



End of Life Law in Australia

A resource to help you understand the law at end of life

Voluntary assisted dying

In Australia, laws that legalise voluntary assisted dying (VAD) have been passed in Victoria, Western Australia, Tasmania, South Australia and Queensland. This factsheet provides an overview of these laws. For detailed information about the law on VAD in your State visit [End of Life Law in Australia](https://end-of-life.qut.edu.au/assisteddying). (<https://end-of-life.qut.edu.au/assisteddying>)

What is voluntary assisted dying?

Voluntary assisted dying (VAD) is the assistance provided to a person by a health practitioner to end their life. It includes:

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

‘Voluntary’ means it is **the person’s voluntary choice**. The person must have decision-making capacity to decide to access VAD.

Different terminology is used for VAD in different countries. For example, ‘Medical Assistance in Dying’ is used in Canada, and ‘physician-assisted suicide’ is used in some parts of the United States. Both Belgium and The Netherlands use the term ‘euthanasia’.

Is VAD legal in Australia?

Laws that allow VAD have been passed in **Victoria, Western Australia, Tasmania, South Australia, and Queensland**.

In **Victoria and Western Australia VAD is operating** and may be requested by people who meet the eligibility criteria.

VAD will commence operation in Tasmania in late 2022, South Australia in early 2023, and Queensland on 1 January 2023. In this factsheet these laws are discussed as though they are already operating.

Between March 1996 and March 1997, VAD was legal under the *Rights of the Terminally Ill Act 1995* (NT). However, the Commonwealth Government passed legislation overturning this law.

Providing appropriate pain and symptom relief with the intention of relieving a person’s pain and suffering is not VAD. It is lawful (and 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 relief at [End of Life Law in Australia](https://end-of-life.qut.edu.au/pain-relief). (<https://end-of-life.qut.edu.au/pain-relief>).

VAD laws in Australian States

The VAD laws in Victoria, Western Australia, Tasmania, South Australia and Queensland are similar, but there are some key differences.

Eligibility criteria

To access VAD the person must meet all of the eligibility criteria in their State.

A person is eligible for VAD if he or she:

- is **aged 18 years or over**;
- is an **Australian citizen or permanent resident**, who has been resident in the State for at least 12 months when they first request VAD (this criteria can be met in other ways in Tasmania and Queensland);
- has **decision-making capacity** for VAD;
- is acting **voluntarily** and without coercion;
- has an **enduring request** for VAD (i.e. their request is ongoing); and
- has a **disease, illness or medical condition** that is:
 - **advanced and will cause death**. In all States except Tasmania it must also be **progressive** (i.e. the person experiences active deterioration),
 - **incurable** (Victoria, South Australia and Tasmania only), and **irreversible** (Tasmania only),
 - is **expected to cause death within six months, or 12 months for a person with a neurodegenerative condition**. In Queensland however, a person expected to die within 12 months may apply for VAD, and
 - **causing suffering that cannot be relieved in a manner that the person finds tolerable**. The person's suffering may be physical or non-physical e.g. psychological, existential.

A person will not be eligible for VAD based on having a disability or mental illness alone – they must meet all of the criteria above to access VAD.

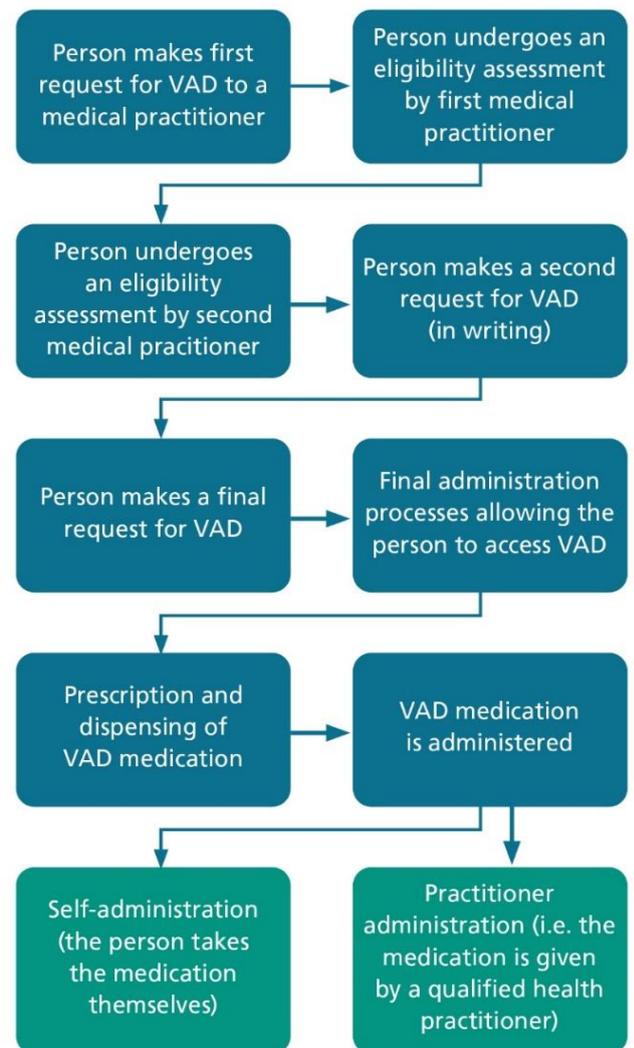
Accessing VAD

To access VAD, each State requires a person to undergo a request and assessment process. It generally involves a person:

- making **at least three requests for VAD**, and
- being assessed as eligible by **at least two independent medical practitioners**.

The person can withdraw their request for VAD at any time.

This diagram shows the basic VAD request and administration process in Victoria, Western Australia, South Australia, and Queensland. Note: Tasmania's process is similar but has additional requirements (discussed below).



Source: *End of Life Directions in Aged Care End of Life Law Toolkit, VAD factsheet (December 2021)*.

The two doctors who assess VAD eligibility must both have undertaken specialised VAD training in the State where they practice.

The eligibility criteria and processes for requesting VAD are different in each State. Learn more about VAD law in your State at [End of Life Law in Australia](https://end-of-life.qut.edu.au/assisteddying). (<https://end-of-life.qut.edu.au/assisteddying>)

Administration of VAD medication

The VAD medication can be **administered by the person (self-administration), or, in some cases, a health practitioner (practitioner administration)**. The situations in which a practitioner can give the medication, and which

health practitioners are permitted to do this differ in each State.

The person may take the VAD medication at a time and place of their choosing. Other people (e.g. family and friends) may be present, if the person wishes. There is no requirement for other people to attend, but a witness must be present for practitioner administration in all States except Tasmania.

Safeguards

Each State has safeguards to ensure that VAD is only accessed by eligible people. Some of the key safeguards in all States are:

- **Restrictions on when health professionals can initiate a discussion or provide information** to a person about VAD.
- Requirements in some cases for **additional specialist opinions** to be obtained to determine if a person is eligible for VAD. Examples are where it is unclear that a person has capacity.
- Strict protocols governing the **prescription, dispensing and disposal of VAD medications**.
- Any **unused or remaining VAD medication must be returned** (e.g. to the dispensing pharmacist).
- **Offences** for anyone who induces another person to request VAD, or take the VAD medication.
- **Oversight** by independent Boards or Commissions in all States. Their roles include monitoring, reporting, and research.

Discussing VAD and providing VAD information

There are **restrictions on when VAD can be discussed, and which health professionals can do this**. There are also **restrictions on providing information** about VAD.

Victoria and South Australia

Registered health practitioners e.g. GPs and nurses may discuss VAD if the person raises the topic first. They can also provide VAD information if the person requests it.

Western Australia, Tasmania, and Queensland

In Western Australia and Queensland, a medical practitioner or a nurse practitioner can initiate VAD discussions, but must also provide information about treatment and palliative care options.

In Tasmania, all registered health practitioners can initiate VAD discussions but must inform the person that a medical practitioner is the best person to discuss VAD with.

In all three States, registered health practitioners and other types of health care workers e.g. an aged care worker may provide information about VAD if a person or resident requests it.

Participating in VAD

Health professionals can decide whether or not to participate in VAD. However, in some States objecting health professionals, as well as non-participating health and aged care institutions still have certain obligations.

Conscientious objection by health professionals

A health practitioner or health care worker can conscientiously object to participating in VAD. In all States they may refuse to:

- accept a VAD request,
- participate in VAD assessment processes or administration decisions,
- prescribe, supply or administer a VAD medication, or
- be present during administration of VAD medication.

In Victoria, South Australia and Queensland, a person with a conscientious objection can also refuse to provide information about VAD.

In some States **some health practitioners with a conscientious objection are still required to do certain things**. For example, in Western Australia and Queensland, a medical practitioner e.g. a GP who refuses to accept a first request for VAD because of a conscientious objection must let the person know immediately. They are also required to give the person particular information about VAD, including contact details of a service which provides VAD assistance. Providing this

information is also a requirement in Tasmania.

Learn more about the law on discussing VAD, providing VAD information, and conscientious objection in your State at [End of Life Law in Australia](https://end-of-life.qut.edu.au/assisteddying). (<https://end-of-life.qut.edu.au/assisteddying>)

Participation by RACF and other institutions

Generally, institutions such as residential aged care facilities (RACF) may decide whether to provide VAD, and what level of support they offer to residents seeking VAD. The laws differ in each State.

Victoria, Western Australia, and Tasmania

The VAD laws do not discuss institutional participation in VAD. **Institutions including RACF may decide what level of involvement they have.**

South Australia and Queensland

Institutions may choose not to participate in VAD. However, some institutions, including RACF, who decide not to participate have certain obligations, so that a person can access VAD if they wish.

In South Australia, health services that conscientiously object to providing VAD must:

- advise the person that they do not provide VAD, and
- have arrangements in place to transfer the person to another health service that does not object (including facilitating transfer if the person agrees).

The law on institutional obligations is complex. Learn more about the law in your State at [End of Life Law in Australia](https://end-of-life.qut.edu.au/assisteddying). (<https://end-of-life.qut.edu.au/assisteddying>)

Key points to remember

1. In Victoria and Western Australia, VAD is operating, and is lawful in limited circumstances. VAD will become lawful in South Australia, Tasmania and Queensland in late 2022 – early 2023.
2. To be eligible to access VAD, a person must meet a range of criteria including:
 - they are an adult with decision-making capacity,
 - they have a disease, illness or medical condition which will cause death within 6 months (12 months in Queensland and in other States for a neurodegenerative disease), and
 - their condition is advanced, and is causing intolerable suffering. In all States except Tasmania the condition must also be progressive.
3. To access VAD, a person must undergo a request and assessment process that includes making (at least) three separate requests for VAD, and eligibility assessments by (at least) two independent medical practitioners.
4. The VAD medication will be administered either by the person (self-administration) or by a health practitioner (practitioner administration).
5. A range of safeguards apply to the VAD process, including requirements regarding oversight and reporting, and prescription, disposal and safe storage of medication.
6. There are restrictions on when health professionals can discuss VAD or provide VAD information to a person, and which health professionals can do so.
7. Health professionals can conscientiously object to participating in VAD, but in some States they will still have obligations to ensure patients and residents can access VAD.
8. Generally institutions e.g. residential aged care facilities and hospitals may decide whether to provide VAD, and the level of support they offer those wanting to access VAD. Institutions in South Australia and Queensland have specific obligations to allow people to access to VAD if they wish.

For more information about VAD laws and policies in Australia visit:

- End of Life Law in Australia
<https://end-of-life.qut.edu.au/assisteddying>
- Victorian Department of Health and Human Services
<https://www.health.vic.gov.au/patient-care/voluntary-assisted-dying>
- Western Australian Department of Health
<https://ww2.health.wa.gov.au/voluntaryassisteddying>
- Tasmania Department of Health
<https://www.health.tas.gov.au/vad>
- SA Health
<https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/services/primary+and+specialised+services/voluntary+assisted+dying/voluntary+assisted+dying+in+south+australia>
- Queensland Health
<https://www.health.qld.gov.au/system-governance/legislation/voluntary-assisted-dying-act>

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