

## Top 10 End of Life Laws in Aged Care

### 1 Everyone is presumed to have decision-making capacity

All adults, regardless of age, condition or disability, are presumed to have capacity to make their own decisions about care and treatment. Their values, choices, or preferences should always be obtained. If the person does not have decision-making capacity, it may still be possible to find these out from consulting with the person, their substitute decision-maker, or other people close to them e.g. family and support networks.

### 2 Consent to medical treatment must be obtained

A person may consent to or refuse medical treatment if they have decision-making capacity. Health professionals must obtain consent before medical treatment can be provided, except in some limited situations e.g. an emergency.

### 3 Advance Care Directives should be followed

A person's valid Advance Care Directive should be followed by health professionals, family members, and substitute decision-makers. A family member or substitute decision-maker cannot override a valid Directive or make a Directive for the person.

### 4 Everyone has the right to refuse treatment

A person has the right to refuse medical treatment at the end of life, even if it is needed to keep them alive. Health professionals should respect the person's choice not to have treatment (or be transferred to hospital).

### 5 Decision-making can occur with support

Where a person has difficulty making decisions by themselves, it may still be possible for them to decide or participate with support (supported decision-making). If a person cannot make decisions with support, then a substitute decision-maker can decide.

### 6 There is no obligation to provide non-beneficial treatment

Health professionals do not have to provide treatment e.g. life-prolonging treatment that is inconsistent with good clinical practice or is not in the person's interests.

### 7 Urgent treatment can be provided without consent

Urgent medical treatment can be given without consent to save a person's life or prevent significant harm or pain, so long as it is not possible for the person or their substitute decision-maker to consent, and there is no Advance Care Directive refusing that treatment.

### 8 Giving pain and symptom relief is lawful and best practice

The law protects health professionals who give appropriate pain and symptom relief at the end of life, so long as their intention is to relieve the person's suffering, not hasten the person's death. Providing pain relief is good clinical practice.

### 9 Early communication is key to managing disputes

Sometimes disagreements about medical treatment can arise. Early, proactive communication is key to resolving disputes between people receiving care, their families and clinical teams.

### 10 Voluntary assisted dying can be accessed in aged care

Voluntary assisted dying (VAD) is a lawful option for individuals receiving aged care. There are strict eligibility criteria the person must meet to access VAD. Aged care health professionals and providers have legal obligations they must follow in relation to VAD, and cannot inhibit a person's access to VAD.

**End of Life Law for Clinicians** (ELLC) is funded by the Australian Government Department of Health. It is administered by the Australian Centre for Health Law Research, Faculty of Business and Law, Queensland University of Technology (QUT), in partnership with the Faculty of Health, QUT. Register for the free ELLC training at [elc.edu.au](http://elc.edu.au). For more information contact [endlifelaw@qut.edu.au](mailto:endlifelaw@qut.edu.au)