

Comparing VAD Laws Across Australian States



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On 19 June 2019, the **Voluntary Assisted Dying Act 2017** (VAD) in Victoria came into effect making it legal for Victorians at the end of life and who meet strict eligibility criteria to now request access to voluntary assisted dying. Since then, other States have followed suit to legalise voluntary assisted dying. MIPS recommends all members gain adequate understanding of the legislative requirements specific to your state of practice and be clear on how to practice safely and ethically within your legal boundaries.

What is VAD?

Euthanasia, 'physician-assisted suicide' or 'physician-assisted dying'¹ are all terms that refer to voluntary assisted dying. The term VAD has evolved in Australia to refer to the assistance provided by a healthcare practitioner to a person to end their life voluntarily. The term 'voluntary' highlights that this practice is the person's own choice, and that he or she is legally competent (has capacity) to make that decision.

Update on VAD legislation across Australia

Queensland's parliament tabled a draft VAD Bill in May 2021² and a similar Bill is anticipated to be tabled in the New South Wales parliament in the second half of 2021.

There have been various proposals to revoke the **Euthanasia Laws Act 1997** to bring back Australian territories' rights to debate VAD laws³.

South Australia became the fourth state to pass VAD laws in June 2021, after 17 previous attempts over 25 years. The legislation is anticipated to commence in 2022.

Tasmanian VAD legislation received Royal Assent in April 2021 (End-of-Life-Choices the **Voluntary Assisted Dying Act 2019 Act 2021** (Tas)) and the early stages of implementation are currently underway⁴.

Western Australia on 1 July 2021, the **Voluntary Assisted Dying Act 2019 (WA)** was enacted) largely emulating the Victorian model.

Western Australian VAD laws requirements⁵

For Western Australian residents, the following criteria must be met to access VAD⁶:

- The person has reached 18 years of age.
- The person is an Australian citizen or permanent resident.
- At the time of making a first request (for VAD), the person has been ordinarily resident in Western Australia for a period of at least 12 months.

- The person is diagnosed with at least one disease, illness or medical condition that:
 - is advanced, progressive and will cause death;
 - 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; and
 - is causing suffering to the person that cannot be relieved in a manner the person considers tolerable.
- The person has decision-making capacity in relation to VAD.
- The person is acting voluntarily and without coercion.
- The person's request for access to VAD is enduring.

The VAD process includes:

- A person can only request access to VAD themselves.
- Two medical eligible practitioners must independently assess the request.
- A person must make 3 separate requests to access VAD to confirm their intent.
- A person can change their mind at any time.
- Patients must be informed of treatment and palliative care options, as well as the VAD process.

How the WA and Vic VAD laws compare?^{7,8}

Both legislative regimes share several similarities, but there are some important differences.

Broadly speaking, the eligibility criteria, request and assessment processes are similar in both WA and Vic. In addition, the process to access voluntary assisted dying in terms of number of requests, and number of assessing medical practitioners is also the same.

The three main differences relate to administration of the VAD medication, conscientious objection, and prohibitions on discussing VAD.

Administration of VAD medication. One key difference is that Western Australian laws allow nurse practitioners to administer the VAD medication in addition to medical practitioners. The Victorian Bill states that self-administration is the default option unless the person is physically unable to do so. WA laws retain the same approach but allow the 'administering practitioner' to be a nurse or a doctor if self-administration is inappropriate.

Conscientious objection. Like Victoria, Western Australian laws allow medical practitioners to consciously refuse involvement in a VAD procedure. The WA Bill, however, imposes an obligation on medical practitioners to inform the patient about their conscientious objection immediately and to provide standardised VAD information. Victorian laws on the other hand, exempt health practitioners from the obligation to provide any VAD information and allows practitioners up to seven days to address a VAD request from a patient.

Discussing VAD. In Victoria, it is the patient who must raise the discussion of VAD in a conversation. Western Australian legislation allows a medical or nurse practitioner to initiate a discussion or suggest VAD to a patient. They must also inform the patient about available treatments, palliative care options, and their expected outcomes.

Key messages

- VAD is currently legal in Victoria and Western Australia. Other States and Territories have taken steps to pass VAD legislation, with Tasmania being the next State anticipated to implement similar laws in 2022.
- To access VAD in Victoria or Western Australia, a person must meet a strict criterion, have decision making legal capacity and suffer an incurable, advanced and progressive disease, illness or medical condition which causes them unbearable suffering which cannot be relieved, as well as meet other requirements.
- There are key differences between the Western Australian and Victorian Bills.

MIPS recommends that you familiarise and understand how these changes apply to your practice to ensure your delivery of care is safe and compliant with the relevant legislative frameworks.

Any queries, contact MIPS on 1800 061 113 or via info@mips.com.au

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¹ [Euthanasia and Assisted Dying](#)

² [Voluntary Assisted Dying in Queensland](#)

³ [ACT euthanasia debate: What is the Andrews Bill?](#)

⁴ McLaren, C. J., & Mewett, G. (2021). Update on voluntary assisted dying in Australia. *The Medical Journal of Australia*, 215(3), 115-116.

⁵ [Health Law Update | July 2021 Panetta McGrath Lawyers](#)

⁶ [Panetta McGrath \(2019\) Voluntary Assisted Dying Bill Passed](#)

⁷ [Factsheet: Assisted Dying](#)

⁸ [Voluntary Assisted Dying in VIC & WA](#)

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