may be at increased risk of coercion or undue influence. By enabling this kind of analysis, the Regulation supports the voluntary assisted dying oversight board's function to report on the operation of the Act, driving evidence-based reforms, and ensuring that the scheme is implemented in a way that is safe, inclusive, and responsive.

Clause 14 outlines the information to be included in a prescription for an approved substance. Of relevance to personal and health information, it includes the name, date of birth, home address, telephone number, and the type of administration decision elected by the individual for whom the approved substance is prescribed. Including this type of personal information, and notably an individual's date of birth on a prescription improves patient identification and accuracy in health records. Enhanced accuracy in patient health records seeks to ensure appropriate access and prevents the misuse of prescription medicines.

Clauses 19, 24 and 26 relate to the information required in records about the supply and disposal of an approved substance. The name, date of birth (for clauses 19 and 24), home address and telephone number of the individual requesting voluntary assisted dying is required in these records. As above, this helps in patient identification and tracking of an approved substance, ensuring the safe delivery of the voluntary assisted dying scheme by minimising harm arising from the misuse, abuse, or diversion of an approved substance.

Clause 42 outlines the information required to be on an application for a residency exemption. It asks for a range of personal and health information of the applicant and in some circumstances, the name, telephone number, and home address of a family member, friend or carer. The information requested from the applicant is required to identify the applicant and verify their eligibility for a residency exemption. This prevents misuse of the exemption pathway and ensures that only those with a genuine

and substantial connection are considered. The personal information of a family member, friend or carer is required as evidence to demonstrate a substantial connection to the ACT, which is one of the legal bases for granting an exemption under the Act. The residency exemption application under the Act allows individuals who do not meet the standard 12-month residency eligibility requirement to still access voluntary assisted dying if they can demonstrate a substantial connection to the ACT. The details required to be provided under the Regulation help ensure that an exemption is not granted arbitrarily, ensuring a safe and consistent approach to the delivery of voluntary assisted dying.

Clause 28 requires a range of personal and health information of the individual accessing voluntary assisted dying to be included in the administration certificate. The certificate confirms that all legal preconditions were met before the approved substance was administered (e.g. voluntary decision, decision-making capacity, no revocation). The personal and health information required in the administration certificate, such as the time, place, and method of administration, as well as the identity of witnesses, ensures that the process is fully traceable and acts as a safeguard against coercion, malpractice, or procedural shortcuts.

A contact person's personal information is collected under clauses 11 and 22. By requiring the collection of the name and contact details of the contact person, the Regulation ensures that there is a clearly designated individual responsible for managing an approved substance if the person accessing voluntary assisted dying dies before administration, or after self-administration. This prevents mishandling or misplacement of an approved substance. Clause 22 sets out what information should be included in a notification to the voluntary assisted dying oversight board when the original contact person transfers the substance to an individual or new contact person. Having accurate contact details ensures that the chain of custody for a substance is documented and traceable, reducing the risk of loss, misuse, or diversion of an approved substance.

Health practitioners

The information required in the application to become an authorised practitioner under clause 31 of the Regulation is essential to ensuring that only eligible and qualified health practitioners are permitted to participate in the voluntary assisted dying process. This directly supports the safe and lawful delivery of voluntary assisted dying services. The personal information collected is connected to this purpose in the following ways:

- The name, business address, and telephone number of the health practitioner ensures that the individual is clearly identifiable and contactable. This is important not only for administrative purposes but also for accountability.
- The registration number is a unique identifier that links the practitioner to their professional record under the *Health Practitioner Regulation National Law*. This allows for verification with the Australian Health Practitioner Regulation Agency (Ahpra) that the practitioner is currently registered, providing a fundamental safeguard against unqualified or deregistered practitioners participating in the voluntary assisted dying scheme.
- Information about whether any adverse findings and notifications have been made against a health practitioner is crucial for assessing a practitioner's fitness

to be involved in voluntary assisted dying - a sensitive and ethically complex area of care. If a practitioner has a history of professional misconduct, negligence, or other serious concerns, this may disqualify them from becoming an authorised practitioner.

- Details about the health profession in which the practitioner is registered, and the duration of that registration, are required to assess a practitioner's eligibility. Clauses 32 and 33 set out the eligibility requirements a practitioner must meet, including requirements relating to their experience. Similarly, if the practitioner has previously been registered in another health profession, this history provides additional context about their professional experience.

Clause 35 outlines the details of an authorised practitioner to be included in the register of authorised practitioners. These details allow the voluntary assisted dying oversight board, in its oversight function to track who is providing voluntary assisted dying services and be able to investigate any concerns about a relevant practitioner more efficiently. The approved care navigator service, which acts as a central point of contact for individuals seeking information or access to voluntary assisted dying, will also be provided the register of authorised practitioners. The details outlined in clause 35 will allow the service to identify and connect patients to the relevant type of authorised practitioner, reducing delays and facilitating the safe coordination of care.

Clause 21 provides that the name, business address, and telephone number of the new administering practitioner must be included in a written notice provided to the voluntary assisted dying oversight board when an original administering practitioner transfers an approved substance to a new administering practitioner. This ensures clear accountability by identifying the practitioner and providing their contact details, maintaining a secure chain of custody for an approved substance. As above, this ensures the safe delivery of the voluntary assisted dying scheme by minimising harm arising from the misuse, abuse, or diversion of an approved substance.

4. Proportionality (s28 (e))

The Regulation's approach to collecting personal, sensitive and health information is the least restrictive means reasonably available to achieve the legitimate objective of ensuring the voluntary assisted dying scheme is safe, ethical, and consistent with community expectations. The collection and disclosure of this information is not arbitrary or unlawful - rather, it is clearly defined in legislation, purpose-specific, and subject to existing privacy protections.

The collection of personal information is essential to verifying eligibility, ensuring procedural compliance, and maintaining oversight. Less restrictive alternatives were considered but did not achieve the legitimate objective. Non-identifying information, while less intrusive, would not allow for verification of an individual or practitioner's eligibility in participating the voluntary assisted dying scheme, would not allow the tracking of substances, and would not allow the investigation of complaints or misuse. Similarly, relying on an approach of voluntary disclosure of information would risk incomplete or inconsistent information being obtained, undermining the safeguards built into the scheme.

The Regulation incorporates targeted safeguards to ensure that the limitation on the right to privacy is proportionate and justified. These safeguards are outlined below.

Opt-in for individuals involved

A key safeguard to any impositions on the right to privacy as a result of the collection and sharing of personal and health information under the regulation relates to the opt-in nature of the voluntary assisted dying scheme. Only the individuals and health practitioners who have chosen to participate in the scheme are required to provide their personal or health information. This opt-in model respects the autonomy of participants while ensuring that those involved can be appropriately identified, assessed for eligibility, and supported throughout the process. Additionally, clause 5 requires that an individual who has requested voluntary assisted dying be given a pack of information, including a statement about how their personal or health information may be used or disclosed. Notifying individuals upfront empowers individuals to make an informed decision about whether to continue the process.

Non-arbitrary and purpose-specific collection

Only information necessary to achieve specific legal or operational objectives is collected. The types of personal or health information and their main purposes are summarised below:

- personal identifiers (e.g. name, date of birth, address) are used to verify eligibility and ensure accurate record-keeping;
- health information (e.g. medical condition) is primarily used to assess eligibility;
- demographic information (e.g. disability status, cultural background) is used to support future areas for improvement in service delivery;
- practitioner professional details (e.g. experience, registration number, adverse findings) are used to ensure only qualified and eligible practitioners participate in the scheme;
- contact person information (e.g. name, address, phone number) is used to maintain a secure chain of custody for the handling of approved substances;
- process-specific data (e.g. witness identity, method of administration) are used to ensure legal compliance with the Act.

An individual's date of birth, when combined with other information (like name or address), can be used to precisely identify an individual. This makes it more sensitive than other personal identifiers, especially in small populations. Unlike contact details which can change, an individual's date of birth is permanent, and widely used across government, healthcare, financial, and legal systems to verify identity. Because of this, individuals may be more concerned about sharing it due to its potential to unlock access to other personal records. However, the voluntary assisted dying scheme requires the precise identification of an individual. Accurate identification is necessary to confirm that the person requesting access is the same person assessed as eligible. This prevents errors or fraudulent access to the scheme, which is especially important in end-of-life care, where individuals may be vulnerable. In relation to prescriptions, the inclusion of an individual's date of birth on prescriptions enhances patient identification and the

accuracy of health records. This is consistent with practices around the Regulation of medicines under the *Medicines, Poisons and Therapeutic Goods Act 2008* which governs the safe prescribing and dispensing of high-risk substances, and across all other Australian jurisdictions.

Demographic information (e.g. cultural background, language) is required to identify areas for improvement and inform culturally safe and inclusive service delivery of voluntary assisted dying. Requests for demographic information are optional. The purpose of collecting this information is to support the identification of systemic barriers and promote equitable access to voluntary assisted dying services. At the same time, by making these fields optional, the Regulation ensures that individuals are not required to disclose more information than is necessary, respecting their privacy and autonomy.

Health practitioners, in their application to be an authorised practitioner, must disclose specific personal and professional information. This requirement is essential to ensure that only appropriately qualified, experienced, and ethically sound practitioners are authorised to participate in the voluntary assisted dying scheme. This approach is not arbitrary. Requirements are clearly legislated under clause 31 and directly linked to the practitioner's role in delivering a highly sensitive and ethically complex medical service.

Restricted access to information

Personal and health information is shared only with designated bodies, specifically legislated under the Act (i.e. the voluntary assisted dying oversight board and the director-general of the Health and Community Services Directorate). Sensitive information, such as the register of authorised practitioners, is not made public. It is shared only with the voluntary assisted dying oversight board and the approved care navigator service, both of which require this information to facilitate oversight and coordination of care.

Notably, the voluntary assisted dying oversight board which plays a central role in monitoring compliance of the scheme, will only keep de-identified information where possible. Clause 38 outlines the type of information the board must keep – all of which is non-identifying. For instance, the board is not required to keep an individual's name or date of birth but rather keeps their age and the suburb of their home address. Where the voluntary assisted dying oversight board shares identifying information (e.g., to track the chain of custody of an approved substance), it is shared only with the legislated list of people under section 119 of the Act and authorised practitioners, suppliers, and disposers, all who are bound by professional and legal confidentiality obligations. This limited access model ensures that oversight is maintained without unnecessarily exposing personal information.

Prescriptions are only issued by authorised practitioners who have undergone a rigorous approval process, and the handling and access of prescriptions are limited to trained public servants, including approved suppliers, couriers and disposers. Approved suppliers and disposers must be pharmacists working in Canberra Health Services who have completed the relevant training (Clause 12). Couriers must be health practitioners working in Canberra Health Services (Clause 20). The voluntary assisted dying oversight board does not have access to prescriptions. This safeguards sensitive health

information, ensuring it is only accessible to those directly involved in the clinical and logistical aspects of dealing with approved substances, further protecting individual privacy.

Existing legislation

Information sharing is governed by existing legal safeguards, including the *Health Records (Privacy and Access) Act 1997* (*Health Records Act*) and the *Information Privacy Act 2014* (*Information Privacy Act*), which impose strict controls on the collection, use, and disclosure of personal and health information. These laws include serious penalties for misuse and ensure that identifying information is protected from inappropriate access. For example, the *Health Records Act* requires that information be collected only where necessary, used only for the purpose for which it was collected, and disclosed only to authorised entities. The *Information Privacy Act* further reinforces these protections through Territory Privacy Principles, which apply to all ACT public authorities.

For the collection of health practitioner information, it is important to note that much of the information required from health practitioners under the Regulation, such as their registration number, professional qualifications, and any conditions or adverse findings placed on their registration, is already publicly available through existing mechanisms. Health practitioners in Australia are registered under the *Health Practitioner Regulation National Law*, and their registration details are maintained by Ahpra. Ahpra's public register includes key information such as a practitioner's registration status, registration number, profession, principal place of practice, and any conditions, undertakings, or reprimands. As such, the Regulation does not introduce a new or disproportionate burden on practitioners, by requesting this information. The Regulation simply ensures that this information is required to be considered as part of the authorisation process for participation in the voluntary assisted dying scheme. The alignment with existing regulatory practices supports the view that the collection of practitioner information in this context is proportionate and not an arbitrary interference with the right to privacy.

Section 14 – Right to freedom of thought, conscience, religion and belief

1. Nature of the right and the limitation (s28(a) and (c))

Section 14 of the Human Rights Act protects the right to freedom of thought, conscience, religion, and belief. This includes the freedom to hold beliefs and to act in accordance with one's conscience, including the right to manifest those beliefs in practice. The right is engaged where individuals are required to act in a way that may conflict with their deeply held moral or religious convictions.

The Regulation engages and limits this right by prescribing social workers and speech pathologists as relevant health service providers for the purposes of section 100 of the Act (clause 36). This means that if a social worker or speech pathologist conscientiously objects to participating in voluntary assisted dying and refuses to perform a function under section 99 of the Act in relation to an individual, they are still required to provide the individual with written contact details of the approved care navigator service within two business days.

While this requirement is administrative in nature and does not compel a social worker or speech pathologist to participate directly in the voluntary assisted dying process, it could be perceived by some professionals as a form of indirect facilitation of a process they morally oppose. For individuals whose beliefs include a prohibition on any form of assistance in ending life, even providing information that enables access to voluntary assisted dying may be experienced as a moral compromise or a violation of conscience.

2. Legitimate purpose (s28(b))

The objective of this measure under the Act is to ensure that individuals seeking access to voluntary assisted dying are not left without support or information due to a health professional's conscientious objection. The approved care navigator service plays a critical role in guiding individuals through the voluntary assisted dying process, including helping them understand the scheme, eligibility, and next steps.

This measure addresses a pressing and substantial concern that individuals, particularly those who are vulnerable, terminally ill, or experiencing suffering, may face delays or confusion if they are denied access to information or support. Ensuring timely referral to the care navigator service is essential to upholding an individual's dignity, and autonomy to make informed decisions about their end-of-life care.

The Regulation gives full effect to this measure as section 100(4) of the Act requires that the definition of 'relevant health service provider' be prescribed under Regulation. Without clause 36, this measure would only apply to health practitioners even though the section applies to both health practitioners and relevant health service providers.

3. Rational connection between the limitation and the purpose (s28(d))

Prescribing social workers and speech pathologists as relevant health service providers under section 100 of the Act is rationally connected to the legitimate purpose of ensuring that individuals seeking voluntary assisted dying are not left without access to information or support due to a health professional's conscientious objection.

These two professions have been specifically identified in the Regulation because they are among the most likely health professionals other than health practitioners to encounter individuals who may be exploring or requesting voluntary assisted dying. Social workers often support individuals experiencing psychosocial distress, grief, or complex care needs, while speech pathologists frequently work with individuals who have communication impairments, including those with neurodegenerative conditions or terminal illnesses, or end-of-life care issues such as swallowing difficulties, choking risks, or requiring alternative feeding options.

By prescribing these roles, the Regulation ensures that individuals who raise voluntary assisted dying related questions with a social worker or speech pathologist are not inadvertently denied access due to the health professional's personal beliefs. This approach is consistent with ethical frameworks in healthcare, where conscientious objection is generally accommodated but must not obstruct access to care.[8]

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[8] Doug McConnell, 'Assessing Public Reason Approaches to Conscientious Objection in Healthcare' (2024) 34(1) *Cambridge Quarterly of Healthcare Ethics* 25, accessed 28 May 2025, available at: https://www.cambridge.org/core/journals/cambridge-quarterly-of-healthcare-ethics/article/assessing-

4. Proportionality (s28 (e))

Clause 36 is a proportionate and carefully targeted measure. It reflects a considered balance between the right to freedom of thought, conscience, religion and belief, and the need to ensure individuals seeking voluntary assisted dying are not left without access to information or support services.

Clause 36 is narrowly framed. It does not impose a general obligation on all health professionals, nor provides an expansive list of health professionals, but instead identifies two specific professions (social workers and speech pathologists) who, other than health practitioners, are most likely to encounter individuals considering voluntary assisted dying due to the nature of their roles.

It is important to note that the Act does not compel these professionals to participate in any clinical or decision-making aspects of voluntary assisted dying. The limitation is narrowly confined to the provision of contact details for a neutral, government-supported service (the approved care navigator service), and does not require endorsement or explanation of the voluntary assisted dying process itself.

A key safeguard is that the Regulation provides clear and objective definitions of who qualifies as a social worker or speech pathologist. This ensures the measure is precisely targeted and avoids confusion. For example, both a social workers and speech pathologists must hold a qualification that provides eligibility for practicing membership of the Australian Association of Social Workers and Speech Pathology Australia respectively. This clarity limits the scope of the obligation to the targeted health professionals and avoids imposing it on those outside the intended cohort.

Less restrictive alternatives, such as not prescribing any professions under the Regulation or relying on informal referral pathways, would not adequately address the risk that individuals may be left without timely access to information or support.

The impact on vulnerable groups was also considered. Individuals with communication difficulties, cognitive impairments, or limited health literacy may rely heavily on health professionals like speech pathologists and social workers for support. Ensuring these individuals are not left without a referral pathway is critical to equity and dignity in end-of-life care.

Section 22 – Rights in criminal proceedings

1. Nature of the right and the limitation (s28(a) and (c))

Section 22 of the Human Rights Act protects the rights of individuals in criminal proceedings, including the presumption of innocence. The Regulation engages and limits this right by extending a strict liability offence under section 100 of the Act to social workers and speech pathologists (clause 36).

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This means that if a social worker or speech pathologist conscientiously objects to participating in voluntary assisted dying and refuses to perform a function under section 99 of the Act in relation to an individual, they must provide the individual with written contact details of the approved care navigator service within two business days, and if they fail to do so, be subject to a strict liability offence.

Strict liability offences remove the need to prove fault, meaning that a person may be found guilty even if they did not intend to commit the offence. This limits the presumption of innocence by shifting the burden of proof away from the prosecution and onto the defendant.

2. Legitimate purpose (s28(b))

The legitimate purpose of this limitation is to ensure that individuals seeking voluntary assisted dying are not denied timely access to information and support due to a health professional's conscientious objection. The requirement to provide contact details for the approved care navigator service is a minimal but essential safeguard to uphold the individual's right to autonomy and informed decision-making in end-of-life care.

The Regulation gives full effect to this measure as section 100(4) of the Act requires that the definition of 'relevant health service provider' be prescribed under Regulation. Without clause 36, this measure would only apply to health practitioners even though the section applies to both health practitioners and relevant health service providers.

Strict liability is used in section 100 of the Act to promote compliance and accountability in a context where delays or failures to act could significantly impact a vulnerable individual's ability to access information and support about voluntary assisted dying.

3. Rational connection between the limitation and the purpose (s28(d))

Extending the strict liability offence under section 100 of the Act to social workers and speech pathologists is rationally connected to the legitimate purpose of ensuring that individuals seeking voluntary assisted dying are not denied access to information or support due to a health professional's conscientious objection. Social workers and speech pathologists are frontline professionals who engage with individuals experiencing serious illness, psychosocial distress, or communication challenges. They may be among the first to hear an individual express interest in voluntary assisted dying.

By prescribing these professions as relevant health service providers and requiring them to provide contact details for the approved care navigator service if they conscientiously object, the Regulation ensures that individuals are not left without a pathway to access support. These individuals may be particularly vulnerable and reliant on these professionals to guide them through complex health decisions.

4. Proportionality (s28 (e))

Extending the strict liability offence under section 100 of the Act to social workers and speech pathologists is a proportionate and carefully targeted measure.

The obligation imposed is narrow and administrative in nature - to provide written contact details for the approved care navigator service within two business days. It does not require these professionals to participate in any clinical, ethical, or decision-making aspects of voluntary assisted dying. The use of strict liability ensures that this administrative obligation is consistently met, without requiring proof of intent or fault. This is appropriate given the clarity of the obligation, the ease with which it can be fulfilled, and the significant consequences for individuals if the obligation is not met.

Additionally, clause 36 provides clear and objective definitions of who qualifies as a social worker or speech pathologist, ensuring that the strict liability offence applies only to those with the appropriate qualifications. Less restrictive alternatives, such as relying on voluntary compliance or informal referral pathways, would not provide the same level of assurance that individuals will receive timely and consistent access to support.

The application of strict liability in this context is reasonable given that the professionals affected are operating in a regulatory environment where they are expected to be aware of their legal duties, and where access to essential health services may be affected.

Section 27B – Right to work

1. Nature of the right and the limitation (s28(a) and (c))

Section 27B of the Human Rights Act protects the right of every person to work and to freely choose their occupation or profession. This includes the right to access employment opportunities without unjustified barriers and to pursue a chosen profession without discrimination or arbitrary exclusion.[9]

The Regulation engages and limits this right by imposing eligibility and disqualifying criteria, and ongoing disclosure obligations on health practitioners who wish to be authorised practitioners. These include:

- Minimum experience requirements for doctors, nurse practitioners, and registered nurses (clauses 32 and 33).
- Mandatory training and refresher training requirements (clauses 32, 33, and 34).
- Disqualification based on adverse findings or conditions on registration (clauses 30, 32, and 33).
- Disclosure of professional history, registration details, and any disciplinary actions (clause 31).

Additionally, the Regulation limits who may act as suppliers, disposers or couriers of approved substances. Suppliers and disposers must be pharmacists who are also public servants employed by Canberra Health Services and have successfully completed relevant training. Couriers must be health practitioners who are also public servants employed by Canberra Health Services.

[9] UN Committee on Economic, Social and Cultural Rights, *General Comment No 18: The Right to Work (Art 6 of the Covenant)*, UN Doc E/C.12/GC/18 (6 February 2006).

These restrictions may limit access to certain roles within the voluntary assisted dying scheme and, by extension, affect employment opportunities for otherwise qualified health practitioners.

2. Legitimate purpose (s28(b))

The objective of these regulatory measures is to ensure that the voluntary assisted dying scheme is delivered in a manner that is safe, ethical, and consistent with community expectations. Given the sensitive and irreversible nature of voluntary assisted dying, it is essential that only appropriately qualified, experienced, and ethically sound health practitioners are authorised. The eligibility and disqualification provisions outlined above will:

- protect individuals from harm or coercion;
- ensure that health practitioners have the necessary clinical experience and ethical integrity;
- maintain public confidence in the safety and accountability of the scheme;
- prevent misuse or diversion of controlled substances.

These concerns are legitimate, particularly in light of international human rights guidance from the UN Human Rights Committee which emphasises the need for robust safeguards in any legal framework permitting voluntary assisted dying.[10]

3. Rational connection between the limitation and the purpose (s28(d))

The Regulation's eligibility, disqualification, and disclosure requirements for health practitioners are rationally connected to the legitimate objective of ensuring that the voluntary assisted dying scheme is delivered safely, ethically, and in accordance with community expectations.

Requiring that health practitioners meet minimum experience thresholds (e.g. years of registration), complete approved training, and disclose any adverse findings or conditions on their registration, ensures that only those with demonstrated experience and competence are entrusted with responsibilities such as assessing an individual's eligibility, or prescribing, administering, and handling approved substances.

The Regulation also limits who may act as suppliers, disposers, or couriers of approved substances to pharmacists and health practitioners employed as public servants within Canberra Health Services. This restriction is rationally connected to the need for trusted and well-vetted individuals to handle high-risk substances such as the approved substance for voluntary assisted dying. Having pharmacists and health practitioners who are also public servants allows for an additional layer of security and government oversight. This ensures a centralised chain of custody, reducing the risk of diversion, misuse, or mishandling of an authorised substance.

4. Proportionality (s28 (e))

The Regulation adopts a proportionate approach to balancing the right to work with the need to ensure safety and ethical integrity in the voluntary assisted dying scheme. The

[10] Above n 2.

limitations are carefully targeted and apply only to health practitioners who voluntarily seek to participate in the scheme. Health practitioners who do not wish to be involved in voluntary assisted dying are not affected.

The work requirements for voluntary assisted dying roles are often technical and/or specialised. Given that voluntary assisted dying is already regulated in most jurisdictions across Australia, health practitioners are expected to have a general understanding and awareness of the type of requirements set out in the Regulation.

It is important to note that the Regulation does not prevent a health practitioner from being employed in their profession or specialty area more broadly. A practitioner who does not meet the eligibility criteria or who is disqualified under the Regulation would be restricted from being authorised to perform specific functions under the voluntary assisted dying scheme, but would not be prohibited from continuing to practise in their profession or from delivering similar end-of-life support services outside of the scheme.

The eligibility criteria for coordinating, consulting and administering practitioners are grounded in both clinical best practice and findings from national and international reviews of voluntary assisted dying implementation. These thresholds ensure that only practitioners with sufficient clinical experience are entrusted with the complex responsibilities involved in assessing eligibility for voluntary assisted dying and administering life-ending substances. These requirements are not arbitrary and were designed and revised following signification consultation with stakeholders. The ACT's approach aligns with findings from other Australian jurisdictions. For example, the Western Australian review of its voluntary assisted dying legislation found that experienced practitioners were better equipped to manage the emotional and procedural demands of voluntary assisted dying, and that experience thresholds helped ensure safe and compassionate care.[11] This supports the idea that minimum experience requirements are not arbitrary but reflect a consensus among experts and stakeholders about what is necessary to ensure safe and ethical practice. The eligibility criteria are also not overly burdensome as they do not require additional qualifications beyond what is already expected in the profession. Additionally, the criteria allow for multiple pathways to eligibility (e.g., general or specialist registration) and are achievable for a wide range of medical and nurse practitioners and registered nurses.

The disqualification criteria are also proportionate. They apply only where there has been a substantiated adverse finding such as coercion, or unlawful treatment without consent, or if a condition imposed on the practitioner's registration prevents them from carrying out a function of an authorised practitioner (clause 30). A key safeguard against the unreasonable limitation of a practitioner's right to work is that if the disqualifying finding relates to a condition imposed by Ahpra, the disqualification from becoming an authorised practitioner only applies while the relevant condition remains in effect. This ensures that a disqualification relating to a temporary condition placed on a health practitioner's registration is also temporary, and not permanent or punitive. By focusing on substantiated findings and current conditions on registration, the

[11] Lindy Willmott, Ben White, and Casey Haining, 'Review of the Voluntary Assisted Dying Act 2019 (WA): Research Report' (2025) 32 *Journal of Law and Medicine* 94, accessed 28 May 2025, available at: https://eprints.qut.edu.au/257143/.

Regulation's approach ensures that disqualification is based on objective, verifiable findings, not speculation or stigma.

The requirement for ongoing training and notification of changes to registration ensures that authorised practitioners remain competent and accountable over time. These are light-touch, periodic obligations that support the scheme's integrity without imposing undue burdens.

The eligibility requirements for approved suppliers, disposers and couriers are proportionate to the high-risk nature of handling an authorised substance for voluntary assisted dying. High-risk substances are tightly regulated under the *Medicines, Poisons and Therapeutic Goods Act 2008*, and their secure handling, storage, and disposal are critical to preventing misuse or diversion. Restricting these roles to public sector pharmacists (for suppliers and disposers) or public sector health practitioners (for couriers) ensures accountability, standardised training, and centralised oversight, which are essential safeguards in the context of the safe handling of authorised substances.

The thresholds set for experience requirements for practitioners have been tested in consultation and are the minimum requirements necessary to ensure public confidence in the safety and integrity of the scheme. As an example, it was considered whether newly registered practitioners could be authorised practitioners, however consultation indicated that this could lead to an increased risk of misjudgement or procedural error, which could be especially problematic in cases involving vulnerable patients. Conversely, more restrictive measures, such as requiring specialist registration for all roles, would unnecessarily limit participation and reduce access to voluntary assisted dying services.

The impact on vulnerable groups was also considered. By ensuring that only qualified and ethically sound practitioners are authorised, the Regulation protects individuals who may be at risk of coercion or exploitation, including individuals with disabilities, terminal illnesses, or limited decision-making capacity.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of regulation

This clause provides that the name of the Regulation is the *Voluntary Assisted Dying Regulation 2025*.

Clause 2 Commencement

This clause provides for the commencement of the Regulation on 3 November 2025.

Clause 3 Dictionary

This clause provides that the dictionary at the end of the Regulation is part of the Regulation. The dictionary defines certain terms used in the Regulation.

Clause 4 Notes

This clause provides that a note found in the Regulation is explanatory and is not part of the Regulation.

Part 2 Request and assessment process for voluntary assisted dying

Clause 5 Information to be given to individual after acceptance of first request—Act, s 14 (3) (a)

This clause provides the list of information that a health practitioner must give an individual after the health practitioner accepts the individual's request for access to voluntary assisted dying (also known as their first request).

The prescribed information ensures that individuals are fully informed about the voluntary assisted dying process and their rights and responsibilities under the Act.

Clause 6 Information to be given to individual after first assessment and consulting assessment—Act, s 16 (3) and s 23 (3)

This clause provides the list of information that an authorised practitioner must give an individual during both the first assessment and consulting assessment stage. The information must be given by the authorised practitioner to the individual after they have assessed the individual as meeting the eligibility requirements outlined in section 11 of the Act. As part of the first assessment and consulting assessment, the authorised practitioner must decide whether the individual understands this list of information.

The prescribed information ensures that individuals are capable of understanding the key information about their own medical condition and about voluntary assisted dying and is an important safeguard to prevent individuals from coercion and exploitation.

Clause 7 Information for first assessment report—Act, s 18 (1) (a) (ii)

This clause provides the list of information that a coordinating practitioner must include in the written report of the first assessment.

The information prescribed ensures transparency, supports informed decision-making, and enables a comprehensive record.

Clause 8 Information for consulting assessment report—Act, s 25 (1) (a) (ii)

This clause provides the list of information that a consulting practitioner must include in the written report of the consulting assessment.

The information prescribed ensures transparency, supports informed decision-making, and enables a comprehensive record.

Clause 9 Information for final request report—Act, s 34 (1) (a)

This clause provides the list of information that a coordinating practitioner must include in the written report of receiving the final request.

The information prescribed ensures transparency, supports informed decision-making, and enables a comprehensive record.

Clause 10 Information for final assessment report—Act, s 36 (2) (b)

This clause provides the list of information that a coordinating practitioner must include in the written report of the final assessment.

The information prescribed ensures transparency, supports informed decision-making, and enables a comprehensive record.

Part 3 Accessing voluntary assisted dying and death

Clause 11 Information for contact person appointment—Act, s 51 (4) (c)

This clause provides the information that must be included in a written appointment of a contact person.

This clause ensures that the appointment process is transparent, that the contact person is informed in relation to their functions and consents to their appointment, and that the legal responsibilities associated with the role are clearly acknowledged.

Clause 12 Eligibility requirements for approved suppliers and approved disposers—Act, s 57 (2)

This clause provides the eligibility criteria for a health practitioner to be approved to supply or dispose of an approved substance under the Act.

These requirements ensure that only qualified and appropriately trained pharmacists within the public sector are authorised to handle approved substances, thereby ensuring the safe handling of high-risk substances.

Clause 13 Information to be given to individual before first prescription—Act, s 58 (1) (d)

This clause provides the list of information that a coordinating practitioner must provide to an individual before prescribing an approved substance for voluntary assisted dying. The information must be provided both orally and in writing.

The purpose of this clause is to ensure the individual is provided with comprehensive and clear information tailored to their chosen method of administration, supporting informed consent and safe practice.

Clause 14 Information for prescription—Act, s 58 (3) and s 59 (3)

This clause provides the mandatory information for a prescription for an approved substance.

This clause ensures that prescriptions are issued only after all legal requirements have been met, and that they contain sufficient detail to support safe and lawful dispensing of an approved substance.

Clause 15 Labelling requirements for approved substances—Act, s 60 (3) (c)

This clause provides the labelling requirements for approved substances.

The purpose of this clause is to ensure that the approved substance is clearly identified, safely stored, and appropriately handled in accordance with the Act and Regulation.

Clause 16 Other requirements for supplying approved substances— self-administration decision in effect—Act, s 60 (3) (d)

This clause provides additional obligations of an approved supplier when supplying an approved substance to an individual who has a self-administration decision in effect. It requires that the approved supplier orally give the information outlined in clause 13, and in writing if the person asks for it, or if the person advises the approved supplier, they do not have the information.

The intent of the clause is to provide another layer of assurance that the individual, or the person receiving the substance on their behalf, is fully informed about the use, risks, and responsibilities associated with the approved substance.

Clause 17 Circumstances for using courier to supply approved substance—Act, s 60 (3) (f) (ii)

This clause sets out the specific circumstances under which an approved supplier may use a courier to deliver an approved substance to an individual. The intent is to ensure that the use of a courier is limited to appropriate situations and that safeguards are in place. The use of a courier is only permitted when the individual has a practitioner

administration decision in place. The approved supplier must also keep a written record of the pick-up of the approved substance by the courier and ensure certain requirements around the packaging of the approved substance are met.

Clause 18 Requirements for couriers supplying approved substance—Act, s 60 (6)

This clause provides requirements for couriers delivering an approved substance. It provides that the package or its contents must not be tampered with and that a written delivery confirmation must be obtained from the recipient and given to the approved supplier.

The purpose is to ensure the secure and traceable delivery of the approved substance and to ensure the integrity of the package.

Clause 19 Information for supply record—Act, s 60 (7) (a)

This clause provides the list of information that an approved supplier must include in the written record of the supply (supply record).

This clause ensures that all relevant legal and procedural steps are documented at the point of supply, supporting transparency, good record keeping, and safe practice.

Clause 20 Requirements for couriers—Act, s 60 (10), def courier

This clause provides the requirements for a person to act as a courier for the delivery of an approved substance. It ensures that only health practitioners within the public health system are authorised to handle the transport of approved substances. This supports the secure and responsible handling of approved substances.

Clause 21 Information for written notice about original administering practitioner giving approved substance to new administering practitioner—Act, s 65 (6)

This clause provides the information that must be included in a written notice when an original administering practitioner transfers possession of an approved substance to a new administering practitioner.

The purpose is to ensure continuity in the handling of an approved substance and that individuals handling the approved substance are identifiable and accountable.

Clause 22 Information for written notice about original contact person giving approved substance to another person— Act, s 67 (6)

This clause provides the information that must be included in a written notice when an original contact person transfers possession of an approved substance to another person, as permitted under section 67(2) of the Act.

The purpose is to ensure continuity in the handling of an approved substance and that individuals handling the approved substance are identifiable and accountable.

Clause 23 Information for written record of receipt of approved substance received for disposal—Act, s 73 (2) (a)

This clause provides the information that must be included in a written record of receipt that must be prepared by an approved disposer upon receiving an approved substance for disposal. This receipt must be given to the person who handed over the substance.

This clause ensures that the chain of custody is clearly recorded, and that the disposal process is conducted with integrity and in accordance with the Act and Regulation.

Clause 24 Information for written notice about receipt of approved substance received for disposal—Act, s 73 (2) (b)

This clause provides the information that must be included in another written record of receipt (in addition to the one outlined in clause 23) that must be prepared by an approved disposer upon receiving an approved substance for disposal. This receipt must be given to the voluntary assisted dying oversight board and the director-general.

This clause ensures that the chain of custody is clearly recorded, and that the disposal process is conducted with integrity and in accordance with the Act and Regulation.

Clause 25 Disposal requirements—Act, s 73 (2) (d)

This clause provides requirements that an approved disposer must follow when disposing of an approved substance.

These requirements ensure that the disposal of approved substances is handled with the same rigour and safety as other high-risk medications, thereby protecting public health.

Clause 26 Information for disposal record—Act, s 73 (3) (a)

This clause provides the list of information that an approved disposer must include in the written record of the disposal (disposal record).

This clause ensures that all relevant legal and procedural steps are documented at the point of disposal, supporting transparency, good record keeping, and safe practice.

Clause 27 Storage requirements for approved substances—Act, s 74

This clause provides requirements for the storage of an approved substance for people in possession of an approved substance. The clause applies to an individual who has or had a self-administration decision in effect, a person who is or was the contact person for a relevant individual, and a person who is or was an administering practitioner for an individual who has or had a practitioner administration decision in effect.

The purpose is to ensure that approved substances are stored securely and responsibly to prevent misuse, loss, or unauthorised access.

Clause 28 Matters to be certified in administration certificate—Act, s 81 (3) (d)

This clause provides the information that must be included in an administration certificate completed by the administering practitioner following the administration of an approved substance.

This clause ensures that the administration of the approved substance is thoroughly and transparently documented, supporting legal compliance and clinical accountability.

Part 4 Requirements for coordinating practitioners, consulting practitioners and administering practitioners

Clause 29 Definitions—pt 4

This clause defines key terms used in Part 4 of the Regulation, which outlines supplementary requirements related to the authorisation of health practitioners to participate in the voluntary assisted dying scheme.

Clause 30 Meaning of disqualifying finding—pt 4

This clause defines what constitutes a disqualifying finding in relation to a health practitioner for the purposes of Part 4 of the Regulation. A disqualifying finding is a specific type of adverse finding that may affect a practitioner's eligibility to become an authorised practitioner.

This clause ensures that only health practitioners with a sound ethical standing, and who are able to carry out all the relevant functions of an authorised practitioner are permitted to participate in the voluntary assisted dying process, thereby upholding the safety, credibility, and integrity of the framework.

Clause 31 Information for application for authorisation—Act, s 88 (2) (b)

This clause provides the information that must be included in a health practitioner's application for authorisation to act as a coordinating practitioner, consulting practitioner, or administering practitioner under the Act.

This clause ensures that only suitably experienced and professionally vetted health practitioners are authorised to participate in the voluntary assisted dying process, maintaining the integrity and safety of the framework.

Clause 32 Eligibility requirements for authorisation as authorised coordinating practitioner or authorised consulting practitioner—Act, s 89 (1) (b)

This clause sets out the additional eligibility requirements that a health practitioner must meet to be authorised as a coordinating or consulting practitioner.

This clause ensures that only suitably experienced and trained health practitioners are authorised to participate in the voluntary assisted dying process, maintaining the integrity and safety of the framework.

Clause 33 Eligibility requirements for authorisation as authorised administering practitioner—Act, s 89 (2) (b)

This clause sets out the additional eligibility requirements that a health practitioner must meet to be authorised as an administering practitioner.

This clause ensures that only suitably experienced and trained health practitioners are authorised to participate in the voluntary assisted dying process, maintaining the integrity and safety of the framework.

Clause 34 Authorisation conditions—Act, s 93 (1) (b)

This clause sets out the ongoing conditions that apply to a health practitioner who has been authorised to participate in the voluntary assisted dying process. These conditions are designed to ensure that authorised practitioners maintain up-to-date knowledge, remain professionally accountable, and promptly report any changes that may affect their suitability.

Clause 35 Information for register of authorised practitioners—Act, s 96 (2)

This clause provides the details that must be recorded in the register of authorised practitioners.

This clause ensures that the register contains comprehensive and up-to-date information about each authorised practitioner, facilitating a centralised source of information and effective Regulation.

Part 5 Conscientious objections— health practitioners and health service providers

Clause 36 Relevant health service providers—Act, s 100 (4), def relevant health service provider

This clause provides a list of health professionals who constitute a 'relevant health service provider' under section 100 of the Act. It prescribes social workers and speech pathologists. This means that if a social worker or speech pathologist conscientiously objects to participating in voluntary assisted dying and refuses to perform a function under section 99 of the Act in relation to an individual, they are still required to provide the individual with written contact details of the approved care navigator service within two business days.

These two professions have been specifically prescribed because they are among the most likely health professionals other than health practitioners to encounter individuals who may be exploring or requesting voluntary assisted dying.

The purpose of prescribing these health professionals is to ensure that individuals who raise voluntary assisted dying related questions with a social worker or speech pathologist are not inadvertently denied access due to the health professional's personal beliefs.

Part 6 Obligations of facility operators

Clause 37 Requirements for policy—Act, s 108 (1) (b)

This clause sets out the additional minimum content requirements for a voluntary assisted dying policy that must be developed by an operator of a care service facility such as a hospital, nursing home, or residential aged care facility.

The clause is intended to provide the minimum content requirements necessary to enable residents, staff, and the public to be informed about the facility's approach to voluntary assisted dying.

Part 7 Voluntary assisted dying oversight board

Clause 38 Information to be kept by board about requests for, or access to, voluntary assisted dying—Act, s 119 (1) (d)

This clause provides the list of information that must be collected and maintained by the voluntary assisted dying oversight board. It requires information related to the volume of individuals who underwent different stages of the voluntary assisted dying process and de-identified demographic information.

The information required by this clause supports the functions of the voluntary assisted dying oversight board to monitor the operation of the Act, public reporting obligations, and advising about improvements of the processes and safeguards for the voluntary assisted dying scheme.

Clause 39 Number of members required for valid vote—Act, s 122 (1) (a)

This clause provides the minimum number of board members required to participate in a vote for the decision to be valid. A decision is only valid if at least the number of members that constitute the majority of the voluntary assisted dying oversight board has participated in a vote.

This ensures that decisions are made with sufficient representation and input from the board, supporting legitimacy and accountability in board governance.

Clause 40 Number of votes required for valid decision—Act, s 122 (1) (b)

This clause provides the number of votes required for a board decision to be valid. A decision is only valid if it is supported by the number of votes that constitutes a majority of the votes cast by the number of members present. This clause in addition to clause 39 determines how a decision of the voluntary assisted dying oversight board is valid. It ensures that decisions reflect a majority consensus.

Part 8 Review of coordinating practitioner, consulting practitioner and administering practitioner decisions

Clause 41 Information for reviewable decision notice—Act, s 135 (1)

This clause provides the information that must be included in a notice issued to an affected person when a reviewable coordinating practitioner, consulting practitioner

and administering practitioner decision is made under the Act. The list of relevant reviewable decision is outlined in schedule 1 of the Act.

The notice must include what the decision was and who made it. It must also advise the affected person that they may apply to the ACAT for a review of the decision, as well as outline how an application may be made to ACAT.

This clause ensures that affected individuals are properly informed of their rights and the process for seeking review, thereby supporting accountability and access to justice within the voluntary assisted dying scheme.

Part 9 Miscellaneous

Clause 42 Information for application for residency exemption—Act, s 154 (2) (c)

This clause provides the information that must be provided by an individual applying for a residency exemption. The residency exemption allows individuals who do not meet the standard residency criteria to access voluntary assisted dying in the ACT, provided they can demonstrate a substantial connection to the ACT.

This clause ensures that sufficient and relevant information is provided to enable a decision to be made on whether the individual has a substantial connection to the ACT.

Clause 43 Requirements for counsellors—Act, s 155 (3), def relevant health professional, par (a)

This clause prescribes the qualification requirements for a counsellor to be considered a 'relevant health professional' under section 155 of the Act. Specifically, it requires that the counsellor must hold qualifications which provide eligibility for registration as a practising counsellor with the Australian Counselling Association Limited.

A counsellor meeting the qualification requirements under this clause must ensure they comply with the requirements under section 155 of the Act when raising voluntary assisted dying as an end-of-life option with an individual.

This clause ensures that counsellors captured by the requirements are appropriately qualified and clearly scoped. Holding qualifications providing eligibility for practicing registration with the Australian Counselling Association provides assurance that only counsellors who have the skills and qualifications to be practicing are captured by these obligations. By excluding non-practising registrations, the clause ensures that only active professionals are qualified.

Clause 44 Requirements for social workers—Act, s 155 (3), def relevant health professional, par (c)

This clause prescribes the qualification requirements for a social worker to be considered a 'relevant health professional' under section 155 of the Act. Specifically, it requires that the social worker must hold a qualification that provides eligibility for a practising membership with the Australian Association of Social Workers Limited.

A social worker meeting the qualification requirements under this clause must ensure they comply with the requirements under section 155 of the Act when raising voluntary assisted dying as an end-of-life option with an individual.

This clause ensures that social workers captured by the requirements are appropriately qualified and clearly scoped. Holding qualifications that provide eligibility for a practicing membership with the Australian Association of Social Workers Limited provides assurance that only social workers who have the skills and qualifications to be practicing are captured by these obligations. By excluding student and retirement memberships, the clause ensures that only active professionals are qualified.

Clause 45 Requirements for other health professionals—Act, s 155 (3), def relevant health professional, par (d)

This clause provides an additional category of professional to be considered a 'relevant health professional' under section 155 of the Act. Specifically, it prescribes requirements for speech pathologists when raising voluntary assisted dying as an end-of-life option with an individual in certain circumstances.

This clause captures speech pathologists who hold qualifications that provides eligibility for a practising membership with the Speech Pathology Association of Australia Limited. This ensures that appropriately qualified and clearly scoped speech pathologists, intending to raise voluntary assisted dying as an end-of-life option, must comply with the requirements under section 155 of the Act. Holding qualifications that provide eligibility for a practicing membership with the Speech Pathology Association of Australia Limited provides assurance that only speech pathologists who have the skills and qualifications to be practicing are captured by these obligations. By excluding non-practising memberships, the clause ensures that only active professionals are qualified.

Speech pathologists have been specifically identified in this clause because they are among the most likely health professionals other than those already listed in section 155 of the Act to encounter individuals who may be exploring or be eligible for voluntary assisted dying. Speech pathologists frequently work with individuals who have communication impairments, including those with neurodegenerative conditions or terminal illnesses. Speech pathologists may be among the first or only health professional an individual diagnosed with an eligible condition for voluntary assisted dying engages with.

Dictionary

The Dictionary sets out definitions for this Regulation.