GOVERNMENT OF WESTERN AUSTRALIA

Department of **Health**

Western Australian Voluntary Assisted Dying Guidelines

Acknowledgement

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Contents

1 Western Australian Voluntary Assisted Dying Guidelines

Voluntary assisted dying (VAD) in Western Australia (WA) is regulated by the *Voluntary Assisted Dying Act 2019* (the Act). Participation in the voluntary assisted dying process must, at all times, comply with the Act. The Western Australian Voluntary Assisted Dying Guidelines (WA VAD Guidelines) have been developed to support compliance with the Act by assisting health professionals to understand the Act and their roles and responsibilities in the voluntary assisted dying process.

The WA VAD Guidelines will be of interest to health professionals who provide care to people who may seek information about, or access to, voluntary assisted dying. This includes those who may take an active role in supporting patients to access voluntary assisted dying, such as medical practitioners, nurse practitioners and pharmacists. It also includes those who may provide other care and support for patients who choose to access voluntary assisted dying, such as nurses and allied health professionals. The WA VAD Guidelines may also be useful for other health professionals who are interested in learning more about the voluntary assisted dying process in WA.

The WA VAD Guidelines complement the content of the Western Australian Voluntary Assisted Dying Approved Training (WA VAD Approved Training) and are intended to be used as reference for any practitioner providing voluntary assisted dying services under the Act. The WA VAD Approved Training is mandatory for any medical practitioner and nurse practitioner who takes part in a role designated by the Act and covers each of the topics addressed in the WA VAD Guidelines.

Voluntary assisted dying is intended to be another end-of-life choice available to eligible Western Australians as part of high quality, patient centred end-of-life care. The WA VAD Guidelines aim to provide context to the Act and focus on the stages of the voluntary assisted dying process from the practitioner perspective: from preparation for participation and receiving a request from a patient, through the assessment and administration phases and finally, to what happens after the person dies.

It is expected that medical practitioners and nurse practitioners assisting a patient to access voluntary assisted dying will draw on their existing clinical knowledge and expertise as they would in providing any other end-of-life care. The WA VAD Guidelines can be used across a range of settings including private and public hospitals, community health services, primary care health services, residential aged care facilities and a patient's home.

The WA VAD Guidelines also provide information on additional topics that health professionals should be aware of including offences and protections, engaging with other professionals (e.g. interpreters) and the WA VAD Community of Practice. Also covered are the roles of:

- the Voluntary Assisted Dying Board and the Voluntary Assisted Dying – Information Management System (VAD-IMS)
- the State Administrative Tribunal (SAT)
- the WA VAD Statewide Care Navigator Service (SWCNS)
- the WA VAD Statewide Pharmacy Service (SWPS).

While comprehensive, the information contained in the WA VAD Guidelines is not intended to be exhaustive. Health professionals who are considering participating in or supporting voluntary assisted dying in WA are encouraged to familiarise themselves with the Act and any local policies and procedures at facilities where they may deliver or engage with voluntary assisted dying services.

1.1 Voluntary assisted dying terminology

The following terms are related to the voluntary assisted dying process in WA and can be used as a reference when reading the WA VAD Guidelines. For exact definitions you may need to refer to the *Voluntary Assisted Dying Act 2019* or other legislation as this glossary is a general guide only.

1.1.1 Key terms

Interpreter – For the purposes of voluntary assisted dying, a person who holds a credential issued under the NAATI (National Accreditation Authority for Translators and Interpreters) certification scheme, or a qualification in interpreting from an Australian Registered Higher Education Provider registered on the National Register of Higher Education Providers, or a qualification in interpreting from an Australian Registered Training Organisation listed on the national register of Registered Training Organisations.

Administering Practitioner – The medical practitioner or nurse practitioner who administers the voluntary assisted dying substance to a patient. If the patient chooses practitioner administration, the Coordinating Practitioner can be the Administering Practitioner.

Administration decision – The decision a patient makes in consultation with their Coordinating Practitioner to either self-administer the voluntary assisted dying substance or have it administered by a medical practitioner or nurse practitioner.

Advance Health Directive – A legal document which can be made by an adult with decision-making capacity to record their decisions about future healthcare treatments. Treatment decisions recorded in a valid Advance Health Directive must be followed when the maker can no longer make or communicate their decisions.

Allied health professional – A qualified person who practises any of a wide range of health and related professions other than medicine and nursing (e.g. physiotherapist, speech pathologist, social worker, pharmacist etc.). Allied health professionals are often part of a multidisciplinary healthcare team.

Authorised Disposer – A registered health practitioner (pharmacist) who is authorised to dispose of the voluntary assisted dying substance.

Authorised Supplier – A registered health practitioner (pharmacist) who is authorised to supply the voluntary assisted dying substance. In WA, Authorised Suppliers are part of the Western Australian Voluntary Assisted Dying Statewide Pharmacy Service (abbreviated to SWPS).

Care Navigator – A health professional working for the WA VAD Statewide Care Navigator Service (SWCNS) who can provide information and assistance regarding voluntary assisted dying.

Carer – A person who provides personal care, support and assistance to another person who needs it because that other person has a disability or, medical condition (terminal or chronic illness) or, mental illness or is frail and aged.

Coercion – Persuading someone to do something by using dishonesty, force or threats. The term abuse is intended to include coercion. Under the Act, a person's choice to access voluntary assisted dying must be free from coercion.

Conscientious objection – When a registered health practitioner declines to participate in a treatment or procedure due to sincerely-held religious, moral or ethical beliefs.

Consulting Assessment – The independent assessment conducted by the Consulting Practitioner to determine if a patient meets the eligibility criteria for voluntary assisted dying. This occurs after a patient has been assessed as eligible by the Coordinating Practitioner during the First Assessment.

Consulting Practitioner – a medical practitioner who independently completes a Consulting Assessment for the patient.

Contact Person – The person appointed by a patient, who has made a self-administration decision, to carry out specific activities under the Act (the role is explained further in section 13.4).

Coordinating Practitioner – The medical practitioner who accepts a patient's First Request or a Consulting Practitioner for the patient who accepts a transfer of the role of Coordinating Practitioner.

Decision-making capacity – A person's ability to make decisions about their life. For the purposes of the Act, the decision for which the person must have decision-making capacity is the request for access to, or a decision to access, voluntary assisted dying.

Eligibility criteria – The set of requirements that a patient must meet to access voluntary assisted dying.

End of life – The time leading up to a person's death, when it is expected that they are likely to die soon from an illness, disease or medical condition. A person at end of life will likely die within the next 12 months.

Enduring Guardian – A person appointed to make important personal, lifestyle and treatment decisions for someone else, in the event they become incapable of making these decisions themselves. An Enduring Guardian is not permitted to make voluntary assisted dying decisions on behalf of a patient.

Enduring request – Lasting over a period of time. The Act requires the request for voluntary assisted dying to be made at three different points in time (First Request, Written Declaration and Final Request) to ensure the request is enduring.

Final Request – The final request for access to voluntary assisted dying that a patient makes to the Coordinating Practitioner after completing the Written Declaration. This is the last of 3 requests a patient must make to access voluntary assisted dying.

Final Review – The review of the request and assessment process that the Coordinating Practitioner must complete after receiving the Final Request.

First Assessment – The assessment completed by the Coordinating Practitioner to determine if a patient meets the eligibility criteria for access to voluntary assisted dying. If assessed as eligible, this would be followed by the Consulting Assessment.

First Request – The clear and unambiguous request a patient makes to a medical practitioner during a medical consultation for access to voluntary assisted dying. This is the first of 3 requests a patient must make to access voluntary assisted dying.

First responder – A person whose job means that they are likely to be called to attend to an emergency (e.g. ambulance officers, police, firefighters).

Health professional – A qualified person who practises one of a range of medical, nursing or allied health professions.

Healthcare worker – A person who works in a healthcare setting such as a hospital, general practice or residential care facility. This includes health professionals and any other person who provides health services or professional care services.

Medical Certificate of Cause of Death (MCCD) – A legal document that is required to notify the Registrar of Births, Deaths and Marriages that a death has occurred and the cause of the death.

Medical consultation – An appointment or meeting with a medical practitioner to seek medical advice or treatment.

Medical practitioner – A person registered in the medical profession (other than as a student). Also known as a doctor.

National Accreditation Authority for Translators and Interpreters (NAATI) – The national standards and accreditation body for translators and interpreters in Australia.

Neurodegenerative condition – A condition characterised by degeneration of the nervous system, especially the neurons in the brain (e.g. motor neurone disease, Parkinson's disease, Huntington's disease, etc).

Nurse practitioner – A person registered in the nursing profession (other than as a student) whose registration is endorsed as nurse practitioner. A nurse practitioner has an additional masters degree and is licensed to work at an advanced practice level.

Palliative care – The care provided to a patient who has a life-limiting illness, disease or medical condition and their family to support their quality of life, often provided by a specialised health service.

Practitioner administration – The process whereby a patient is administered the voluntary assisted dying substance by the Administering Practitioner for the patient.

Practitioner/participating practitioner – A medical practitioner or nurse practitioner participating in, or considering participating in, the voluntary assisted dying process.

Registered health practitioner – A person registered under the *Health Practitioner Regulation National Law (Western Australia) Act 2010* to practise a health profession (other than as a student).

Request and assessment process – The part of the voluntary assisted dying process that involves the First Request, First Assessment, Consulting Assessment, Written Declaration, Final Request and Final Review.

Self-administer/self-administration – The process whereby a patient prepares and ingests the voluntary assisted dying substance themselves.

State Administrative Tribunal (SAT) – An independent body that makes and reviews a range of decisions related to administrative, commercial and personal matters in WA. SAT can review certain decisions related to the voluntary assisted dying assessment process.

Telehealth – The use of communication technology (e.g. phone call, videoconference etc) to provide healthcare over a distance.

Voluntary – When a person acts of their own free will. Under the Act, a patient is not obliged at any stage of the process, even after completion of the request and assessment process, to take any further action in relation to voluntary assisted dying.

Voluntary assisted dying (VAD) – The legal process that enables an eligible person to access, administer or be administered the voluntary assisted dying substance for the purpose of causing their death.

Voluntary Assisted Dying Act 2019 **(the Act)** – The legislation that regulates voluntary assisted dying in WA.

Voluntary Assisted Dying Board – The statutory Board established to ensure compliance with the Act and to recommend safety and quality improvements relating to voluntary assisted dying.

Voluntary Assisted Dying – Information Management System (VAD-IMS) – The online system that enables completion and submission of the required forms to the Voluntary Assisted Dying Board.

Voluntary assisted dying substance – The approved medication that will cause death.

Statewide Care Navigator Service (SWCNS) – The specific nurse-led service established to provide a statewide point of contact for information and assistance relating to voluntary assisted dying.

Statewide Pharmacy Service (SWPS) – The specific pharmacy service established to supply the voluntary assisted dying substance in Western Australia.

Written Declaration – The formal written request for access to voluntary assisted dying that a patient makes after being assessed as eligible by the Coordinating Practitioner and the Consulting Practitioner. This is the second of 3 requests a patient must make to access voluntary assisted dying.

2 The *Voluntary Assisted Dying Act 2019*

In 2017 a Joint Select Committee on End of Life Choices was established by the Parliament of Western Australia. The Committee undertook an inquiry into the need for laws in WA to allow citizens to make informed decisions regarding their own end-of-life choices. The Committee handed down its report *My Life, My Choice* to both Houses of Parliament on 23 August 2018. The report outlined 52 findings and made 24 recommendations in relation to end-of-life choices. Unnecessary suffering at end of life, and broad community agreement regarding individual autonomy, formed the basis for the Committee's recommendation that the Government draft and introduce a Bill for Voluntary Assisted Dying. The WA Government considered its response to the Committee's report and instructed the Department of Health and the Department of Justice to implement the Committee's recommendations relating to voluntary assisted dying, including developing legislation.

To facilitate the development of legislation for voluntary assisted dying in WA, a Ministerial Expert Panel was established to undertake consultation and inform the Government's drafting of the Act. The Ministerial Expert Panel on Voluntary Assisted Dying was established and commenced in December 2018. The Panel was chaired by Mr Malcolm McCusker AC QC with Dr Penny Flett as Deputy Chair.

The Panel prepared a Discussion Paper and undertook widespread public and expert consultation in the development of its recommendations. There were 867 participants involved in the consultation process and a further 541 submissions received by the Panel, providing a total of 1,408 consultation interactions. Participants were involved by providing their views at public forums (557), at stakeholder roundtables or meetings (194) or attendance at grassroots sessions (116). The 541 submissions were received either online (417), by email (110) or by mail (14). The Final Report of the Ministerial Expert Panel on Voluntary Assisted Dying was tabled in both Houses of Parliament on 27 June 2019. The drafting of the Act was finalised and resulted in the *Voluntary Assisted Dying Bill 2019*.

In August 2019 the *Voluntary Assisted Dying Bill 2019* was introduced into the Western Australian Parliament. There were 70 hours of debate on the Bill in the Legislative Assembly and 105 hours of debate in the Legislative Council. On 10 December 2019 the Bill completed passage through Parliament and received Royal Assent on 19 December 2019. Part 1 of the Act (other than divisions 2 to 4) commenced on Royal Assent with the rest of the Act commencing upon proclamation on 1 July 2021.

2.1 The legal context of voluntary assisted dying 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.

2.1.1 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 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.

2.1.2 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 Schedule 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 prescribed form under the Act 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.

2.1.3 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).

2.2 The Voluntary Assisted Dying Board

The Voluntary Assisted Dying Board is an independent statutory body responsible for monitoring the Act. The Voluntary Assisted Dying Board regularly reviews the voluntary assisted dying process in WA to ensure compliance with the Act and to recommend safety and quality improvements.

The Voluntary Assisted Dying Board is comprised of 5 members who have expertise across a variety of disciplines. The responsibilities of the Voluntary Assisted Dying Board include:

- monitoring activity carried out under the Act
- making referrals for investigations of suspected breaches of the Act
- preparing annual reports to the Minister for Health on the operation of the Act
- collating statistical information about voluntary assisted dying in WA
- facilitating and conducting research related to voluntary assisted dying.

The voluntary assisted dying process in WA requires that several forms and declarations be submitted to the Voluntary Assisted Dying Board to document the process and confirm compliance with the Act. To support this, the Voluntary Assisted Dying – Information Management System (VAD-IMS) has been developed as the online platform for the management of voluntary assisted dying in Western Australia.

The Voluntary Assisted Dying Board is responsible for VAD-IMS and has ownership of the information contained within the platform. This means the Voluntary Assisted Dying Board can investigate patterns that may indicate breaches of the Act and can make decisions about utilising the data contained within VAD-IMS for education or research purposes. The Voluntary Assisted Dying Board can be contacted to discuss research proposals or requests for access to data as permitted by the Act by emailing VADBoard@health.wa.gov.au

In November each year the Voluntary Assisted Dying Board provides an annual report to the Minister for Health. These reports are subsequently published on the board's website and provide insight into the operation of voluntary assisted dying in WA.

2.2.1 The Voluntary Assisted Dying – Information Management System (VAD-IMS)

Technical support for VAD-IMS is provided by Health Support Services (HSS) and the Department of Health. In addition to supporting the Voluntary Assisted Dying Board in meeting the responsibilities discussed previously, VAD-IMS also enables:

- registration for access to the WA VAD Approved Training required to be completed by a participating practitioner
- the online submission of the forms that are required to be given to the Voluntary Assisted Dying Board under the Act
- the online submission of declarations that are required to be given to the Voluntary Assisted Dying Board under the Act
- generation of receipts to notify practitioners that the Voluntary Assisted Dying Board has received a submitted form.

The VAD-IMS also includes a resource hub where practitioners can find useful resources such as guidance on specific topics, templates and proforma examples of documents.

Only practitioners who successfully complete the WA VAD Approved Training to become a participating practitioner will be given a VAD-IMS account. Several activities can be completed by practitioners without registering with VAD-IMS. These include the *First Request Form*, the *Consultation Referral Form*, the *Authorised Disposal Form* and the *Notification of Death (Other Medical Practitioner) Form*. These forms can be either uploaded to VAD-IMS or returned via fax. This is to ensure that all practitioners required to complete actions under the Act can do so in a timely manner and with relative ease. VAD-IMS is accessible at https://vad-ims.health.wa.gov.au/VAD/.

Examples of the forms that are required to be given to the Voluntary Assisted Dying Board under the Act are available via the Department of Health website. These are provided to give practitioners an idea of the information that will be submitted through VAD-IMS at each stage of the voluntary assisted dying process. These are examples only and are not provided for use.

If a practitioner is having difficulty accessing or submitting any of the forms available through VAD-IMS, they should contact the Voluntary Assisted Dying Board Secretariat for support by emailing VADBoard@health.wa.gov.au.

3 Voluntary assisted dying as an end-of-life choice

Voluntary assisted dying is a choice available to an eligible patient who is approaching the end of their life. This is in addition to several other choices that patients may make about their end-of-life care, particularly involving advance care planning and palliative care services. Medical practitioners and nurse practitioners who are considering participating in the voluntary assisted dying process in WA should familiarise themselves with the processes around advance care planning, including enduring guardianships and Advance Health Directives. It is expected that, to be able to appropriately support a patient seeking voluntary assisted dying, a practitioner will have a good understanding of palliative care and other end-of-life services available for patients. Treatment and palliative care must be part of a broader conversation with patients considering voluntary assisted dying.

High-quality, patient-centred end-of-life care involves working with patients to identify, assess and treat their pain and other symptoms as well as providing psychosocial, emotional and spiritual support. It includes:

- respecting the patient's autonomy, supporting informed decision making and providing personalised care that is acceptable to the patient
- ensuring that medical treatment decisions respect the patient's values and preferences
- managing symptoms and responding to the patient's concerns
- supporting carers and family, where appropriate.

Essential to providing high quality end-of-life care is the capacity of medical practitioners and nurse practitioners to talk with patients about their prognosis and options for treatment and care, even when the actual timeframe for end of life is uncertain. Conversations about dying and preparing for death should not wait until the last weeks of life. Early conversations become even more pressing where future loss of decision-making capacity is anticipated, and practitioners need to be proactive in having timely conversations.

Medical practitioners and nurse practitioners can play an important role in helping patients to understand the likely progression of their disease, illness or medical condition, and what treatment and care options are available. Practitioners can ask questions to check a patient's understanding of their situation and help them to think through their treatment, advance care planning, palliative care and end-of-life care options. Experienced medical practitioners and nurse practitioners will recognise that conversations about options for end-of-life care and treatment may occur over several discussions before the patient is ready to make a decision.

Medical practitioners and nurse practitioners should be aware of their own feelings and values in relation to the end of life when discussing end-of-life care with patients. Practitioners should reflect on how their own feelings and values may affect their ability to have open and supportive conversations with patients, particularly if a patient is considering withdrawing from active treatment or accessing voluntary assisted dying. It is important that a practitioner's personal beliefs do not impede a patient's ability to make an autonomous decision regarding voluntary assisted dying. Voluntary assisted dying is intended to be an end-of-life choice available to all eligible Western Australians as part of high quality, patient-centred end-of-life care.

3.1 The importance of palliative care

Palliative care aims to improve the quality of life for anyone with a life-limiting condition as well as their family and carers. Palliative care sees death and dying as a normal part of life. It does not try to shorten or extend life and instead aims to help a person live as well as possible by focusing on the person's quality of life. Palliative care can be accessed in almost all care settings, including a hospital, specialist centres such as hospices, residential aged care facilities, or a person's home.

Because palliative care does not seek to shorten or help end a person's life, voluntary assisted dying is sometimes considered to offer a contrasting perspective. The intention of the Act is not to position voluntary assisted dying in opposition to palliative care but to offer voluntary assisted dying as an additional choice that is available at end of life to those who meet the eligibility criteria. Reporting from the Voluntary Assisted Dying Board indicates that over 80 per cent of patients who die from accessing voluntary assisted dying in WA have received palliative care.

All practitioners, but especially those intending to support patients at the end of life, should familiarise themselves with the palliative care education and training opportunities and resources available to them, including:

- End of life and palliative care education and training for WA https://www.caresearch.com.au/Health-Professionals/Health-Practitioner-Education/Workforce-Development/End-of-life-and-Palliative-Care-Education-and-Training-for-WA
- The End of Life and Palliative Care Education and Training Framework https://www.health.wa.gov.au/Articles/A_E/End-of-Life-Education-and-Training-Framework
- Palliative and Supportive Care Education https://www.pasce.com.au/
- WA Department of Health https://www.health.wa.gov.au/Articles/N_R/Palliative-Care

3.2 Health professionals and voluntary assisted dying

Many health professionals are involved in providing care and support to people with advanced and progressive medical conditions that will cause their death, and who require end-of-life care. The Act identifies specific roles and responsibilities for medical practitioners and nurse practitioners, but as members of a multidisciplinary team many other health professionals are likely to provide support and assistance.

Nurses, allied health professionals and other healthcare workers may be asked for information about voluntary assisted dying by patients or provide care and support to patients who are considering or have requested voluntary assisted dying. Health professionals who are asked about voluntary assisted dying can provide information, and usual care and support, respecting the patient's choice in the same manner as patients receiving any other type of treatment. Health professionals may also be asked to assist in the voluntary assisted dying process in other ways such as with communication if the patient has communication difficulties.

In general, only medical practitioners and nurse practitioners will have specific roles under the Act and are therefore required to complete the WA VAD Approved Training. Other health professionals should check with their professional organisations regarding any specific guidance they may have developed concerning voluntary assisted dying. They should also familiarise themselves with any models of care, policies or procedures relating to voluntary assisted dying in their own health service or at facilities where they may provide professional services.

Although most health professionals will not participate directly in the process, they may provide care and support for patients who choose to access voluntary assisted dying. Where a health professional's beliefs and values conflict with voluntary assisted dying they may conscientiously object to being involved. A health professional who has a conscientious objection to voluntary assisted dying has the right to refuse to participate in voluntary assisted dying. However, medical practitioners are obligated under the Act to respond to a patient request for access to voluntary assisted dying, regardless of whether they hold a conscientious objection. The required process is explained in section 7.

It is important that all health professionals avoid judgement of patients and colleagues who have different views on voluntary assisted dying. Good patient care is enhanced when there is mutual respect and clear communication between all health professionals involved in providing care and support to patients. Health professionals are encouraged to take time to consider, reflect and come to a personal decision regarding their perspective on voluntary assisted dying.

3.3 Ensuring the rights of patients

All patients have the right to be supported to make informed decisions about their end-of-life care and treatment, and to receive compassionate and respectful care.

Health professionals are expected to:

- demonstrate a willingness to listen carefully, empathise with, and support patients to make an informed decision about their end-of-life care and treatment
- respect their patient's beliefs, values and the choices they make about end-of-life care, even if it conflicts with their own values or religious beliefs
- respect a patient's autonomy and right to make genuine choices about their treatment and care
- provide routine and other care unrelated to a request for voluntary assisted dying.

3.4 Health service involvement in voluntary assisted dying

Different health services, such as private and public hospitals, community health services, primary care health services, residential aged care facilities and others will have varying levels of involvement in voluntary assisted dying. Health services determine what level of involvement they have. This will depend on the type of care the service normally provides, the skills and expertise available within the service and the values of the service. All health services should ensure that staff are aware of the Act and the voluntary assisted dying process, and have access to information that will support them to respond to a patient who raises voluntary assisted dying.

WA Health has a mandatory policy in place, the *Managing Voluntary Assisted Dying Policy* that applies to all WA health entities. This policy outlines the requirements for health service providers (HSPs) to develop local policies and procedures to manage voluntary assisted dying processes appropriately, safely and consistently across the WA health system. Health professionals who are employed or contracted by an HSP should familiarise themselves with the local policies and procedures regarding voluntary assisted dying.

Each metropolitan HSP currently has a point of contact for voluntary assisted dying within their service (often collectively referred to as the HSP VAD Coordinators). A patient can self-refer or be referred to the relevant person to receive support in finding a medical practitioner who is qualified and eligible to accept a request for voluntary assisted dying.

- **East Metropolitan Health Service – End of Life Choices Coordinator**
  Email: EMHS.VAD@health.wa.gov.au Phone: 0481 479 915
- **North Metropolitan Health Service – VAD Coordinator**
  Email: NHMS.VAD@health.wa.gov.au Phone: 0479 177 780
- **South Metropolitan Health Service – VAD Program Manager**
  Email: SMHS.VADProgramManager@health.wa.gov.au Phone: 0479 190 988

The Act does not require health services or facilities to provide for voluntary assisted dying. Some health services or facilities may adopt policies that prohibit or substantially limit the provision of voluntary assisted dying services within their premises. This may be because their views are considered not to align with voluntary assisted dying or for other reasons, such as resourcing issues. While the Act clearly supports individual conscientious objection, this often translates to institutional non-participation, particularly for some faith-based organisations. In such instances, medical practitioners, nurse practitioners and other health professionals should discuss with the health service how best to support the patient's choice to access voluntary assisted dying.

It is important that practitioners, patients, and community members understand that voluntary assisted dying is not supported as an end-of-life choice within some private hospitals and care facilities, including those that provide public services. Patients should consider this in their end-of-life planning. If a particular site does not support voluntary assisted dying this should be confirmed and communicated at the earliest opportunity as it may act as a barrier to patient access or experience during the voluntary assisted dying process.

Impacts to patients may include:

- inability to make a request for voluntary assisted dying that is accepted by a medical practitioner or be assessed for voluntary assisted dying on-site or via videoconference to the site
- multiple transfers off-site during the request and assessment process and to make an administration decision
- transfer off-site for the administration of the voluntary assisted dying substance
- barriers to information sharing between practitioners.

It is recommended that practitioners ensure their patients are made aware early in their end-of-life-planning that voluntary assisted dying may not be available in all facilities. Patients should also be advised of the possible impacts that may be encountered if they wish to pursue voluntary assisted dying while a resident or patient of a facility that does not support it. Further guidance can be provided by SWCNS.

4 Preparing to participate in voluntary assisted dying

The Act allows medical practitioners and nurse practitioners who meet the eligibility requirements, and who have successfully completed the WA VAD Approved Training, to participate in the voluntary assisted dying process.

Medical practitioners who are eligible and have completed the WA VAD Approved Training can actively undertake the role of:

- Coordinating Practitioner (see section 5.1)
- Consulting Practitioner (see section 5.2)
- Administering Practitioner (see section 5.3)

Nurse practitioners who are eligible and have successfully completed the WA VAD Approved Training can undertake the role of Administering Practitioner. Participation in the roles of Authorised Supplier and Authorised Disposer is restricted to authorised pharmacists only (see sections 15 and 17).

Other health professionals may be involved with voluntary assisted dying as part of a person's broader healthcare team (e.g. a palliative care nurse, speech pathologist or social worker). Although these individuals do not have formal roles under the Act, their involvement in the patient's care is an important part of supporting the patient's choice to access voluntary assisted dying.

4.1 Becoming a participating practitioner

Some medical practitioners and nurse practitioners will know before a patient approaches the topic of voluntary assisted dying that they are prepared to be involved as a participating practitioner. A practitioner who is likely to meet the eligibility requirements to participate, and is willing to be involved in providing voluntary assisted dying services, is encouraged to prepare in advance of any request being made so that they are informed, educated and ready to respond to a patient request for access to voluntary assisted dying.

To become a participating practitioner, a medical practitioner or nurse practitioner will need to undergo the following steps:

1. Register with VAD-IMS.
2. Complete the Department of Health identity and eligibility verification process (to be granted access to the WA VAD Approved Training).
3. Successfully complete the WA VAD Approved Training.
4. Receive full practitioner access to VAD-IMS.

For other medical practitioners and nurse practitioners, participating in voluntary assisted dying might not be an option they consider until a patient approaches them for information about the process or to request access to voluntary assisted dying. If this happens, it is likely that the practitioner will need to be highly responsive to ensure that they can meet the requirements of the Act to provide voluntary assisted dying services in a suitable timeframe to support the patient. This is because, while a medical practitioner can accept a request for voluntary assisted dying prior to confirmation that they are eligible to be a participating practitioner, each of the steps outlined above must be completed before the medical practitioner can begin the assessment process for the patient. Completing these steps will likely take several days.

In some instances, the patient may be better served by referral to a practitioner who has already successfully completed the WA VAD Approved Training and is able to commence the request and assessment process. There have been occasions where the time taken for a practitioner to complete the eligibility confirmation and training processes has impacted on the patient's timeline for accessing voluntary assisted dying. If a practitioner seeks referral to an existing voluntary assisted dying provider, SWCNS will be able to assist in identifying practitioners who are ready to provide timely support for the patient (see section 22).

4.2 Practitioner eligibility for specific roles under the Act

Specific roles designated by the Act have associated eligibility requirements. Some of these requirements are specified in the Act, while others have been determined by the Director General of Health (as the CEO). The CEO requirements are published on the WA Department of Health website. The onus is on the practitioner to ensure they meet all applicable eligibility requirements before commencing in a relevant role.

Practitioners will need to have components of their eligibility verified by the Department of Health prior to being granted access to the WA VAD Approved Training.

It is important to note that under the Act, a medical practitioner may be considered eligible to act as the Coordinating Practitioner or Consulting Practitioner for a patient before completing the WA VAD Approved Training, but they must successfully complete this training before undertaking an assessment. This is different for the role of Administering Practitioner, where completion of the WA VAD Approved Training is a requirement that must be met before undertaking the role.

4.2.1 Eligibility to act as Coordinating Practitioner or Consulting Practitioner

A medical practitioner is eligible to act as a Coordinating Practitioner or Consulting Practitioner if they:

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

A medical practitioner is only eligible to act as the Coordinating Practitioner or Consulting Practitioner for a particular patient if they:

- are not a family member of the patient
- do not know or believe that they are a beneficiary under a 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.

4.2.2 Eligibility to act as Administering Practitioner

A medical practitioner is eligible to act as an Administering Practitioner if they meet the eligibility requirements to be a Coordinating Practitioner or Consulting Practitioner (refer to section 4.2.1) and they:

- are not a family member of the patient
- do not know or believe that they are a beneficiary under a 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
- have successfully completed the WA VAD Approved Training.

A nurse practitioner is eligible to act as an Administering Practitioner if they:

- hold nursing registration with endorsement as a nurse practitioner, have practised as a nurse practitioner for at least 2 years and meet the requirements approved by the CEO
- are not a family member of the patient
- do not know or believe that they are a beneficiary under a 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
- have successfully completed the WA VAD Approved Training.

4.2.3 A Note on referees

A referee check is currently included in the CEO requirements for medical and nurse practitioners. The referees should know the practitioner in a professional capacity and be able to attest to their suitability to participate in the voluntary assisted dying process. A brief and confidential referee check will be conducted, over the phone with a senior member of the End of Life Care Program. Practitioners do not have to provide a current supervisor or colleague as a referee. If there are concerns about finding a referee, current members of the WA VAD Community of Practice are sometimes able to provide a professional reference on behalf of a practitioner.

4.3 Practitioner eligibility verification to access the WA VAD Approved Training

A practitioner must successfully complete the WA VAD Approved Training before engaging in actions required by the roles of Coordinating Practitioner, Consulting Practitioner or Administering Practitioner. Eligibility to act in one of these roles must be confirmed by the WA Department of Health before the practitioner will be granted access the WA VAD Approved Training.

If a practitioner intends to take a role under the Act, they should complete the Practitioner Registration Form via VAD-IMS. Following receipt of the Practitioner Registration Form the Department of Health will contact the practitioner to provide specific information and documentation to enable verification of their identity and eligibility. Practitioners will also be required to make certain declarations.

Practitioner information that will need to be provided includes:

- identity documentation
- Ahpra registration number
- a current Curriculum Vitae that is sufficiently detailed to enable assessment against the criteria
- details of 2 professional referees.

There is additional information that will need to be provided by overseas-trained practitioners. A summary of the process to access the WA VAD Approved Training can be found via the Department of Health website

4.4 The WA VAD Approved Training

A participating practitioner is required to undertake the WA VAD Approved Training prior to commencing the First Assessment as a Coordinating Practitioner; prior to commencing the Consulting Assessment as a Consulting Practitioner; or before being considered eligible to act in the role of Administering Practitioner. This mandatory training is approved by the Director General of Health (as CEO) in accordance with the Act. Once the Department of Health is satisfied that the eligibility requirements have been met, the practitioner will be provided with a unique login which will allow them to access the WA VAD Approved Training online.

The WA VAD Approved Training has been developed by academic staff from the Australian Centre for Health Law at Queensland University of Technology and includes multiple online modules with interactive learning exercises. It should take approximately 6 hours to complete and can be completed over multiple sittings. To successfully complete the WA VAD Approved Training the practitioner must pass the assessment with a score of 90 per cent or more. If the practitioner does not pass the assessment they may be given additional attempts to do so. If they do not pass after further attempts, the practitioner will be considered to not have completed the WA VAD Approved Training and will not be able to participate in roles under the Act.

The WA VAD Approved Training is available to be completed online, except for the content that is related to the prescription and administration of the voluntary assisted dying substance. In accordance with the Commonwealth *Criminal Code Act 1995*, much of this information is not able to be provided over a carriage service (such as the internet) and will be provided to practitioners in hard copy format. The impact of the Commonwealth *Criminal Code Act 1995* on voluntary assisted dying in WA is explained further in section 6.

The practitioner will be required to confirm that they have received and understood the material in the *Voluntary Assisted Dying – Prescription and Administration Information*. If the practitioner does not provide this confirmation to the Department of Health, they will not be considered to have successfully completed the WA VAD Approved Training and cannot begin the assessment process for a patient.

The WA VAD Approved Training remains valid for a period of 3 years from the date of successful completion of the online assessment module. The Department of Health will provide a reminder to the practitioner approximately 3 months prior to expiry.

If the practitioner intends to continue participating in voluntary assisted dying, they will be granted access to the WA VAD Approved Training renewal module, once the End of Life Care Program has confirmed that they continue to meet the eligibility requirements of the Act.

The renewal module is a shorter format (approximately 1.5 hours) and covers key information plus additional case studies. The renewal module is regularly updated and must be repeated every 3 years to ensure the practitioner's legal and clinical knowledge remains up-to-date and consistent with voluntary assisted dying processes, procedure and policies in WA.

5 Participating practitioner roles

Information about the Coordinating and Consulting Practitioner roles is provided to help medical practitioners understand the responsibilities of each role, and to assist them in deciding if participating in the voluntary assisted dying process is right for them.

5.1 Coordinating Practitioner

The Coordinating Practitioner is responsible for coordinating the voluntary assisted dying process for the patient. The Coordinating Practitioner must understand:

1. the voluntary assisted dying process steps so they can prepare and act in a timely manner
2. the responsibilities and tasks of other roles in the voluntary assisted dying process, so they can provide information, explanation, direction and support as required. These roles include:
    a. the Consulting Practitioner
    b. the Administering Practitioner
    c. other suitably qualified persons who may provide advice in relation to the First Assessment
    d. the patient and their family (if the patient consents)
    e. the Contact Person
    f. the Authorised Supplier
    g. the Authorised Disposer.

With the patient's permission, the Coordinating Practitioner may also talk with other members of the healthcare team about the patient's request for access to voluntary assisted dying and how the process is progressing. Table 1 details the tasks and actions that must be done prior to the medical practitioner becoming the Coordinating Practitioner for the patient. Table 2 summarises the key tasks and actions required of the Coordinating Practitioner during the voluntary assisted dying process. The role carries considerable clinical and administrative responsibilities.

5.1.1 Information sharing between care providers

The Coordinating Practitioner may request the patient's consent to engage with other members of the patient's healthcare team to share information on the patient's status, safe storage of the voluntary assisted dying substance and other relevant information. Consent to share information between providers and others involved in the patient's care team should be requested early (preferably at the First Assessment but at a minimum at the time of making the Administration Decision). The patient's consent decision should be documented.

Table 1. Summary of medical practitioner key tasks and actions

Voluntary assisted dying process step	Tasks and actions
First Request is made in accordance with the Act	• Receives the First Request and discusses the patient's concerns regarding their diagnosis, prognosis and end-of-life care preferences. • Decides whether to accept or refuse the First Request and informs the patient within 2 business days (or immediately in the case of conscientious objection). • Provides the patient with the approved information required under section 20(4)(b). • Records the First Request, the decision to accept or refuse the First Request (including the reason if refused) and whether the patient was given the approved information in the patient's medical record. • Completes the *First Request Form* and submits to the Voluntary Assisted Dying Board via VAD-IMS within 2 business days.

Table 2. Summary of Coordinating Practitioner key tasks and actions

Voluntary assisted dying process step	Tasks and actions
Completes mandatory WA VAD Approved Training	• Undertakes the WA VAD Approved Training if not already completed.
First Assessment	• Conducts the First Assessment for eligibility for voluntary assisted dying. • Refers for determination if unable to determine if the patient has a disease, illness or medical condition that meets the eligibility requirements; or if the patient has decision-making capacity in relation to voluntary assisted dying; or if the patient is acting voluntarily and without coercion. • If the patient is assessed as meeting the eligibility criteria for voluntary assisted dying, provides required information to the patient (see section 8.5). • If satisfied that the patient meets all the eligibility criteria and understands the information provided, assesses the patient as eligible for access to voluntary assisted dying. • Informs the patient of the outcome of the First Assessment. • Completes the *First Assessment Report Form* and submits to the Voluntary Assisted Dying Board via VAD-IMS within 2 business days • Gives a copy of the *First Assessment Report Form* to the patient.
Refer for Consulting Assessment	• Refers the patient to a medical practitioner for the Consulting Assessment and awaits notification from the medical practitioner as to whether they accept the referral or not. • If the medical practitioner accepts and becomes the Consulting Practitioner for the patient, is informed of the outcome of the Consulting Assessment. • If the medical practitioner refuses, makes another referral for a Consulting Assessment. • If the outcome of the Consulting Assessment is that the patient is ineligible, may make a further referral for a Consulting Assessment to another medical practitioner.
Written Declaration	• Gives *Written Declaration* to the patient. • Receives completed *Written Declaration* from the patient. • Records the date the *Written Declaration* was made and the date the *Written Declaration* was received in the patient's medical record. • Submits copy of the *Written Declaration* to the Voluntary Assisted Dying Board via VAD-IMS within 2 business days.

Voluntary assisted dying process step	Tasks and actions
Final Request	• Accepts patient's clear and unambiguous *Final Request* for access to voluntary assisted dying in person or via audiovisual communication (i.e. telehealth where people can see and hear each other in real time). • Confirms the *Final Request* has been made after the designated period of nine days or the patient meets criteria for *Final Request* to be made prior to end of designated period. • Records the date when the *Final Request* was made (and the reason if made before the end of the designated period) in the patient's medical record. • Completes *Final Request Form* and submits to the Voluntary Assisted Dying Board via VAD-IMS within two business days.
Final Review	• Completes *Final Review* – reviews all forms including the *Written Declaration*, having regard to any decision made by the SAT. • Completes the *Final Review Form* and submits to the Voluntary Assisted Dying Board via VAD-IMS within two business days.
Administration Decision	• Consults with and advises the patient to assist them in making a clear and unambiguous Administration Decision. • Administration Decision may be made in person or via audiovisual technology (i.e. videoconference where people can see and hear each other in real time). • Records the Administration Decision in the patient's medical record. • If a self-administration decision is made, receives the completed *Contact Person Appointment* Form from the patient and gives the form the Voluntary Assisted Dying Board within 2 business days.
Prescribing	• Prior to prescribing the voluntary assisted dying substance, provides information in writing to the patient as required by section 69 of the Act. The content of this information cannot be discussed using audiovisual communication (see section 14). • Completes the prescription for the patient in accordance with the relevant prescribing protocol (as per the *Voluntary Assisted Dying – Prescription and Administration Information*). • Gives the prescription to SWPS either in person or via registered post/ courier and records that prescription has been sent in VAD-IMS. May also upload copy of prescription to VAD-IMS. • Completes *Administration Decision and Prescription Form* within 2 business days after completing the prescription and submits to the Voluntary Assisted Dying Board via VAD-IMS (must be accompanied by the *Contact Person Appointment Form* if a self-administration decision has been made).

Voluntary assisted dying process step	Tasks and actions
Administration (unless the Administering Practitioner role has been transferred)	• If a practitioner administration decision has been made, is advised by the patient as to when they intend to have the substance administered. Contacts the SWPS to arrange supply of the voluntary assisted dying substance. • If a practitioner administration decision has been made, administers the voluntary assisted dying substance at the time agreed and with an eligible witness present (in accordance with the protocols in the *Voluntary Assisted Dying – Prescription and Administration Information*) if satisfied that at the time of administration the patient has decision-making capacity in relation to voluntary assisted dying, they are acting voluntarily and without coercion, and their request is enduring. • Completes the *Practitioner Administration Form* and submits to the Voluntary Assisted Dying Board via VAD-IMS within 2 business days. • If relevant, disposes of any unused or remaining voluntary assisted dying substance and completes the *Practitioner Disposal Form*. The form must be submitted to the Voluntary Assisted Dying Board via VAD-IMS within 2 business days of disposal.
After the patient dies	• If relevant, issues the Medical Certificate of Cause of Death (MCCD) after the patient's death. It must not include any reference to voluntary assisted dying. • Completes the *Notification of Death (Coordinating/Administering Practitioner) Form* and submits to the Voluntary Assisted Dying Board via VAD-IMS within 2 business days of becoming aware of the person's death (unless a *Practitioner Administration Form* has been submitted). • Provides support and information to the family as required.

5.2 Consulting Practitioner

The Consulting Practitioner is responsible for undertaking an independent assessment of the patient's eligibility for voluntary assisted dying. This is called the Consulting Assessment. If a medical practitioner accepts a referral for a Consulting Assessment from the Coordinating Practitioner, they become the Consulting Practitioner. Table 3 summarises the key tasks and actions required of the Consulting Practitioner during the voluntary assisted dying process.

Table 3. Summary of Consulting Practitioner key tasks and actions

Voluntary assisted dying process step	Tasks and actions
Receives referral for Consulting Assessment	• Decides whether to accept or refuse the referral for Consulting Assessment and informs the patient and Coordinating Practitioner within 2 business days (or immediately in the case of conscientious objection). • Records the referral and decision to accept or refuse the referral (including reason if refused) in the patient's medical record. • Completes the *Consultation Referral Form* and submits to the Voluntary Assisted Dying Board, preferably via VAD-IMS (can be faxed if needed), within 2 business days of the decision to accept or refuse the referral.
After accepting the referral and becoming the Consulting Practitioner	
Completes mandatory WA VAD Approved Training	• Undertakes the WA VAD Approved Training if not already completed.
Consulting Assessment	• Conducts the Consulting Assessment. • Refers for determination if unable to determine if the patient has a disease, illness or medical condition that meets the eligibility requirements; or if the patient has decision-making capacity in relation to voluntary assisted dying; or if the patient is acting voluntarily and without coercion. • If the patient is assessed as meeting the eligibility criteria for voluntary assisted dying, provides required information to the patient (see section 8.5). • If satisfied that the patient meets all the eligibility criteria and understands the information provided, assesses the patient as eligible for access to voluntary assisted dying. • Informs the patient and the Coordinating Practitioner of the outcome of the Consulting Assessment. • Completes the *Consulting Assessment Report Form* and submits to the Voluntary Assisted Dying Board via VAD-IMS within 2 business days of completing the Consulting Assessment. • Gives a copy of the *Consulting Assessment Report Form* to the patient.

5.3 Administering Practitioner

The Administering Practitioner role is relevant where a patient has made a practitioner administration decision. The Administering Practitioner is the Coordinating Practitioner for the patient **or** a person to whom the role of Administering Practitioner has been transferred.

5.3.1 Information sharing between care providers

The Administering Practitioner may request the patient's consent to engage with other members of the patient's healthcare team to share information on the patient's status, safe storage of the voluntary assisted dying substance and other relevant information. Ideally, the consent to share information between voluntary assisted dying providers and others involved in the patient's care team will have been requested and documented early in the process by the Coordinating Practitioner. If not, the Administering Practitioner can make this request and document the patient's decision.

Table 4. Summary Administering Practitioner key tasks and actions

Voluntary assisted dying process step	Tasks and actions
If role has been transferred	• If relevant, supplies (transfers) the voluntary assisted dying substance to the new Administering Practitioner. • Provides a handover consistent with good clinical practice to the new Administering Practitioner.
Administration	• If a practitioner administration decision has been made, is advised by the patient as to when they intend to have the substance administered. • Contacts SWPS to arrange supply of the voluntary assisted dying substance, unless substance already received as part of transfer of role. • Administers the voluntary assisted dying substance at the time agreed and with an eligible witness present (in accordance with the protocols in the *Voluntary Assisted Dying – Prescription and Administration Information*) if satisfied that at the time of administration the patient has decision-making capacity in relation to voluntary assisted dying, they are acting voluntarily and without coercion, and their request is enduring. • Completes the *Practitioner Administration Form* and submits to the Voluntary Assisted Dying Board via VAD-IMS within 2 business days after administering the voluntary assisted dying substance. • If relevant, disposes of any unused or remaining voluntary assisted dying substance and completes the *Practitioner Disposal Form*. This form must be submitted to the Voluntary Assisted Dying Board via VAD-IMS within 2 business days of disposal.
After the patient dies	• Completes the *Notification of Death (Coordinating/Administering Practitioner) Form* and submits to the Voluntary Assisted Dying Board via VAD-IMS within 2 business days of becoming aware of the patient's death (this is not required if a *Practitioner Administration Form* has been submitted). • Informs the Coordinating Practitioner of the patient's death, if the Administering Practitioner role has been transferred. • Provides support and information to the family as required.

6 Restrictions on communicating about voluntary assisted dying

Under the Act, there are restrictions on who can initiate a discussion with a patient that involves voluntary assisted dying. In addition, the Commonwealth *Criminal Code Act 1995* also has a direct impact on the operation of voluntary assisted dying in WA.

6.1 The Commonwealth *Criminal Code Act 1995*

The Commonwealth *Criminal Code Act 1995* contains offences which limit the use of a carriage service to access and transmit suicide-related material. This directly influences how particular parts of the voluntary assisted dying process can be communicated.

The following information is provided to assist practitioners to understand the Commonwealth *Criminal Code Act 1995* provisions relating to a 'carriage service' (in practical terms this usually means phone, fax, email, internet, videoconference etc).

As a general rule, any information that relates specifically to the act of administering a voluntary assisted dying substance or provides details or instructions about the act of administering a voluntary assisted dying substance must not be discussed or shared by phone, fax, email, videoconference, internet and the like.

Informing people about the legislation and associated processes in WA (either generic or in relation to a person's circumstance) may be undertaken via a carriage service to the extent that the information **does not advocate, encourage, incite, promote or teach about how to undertake the act of administration of a voluntary assisted dying substance**.

Considering the Commonwealth *Criminal Code Act 1995*, there are some discussions that **must** occur in person and cannot occur over phone or videoconference. Similarly, there is some information that **must** be provided in hard copy and cannot be provided by email or fax.

It is therefore important that practitioners communicating about voluntary assisted dying are mindful of the potential legal restrictions on how that communication can occur. This includes when communicating with a patient seeking information about, or access to, voluntary assisted dying and their family and carers. It also applies when communicating about voluntary assisted dying with SWCNS, SWPS, interpreters or other health professionals. Good clinical practice should always guide decision-making where voluntary assisted dying is concerned, including when deciding if a consultation with a person needs to occur in person or if it can occur via the use of a telehealth option (e.g. telephone, videoconference etc.).

If a phone or videoconference discussion starts to move towards details of the administration process, such as the names of voluntary assisted dying substances, their dosages or how to prepare and take them, the discussion should be immediately stopped, and this content left for a time when the people involved in the conversation can address these topics in person. This information must also not be distributed or discussed via email or fax.

6.2 Initiating a discussion about voluntary assisted dying

A patient may raise the topic of voluntary assisted dying with anyone involved in their care. Any health professional can respond to questions about voluntary assisted dying and provide information, if they are comfortable doing so. A patient who enquires about voluntary assisted dying should be responded to with respect and empathy in line with existing good clinical practice principles. The next steps will depend on what they are asking, who they are asking, and in what context they are asking.

A patient raising the topic of voluntary assisted dying presents an opportunity for health professionals involved in their care to have a meaningful discussion about their care needs, symptom management, palliative care options, support for their family, and their priorities as they approach the end of their life. The principles underpinning the Act include that a patient should be encouraged to openly discuss death and dying, and to be supported in conversations about treatment and care preferences. Linkage or referral to other services may form part of this discussion with the patient.

It is important to be aware that healthcare workers (including registered health practitioners, or any other person who provides health services or professional care services) are not permitted to initiate discussion about, or suggest, voluntary assisted dying to a patient they are providing health or professional care services to.

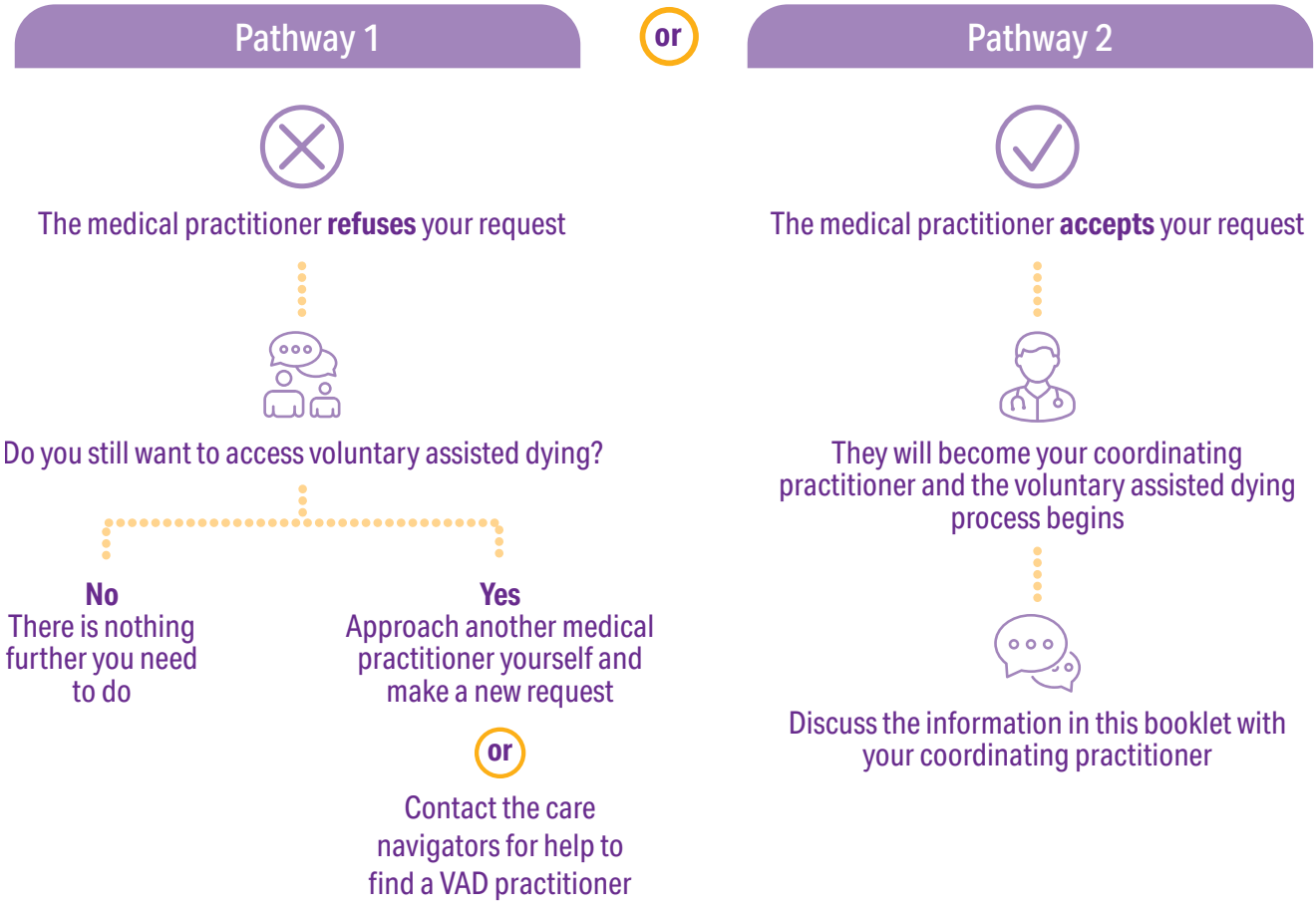
Under the Act, only a medical practitioner or nurse practitioner can raise the topic of voluntary assisted dying with a patient if, at the same time, they also inform the patient of their palliative care and treatment options and the likely outcomes of that care and treatment. It is intended that a conversation which involves voluntary assisted dying is part of a wider discussion about the patient's treatment and end-of-life priorities.

It is also important to recognise that a discussion about voluntary assisted dying, whether initiated by the patient or by a medical practitioner or nurse practitioner, does not begin the voluntary assisted dying process. This requires the person to make a formal First Request.

7 The First Request

In general, the voluntary assisted dying process includes the request and assessment process, the administration process, and activities that must be completed after the person dies. Figure 1 outlines the key steps within these processes.

Figure 1. The voluntary assisted dying process



7.1 What is a First Request?

A patient who is requesting access to voluntary assisted dying must make it clear that this is what they are doing. A First Request for voluntary assisted dying must be:

- clear and unambiguous
- made to a medical practitioner
- made during a medical consultation
- made either in person or, where this is not practicable, via audiovisual communication*.

*Technology where people can see and hear each other simultaneously.

If a First Request is made via audiovisual communication, the medical practitioner must ensure that any discussion of the voluntary assisted dying process does not breach the Commonwealth *Criminal Code Act 1995*.

It is important to recognise that the language used by the patient may not be the same as the language used in the Act. They may use other terms such as 'euthanasia', 'assisted suicide' or ask for help to die. The medical practitioner should take time to carefully explore what the patient is asking in a non-judgemental way so that they can be very clear about exactly what it is the patient wants from them, and if the patient is indeed making a First Request.

The First Request must be made during a medical consultation or appointment. This consultation may be in a clinical setting (such as a hospital or health clinic) or it may be in a non-clinical setting (such as a doctor making a house call). Circumstances around the medical consultation may contribute to the determination that it qualifies, such as the consultation being documented in a clinical appointment system or a Medicare or other fee being raised.

7.1.1 What is not considered a First Request?

A request for voluntary assisted dying **must** meet all the criteria to be considered a First Request. Some examples of what would not be considered a First Request include:

- a person seeking more information or expressing curiosity about voluntary assisted dying
- a person making a request for voluntary assisted dying to a health professional who is not a medical practitioner
- a person making a request for voluntary assisted dying to a medical practitioner but not during a medical consultation (e.g. at a social event).

Only medical practitioners can receive a First Request. If a patient makes a First Request to any other health professional, the patient should be informed that they must make their request to a medical practitioner.

7.2 Responding to a First Request

If a patient has made a First Request, the medical practitioner is obliged to undertake certain actions in response. The medical practitioner **must**:

1. accept or refuse the First Request
2. provide the patient with the Approved information booklet
3. record specific information in the patient's medical record
4. complete and submit the *First Request Form* to the Voluntary Assisted Dying Board within 2 business days.

This process must be followed by any medical practitioner to whom a patient makes a First Request, regardless of the eligibility potential of the patient or the intention of the medical practitioner. Failing to complete any of these steps is a breach of the Act.

To facilitate medical practitioners being able to meet the requirements of the Act, both the *Approved information* booklet and the *First Request Form* can be accessed online. The *First Request Form* can also be completed and submitted online via VAD-IMS or returned via fax. A medical practitioner does not need to be registered on VAD-IMS to be able to complete and submit the form. Simple information on completing the requirements is available on the Department of Health's First Request website.

7.2.1 Deciding to accept or refuse the First Request

A medical practitioner is not obliged to accept a First Request. Deciding whether to accept or refuse a First Request is a personal choice. However, there are several aspects that should be considered by the practitioner in making the decision to continue with the voluntary assisted dying process, including:

- their willingness to be involved
- their ability to perform the necessary duties
- their eligibility to fulfil a role under the Act.

Some medical practitioners may have very clear views on voluntary assisted dying and whether it is something that they are prepared to be involved in. For other medical practitioners, considering whether to participate may only happen when one of their usual patients makes a First Request. This is a significant decision for the practitioner, both personally and professionally.

The decision may also depend on the context of the health service in which the practitioner is employed. For example, the willingness and ability of an employing service to safely meet the needs of a patient seeking voluntary assisted dying may directly influence the medical practitioner's decision to accept or refuse a First Request. In addition, the medical practitioner needs to understand the responsibilities and tasks of the roles identified in section 5.1 and be aware of the significant clinical requirements, time commitment, and administrative duties associated with the role of Coordinating Practitioner.

7.2.2 Accepting the First Request

The medical practitioner can accept the First Request if they are eligible to act as the Coordinating Practitioner for the patient (see section 4.2). If the medical practitioner accepts the First Request, they become the patient's Coordinating Practitioner. The medical practitioner does not need to have completed the WA VAD Approved Training to accept the First Request, but they **must** complete it before beginning the First Assessment.

7.2.3 Refusing the First Request

There are several reasons why a medical practitioner may refuse the First Request:

- They may be ineligible to perform the duties of Coordinating Practitioner (e.g. they are a junior doctor)
- They may be unwilling to perform the duties of Coordinating Practitioner (e.g. they do not want to be the Coordinating Practitioner for the person)
- They may be unable to perform the duties of Coordinating Practitioner (e.g. they cannot commit the time required)
- They may hold a conscientious objection to voluntary assisted dying.

If a medical practitioner refuses the First Request on the basis of conscientious objection, they must inform the patient **immediately** and provide them with the approved information (this is explained further

in section 7.3). In all other circumstances the medical practitioner has 2 business days, not including the day the First Request was made, to inform the patient of their decision.

By its very nature, voluntary assisted dying is a time-dependent process. It is considered a professional obligation that a medical practitioner not unduly delay a patient's access to voluntary assisted dying. This principle holds for all medical practitioners and other health professionals who may be involved in the process, regardless of their role. Anyone required to make a decision as part of the voluntary assisted dying process should make their decision and inform the necessary people as soon as practicable.

If a practitioner refuses a First Request, they should explain to the patient that they will need to make another First Request to a different medical practitioner. Although it is not required by the Act, the medical practitioner should refer the patient to SWCNS. The care navigators will be able to assist the patient to locate a practitioner who is willing and eligible to accept the First Request. A referral form is available on the SWCNS website to facilitate the process.

7.3 Providing the information approved by the Director General of Health

Regardless of whether a medical practitioner accepts or refuses the First Request, they **must** provide the patient with the required information approved by the Director General of Health for this purpose (this is known as the approved information). The approved information summarises the voluntary assisted dying process and includes relevant resources and supports. The approved information also attempts to clarify for patients and medical practitioners, especially those unlikely to be involved in the voluntary assisted dying process, that if a medical practitioner does not accept the First Request, the patient can make a new request to another medical practitioner or contact SWCNS to seek assistance in finding a voluntary assisted dying provider.

There is often misunderstanding among medical practitioners that by submitting the First Request Form to the Voluntary Assisted Dying Board (as mandated by the Act) a patient referral process is triggered. This is not the case. The First Request Form only notifies the Voluntary Assisted Dying Board that a request has been made and no further action is taken.

The approved information is readily available to print in booklet form from the WA Department of Health's voluntary assisted dying website. Printed hard copies of the booklet can be requested from the Department of Health by emailing VADpolicy@health.wa.gov.au

7.4 Documenting the First Request

The details of the consultation should be documented in the patient's medical record in alignment with good clinical practice. As part of that documentation, a medical practitioner who receives a First Request is obliged to record (at minimum):

- that a First Request has been made
- their decision to accept or refuse the First Request
- if refused, their reason for refusal
- whether they have given the person the approved information.

A medical practitioner who receives a First Request **must** complete the *First Request Form* and provide a copy of this to the Voluntary Assisted Dying Board within 2 business days of their decision to accept or refuse the First Request.

This form can be accessed and submitted via VAD-IMS or returned via fax. A medical practitioner does not need to be registered on VAD-IMS to be able to complete and submit the *First Request Form*. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board.

The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the medical practitioner.

7.5 Handling an enquiry from an ineligible person before it becomes a First Request

Conversations about death and dying can be complex. If a patient has raised voluntary assisted dying, responding appropriately and in a way that is person-centred is important. There may be circumstances where a patient will clearly not meet all criteria for accessing voluntary assisted dying. For example, because there is no suggestion that they have a life-limiting disease, illness or medical condition; or because they are under the age of 18; or because they have a profound incapacity. However, once a First Request has been made the medical practitioner must complete the steps outlined in section 7.2.

Managing expectations during discussions of voluntary assisted dying is central to appropriately responding to and supporting a patient. An informal enquiry should still be explored with respect and consideration. A patient raising the topic of voluntary assisted dying provides an opportunity for meaningful discussion about their care needs and symptom management. Someone who is clearly ineligible for voluntary assisted dying may require some sensitivity and an explanation that the voluntary assisted dying legislation will not apply to their circumstances. In these instances, additional support and offers of information and counselling should be considered.

All health professionals can provide information about voluntary assisted dying to a person who requests it, if they feel comfortable and informed enough to do so. In addition, a person seeking information can be directed to the Healthy WA website or SWCNS. Contact details for SWCNS are available in section 22.

8 The First Assessment

Before commencing the First Assessment, the medical practitioner must have:

- successfully completed the WA VAD Approved Training (see sections 4.3 and 4.4)
- confirmed that they can act as the Coordinating Practitioner for the patient (see section 4.2)
- accepted the patient's First Request (see section 7).

The Coordinating Practitioner will be required to make relevant declarations regarding their eligibility.

As the Consulting Practitioner must conduct an independent assessment of the patient's eligibility to access voluntary assisted dying, the information contained in the following sections is also relevant for the completion of the Consulting Assessment by the Consulting Practitioner.

8.1 Assess the person's demographic eligibility

The Coordinating Practitioner and Consulting Practitioner must be satisfied that the patient meets the demographic eligibility requirements. The Coordinating Practitioner and Consulting Practitioner should record the basis for these decisions in the person's medical record. Table 5 provides examples of documents that may be helpful in assisting the Coordinating Practitioner or Consulting Practitioner in their decision-making process. Copies of relevant documents can also be included with the person's medical record.

8.1.1 Age requirement

Voluntary assisted dying is not an option available to anyone under the age of 18. The Coordinating Practitioner and Consulting Practitioner must be satisfied that the patient has reached 18 years of age. If there is doubt, the Coordinating Practitioner and Consulting Practitioner should seek relevant documentation to make an evidence-informed decision.

8.1.2 Citizenship or permanent residency requirement

A person who has lived in Australia for several years but is not a citizen or permanent resident is not eligible for voluntary assisted dying. The Coordinating Practitioner and Consulting Practitioner must be satisfied that the patient is either an Australian citizen or permanent resident. They should explicitly confirm this with the patient and sight relevant supportive documentation.

The Department of Home Affairs provides advice on visa entitlements including whether a particular visa type qualifies as a permanent resident visa. Patients can print out or email their visa status using the Visa Entitlement Verification Online (VEVO) system or apply for an electronic visa record.

8.1.3 Ordinarily resident requirement

At the time of making the First Request, a person must have been ordinarily resident in WA for at least 12 months. This means that WA is their home (usual place of residence) and has been for at least a year. However, the 12 months do not have to have been immediately prior to the request, nor do they have to form a continuous 12-month period. A person can have time outside of WA, for example travelling on holiday, temporarily living elsewhere for work, study or personal commitments, or to receive treatment, and still be considered a resident of WA. Where the Coordinating Practitioner or Consulting Practitioner has an ongoing relationship with the patient this may be relatively straightforward to determine. In other instances, it is recommended that the Coordinating Practitioner or Consulting Practitioner seeks evidence from the patient to inform their decision.

The decision as to whether a person meets the ordinarily resident requirement can be reviewed by the State Administrative Tribunal (SAT). Refer to section 21 for additional information that may impact the assessment of this eligibility criterion.

Table 5. Documents that may assist a medical practitioner to make an evidence-informed decision on demographic eligibility requirements

Eligibility criteria	Examples of supporting documentation
Has reached 18 years of age (Documents that confirm the person's date of birth)	• Medical records • Birth certificate • WA Driver's Licence • WA Photo Card
An Australian citizen or permanent resident (Documents that confirm the person's citizenship status)	• Australian Birth Certificate* • Australian Passport • Australian Citizenship Certificate • Proof of Permanent Resident Visa

Eligibility criteria	Examples of supporting documentation
Ordinarily resident in WA for a period of at least 12 months at time of making the First Request (Documents that confirm the person's residential address)	• Medical records • Utility bills • Western Australian vehicle registration records • Residential lease records • Bank statements • Tax records • Employment records

* For people born in Australia on or after 20 August 1986 there are additional requirements in the absence of documentation such as an Australian passport or Australian Citizenship Certificate. Further information is available at www.passports.gov.au

8.2 Assess whether the person's disease, illness or medical condition meets the eligibility criteria

The Coordinating Practitioner and Consulting Practitioner must assess the patient's diagnosis and prognosis. They must also explore the patient's perception of the suffering they are experiencing because of their disease, illness or medical condition and the options available to alleviate their suffering. It is important to note that a patient can refuse medical treatment or symptom management and still access voluntary assisted dying.

8.2.1 Diagnosis

The Coordinating Practitioner and Consulting Practitioner must determine if the patient has at least one disease, illness or medical condition that is advanced, progressive and will cause death. This is determined by the Coordinating Practitioner and Consulting Practitioner on a clinical basis, which includes not only the current consultation but the entirety of the context of the patient's history, investigations and reports from other health professionals. Clinical determination will be based on an individual's circumstances including their condition, comorbidities and treatment choices.

'Advanced' refers to a point in the trajectory of the patient's medical condition, and 'progressive' indicates that the patient is experiencing an active deterioration that will continue to decline.

8.2.2 Prognosis

The eligibility criteria also require that the person's disease, illness or medical condition will, on the balance of probabilities, cause death within a period of 6 months or in the case of a disease, illness or medical condition that is neurodegenerative, within a period of 12 months.

The Coordinating Practitioner and Consulting Practitioner are expected to use their clinical expertise and experience to determine if the patient's disease, illness or medical condition is expected to cause death in the relevant time frame. This is determined by the Coordinating Practitioner and Consulting Practitioner on a clinical basis, which includes not only the current consultation but the entirety of the context of the person's history, investigations and reports from other health professionals. Clinical determination will be based on an individual's circumstances including their condition, comorbidities and treatment choices.

During the final 12 months of their life, a person with a life-limiting disease, illness or medical condition may experience rapid and severe changes and fluctuations in their condition. Predicting when the person is entering the final months of their life can be difficult. Most prognostication tools have been developed to assist in identifying a patient's needs and to plan care and support, not for determining a predictable timescale for death. It is important that in making any such determination, the Coordinating Practitioner and Consulting Practitioner act within their scope of expertise and experience and consider seeking a further opinion where appropriate.

A person can choose to withdraw from active treatment for a disease, illness or medical condition that is being managed (e.g. ceasing chemotherapy for managing cancer). In some cases, changes in treatment decisions may be expected to lead to the person's death within 6 months. Under these circumstances, the person may become eligible to access voluntary assisted dying.

8.2.3 When to refer for a determination on diagnosis or prognosis

If the Coordinating Practitioner or Consulting Practitioner is unable to determine the patient's diagnosis or prognosis (to the extent that it would be acceptable to the majority of their peers) they must refer the patient to a registered health practitioner who has appropriate skills and training to provide a determination in relation to the matter. This referral is part of the First Assessment process. In line with standard practice, the Coordinating Practitioner or Consulting Practitioner should explain the reason for the referral to the patient. The outcome of the determination should be provided as soon as practicable and copies of any reports received must be included in the *First Assessment Report Form*.

A registered health practitioner who accepts the referral:

- must not be a family member of the patient
- must not know or believe they 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 in connection with the referral).

It is recommended that the Coordinating Practitioner or Consulting Practitioner includes a request in their referral that the registered health practitioner provides declarations in the report back that they are not a family member, a beneficiary or may benefit as noted above. A proforma example of this referral is available via the resource hub within VAD-IMS. The resource hub includes several resources that may be useful to voluntary assisted dying practitioners.

8.2.4 Registered health practitioner determination regarding diagnosis or prognosis

Once the Coordinating Practitioner or Consulting Practitioner has received the report, they may adopt the determination of the registered health practitioner or they may choose to rely on their own determination. The Coordinating Practitioner and Consulting Practitioner should understand that not relying on the registered health practitioner's opinion may expose them to liability. If the Coordinating Practitioner or Consulting Practitioner decides not to adopt the determination of the registered health practitioner, they should have clear and robust reasons for their decision that are well documented. It is important that the Coordinating Practitioner and Consulting Practitioner are able to recognise and act within their scope of experience and expertise.

8.2.5 Suffering

A further requirement for accessing voluntary assisted dying is that the person's disease, illness or medical condition is causing suffering that cannot be relieved in manner that the person considers tolerable. Suffering can be defined as a state of distress associated with events that threaten the intactness of the individual. While it often occurs in the presence of pain, shortness of breath or other bodily symptoms, suffering extends beyond the physical.[1] As the Ministerial Expert Panel on Voluntary Assisted Dying observed: 'suffering is an intensely personal experience and can take a variety of forms (physical, mental, emotional, social, spiritual or existential)'.[2]

A person's request for voluntary assisted dying can be the result of multiple interconnected factors related to their disease, illness or medical condition, including both physical and psychological suffering; a wish to control the circumstances of their death; and a desire to relieve distress over a loss of autonomy. Suffering is a subjective experience and the Coordinating Practitioner and Consulting Practitioner must document the patient's own assessment of whether they are experiencing suffering that cannot be relieved in a manner they consider tolerable. If the patient is suffering because of the disease, illness or medical condition, then this eligibility requirement is met.

8.3 Assessing the person's decision-making capacity

Medical practitioners frequently assess their patients' understanding of treatment options as part of standard clinical practice. When a patient requests voluntary assisted dying, the Coordinating Practitioner and Consulting Practitioner must specifically assess the patient's capacity to make decisions about voluntary assisted dying, according to the legal test set out in the Act (further discussed in section 8.3.3).

The decision regarding a person's decision-making capacity can be reviewed by the SAT. Refer to section 21 for additional information that may impact the assessment of this eligibility criterion.

8.3.1 Choosing a suitable time to complete the assessment

When undertaking this assessment, the medical practitioner should choose a time when the patient's symptom control is optimal, they are not overly tired, suffering from infection or experiencing adverse effects from medication, and they have the appropriate support to demonstrate their decision-making capacity (e.g. an interpreter or speech pathologist has been engaged if required). The assessment of decision-making capacity may require multiple visits with the patient. All patients requesting voluntary assisted dying, including those with a mental illness or disability, are presumed to have decision-making capacity, including in relation to voluntary assisted dying, unless there is evidence otherwise.

The presence of depression in people who are at the end of life and experiencing suffering and a loss of hope is not uncommon. The fact that a person has depression may, but does not necessarily, mean they do not have decision-making capacity in relation to voluntary assisted dying. If the Coordinating Practitioner or Consulting Practitioner believes the patient is depressed, they should carefully explore with the patient how this is affecting them, as part of the decision-making capacity assessment. If, after discussion with the patient, there are unresolved doubts the Coordinating Practitioner or Consulting Practitioner must make a referral for determination of decision-making capacity.

1 Cassell EJ 1991, *The nature of suffering and the goals of medicine*, Oxford University Press, New York, p. 31.

2 Ministerial Expert Panel on Voluntary Assisted Dying Final Report, Department of Health, Government of Western Australia, 2019.

8.3.2 If the person is subject to an existing order

A person may be subject to an existing order e.g. a mental health order under the Mental Health Act 2014, a guardianship or administration order under the Guardianship and Administration Act or another order. A person subject to such an order is not automatically precluded from requesting voluntary assisted dying. However, the person may not meet the eligibility criteria regarding decision-making capacity for voluntary assisted dying.

The content of the order(s) should be taken into consideration by the Coordinating and Consulting Practitioners while completing the assessment regarding a person's decision-making capacity to access voluntary assisted dying, as it could provide some understanding as to the person's decision-making capacity.

It should be noted that a person who is subject to an order is able to request that the order be reviewed by the appropriate authority (e.g. the SAT, the Mental Health Review Board, the Mentally Impaired Accused Review Board etc). Prior to making a First Request or commencing the assessment process for voluntary assisted dying, the person may wish to seek a review of their existing orders to assist in their ability to be found eligible for voluntary assisted dying.

8.3.3 Assessing decision-making capacity in relation to voluntary assisted dying

There is a specific legal test set out in the Act that the Coordinating Practitioner and Consulting Practitioner must use to assess whether a patient has decision-making capacity in relation to voluntary assisted dying. It is slightly different from other tests of decision-making capacity in that it relates specifically to a voluntary assisted dying decision.

A voluntary assisted dying decision includes:

- the First Request
- the Written Declaration
- the Final Request
- the Administration Decision
- the person's decision to proceed with the administration of the voluntary assisted dying substance.

A person has decision-making capacity in relation to voluntary assisted dying if they have the capacity to:

1. understand any information or advice about a voluntary assisted dying decision that is required under the Act to be provided to the patient
2. understand the matters involved in a voluntary assisted dying decision
3. understand the effect of a voluntary assisted dying decision
4. weigh up the factors referred to at 1, 2 and 3 for the purposes of making a voluntary assisted dying decision
5. communicate a voluntary assisted dying decision in some way (including verbally, using gestures or by other means).

The Coordinating Practitioner and Consulting Practitioner may find it useful to use a capacity and consent tool to guide discussions with the patient. While there are no validated tools specific to assessing decision-making capacity in relation to voluntary assisted dying, Table 6 may be helpful in framing the assessment discussion. The table has been closely adapted from the *Voluntary assisted dying – guidance for health practitioners* resource developed by the Victorian Department of Health and Human Services,from a tool designed by Appelbaum[3] and the Victorian voluntary assisted dying training program.[4]

3 Appelbaum PS 2007, 'Assessment of persons' competence to consent to treatment', New England Journal of Medicine, no. 357, pp. 1834–1840.

4 Willmot L and White B 2018, *Voluntary Assisted Dying Act 2017* Assessment Training Module 4, for the Department of Health and Human Services, Melbourne.

Table 6. Assessing decision-making capacity in relation to voluntary assisted dying: possible approaches and red flags

Criterion	Patient's task	Medical practitioner's assessment approach	Questions for clinical assessment	Red flags – require further investigation
a. Understand any information or advice about a voluntary assisted dying decision that is required under the Act to be provided to the patient b. Understand the matters involved in making a voluntary assisted dying decision c. Understand the effect of a voluntary assisted dying decision	Understand their current health situation, their options and the decisions they are making. Grasp the fundamental nature of voluntary assisted dying and that it would lead to their death.	Encourage the patient to describe in their own words what the medical practitioner has said about the patient's medical condition, prognosis, palliative care and treatment options and what is involved with voluntary assisted dying. Ask the patient to describe their thoughts about their medical condition, prognosis, possible treatment options and outcomes, and about voluntary assisted dying.	Please tell me in your own words about: • the problem with your health now • the treatment options and voluntary assisted dying • the possible benefits and risks (or discomforts) of the palliative care, treatment or voluntary assisted dying • the risks and benefits of no treatment How do you feel about your health now? What are your expectations about what treatment or voluntary assisted dying will or won't do for you? What do you believe will happen if you are not treated? If you are given access to voluntary assisted dying can you explain what you expect will happen?[5]	Patient fails to understand their medical condition or prognosis or to recount the possible palliative care and treatment options and their consequences (including no treatment) and their benefits and risks. Patient does not accept their condition (for example, those who lack insight because of delusions or denial). Patient cannot remember or is unclear about their medical condition, prognosis, possible treatment options and voluntary assisted dying. Patient cannot remember their prior choices or express them in a consistent way.

5 Peisah C, Sheahan L and White B 2019, 'Biggest decision of them all – death and assisted dying: capacity assessments and undue influence screening', Internal Medicine Journal 49 (2019) p792–796.

Criterion	Patient's task	Medical practitioner's assessment approach	Questions for clinical assessment	Red flags – require further investigation
d. Weigh up the factors referred to in (a), (b) and (c) for the purposes of making a voluntary assisted dying decision	To duly consider palliative care, treatment options and voluntary assisted dying using the relevant information provided by the medical practitioner	Ask the patient to compare palliative care, treatment options and outcomes, including voluntary assisted dying, and provide reasons for the chosen option.	How did you decide to accept or reject the other palliative care and treatment options? What makes [the chosen option] better than [the alternative option]?	People are able to make medical decisions that medical practitioners may think are unwise. The focus here should be on the process and whether it leads logically to the outcome. A red flag would be a decision-making process that appears to be unusually brief or does not appear to be grounded in the patient's personal beliefs or values, or that is dismissive of alternative options without explanation. Frequent reversals of decisions may indicate lack of decision-making capacity.
e. Communicate a voluntary assisted dying decision in some way	Clearly state their decision	Listen to the patient's request and seek clarification if it is not clear	Have you decided which option to follow? Can you tell me what that decision is? [If no decision] what's making it hard for you to decide?	A patient who appears to respond inconsistently to questions.

8.3.2 When to refer for a determination of decision-making capacity

If the Coordinating Practitioner or Consulting Practitioner is unable to determine whether the patient has decision-making capacity in relation to voluntary assisted dying, they must refer the patient to a registered health practitioner with appropriate skills and training for a determination. This referral is part of the First Assessment process. In line with standard practice, the Coordinating Practitioner or Consulting Practitioner should explain the reason for the referral to the person. The outcome of the determination should be provided as soon as practicable and copies of any reports received must be included in the *First Assessment Report Form*.

Depending on the patient's medical condition and any comorbid mental illness, suitable registered health practitioners may include a psychiatrist, geriatrician, neuro-psychologist or psychologist. A registered health practitioner who accepts the referral:

- must not be a family member of the patient
- must not know or believe they 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 in connection with the referral).

It is recommended that the Coordinating Practitioner or Consulting Practitioner includes a request in their referral that the registered health practitioner provides declarations in the report back that they are not a family member, a beneficiary or may benefit as noted above. A proforma example of this referral is available via the resource hub within VAD-IMS.

8.3.3 Registered health practitioner determination regarding decision-making capacity

Once the Coordinating Practitioner or Consulting Practitioner has received the referral report, they may adopt the determination of the registered health practitioner, or they may choose to rely on their own determination. If the Coordinating Practitioner or Consulting Practitioner decides not to adopt the determination of the registered health practitioner, they should have clear and robust reasons for their decision that are well documented. The Coordinating Practitioner and Consulting Practitioner should understand that not relying on the registered health practitioner's opinion may expose them to liability. It is important that medical practitioners are able to recognise and act within their scope of experience and expertise.

8.4 Assessing whether the person's decision is voluntary, made without coercion and enduring

The Coordinating Practitioner and Consulting Practitioner must be satisfied that the patient is acting voluntarily and without coercion and that their request for access to voluntary assisted dying is enduring. Time should be taken to discuss and understand the reasons why the person is requesting access to voluntary assisted dying. These conversations will provide insight into the patient's concerns and why they think accessing voluntary assisted dying will address these concerns. The Coordinating Practitioner and Consulting Practitioner can ask the person how they reached their decision, including what or who may have influenced them.

If a patient is requesting access to voluntary assisted dying because they are concerned that they are a burden on their carers or family, their situation should be explored. This may include investigating additional options for supportive care or respite care. The Coordinating Practitioner and Consulting Practitioner should also seek to understand why the patient has raised this concern and what they mean by it. Some people may say they feel like they are a burden because members of their family are struggling, while others may use this to start a conversation about their struggles with their current situation. Such comments should also raise a 'red flag' to the Coordinating Practitioner or Consulting

Practitioner to explore whether there may be any element of explicit or implicit coercion underlying the patient's request for voluntary assisted dying.

It is also relevant for the Coordinating Practitioner and Consulting Practitioner to recognise if the patient is being coerced or pressured not to access voluntary assisted dying. This will indicate that the patient is likely to need additional support and planning. The Coordinating Practitioner will need to be especially careful to maintain appropriate patient confidentiality while also considering strategies to assist in managing a potentially complex family situation as the person progresses through the voluntary assisted dying process.

The assessment should firstly include talking with the patient on their own and, if appropriate and with the patient's consent, discussing with the family how they feel about the patient's decision (along with observation and assessment of family dynamics). Discussion with members of the treating team about observations and conversations that they may have had with the patient or their carers, family or friends may also provide useful insights into the motivation behind the patient's decision.

Indicators of possible coercion that are often detected during a consultation with carers, family or friends present may include:

- excessive deferment by the patient to carers, family or friends for answers, reassurance or explanation
- carers, family or friends talking over the patient and answering on their behalf
- inconsistencies in the patient's answers to questions about their suffering, illness experience or voluntary assisted dying in general.

For these reasons, it may be necessary to talk with the patient away from others to determine if there is potential coercion. Questions the Coordinating Practitioner and Consulting Practitioner could ask in their discussion with the patient include:

- Are you feeling any pressure from others to request voluntary assisted dying?
- Do you have or are there any significant financial concerns?
- Do you have any concerns about your family after you die?
- Is there anything we need to know that you don't want your family to know?
- What about your family/friends (may include partners, spouse, children, parents, siblings)?
- Are they aware of your request for voluntary assisted dying?
- How do they feel about it?
- Do they support your decision?
- Is your GP aware of your request for voluntary assisted dying?
- Does your GP support it?

If there is a concern that the patient may be experiencing family and domestic violence, financial abuse or elder abuse these issues should be discussed with the patient. If the Coordinating Practitioner or Consulting Practitioner is not satisfied that the patient's decision is voluntary and without coercion, they must assess the person as ineligible.

The decision regarding whether a person's request for voluntary assisted dying has been made voluntarily and without coercion can be reviewed by SAT. Refer to section 21 for additional information that may impact the assessment of this eligibility criterion.

8.4.1 When to consider referral for determination of voluntariness

The Act requires that where the Coordinating Practitioner or Consulting Practitioner cannot determine whether the person is acting voluntarily and without coercion, they must refer the patient to someone with the appropriate skills and training to make that determination. This may include experienced registered health practitioners and other professionals. In some cases, social workers or police officers who are familiar with the patient's situation can be called upon to help determine if the person is acting voluntarily and without coercion. A proforma example of this referral is available via the resource hub within VAD-IMS.

8.5 Information to be provided to person assessed as meeting the eligibility criteria

An eligible person must be provided with specific information by the Coordinating Practitioner as part of the First Assessment, and then again by the Consulting Practitioner as part of the Consulting Assessment. The information does not need to be provided to the patient in writing and should instead form part of the discussions between the Coordinating Practitioner or Consulting Practitioner and the patient during the assessment process.

The Coordinating Practitioner and the Consulting Practitioner must inform the patient about each of the following matters:

- their diagnosis and prognosis
- the treatment options available to them and the likely outcomes of that treatment
- the palliative care and treatment options available to them and the likely outcomes of that care and treatment
- the potential risks of self-administering or being administered the voluntary assisted dying substance (and that the expected outcome of self-administering or being administered the substance is death)
- the method by which the voluntary assisted dying substance is likely to be self-administered or administered
- the request and assessment process, including the requirement for a Written Declaration signed in the presence of 2 witnesses
- that if they make a self-administration decision, they must appoint a Contact Person
- that they may decide at any time not to continue the request and assessment process or not to access voluntary assisted dying
- that if they are receiving ongoing health services from a medical practitioner other than the Coordinating Practitioner, they are encouraged to inform the medical practitioner of their request for access to voluntary assisted dying.

Both the Coordinating Practitioner and the Consulting Practitioner must be independently satisfied that the patient understands this information. If either practitioner is not satisfied that the patient understands this information, the patient must be considered ineligible. Under the Commonwealth *Criminal Code Act 1995* some of this information cannot be discussed or provided over a carriage service (e.g. phone, videoconference, email etc.) and will need to be discussed in person.

8.5.1 Additional information to be discussed by the Coordinating Practitioner

In addition to the matters identified above, the Coordinating Practitioner (but not the Consulting Practitioner) must also fully explain:

- all relevant clinical guidelines (e.g. describing how and when the voluntary assisted dying substance can be administered)
- a plan in respect of the administration of a voluntary assisted dying substance.

If the patient consents, these discussions can also include a support person. While the inclusion of carers, family or friends in these discussions should be encouraged, it always remains the patient's choice as to who is involved. The Coordinating Practitioner should explore with the patient what their expectations or assumptions about the voluntary assisted dying process may be and consider how best to support them in their plans for death.

Planning for death should consider practical aspects of the administration process and how carers, family, friends or others will manage the situation after administration is completed. Discussion should include:

- the location where the patient prefers to die (e.g. home, hospice, residential care, hospital etc.)
- who the patient wants present with them at the time of administration of the voluntary assisted dying substance
- cultural considerations and rituals that are important to the patient and their family
- preparing those present at the time of administration for what happens during the process of death and what they need to do at that time and shortly after
- if the patient had chosen practitioner administration, how the time for administration will be arranged between the Administering Practitioner and the patient
- a plan for who should be contacted to issue the MCCD (if the Coordinating Practitioner or Administering Practitioner will not be certifying the death).

Under the Commonwealth *Criminal Code Act 1995* some of this information cannot be discussed or provided over a carriage service (e.g. phone, videoconference, email etc) and will need to be discussed in person. A proforma example of considerations that may assist the Coordinating Practitioner and the person in planning for death is available via the resource hub within VAD-IMS.

8.6 Outcome of the First Assessment

The Coordinating Practitioner must inform the patient of the outcome of the First Assessment as soon as practicable after its completion. The patient must be assessed as eligible for access to voluntary assisted dying if the Coordinating Practitioner is satisfied that the patient:

1. meets all the eligibility criteria (see sections 8.1–8.4)
2. understands the information required to be provided to them (see section 8.5).

If the Coordinating Practitioner is not satisfied as to either of these matters, they must assess the patient as ineligible.

The Coordinating Practitioner must complete the *First Assessment Report Form* and provide a copy to the Voluntary Assisted Dying Board within 2 business days of completing the First Assessment. The *First Assessment Report Form* includes the details of any referrals for determination and the outcome of those referrals, as well as copies of any reports received. The Coordinating Practitioner must also give a copy of the *First Assessment Report Form* to the patient. This form can be accessed and submitted via VAD-IMS (including upload of other relevant documents). Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Coordinating Practitioner.

8.6.1 Discussing the outcome with a person who is ineligible

It may be difficult for a person seeking to access voluntary assisted dying to accept that they are not eligible for the process. The Coordinating Practitioner should listen compassionately to the patient and, if possible and appropriate, discuss with the patient how their treating healthcare team may alleviate any physical symptoms or psychosocial and spiritual distress they may be experiencing. Based on the discussion, suitable referrals should be made, and the patient's care plan updated. Additional support from a specialist palliative care team may benefit the patient if one is not already involved in the patient's care.

If the patient agrees, it may be helpful to discuss their situation concerning voluntary assisted dying with their treating healthcare team and family. However, the patient's confidentiality and privacy must always be respected. If they do not wish others to be informed of their request to access voluntary assisted dying, this must be upheld. As part of explaining to the patient why they are ineligible the Coordinating Practitioner should address, if relevant, that the patient's eligibility may change if their circumstances change. For example, if the patient's prognosis changes they may then become eligible for voluntary assisted dying. If circumstances do change, the patient may commence the process again by making a new First Request to the same medical practitioner or a different one.

If the patient has been found ineligible based on a reviewable decision made by the Coordinating Practitioner, the patient can seek to have the decision reviewed by the SAT.

8.6.2 Information to be provided to the person regarding reviewable decisions

It is a requirement that the patient be notified in writing of the decisions in the First Assessment that are considered reviewable decisions under the Act. They should also be notified that they have the right to have the outcomes of these decisions reviewed by the SAT. This written notification is built into the *First Assessment Report Form* (and the *Consulting Assessment Report Form*). Reviewable decisions are those that relate to residency, decision-making capacity in relation to voluntary assisted dying, and voluntariness. Section 21 provides more information on the role of the SAT, including how to access the outcomes of SAT decisions related to voluntary assisted dying that may be useful to the assessment process.

8.6.3 Referring the person for a Consulting Assessment

If the patient has been assessed as eligible for voluntary assisted dying, the Coordinating Practitioner must refer the patient to another medical practitioner for a Consulting Assessment. The process for this referral can follow the usual pathway for medical referrals to other health professionals. A proforma referral form is available via the resource hub within VAD-IMS.

As voluntary assisted dying is a complex process, it may be necessary to gauge the interest of a colleague to undertake the role of Consulting Practitioner (as well as their eligibility to do so). If a Coordinating Practitioner has a preliminary discussion with a medical practitioner but does not make a formal referral, the discussion does not trigger the Consulting Assessment process and the Coordinating Practitioner must make a referral to another medical practitioner. SWCNS is available to assist with linking a Coordinating Practitioner with an eligible medical practitioner who may be willing to accept a referral for a Consulting Assessment. Contact details for SWCNS can be found in section 22.

8.7 Voluntary assisted dying and organ and tissue donation after death

Some patients accessing voluntary assisted dying may wish to donate their organs or tissues after they die. While most patients who access voluntary assisted dying in WA are not eligible to become donors due to the diagnosis of cancer, some patients are likely to be clinically suitable to donate organs or tissues once they have died.

The Act does not preclude a patient donating organs or tissue in accordance with the Human Tissue and Transplant Act 1982. However, the decision to access voluntary assisted dying must be separate to the decision to become a donor after death. Therefore, the Coordinating and Consulting Practitioners must not raise or discuss tissue and organ donation during the request and assessment process. Once the process is complete and the patient has been determined to be eligible to access voluntary assisted dying, and if the patient has expressed a desire to be an organ or tissue donor, they may be given the contact details for DonateLife WA for information about organ and tissue donation.

If the patient makes lawful decisions to access voluntary assisted dying and become a tissue or organ donor, they will need to be supported to ensure they are able to make voluntary and informed decisions about interventions that may support the donation process or facilitate their end-of-life care. The patient must always retain the option of ending the donation process or the voluntary assisted dying process or both if they choose to.

9 The Consulting Assessment

If the Coordinating Practitioner has assessed a patient as ineligible to access voluntary assisted dying, the voluntary assisted dying process stops. If the Coordinating Practitioner has assessed a patient as eligible to access voluntary assisted dying they will refer the patient to another medical practitioner for a Consulting Assessment.

9.1 The Consulting Assessment referral

The medical practitioner can only accept the referral for a Consulting Assessment from the Coordinating Practitioner if they are eligible to do so (see section 4.2). They then become the Consulting Practitioner for the patient.

9.1.1 Refusing the Consulting Assessment referral

The medical practitioner **must** refuse the referral if they are not eligible to act as the Consulting Practitioner for the patient (see section 4.2). In addition to ineligibility, there are several reasons why a medical practitioner may refuse the referral for the Consulting Assessment, they may:

- be unwilling to perform the duties of Consulting Practitioner (e.g. they do not want to be the Consulting Practitioner for the person)
- be unable to perform the duties of Consulting Practitioner (e.g. they cannot commit the time required)
- hold a conscientious objection to voluntary assisted dying.

If a medical practitioner refuses the Consulting Assessment referral on the basis of conscientious objection, they must inform the person and the Coordinating Practitioner **immediately**. In all other circumstances the medical practitioner must inform the patient and the Coordinating Practitioner within 2 business days of their decision to accept or refuse the referral.

It is considered a professional obligation that a medical practitioner not unduly delay a patient's access to voluntary assisted dying. The medical practitioner should make their decision and inform the person and the Coordinating Practitioner as soon as practicable.

9.1.2 Documenting the Consulting Assessment referral

The details of the referral should be recorded in the patient's medical record in alignment with good clinical practice. As part of that documentation, a medical practitioner who receives a Consulting Assessment referral from a Coordinating Practitioner is obliged to record (at minimum) the following information in the person's medical record:

- the referral
- their decision to accept or refuse the referral
- if refused, their reason for refusal.

In addition, a medical practitioner who receives a Consulting Assessment referral from a Coordinating Practitioner is obliged to complete the *Consultation Referral Form* and provide a copy to the Voluntary Assisted Dying Board within 2 business days of their decision to accept or refuse the referral. This form can be accessed and submitted via VAD-IMS or returned via fax. A medical practitioner does not need to be registered on VAD-IMS to be able to complete and submit the form. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the medical practitioner.

9.1.3 Conducting the Consulting Assessment

Before commencing the Consulting Assessment, the Consulting Practitioner must have:

- successfully completed the WA VAD Approved Training (see sections 4.3 and 4.4)
- confirmed that they can act as the Consulting Practitioner for the patient (see section 4.2)
- accepted the referral for the Consulting Assessment.

The Consulting Practitioner will be required to make relevant declarations regarding their eligibility.

The Consulting Practitioner, must complete the Consulting Assessment to determine the person's eligibility for access to voluntary assisted dying. This follows a similar process to the First Assessment conducted by the Coordinating Practitioner. Refer to the guidance provided in section 8 for the assessment process.

The Consulting Practitioner must determine whether the patient meets the eligibility criteria independently of the Coordinating Practitioner and will not be able to access the Coordinating Practitioner's assessment held within VAD-IMS. The Consulting Practitioner may consider reports and relevant information from other registered health practitioners as part of the assessment process.

9.2 Outcome of the Consulting Assessment

The Consulting Practitioner must inform the patient and the Coordinating Practitioner of the outcome of the First Assessment as soon as practicable after its completion. The patient must be assessed as eligible for access to voluntary assisted dying if the Consulting Practitioner is satisfied that the patient:

1. meets all the eligibility criteria (see sections 8.1 to 8.4)
2. understands the information required to be provided to them (see section 8.5).

If the Consulting Practitioner is not satisfied as to either of these matters, they must assess the person as ineligible.

The Consulting Practitioner must complete the *Consulting Assessment Report Form* and provide a copy to the Voluntary Assisted Dying Board within 2 business days of completing the Consulting Assessment. The *Consulting Assessment Report Form* includes the details of any referrals for determination and the outcome of those referrals, as well as copies of any reports received.

The Consulting Practitioner must also give a copy of the *Consulting Assessment Report Form* to the patient making the request for voluntary assisted dying. This form can be accessed and submitted via VAD-IMS (including upload of any other relevant documentation). Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form.

9.2.1 Discussing the outcome with a person who is ineligible

The discussion with a patient assessed as ineligible following a Consulting Assessment may be difficult, especially given that the person was assessed as eligible by the Coordinating Practitioner at the First Assessment. The Consulting Practitioner will need to be clear and sensitive in how they inform the patient of the assessment outcome (refer also to the guidance in section 8.6.1).

9.2.2 Information to be provided to the person regarding reviewable decisions

As is the case following the First Assessment, the patient is required to be notified in writing of the decisions in the Consulting Assessment that are considered reviewable decisions. They should also be notified that they have the right to have the decisions reviewed by SAT. This written notification is built into the *Consulting Assessment Report Form*. Refer to section 21 for more information on the role of SAT in the voluntary assisted dying request and assessment process.

9.2.3 Coordinating Practitioner may refer for a further Consulting Assessment

If the Consulting Practitioner assesses the patient as ineligible, the Coordinating Practitioner may refer the patient to another medical practitioner for a further Consulting Assessment.

10 The Written Declaration

If both the Coordinating Practitioner and the Consulting Practitioner assess the patient as eligible to access voluntary assisted dying, the person may make a Written Declaration for access to voluntary assisted dying. This is required to continue the process. The Written Declaration is the second request a patient makes as part of the voluntary assisted dying process and it must be made in the approved form. The Written Declaration can be downloaded and printed from VAD-IMS by either the Coordinating Practitioner or Consulting Practitioner and given to the patient to complete. For an example, refer to the VAD-IMS resource hub.

10.1 Completing the Written Declaration

The patient must complete the Written Declaration in the presence of 2 eligible witnesses. The Written Declaration specifies that the patient:

- is making the declaration voluntarily and without coercion
- understands the nature and effect of the declaration.

If the patient is unable to sign the Written Declaration (e.g. due to issues with manual dexterity) they may direct another person to sign on their behalf. This person must:

- have reached 18 years of age
- not be one of the 2 witnesses to signing of the Written Declaration
- not be the Coordinating Practitioner or Consulting Practitioner for the person
- sign at the person's direction and in their presence.

10.1.1 Requirements of the 2 witnesses

The requirement for 2 eligible witnesses is a safeguard for those who may be vulnerable to abuse and coercion. The witnesses provide independent verification that the Written Declaration was signed freely and voluntarily by the person requesting access to voluntary assisted dying. The eligibility requirements are aimed at ensuring the witnesses do not have a conflict of interest in witnessing the Written Declaration. To be eligible to witness the signing of the Written Declaration, the 2 witnesses must:

- have reached 18 years of age
- not know or believe that they are a beneficiary under a will of the patient or may otherwise benefit financially or in any other material way from the death of the person
- not be a family member of the person
- not be the Coordinating Practitioner or Consulting Practitioner for the patient.

Each witness must sign the Written Declaration certifying that:

- in their presence, the patient appeared to freely and voluntarily sign the declaration
- they are not knowingly an ineligible witness.

Alternatively, if the patient has requested that another person sign the declaration on their behalf, each witness must sign the Written Declaration certifying that:

- in their presence, the patient appeared to freely and voluntarily direct the person to sign the declaration
- the person signed the declaration in the presence of the patient and the witness
- they are not knowingly an ineligible witness.

10.1.2 Use of interpreting services

A person seeking voluntary assisted dying may require the services of an interpreter when making the Written Declaration. Under the Act, an interpreter must meet certain requirements (see section 19). As the Act requires the interpreter to certify on the Written Declaration that they provided a true and correct translation of any material translated, any interpreter engaged for this step must also be a qualified or credentialed translator in the language and language direction required. Individuals who are only qualified or credentialed in interpreting are unable to certify translated material.

The Written Declaration is the only step in the voluntary assisted dying process where the interpreter must also be a translator

10.2 Coordinating Practitioner responsibilities

Once the Written Declaration is completed, the patient must give the Written Declaration to their Coordinating Practitioner. The Coordinating Practitioner must record (at minimum) the following details in the patient's medical record the date the Written Declaration:

- was made
- was received by the Coordinating Practitioner.

The Coordinating Practitioner must give a copy to the Voluntary Assisted Dying Board within 2 business days. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt to the Coordinating Practitioner.

11 The Final Request

Once the Written Declaration is completed, the patient may make a Final Request for access to voluntary assisted dying to the Coordinating Practitioner to continue the process. This is the third request that the patient must make to access voluntary assisted dying.

11.1 Making the Final Request

The Final Request must be:

- clear and unambiguous
- made either in person or, where this is not practicable, via audiovisual communication.

If a Final Request is made via audiovisual communication, the Coordinating Practitioner must ensure that any discussion of the voluntary assisted dying process does not breach the Commonwealth *Criminal Code Act 1995* (see section 6).

11.1.1 Timing of the Final Request

The Act places some restrictions around how soon a Final Request may be made. There must be at least a day between the Consulting Assessment and the Final Request. This means that while the Final Request can be made on the same day as the Written Declaration, it cannot be made on the same day as the Consulting Assessment.

Under the Act, there is a designated period of 9 days required between the First Request and the Final Request. This designated period begins on the day the person makes the First Request. For example, if the person made the First Request on the 4th of September, the earliest they could make the Final Request is on the 13th of September (i.e. 9 days later).

However, the Act allows for the Final Request to be made before the end of this nine-day period in specific circumstances. If both the Coordinating Practitioner and Consulting Practitioner believe the patient is likely to die or to lose decision-making capacity in relation to voluntary assisted dying before the end of the designated period, it may be possible for the person to access voluntary assisted dying sooner than 9 days. All steps of the voluntary assisted dying process as set out in the Act must still be followed, and there must be at least one day between the Consulting Assessment and the Final Request.

11.2 Documenting the Final Request

The Coordinating Practitioner must record (at minimum) the following information in the patient's medical record:

- the date the Final Request was made
- if the Final Request was made before the end of the designated period, the reason for it being made before the end of that period.

The Coordinating Practitioner must complete the *Final Request Form* and give a copy of this to the Voluntary Assisted Dying Board within 2 business days of receiving the Final Request. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Coordinating Practitioner.

12 The Final Review

Once they have received a Final Request, the Coordinating Practitioner must complete a Final Review to ensure that the voluntary assisted dying request and assessment process has been completed in accordance with the Act.

12.1 Conducting the Final Review

As part of the Final Review, the Coordinating Practitioner must make sure that the patient has decision-making capacity in relation to voluntary assisted dying, is acting voluntarily and without coercion, and still wants to access voluntary assisted dying. As part of this process the Coordinating Practitioner must review:

- the First Assessment Form
- all Consulting Assessment forms
- the Written Declaration.

When conducting the Final Review, the Coordinating Practitioner must take into consideration any decision made by SAT related to the request and assessment process.

It is also worth noting that the discovery of a minor or technical error in any of the forms does not invalidate the request and assessment process. For example, an accidentally incorrect date or spelling error does not have the effect of invalidating the process to date for the patient. These types of mistakes can be corrected with minimal impact. The Coordinating Practitioner is advised to contact the Voluntary Assisted Dying Board Secretariat in relation to any corrections required via VADBoard@health.wa.gov.au.

12.2 Documenting the Final Review

After reviewing the necessary documentation, the Coordinating Practitioner must complete the *Final Review Form* and provide a copy of this to the Voluntary Assisted Dying Board within 2 business days of completing the Final Review. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Coordinating Practitioner.

12.3 A note on changes to eligibility during the voluntary assisted dying process

While the voluntary assisted dying process can move swiftly, individual circumstances or patient preference may result in some delay between the completion of the request and assessment process, and the patient administering the substance. This may raise concerns that, in rare cases, a patient might have become ineligible in the interim. The Act does not require practitioners to continually monitor patient eligibility outside of the assessments and interactions required by the voluntary assisted dying process. However, through contact with the patient or other caregivers involved in their care, a practitioner may become aware that the patient no longer meets the eligibility criteria for voluntary assisted dying.

If this occurs during the request and assessment process the Coordinating Practitioner will assess the patient's eligibility at the next formal assessment occasion in the process and make a report to the Voluntary Assisted Dying Board via the VAD-IMS on the relevant approved form (e.g. Final Review Form).

If this occurs after the request and assessment process the Coordinating or Administering Practitioner should take the following steps:

- Sensitively discuss the eligibility change with the patient and provide this advice to them in writing.
- Communicate to the patient, and ensure they understand that they can make a new First Request at any time.
- Discuss options and available support services with the patient to help address their suffering.
- Cancel the prescription for the voluntary assisted dying substance, if the prescription has been written but not supplied. If the prescription has been supplied, arrange for its disposal.
- Submit a written notice to the Voluntary Assisted Dying Board.

The written notice should inform the Voluntary Assisted Dying Board that the practitioner has become aware that the patient no longer meets all eligibility requirements for voluntary assisted dying. It should identify the circumstances and which eligibility criterion or criteria the patient no longer meets, confirming the patient has been advised of their ineligibility, and the actions taken in relation to the cancellation of the prescription or the disposal of the substance. A proforma template is available via the VAD-IMS resource hub.

13 The Administration Decision

The following section should be read in conjunction with the *Voluntary Assisted Dying – Prescription and Administration Information* provided to participating practitioners in hard copy as part of the WA VAD Approved Training.

13.1 Review of current medications

It is recommended that the Coordinating Practitioner undertakes a review of the patient's current medications with the intention of ceasing non-essential medications ahead of the administration of the voluntary assisted dying substance. The patient should keep taking essential medications as instructed by the prescribing practitioner, who may or may not be the Coordinating Practitioner. This review will support the Coordinating Practitioner to make decisions regarding the adjunct medication component of the administration protocol and plan for the patient. If there are concerns with the patient's existing medications in relation to the voluntary assisted dying substance protocol, these can be discussed with SWPS (see section 23).

After the Final Review is completed, and if the patient has been confirmed as eligible at the Final Review, they may make an administration decision. This decision is made in consultation with, and on the advice of, the Coordinating Practitioner.

13.2 Options for administering the voluntary assisted dying substance

Administration of the voluntary assisted dying substance may be through one of 2 options:

1. self-administration
2. practitioner administration.

An administration decision must be clear and unambiguous and made in the presence of, and in collaboration with, the Coordinating Practitioner. This decision may be communicated verbally, using gestures or by other means of communication available to the patient. In the current legislative environment, it is recommended that the Administration Decision is **not** made using audiovisual communication (e.g. videoconferencing) as it is highly likely that there will need to be discussion of content that is not permitted over a carriage service under the Commonwealth *Criminal Code Act 1995*.

13.2.1 Self-administration

Self-administration of the voluntary assisted dying substance requires the person to prepare and ingest the substance by swallowing or via a percutaneous endoscopic gastrostomy (PEG) or nasogastric (NG) tube. The patient needs to be able to complete these actions entirely by themselves. Under the Act, they **cannot** be assisted with preparing the substance (which includes decanting, mixing etc.) or with the physical act of ingesting the substance. This includes assistance with using their PEG or NG tube.

If the patient is unable to independently undertake these actions or is concerned about their ability to undertake these actions, self-administration is not a suitable option for them.

At the time of the Administration Decision, the Coordinating Practitioner should also discuss the safe storage of the voluntary assisted dying substance when counselling the patient in relation to administration options. Any patient concerns should be identified and managed.

If the patient has concerns about their ability to safely store the voluntary assisted dying substance, the Coordinating Practitioner may suggest that the Contact Person receive and store the substance, or that the substance be requested from SWPS close to the planned self-administration date. In cases where the safe storage of the substance cannot be guaranteed, a practitioner administration decision should be made.

13.2.2 Practitioner administration

A practitioner administration decision can only be made if the Coordinating Practitioner advises the patient that self-administration of the voluntary assisted dying substance is not appropriate for them. This will be due to one or more reasons, including:

- the patient is unable to self-administer the substance
- the patient has concerns about self-administering the substance
- the self-administering method is unsuitable for the patient.

Practitioner administration of the voluntary assisted dying substance may be assisted oral ingestion, assisted ingestion via PEG or NG tube, or intravenous administration.

13.3 Revocation of an administration decision

The patient may revoke an administration decision at any time. To do so, they must either inform the:

- Coordinating Practitioner of their decision to revoke a self-administration decision
- Administering Practitioner of their decision to revoke a practitioner administration decision.

The patient may inform the practitioner of their decision in writing, verbally, using gestures or in another way (e.g. through a communication aid). If the Administering Practitioner is not the Coordinating Practitioner for the patient, they must also inform the Coordinating Practitioner of the revocation. The revocation of an administration decision does not prevent the patient from making another administration decision.

The Coordinating Practitioner must record the revocation in the patient's medical record, complete the *Revocation Form* and give a copy to the Board within 2 business days of the decision. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Coordinating Practitioner.

13.4 The Contact Person

If a patient makes a self-administration decision, they must appoint a Contact Person to comply with the Act. This is not required in the case of a practitioner administration decision.

13.4.1 Who can be the Contact Person?

Anyone who has reached 18 years of age is eligible to be the Contact Person for a patient seeking access to voluntary assisted dying. This includes their Coordinating Practitioner or Consulting Practitioner, or any other health professional who may be involved with the patient's care. The Contact Person can also be a carer, family member or friend. The person undertaking the role of Contact Person must consent to the appointment and may choose to withdraw from the role at any time.

13.4.2 Role and responsibilities of the Contact Person

Under the Act, the Contact Person has significant responsibilities in relation to the voluntary assisted dying substance. The Contact Person is permitted to:

- receive the voluntary assisted dying substance from the Authorised Supplier (i.e. SWPS)
- possess the voluntary assisted dying substance for the purpose of supplying the substance to the patient
- possess the voluntary assisted dying substance for the purpose of giving the substance, or any unused or remaining portion of the substance, to an Authorised Disposer
- give the voluntary assisted dying substance or any unused or remaining portion of the substance to an Authorised Disposer
- supply the voluntary assisted dying substance to the patient.

In a case where an Authorised Supplier has already supplied the voluntary assisted dying substance (to the patient, Contact Person or agent) and the patient revokes their self-administration decision, the Contact Person must give the substance to an Authorised Disposer **within 14 days** of the person revoking the self-administration decision.

In a case where unused voluntary assisted dying substance remains following the death of the patient, the Contact Person must give the unused or remaining substance to an Authorised Disposer as soon as practicable and in any event **within 14 days** of the patient's death.

The Contact Person is also responsible for informing the Coordinating Practitioner if the patient dies. This must be done if the patient has died because of self-administration of the voluntary assisted dying substance or if they have died because of another reason.

The responsibilities associated with the Contact Person role are significant and failure to meet the obligations of the role can have substantial consequences. For example, the offence provision related to not giving unused or remaining voluntary assisted dying substance to an Authorised Disposer within the expected timeframe carries a penalty of imprisonment for up to 12 months.

An appointed Contact Person must be able to fulfill requirements in accordance with the timelines in the Act. If a Contact Person cannot physically retrieve and dispose of a voluntary assisted dying substance within the legislated time frame, they should not be considered suitable for appointment.

It should be acknowledged that the role of Contact Person is potentially daunting, particularly for someone without a clinical background, and especially if they will lose someone they are close to through the voluntary assisted dying process. Grief can be a considerable and understandable hindrance to fulfilling the legal requirements of the role. Participating practitioners should be aware of the significance of the role and aim to support the Contact Person wherever appropriate. SWCNS is also able to provide support to someone in the Contact Person role (see section 22).

13.4.3 Appointment of the Contact Person

The *Contact Person Appointment Form* can be downloaded from VAD-IMS by the Coordinating Practitioner. The patient and their Contact Person must complete the *Contact Person Appointment Form* and give this form to the Coordinating Practitioner once completed. If the patient is unable to complete the *Contact Person Appointment Form* (e.g. because of issues with manual dexterity) another person can complete the form on their behalf. This person must have reached 18 years of age and be directed by the patient to complete the form.

The Coordinating Practitioner must give the *Contact Person Appointment Form* to the Voluntary Assisted Dying Board within 2 business days of receiving the form. This form can be accessed and submitted via VAD-IMS. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Coordinating Practitioner.

13.4.4 Use of interpreting services

The patient may require the services of an interpreter when completing the Contact Person Appointment Form (see section 19). The interpreter's name, contact details, and accreditation details (i.e. the qualification or credential held) must be included on the form.

13.4.5 Revocation of appointment of the contact person

The patient can revoke the appointment of their Contact Person at any time. The patient must inform the Contact Person of the revocation, at which time the appointment immediately ceases. The patient must then make another appointment to the role of Contact Person. The Coordinating Practitioner needs to enter the revocation into VAD-IMS and submit the new *Contact Person Appointment Form* to the Voluntary Assisted Dying Board within 2 business days of receiving it.

13.4.6 Contact Person may refuse to continue in role

The Contact Person may refuse to continue in the role for any reason. The Contact Person must inform the patient of their refusal, at which time the appointment immediately ceases. The patient must then make another appointment to the role of Contact Person. The Coordinating Practitioner needs to enter the refusal into VAD-IMS and submit the new *Contact Person Appointment Form* to the Voluntary Assisted Dying Board within 2 business days of receiving it.

13.4.7 Information to be provided to the Contact Person

When the Voluntary Assisted Dying Board is notified of the appointment of a Contact Person, it is required under the Act to send information to the Contact Person within 2 business days. This information explains the obligations of the Contact Person in relation to giving remaining or unused voluntary assisted dying substance to an Authorised Disposer. It also outlines the support services available to the Contact Person to assist them in meeting their obligations.

If the Contact Person and the patient both consent, the Voluntary Assisted Dying Board will also notify the Contact Person when the voluntary assisted dying substance is supplied to the patient. This helps to ensure the Contact Person knows when their responsibilities in relation to the voluntary assisted dying substance come into effect.

14 The Prescription

The following section should be read in conjunction with the *Voluntary Assisted Dying – Prescription and Administration Information* provided to participating practitioners in hard copy as part of the WA VAD Approved Training. The prescription process can only commence after an administration decision has been made and, in the case of self-administration, once the Coordinating Practitioner has been given the properly completed *Contact Person Appointment Form*. The Contact Person must be appointed before the prescription is issued.

14.1 Information to be provided before prescribing the voluntary assisted dying substance

It is likely that before reaching the stage of prescribing the voluntary assisted dying substance, the Coordinating Practitioner will have had several conversations with the patient covering key issues and concerns about their individual circumstances and the voluntary assisted dying process. However, before prescribing the voluntary assisted dying substance, the Coordinating Practitioner must provide certain information to the patient **in writing** in accordance with the Act.

14.1.1 Information for a person accessing self-administration

In the case of self-administration, the information that must be provided in writing includes:

- the Schedule 4 poison or Schedule 8 poison, or combination of those poisons, constituting the voluntary assisted dying substance
- that the patient is not under any obligation to obtain the substance
- that the patient is not under any obligation to self-administer the substance
- that the substance must be stored in accordance with the information provided by the Authorised Supplier who supplies the substance (i.e. SWPS)
- how to prepare and self-administer the substance
- the method by which the substance will be self-administered
- the expected effects of self-administration of the substance

- the period within which the patient is likely to die after self-administration of the substance
- the potential risks of self-administration of the substance
- that, if the patient decides not to self-administer the substance, their Contact Person must give the substance to an Authorised Disposer for disposal
- that, if the patient dies or decides not to self-administer the substance, their Contact Person must give any unused or remaining substance to an Authorised Disposer for disposal.

The written documentation to support the Coordinating Practitioner in meeting this requirement is contained in the *Voluntary Assisted Dying – Prescription and Administration Information*.

14.1.2 Information for a person accessing practitioner administration

In the case of practitioner administration, the information that must be provided in writing includes:

- the Schedule 4 or Schedule 8 poison, or combination of those poisons, constituting the voluntary assisted dying substance
- that the patient is not under any obligation to have the substance administered
- the method by which the substance will be administered
- the expected effects of administration of the substance
- the period within which the patient is likely to die after administration of the substance
- the potential risks of administration of the substance
- that, if the practitioner administration decision is made after the revocation of a self-administration decision, the Contact Person for the patient must give any voluntary assisted dying substance received by the patient, the Contact Person or an agent of the patient to an Authorised Disposer for disposal.

The written documentation to support the Coordinating Practitioner in meeting this requirement is contained in the *Voluntary Assisted Dying – Prescription and Administration Information*.

14.2 Completing the prescription

The prescription for the voluntary assisted dying substance must be completed in accordance with the instructions and protocols provided to the Coordinating Practitioner in the *Voluntary Assisted Dying – Prescription and Administration Information* which participating practitioners will have in hard copy.

The prescription must be given directly to SWPS either in person or via registered post or courier. The Care Navigators (or anyone else) cannot act as a courier and transport the prescription from the Coordinating Practitioner to SWPS. The Coordinating Practitioner must record in VAD-IMS that the prescription has been given to SWPS, and on receiving the prescription SWPS will record this in VAD-IMS.

Care must be taken to complete the prescription clearly and accurately in accordance with the protocols so that it is able to be validated by SWPS without causing delay. Any adjunct medications required by the patient must be on a separate prescription. This prescription can be sent to SWPS with the prescription for the voluntary assisted dying substance.

14.3 Completing the Administration Decision and Prescription Form

After prescribing the voluntary assisted dying substance for the patient, the Coordinating Practitioner must complete the *Administration Decision and Prescription Form* and give a copy to the Board within 2 business days. If the patient has made a self-administration decision the Coordinating Practitioner must also submit a copy of the *Contact Person Appointment Form* within 2 business days. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form/s to the Coordinating Practitioner.

15 Supply and use of the voluntary assisted dying substance

15.1 Supply of the substance

Supply of the voluntary assisted dying substance, including adjunct medications, is to be initiated at the request of the patient. This ensures that the process remains in their control. The supply of the voluntary assisted dying substance does not occur until SWPS is informed that the substance is being requested. This may be by direct contact from the patient in the case of self-administration, or by contact from the Administering Practitioner following the person's request to make arrangements for practitioner administration.

The Authorised Supplier (i.e. SWPS) must not supply the voluntary assisted dying substance until they have confirmed the authenticity of the prescription, the identity of the prescriber and the identity of the person to whom it is to be supplied.

15.1.1 Supply of the substance for self-administration

In the case of supply of the voluntary assisted dying substance for self-administration, SWPS will supply the substance to the **recipient** who may be:

- the patient
- the Contact Person
- an agent of the patient.

SWPS is also obliged to provide the recipient with written information at the same time. This information will address:

- that the patient is not under any obligation to self-administer the voluntary assisted dying substance
- how to store the substance in a safe and secure way
- how to prepare and self-administer the substance

- that, if the patient decides not to self-administer the substance, their Contact Person must give the substance to an Authorised Disposer for disposal
- that, if the patient dies, their Contact Person must give any unused or remaining substance to an Authorised Disposer for disposal.

If the substance is not supplied directly to the patient (i.e. it is supplied to the Contact Person or an agent of the patient) the recipient must give the patient the voluntary assisted dying substance along with the information provided by SWPS.

15.1.2 Substance expiry

If there is an extended amount of time between substance supply for self-administration and the patient taking the substance, this may lead to expiration of the voluntary assisted dying substance or adjunct medications, resulting in reduced safety and efficacy of medications. Patients or Contact Persons are requested to notify SWPS at least 1 month before the substance or adjunct medication expires to organise replacement stock.

15.1.3 Safe storage of the substance for self-administration

If there is an extended amount of time between supply of the voluntary assisted dying substance and the patient taking the substance, this may lead to the patient forgetting how to prepare the substance for administration, resulting in stress or uncertainty at the time of administration. A lack of follow-up and support after the substance has been supplied may also lead to patients and Contact Persons feeling isolated and result in poor end-of-life experiences.

After the substance has been supplied to a patient for self-administration, they should continue to be supported by their Coordinating Practitioner and/or SWCNS or SWPS. A follow-up agreement should be documented and shared with all parties so there is a confirmed plan in place to facilitate follow-up while the voluntary assisted dying substance remains in the community.

Several concerns may be identified after the substance has been supplied, including:

- additional care needs for the patient which should be discussed with the patient's care team
- substance preparation concerns which should be discussed with SWPS or the Coordinating Practitioner
- substance safety concerns or patient eligibility concerns which should be discussed with the patient's Coordinating Practitioner

Incidents in other jurisdictions have highlighted the importance of supporting those whose loved ones are anticipating self-administration, especially if the patient dies before taking the voluntary assisted dying substance and the substance remains in the community (as permitted by the Act for up to 14 days). If the Contact Person is someone close to the patient, they will be grieving at the same time as having access to the substance and actions they must complete within a specified time. This should be taken into consideration when deciding who to appoint to the Contact Person role.

15.1.4 Supply of the substance for practitioner administration

In the case of practitioner administration, SWPS must supply the voluntary assisted dying substance to the Administering Practitioner. The Administering Practitioner will be responsible for the safe storage of the substance in line with the guidance provided in the *Voluntary Assisted Dying – Prescription and Administration Information* until the patient requests for it be administered.

15.2 Self-administration of the voluntary assisted dying substance

Detailed information on the administration of the voluntary assisted dying substance, including instructions, will be provided to the patient during consultation with the Coordinating Practitioner and by SWPS at the time the substance is supplied. In line with the Commonwealth *Criminal Code Act 1995*, information about self-administration of the voluntary assisted dying substance should not be provided over a carriage service and should instead happen in-person or by provision of hard copy documents.

15.2.1 Considerations for self-administration

The patient may self-administer the voluntary assisted dying substance at a time and place of their choosing, provided they remain within Western Australia. Evidence from places where voluntary assisted dying has been available for some time indicate that most people will choose to die at home. Choosing an environment to self-administer that is safe and supportive is an important part of end-of-life planning. A patient may choose to self-administer in one of a number of locations, including in a private or public hospital, at a community health service, in a residential aged care facility, or at their home. If the patient seeks to self-administer in a location other than a private home, they should be encouraged to have a plan in place to ensure the location is willing and able to safely meet their needs.

The patient should consider who they want to be present when they self-administer the voluntary assisted dying substance. Being present for the patient's death can be a positive experience for carers, family or friends, but it may also be confronting for some. As part of the planning process these people should be informed and prepared for what to expect so that they can make an informed decision about whether attending the patient's death is right for them. At least one person attending the death will need to know what to do after the patient has self-administered the substance (see section 17 for more information). Anyone who chooses to self-administer the voluntary assisted dying substance should be encouraged not to self-administer alone. However, where this is the choice the patient has made, an appropriate plan should be put in place to ensure the requirements of the Act (such as the Contact Person giving unused or remaining voluntary assisted dying substance to an Authorised Disposer) can be met.

It may be a request of the patient to have the Coordinating Practitioner or other members of their treating healthcare team in attendance. The decision to accommodate such a request is entirely up to these individuals and the Act provides protections for those attending a self-administration (refer to section 2.1.1).

15.3 Practitioner administration of the voluntary assisted dying substance

When planning for practitioner administration, the Administering Practitioner should discuss the requirement for an eligible witness to be present. It is important that the patient is comfortable with the witness and that the witness is prepared to take on the role. The Administering Practitioner should also confirm the patient's preferences for the administration of the voluntary assisted dying substance. It is essential that the patient and the Administering Practitioner agree on a time, date and place that the Administering Practitioner and at least one eligible witness can be present.

The Administering Practitioner will need to arrange with SWPS to have the voluntary assisted dying substance dispensed. Detailed information and instructions about the practitioner administration process are provided to the Administering Practitioner when the voluntary assisted dying substance is dispensed.

15.3.1 Witnessing the administration request and practitioner administration

There must be a witness to the practitioner administration. The patient may have selected several carers, family or friends to be with them at the end of their life. If willing, one of these people may act as the witness to the practitioner administration of the voluntary assisted dying substance. This person:

- must have reached 18 years of age
- must not be an ineligible witness (i.e. they must not be a family member of the Administering Practitioner and must not be employed or engaged under a contract for services by the Administering Practitioner).

Once the Administering Practitioner and witness are present, it is recommended that the Administering Practitioner confirms with the patient that they are requesting the Administering Practitioner to administer the voluntary assisted dying substance.

The Administering Practitioner must be satisfied that, at the time of administering the substance, the patient:

- has decision-making capacity in relation to voluntary assisted dying
- is acting voluntarily and without coercion
- has an enduring request for access to voluntary assisted dying.

In accordance with good medical practice, the Administering Practitioner should remain with the patient until the patient dies.

15.4 Documenting practitioner administration

After the patient has died, the Administering Practitioner is required to complete the *Practitioner Administration Form*. This form requires specific details of the circumstances in which the administration took place, such as the time that lapsed between administration of the voluntary assisted dying substance and death, and details of any complications relating to the administration of the substance.

The witness must certify in writing on the *Practitioner Administration Form* that:

- at the time of making the administration request, the patient's request for access to voluntary assisted dying appeared to be free, voluntary and enduring
- the Administering Practitioner administered the voluntary assisted dying substance to the patient in the presence of the witness.

The form should be printed in advance and brought along to the administration so that it can be sighted and signed by the witness. The Administering Practitioner is required to give a copy of the form to the Board within 2 business days after administering the voluntary assisted dying substance. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Administering Practitioner.

15.5 Involvement of other health professionals

As with any other medical treatment, other health professionals may assist the Administering Practitioner. However, **only** the Administering Practitioner is authorised under the Act to administer the voluntary assisted dying substance when a practitioner administration decision has been made. Other health professionals should determine whether they are willing to be present at the administration of the voluntary assisted dying substance and whether they are comfortable assisting the Administering Practitioner with aspects not directly related to the administration of the voluntary assisted dying substance.

The Act provides protection for persons who are present at the time of self-administration or practitioner administration in accordance with the Act (refer to section 2.1).

15.6 Unexpected medical events

If the patient has accessed voluntary assisted dying in a supported location, such as a hospital or hospice, or in the presence of a health professional (e.g. Administering Practitioner, nurse, specialist doctor etc.), a health professional who is present can respond to an unexpected medical event. If an unexpected medical event occurs, the patient should be provided with suitable treatment to ensure they are comfortable. It should be noted that health professionals are under no obligation to attempt life-sustaining measures (unless the patient requests this). Where the patient intends to self-administer the voluntary assisted dying substance with no health professional present, instructions in comfort care should be provided to carers, family and friends planning to be present as part of preparation for death.

Under the Act, voluntary assisted dying is a highly prescriptive process and the likelihood of an unexpected medical event is minimal. However, the process is also relatively rare and highly emotive. Attendees experiencing heightened emotion may panic or be uncomfortable in response to something they witness at the death of someone they are close to. To decrease the likelihood of other unexpected events occurring during the administration process, significant attention should be given to planning for death, including for those who will be in attendance. Everyone who intends to be present at an assisted death should be aware beforehand of what will likely happen once the voluntary assisted dying substance has been administered, and what will likely happen once they have died.

16 Death certification and notification

16.1 Notifying the Voluntary Assisted Dying Board of the person's death

If the patient dies, either because of administration of the voluntary assisted dying substance or because of another cause, the Voluntary Assisted Dying Board must be notified that the death has occurred. The process for notifying the Board will differ depending on whether the patient has made a choice for self-administration or practitioner administration of the voluntary assisted dying substance. The Medical Certificate of Cause of Death (MCCD) must also be completed for the patient.

16.1.1 Role of the Coordinating Practitioner

If the Coordinating Practitioner is made aware that the patient has died by either self-administering the voluntary assisted dying substance or by another cause, the Coordinating Practitioner must complete the *Notification of Death Form (Coordinating/Administering Practitioner)*. A copy of this form must be given to the Voluntary Assisted Dying Board within 2 business days of the Coordinating Practitioner becoming aware of the death. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Coordinating Practitioner.

If a patient dies by practitioner administration and the Coordinating Practitioner is also in the role of Administering Practitioner, they are not required to complete the *Notification of Death Form (Coordinating/Administering Practitioner)* as they will have already completed the *Practitioner Administration Form* and provided a copy of this to the Voluntary Assisted Dying Board.

16.1.2 Role of the Administering Practitioner (if not also the Coordinating Practitioner)

If the Administering Practitioner is made aware that the patient has died, they must inform the Coordinating Practitioner of the death, complete the *Notification of Death Form (Coordinating/Administering Practitioner)* and give a copy to the Voluntary Assisted Dying Board within 2 business days. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Administering Practitioner.

If the patient dies by practitioner administration the Administering Practitioner is not required to complete the *Notification of Death Form (Coordinating/Administering Practitioner)* as they will have already completed the *Practitioner Administration Form* and provided a copy of this to the Voluntary Assisted Dying Board.

16.1.3 Role of another medical practitioner

If a medical practitioner (who is not the Coordinating Practitioner or the Administering Practitioner) completes the MCCD for a person they know or reasonably believe has died because of the administration of a voluntary assisted dying substance in accordance with the Act, the medical practitioner must complete the *Notification of Death Form (Other Medical Practitioner)* and give a copy to the Voluntary Assisted Dying Board within 2 business days. This form can be accessed and submitted via VAD-IMS or returned via fax. A medical practitioner does not need to be registered on VAD-IMS to be able to complete and submit this form. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the medical practitioner.

16.2 Completing the Medical Certificate of Cause of Death

In completing the MCCD for a person who has died because of administration of the voluntary assisted dying substance, a medical practitioner **must not** include any reference to voluntary assisted dying and should identify the illness, disease or medical condition that has led to them being eligible for voluntary assisted dying as the cause of death. The intention of this is to protect the privacy of the person and to reflect that the person has died of the underlying illness. The MCCD will be provided to the funeral director who is responsible for lodging it with the Registry of Births, Deaths and Marriages. Including any reference to voluntary assisted dying is a breach of the Act.

If the Administering Practitioner is a medical practitioner, they can complete the MCCD for the patient. If the Administering Practitioner is a nurse practitioner, they can certify life extinct following usual processes (i.e. a medical practitioner will still be required to complete the MCCD for the patient). This should be done in addition to completing the *Practitioner Administration Form*. Where the patient has made a self-administration decision, their carers, family or friends should be supported to consider ahead of time who they will call to confirm the death and complete the MCCD.

Consequential amendment was made to the *Coroners Act 1996* (WA) to generally exempt deaths brought about by voluntary assisted dying. Otherwise, these deaths would fall within the wide definition of a reportable death and result in automatic involvement of the Coroner. A voluntary assisted dying death does not have to be reported to the Coroner as a matter of course, other than where:

- the person was, immediately before their death, 'held in care' (as defined under the *Coroner's Act 1996*); or
- where the death was not in accordance with, or suspected not to be in accordance with, the *Voluntary Assisted Dying Act 2019* (WA).

16.3 Discussing an assisted death

Medical practitioners and nurse practitioners are well versed in the practice of maintaining patient confidentiality. The Act includes protections and offences that aim to further protect the privacy of patients and their families. It is important to be aware that the Act does not allow a person to disclose information they have obtained as a result of performing a function under the Act (unless they meet special criteria to do so).

Some people may be aware that the person has accessed voluntary assisted dying because of their role in the process (e.g. Coordinating Practitioner, Administering Practitioner etc.). Others may become aware of this information as a result of supporting the person's carers, family or friends after their death (e.g. funeral director, palliative care nurse etc.). In general, this information should not be shared and anyone who discloses that the person has died because of accessing voluntary assisted dying is potentially committing an offence under the Act.

17 After the person dies

There are several aspects that may need to be addressed after the patient has died. Wherever possible these should be considered as part of the planning process ahead of the patient's death and involve carers, family or friends where appropriate.

17.1 Disposal of the voluntary assisted dying substance

Authorised Disposers are registered health practitioners who have been authorised by the Director General of Health (as CEO) to legally dispose of the voluntary assisted dying substance. In WA, Authorised Disposers include registered pharmacists that hold specifically identified roles, such as:

- Pharmacist with overall responsibility at a registered pharmacy
- Pharmacist in Charge at a registered pharmacy
- Chief Pharmacist at a hospital service
- Pharmacy Department Dispensary Manager (Pharmacist) at a hospital service
- Senior Pharmacist at SWPS.

A full list of Authorised Disposers is published on the Department of Health website. A pharmacist who is authorised to be an Authorised Disposer is not obliged to act as one and can refuse to dispose of the voluntary assisted dying substance.

An Authorised Disposer who disposes of the voluntary assisted dying substance must immediately complete the Authorised Disposal Form and give a copy to the Voluntary Assisted Dying Board. This form can be accessed and submitted via VAD-IMS or returned via fax. Authorised Disposers do not need to register for VAD-IMS to be able to complete and submit the form. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Authorised Disposer.

17.1.1 Contact Person responsibilities

If a patient who has made a self-administration decision dies, either because of self-administering the voluntary assisted dying substance or because of another cause, the Contact Person is obliged to perform 2 key tasks:

1. They must inform the Coordinating Practitioner of the patient's death.
2. They must give any unused or remaining substance to an Authorised Disposer as soon as practicable and in any event **within 14 days** of the patient's death.

There are Authorised Disposers at registered pharmacies and many hospitals throughout WA who are able to receive the voluntary assisted dying substance and dispose of it safely. The list of Authorised Disposers is available on the Department of Health website and is also part of the information provided to the Contact Person by the Voluntary Assisted Dying Board. The Contact Person can be supported by the Coordinating Practitioner, SWPS or SWCNS to find an Authorised Disposer if needed.

17.1.2 Practitioner disposal responsibilities

If a patient who has made a practitioner administration decision dies prior to administration, the Administering Practitioner must dispose of the unused voluntary assisted dying substance as soon as practicable. The Administering Practitioner should follow the substance disposal guidance outlined in the *Voluntary Assisted Dying – Prescription and Administration Information*. SWPS can be contacted for additional guidance on disposal if required (see section 23 for contact details).

The Administering Practitioner must complete the *Practitioner Disposal Form* and give a copy to the Voluntary Assisted Dying Board within 2 business days of disposing of the voluntary assisted dying substance. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Administering Practitioner. If the reason for disposal is not included on the form, the Administering Practitioner should contact the VAD Board Secretariat for guidance.

17.2 Support for carers, family and friends

A patient who has chosen to access voluntary assisted dying is aware of their approaching death. It is likely that at least some of their carers, family or friends have also been made aware that the patient's life is approaching its end. Those close to the patient will likely experience a level of anticipatory grief as they prepare for the impending loss. Once the death has occurred, they may be overwhelmed with conflicting feelings of sadness, relief or distress. For some people, voluntary assisted dying may carry a level of stigma that can complicate the grieving process. Planning for death aims to help carers, family and friends transition to life without their loved one and manage the experiences of adjustment, grief and bereavement.

17.2.1 Planning for death

Planning for death should be an ongoing conversation with the patient and, if they choose, their carers, family or friends. The plan should include practical information such as who should be contacted once the patient has died, who will remove the patient's body from the place of death, any relevant location-based procedures (if the patient has chosen to die in a facility such as a hospital, hospice or residential aged care), and local bereavement services that are available to provide continued support. A proforma example is available via the resource hub within VAD-IMS.

17.2.2 Grief and bereavement

Accepting another person's choice to access voluntary assisted dying will be easy for some people and incredibly difficult for others. Even those who are wholly supportive will face an inevitable outcome: the loss of a loved one and the grief that naturally follows.

Medical practitioners and other health professionals should provide bereavement support to a patient's carers, family and friends in the same way that they usually would, whether directly or via their health service's existing bereavement support services. Where palliative care services have been involved in the care of the patient, they will generally be able to offer bereavement support or referral to other services. The SWCNS can assist patients, family and carers to access voluntary assisted dying grief and bereavement support services and resources, including community support groups for people with lived experience of voluntary assisted dying. SWCNS also organises an annual Reflection Service to share stories, remember and reflect on the people whose lives have been touched by voluntary assisted dying. The following links and resources may be useful in supporting the patient's carers, family, friends as part of bereavement support.

The Australian Centre for Grief and Bereavement can help family, friends and carers deal with the death of a loved one and put them in touch with appropriate support groups.

- Phone: 1800 642 066, Monday to Friday (9:00 am – 5:00 pm) or access the website www.grief.org.au

Palliative Care WA provides the WA community with a palliative care information and support line which can be used to access support for dealing with grief and loss.

- Phone: 1800 573 299, Monday to Sunday (9:00 am – 4:30 pm) or access the website https://palliativecarewa.asn.au/

Counselling support for carers who are going through the experience of grief and loss can be provided through Carers WA.

- Phone: 1800 007 332, Monday to Friday (8:30 am – 4:30 pm) or access the website www.carerswa.asn.au

Lifeline can provide crisis support to anyone who is need of immediate help to deal with emotional distress

- Phone: 13 11 14, (any time day or night) or access the website www.lifeline.org.au

Receiving support, in addition to providing support, is key for those practitioners participating in the voluntary assisted dying process. Self-care should be a priority for practitioners who choose to deliver voluntary assisted dying services. Practitioner self-care and the WA VAD Community of Practice are discussed in section 24.

18 Transfer of roles

There may be circumstances in which a role designated by the Act will need to be transferred from one practitioner to another. This may be due to the person accessing voluntary assisted dying making a direct request to have a different practitioner or because of changed circumstances for a practitioner who has already commenced the process.

18.1 Transferring the role of Coordinating Practitioner

The role of Coordinating Practitioner may be transferred to the Consulting Practitioner if the Consulting Practitioner:

- has assessed the patient as eligible
- accepts the transfer of the role.

The Consulting Practitioner must inform the Coordinating Practitioner of their decision within 2 business days. If the Consulting Practitioner accepts the transfer the original Coordinating Practitioner must:

- inform the patient
- record the transfer in the patient's medical record.

The original Coordinating Practitioner must also complete the *Coordinating Practitioner Transfer Form* and give a copy to the Board within 2 business days. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the Coordinating Practitioner.

If the Consulting Practitioner refuses the transfer, the original Coordinating Practitioner may refer the patient to another medical practitioner for a further Consulting Assessment. If this referral is accepted, the original Consulting Assessment becomes void and the first Consulting Practitioner will no longer have access to the record in VAD-IMS. If the outcome of the new Consulting Assessment is that the patient is eligible to access voluntary assisted dying, the role of Coordinating Practitioner may be transferred to this Consulting Practitioner (if they choose to accept the transfer).

If the original Coordinating Practitioner is also the Administering Practitioner for the patient (i.e. the person has made a practitioner administration decision) and the role of Administering Practitioner also needs to be transferred, then this must be done separately via the *Transfer of Administering Practitioner* process (outlined in section 18.2).

18.2 Transferring the role of Administering Practitioner

If a patient has made a practitioner administration decision and a prescription for the voluntary assisted dying substance has been completed, but the Administering Practitioner becomes unable or unwilling to administer the voluntary assisted dying substance (for any reason), they must transfer the role to another practitioner who is eligible to be an Administering Practitioner for the patient and willing to accept the transfer.

If a new practitioner accepts the transfer, the original Administering Practitioner must:

- inform the patient of the transfer of the role
- inform the patient of the name and contact details of the new practitioner
- record the transfer in the patient's medical record.

The original Administering Practitioner must also complete the *Administering Practitioner Transfer Form* and give a copy to the Board within 2 business days. Submission via VAD-IMS is considered giving a copy to the Voluntary Assisted Dying Board. The Voluntary Assisted Dying Board will provide confirmation of receipt of the form to the original Administering Practitioner.

If the original Administering Practitioner has possession of the voluntary dying substance when the role is transferred, they are authorised to supply the substance to the new practitioner and the new practitioner is authorised to receive it from the original Administering Practitioner. The transfer of the substance must be recorded on VAD-IMS by both the original and the receiving practitioner.

The Coordinating Practitioner remains the Coordinating Practitioner despite any transfer of the Administering Practitioner role. In practice this means that if the Coordinating Practitioner wants to transfer both the role of Coordinating Practitioner and Administering Practitioner then both processes outlined in sections 18.1 and 18.2 need to be completed.

19 Using interpreter services

It is important that a patient who intends to access voluntary assisted dying can understand what is happening at each stage of the process and can communicate their needs and decisions. The patient may require an interpreter service if they are unable to communicate in spoken or written English. In this situation the Coordinating Practitioner should arrange for an interpreter to be engaged for the request and assessment, and administration processes.

Under the Act, an interpreter must be suitably qualified or credentialed. This means that the interpreter must hold one of the following:

- a credential issued under the National Accreditation Authority for Translators and Interpreters (NAATI) certification scheme
- a qualification in interpreting from a Registered Higher Education Provider registered on the National Register of Higher Education Providers (such as an Australian university)
- a qualification in interpreting from a Registered Training Organisation listed on the national register (such as a TAFE).

Often in medical and health settings another person, such as a carer, family member or friend, will offer to assist with interpreting or translation for a patient receiving care. This type of assistance for someone seeking voluntary assisted dying is not permitted under the Act. Only an interpreter who meets all requirements can be engaged to facilitate communication with the patient in relation to voluntary assisted dying.

19.1 Interpreter requirements

In addition to being suitably qualified or credentialed, the interpreter:

- must not be a family member of the patient
- must not know or believe they are a beneficiary under a will of the patient or will otherwise benefit financially or in any other material way from the death of the patient
- must not be an owner or responsible for the day-to-day management of the health facility where the patient is being treated or lives
- must not be a person directly involved in providing health services or professional care services to the patient.

19.2 How to find an interpreter

For medical practitioners and nurse practitioners who are employed by a health service (e.g. private or public hospital, community health service, primary care health service, residential aged care facility etc.) the employing health service may have a Language Service Coordinator or guidelines about booking interpreter services with a preferred provider. These guidelines should be followed when making a booking for a patient seeking access to voluntary assisted dying.

Translating and Interpreting Service (TIS National) provides interpreter services to businesses that need to communicate with their non-English speaking clients. TIS National has access to over 2300 contracted interpreters across Australia speaking more than 140 languages. Further information on how to use TIS National can be found on the website (www.tisnational.gov.au).

NAATI, the Australian Institute of Interpreters and Translators and the Western Australian Institute for Translators and Interpreters maintain online directories for finding interpreters and translators. In addition, Aboriginal Interpreting WA can help to locate Aboriginal language interpreters. Further assistance with sourcing an interpreter can be provided by SWCNS (see section 22 for contact details).

19.3 Working with an interpreter

Consideration should be given to how the interpretating services are provided. In general, in-person interpreting is recommended where possible given the complex nature of the topic. However, there are situations where interpreting over phone or videoconference is required and appropriate. It is also recommended that the interpreter is briefed regarding the content matter prior to the consultation.

At the very least, the interpreter should be made aware that the conversation will be about voluntary assisted dying and given the opportunity to choose not to be involved. To avoid delays in the event an interpreter exercises their right to decline to interpret, it is best that the interpreter is notified at the time of booking that the matter is to do with voluntary assisted dying.

The use of interpreting services and the identity of an interpreter (including name, contact details and accreditation details, such as the credential or qualification they hold) must be documented by the practitioner in the First Assessment Form, the Consulting Assessment Form, the Final Request Form, the Final Review Form, the Administration and Prescription Form as well as the Contact Person Appointment Form and the Revocation Form (if either is required). Where interpreting services are used in other consultations during the voluntary assisted dying process it is good practice to record these details in the patient's medical record.

Interpreters work exclusively in spoken language, interpreting conversations between 2 or more people, and therefore do not translate materials (i.e. convert written text from one language to another). If an interpreter is engaged when the patient makes the Written Declaration the interpreter must also be qualified or credentialed as a translator in the required language. This is because the Act requires the interpreter to certify that they provided a true and correct translation of any material translated on the Written Declaration. Individuals who are only qualified or credentialed in interpreting are unable to certify translated text. The Written Declaration is the only step in the voluntary assisted dying process where the interpreter must also be a translator.

20 Supporting Aboriginal people on and off country

A person should have genuine choices about their care and treatment as they approach the end of life, no matter where they live in WA. These choices should take into consideration the person's culture in addition to language. The importance of culture and spirit in determining Aboriginal wellbeing should be acknowledged and supported when discussing choices available at end of life with Aboriginal patients.

20.1 Voluntary assisted dying and Aboriginal people

Voluntary assisted dying is an unfamiliar concept for many Aboriginal people. In some Aboriginal languages there is no equivalent translation for the concept of voluntary assisted dying. However, many Aboriginal languages have an equivalent for the concept of 'finishing up' or dying on country and understand the life-death-life cycle.

20.1.1 Discussing voluntary assisted dying with Aboriginal patients

Aboriginal concepts of individual and community wellbeing are strongly linked to culture and spirit. This holistic view of wellbeing incorporates cyclical concepts of life and death. Discussions around end-of-life care and choices with Aboriginal patients should recognise and respect these key components of wellbeing.

In some situations, it may be more culturally appropriate for Aboriginal people to receive information about voluntary assisted dying by yarning with a trusted healthcare worker. Aboriginal healthcare workers, including Aboriginal liaison officers or Aboriginal health practitioners, may help navigate and guide culturally safe yarning between clinicians and the patient about the end of life (within the restrictions imposed by the Act). In some of these instances it may also be necessary to work with interpreting services and provide information in conjunction with Aboriginal healthcare workers who are familiar with the community.

20.2 Making decisions about end-of-life choices

For many Aboriginal people, decisions about treatment and care are often made together with other family or community members. When considering access to voluntary assisted dying the decision must always be made by the person themselves.

When supporting an Aboriginal patient who is considering voluntary assisted dying, it is important to understand and appreciate the significance of family and community. The patient may wish to involve their family and community in discussions. The law requires that any decision related to accessing voluntary assisted dying is made by the patient voluntarily and without coercion and reflects their genuine wishes. Therefore, it is key to achieve the right balance between understanding and appreciating the importance of family and community, and the requirements of the Act.

20.2.1 Dying on country

An Aboriginal person who is accessing voluntary assisted dying can be supported to die on country. The Voluntary Assisted Dying Regional Access Support Scheme (RASS) can enable eligible patients to have a practitioner travel to them if one isn't locally available to complete the eligibility process and to administer the voluntary assisted dying substance. This scheme can also fund travel and accommodation for an interpreter or for a support person if the patient is required to travel as part of the voluntary assisted dying process. The RASS is managed by SWCNS (see section 22).

21 The role of the State Administrative Tribunal

The State Administrative Tribunal (SAT) is an independent body that makes and reviews a range of administrative, commercial and personal matters in Western Australia. These matters span human rights, vocational regulation, commercial and civil disputes, and development and resources issues. SAT is the primary place for the review of decisions made by government agencies, public officials and local governments. It also makes a wide variety of original decisions.

21.1 What decisions can SAT review?

The Act allows for certain decisions made during the voluntary assisted dying assessment process to be reviewed by SAT. These are known as reviewable decisions.

The reviewable decisions are:

- a decision that the patient has or has not been ordinarily resident in Western Australia for at least 12 months at time of the First Request
- a decision that the patient does or does not have decision-making capacity in relation to voluntary assisted dying
- a decision that the patient is or is not acting voluntarily and without coercion.

These decisions may have been made by the Coordinating Practitioner during the First Assessment, the Consulting Practitioner during the Consulting Assessment or by the Coordinating Practitioner during the Final Review.

The patient must be informed that they may apply to SAT for review of these decisions. The *First Assessment Form* and the *Consulting Assessment Form* contain this information and copies of these forms must be provided to the patient.

21.2 Applying to SAT for a review

The following people are considered eligible applicants and may apply to SAT for review of a decision:

- the patient who is the subject of the voluntary assisted dying assessment
- an agent of the patient (i.e. someone acting on the person's behalf)
- a person who SAT is satisfied has a special interest in the medical treatment and care of the patient.

It is up to SAT to determine if the person making the application for review is eligible to do so. Being a family member of the patient does not mean the person is automatically considered to have a special interest.

If a review application is made to SAT, the medical practitioner will be notified of the application and the outcome by SAT. This notification is provided to the Coordinating Practitioner, the Consulting Practitioner and the Administering Practitioner (if relevant). The Voluntary Assisted Dying Board and Director General of the WA Department of Health are also informed. Upon notification of the review application the voluntary assisted dying process will be suspended until an outcome has been determined. The Voluntary Assisted Dying Board Secretariat will suspend the patient Episode in VAD-IMS and progression of the process will not be permitted. The Voluntary Assisted Dying Board Secretariat will communicate this in writing to all parties to the proceedings, the Coordinating Practitioner and Administering Practitioner.

If the decision being reviewed is that of the Coordinating Practitioner, they will need to provide a statement of their reasons for the decision and provide other relevant documentation. If the Coordinating Practitioner did not make the decision that is under review, they will still need to provide relevant documentation to SAT. This information must be provided within seven business days after receiving notice of the review (or any shorter period ordered by SAT).

21.3 Outcome of the SAT review

SAT may decide to uphold the original decision, or it may decide to set aside the original decision.

If the outcome is that the patient has been ordinarily resident in Western Australia for at least 12 months at the time of first request; or has decision-making capacity in relation to voluntary assisted dying; or is acting voluntarily and without coercion, the suspension ends and the process may continue. If the patient has satisfied all the other eligibility requirements, they are **eligible** for voluntary assisted dying.

If the outcome is that the patient has not been ordinarily resident in Western Australia for at least 12 months at the time of first request; or does not have decision-making capacity in relation to voluntary assisted dying; or is not acting voluntarily and without coercion, the patient is **ineligible** for voluntary assisted dying and the process ends. This does not preclude the person from making another First Request if the situation giving rise to the SAT decision changes.

21.3.1 When the SAT decision differs to that of the original practitioner

If the SAT decision differs to the original decision the original decision is set aside, and the SAT decision is substituted in its place.

If the original decision by the Coordinating Practitioner in the First Assessment or Final Review meant that the patient was **ineligible** and the substituted SAT decision (along with the rest of the eligibility criteria) means that the patient is **eligible** for voluntary assisted dying, then the Coordinating Practitioner may refuse to continue in the role. In this situation the Coordinating Practitioner must transfer the role of Coordinating Practitioner in accordance with the transfer process (refer to the process outlined in section 18). If the decision was in relation to an assessment by the Consulting Practitioner, then the process will continue in accordance with the usual process depending on the outcome of the decision.

The outcomes of SAT decisions are available via SAT's Decisions Database. Relevant decisions can be found using 'voluntary assisted dying' as a search term. It is recommended that practitioners familiarise themselves with decisions set down by SAT, as these are likely to be relevant to their assessment of patient eligibility.

It is recommended that SAT be contacted directly for additional information and advice www.sat.justice.wa.gov.au.

22 WA VAD Statewide Care Navigator Service

The WA VAD Statewide Care Navigator Service (SWCNS) has been established to support anyone involved with voluntary assisted dying in Western Australia. This includes health professionals, service providers, patients and members of the community. The service is nurse-led and staffed by Care Navigators who are experienced health professionals.

22.1 Services provided by SWCNS

The Care Navigators who staff SWCNS can provide:

- general or individualised information on voluntary assisted dying in WA
- assistance in finding a medical practitioner who can act as Coordinating Practitioner or Consulting Practitioner
- assistance in finding a medical practitioner or nurse practitioner who can act as Administering Practitioner
- care navigation for patients, carers and families as they go through the voluntary assisted dying process
- connections with local services and providers to ensure coordination of service provision and care
- advice for health practitioners and care providers on how to support a patient through the voluntary assisted dying process
- funding for travel and accommodation costs through the Voluntary Assisted Dying Regional Access Support Scheme (RASS)
- education to support health service capacity building and awareness about voluntary assisted dying.
- Linkage with additional services such as palliative care or bereavement support

SWCNS is managed by the South Metropolitan Health Service. As a statewide service it is available to patients and practitioners anywhere in Western Australia. As part of its role in providing integrated care, SWCNS can liaise with the Department of Health (including the End of Life Care Program), SWPS, and the Voluntary Assisted Dying Board. SWCNS does not charge fees for its services.

22.1.1 Support for regional Western Australians through the Access Standard

Western Australia is a geographically expansive state. There has been a strong focus on working to ensure that regional residents are not disadvantaged in their access to voluntary assisted dying and this intention is built into the Act by way of the Access Standard. The Access Standard addresses how the State intends to facilitate Western Australians having access to information about voluntary assisted dying, the services of medical practitioners and other persons who carry out functions under the Act, as well as to the voluntary assisted dying substance.

22.1.2 The Voluntary Assisted Dying Regional Access Support Scheme (RASS)

A key component to supporting regional Western Australians is the RASS. Some Western Australians may live in a rural or remote location that does not have ready access to a local medical practitioner for the assessments required by the Act, or to a medical practitioner or nurse practitioner to be the Administering Practitioner (if required). The aim of the RASS is to provide support options, that facilitate access in alignment with the Access Standard support the long-term sustainability of voluntary assisted dying.

The RASS may be utilised to support the following:

- Travel and accommodation for a regional patient
- Travel and accommodation for an escort / support person
- Travel and accommodation for an interpreter
- Travel and accommodation for a voluntary assisted dying practitioner
- Practitioner training (for eligible practitioners who support regional patients)
- Videoconferencing devices for regional patients

The RASS is operationally managed by SWCNS. The care navigators can assist patients and practitioners to determine their eligibility for the RASS and can support those assessed as eligible with associated requirements.

The RASS does not provide funds for the consultation fees that may be associated with voluntary assisted dying appointments. As these costs are determined by the practitioner, it is expected that practitioners will discuss the costs that a patient is likely to incur for voluntary assisted dying services prior to applying for the RASS.

22.2 Contacting SWCNS

SWCNS can be contacted by email and phone during standard work hours (8:30 am – 5:00 pm).

- Email: VADcarenavigator@health.wa.gov.au
- Phone: (08) 9431 2755

23 The WA VAD Statewide Pharmacy Service

The WA VAD Statewide Pharmacy Service (SWPS) was established to ensure that the voluntary assisted dying substance is provided in a safe, equitable and patient-centred manner and in accordance with the Act. While SWPS is managed by the North Metropolitan Health Service, it is a statewide service that can be accessed from anywhere in WA.

23.1 Services provided by SWPS

SWPS involvement in the voluntary assisted dying process will commence only once the prescription for the voluntary assisted dying substance has been provided by the Coordinating Practitioner. Once this event has occurred, SWPS will assist with the management of the voluntary assisted dying substance through each patient's journey by:

- liaising with the Coordinating Practitioner and/or Administering Practitioner
- dispensing the voluntary assisted dying prescriptions, including the substance and adjunct medications
- providing the voluntary assisted dying substance and adjunct medications to the patient and providing education
- liaising with Authorised Disposers regarding disposal of unused or remaining voluntary assisted dying substance and adjunct medications.

SWPS is staffed by qualified pharmacists who are experienced health professionals. If required, a SWPS pharmacist will be able to visit a patient or practitioner anywhere in Western Australia to provide the voluntary assisted dying substance and education about the substance. As part of its role in providing integrated care, SWPS has links to the Department of Health (including the End of Life Care Program), SWCNS and the Voluntary Assisted Dying Board.

23.2 Contacting SWPS

SWPS can be contacted by email and phone during standard work hours (8:30 am – 5:00 pm).

Email: StatewidePharmacy@health.wa.gov.au Phone: (08) 6383 3088

24 Practitioner self-care and the WA VAD Community of Practice

It is widely recognised that health professionals provide the best care to their patients when they are experiencing their own optimal wellness. Caring for patients at the end of life can be extremely rewarding, but it can also be emotionally challenging. Practitioners must manage the needs and expectations of patients, families and colleagues.

Self-care is an essential part of participating in the voluntary assisted dying process. Even in jurisdictions where it has been legalised for several years, voluntary assisted dying is a relatively uncommon practice and due to its nature, practitioners are potentially at increased risk of professional isolation.

There may also be additional workplace stressors in navigating various viewpoints around voluntary assisted dying and different organisations may provide varying levels of support. Practitioners in rural and remote areas may be further isolated. All practitioners who provide voluntary assisted dying must also navigate their own reactions to, and experiences of, supporting a planned death.

24.1 Resources for medical practitioners

Table 7 outlines key resources that can be accessed to support the mental health and wellbeing of medical practitioners involved in the voluntary assisted dying process.

Table 7. Support resources for medical practitioners

Organisation	Resources
Royal Australian College of General Practitioners (RACGP) Support Program	The GP Support Program is a free service available to all RACGP members. It provides professional advice and support with managing a range of issues including conflict, grief and loss, anxiety and depression, and substance use. www.racgp.org.au/racgp-membership/member-offers/the-gp-support-program Call 1300 361 008 during business hours to make an appointment.
Royal Australasian College of Physicians (RACP) Resources	The RACP website provides a compilation of external resources for physical and mental health and other concerns. www.racp.edu.au/fellows/physician-health-and-wellbeing
Royal Australian and New Zealand College of Psychiatrists (RANZCP) Wellbeing Support	The RANZCP provides a number of external resources for physical and mental health and other concerns. www.ranzcp.org/membership/wellbeing-support-for-members Confidential advice is also available to all members of RANZCP through its Member Welfare Support Line: Call 1800 941 002 or email support@ranzcp.org
Australian College of Rural and Remote Medicine (ACRRM) Practitioner Health and Wellbeing resources	The Australian College of Rural and Remote Medicine website provides a number of external resources for physical and mental health and other concerns. www.acrrm.org.au/support/clinicians/community-support/coronavirus-support/health-and-wellbeing-for-rgs ACRRM's Employee Assistance Program can provide 24/7 support by calling 1800 818 728.
The Doctors' Health Advisory Service	The Doctors' Health Advisory Service provides confidential advice and support for medical practitioners in WA. Call (08) 9321 3098 to access this support and advice 24/7. The organisation also provide information and further resources on health and common problems medical practitioners face. Further information can be found online. www.dhaswa.com.au
DRS4DRS	Doctors' Health Services Pty Ltd maintains a website, DRS4DRS, which contains useful general resources related to the health and wellbeing of doctors. www.drs4drs.com.au/resource-hub

24.2 Resources for nurse practitioners

Table 8 outlines key resources that can be accessed to support the mental health and wellbeing of nurse practitioners involved in the voluntary assisted dying process.

Table 8. Support resources for nurse practitioners

Organisation	Resources
Peer support from the Australian College of Nurse Practitioners (ACNP)	The ACNP will provide all nurse practitioners involved in voluntary assisted dying with mentors and/or peer support. Contact admin@acnp.org.au for more information
Nursing and Midwifery Board of Australia (NMBA) Nurse and Midwife Support	The national Nurse and Midwife Support organisation, supported by the NMBA, provides several resources for health and wellbeing. www.nmsupport.org.au/students-and-graduates/health-and-wellbeing Contact 1800 667 877 to access their 24/7 free confidential counselling service, NM Support.
Australian Primary Care Nurses Association (APNA) Support	A national support service for APNA members, providing professional support and guidance. Operates Monday to Friday, 9:00 am – 5:00 pm Call: 1300 303 184 (or 03 9322 9598) Email: nursesupport@apna.asn.au APNA suggests its members contact Nurse and Midwife Support (above) if they need ongoing counselling.
Australian College of Nursing NurseStrong Facebook Group	A private Facebook group created by the Australian College of Nursing with over 6,600 members. https://m.facebook.com/groups/1881984805222905

24.3 General resources to support mental health and wellbeing

Table 9 outlines key resources that can be accessed to support the mental health and wellbeing of health professionals involved in the voluntary assisted dying process.

Table 9. General support resources

Resource	Contact
Employee Assistance Program	Practitioners employed by the WA government (and many private health care organisations) have access to free short-term counselling through an Employee Assistance Program. Contact your employer for more details.
CRANAplus Bush Support Services	A free counselling and support service for health workers (and their families) in rural and remote areas. Call 1800 805 391 for more information.
Palliative Care Australia Self-Care Matters	A resource to support health professionals providing palliative care, including a Self-Care Matters planning tool and mindfulness and meditation exercises. https://palliativecare.org.au/resources/self-care-matters
WA Primary Health Alliance Practice Assist	Support program for all general practice staff. Provides face-to-face, phone and online support addressing all aspects of patient care and practice management. Call 1800 2 ASSIST (1800 277 478) Email practiceassist@wapha.org.au www.wapha.org.au/health-professionals/general-practice-support/practice-assist/
ReachOut.com Developing a Self-Care Plan	Aimed at mental health professionals, the website contains resources for developing a self-care plan, including a template that can be adapted for practitioners. https://schools.au.reachout.com/articles/developing-a-self-care-plan
BeyondBlue	Information and support to help individuals experiencing anxiety and depression. Call 1300 224 636 www.beyondblue.org.au
Lifeline	24/7 crisis support and suicide prevention Call 13 11 14 www.lifeline.org.au

24.4 The WA VAD Community of Practice

Involvement in the voluntary assisted dying process can be challenging but many practitioners find it to also be professionally and personally rewarding. Practitioners who become involved may not be accustomed to regular involvement with patients at the point of death. This can be uncomfortable but is manageable with support. An important way to address the challenging aspects of voluntary assisted dying is to connect with others who are also providing voluntary assisted dying services to patients and families. A community of practice supports practitioners by providing an inclusive forum, that can offer practical and emotional support.

The WA VAD Community of Practice brings together practitioners actively engaged in the voluntary assisted dying process, including medical practitioners, nurse practitioners, SWPS pharmacists and the Care Navigators. This optional peer support network provides opportunities for members to share their experiences, support each other, learn from one another and seek guidance from senior practitioners with experience in palliative and end-of-life care, and managing complex deaths. For example, mentoring opportunities may be available with experienced clinicians who can discuss the request and assessment and administration processes.

The WA VAD Community of Practice is held online, in person, and a mix of both, with regular opportunities to meet in person. This hybrid format is designed to support connection and engagement across WA. The WA VAD Community of Practice can be contacted via SWCNS (refer to contact details in section 22).

24.4.1 Voluntary Assisted Dying Australia and New Zealand (VADANZ)

A community of practice for voluntary assisted dying across Australia and New Zealand, called VADANZ, has also been established. VADANZ has been set up by health care professionals directly involved in voluntary assisted dying. The organisation provides peer support and resources and aims to represent the voices of health professionals involved in voluntary assisted dying so they can deliver evidence-based, high-quality care.

This document can be made available in alternative formats.

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