

Appendix

Comparative analysis of assisted dying legislation

This document sets out a comparative analysis of assisted dying legislation across four jurisdictions:

- Assisted Dying for Terminally Ill Adults (Scotland) Bill
- New Zealand's End of Life Choice Act 2019
- Victoria, Australia's Voluntary Assisted Dying Act 2017
- Western Australia's Voluntary Assisted Dying Act 2019

It presents a comparison of data across the following areas: eligibility criteria, procedural steps, safeguards, penalties and legal protections, roles and competency, competency of patient, detailed medical assessment process, detailed eligibility requirements for medical practitioners performing second assessments, administration of drug, introduction to the procedure, prevention of coercion, and Acts including the role of an Assisted Dying Advocate.

Detailed Eligibility Requirements for Medical Practitioners Performing Second Assessments

Key areas of difference are highlighted in yellow.

Eligibility criteria – age

Criterion	Scotland	New Zealand	Victoria	Western Australia
Age Requirement	16 years or older	18 years or older	18 years or older	18 years or older
Residency Requirement	Resident for at least 12 months	NZ citizen/permanent resident	Resident of Victoria	Resident of Western Australia
Medical Condition	Terminal illness causing death within 6 months	Terminal illness likely to end life within 6 months	Terminal illness causing death within 6 months	Terminal illness causing death within 6 months

Procedural steps

Step	Scotland	New Zealand	Victoria	Western Australia
Initial Request	Must be made to a doctor	Must be made in writing	Must be made to a registered doctor	Must be made to a registered doctor
Medical Assessments	Two doctors must confirm eligibility (one can be the attending doctor, one must be independent)	Two doctors must confirm eligibility (one must be the attending doctor)	Two doctors must confirm eligibility (one can be the attending doctor, one must be independent)	Two doctors must confirm eligibility (one can be the attending doctor, one must be independent)
Waiting Period	14 days (can be reduced to 48 hours)	No standdown time – just 48 hours to prepare medication	9 days	9 days

Step	Scotland	New Zealand	Victoria	Western Australia
Final Request	Must be confirmed by a second declaration	Must be made in presence of a witness	Must be confirmed in writing	Must be confirmed in writing

Safeguards

Safeguard	Scotland	New Zealand	Victoria	Western Australia
Witness Requirement	Two witnesses	Two witnesses	Two witnesses	Two witnesses
Conscientious Objection	Yes, for all clinical practitioners	Yes, for all clinical practitioners	Yes, for all clinical practitioners	Yes, for all clinical practitioners
Reporting Mechanisms	Yes, annual reports required	Yes, annual reports required	Yes, annual reports required	Yes, annual reports required

Penalties and legal protections

Aspect	Scotland	New Zealand	Victoria	Western Australia
Penalties for Coercion	Yes, criminal penalties	Yes, criminal penalties	Yes, criminal penalties	Yes, criminal penalties
Legal Protections for Practitioners	Yes, if following the law	Yes, if following the law	Yes, if following the law	Yes, if following the law

Roles and competency

Aspect	Scotland	New Zealand	Victoria	Western Australia
Role of Nurses	Assist under the direction of a doctor	Assist under the direction of a doctor Can administer medication IV/NG	Assist under the direction of a doctor	Assist under the direction of a doctor
Role of Doctors	Assess eligibility, prescribe drugs, and administer drugs	Assess eligibility, prescribe drugs, and administer drugs	Assess eligibility, prescribe drugs, and administer drugs	Assess eligibility, prescribe drugs, and administer drugs
Competency Requirements	Must ensure patient is competent and informed	Must ensure patient is competent and informed at time of administration	Must ensure patient is competent and informed at time of prescription	Must ensure patient is competent and informed

Competency of patient

Aspect	Scotland	New Zealand	Victoria	Western Australia
Definition of Competency	Ability to understand, retain, and use information to make an informed decision	Ability to understand, retain, and use information to make an informed decision	Ability to understand, retain, and use information to make an informed decision	Ability to understand, retain, and use information to make an informed decision
Assessment of Competency	Two doctors, including a specialist if necessary	Two doctors, including a psychiatrist if necessary	Two doctors, including a psychiatrist if necessary	Two doctors, including a specialist if necessary
Support for Decision Making	Must provide necessary support to help patient understand	Must provide necessary support to help patient understand	Must provide necessary support to help patient understand	Must provide necessary support to help patient understand
Criteria for Competency	No severe mental impairment affecting decision-making	No severe mental impairment affecting decision-making	No severe mental impairment affecting decision-making	No severe mental impairment affecting decision-making
Duration of Competency Order	Valid throughout the process, reassessed before final administration	Valid throughout the process, reassessed before final administration	Valid for 3 months, reassessed before final administration	Valid throughout the process, reassessed before final administration

Detailed medical assessment process

Medical Assessments

Aspect	Scotland	New Zealand	Victoria	Western Australia
Initial Assessment	Performed by the attending doctor	Performed by the attending doctor	Performed by the attending doctor	Performed by the attending doctor
Second Assessment	Independent doctor must confirm eligibility	Second doctor must confirm eligibility	Independent doctor must confirm eligibility	Independent doctor must confirm eligibility
Eligibility Criteria	Both doctors must agree on terminal illness and competency	Both doctors must agree on terminal illness and competency	Both doctors must agree on terminal illness and competency	Both doctors must agree on terminal illness and competency
Specialist Consultation	Required if there is any doubt about competency or diagnosis	Required if there is any doubt about competency or diagnosis	Required if there is any doubt about competency or diagnosis	Required if there is any doubt about competency or diagnosis

Aspect	Scotland	New Zealand	Victoria	Western Australia
Reassessment	Required before final administration	Required before final administration	Required before final administration	Required before final administration
Documentation	Detailed documentation of all assessments required	Detailed documentation of all assessments required	Detailed documentation of all assessments required	Detailed documentation of all assessments required
Mental Health Assessment	Mandatory if any doubt about mental capacity	Mandatory if any doubt about mental capacity	Mandatory if any doubt about mental capacity	Mandatory if any doubt about mental capacity
Patient Support	Must ensure patient understands all options	Must ensure patient understands all options	Must ensure patient understands all options	Must ensure patient understands all options

Competency and Expiry of Order

Aspect	Scotland	New Zealand	Victoria	Western Australia
Initial Competency Determination	Both doctors must agree on patient competency	Both doctors must agree on patient competency	Both doctors must agree on patient competency	Both doctors must agree on patient competency
Reassessment for Competency	Required at various stages of the process	Required at various stages of the process	Required at various stages of the process	Required at various stages of the process
Expiry of Competency Order	Valid for the entire process, reassessed before final administration	Valid for the entire process, reassessed before final administration	Valid for 3 months, reassessed before final administration	Valid for the entire process, reassessed before final administration
Criteria for Expiry	If any new information questions competency, reassessment is mandatory	If any new information questions competency, reassessment is mandatory	If any new information questions competency, reassessment is mandatory	If any new information questions competency, reassessment is mandatory
Duration of Competency Confirmation	Typically confirmed within the last 7 days before administration	Typically confirmed within the last 7 days before administration – and at point of administration	Typically confirmed within the last 7 days before administration	Typically confirmed within the last 7 days before administration

Detailed eligibility requirements for medical practitioners performing second assessments

Victoria Assisted Dying Act 2017

Requirement	Description
Registration	Must be a registered medical practitioner in Victoria.
Experience	Must have practiced for at least 5 years after completing fellowship with a specialist medical college or vocational registration.
Training	Must have completed approved assessment training.
Specialization	Must have relevant expertise and experience in the disease, illness, or medical condition expected to cause the death of the person being assessed.
Independence	Must be independent from the coordinating medical practitioner and not have any conflicts of interest.

New Zealand End of Life Choice Act 2019

Requirement	Description
Registration	Must be a registered medical practitioner in New Zealand.
Experience	Must have practiced for at least 5 years after registration.
Training	Must have completed specific training related to end-of-life care.
Specialization	Not explicitly required, but relevant experience in end-of-life care preferred.
Independence	Must be independent from the attending medical practitioner.

Assisted Dying for Terminally Ill Adults (Scotland) Bill

Requirement	Description
Registration	Must be a registered medical practitioner in Scotland.
Experience	Must have practiced for at least 5 years.
Training	Must have completed specific training related to assisted dying.
Specialization	Not explicitly required, but relevant experience in end-of-life care preferred.
Independence	Independent from the attending doctor and the patient's family.

Western Australia Voluntary Assisted Dying Act 2019

Requirement	Description
Registration	Must be a registered medical practitioner in Western Australia.
Experience	Must have practiced for at least 5 years after completing specialist training or vocational registration.
Training	Must have completed approved training related to voluntary assisted dying.
Specialization	Must have relevant expertise and experience in the medical condition expected to cause death.
Independence	Must be independent from the coordinating medical practitioner and not have any conflicts of interest.

Administration of drug

Aspect	Scotland	New Zealand	Victoria	Western Australia
Method of Administration	Oral	Oral, nasogastric, or intravenous	Oral, nasogastric, or intravenous	Oral, nasogastric, or intravenous
Types of Drugs Used	Specified by regulation	Specified by regulation;	Specified by regulation	Specified by regulation

Introduction to the procedure

Aspect	Scotland	New Zealand	Victoria	Western Australia
Introduction by Health Professional	Health professional can discuss if patient inquires, not actively introduce	Health professional can discuss as part of end-of-life care options only if directly asked by individual, not actively introduce	Health professional can discuss as part of end-of-life care options, not actively introduce	Health professional can discuss if patient inquires, and provide information proactively in specific circumstances
Part of Palliative Plan	Yes, can be included as part of a broader palliative care plan	Yes, can be included as part of a broader palliative care plan but only if initiated by individual. Cannot be put on the table	Yes, can be included as part of a broader palliative care plan	Yes, can be included as part of a broader palliative care plan
Patient Inquiry	Patient must express interest	Patient must express interest	Patient must express interest	Patient must express interest, but health professionals can also provide information proactively if relevant

Prevention of coercion

Mechanism	Scotland	New Zealand	Victoria	Western Australia
Multiple Assessments	Yes, two doctors must confirm eligibility independently	Yes, two doctors must confirm eligibility independently	Yes, two doctors must confirm eligibility independently	Yes, two doctors must confirm eligibility independently
Witness Requirements	Two independent witnesses must attest to the voluntary nature of the request	Two independent witnesses must attest to the voluntary nature of the request	Two independent witnesses must attest to the voluntary nature of the request	Two independent witnesses must attest to the voluntary nature of the request
Mental Health Assessment	Required if there is any doubt about	Required if there is any doubt about	Required if there is any doubt about	Required if there is any doubt about

Mechanism	Scotland	New Zealand	Victoria	Western Australia
	the patient's mental capacity	the patient's mental capacity	the patient's mental capacity	the patient's mental capacity
Cooling-Off Period	14 days (can be reduced to 48 hours in urgent cases)	None	9 days	9 days
Legal Penalties	Severe criminal penalties for coercion or undue influence	Severe criminal penalties for coercion or undue influence	Severe criminal penalties for coercion or undue influence	Severe criminal penalties for coercion or undue influence
Voluntary Confirmation	Patient must reconfirm their request multiple times	Patient must reconfirm their request multiple times	Patient must reconfirm their request multiple times	Patient must reconfirm their request multiple times
Data Collection and Reporting	Mandatory reporting and review to identify patterns or concerns	Mandatory reporting and review to identify patterns or concerns	Mandatory reporting and review to identify patterns or concerns	Mandatory reporting and review to identify patterns or concerns

Dr Sandra Lucas

Dr Sandra Lucas is a Senior Lecturer in adult nursing at University of the West of Scotland, combining her extensive academic and clinical experience to influence the future of nursing and palliative care.

Dr Lucas's career spans several significant roles, including Senior Clinical Educator at Banksia Palliative Care where she was instrumental in developing educational programs and clinical policies for the sole Victorian State Government-funded community palliative care service for three local government areas. Her expertise extends to guiding clients through their assisted dying journeys, providing compassionate and informed support during their end-of-life care.

Her research focuses on complementary and alternative medicine, and she has published extensively in peer-reviewed journals. Dr Lucas is actively involved in several research projects, including a systematic review on the use of cannabinoids in palliative care and investigating antibiotic use in Scotland. She has been recognised with several research grants and awards and regularly presents her work at international conferences.

As a committed educator and researcher, Dr Lucas continues to contribute to the advancement of palliative care. She emphasises the integration of comprehensive and compassionate care practices in clinical settings, ensuring that patients receive holistic support during their end-of-life journey.

Dr Rhona Winnington

Dr Rhona Winnington is a Senior Lecturer in adult nursing at the University of the West of Scotland, is a registered nurse and sociologist, with a particular interest in patient choice related to death, dying and end-of-life care within the context of institutional hierarchies.

Dr Winnington has a clinical background in community palliative care nursing in New Zealand, and prior to this, emergency nursing in Manchester, UK, bringing first hand experience to her research focus. Specifically, Dr Winnington's most recent work has focused on the implementation of the End-of-Life Choice Act (2019) in New Zealand and the impact this legislation has on individuals, families, clinicians and communities beyond the right-to-die

narrative. She has supported - and continues to work with - residential aged care providers in New Zealand, guiding assisted dying policy development, support networks and education provision. Dr Winnington is actively involved in a number of research projects, including a systematic review on the use of cannabinoids in palliative care, and the developmental work to support timely symptom management for those choosing to die at home within the Dumfries and Galloway region of Scotland.

Dr Winnington has been in receipt of a number of research grants, has a significant publication record, has presented at conferences internationally, and developed an integrated approach to teaching care of the dying across undergraduate and postgraduate pre and post registration nursing programmes in New Zealand.