

# Frequently asked questions about voluntary assisted dying

This factsheet is for all health professionals working in residential, home and community care, aged care providers, and all aged care recipients, including people receiving home and community care. However, for ease the term **resident** is used.

## What is voluntary assisted dying?

**Voluntary assisted dying (VAD) is the assistance provided by a health practitioner to a person with a terminal disease, illness or medical condition who wishes to end their life.** It includes:

- self-administration, where the person takes the VAD medication themselves, and
- practitioner administration, where the person is administered the medication by a health practitioner.

## Is VAD legal everywhere in Australia?

**Yes. VAD is legal and operating in all Australian States and the Australian Capital Territory (ACT).** VAD is illegal in the **Northern Territory**.

## Is the law the same everywhere in Australia?

**VAD laws in the States and the ACT are similar, but there are key differences.**

For an overview of Australian VAD laws read the End of Life Law Toolkit factsheet *Overview of Voluntary Assisted Dying*. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Overview>)

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

## Can any resident with a terminal illness receive VAD?

**No. A person can only access VAD if they are eligible.** Each jurisdiction has its own eligibility criteria for VAD. In all jurisdictions, the person must:

- be an adult,
- have decision-making capacity,

- have a disease, illness or medical condition that is expected to cause death within a specified time period (except in the **ACT** where there is no timeframe until death), and
- have a condition that is advanced and causing intolerable suffering.

Learn more about eligibility criteria for VAD in your jurisdiction at *End of Life Law in Australia*. (<https://end-of-life.qut.edu.au/assisteddying>)

## How close to death must the resident be to apply for VAD?

**VAD is only available for people who are close to death.** In most States, their condition must be expected to cause death within **six months, or 12 months if the person has a neurodegenerative disease** (such as motor neurone disease). In **Queensland**, a person must be expected to die within 12 months to be eligible. In the **ACT**, there is no time frame.

## Can a resident with dementia access VAD?

**A person will not be able to access VAD for dementia.** This is because a person must have decision-making capacity to request VAD. In all Australian States, a person with a neurodegenerative condition is not eligible for VAD unless their death is expected to occur within 12 months of the request. A person whose dementia is so advanced that they are within 12 months of death will not have decision-making capacity. In the **ACT**, the person's condition must be advanced, meaning their functioning and quality of life have declined and they are not expected to improve, and they are approaching the end of their life. A person with advanced dementia is unlikely to have capacity to choose VAD.

A person who is in the early stages of dementia and also has a terminal illness (e.g. cancer) may be eligible for VAD if they have decision-making capacity and meet the other eligibility criteria.

## Is VAD the same as providing pain and symptom relief?

**No. VAD is different from providing pain and symptom relief, and palliative care.** It is not VAD where a resident dies after receiving medication to relieve their pain e.g. morphine. This is because the health practitioner was intending to relieve pain, not hasten the person's 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/Toolkits/End-of-Life-Law/Legal-Protection-for-Administering-Pain-and-Symptom-Relief/Factsheet>)

## Can a resident who asks for VAD also receive palliative care and other treatment?

**Yes. Many people who request VAD also receive palliative care.** A resident 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.

## Can a resident request VAD in an Advance Care Directive?

**No. A person cannot request VAD in an Advance Care Directive or other advance care planning documents.** This is because VAD cannot be requested after a person has lost capacity.

## Can a resident's family, carer or substitute decision-maker request VAD for them?

**No. A request for VAD must be made by the resident.** It cannot be requested by another person e.g. a family member, carer or substitute decision-maker on their behalf. This is to ensure that a decision to access VAD is voluntary i.e. it is the resident's own choice, made of their own free will. There can be no pressure from another person to access VAD.

## Can a resident change their mind after they ask for VAD?

**Yes. A person who has requested VAD and started the process can change their mind at any time. They do not have to continue the VAD process.** If a person has been prescribed or dispensed the VAD medication, they can choose not to take it.

## Do health professionals and personal care workers have to participate in VAD?

**No. Medical practitioners, nurse practitioners, registered nurses, allied health professionals, and enrolled nurses have the right to conscientiously object to participating in VAD.** Personal care workers can also choose not to be involved with VAD. However, in some jurisdictions, objecting health professionals may still have certain legal obligations, such as to provide information to a person requesting VAD.

Learn more in the End of Life Law Toolkit factsheets *Voluntary assisted dying in aged care: Roles and legal obligations of medical practitioners, registered nurses, allied health professionals and enrolled nurses*, and *personal care workers*. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Factsheets>)

## Do residential facilities have to provide VAD?

**Residential facilities e.g. RACFs and nursing homes can decide whether to provide some, all or no VAD services** to residents who are seeking VAD. However, in **South Australia, Queensland, New South Wales, and the ACT**, residential facilities who choose not to provide VAD services still have legal obligations to enable a resident to access VAD if they wish.

Learn more in the End of Life Law Toolkit factsheets *Voluntary assisted dying in aged care: Residential facilities in Victoria, Western Australia and Tasmania* and *South Australia, Queensland, New South Wales, and the Australian Capital Territory*. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Factsheets>).

## Can health professionals discuss VAD with a resident, or give them information about VAD?

**There are restrictions on when health care professionals can initiate discussions about VAD with a person.** Only some health professionals can do this, and in some jurisdictions they must provide information set out by their jurisdiction's health department (in addition to general information about VAD) when they have discussions. These laws are different in each jurisdiction.

**Health professionals and personal care workers in all jurisdictions can provide information about VAD to a resident,** or to a resident's family, friend, carer, or substitute decision-maker, where requested.

Learn more about VAD and advance care planning conversations in this *End of Life Law for Clinicians and Advance Care Planning Australia* video (<https://www.youtube.com/watch?v=wBvbNFqpH0w>).

Learn more in the End of Life Law Toolkit factsheets *Voluntary assisted dying in aged care: Roles and legal obligations of medical practitioners, registered nurses, allied health professionals and enrolled nurses*, and *personal care workers*. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Factsheets>)

## Who can assess a resident's eligibility for VAD?

**In all jurisdictions, medical practitioners can assess a person's eligibility for VAD.** In the ACT, nurse practitioners may also do this. To assess a person's eligibility, practitioners must undertake mandatory training provided by their jurisdiction's health department and meet requirements about their registration and years of experience.

## Who can provide VAD medication to a resident assessed as eligible for VAD?

**Medical practitioners, nurse practitioners (in Western Australia, New South Wales, Queensland, Tasmania, and the ACT), and registered nurses (in Queensland, Tasmania, and the ACT only) may administer VAD medication to an eligible person.** This is known as practitioner administration. To do this, medical practitioners and nurses must undertake mandatory training and meet other requirements about their registration and years of experience.

Contact your jurisdiction's health department to find out more about the training and requirements for your profession. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Resources>) If you want to provide VAD, you should speak to the manager of your residential facility or aged care service to let them know this, and to find out the facility's or service's position on VAD.

## Where can a resident have the VAD medication?

**The answer to this will be different for each person. It depends on where they live (e.g. at home or in residential care) and in which jurisdiction, and how they will have the VAD medication.**

A person receiving home care can choose to have the medication at home if circumstances permit. In some jurisdictions, a resident may be unable to take the VAD medication at their residential facility, if the facility chooses not to provide VAD. Also, if a person needs a practitioner to administer the VAD medication to them, this might have to take place in a particular location e.g. a hospital.

Learn more in the End of Life Law Toolkit factsheets *Voluntary assisted dying in aged care: Residential facilities in Victoria, Western Australia and Tasmania, and South Australia, Queensland, New South Wales, and the Australian Capital Territory*. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Factsheets>)

## For more information about VAD visit:

- ELDAC End of Life Law Toolkit factsheets:
  - *Overview of Voluntary Assisted Dying*. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Overview>)
  - *Voluntary assisted dying in aged care:*
    - *Roles and obligations of medical practitioners, registered nurses, allied health professionals and enrolled nurses, and personal care workers*. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Factsheets>)
    - *Residential aged care facilities in South Australia, Queensland, New South Wales, and the Australian Capital Territory, and Victoria, Western Australia and Tasmania*. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Factsheets>)
- *End of Life Law in Australia*. (<https://end-of-life.qut.edu.au/assisteddying>)
- State and Territory health departments. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Resources>)
- End of Life Law for Clinicians online Module 11: Voluntary assisted dying. (<https://ellc.edu.au>)
- The **aged care providers** you work with might have resources, policies and training on VAD.
- Contact the **VAD Care Navigator Service** in your jurisdiction. Contact details are available from your jurisdiction's health department. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Resources>)