

Voluntary assisted dying: presentation at the Queensland pastors' conference

Russell Briese

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This paper builds on my writing from January 2023 ('Offering pastoral care to those seeking voluntary assisted dying, their family and friends in Queensland'). When I was invited to speak to the Queensland pastors' conference in May 2023 on the topic of voluntary assisted dying—or VAD—my initial assumption was that I would simply flesh out the initial paper. But as it happened, by the time only a few months had passed, it became evident that there were significant additions to be made. Indeed, we are learning as we go.

The initial paper was written in preparation for the advent of VAD in Queensland. Significantly already only a few weeks into 2023, Lutheran Services has had actual experience of processing a request and execution of VAD within their residential aged care system. In plain language, one person has already chosen to end their life within one of our facilities.

Obviously, who it was, and where it was, and circumstances surrounding this case are not for public distribution. But I am able to engage with this as an example, and thereby bring a better understanding of how this may or does actually play out within our church context.

In this case, and this is likely to be the process Lutheran Services continues to follow, the request for VAD was immediately escalated to the site manager. The site manager took contact with the Executive Lead - Aged Care, who met regularly with the CEO and me as Director of Chaplaincy throughout the process.

A person seeking VAD goes through a type of discernment process, and as with anyone seeking a way forward in life, their aspirations and possibilities change along the way. Indeed, if someone raises the topic of VAD, it does not mean that they will carry it out. In fact, in Victoria, where VAD came in before it did in Queensland, something like 30% of the people who received the medication never used it. Having the potion in their possession acted as a type of 'security blanket' and opened the door to an option they never saw through to completion for one reason or another. Additionally, some 30% did not complete the process because they died in the meantime.¹

The *modus operandi* throughout the process in Lutheran Services—whereby the Executive Lead - Aged Care, the CEO and I continued to remain in touch over how things were

¹ Safer Care Victoria - Voluntary Assisted Dying Review Board, *Report of operations: July 2021 to June 2022* (Melbourne: The Victorian Government, 2022), <https://www.safercare.vic.gov.au/reports-and-publications/voluntary-assisted-dying-report-of-operations-july-2021-to-june-2022>.

proceeding, working with the site manager, who had local oversight of the situation—proved a good strategy. The wisdom in this is to *not go it alone*. Medically that is the case, and it should be so pastorally too. That will dissipate risk and provide support along the way for all, including pastoral carers.

The resident was offered pastoral care, the services of an on-site chaplain. In this case, the person did not choose to engage with the chaplain, which is their right. However, the chaplain came into their own *postmortem*, invited into the extensive debrief with staff in the aged care facility. It may be that it is not likely we are called on to minister directly to a VAD candidate, but more likely to those left behind, and even health care professionals during the days and weeks along the way. Such events do and can give rise to moral distress and injury for those who surround such a process.

It will be appreciated that confidentiality is an important matter, although in any care facility, various staff will need to know and come to realise what is transpiring, so that regular care can be continued.

As above, the most significant role of the site chaplain in this situation came to be pastoral care of the staff. One thing that did not enter my initial paper, but became clear since this death, is that trauma is the most significant issue that we are likely to deal with. Like those who lose someone to suicide, the VAD process can cause significant trauma to the individual.

So even if pastors are not asked to offer pastoral care to someone undertaking VAD, the significance of the event for family and friends who are left behind, and medical staff who have had to deal with this issue may be what requires our pastoral assistance.

A question asked by chaplains in Lutheran Services was to clarify the church's position on VAD. Residents and staff alike will look to pastoral carers to articulate what 'the church' makes of it all. The LCA does have a position paper on euthanasia in the so-called Doctrinal Statements and Theological Opinions,² although the Queensland legislation considers 'a person who dies as the result of the self-administration or administration of a voluntary assisted dying substance in accordance with this Act...does not die by suicide', but 'is taken to have died from the disease, illness or medical condition...from which the person suffered'.³

The LCAQD's submission to the Queensland Law Reform Commission preceding the adoption of this law counselled caution, noting their view that life is a divine gift and inherently valuable.⁴ However, whatever the view of the church, since a residential aged

2 Lutheran Church of Australia, DSTO Vol 1H: Euthanasia or mercy killing (1981), <https://www.lca.org.au/departments/commissions/cticr/>.

3 Queensland Voluntary Assisted Dying Act 2021 – Section 8. The Queensland Government legislation can be accessed in full here: <https://www.legislation.qld.gov.au/view/pdf/asmade/act-2021-017>.

4 Whilst the Queensland Law Reform Commission has a policy of not publishing the submissions it receives (see <https://www qlrc.qld.gov.au/make-a-submission>), the final report (with reference to the LCAQD submission) is available: See Queensland Law Reform Commission, *A legal framework for voluntary assisted dying*, Report No 79 (State of Queensland - Queensland Law Reform Commission, May 2021), [qlrc-report-79-a-legal-framework-for-voluntary-assisted-dying.pdf](https://www qlrc-report-79-a-legal-framework-for-voluntary-assisted-dying.pdf).

care facility is a person's home, a church-run facility is not granted an organisational right of conscientious objection. Any individual working in the organisation is quite at liberty to conscientiously object, although they would be expected to continue normal care. The law does not allow any carer or medical professional, or indeed any person at all, to assist with the administration of the VAD drug.

Whatever the official position of the church is, the pastoral reality is that despite any misgivings, the LCA will need to engage with the fact that some of our members, contacts, and/or members of their family or friends may wish to explore and/or access VAD. With the legalisation of VAD, this is our new reality in almost every part of Australia.

I continue to contend, as I did in the January paper, that while we do not support VAD, we do support people.

Currently the LCA NZ is considering whether a DSTO should be formed on this topic. My own opinion is that this is unnecessary, and that we simply need to have some basic principles in place.

From our engagement as part of the LCA NZ Committee for Care, my colleague Rev Ian Lutze from Tanunda Lutheran Homes, and I, formulated these two paragraphs as a possible statement for the LCA NZ on VAD:

The LCA NZ acknowledges that the desire for voluntary assisted dying services is real for many people in our society. However, the legislated support for VAD practice raises complex issues for both secular and church organisations, particularly those organisations caring for the sick, the ageing and the dying.

The LCA NZ does not support voluntary assisted dying, but it undertakes to support all people, seeking to bring God's love to life in crucial life and death situations. Staff and volunteers in aged care and other community care settings will not participate in the processes of VAD or seek to influence decisions, as directed by state laws. But a respectful and pastoral approach will be negotiated and maintained throughout the process, extending to family members as they face imminent bereavement and the need for after-death rituals and care.

VAD laws throughout Australia are not totally uniform, and in the Queensland law, the threat of seven years' jail for anyone who 'dishonestly or by coercion, induces another person to make, or revoke, a request for access to VAD'⁵ is a threat which rightly causes pastoral carers pause for thought and makes them wonder what they can say and when.

The Act defines 'coercion' as 'intimidation or a threat or promise, including by an improper use of a position of trust or influence'.⁶

The definition of acting dishonestly is not defined in the Act, but legal advice provided to the Uniting Church in Brisbane says the ordinary meaning would apply, namely acting 'in

5 Queensland Voluntary Assisted Dying Act 2021 – Section 141 (1).

6 Queensland Voluntary Assisted Dying Act 2021 – Schedule 1: Dictionary.

an untrustworthy, deceitful, or insincere way' or 'not honestly, intending to trick people'.⁷

This suggests there would not be any reason why a pastor cannot clearly articulate the church's position on VAD from the pulpit as appropriate, or indeed to a person who enquires of them. In the latter (individual) case, the issue is really 'have they asked?' or 'are you seeking to dissuade?'

In the initial paper, I wrote relatively positively about pastors getting involved in providing pastoral care for those seeking VAD, giving reasons suggested by Dan Fleming.⁸ However, as above, the real possibility of moral damage to the pastor means we would be wise to tread carefully. Of course, the presence of a pastoral carer around a VAD process could be interpreted as complicity. And such a situation will put the pastor into a vulnerable position, and in a real sense they will be caught 'betwixt and between'. Since a pastor's absence or denial of pastoral care could communicate abandonment, even by God, a pastor needs to manage their presence or absence with equally great care.

How is this likely to affect us in parish life? Will pastors be open to conducting funerals for people who have undertaken VAD? How might this be viewed amongst congregation members? Pastors and people may not always be alerted to the circumstances surrounding death, but we will see whether the stigma associated with suicide in the past will similarly now not necessarily accompany cases of VAD.

Rev Dr Russell Briese is Director of Chaplaincy and Ministry Development, Lutheran Services, a department of the Lutheran Church of Australia, Queensland District.

7 'dishonesty (noun)', Oxford English Dictionary online, accessed 29 August 2023, <https://www.oed.com/search/advanced/Meanings?q=dishonesty&sortOption=Frequency>.

8 Daniel Fleming, 'Is presence always complicity? An analysis of presence, its moral objects, and scandal in proximity to physician-assisted suicide and euthanasia,' *Theological Studies* 82, no. 3 (Sep 2021), 505–508.