## SHPA ACT Branch Committee submission to voluntary assisted dying in the ACT consultation, April 2023

The Society of Hospital Pharmacists of Australia (SHPA) is the national, professional organisation for the 6,100+ Hospital Pharmacists, and their Hospital Pharmacist Intern and Hospital Pharmacy Technician colleagues working across Australia's health system, advocating for their pivotal role improving the safety and quality of medicines use. Embedded in multidisciplinary medical teams and equipped with exceptional medicines management expertise, SHPA members are progressive advocates for clinical excellence, committed to evidence-based practice and passionate about patient care.

Hospital pharmacists may well be a first point of contact for a person requesting information and guidance around voluntary assisted dying or may be directly involved in providing the associated substances. SHPA's ACT Branch Committee supports voluntary assisted dying being legalised in the ACT and welcomes the opportunity to provide feedback to this consultation.

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

**Consultation questions**

### Eligibility criteria

1. **What should the eligibility criteria be for a person to access voluntary assisted dying?**

The eligibility criteria should be in line with that of other jurisdictions such as having an eligible condition, having decision-making capacity, acting voluntarily without pressure and the person being at least 18 years of age.

As with voluntary assisted dying laws across other Australian jurisdictions, the condition must be either advanced, progressive, irreversible or incurable.

2. **What kind of suffering should a person be experiencing or anticipating in order to be eligible to access voluntary assisted dying?**

SHPA ACT Branch Committee does not believe that all treatment options must be exhausted prior to accessing voluntary assisted dying as this could prolong suffering caused by treatment. It may be challenging for medical practitioners to differentiate between suffering caused by the health condition itself, or the existential or psychological feelings about their condition or end of their life.

3. **Should a person be expected to have a specified amount of time left to live in order to be eligible to access voluntary assisted dying? If so, what timeframe should this be? Should there be a different timeframe for different conditions, for example for neurodegenerative disorders? If there is no timeframe required, what should a prognosis be instead?**

A specified amount of time could prevent access for those who are nearing the end of their life but do not yet meet the specified timeframes. In addition, it is challenging for medical practitioners precisely determine the time left to live.

4. **How should a person's decision-making capacity be defined or determined in relation to voluntary assisted dying?**

A medical practitioner should determine if the person's disease prevents them from making important decisions and can affect capacity. A second medical opinion should be able to be sought in instances where the person does not agree with the outcome of their assessed capacity.

5. **Should voluntary assisted dying be restricted to people above a certain age (for example, people 18 and over)?**

SHPA ACT Branch Committee believes that access to voluntary assisted dying should be offered to all people over 18 years of age, provided they meet the eligibility criteria. The use of a tribunal or other legal process is recommended if eligibility or capacity is not clear or conflicting.

If access to voluntary assisted dying is considered for people under the age of 18 in the ACT, specific care needs to be given to ensuring all other criteria is met. Decisions will likely require support from a tribunal or the legal system, and involvement from legal guardians.

6. **Should a person be an Australian citizen or a long-term resident of Australia to access voluntary assisted dying in the ACT?**

No comment.

7. **Given every Australian state now has voluntary assisted dying laws, is there any need for voluntary assisted dying in the ACT to be restricted to people who live in or have a close connection to the ACT?**

Given that voluntary assisted dying is available in all states, SHPA ACT Branch Committee does not deem this to be necessary.

8. **What process should be in place in the ACT to ensure that an eligible person's access to voluntary assisted dying is safe and effective?**

Pharmacists are involved in the safe handling and storage of substances used in voluntary assisted dying. To safeguard the public and prevent diversion, the dispensing and process needs to be clear and standardised.

Pharmacists may also be involved in counselling person accessing voluntary assisted dying on the substance, therefore clear information regarding administration and counselling points should be provided as an educational tool for pharmacists providing this service.

9. **If a coordinating health professional or consulting health professional declines to be involved in a person's request for voluntary assisted dying, should they be required to take any particular action?**

SHPA ACT Branch Committee believes that there is an obligation and duty of care for the health professional to refer the person to another practitioner or service. In terms of health services, each health service should have a position on voluntary assisted dying and offer its staff clear instruction on their obligations and expectations. This should include what an individual practitioner is expected to do if they work for a health service which supports voluntary assisted dying but they themselves object personally.

10. **Should witnesses be required for a person's formal requests for voluntary assisted dying? If so, who should be permitted to be a witness?**

No comment.

11. **Should the process for seeking access to voluntary assisted dying require that a person take time to reflect (a 'cooling off' period) before accessing voluntary assisted dying?**

No comment.

**12. Should a person have a choice between self-administration and administration by an administering health professional of a voluntary assisted dying substance?**

Self-administration should be an available option for oral administration. Practically, the option of self-administration would also depend on the nature of the medication regime. Some people may have swallowing difficulties or unable to take oral formulations for other reasons so may need to utilise intravenous substances.

If the substance is to be administered intravenously, this could prove challenging for someone not trained to do so and so a health professional may be better placed to assist to ensure the process is carried out effectively. If substances are to be given in a sequential order, this could prove difficult if a preceding substance causes drowsiness, making subsequent dosing problematic.

**13. Should one method of administration be prescribed as the default option, or should methods differ depending on the circumstances? Does this need to be prescribed in legislation, or is it a matter best determined between the registered medical practitioner and person accessing voluntary assisted dying?**

SHPA ACT Branch Committee believes the method of administration should be determined after discussions between the medical practitioner and person accessing voluntary assisted dying. Practicalities described above in the answer to question 12 must be taken into consideration.

**14. Are additional safeguards required when an eligible health professional administers the voluntary assisted dying substance (as compared with self-administration) and, if so, what safeguards would be appropriate?**

As with other jurisdictions, a witness should be present during administration to provide a further safeguard.

**15. Should administration of the voluntary assisted dying substance to an eligible person be witnessed by another person? If so, who should be permitted to be a witness?**

As with other jurisdictions, a witness should be present during administration and could include a person that the person accessing voluntary assisted dying has selected.

**16. What safeguards are necessary to determine whether or not a person has taken the voluntary assisted dying substance, and to return the voluntary assisted dying substance if it has not been taken?**

Another healthcare professional could perform a second check to confirm if the substance has been taken or not. Any unused medicine must be returned to the supplying pharmacy. Records at the pharmacy should record the amount that was returned.

## The role of health professionals

**17. Who should be permitted to be a person's coordinating health professional or consulting health professional? For example, a registered medical practitioner, a nurse practitioner, or someone else?**

As outlined in the consultation paper, a small jurisdiction like the ACT has limited health resources and a relatively small workforce and so narrow qualification requirements may hinder access to voluntary assisted dying. This must be considered alongside requirements such as minimum experience and expertise.

**18. What minimum qualification and training requirements should there be for health professionals engaged in the voluntary assisted dying process?**

As above, this must be balanced with the limitations to access.

**19. Which health professionals should be able to administer the voluntary assisted dying substance? For example, a registered medical practitioner, a nurse practitioner, registered nurse, or someone else?**

As with other states, a registered medical practitioner and nurse should be able to administer the voluntary assisted dying substance. However, whether this is a nurse practitioner only or can include a registered nurse would depend on the available workforce as not to limit access.

**20. Should registered health practitioners or other health professionals be free to initiate a discussion about voluntary assisted dying, providing information alongside other treatment and management options such as palliative care, where appropriate?**

As with other jurisdictions, if the person brings up the topic of voluntary assisted dying, registered health practitioners should be able to provide further information. This can limit access to those with low levels of health literacy or those with cultural or religious reasons which may prevent them from raising the topic.

Consideration should be given to the medical practitioner presenting all available treatment options, which could be interpreted as including the option of palliative care as well as voluntary assisted dying, as is the case in Western Australia, Queensland and New South Wales.

**21. Should health professionals be required to provide certain information to a person who asks about voluntary assisted dying, in addition to providing information about other treatment and management options such as palliative care?**

If the person asks about voluntary assisted dying, health professionals should be required to provide this information as would be the case for all other treatment options. Where they conscientiously object or are not able to assist, the person must be referred to a colleague or a voluntary assisted dying helpline that can assist them with their request.

**22. What categories of persons or professions should be permitted to conscientiously object to being involved in voluntary assisted dying? Should this be limited to registered health practitioners?**

All registered health professionals should be able to conscientiously object to being involved in voluntary assisted dying. At a minimum, registered medical practitioners, registered nurses or pharmacists should be able to conscientiously object given that they are involved in the direct and physical process of voluntary assisted dying. Consideration may need to be given to pharmacy technicians who may also be involved in the process of dispensing or coordinating supplies.

**23. Should health professionals who conscientiously object or who choose to not participate in the voluntary assisted dying process be required to declare their objection or nonparticipation to a person who is or may be interested in accessing voluntary assisted dying?**

Declaring the objection should not be necessary, in line with other jurisdictions.

**24. Should health professionals who conscientiously object to voluntary assisted dying be required to refer a person to other health professionals? Is there anything else that health professionals should be required to do if they conscientiously object, such as provide certain information about voluntary assisted dying?**

As with the answer to question 21, SHPA ACT Branch Committee believes that the person should be referred to someone who can assist.

## The role of health services

**25. Should a health service be permitted to not facilitate voluntary assisted dying at its facilities, for example at a residential aged care facility, a hospital, or accommodation for people with a disability?**

No comment.

**26. If a health service wishes to not facilitate voluntary assisted dying at its facilities, what is the minimum the provider should be required to do so that a person's access to voluntary assisted dying is not hindered?**

No comment.

## Death certification and notification

**27. Should information about the Registrar-General's discretion for death certificates under section 44 of the Births Deaths and Marriages Registration Act 1997 (ACT) be made available to families who may require support after a person dies by accessing voluntary assisted dying?**

A similar approach could be considered to that of New South Wales and Victoria, which requires voluntary assisted dying to be referred on the death register as the 'manner' causing death, and a person's underling condition noted as the cause'.

**28. What should be recorded as the cause and manner of death for a person who has died by accessing voluntary assisted dying?**

As above, for question 27.

## Oversight, reporting and compliance

**29. What sort of oversight mechanisms are needed to ensure voluntary assisted dying is safe and effective? In particular, should oversight focus more on retrospective compliance or prospective approval? Should oversight mechanisms be independent from government?**

An independent statutory authority with responsibility for monitoring the voluntary assisted dying system and the operation of the legislation should be appointed like other jurisdictions. For example, like the Voluntary Assisted Dying Review Board in Victoria.

**30. If an oversight body is established, should this body review or approve compliance with key stages in the voluntary assisted dying process as a person is progressing through the process? If so, what should these key stages be?**

Yes. Key stages would include the healthcare professional reporting the initial conversation the person has about accessing voluntary assisted dying, when they prescribe, dispense and supply a voluntary assisted dying substance, when that substance is administered and when excess substance has been returned to the pharmacy.

**31. Should mechanisms be available to review the decisions of a coordinating health professional or consulting health professional in relation to a person's eligibility to access voluntary assisted dying? If so, what kind of mechanisms, and what aspects of health professionals' decisions should be reviewable?**

Thorough review of each stage of the process needs to be balanced against hindering access and progression through the voluntary assisted dying process. As with some other jurisdictions, an independent body could review reports submitted periodically so that the process can continue and give the person smoother access to voluntary assisted dying.

**32. What protections might be necessary for health professionals, and potentially others, who act in accordance with voluntary assisted dying legislation in good faith and without negligence?**

The ACT would need to create protections from criminal and civil liability for a person who facilitates or is involved in voluntary assisted dying in accordance with legislation. Professional codes of conduct may need to be amended to reflect this.

**33. Should there be specific offences for those who fail to comply with these requirements?**

Offences may include submitting false reports, failing to submit reports if requested, accessing a voluntary use substance outside of the lawful process, failure of the nominated person to return unused substance to the pharmacy within a specified time period.

## Other issues

**34. What other laws might need to change in the ACT to enable effective access to voluntary assisted dying?**

Legalising voluntary assisted dying in the ACT may require consequential amendments to other ACT laws dealing with suicide to protect health care professionals acting in accordance with voluntary assisted dying legislation.

**35. Are there experiences elsewhere in Australia or internationally that the ACT might usefully learn from in the development of its own approach to voluntary assisted dying?**

No comment.

**36. Are there any other matters you think should be considered in implementing voluntary assisted dying in the ACT?**

As with other jurisdictions, a locked container would be a safe approach not only in the supply of voluntary assisted dying substances but also when returning unused substances. The container should be tamper-proof as well as having substances clearly labelled with warnings on the dangers of ingesting the substance.

Clarity is required on if the voluntary assisted dying program will be implemented state-wide across both ACT hospitals or through a single hospital. This will then in turn affect the model for pharmacy and supply of the substances. SHPA ACT Branch Committee recommends a single site for supply and distribution of voluntary assisted dying substances in the ACT, in order to maintain clear governance and process structures.

Where hospital pharmacists are involved in voluntary assisted dying programs, there needs to be consideration given to the associated services required such as specialist storage of these substance, many of which are scheduled medicines, as well as organising distribution and precautions to safeguard the public from any risks of diversion. Record keeping and processes for returning, and destruction of unused substances must also be standardised.

Pharmacists must also give the necessary warnings and counselling points for the substance to the person accessing voluntary assisted dying. In addition, the voluntary assisted dying program would require a dedicated team of pharmacists to organise and manage this service. This would require training and upskilling of the existing pharmacy workforce in order to develop the specialist skills required to work in this highly specialised area.

SHPA anticipates that appropriate funding and service provision is considered for the pharmacy workforce required prior to implementing this service in the ACT.