

The six-month amendment could defeat the purpose of Victoria's assisted dying bill

Written by Colleen Cartwright, Professor & Director, ASLaRC Aged Services, Southern Cross University

Victoria's historic bill to legalise assisted dying passed the upper house after a marathon 28-hour sitting on November 22, 2017. The 40 MPs voted with their conscience, and the final count was 22 to 18.

The bill returns to the lower house for [final ratification of amendments](#). The original bill specified that the person requesting assistance to die should have no more than 12 months to live. This has been reduced to a much more restrictive six months.

However, people with neurodegenerative conditions, such as motor neuron disease and multiple sclerosis, can apply for assistance to die up to 12 months before their expected death. This follows medical advice that people with these conditions may not be able to give clear requests for assisted dying once they have reached the final stages of their illness.

[Read more: Four reasons Victorian MPs say 'no' to assisted dying, and why they're misleading](#)

Both the amendment and the exception give rise to a number of concerns. The first is that it is widely accepted that estimating the time a patient has to live is one of the most difficult core clinical skills. A doctor who gets this prognosis wrong could conceivably deny the patient a peaceful death. This would defeat the entire purpose of the legislation.

Overestimating time left to live

The six-month amendment brings the Victorian legislation into line with that in the US state of Oregon, on which the Victorian bill was largely based. But it's much more restrictive than in Canada, where there is no [requirement for a specific prognosis](#) as to how long a person has left to live. Canada's legislation does have other stringent eligibility criteria, such as having a terminal illness in which a natural death has become "reasonably foreseeable".

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A physician would usually be able to predict how long, on average, a patient with a specific disease is likely to live. But given all other aspects of the patient's condition at the individual level, such prognosis is often inaccurate. A review of studies [exploring predictions](#) of survival in palliative care for patients with a range of illnesses found that doctors' predictions were "frequently inaccurate". Estimates ranged from an underestimate of 86 days to an overestimate of 93 days.

[How much time have I got, doc? The problems with predicting survival at end of life](#)

[Another review](#) of similar studies concluded that doctors tended to be "overly optimistic", and that

...clinicians consistently overestimate survival [which] may affect patients' prospects for achieving a good death.

Under the Victorian bill, a patient given an "overly optimistic" prognosis of 12 months to live would not be eligible for assistance to die, but may then die before reaching the six-month threshold. That patient would, meanwhile, have had to meet all the other eligibility criteria, including suffering that cannot be relieved in any way acceptable to the patient.

This may result in patients who would have been eligible, had they received an accurate prognosis, continuing to suffer until they die, thereby depriving them of a good death.

Neurodegenerative diseases

The narrow exception to the amendment, from six to 12 months for people with neurodegenerative conditions, is also cause for concern. This amendment was made both because of possible mental deterioration, and because of the extreme difficulty of controlling pain relief for people with neurodegenerative conditions, requiring high doses of medication that

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could potentially render the person unconscious.

However, neurodegenerative diseases are not the only ones where great distress towards the end of life may make it difficult to give clear requests for assisted dying. Patients suffering from conditions such as congestive cardiac failure, chronic obstructive pulmonary disease and chronic renal (kidney) failure can be given such strong medication at the end of life, which may render them incapable of clear decision-making.

My [2004 research](#) explored factors that affect requests for euthanasia in older people with terminal illness. Of 43 people who had died in the previous 12 months, six had asked for help in ending their lives. None of them had cancer, but five had chronic obstructive pulmonary disease and found their suffering intolerable.

The current narrow amendment would not offer these patients the same extended time frame and could thus be considered to be discriminatory.

Defeating the purpose

Victoria's lower house passed the Assisted Dying Bill on 20 October 2017, by 47-37. It is expected to take effect in 2019, to allow time for discussion and resolution of all implementation issues, including what drugs can be used to assist a person to die.

Read more - [Dying a good death: what we need from drugs that are meant to end life](#)

The bill was the result of extensive and meticulous work by two Victorian government committees, consisting of many prominent Victorians, including those with experience in palliative care, medicine, nursing and the law.

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Compared with other jurisdictions that allow assisted dying, the Victorian Bill is extremely conservative in relation to the eligibility criteria and the processes that must be followed. It also contains 68 safeguards and harsh penalties for breaches of the proposed legislation. Further restrictions are unnecessary and stand to jeopardise the very purposes of the legislation.

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Read more <http://theconversation.com/the-six-month-amendment-could-defeat-the-purpose-of-victorias-assisted-dying-bill-87941>