

## Voluntary assisted dying in Western Australia

# What every medical practitioner needs to know

### Summary

This information sheet is for all medical practitioners.

This information sheet is intended to be a starting point for information for medical practitioners only. Further details are available in the [WA VAD Guidelines](#) (available on the Department of Health [voluntary assisted dying website](#)).

**Section 1** – Participation in voluntary assisted dying

**Section 2** – Obligations on **all** medical practitioners

**Section 3** – The legal context for practitioners

Key points include:

- The *Voluntary Assisted Dying Act 2019* (the Act) allows medical practitioners and nurse practitioners who meet the eligibility criteria, and who have completed approved training, to participate in the voluntary assisted dying process.
- Medical practitioners should familiarise themselves with the requirements of the Act. Contravention of a provision of the Act is capable of constituting professional misconduct or unprofessional conduct.
- Medical practitioners **must not** initiate discussion with a patient about voluntary assisted dying, or suggest voluntary assisted dying, unless at the same time they also inform the patient about their treatment and palliative care options and the likely outcomes of that care and treatment.
- Medical practitioners can provide information about voluntary assisted dying to someone who has requested it, or answer questions about voluntary assisted dying that have been asked of them, provided they are comfortable doing so.
- Medical practitioners may choose to not participate in the voluntary assisted dying process but should be aware of the Act and its **requirements of all medical practitioners**, including:
  1. actions to be taken on receiving a First Request for access to voluntary assisted dying from a patient during a medical consultation
  2. not making any reference to voluntary assisted dying on the Medical Certificate Cause of Death for a patient who has died through voluntary assisted dying (in accordance with the Act)
  3. notifying the Voluntary Assisted Dying Board if they have completed a Medical Certificate Cause of Death for a patient who they know or reasonably believe died through voluntary assisted dying (in accordance with the Act).

## Voluntary assisted dying in WA

[The Act](#) is the legislation that regulates voluntary assisted dying in Western Australia (WA). Health professionals should be aware of the Act and its requirements.

Voluntary assisted dying is a legal process that enables a patient to access medication that will cause their death. This medication is known as the voluntary assisted dying substance. The patient can choose to self-administer (prepare and take the substance themselves) or have it administered by a medical practitioner or nurse practitioner (known as the Administering Practitioner) at a time and place of their choosing.

A person must meet all eligibility criteria to be able to access voluntary assisted dying. The information sheet [Accessing voluntary assisted dying in Western Australia – Who is eligible?](#) sets out these eligibility criteria in detail.

## Section 1 – Participation in voluntary assisted dying

### Which health professionals can participate in voluntary assisted dying in WA?

Medical practitioners and nurse practitioners who meet the eligibility criteria, and who have completed the Western Australian Voluntary Assisted Dying Approved Training (WA VAD Approved Training), may undertake roles in the voluntary assisted dying process under the Act.

An eligible medical practitioner can participate in the roles of Coordinating Practitioner, Consulting Practitioner and Administering Practitioner.

An eligible nurse practitioner can participate in the role of Administering Practitioner.

These roles are detailed further in the information sheet [Accessing voluntary assisted dying in Western Australia – Overview of the process](#).

### I am a medical practitioner. Can I participate in voluntary assisted dying?

To be eligible to participate in voluntary assisted dying as a medical practitioner you must:

- hold a specialist registration, have practised for at least one year as the holder of specialist registration and meet the requirements approved by the CEO; or
- hold a general registration, have practised for at least 10 years as the holder of general registration and meet the requirements approved by the CEO; or
- be an overseas-trained specialist who holds limited or provisional registration and meet the requirements approved by the CEO.

Only medical practitioners who meet the eligibility requirements above will be granted access to the WA VAD Approved Training. Medical practitioners must successfully complete the WA VAD Approved Training before undertaking assessments (as a Coordinating or Consulting Practitioner) or before taking on the role of Administering Practitioner. More information can be found in the information sheet [Access to WA VAD Approved Training](#) and on the WA Department of Health [website](#).

As a medical practitioner you must also ensure you are eligible to act as the Coordinating Practitioner, Consulting Practitioner or Administering Practitioner for a particular patient i.e. you:

- are not a family member of the patient
- do not know or believe that you are a beneficiary under the will of the patient or may otherwise benefit financially or in any other material way from the death of the patient, other than by receiving reasonable fees for the provision of services related to your role in the process.

## What are the 'requirements approved by the Chief Executive Officer (CEO)' that medical practitioners need to meet?

These are specific requirements approved by the Director General of the Department of Health (as the CEO) as authorised under the Act and are published on the WA Department of Health [website](#).

## Can I choose whether to participate in voluntary assisted dying?

Yes. Participation in the voluntary assisted dying process is a choice.

Whether you participate in the process, or support colleagues who do, will depend on your skills and training as well as your eligibility, availability and willingness to be involved.

You can also choose the level of involvement you have with voluntary assisted dying. For example, you may only be comfortable providing a patient with general information.

Even if you will not be participating in or supporting voluntary assisted dying, the topic may be brought up by someone in your care. You should consider how you will respond to best support your patient. You should also be aware of the resources, systems and processes that are available in your workplace to manage requests for information about, or access to, voluntary assisted dying.

## What if I hold a conscientious objection to voluntary assisted dying?

If you have a conscientious objection to voluntary assisted dying you are under no obligation to participate in the process. However, you must not inhibit a person's access to voluntary assisted dying.

As a medical practitioner, you should be aware of your obligations under the Act if a patient asks you for access to voluntary assisted dying (makes a First Request). These obligations are outlined in further detail below.

## I am a medical practitioner considering participation in the voluntary assisted dying process. What should I do?

First, review the eligibility criteria outlined in the WA VAD Guidelines or the information sheet [Access to WA VAD Approved Training](#) and consider if you are likely to meet each of the eligibility criteria.

If you are employed by a health service, you can find out what the service's approach to voluntary assisted dying is and how the service might support your participation.

You will need to apply for access to the WA VAD Approved Training, successfully complete the training and then be granted access to VAD-IMS (the online system for submission of the required voluntary assisted dying process forms to the Voluntary Assisted Dying Board). More information can be found in the WA VAD Guidelines, the information sheet [Access to WA VAD Approved Training](#) and on the WA Department of Health website.

The information sheet [Providing voluntary assisted dying in Western Australia – FAQs for health professionals](#) may also be helpful.

## Section 2 – Obligations on all medical practitioners

### Responding to a formal First Request for access to voluntary assisted dying

**Only medical practitioners** can receive a request for access to voluntary assisted dying (a First Request). If a person makes a First Request to any other health professional, the person should be informed that they must make their request to a medical practitioner.

To constitute a First Request, the request from the patient must be:

- clear and unambiguous

- made to a medical practitioner during a medical consultation
- made in person (or, if that is not practical, via audiovisual communication\*)
  - \*technology where people can see and hear each other simultaneously.

Any medical practitioner who receives a First Request for access to voluntary assisted dying during a medical consultation **must**:

1. **Give\*** the patient the Approved Information for a Person Making a First Request for Voluntary Assisted Dying booklet
2. **Decide** if they are going to accept or refuse the First Request
3. **Inform\*** the patient of their decision
4. **Complete\*** and submit the First Request Form to the Voluntary Assisted Dying Board
5. **Document** the following in the patient's medical record:
  - the First Request
  - the medical practitioner's decision to accept or refuse the First Request
  - if refusal, the reason for refusal
  - whether the medical practitioner has given the patient the Approved Information booklet.

**\*NB:** Certain actions must be done within specified timeframes as per below:

- If the medical practitioner refuses the First Request by reason of conscientious objection, they must **immediately** inform the patient of the refusal and give the patient the Approved Information booklet. In all other circumstances (both acceptance or refusal) the medical practitioner must inform the patient and give them the Approved Information booklet within **two business days of the request**.
- The First Request Form must be completed and given to the Voluntary Assisted Dying Board within **two business days of the medical practitioner's decision** to accept or refuse the First Request.
- Under the Act there may be penalties for non-compliance with these requirements.

Refer to the Department of Health voluntary assisted dying website or the [WA VAD Guidelines](#) for more detailed information regarding medical practitioner obligations upon receiving a First Request.

### **Prohibition on raising voluntary assisted dying with a patient unless certain conditions are met**

Medical practitioners must be aware that they **cannot** initiate discussion about, or suggest, voluntary assisted dying to a patient **unless at the same time** they also inform the person about their treatment and palliative care options and the likely outcomes of that care and treatment.

If, however, a patient requests information or they initiate a discussion about voluntary assisted dying, medical practitioners **can** provide information or answer questions about voluntary assisted dying that have been asked of them, provided they are comfortable doing so.

### **Obligations in relation to certification of death**

There are also obligations associated with death certification that all medical practitioners must comply with:

1. A medical practitioner completing a Medical Certificate Cause of Death for a patient who has died through voluntary assisted dying (in accordance with the Act) **must not** include any reference to voluntary assisted dying
2. A medical practitioner who completes a Medical Certificate Cause of Death for a patient who they know or reasonably believe died through voluntary assisted dying (in accordance with the Act) must notify the Voluntary Assisted Dying Board by completing and submitting the *Notification of Death – Other Medical Practitioner Form* (available on VAD-IMS via the [Voluntary Assisted Dying Board](#)).

## Section 3 – The legal context for practitioners

The Act is highly detailed. This reflects the importance of ensuring that the operation of voluntary assisted dying in WA is safe and appropriate. The Act provides protections for individuals involved in the voluntary assisted dying process but also clearly articulates offences and circumstances that may be considered professional misconduct or unprofessional conduct. The Voluntary Assisted Dying Board, an independent statutory body created by the Act, can refer matters to various agencies including WA Police, the State Coroner, the Australian Health Practitioner Regulation Agency (AHPRA), and the Director General of Health. The Director General of Health (as the CEO) has powers to investigate suspected breaches of the Act.

### Protections

The Act provides protection from criminal liability for a person who:

- assists a person to request access to voluntary assisted dying
- assists a person to access voluntary assisted dying
- is present when the voluntary assisted dying substance is administered.

The Act also provides protection from civil and criminal liability for a person who:

- in good faith, and with reasonable care and skill, does a thing in accordance with the Act or believes the thing is done in accordance with the Act.

This is also not regarded as a breach of professional ethics or standards, nor is it considered professional misconduct or unprofessional conduct.

The Act provides protection from civil and criminal liability for certain persons who do not administer lifesaving treatment in circumstances where the patient does not request it and the person believed, on reasonable grounds, that the patient is dying after self-administering or being administered the voluntary assisted dying substance in accordance with the Act. This includes registered health practitioners, ambulance officers (and volunteers) and other people in roles which usually imply a duty to administer lifesaving treatment.

In addition, in such circumstances non-administration of treatment is not regarded as a breach of professional ethics or standards, nor is it considered professional misconduct or unprofessional conduct.

Additional information can be found in [\*Voluntary Assisted Dying in Western Australia – Information for first responders\*](#).

### Offences

There are several offences that health professionals and others should be aware of before participating in the voluntary assisted dying process to ensure compliance with the Act. These offences cover:

- unauthorised administration of the voluntary assisted dying substance
- inducing another person to request or access voluntary assisted dying
- inducing self-administration of the voluntary assisted dying substance
- providing false or misleading information for any purpose under the Act
- advertising Schedule 4 or 8 poison as a voluntary assisted dying substance
- recording, use or disclosure of information obtained under the Act
- publication of personal information concerning a proceeding before the State Administrative Tribunal under the Act
- failure to give a form to the Voluntary Assisted Dying Board.

Penalties for committing these offences include monetary fines and imprisonment. It is important that health professionals familiarise themselves with this section of the Act.

### Professional misconduct or unprofessional conduct

A breach of a provision of the Act by a registered health practitioner may be professional misconduct or unprofessional conduct for the purposes of the *Health Practitioner Regulation National Law (Western Australia) Act 2010*. This is the case even if the breach is not an offence under the Act. The Voluntary Assisted Dying Board can refer matters to both AHPRA and the Health and Disability Complaints Office (HaDSCO).

### Where can I find more information on voluntary assisted dying?

For further information please visit the Department of Health WA website [ww2.health.wa.gov.au/voluntaryassisteddying](http://ww2.health.wa.gov.au/voluntaryassisteddying)

### Glossary of terms

Refer to *Accessing voluntary assisted dying in Western Australia – Glossary of terms* for explanations of key terms used within this information sheet.

#### Acknowledgement

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