

Voluntary assisted dying in aged care: Roles and obligations of personal care workers

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, personal care workers may have specific roles, and legal rights and obligations.

This factsheet explains:

- the roles personal care workers may have in VAD, and
- personal care workers' legal rights and obligations relating to VAD.

This factsheet is for **personal care workers who are not registered health practitioners e.g. aged care workers, disability care workers**. It is relevant to personal care workers in all health settings, including those working in residential aged care facilities (RACFs), home care, palliative care, primary care, hospitals, and other health services. The focus, however, is on VAD in aged care and home care. VAD laws are discussed as though they are currently operating in all States.

Important information about VAD laws

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 in a RACF or home care may choose if they meet the eligibility criteria set out in their State's VAD law. 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, and/or spiritual care up until their death.

VAD is different to palliative care. If a person's death unintentionally occurs after they are given medication e.g. morphine, this is not VAD. This is because the health professional intended 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 role do personal care workers 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. In some States nurse practitioners and registered nurses might also be involved. Only medical practitioners can receive a person's request for VAD and assess the person's eligibility. In some States both medical practitioners and registered nurses may be able to administer VAD medication.

Personal care workers' roles in VAD depend on the State they work in, and whether they want to be involved with VAD. Their role might include:

Providing care and support to a person who has asked for VAD or is thinking about it	A personal care worker might provide routine personal care to a person seeking VAD.
Providing information about VAD	A personal care worker might be asked for information about VAD while providing routine care to a person.
Being present (if the person chooses) when the VAD medication is taken or given	A person might ask a personal care worker to be present when they take the VAD medication (this is known as self-administration).
Being a witness during the VAD process	For example: <ul style="list-style-type: none">• in some States, a personal care worker may be asked to witness a person signing their second request for VAD.• a personal care worker may be asked to be a witness to practitioner administration, which includes signing forms which are sent to the State's VAD Board or Commission.

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>)
- *allied health professionals and enrolled nurses*. (<https://www.eldac.com.au/Portals/12/Documents/Factsheet/Legal/VAD-aged-care-allied-health-professionals.pdf>)

Conscientious objection

Some personal care workers might choose not to be involved with VAD because of their personal beliefs or values. If that is the case, they should advise their employer about this, and whether they are prepared to provide information about VAD, or support to a person seeking VAD.

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.

Codes of conduct for health care workers in **Victoria** (<https://hcc.vic.gov.au/providers/general-health-service-providers-code-conduct>), **New South Wales** (<https://www.health.nsw.gov.au/phact/Pages/code-of-conduct.aspx>), **Queensland** (https://www.health.qld.gov.au/_data/assets/pdf_file/0014/444101/national-code-conduct-health-workers.pdf), and **South Australia** (<https://www.hcsc.sa.gov.au/code-of-conduct-for-unregistered-health-practitioners/>) require personal care workers to accept a person's right to make informed choices about their health care, and not dissuade them from seeking or continuing treatment.

It can be a criminal offence for personal care workers 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 personal care workers can discuss VAD.

Can personal care workers start discussions about VAD?

In some States, there are restrictions on when personal care workers can start a discussion about VAD with a person. These restrictions are to ensure that a person is not pressured to request VAD. These laws differ between States:

- In **Victoria, Tasmania and South Australia**, personal care workers can initiate discussions about VAD if they feel comfortable doing so. In **Western Australia and Queensland**, personal care workers are prohibited from initiating VAD discussions.
- In **New South Wales**, personal care workers can initiate VAD discussions. They can only do this if they inform the person that they have palliative care and treatment options and should discuss these with their medical practitioner.

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

Can personal care workers provide information about VAD?

In all States, personal care workers can provide information about VAD to a person who requests it, if they feel comfortable doing so. An overview of the law in each State is in the table below.

A person's family, friend or carer may ask a personal care worker for information about VAD. Personal care workers can give information 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.

Personal care workers with a conscientious objection

Personal care workers with a conscientious objection can refuse to provide information about VAD to a person.

Table: Communicating about VAD – Personal care workers

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

Additional legal obligations when caring for people in residential facilities

Generally, residential facilities e.g. RACFs and 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 personal care workers and 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*:

- **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 personal care workers

- **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 Resources. (<https://www.eldac.com.au/tabid/5756/Default.aspx>)
- **Find out whether the RACFs or aged care services you work with are participating in VAD and familiarise yourself with their VAD policies.** Some RACFs or services might have a staff member who looks after all VAD enquiries.
- **Think about what involvement you want to have if a resident or patient is seeking VAD.** If you have a conscientious objection to VAD, it is good practice to advise the facility or service you work with as early as possible about whether you are prepared to provide information or support to a person seeking VAD.
- **If a person makes a request for VAD to you or seeks information about VAD, you can:**
 - Advise the person that a request for VAD must be made to a medical practitioner.
 - Give the person information about VAD or tell them 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. Personal care workers can choose whether to be involved with VAD.
2. In some States there are restrictions on personal care workers initiating discussions about VAD.
3. Personal care workers in all States can provide information about VAD if a person requests it.
4. 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 personal care workers.

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 allied health professionals and enrolled nurses*. (<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>)