

Voluntary assisted dying

Voluntary Assisted Dying in NSW – Obligations of Healthcare Workers

This fact sheet is applicable to **all healthcare workers in NSW**. Healthcare workers include registered health practitioners and individuals who provide health services or professional care services.

Key messages

1. All healthcare workers have obligations under the Voluntary Assisted Dying Act 2022, including those with a conscientious objection.
2. Healthcare workers **can** initiate a discussion with a patient about voluntary assisted dying but this **must** be part of a broader discussion about other treatment and palliative care options.
3. Healthcare workers must familiarise themselves with the voluntary assisted dying policies and procedures of their facility or district, including understanding what to do if a patient raises voluntary assisted dying with them.
4. The Voluntary Assisted Dying Act 2022 describes three distinct practitioner roles in the voluntary assisted dying process – that of a coordinating practitioner, consulting practitioner and administering practitioner. These practitioners are collectively referred to as authorised voluntary assisted dying practitioners (authorised practitioners). The Act outlines strict eligibility criteria for authorised practitioners. More information on eligibility criteria and registering to become an authorised practitioner can be found on the [NSW Health website](#).
5. A short awareness-raising online module provides additional information on healthcare workers' obligations in relation to voluntary assisted dying. It can be accessed via [My Health Learning](#) for NSW Health staff or via the [NSW Health website](#) for all other healthcare workers.

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Introduction

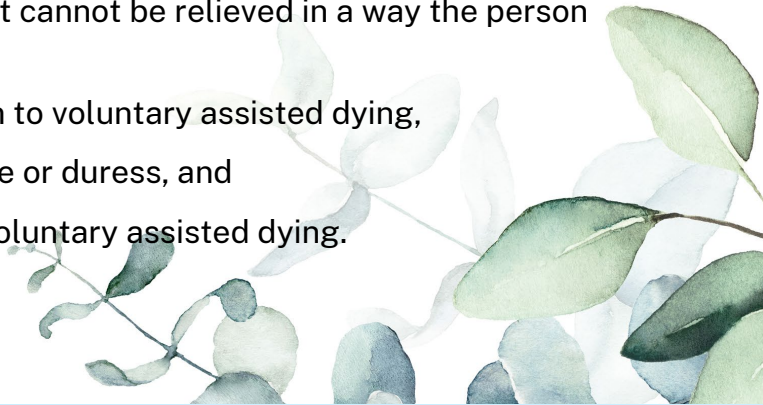
Eligible people in NSW have the choice to access voluntary assisted dying from 28 November 2023. All healthcare workers in NSW have obligations under the [Voluntary Assisted Dying Act 2022](#) (the Act), regardless of whether they are eligible or choose to provide voluntary assisted dying services.

Medical and nurse practitioners who meet specific eligibility criteria outlined in the Act can choose whether they want to become an authorised voluntary assisted dying practitioner. Only an authorised practitioner can become a coordinating, consulting or administering practitioner for a patient. More information on becoming an authorised voluntary assisted dying practitioner can be found on the [NSW Health website](#).

Who can access voluntary assisted dying?

In order to be eligible to access voluntary assisted dying, a person must:

1. Be an adult (18 years and older), who is an Australian citizen or a permanent resident of Australia or who has been resident in Australia for at least three continuous years,
2. Have been ordinarily resident in NSW for at least 12 months (noting the Voluntary Assisted Dying Board may consider a residency exemption on compassionate grounds for a person with a substantial connection to NSW),
3. Have at least one disease, illness or medical condition that:
 - a. Is advanced and progressive,
 - b. Will, on the balance of probabilities, cause their death within six months (or within 12 months for neurodegenerative diseases like motor neurone disease), and
 - c. Is causing the person suffering that cannot be relieved in a way the person considers tolerable,
4. Have decision-making capacity in relation to voluntary assisted dying,
5. Be acting voluntarily and without pressure or duress, and
6. Have an enduring request for access to voluntary assisted dying.



Discussing voluntary assisted dying with patients

A patient may choose to discuss voluntary assisted dying with any of the healthcare workers who provide them with care.

In NSW, all healthcare workers are allowed to answer questions and provide information to a patient who initiates a discussion about voluntary assisted dying.

Healthcare workers, as always, should only provide information which is commensurate with their level of expertise and understanding.

If a healthcare worker does not feel confident or comfortable answering a patient's questions, they can refer the patient to the patient's senior treating clinician, or the NSW Voluntary Assisted Dying Care Navigator Service, or another appropriate person, as identified in the service's model of care. Healthcare workers should familiarise themselves with their local facility or district processes to ensure that a patient's request for information on, or access to, voluntary assisted dying is managed appropriately.

Healthcare workers **can** initiate a discussion with a patient about voluntary assisted dying but this **must** be part of a broader discussion about other treatment and palliative care options.

The Act is very clear that in the same discussion:

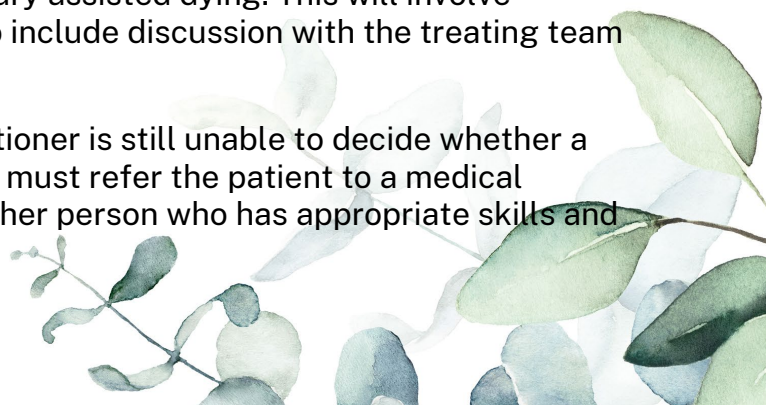
- medical practitioners must talk to the patient about palliative care and treatment options for their disease and what the outcomes might be. Patients should be made aware of end of life options that align with their goals of care, and practitioners should ensure that referrals to appropriate services, for example, palliative care or pain management, are in place.
- other healthcare workers must make sure the patient is aware that there are other treatment and palliative care options available to them, and that they should discuss these options with their medical practitioner.

During conversations about voluntary assisted dying, healthcare workers should be cognisant of their clinical role and the scope of their clinical practice to ensure professional conduct in line with the *Health Practitioner Regulation National Law (NSW)*.

Determining eligibility during the voluntary assisted dying process

One of the key responsibilities of a patient's coordinating or consulting practitioner is to assess if the patient is eligible to access voluntary assisted dying. This will involve reviewing relevant documentation and may also include discussion with the treating team as per usual practice.

If, after this, a coordinating or consulting practitioner is still unable to decide whether a patient meets one of the eligibility criteria, they must refer the patient to a medical practitioner, registered health practitioner or other person who has appropriate skills and training to provide advice about the matter.



A healthcare worker who receives a referral for opinion about a patient does not need to be an authorised voluntary assisted dying practitioner. However, they must not be the patient's family member or know or believe that they may benefit materially from the patient's death.

The referring coordinating or consulting practitioner will provide clear guidance at the time of referral on the specific requirements that need to be followed under the Act. If a patient raises questions about the voluntary assisted dying process during the referral assessment, these questions should be referred back to the patient's coordinating or consulting practitioner.

Healthcare workers with a conscientious objection to voluntary assisted dying

Healthcare workers who have a conscientious objection to voluntary assisted dying have the right to refuse to:

- participate in the request and assessment process,
- prescribe, supply, or administer a voluntary assisted dying substance, and/or
- be present at the time of the administration of a voluntary assisted dying substance.

However, they should understand their professional obligations, including under codes of conduct and codes of ethics set by National Health Practitioner Boards, and any legal obligations legislation, including under privacy legislation, and should not obstruct the patient's voluntary assisted dying process or access to information. For example, a patient should not be denied access to their personal health information (such as medical records containing or advising on the patient's diagnosis and prognosis details) merely because this information is to be used for the purposes of a voluntary assisted dying application.

It is against the law for a treating medical practitioner to withdraw other services the practitioner would usually provide to a patient or the patient's family because of the patient's request for access to voluntary assisted dying. If this occurs, there should be prompt attention to local problem solving, and escalation according to local policies.

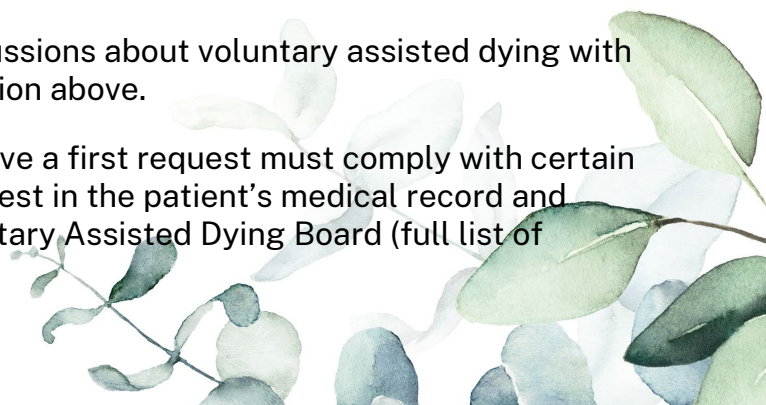
Medical practitioners who have a conscientious objection to voluntary assisted dying still have obligations under the Act (see below section: medical practitioners who are not authorised voluntary assisted dying practitioners).

Medical practitioners who are not authorised voluntary assisted dying practitioners

This section is for medical practitioners who are not authorised voluntary assisted dying practitioners. Authorised practitioners must refer to the [NSW Voluntary Assisted Dying Clinical Practice Handbook](#) for a description of their responsibilities.

In NSW, there are restrictions on initiating discussions about voluntary assisted dying with patients. These have been described in the section above.

Non-authorised medical practitioners who receive a first request must comply with certain obligations, for example, documenting the request in the patient's medical record and submitting the **First Request Form** to the Voluntary Assisted Dying Board (full list of obligations are outlined in **Table 1**).



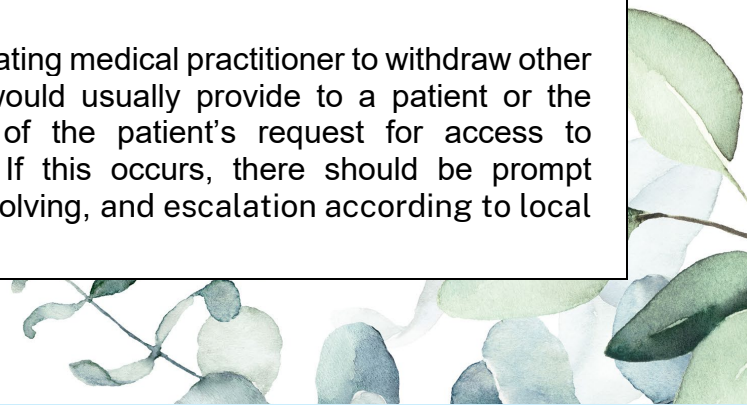
If the practitioner is unable to accept a formal first request to access voluntary assisted dying, they should refer the patient to the NSW Voluntary Assisted Dying Care Navigator Service or an authorised practitioner as appropriate. Facilities and/or local health districts will have their own process in place to connect patients with authorised practitioners. Medical practitioners should familiarise themselves with their local policies and procedures.

There are multiple steps in the voluntary assisted dying process where medical practitioners (including those with a conscientious objection) who are not authorised practitioners have obligations under the Act. In line with best practice, practitioners should ensure that in addition to meeting minimum legislative obligations, care is patient-centred. These are outlined in brief in **Table 1**.

Table 1. Overview of the role of medical practitioners (other than authorised voluntary assisted dying practitioners) as specified in the Voluntary Assisted Dying Act 2022

Step in the voluntary assisted dying process	Medical practitioner responsibilities
<p>First request</p>	<p>A medical practitioner who is not an authorised voluntary assisted dying practitioner is not eligible to be a patient’s coordinating practitioner.</p> <p>Therefore, if the practitioner receives a first request for voluntary assisted dying from a patient, the practitioner must:</p> <ul style="list-style-type: none"> • Tell the patient that they refuse the request: <ul style="list-style-type: none"> ○ Immediately, if the practitioner has a conscientious objection to voluntary assisted dying, or ○ Otherwise within two business days of the first request. • Give the patient the first request patient information within two days of the first request. This information can be given to patients electronically or in hard copy. <p><i>Note that medical practitioners with a conscientious objection to voluntary assisted dying do not have a legal obligation to provide this information.</i></p> • Record details of the first request in the patient’s medical record, including the decision to refuse the request, the reason for refusal and whether the practitioner has given the patient the first request patient information. • Complete the First Request Form (available here) and submit it to the Voluntary Assisted Dying Board within five business days of deciding to refuse the request.

<p>Formal voluntary assisted dying consulting assessment</p>	<p>A medical practitioner who is not an authorised voluntary assisted dying practitioner is not eligible to be a patient’s consulting practitioner.</p> <p>In NSW, coordinating practitioners will be supported by the NSW Voluntary Assisted Dying Care Navigator Service to refer patients to an <i>authorised</i> voluntary assisted dying practitioner for a consulting assessment.</p> <p>Therefore, medical practitioners who are not authorised voluntary assisted dying practitioners should not receive referrals for consulting assessments.</p>
<p>Determining patient eligibility (as part of the first assessment or consulting assessment)</p>	<p>If a coordinating or consulting practitioner is unable to decide, after review of relevant documentation or discussion with the treating team, whether a patient meets certain eligibility criteria, they must refer the patient to a medical practitioner, psychiatrist, registered health practitioner or other person who has appropriate skills and training to make a decision about the matter.</p> <p>A person receiving a referral for expert opinion about a patient does not need to be an authorised voluntary assisted dying practitioner. However, they must not be the patient’s family member or know or believe that they are a beneficiary under the will of the patient or may otherwise benefit financially or materially from the patient’s death.</p> <p>The referring practitioner will provide clear guidance at the time of referral on the specific requirements that need to be followed under the Act. If a patient raises questions about the voluntary assisted dying process during the referral assessment, these questions should be referred back to the patient's coordinating or consulting practitioner.</p> <p>Healthcare workers with a conscientious objection to voluntary assisted dying can refuse to participate in the request and assessment process.</p> <p>However, they should understand their legal obligations, including under privacy legislation, and professional obligations, including under codes of conduct and codes of ethics set by National Health Practitioner Boards, and should not obstruct the patient’s voluntary assisted dying process or access to information. For example, a patient should not be denied access to their personal health information (such as medical records containing or advising on the patient’s diagnosis and prognosis details) merely because this information is to be used for the purposes of a voluntary assisted dying application.</p> <p>It is against the law for a treating medical practitioner to withdraw other services the practitioner would usually provide to a patient or the patient’s family because of the patient’s request for access to voluntary assisted dying. If this occurs, there should be prompt attention to local problem solving, and escalation according to local policies.</p>



<p>Notification of death</p>	<p>If a medical practitioner completes a Medical Certificate of Cause of Death (MCCD) for a person who they know or believe has died from self-administration or practitioner administration of a voluntary assisted dying substance, they must:</p> <ul style="list-style-type: none"> • Document in the MCCD: <ul style="list-style-type: none"> ○ that they know or believe the person self-administered or was administered a voluntary assisted dying substance; and ○ the disease, illness or medical condition that the person had been diagnosed with that made the person eligible to access voluntary assisted dying. • Complete the Notification of Death Form (available here) and submit it to the Voluntary Assisted Dying Board via the NSW Voluntary Assisted Dying Portal within five business days of becoming aware the person has died.
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NSW Voluntary Assisted Dying Care Navigator Service

The NSW Voluntary Assisted Dying Care Navigator Service is available to provide information and support to patients, families, practitioners and other community members; and answer questions they may have about voluntary assisted dying. They can also support patients to find a practitioner who provides voluntary assisted dying services. The NSW Voluntary Assisted Dying Care Navigator Service can be contacted Monday to Friday (excluding public holidays) between 8:30am – 4:30pm.

Phone: 1300 802 133

Email: NSLHD-VADCareNavigator@health.nsw.gov.au

Glossary

Term	Definition
<p>Authorised voluntary assisted dying practitioner</p>	<p>This term refers to medical and nurse practitioners who meet the professional experience eligibility requirements in the Act and who have completed the approved voluntary assisted dying training.</p>
<p>Coordinating practitioner</p>	<p>The authorised voluntary assisted dying practitioner who accepts a patient’s first request for voluntary assisted dying and is responsible for assessing and supporting the patient throughout the voluntary assisted dying process.</p>
<p>Consulting practitioner</p>	<p>The authorised voluntary assisted dying practitioner responsible for undertaking an independent assessment of the patient to determine their eligibility to access voluntary assisted dying.</p>

Expert opinion	An expert opinion can be provided by a person who has appropriate skills and training to make a decision about the matter.
Professional care services	<p>As per the Act, professional care services means any of the following provided to another person under a contract of employment or a contract for services –</p> <p>(a) assistance or support, including the following –</p> <ul style="list-style-type: none"> (i) assistance with bathing, showering, personal hygiene, toileting, dressing, undressing or meals, (ii) assistance for persons with mobility problems, (iii) assistance for persons who are mobile but require some form of assistance or supervision, (iv) assistance or supervision in administering medicine, (v) the provision of substantial emotional support, <p>(b) providing support or services to persons with a disability.</p>

