

# Voluntary assisted dying in aged care: Roles and obligations of registered nurses

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

Under each jurisdiction's VAD laws, registered nurses may have specific roles, and legal rights and obligations.

**This factsheet explains:**

- the roles registered nurses may have in VAD, and
- registered nurses' legal rights and obligations relating to VAD.

This factsheet is for all **nurse practitioners and registered nurses** working across health settings, including in residential care, home and community 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.

In this factsheet the term **registered nurses** refers to **nurse practitioners and registered nurses other than enrolled nurses**. Where nurse practitioners have different roles or obligations to other registered nurses, they are specifically referred to.

VAD laws relating to enrolled nurses are different. Enrolled nurses should read the **End of Life Law Toolkit factsheet *Voluntary assisted dying in aged care: Roles and obligations of allied health professionals and enrolled nurses***. (<https://www.eldac.com.au/Portals/12/Documents/Factsheet/Legal/VAD-aged-care-allied-health-professionals-and-enrolled-nurses.pdf>)

## Important information about VAD laws

VAD laws in each jurisdiction 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/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Overview>) 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 jurisdiction 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 services e.g. residential aged care, home care may choose provided they meet the eligibility criteria set out in their jurisdiction'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, and/or 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/Toolkits/End-of-Life-Law/Legal-Protection-for-Administering-Pain-and-Symptom-Relief/Factsheet>)

## What roles do registered 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. In all jurisdictions except the **ACT**, only medical practitioners can receive a person's request for VAD and assess the person's eligibility. In the **ACT**, a nurse practitioner may also assess the person's eligibility, and act as the person's coordinating or consulting practitioner.

In **Western Australia, Tasmania, Queensland, New South Wales and the ACT**, both medical practitioners and nurse practitioners may administer VAD medication. In **Queensland, Tasmania, and the ACT**, registered nurses may also administer VAD medication. Nurses who perform this role are known as an administering practitioner.

Nurse practitioners' and registered nurses' roles in VAD depend on the jurisdiction they practise in, their type of registration, and whether they choose to participate in VAD. However, in **Queensland and the ACT**, registered nurses who refuse to participate in VAD still have legal obligations (this is discussed below).

### **Registered nurses who are trained to provide VAD**

In **Western Australia, Tasmania, Queensland, New South Wales, and the ACT**, nurse practitioners and registered nurses who have decided to participate in providing VAD must meet requirements about their type of registration and years of experience. They must also undertake mandatory training provided by their jurisdiction's health department.

The roles of participating registered nurses include:

**Depending on the jurisdiction, administering VAD medication to a person who can access practitioner administration**

This might involve entering a RACF and administering VAD medication to a person assessed as eligible for VAD by a medical practitioner. All registered nurses in **Tasmania, Queensland, and the ACT** may perform this role. In **Western Australia and New South Wales**, only nurse practitioners can administer VAD medication.

<b>Before administering VAD medication, assessing whether the person has decision-making capacity, and is acting voluntarily and without coercion</b>	Before practitioner administration of VAD medication can occur, a nurse practitioner or registered nurse who is the person's administering practitioner must conduct this assessment.
<b>Complying with VAD reporting requirements</b>	A Board or Commission oversees VAD in each jurisdiction. Participating nurse practitioners and registered nurses must submit forms to the relevant Board or Commission for each step of the process they are involved in.
<b>Disposing of VAD medications if necessary</b>	A nurse practitioner or registered nurse who administers the VAD medication to a person must return any unused or remaining medication (e.g. to the dispensing pharmacist).

In **Victoria and South Australia**, registered nurses cannot participate in the formal VAD process.

### ***All registered nurses***

Registered nurses can perform some roles associated with VAD even if they have not undertaken mandatory VAD training. These roles may include:

<b>Providing information to a person about VAD</b>	A registered nurse may be asked for information about VAD in a routine discussion with a resident.
<b>Providing routine care while the person is going through the VAD process</b>	This might include providing comfort care, or other care or treatment to a person during the VAD process e.g. on the day of a VAD assessment.
<b>Being present (if the person chooses) at the time of self-administration or practitioner administration of VAD</b>	This might involve: <ul style="list-style-type: none"> <li>• being present and providing comfort care while a person receiving home care self-administers the VAD medication, or</li> <li>• providing support to a practitioner who is administering VAD medication to the person.</li> </ul>
<b>Witnessing a person's formal written request for VAD, or being a witness to practitioner administration of VAD</b>	This would involve being present when the VAD medication is administered and signing forms which are sent to the relevant jurisdiction's VAD Board or Commission.
<b>Arranging the person's transfer to another health professional or institution to access VAD</b>	This might happen where a RACF has chosen not to participate in VAD. A registered nurse may support a resident who wishes to access VAD by arranging their transfer from the RACF to another health professional or place e.g. a hospital or health service to access VAD.

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

## Conscientious objection

Some nurse practitioners and registered nurses might not want to be involved in VAD due to their personal beliefs or values. In all jurisdictions, nurse practitioners and registered nurses have the right to conscientiously object to participating in VAD. The VAD laws allow them to refuse to:

- administer VAD medication to a person, and
- be present during the administration of VAD medication.

In some jurisdictions, VAD laws also recognise that registered nurses have a right to conscientiously object to providing information (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 impede a person's right to access lawful treatments or negatively impact their dignity and right to choose.

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 nurses not to provide or directly participate in treatments to which they conscientiously object. It also recognises that as part of good clinical practice 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 impede individuals accessing medical care and treatments that are legal.

The Victorian Department of Health (<https://www.health.vic.gov.au/patient-care/health-practitioner-information>) advises that though nurses have no obligation to refer a person for assistance, they should not inhibit a person's access to treatment, and should inform the person as soon as possible that they will not assist them.

It can be a criminal offence for nurse practitioners and registered 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 health professionals, including nurse practitioners and registered nurses, can discuss VAD.

### Can registered nurses initiate discussions about VAD?

There are restrictions on when nurse practitioners and registered nurses can initiate discussions with a person about VAD. In some jurisdictions, doing so is unprofessional conduct. These restrictions are designed to ensure a person is not pressured to request VAD.

The laws on when a registered nurse can initiate a discussion about VAD differ between jurisdictions. Also, in some jurisdictions, the laws have different rules for nurse practitioners and registered nurses:

- In **Western Australia and Queensland, only nurse practitioners** can initiate a discussion about VAD with a person. However, they can only do this if, at the same time, they discuss the person's available treatment and palliative care options, and their likely outcomes.
- In **Tasmania and New South Wales, registered nurses** can initiate a VAD discussion if they also inform the person that a medical practitioner is the most appropriate person to discuss VAD and their other treatment and palliative care options with.
- In the **ACT, nurse practitioners and registered nurses** can initiate a VAD discussion with a person, so long as they also inform the person, at the same time, about treatment and palliative care options, and their likely outcomes. There are also other legal requirements that must be met.
- In **Victoria and South Australia, registered nurses** cannot initiate a VAD discussion.

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

### Can registered nurses provide information about VAD?

In all jurisdictions, nurse practitioners and registered nurses can provide information if a patient or resident requests it. An overview of these laws is in the table below.

A patient or resident's family, friend or carer may ask a registered nurse for information about VAD. Registered nurses 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.

#### **Registered nurses with a conscientious objection**

VAD laws in **Victoria, South Australia and Queensland** specifically allow a registered nurse to conscientiously object to providing information about VAD. Though the VAD laws in **Western Australia, Tasmania and New South Wales** do not specifically discuss this, objecting nurse practitioners and registered nurses in those States also have the right not to provide information.

In **Queensland and the ACT**, registered nurses who conscientiously object to participating in VAD must provide information about where the person can seek assistance or support.

In **Queensland**, these obligations exist despite Queensland's laws allowing nurse practitioners and registered nurses to conscientiously object to providing information about VAD.

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

**Table: Communicating about VAD – Nurse practitioners and registered nurses**

Type of communication		Vic	WA	Tas	SA	Qld	NSW	ACT
<b>Initiating discussions about VAD</b>	Cannot initiate discussions.	X			X			
	Can initiate discussions but must also tell the person about treatment and palliative care options and their likely outcomes.		NP			NP		*NP
	Can initiate discussions but must also tell the person that a medical practitioner is the most appropriate person to discuss VAD and their other treatment and palliative care options with.			NP RN			NP RN	RN
<b>Providing information about VAD</b>	Can provide information about VAD where the person requests it.	X	X	X	X	X	X	X
	Must provide the person with certain information even if they have a conscientious objection.					X		X

\* X = Nurse practitioners and registered nurses; NP = Nurse practitioners; RN = Registered nurses.

\* In the **ACT**, a nurse practitioner must also know or believe the person has a disease, illness or condition that is progressive, advanced and expected to cause death, and be satisfied they have the expertise to appropriately discuss treatment and palliative care options.

## 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 jurisdictions, residential facilities that choose not to participate will still have some legal obligations.

Jurisdictions regulate the VAD obligations of residential facilities in different ways. In **South Australia, Queensland, New South Wales, and the ACT**, the VAD laws and health department policies determine residential facilities' obligations. In **Victoria, Western Australia and Tasmania**, policies alone determine residential facilities' obligations. These laws may impact registered nurses and other 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, New South Wales, and the ACT.** (<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 registered nurses

- **Know your obligations under your jurisdiction's VAD laws and health department policies.**
  - Learn about your jurisdiction's VAD laws at *End of Life Law in Australia*. (<https://end-of-life.qut.edu.au/assisteddying>)
  - Access your jurisdiction's health department's VAD policies from the End of Life Law Toolkit Voluntary Assisted Dying Resources. (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Resources>)
- **Find out whether the aged and home 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 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 facility or service 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 and the ACT, you must provide information about where the person can seek assistance or support, 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 your jurisdiction's VAD Care Navigator Service (discussed below).
- **If a medical practitioner or patient asks you to be the administering practitioner advise them as soon as possible if you have a conscientious objection,** to limit any interruption to the person's care. If you are willing and able to be the administering practitioner, you will need to undertake the mandatory training in your jurisdiction.
- **Contact the VAD Care Navigator Service in your jurisdiction 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 jurisdiction's health department. (<https://www.eldac.com.au/tabid/5756/Default.aspx>)

## Key points to remember

1. Registered nurses can choose whether to participate in VAD.
2. In some jurisdictions, nurse practitioners and registered nurses who have undertaken mandatory training and meet requirements about type of registration and years of experience can administer VAD medication to eligible patients.
3. Registered nurses can conscientiously object to participating in VAD. In Queensland and the ACT, objecting nurse practitioners and registered nurses still have legal obligations. In all jurisdictions, nurses have ethical obligations when they have a conscientious objection.
4. In all jurisdictions there are restrictions on registered nurses initiating discussions about VAD.
5. Registered nurses in all jurisdictions can provide information about VAD if a person requests it.
6. Generally residential facilities may decide whether to provide VAD, and the support they offer to residents wanting to access VAD. In some jurisdictions, residential facilities that choose not to participate will still have some legal obligations which impact the registered nurses 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/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Overview>)
  - *Voluntary assisted dying in aged care:*
    - *Roles and obligations of medical practitioners, 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 facilities in South Australia, Queensland, New South Wales, and the ACT, and Victoria, Western Australia and Tasmania.* (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/Factsheets>)
  - *Frequently asked questions about voluntary assisted dying.* (<https://www.eldac.com.au/Toolkits/End-of-Life-Law/Voluntary-Assisted-Dying/FAQs>)
- *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>)