

28 January 2022

Hon. Wes Fang, MLC  
Committee Chair, Legislative Council  
Standing Committee on Law and Justice

# Response to Supplementary Question Three to Mark Green and Question Six to Dr Rachel Hughes from Legislative Council Law & Justice Committee *Voluntary Assisted Dying Bill 2021 (NSW)*

We refer to the above subject. Calvary submits the following response to the question from the Committee. We also direct the Committee to our responses to, and the material covered in, our responses to six other questions.

## Supplementary Question

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Assuming the *Voluntary Assisted Dying Bill 2021* is going to be passed by the New South Wales Parliament in its current form and having regard to:

- Clause 9 (and related provisions) - Registered health practitioners may refuse to participate in voluntary assisted dying; and
- Part 5 – Participation

what specific amendments do you propose to the Bill that would enable your organisation to continue to perform its work in the provision of Residential facilities (Part 5, Division 2) and Health care establishments (Part 5, Division 3) covered by the proposed legislation?

## Response

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This response is extracted from our response to Question 2 (Green) and 5 (Hughes).

### Clause 9

**Clause 9 needs to be amended and broadened to cover all who provide care including staff and others in community and residential care settings.** This will provide comfort to many of our carers who will have no legal recourse under the Bill if they are asked to be present at the time of the administration of a voluntary assisted dying substance in one of our homes. Clause 9 (1) (c) would give them that protection and enable them to continue to work in the residential facility in good faith.

## Part 5 – Participation

### Division 3 of Part 5

We submit that the clauses could be redrafted to give effect to what is present practice and clarify that the effect of the Division is not and cannot be to override the leadership in care of a credentialed admitting doctor.

### Division 2 of Part 5

Calvary submits that for the purposes of the Division, the deciding practitioner should be the person's usual medical practitioner or if that person is not available—another medical practitioner nominated by the person.

Non-participating residential aged care providers must not be forced to provide or to oversee the administration of the VAD substance in their homes. As noted above, Clause 89 (2) of the Bill ostensibly offers this protection. However Clause 89 (3) effectively takes away or eliminates the protections offered by Clause 89 (2) by making the protection subject to Divisions 2 and 3 of the Bill.

Under this Bill, organisations like Calvary, may clearly state, under Clause 98, that the entity does not provide, *at a residential facility services associated with voluntary assisted dying, including access to the request and assessment process or access to the administration of a voluntary assisted dying substance*. The effect of Subdivision 3, and Clause 97(2) in particular, is to force the entity's participation in the very thing they have said they will not do.

Calvary submits that if Subdivision 3 is to remain in the Bill, sub-clause (2) could be amended so that it applies to permanent residents living in the entity's residential facility before the Act comes into operation. After the Act comes into operation sub-clause (3) could apply to permanent and non-permanent residents alike.

It is submitted that this is in the public interest because it better respects the values and ethos of faith-based organisations and a plurality of views and desires in the community.



### Mark Green

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## For more information

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