

# Voluntary assisted dying in aged care: Roles and obligations of allied health professionals and enrolled nurses

Voluntary assisted dying (VAD) is legal in all Australian States. The Australian Capital Territory and the Northern Territory do not currently have VAD laws.

Under the States' VAD laws, allied health professionals and enrolled nurses may have specific roles, and legal rights and obligations.

## This factsheet explains:

- **the roles allied health professionals and enrolled nurses may have in VAD, and**
- **allied health professionals' and enrolled nurses' legal rights and obligations relating to VAD.**

These roles and obligations differ depending on the type of health professional, whether they are a registered health practitioner or not, and the State they practise in.

This factsheet is for:

- **allied health professionals who are registered under the *Health Practitioner Regulation National Law*** e.g. psychologists, paramedics, Aboriginal and Torres Strait Islander health practitioners, physiotherapists, occupational therapists, and pharmacists ('registered allied health professionals'),
- **non-registered allied health professionals** e.g. speech pathologists, dietitians, social workers, and Aboriginal and Torres Strait Islander health workers, and
- **enrolled nurses.**

It is relevant to allied health professionals and enrolled nurses working across health settings, including in residential aged care facilities (RACFs), home care, palliative care, primary care, hospitals, and other health services. The focus however is on VAD in the context of aged care and home care. VAD laws are discussed as though they have commenced in all States.

## Important information

VAD laws in each State are similar, but there are key differences. As a starting point, read the **End of Life Law Toolkit factsheet *Overview of Voluntary Assisted Dying*** (<https://www.eldac.com.au/tabid/5757/Default.aspx>) to understand the eligibility criteria a person must meet to access VAD, processes to access VAD, administration of VAD medication, and VAD safeguards.

Learn more about the law on VAD in each State at ***End of Life Law in Australia***. (<https://end-of-life.qut.edu.au/assisteddying>)

## How does VAD fit into aged care, palliative care and other end of life care?

VAD is an end of life option that a person receiving aged care or home care may choose, provided they meet the eligibility criteria set out in their State's VAD legislation.

Many people who choose to access VAD also receive palliative care. A person accessing VAD will continue to receive palliative care and medical treatment, and access end of life care services e.g. specialist palliative care, social work, spiritual care up until their death.

VAD is distinct from palliative care. If a person's death unintentionally results from providing medication e.g. morphine, this is not VAD. This is because the health professional's intention was to relieve the person's pain and symptoms, not hasten death. It is always good clinical practice to provide pain relief to manage a person's pain and symptoms at the end of life.

Learn more about the law on providing pain and symptom relief in the **End of Life Law Toolkit factsheet *Legal Protection for Administering Pain and Symptom Relief***. (<https://www.eldac.com.au/tabid/4985/Default.aspx>)

## What roles do allied health professionals and enrolled nurses have in VAD?

Before a person can receive assistance to die they must be assessed as eligible and go through a formal process. Medical practitioners are the main health practitioners involved in this process. Only medical practitioners can receive a person's request for VAD and assess the person's eligibility.

In some States medical practitioners, nurse practitioners and registered nurses may be able to administer VAD medication. To do these things, they must undertake mandatory training and meet other requirements about their registration and years of experience.

Allied health professionals' and enrolled nurses' roles in VAD depend on whether they are registered or non-registered health practitioners, the State they practise in, and whether they choose to participate in VAD.

Allied health professionals and enrolled nurses are not required to complete any training to participate in VAD, except for **pharmacists** authorised to dispense and dispose of VAD medication.

The roles of participating allied health professionals and enrolled nurses might include:

<b>Assessing whether a person meets specific criteria for VAD</b>	<p>If a medical practitioner is unsure whether a person meets one of the VAD criteria, they might ask an allied health professional to assess the person. For example:</p> <ul style="list-style-type: none"><li>• A <b>psychologist</b> might visit a resident or a person receiving home care to assess whether the person has decision-making capacity for VAD.</li><li>• A <b>social worker</b> might consult with a person to determine whether their request for VAD is voluntary and without coercion.</li><li>• A <b>speech pathologist</b> might be asked to assess a person's swallowing, to help the medical practitioner decide which method of administration of the VAD medication is best for the person.</li></ul>
<b>Providing information to a person about VAD</b>	<p>For example, an <b>enrolled nurse</b> might be asked for information about VAD while carrying out routine care.</p>
<b>Supporting a person prior to and during the VAD process</b>	<ul style="list-style-type: none"><li>• <b>Psychologists</b> and <b>social workers</b> might provide counselling, suggest other supports to a person or their family, discuss the person's end of life preferences, and provide bereavement support.</li><li>• A <b>speech pathologist</b> might recommend communication strategies or aids for a person so they can discuss VAD with a medical practitioner and undergo assessments.</li><li>• An <b>Aboriginal and Torres Strait Islander health worker</b> might provide cultural and social support to a person considering or accessing VAD, and their family and community members.</li></ul>
<b>Providing routine care to a person considering or accessing VAD</b>	<p>For example, a <b>physiotherapist</b> might provide exercises and other interventions to a person considering VAD, as part of routine care to manage the person's symptoms or the quality of life.</p>
<b>Being present (if the person chooses) when the person self-administers or is given the VAD medication</b>	<ul style="list-style-type: none"><li>• A <b>speech pathologist</b> might be present to support the person to communicate.</li><li>• An <b>Aboriginal and Torres Strait Islander health worker</b> may provide cultural and social support to the person or their family.</li><li>• An <b>enrolled nurse</b> may act as a witness when VAD is administered to a person.</li></ul>

## Pharmacists and paramedics

Pharmacists and paramedics play unique roles in relation to VAD.

In each State, specially trained **pharmacists can possess, prepare, supply and dispense VAD medications**. In **Victoria, Western Australia and Tasmania**, there is a central government pharmacy service which prepares and dispenses the VAD medication. Pharmacists involved in dispensing VAD medication must **give specific information about the medication** to the person they are dispensing it to. A broader range of pharmacists can dispose of unused or surplus VAD medications.

**Paramedics** might be contacted to attend an RACF or a person's home to **provide palliative and comfort care** to a person who has taken or been administered VAD medication. They might also **provide support** to the person's family. Paramedics are legally protected if they do not give life-saving treatment to the dying person, so long as they act in good faith and the dying person has not requested treatment.

In some States other health professionals can also provide or participate in VAD. Learn more in the **End of Life Law Toolkit** factsheets *Voluntary assisted dying in aged care: Roles and legal obligations* of:

- *medical practitioners*. (<https://www.eldac.com.au/Portals/12/Documents/Factsheet/Legal/VAD-aged-care-medical-practitioners.pdf>)
- *registered nurses*. (<https://www.eldac.com.au/Portals/12/Documents/Factsheet/Legal/VAD-aged-care-registered-nurses.pdf>)
- *personal care workers*. (<https://www.eldac.com.au/Portals/12/Documents/Factsheet/Legal/VAD-aged-care-personal-care-workers-and-enrolled-nurses.pdf>)

## Conscientious objection

Some health professionals might not want to be involved in VAD due to their personal beliefs or values.

**All allied health professionals and enrolled nurses** can conscientiously object to participating in any part of the VAD process.

In **Queensland**, **registered allied health professionals, enrolled nurses and speech pathologists** who conscientiously object to participating in VAD still have some legal obligations (discussed further below).

In some States, VAD laws also recognise that allied health professionals and enrolled nurses have a right to conscientiously object to providing information (also discussed further below).

Learn more about conscientious objection to VAD in each State at *End of Life Law in Australia*. (<https://end-of-life.qut.edu.au/assisteddying>)

## Good clinical practice and conscientious objection

Good clinical practice requires that a conscientious objection does not prevent a person accessing lawful treatments or negatively impact their dignity and right to choose. The codes of conduct governing your profession might provide important guidance on good practice in relation to VAD.

### *Allied health professionals*

The Ahpra & National Boards *Shared Code of conduct* (<https://www.ahpra.gov.au/Resources/Code-of-conduct/Shared-Code-of-conduct.aspx>) that applies to **pharmacists, paramedics, physiotherapists, occupational therapists** and **Aboriginal and Torres Strait Islander health practitioners** recognises their right not to provide or participate in care to which they conscientiously object. It also recognises that good practice includes:

- respectfully informing their patients (where relevant), employer and relevant colleagues of their objection;
- not allowing their objection to deny residents access to healthcare; and
- ensuring the person has alternative care options.

The Victorian Department of Health (<https://www.health.vic.gov.au/patient-care/health-practitioner-information>) advises that although allied health professionals are not required to participate in VAD, they should not prevent a person from accessing a lawful medical treatment.

### *Enrolled nurses*

The Nursing and Midwifery Board Ahpra's *Code of conduct for nurses* (<https://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Professional-standards.aspx>) recognises the right of enrolled nurses not to provide or directly participate in treatments to which they conscientiously object. It also recognises that as part of good clinical practice enrolled nurses should:

- respectfully inform their patients and (if relevant) their colleagues of their objection;
- ensure the patient has alternative care options; and
- not use their objection (or personal views) to prevent individuals accessing medical care and treatments that are legal.

It can be a criminal offence for allied health professionals and enrolled nurses to persuade a person to withdraw their request for VAD, or persuade a person to ask for VAD.

## Communicating about VAD

A person who is considering VAD should receive appropriate information about VAD and be supported to discuss this information with a medical practitioner. However, there are restrictions on when allied health professionals and enrolled nurses can discuss VAD.

### **Can allied health professionals and enrolled nurses initiate discussions about VAD?**

There are restrictions on when allied health professionals and enrolled nurses can initiate discussions with a person about VAD. In some States, doing so is unprofessional conduct. These restrictions are designed to ensure a person is not pressured to request VAD.

The laws on when these health professionals can initiate a discussion about VAD differ between States. Also, in some States, the laws have different rules for enrolled nurses and registered and non-registered allied health professionals:

- In **Victoria and South Australia, registered allied health professionals and enrolled nurses** cannot initiate a VAD discussion. **Non-registered allied health professionals** in these States are not prohibited from initiating these discussions.
- In **Western Australia and Queensland, all allied health professionals and enrolled nurses** are prohibited from initiating VAD discussions.
- In **Tasmania, registered allied health professionals and enrolled nurses** can initiate a VAD discussion. They must however inform the person that a medical practitioner would be the most appropriate person to discuss the VAD process and care and treatment options with. **Non-registered allied health professionals** are not prohibited from initiating these discussions.
- In **New South Wales, all allied health professionals and enrolled nurses** can initiate VAD discussions. They can only do this if they inform the person that they have palliative care and treatment options available, and that they should discuss these with their medical practitioner.

An overview of the law in each State is in the table below.

### **Can allied health professionals and enrolled nurses provide information about VAD?**

**All allied health professionals and enrolled nurses** can provide information about VAD if a person requests it. An overview of the laws in each State is in the table below.

A person's family, friend or carer may ask an allied health professional or enrolled nurse for information about VAD. The health professional can provide information about VAD or direct them to other sources of information. However, family members, substitute decision-makers, carers and others cannot request VAD on behalf of the person – VAD must be the person's voluntary decision.

#### ***Allied health professionals and enrolled nurses with a conscientious objection***

VAD laws in **Victoria, South Australia and Queensland** specifically allow **registered allied health professionals and enrolled nurses** to conscientiously object to providing information about VAD. Though the VAD laws do not specifically discuss **non-registered allied health professionals**, they also have the right not to provide information if they conscientiously object.

VAD laws in **Western Australia, Tasmania and New South Wales** do not specifically discuss conscientious objection to providing information, but **all objecting allied health professionals and enrolled nurses** have the right not to provide information.

In **Queensland, registered allied health professionals, enrolled nurses and speech pathologists** who conscientiously object to participating in VAD still have certain legal obligations. If a person seeks information or assistance about VAD from:

- a **registered allied health professional or an enrolled nurse** with a conscientious objection, they must tell the person help is available, and provide the contact details of a VAD provider or QVAD-Support (Queensland Voluntary Assisted Dying Support Service).

- a **speech pathologist** with a conscientious objection, they must:
  - tell their employer or the person about their objection,
  - give the person information about another speech pathologist or service that may be able to assist, and
  - not prevent the person from accessing speech pathology services in relation to VAD.

These obligations exist despite Queensland’s laws allowing these health professionals to conscientiously object to providing information about VAD.

An overview of the law in each State is in the table below.

**Table: Communicating about VAD – Allied health professionals and enrolled nurses**

Type of communication		Vic	WA	Tas	SA	Qld	NSW
<b>Initiating discussions about VAD</b>	Cannot initiate discussions.	R EN	All		R EN	All	
	Can initiate discussions.	NR		NR	NR		
	Can initiate discussions if other essential information is provided to the person, including that they should discuss VAD with a medical practitioner.			R EN			All
<b>Providing information about VAD</b>	Can provide information about VAD where the person requests it.	All	All	All	All	All	All

\*All = All allied health professionals and enrolled nurses; R = Registered allied health professionals; NR = Non-registered allied health professionals; EN = Enrolled nurses.

## Additional legal obligations when caring for people in residential facilities

Generally, residential facilities e.g. RACFs, nursing homes can decide whether to participate in VAD, and the type of support they offer to residents wanting to access VAD. Some residential facilities might choose not to provide VAD services or allow VAD processes to occur at the facility. However, in some States, residential facilities that choose not to participate will still have some legal obligations.

States regulate the VAD obligations of residential facilities in different ways. In **South Australia, Queensland and New South Wales**, the VAD laws and State health department policies determine residential facilities’ obligations. In **Victoria, Western Australia and Tasmania**, policies alone determine residential facilities’ obligations. These laws may impact health professionals working in residential facilities, and residents who want to access VAD.

Learn more in the End of Life Law Toolkit factsheets *Voluntary assisted dying in aged care: Residential facilities in:*

- **South Australia, Queensland and New South Wales.** (<https://www.eldac.com.au/Portals/12/Documents/Factsheet/Legal/VAD-aged-care-RACFs-SA-QLD-NSW.pdf>)
- **Victoria, Western Australia and Tasmania.** (<https://www.eldac.com.au/Portals/12/Documents/Factsheet/Legal/VAD-aged-care-Victoria-WA-TAS.pdf>)



## Practical tips for allied health professionals

- **Know your obligations under your State's VAD laws and health department policies.**
  - Learn about your State's VAD laws at *End of Life Law in Australia*. (<https://end-of-life.qut.edu.au/assisteddying>)
  - Access your State health department's VAD policies from the **End of Life Law Toolkit Voluntary Assisted Dying Resources**. (<https://www.eldac.com.au/tabid/5756/Default.aspx>)
- **Find out whether the aged and home care services you work with are participating in VAD and familiarise yourself with their VAD policies.** Some services might have a staff member who manages and oversees all VAD enquiries.
- **Consider what role, if any, you wish to have in providing VAD.** If you have a conscientious objection to VAD, it is good clinical practice to advise the services you work with as early as possible that you do not wish to be involved with VAD.
- **If a person seeks information from you about VAD, consider what obligations you have to that person.** If you are in Queensland, you may be required to provide certain information to the person or provide them with the contact details of another practitioner or service, even if you have a conscientious objection.
- **If a person makes a request for VAD, you may wish to consider:**
  - advising the person that a request for VAD must be made to a medical practitioner.
  - providing the person with information about VAD or where they can seek further support e.g. from a participating medical practitioner or the VAD Care Navigation Service in your State (discussed below).
- **Contact the VAD Care Navigation Service** in your State for further support or to clarify your obligations. These services provide information and support to health professionals, service providers, people considering or accessing VAD, and their families. The contact details for these services are available from your State's health department. (<https://www.eldac.com.au/tabid/5756/Default.aspx>)

## Key points to remember

1. Allied health professionals and enrolled nurses can choose whether to participate in VAD.
2. Allied health professionals and enrolled nurses can conscientiously object to participating in VAD. However, in Queensland, registered health professionals, enrolled nurses and speech pathologists will still have legal obligations.
3. In all States there are restrictions on allied health professionals and enrolled nurses initiating discussions about VAD.
4. Allied health professionals and enrolled nurses in all States can provide information about VAD if a person requests it.
5. Generally residential facilities may decide whether to provide VAD, and the support they offer to residents wanting to access VAD. In some States, residential facilities that choose not to participate will still have some legal obligations which impact health professionals who work there.



## For more information and guidance about VAD visit:

- ELDAC End of Life Law Toolkit factsheets:
  - *Overview of Voluntary Assisted Dying.* (<https://www.eldac.com.au/tabid/5757/Default.aspx>)
  - *Voluntary assisted dying in aged care:*
    - *Roles and obligations of medical practitioners, registered nurses and personal care workers.* (<https://www.eldac.com.au/tabid/7586/Default.aspx>)
    - *Residential facilities in South Australia, Queensland and New South Wales and Victoria, Western Australia and Tasmania.* (<https://www.eldac.com.au/tabid/7586/Default.aspx>)
  - *Frequently asked questions about voluntary assisted dying.* (<https://www.eldac.com.au/tabid/7410/Default.aspx>)
- *End of Life Law in Australia.* (<https://end-of-life.qut.edu.au/assisteddying>)
- State departments of health. (<https://www.eldac.com.au/tabid/5756/Default.aspx>)
- End of Life Law for Clinicians online Module 11: Voluntary assisted dying. (<https://ellc.edu.au>)