

Rachel Stephen-Smith MLA

Minister for Health

Minister for Mental Health

Minister for Finance

Minister for the Public Service

Member for Kurrajong

RESPONSE TO QUESTION ON NOTICE**Questions on Notice Paper No 8****27 June 2025****Question No. 513****MR ANDREW BRADDOCK MLA:** To ask the Minister for Health

Will persons with Dementia who still have decision-making capacity be able to access Voluntary Assisted Dying from 3 November 2025 if the person has been (a) diagnosed with Dementia and (b) has been found to have experienced a decline in function and quality of life and (c) there are no treatments acceptable to them and (d) they consider that they are suffering intolerably, especially in “anticipation or expectation, based on medical advice, of suffering that will or might be caused by a matter mentioned” in section 11(4)(a) of the Voluntary Assisted Dying Act 2024 and (e) they have expressed to the authorised practitioner that their end-of-life choice is not to live in a state in which they have lost decision-making capacity and experienced specific forms of loss of social, physical, and mental autonomy, which is highly likely to cause distress to themselves and their families; if not, what are the reasons for not granting access to such persons, with reference to the specific part/s of the Act not complied with, as well as any general relevant issues.

MS RACHEL STEPHEN-SMITH MLA - The answer to the Member’s question is as follows:

People will be able to access voluntary assisted dying in the ACT from 3 November 2025 if they meet all the eligibility criteria and follow the process outlined in the law. Two independent authorised practitioners must determine that a person meets the eligibility criteria. A person must have decision-making capacity in relation to voluntary assisted dying throughout all stages of the process.

Section 11 of the *Voluntary Assisted Dying Act 2024* (the Act) details the eligibility requirements for voluntary assisted dying. In summary, the key criteria are that:

- A person has been diagnosed with a condition that either on its own, or in combination with other diagnosed conditions, is advanced, progressive and expected to cause death; and
- They are suffering intolerably; and
- They are acting voluntarily, without coercion and have capacity.



Determining if a person meets these criteria is a complex clinical decision which requires a thorough understanding of the person's condition, experience and wishes. There are many factors for practitioners to consider, including the type and stage of disease a person has, whether the person's functioning and quality of life have declined or are declining, what impact possible treatments may have, and their end-of-life wishes.

Practitioners must consider all the eligibility criteria together holistically. For example, a person may be suffering intolerably, including the expectation or anticipation of suffering (Section 11(4) (a) (ii)). However, the practitioner must also determine if the condition is advanced as described in Section 11(3). Of relevance to your question is whether the person is approaching the end of their life (Section 11 (3) (c) and Section 11 (6)).

When considering if a person is approaching the end of their life, an authorised practitioner must make a clinical determination, which would include considering the person's diagnosis, expected disease trajectory, functioning and quality of life, desire to continue or cease treatments, and experience of suffering. A person who is diagnosed with a terminal condition that is expected to deteriorate over the course of many years, but whose functioning and quality of life has not declined at time of assessment may not be found to be eligible for voluntary assisted dying because the condition is not considered to be advanced. Practitioners will carefully consider each person's condition and wishes on a case-by-case basis.

Importantly, voluntary assisted dying exists alongside high-quality palliative, geriatric and mental health care. Practitioners will work with a person's clinical team to provide appropriate care to alleviate suffering whether the person is eligible for voluntary assisted dying or not.

The government's intent in removing the strict timeframe to death is to avoid the many challenges associated with the strict 6 to 12-month timeframe imposed in other Australian jurisdictions. At the same time, the ACT framework ensures voluntary assisted dying remains an end-of-life choice to end intolerable suffering for a person whose terminal, progressive condition is advanced and is expected to cause their death.

The Voluntary Assisted Dying Taskforce is developing comprehensive training, clinical guidelines and establishing a community of practice to support authorised practitioners in their clinical decision making in relation to undertaking eligibility assessments in relation to voluntary assisted dying.

Approved for circulation to the Member and incorporation into Hansard.



Rachel Stephen-Smith MLA
Minister for Health

Date: **23 | 7 | 25**

This response required 210 minutes to complete, at an approximate cost of \$410.84.