

# Voluntary Assisted Dying in Tasmania

## Fact Sheet: Information for Medical Practitioners

### What is this Fact Sheet about?

This Fact Sheet provides general information to medical practitioners on voluntary assisted dying and the voluntary assisted dying process, and answers some commonly asked questions.

### What is voluntary assisted dying?

Voluntary assisted dying is a process that enables a person who is suffering from a medical condition to legally access a substance to end their life, with support and assistance from medical practitioners.

Voluntary assisted dying is (or will soon be) legal in every Australian State and in many countries overseas including Canada and New Zealand.

In Tasmania, voluntary assisted dying is authorised by the [End-of-Life Choices \(Voluntary Assisted Dying\) Act 2021](#)<sup>1</sup> (the Act).

### What is the voluntary assisted dying process?

The voluntary assisted dying process starts when a person makes a First Request to their medical practitioner to determine whether they are eligible to access voluntary assisted dying and ends with the supply and administration, or private self-administration of a VAD Substance to the person.

It features a First Request, a Second Request, a Second Opinion, a Final Request, a request for VAD Substance Authorisation, a Final Determination and a Final Permission.

The [Relevant Facts document](#)<sup>2</sup> provides further detail, in simple terms, of the steps in the process.

### When is a person eligible to access voluntary assisted dying?

A person is eligible to access voluntary assisted dying in Tasmania if they meet certain strict eligibility criteria. These relate to age, residency, medical requirements, voluntariness, and decision-making capacity.

In particular, a person must be an adult, must have decision-making capacity and be acting voluntarily, and must be suffering intolerably due to a terminal disease, illness, injury or medical condition that is expected to cause the person's death within six months (or 12 months, if the condition is a neurodegenerative condition).

The [Relevant Facts document](#)<sup>2</sup> provides further detail, in simple terms, of the eligibility criteria.

<sup>1</sup> <https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-2021-001>

<sup>2</sup> <https://www.health.tas.gov.au/publications/first-request-relevant-facts-document>

## As a medical practitioner, what is my role in the voluntary assisted dying process?

The Act imposes certain minimum obligations on all medical practitioners, including medical practitioners who have a conscientious objection to voluntary assisted dying, including:

- To provide information to patients.
- To provide a patient's medical records.
- To answer questions or produce documents.

All medical practitioners are obliged to comply with these obligations. The [Minimum Obligations for Medical Practitioners Fact Sheet](#)<sup>3</sup> provides more information.

The voluntary assisted dying process set out in the Act enables a medical practitioner to support and assist a person to access a substance to end their life in a range of ways.

A medical practitioner who wishes to actively participate in the voluntary assisted dying process can do so by being a patient's Primary Medical Practitioner, Consulting Medical Practitioner and/or Administering Health Practitioner.

A patient's Primary Medical Practitioner is the medical practitioner who accepts the patient's First Request to access voluntary assisted dying. The Primary Medical Practitioner also determines the patient's Second Request and Final Request and requests a VAD Substance Authorisation.

A patient's Consulting Medical Practitioner is a medical practitioner who provides the patient's Primary Medical Practitioner with a Second Opinion about the patient's eligibility to access voluntary assisted dying.

A patient's Administering Health Practitioner is a medical practitioner (or registered nurse) who performs a final determination of the patient's decision-making capacity and voluntariness (the Final Determination), and who supplies and/or administers the VAD Substance to the patient. The patient's Primary Medical Practitioner can also be their Administering Health Practitioner (but does not have to be).

The [Relevant Facts document](#)<sup>4</sup> provides further detail, in simple terms, of the voluntary assisted dying process and of the roles that medical practitioners can play in the process.

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<sup>3</sup> <https://www.health.tas.gov.au/publications/minimum-obligations-medical-practitioners-and-other-registered-health-professionals>

<sup>4</sup> <https://www.health.tas.gov.au/publications/first-request-relevant-facts-document>

## **Am I eligible to be a patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner?**

To become a patient's Primary Medical Practitioner or Consulting Medical Practitioner, the practitioner must:

- Be registered under the Health Practitioner Regulation National Law (Tasmania) in the medical profession (be a registered medical practitioner).
- Have practiced as a medical practitioner for at least five years after vocational registration as a General Practitioner or after completing a fellowship with a specialist medical college.
- Have relevant experience in treating or managing the disease, illness, injury or medical condition expected to cause the patient's death.
- Have successfully completed the Tasmanian Voluntary Assisted Dying Training in the five years immediately before the patient makes a First Request to the medical practitioner or is referred to the medical practitioner for a second opinion.
- Not be a member of the patient's family.
- Not know or believe that he or she is likely to receive a financial benefit as a result of the patient's death, other than by receiving reasonable fees for the provision of services.

To become a patient's Administering Health Practitioner, the practitioner must:

- Agree to be appointed as the patient's Administering Health Practitioner.
- Have at least five years' experience as a medical practitioner after having become a medical practitioner.
- Have successfully completed the Tasmanian Voluntary Assisted Dying Training in the five years immediately before the patient makes a First Request to the medical practitioner or is referred to the medical practitioner for a second opinion.
- Not be a member of the patient's family.
- Not know or believe that he or she is likely to receive a financial benefit as a result of the patient's death, other than by receiving reasonable fees for the provision of services.

## **How can I access the Tasmanian Voluntary Assisted Dying Training?**

The Tasmanian Voluntary Assisted Dying Training consists of a series of modules on topics including voluntary assisted dying requests, eligibility determinations, self-care for practitioners and conversations about voluntary assisted dying. It takes 5 – 10 hours to complete and includes a formal assessment. Any medical practitioner wishing to participate as a patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner must complete the Tasmanian Voluntary Assisted Dying Training.

A much shorter general awareness unit provides medical practitioners who wish to know more about voluntary assisted dying but who do not wish to participate as a patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner with basic information about the voluntary assisted dying process.

More information about the Tasmanian Voluntary Assisted Dying Training, and about the shorter general awareness unit, can be found on the [Department of Health's Voluntary Assisted Dying Training page](#)<sup>5</sup>.

## **What if I fail to comply with the Act?**

Failure by a medical practitioner to take an action, or to fail to take an action, under the Act or purportedly under the Act in bad faith or without reasonable care or skill, is capable of constituting professional misconduct, or unprofessional conduct, for the purposes of the Health Practitioner Regulation National Law (Tasmania).

In addition, the Act makes certain conduct an offence. Conduct which is made an offence by and under the Act includes falsifying forms and other documents that are made under or for the purposes of the Act (section 127), making a false statement (section 128) and failing to provide a notice to the Commission when required (section 130).

Offences under other laws also continue to apply.

## **What if I do not want to be involved in voluntary assisted dying?**

There is no requirement for a medical practitioner to participate in the voluntary assisted dying process, beyond complying with the Act's minimum obligations. This applies even if the practitioner is suitably qualified and experienced, and even if they have completed the Tasmanian Voluntary Assisted Dying Training.

A medical practitioner who does not wish to participate in the voluntary assisted dying process, beyond complying with the Act's minimum obligations, may refuse for any reason, such as not having suitable qualifications or experience or having a conscientious objection.

## **I am caring for a patient at end-of-life. Does voluntary assisted dying affect how I do this?**

End-of-life, or palliative, care is not the same as voluntary assisted dying.

However, patients who are seeking or approved to access voluntary assisted dying are likely to still need treatment and/or palliative care in most if not all cases. A patient's choice to consider accessing the option of voluntary assisted dying should not affect how other treatment and care decisions are made, and other care and treatment should continue alongside the voluntary assisted dying process.

This is because not all patients considering voluntary assisted dying will ultimately be eligible, and not all those who are prescribed the voluntary assisted dying substance will choose to take it.

## **Can an advance care directive be used to access voluntary assisted dying?**

No. An advance care directive cannot be used to choose or access voluntary assisted dying in advance.

To access voluntary assisted dying, a person must have decision-making capacity throughout the process. However, an advance care directive can only be followed when a person no longer has decision-making capacity.

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<sup>5</sup> <https://www.health.tas.gov.au/health-topics/voluntary-assisted-dying/training-voluntary-assisted-dying>

## Can a person responsible or guardian consent to voluntary assisted dying on a patient's behalf?

No. A person responsible or appointed guardian cannot consent to voluntary assisted dying on another person's behalf.

To access voluntary assisted dying, a person must have decision-making capacity throughout the process. However, a person responsible or appointed guardian can only make treatment decisions for another person if that person no longer has decision-making capacity.

## What should be included on the Medical Certificate of Cause of Death?

The [Medical Certificates of Cause of Death Fact Sheet<sup>6</sup>](#) provides guidance to medical practitioners on how to complete medical certificates of cause of death for people who have died following the administration or self-administration of a VAD Substance.

## How can I get more information?

The Voluntary Assisted Dying Navigation Service can provide further information about voluntary assisted dying in Tasmania. The Navigation Service is contactable Monday to Friday from 9.00 am – 5.00 pm.

To contact the Voluntary Assisted Dying Navigation Service, call 1800 568 956 (toll free) or email [vad@health.tas.gov.au](mailto:vad@health.tas.gov.au)

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<sup>6</sup> <https://www.health.tas.gov.au/publications/medical-certificates-cause-death-and-declarations-life-extinct-fact-sheets>



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