Voluntary Assisted Dying

Clinical Practice Handbook

Department of **Health**

Tasmanian Government

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About this Document

The Voluntary Assisted Dying Clinical Practice Handbook (the Handbook) outlines the voluntary assisted dying process in Tasmania and the roles and responsibilities of registered health practitioners and others supporting a person through it. It also provides information about the functions of the Voluntary Assisted Dying Commission, Voluntary Assisted Dying Navigation Service, and Voluntary Assisted Dying Pharmacy Service.

The Handbook is intended for use primarily by medical practitioners who meet the criteria to act as Primary Medical Practitioners, Consulting Medical Practitioners and Administering Health Practitioners, and by registered nurses who meet the criteria to act as Administering Health Practitioners. These practitioners are collectively referred to in this document as "Participating Practitioners". It may also be of relevance to pharmacists who have completed the Tasmanian Voluntary Assisted Dying Approved Training and who are willing to dispense VAD Substances.

The Handbook aims to support Participating Practitioners and trained and willing pharmacists to understand the voluntary assisted dying process in Tasmania, and their roles, responsibilities, and obligations under the *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (the Act). It may also be a useful reference tool for other health professionals involved in the voluntary assisted dying process or providing care for a person accessing voluntary assisted dying.

Information and guidance provided in the Handbook is general in nature and is not a substitute for the Act. Participating Practitioners and others should exercise individual clinical judgment and best practice care when participating in voluntary assisted dying processes in Tasmania. Participating Practitioners and others involved in voluntary assisted dying are also encouraged to read the Act and to familiarise themselves with any local processes or procedures of the area or facility where they practice. Endnotes are provided where relevant to enable review of the Act's provisions if needed.

For Participating Practitioners, the Handbook should be read in conjunction with the **Voluntary Assisted Dying in Tasmania Prescription, Supply and Administration Protocol (the Prescription, Supply and Administration Protocol).** The **Prescription, Supply and Administration Protocol** is only available in hard copy to Participating Practitioners who have successfully completed the Tasmanian Voluntary Assisted Dying Approved Training.

Acknowledgements

This information has been adapted from the NSW Health resource NSW Voluntary Assisted Dying Clinical Practice Handbook. It has been used with permission. NSW Health health.nsw.gov.au/vad

We acknowledge the contribution of other jurisdictions and organisations to the NSW Handbook.

Contents

Key Definitions

The table below defines key terms used in this Handbook. The list is not exhaustive.

Term	Definition
2 days	For the purposes of the Act, means two (2) consecutive days, REGARDLESS OF WHETHER the day is a weekday or a Saturday, Sunday, or public holiday day. *Example: A medical practitioner who advises a patient that they do not wish to be the patient's Administering Health Practitioner on a Saturday has until the following Monday to request the VAD Commission appoint another person to the role.* (*End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* sections 16 and 62 and *Acts Interpretation Act 1931*, section 29).
3 business days	For the purposes of the Act, means three (3) consecutive days, NOT INCLUDING Saturdays, Sundays, or public holiday days. *Example: A pharmacist who supplies a VAD Substance to a Primary Medical Practitioner on Thursday, 14 December 2023 has until Tuesday, 19 December 2023 to notify the VAD Commission of the supply.* (*End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 71 and *Acts Interpretation Act 1931*, section 29).
7 days	For the purposes of the Act, means seven (7) consecutive days, NOT INCLUDING Sundays or public holiday days. *Example One: A medical practitioner who refuses to accept a First Request on Monday, 27 November 2023 has until Tuesday, 5 December 2023 (that is, until the Tuesday week) to notify the person of the refusal.* *Example Two: A medical practitioner who refuses to accept a First Request on Thursday, 21 December 2023 has until Tuesday, 2 January 2024 to notify the person of the refusal.* (*End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* sections 20, 23, 24, 29, 30, 36, 43, 50, 53, 58, 72, 76, 77, 85, 106 and 108, and *Acts Interpretation Act 1931*, section 29).

Term	Definition
14 days	For the purposes of the Act, means fourteen (14) consecutive days, NOT INCLUDING Sundays or public holiday days. *Example: A Contact Person for a patient who dies on Monday, 27 November 2023 has until Wednesday, 13 December 2023 to return any unused or remaining VAD Substance to the patient's Administering Health Practitioner.* (*End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* sections 92, 105, 108 and 131, and *Acts Interpretation Act 1931*, section 29).
48 hours	For the purposes of the Act, means two (2) consecutive periods of 24 hours, REGARDLESS OF WHETHER the period spans a weekday, a Saturday, Sunday, or public holiday day. *Example: A medical practitioner to whom a First Request is made at midday on a Friday has until midday on the following Sunday to either accept, or refuse to accept, the request.* (*End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* sections 19, 30, 39, 53, 60, 78, 84 and 108, and *Acts Interpretation Act 1931*, section 29).
Administering Health Practitioner (AHP)	The medical practitioner or registered nurse who makes a Final Determination, receives a patient's Final Permission, issues a Private Self-Administration Certificate or an AHP Administration Certificate, and supplies or administers a VAD Substance to the patient. The Primary Medical Practitioner is the patient's Administering Health Practitioner by default unless another person is appointed to be the patient's Administering Health Practitioner.
Administering Health Practitioner Administration (AHP Administration)	Refers to the administration of a VAD Substance to a patient by, with the assistance of, or in close proximity to, the patient's Administering Health Practitioner.
Administering Health Practitioner Administration Certificate (AHP Administration Certificate)	Means the certificate, completed, and signed, by the patient's Administering Health Practitioner, which authorises the Administering Health Practitioner to supply a VAD Substance to a patient for AHP Administration. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 86).
Administration decision	Refers to a patient's decision to either administer a VAD Substance in private (private self-administration), or to have a VAD Substance administered to them by, or with assistance from, or in close proximity to, the patient's Administering Health Practitioner (AHP Administration).

Term	Definition
Ambulance worker	Refers to a volunteer ambulance officer, or person who is providing non-emergency patient transport services, within the meaning of the Tasmanian *Ambulance Service Act 1982*.
Audio-visual link	An electronic method of communication which allows health care to be delivered at a distance using communication tools such as web-based videoconferencing, in which the healthcare worker can see and hear the patient simultaneously.

Authorised medical practitioner	A medical practitioner is an authorised medical practitioner in relation to a patient if the medical practitioner:
	• is a registered medical practitioner, and
	• has practised as a registered medical practitioner for at least five (5) years after either:
	  ○ completing a Fellowship with a specialist medical college, or
	  ○ vocational registration as a General Practitioner, and
	• has relevant experience in treating or managing the disease, illness, injury, or medical condition expected to cause the patient's death, and
	• has successfully completed the Tasmanian Voluntary Assisted Dying Training in the five-year period before the patient makes their First Request, and
	• is not a member of the patient's family, and
	• does not know, or believe, that they are likely to benefit from the patient's death, other than by receiving reasonable fees for the provision of services as the patient's Primary Medical Practitioner, Consulting Medical Practitioner, or Administering Health Practitioner.
	(End-of-Life Choices (Voluntary Assisted Dying) Act 2021, section 9).

Carriage service	Any electronic means of communication, including telephone, fax, email, audio-visual communication, or via the internet.
Coercion	Refers to compelling a person by force, or by personal or legal authority, to do something which they would not otherwise do. Coercion may be actual or perceived.
Consulting Medical Practitioner (CMP)	The medical practitioner who accepts a referral from a patient's Primary Medical Practitioner to make a determination that the patient is, or is not, eligible to access voluntary assisted dying (a second opinion determination). *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* sections 37 and 42).

Term	Definition
Contact Person	An adult, who has been appointed by a patient who has made a private self-administration decision and who has accepted the appointment, to undertake specific activities described in the Act, including returning any unused or remaining VAD Substance to a patient's Administering Health Practitioner and notifying the patient's Administering Health Practitioner of the patient's death. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* sections 85, 91 and 92).
Decision-making capacity	A patient has decision-making capacity in relation to a decision if, when the patient makes the decision, the patient has the capacity to: • understand the information or advice that is reasonably required in order to be able to make the decision, and • remember the information or advice to the extent necessary to make the decision, and • use or evaluate the information or advice for the purposes of making the decision, and • communicate the decision, and the patient's opinions in relation to the decision, whether by speech, in writing, by gesture, or by other means. That is, that the patient has the ability to make a choice, and chooses reasonably and rationally. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 12).
Designated Person	A person designated by a patient to complete and sign, or to complete or sign, a written First Request, Second Request, Final Request, Final Permission, Private Self-Administration Request, or an instrument appointing a Contact Person, on the patient's behalf. See Designated Persons for more information. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* sections 18, 30, 53, 82, 83, and 85).
Disability	A person has a disability if he or she has a disability which: • is attributable to a cognitive, intellectual, psychiatric, sensory, or physical impairment or a combination of those impairments, and • is permanent or likely to be permanent, and • results in a substantial reduction in the person's capacity to carry on a profession, business, or occupation, or to participate in social or cultural life, and • results in the need for continuing significant support services, and • may or may not be of a chronic episodic nature. (Tasmanian *Disability Services Act 2011*, section 4).

Term	Definition
Duress	Refers to threats, violence, constraints, or other actions used to coerce someone into doing something against their will or better judgement. Duress may be actual, or perceived.
***End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (the Act)**	The legislation that provides for, and regulates access to, voluntary assisted dying in Tasmania, and that establishes the VAD Commission. The *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* can be accessed from Tasmania's Legislation Online website.
Family	Member of the *family*, in relation to a person, means a person who is – • the person's father, mother, grandfather, or grandmother, or • the persons' spouse, or • the person's brother, sister, niece, or nephew, or • a person in a family relationship, within the meaning of the Tasmanian *Relationships Act 2003*, with the person, or • a person in a caring relationship, within the meaning of the Tasmanian *Relationships Act 2003*, with the person, or • the person's child, or grandchild. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 5).
Final Determination	Means the determination that is made, by the patient's Administering Health Practitioner, of the patient's decision-making capacity and voluntariness, in the 48-hour period before the patient's Administering Health Practitioner receives the patient's Final Permission. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 78).
Final Permission	Means a written statement, completed and signed by either a patient or a patient's designated person, that is given to the patient's Administering Health Practitioner within 48 hours after the patent's Final Determination, which states that the patient wishes to access voluntary assisted dying and that the patient understands that they will be administered or supplied with a VAD Substance for private self-administration as soon as practicable after the Final Permission is given. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 82).
Final Request	A patient's third request to their Primary Medical Practitioner to determine whether the patient is eligible, or is not eligible, to access voluntary assisted dying. A patient's Final Request must be made in writing. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 53).

Term	Definition
First Request	A patient's first request to a medical practitioner to determine whether the patient is eligible, or is not eligible, to access voluntary assisted dying. A patient's First Request may be made verbally or in writing. A patient is taken to have made a valid First Request if the patient has: • received the *Relevant Facts* from the medical practitioner in person and not by way of audio-visual link, and • in the case of a request that is made verbally - the patient has clearly indicated to the medical practitioner, in person, that they wish to access voluntary assisted dying. A medical practitioner who accepts a patient's First Request becomes the patient's Primary Medical Practitioner. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 18).
Health services	Refers to any of the following: • services provided by or on behalf of a hospital that is under the control of the Tasmanian Health Service (a hospital service), • a service, relating to ensuring the health of a person, that is provided by a registered health practitioner (a medical service), • a paramedical service, • a community health service, • the supply or fitting of any prosthesis or therapeutic device, • any other service relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in, or injury to, persons. (*Tasmanian Health Service Act 2018*, section 3).
Healthcare worker	A person who provides health services, who is not a registered health practitioner, or who provides health services that are not related to their registration. Social workers, speech therapists, massage therapists, counsellors, and entry-level aged care and support workers are all examples of healthcare workers.
In writing	Means by letter, fax, email, or text.
Interpreter	Means a person who turns what is said in a foreign language into English, and vice versa.

Term	Definition
Medical Certificate of Cause of Death (MCCD)	The form to be completed by the medical practitioner who was either responsible for a person's medical care immediately before their death or who examines their body after their death to notify the Registrar of Births, Deaths and Marriages of the person's death, and of the cause of their death.
Medical practitioner	A person who is registered under the Health Practitioner Regulation National Law (Tasmania) in the medical profession, other than as a student.
Mental illness	A person is taken to have a mental illness if they experience, temporarily, repeatedly, or continually, a serious impairment of thought (which may include delusions), or a serious impairment of mood, volition, perception, or cognition. (Tasmanian *Mental Health Act 2013*, section 4).
Palliative care and treatment	Refers to person and family-centred care provided for a person with an active, progressive, advanced disease, who has little or no prospect of cure and who is expected to die, and for whom the primary goal is to optimise the quality of life. (Palliative Care Australia website, What is palliative care? - Palliative Care Australia, viewed 22 February 2024).
Paramedic	A person who is registered under the Health Practitioner Regulation National Law (Tasmania) in the paramedicine profession.
Patient	A person who has made a First Request and who still wishes to access voluntary assisted dying.
Participating Practitioner	Means: • A medical practitioner who meets the criteria in the Act to act as a patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner, and • A registered nurse who meets the criteria in the Act to act as a patient's Administering Health Practitioner.
Pharmacist	A person who holds general registration under the Health Practitioner Regulation National Law (Tasmania) in the pharmacy profession, other than as a student.
Primary Medical Practitioner (PMP)	The medical practitioner who either: • accepts a patient's First Request to determine whether the patient is eligible to access voluntary assisted dying, or • is determined by the VAD Commission to be the patient's Primary Medical Practitioner. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 22).

Term	Definition
Private self-administration	This refers to the self-administration, by a patient, of a VAD Substance in private and without the need for the patient's Administering Health Practitioner to be in close proximity to the patient while the VAD Substance is being administered.
Private Self-Administration Certificate	Means the certificate, completed, and signed, by a patient's Administering Health Practitioner, certifying that the patient is entitled to privately self-administer a VAD Substance. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 84).
Professional care services	Refers to any of the following services provided to another person under a contract of employment or contract for services: • assistance or support, including the following: ▪ assistance with bathing, showering, personal hygiene, toileting, dressing, undressing or preparing or eating meals, ▪ assistance for persons with mobility problems, ▪ assistance for persons who are mobile but required some form of assistance or supervision, ▪ assistance or supervision in administering medicine, ▪ the provision of substantial emotional support, • a specialist disability service, within the meaning of the Tasmanian *Disability Services Act 2011*.
Registered health practitioner	A health practitioner who is registered under the Health Practitioner Regulation National Law (Tasmania) to practise in Australia in the professions below: • Aboriginal and Torres Strait Islander Health Practice • Chinese Medicine • Chiropractic • Dental practice • Medical practice • Medical radiation practice • Nursing • Midwifery • Occupational therapy • Optometry • Osteopathy • Paramedicine • Pharmacy • Physiotherapy • Podiatry • Psychology.

Term	Definition
Registered nurse	A person who is registered under the Health Practitioner Regulation National Law (Tasmania) in the nursing profession whose names is entered on Division 1 of the Register of Nurses, kept under that Law, as a registered nurse.
Relevant Facts	Means the document, approved by the VAD Commission, that includes information on: • the Act's operation, • how a person's eligibility to access voluntary assisted dying is determined, • the VAD Commission's functions and contact details, • the assistance to die that a patient may receive from a Primary Medical Practitioner or an Administering Health Practitioner, and • where advice in relation to palliative care, or other treatment or pain relief, may be obtained. The *Relevant Facts* is required to be given to a person who wishes, or attempts, to make a formal First Request to access voluntary assisted dying. It is also required to be given to a family member of a person who is found, following their formal First Request, to be eligible to access voluntary assisted dying, provided the person consents. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* sections 8 and 18). Printed copies of the *Relevant Facts* may be obtained from the Office of the VAD Commission by calling 1800 568 956 or emailing vad@health.tas.gov.au The *Relevant Facts* is also available for download in English, Chinese, and Nepali, in Easy Read format, and in audio format, from the Department of Health's website.
Request	Means a First Request, a Second Request, or a Final Request.
Residential care provider	Means, in relation to a patient, a person who owns or operates a premises at which the patient resides and at which health services are, or may be, provided to the patient by, or on behalf of, the person who owns or operates the premises.
Reviewable decision	Means a decision, by a patient's Participant Practitioner, that the patient: • meets, or does not meet, the residency requirements, or • has, or does not have, decision-making capacity, or • is, or is not acting voluntarily. Under the Act, a patient, an agent of the patient, or a person that the VAD Commission is satisfied has a special interest in the patient's medical

Term	Definition
	treatment and care, may apply to the VAD Commission for a review of a reviewable decision. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* sections 95).
Second Opinion	A determination, by a patient's Consulting Medical Practitioner, that the patient is eligible, or is not eligible, to access voluntary assisted dying.
Second Request	A patient's second request to their Primary Medical Practitioner to determine whether the patient is eligible to access voluntary assisted dying.
Supreme Court	Means the Supreme Court of Tasmania.
Translator	Means a person who turns what is written in a foreign language into English, and vice versa.
VAD Death	Refers to the death, of a patient, following administration of the VAD Substance by, or to, the patient.
VAD Substance Authorisation	An authorisation issued by the VAD Commission, to a patient's Primary Medical Practitioner, that authorises the patient's Primary Medical Practitioner to issue a VAD Substance Prescription in relation to the patient. *(End-of-Life Choices (Voluntary Assisted Dying) Act 2021,* section 67).
VAD Substance Prescription	A prescription, issued in accordance with the *Poisons Act 1971*, that contains certain details of a patient and the VAD Substance, that enables the patient's Primary Medical Practitioner to request and receive the amount of VAD Substance specified in the prescription, from a pharmacist.
Voluntary Assisted Dying (VAD)	Refers to the process, established by the Act, that starts when a patient makes a First Request to access voluntary assisted dying and that ends with the administration of a VAD Substance to, or by, the patient.
Voluntary Assisted Dying Commission (VAD Commission)	The independent oversight and decision-making body established by the Act to perform the functions assigned to it under the Act, including issuing VAD Substance Authorisations. See Voluntary Assisted Dying (VAD) Commission for more information.
Voluntary Assisted Dying in Tasmania Prescription, Supply and Administration Protocol (the Prescription, Supply and Administration Protocol).	The document, issued by the VAD Pharmacy Service, which outlines the process required to prescribe, supply, and administer VAD Substances under the Act. The **Prescription, Supply and Administration Protocol** is only available in hard copy to Participating Practitioners who have successfully completed the Tasmanian Voluntary Assisted Dying Approved Training.

Term	Definition
Voluntary Assisted Dying Navigator (VAD Navigator)	An employee of the Voluntary Assisted Dying Navigation Service.
Voluntary Assisted Dying Navigation Service (VAD Navigation Service)	The service, within the Tasmanian Health Service, that provides a central point of contact for information and support about voluntary assisted dying. See Voluntary Assisted Dying (VAD) Navigation Service for more information.
Voluntary Assisted Dying Pharmacy Service (VAD Pharmacy Service)	The service, within the Tasmanian Health Service, that supplies VAD Substances to medical practitioners and that provides specialised pharmaceutical advice and education in relation to VAD Substances to Participating Practitioners and to patients, families, and carers. See Voluntary Assisted Dying (VAD) Pharmacy Service for more information.
Voluntary Assisted Dying Substance (VAD Substance)	A substance that has been determined by the VAD Commission to be a VAD Substance. In Tasmania, three substances have been determined by the VAD Commission to be VAD Substances. More information about the VAD Substances can be found in the **Voluntary Assisted Dying in Tasmania Prescription, Supply and Administration Protocol (the Prescription, Supply and Administration Protocol).**
Witness	An adult who has, in the patient's presence, observed a patient's Second Request being completed and signed in accordance with the Act.

1. Voluntary Assisted Dying in Tasmania

1.1. What is Voluntary Assisted Dying?

Voluntary assisted dying is a process that enables a person who is suffering from a terminal illness, injury, or other condition, to legally access a substance to end their life (a VAD Substance), with support and assistance from medical practitioners. The person can choose to take the substance themselves (to privately self-administer the substance), or to have it administered to them, by, or with help from, or in close proximity to, a medical practitioner or registered nurse.

Voluntary assisted dying can be accessed in settings including in the community, general practice, hospitals, hospices, and residential aged care facilities.

More information about voluntary assisted dying in Tasmania is available on the Department of Health's website.

1.2. Background to the *End-of-Life Choices (Voluntary Assisted Dying) Act 2021*

The *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (the Act) provides for, and regulates access to, voluntary assisted dying in Tasmania, and establishes the Voluntary Assisted Dying (VAD) Commission.

The Act commenced in October 2022.

1.3. The Act's Objectives and Principles

The Act sets out the objectives and principles of voluntary assisted dying in Tasmania. They apply to any person exercising a power or performing a function under the Act, including any person who is a Participating Practitioner.

1.3.1. The Act's Objectives

The Act's objectives are:

- to provide, to persons who are eligible to access voluntary assisted dying, an efficient and effective process to enable them to exercise their choice to reduce their suffering by ending their lives legally,
- to ensure that the process provided for the exercise of that choice protects and prevents persons from having their lives ended unwittingly or unwillingly, and
- to provide, in certain circumstances, legal protection for persons who choose to assist, or who choose not to assist, such persons to exercise their choice to end their lives in accordance with that process.[1]

[1] *End-of-Life Choices (Voluntary Assisted Dying) Act 2021* (Tas) ('VAD Act'), section 3(1).

1.3.2. The Act's Principles

A person exercising a power or performing a function under the Act must have regard to the following principles:

- every human life has equal value,
- a person's autonomy, including autonomy in respect of end-of-life choices, should be respected,
- a person has the right to be supported in making informed decisions about the person's medical treatment, and should be given, in a manner the person understands, information about medical treatment options, including comfort and palliative care and treatment,
- a person approaching the end of life should be provided with high quality care and treatment, including palliative care and treatment, to minimise the person's suffering and maximise the person's quality of life,
- a therapeutic relationship between a person and the person's registered health practitioner should, wherever possible, be supported and maintained,
- a person should be encouraged to openly discuss death and dying, and the person's preferences and values regarding their care, treatment and end of life should be encouraged and promoted,
- a person should be supported in conversations with the person's registered health practitioner, members of the person's family and carers and community about treatment and care preferences,
- a person is entitled to genuine choices about the person's care, treatment, and end of life, irrespective of where the person lives in Tasmania and having regard to the person's culture and language,
- a person who is a regional resident is entitled to the same level of access to voluntary assisted dying as a person who lives in a metropolitan region,
- there is a need to protect persons who may be subject to abuse or coercion, and
- all persons, including registered health practitioners, have the right to be shown respect for their culture, religion, beliefs, values, and personal characteristics.[2]

1.4. Eligibility Criteria for Access to Voluntary Assisted Dying

The Act outlines strict eligibility criteria for access to voluntary assisted dying. A person must meet all the criteria to be considered eligible.

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

- be an adult (18 years of age or older),
- be an Australian citizen, or a permanent resident of Australia, or have been resident in Australia for at least three continuous years immediately before making their First Request,
- have been ordinarily resident in Tasmania for at least 12 continuous months immediately before they make their First Request (noting the VAD Commission may provide advice to a person's Primary Medical Practitioner about whether the person meets the residency requirements),
- have decision-making capacity,
- be acting voluntarily and not be acting under duress, coercion, or because of a threat of punishment or unfavourable treatment, or a promise to give a reward or benefit to the person or to another person, and

[2] Ibid section 3(2).

- be suffering intolerably in relation to a disease, illness, injury, or medical condition that is:
    - advanced, incurable, and irreversible,
    - expected to cause the person's death within six (6) months (or within 12 months for neurodegenerative diseases like motor neurone disease) (noting that the VAD Commission may determine that a person is exempted from this requirement).[3]

A person is not eligible to access voluntary assisted dying merely because they have a mental illness or disability.[4]

1.5. Protections and Offences under the Act

The Act establishes a detailed framework with many safeguards to ensure that accessing voluntary assisted dying is safe. It outlines specific protections and offences relating to voluntary assisted dying that Participating Practitioners should be aware of.

The VAD Commission can investigate suspected contraventions of the Act or refer them to other people or bodies such as the Australian Health Practitioner Regulation Agency (Ahpra) or the Health Complaints Commissioner.[5]

When participating in voluntary assisted dying, Participating Practitioners must consider, and comply with, all other applicable laws as well as with relevant Codes of Conduct, scopes of practice and other professional boundaries and obligations that exist outside of the Act.

1.5.1. Protections

The Act outlines specific protections from liability for Participating Practitioners and others undertaking voluntary assisted dying-related activities.

A person does not incur criminal liability if they:

- in good faith, assist another person to make a request, give a Final Permission, make a private self-administration request, or otherwise participate in the voluntary assisted dying process, or
- are present when another person self-administers, or is administered, a VAD Substance, in accordance with the Act.[6]

[3] Ibid sections 6, 7, 10 and 14.
[4] Ibid section 10(3).
[5] Ibid sections 121 and 123.
[6] Ibid section 133.

A person:

- is not liable:
    - for unprofessional conduct or professional misconduct,
    - in any civil proceedings, or
    - for contravention of any Code of Conduct or professional standards, and
- does not incur any criminal liability under the Act or any other law,

if they, in good faith and without negligence, take an action under the Act believing on reasonable grounds that the action is in accordance with the Act.

The action is also not to be regarded as a breach of professional ethics or standards or any principles of conduct applicable to the person's employment, or professional misconduct or unprofessional conduct, and the person may not be sanctioned, censured, or otherwise penalised, by a person or body whose function is to regulate the professional conduct of a registered health practitioner, patient transport officer or officer of the Ambulance Service.

A reference to taking an action includes failing to take an action.[7]

A registered health practitioner, patient transport officer or officer of the Ambulance Service who:

- in good faith, does not administer a lifesaving or life-sustaining medical treatment to a person who has not requested it, and
- believes on reasonable grounds that the person is dying after being administered a VAD Substance, or after administering a VAD Substance to himself or herself, in accordance with the Act,

is not guilty of an offence under a law or an Act, or liable for unprofessional conduct or professional misconduct, or liable in any civil proceedings or for contravention of any Code of Conduct, by reason of not administering the treatment.[8]

A Primary Medical Practitioner who refers a person, or makes a request in relation to a person, to another person under the Act:

- is not liable to any punishment under a law by virtue of having made a referral or request, and
- may not be sanctioned, censured, or otherwise penalised by a person, or body of persons, whose function is to regulate the professional conduct of such a person, by reason only of having made a referral or request.[9]

[7] Ibid sections 135(1) and 135(2).
[8] Ibid section 135(3).
[9] Ibid section 137(1).

A person to whom a Primary Medical Practitioner makes a referral or request:

- is not liable to any punishment under a law by virtue of having examined the person or having given the Primary Medical Practitioner a copy of the person's medical records or the information to which the request relates, and
- may not be sanctioned, censured, or otherwise penalised by a person, or body of persons, whose function is to regulate the professional conduct of such a person, by reason only of having examined the person or giving the Primary Medical Practitioner a copy of the person's medical records or the information to which the request relates.[10]

1.5.2. Offences

The Act also outlines specific offences. These include:

- Inducing or attempting to induce another person, by dishonesty or undue influence, to make a request, to give a Final Permission, or to inform a person's Primary Medical Practitioner or Administering Health Practitioner that a patient no longer wishes to access voluntary assisted dying.[11]
- Offering an inducement to another person for that person to make a request, to give a Final Permission, or to inform a person's Primary Medical Practitioner or Administering Health Practitioner that the person no longer wishes to access voluntary assisted dying.[12]
- Falsely, or in bad faith, purporting to be a person who is:
    - authorised to communicate on behalf of a patient, or
    - designated to sign a Second Request, Final Request, Private Self-Administration Request or Final Permission on behalf of a patient.[13]
- Knowingly making a false or misleading communication on behalf of, or purportedly on behalf of, a patient, to the patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner.[14]
- Falsifying a request, form, document, certificate, notice, record, VAD Substance Authorisation, or VAD Substance Prescription, that is made, or is to be made, under or for the purposes of the Act.[15]
- Knowingly making a statement that is false in a material particular in a request, form, document, certificate, notice, record, VAD Substance Authorisation, or VAD Substance Prescription, that is made, or is to be made, under or for the purposes of the Act.[16]
- Influencing, inducing, or attempting to induce another person, by dishonesty or undue influence, to self-administer a VAD Substance.[17]

[10] Ibid section 137(2).
[11] Ibid section 124(a).
[12] Ibid section 124(b)
[13] Ibid section 125.
[14] Ibid section 126.
[15] Ibid section 127.
[16] Ibid section 128.
[17] Ibid section 129.

It is also an offence for:

- a person who is required to give the VAD Commission a notice to fail to do so,[18] and
- a person to fail to comply with a requirement imposed on the person by a notice issued to the person by the VAD Commission as part of a review of a relevant decision,[19] and
- a Contact Person to fail to return any unused, remaining or returned VAD Substance to a patient's Administering Health Practitioner.[20]

The taking, in bad faith or without reasonable care and skill, of an action under the Act (or purportedly under the Act), by a registered health practitioner may also constitute professional misconduct, or unprofessional conduct, for the purposes of the Health Practitioner Regulation National Law (Tasmania).

More information about protections and offences can be found in the Act.

1.6. The VAD Commission's "Manual Portal"

The Voluntary Assisted Dying Commission (the VAD Commission) is an independent oversight and decision-making body established by the Act. See Voluntary Assisted Dying (VAD) Commission for more information about the VAD Commission.

Under the Act, forms completed by Participating Practitioners and others throughout the voluntary assisted dying process must be given to the VAD Commission. Submission is by hand, post, courier, or email to the VAD Commission via the Office of the VAD Commission. See Voluntary Assisted Dying (VAD) Commission for the Office of the VAD Commission's contact details.

Voluntary assisted dying is a sequential process, with stages requiring multiple requests and determinations, and involving people who, given their circumstances, require decisions and actions to be made quickly. Further, the VAD Commission must refuse to issue a VAD Substance Authorisation to a patient's Primary Medical Practitioner if the VAD Commission:

- has not received all notices, and information, in relation to the patient that the Primary Medical Practitioner is required to give to the VAD Commission, or
- suspects that the requirements of the Act have not been met in relation to the patient.[21]

Unlike some other jurisdictions, Tasmania does not have an electronic portal to which Participating Practitioners may submit forms that are required to be provided to the VAD Commission. Instead, the Office of the VAD Commission operates a "manual portal" process as follows:

- Forms are emailed to Participating Practitioners on a patient-specific, and request-specific basis.
- Completed forms that are emailed to the Office of the VAD Commission are checked for completeness and accuracy. Any issues are followed up directly with the Participating Practitioner.

[18] Ibid section 130.
[19] Ibid section 132.
[20] Ibid section 131.
[21] Ibid section 68(1).

- Participating Practitioners are provided with access to forms required to be completed for the next stage in the patient's voluntary assisted dying journey only once the forms provided for the preceding stage have been checked, and any issues identified through that process resolved.

Before considering a request for a VAD Substance Authorisation, the Office of the VAD Commission checks that all notices and information in relation to the patient that the Primary Medical Practitioner is required to give to the VAD Commission have been received within required timeframes. This includes:

- checking that the medical practitioner to whom the patient made their First Request notified the VAD Commission of the acceptance of the request within seven (7) days of accepting it, and
- checking that the patient's Primary Medical Practitioner has provided the VAD Commission with a copy of the Consulting Medical Practitioner's determination in relation to the patient within seven (7) days of being given the determination.

For example, upon receiving notification that a medical practitioner has accepted or refused to accept a patient's First Request, the Office of the VAD Commission checks that the date and time of the acceptance or refusal is within 48 hours of the patient making the request, and that the VAD Commission has been notified within seven (7) days of the decision.

The VAD Commission also checks that the requirements of the Act have been met in relation to the patient. This includes checking that:

- the patient's Second Request has been correctly witnessed,
- the determinations made by a patient's Primary Medical Practitioner, Consulting Medical Practitioner, and Administering Health Practitioner accord with all the requirements of the Act, and
- all timeframes have been met under the Act.

Compliance checks are undertaken as soon as reasonably practicable once formal notification of relevant events, and copies of forms, are supplied.

The "manual portal"-type approach helps ensure that any instance of non-compliance is identified so that it can be addressed before the VAD Commission's consideration of a request to issue a VAD Substance Authorisation.

A list of all Forms that have been approved for use by the VAD Commission under the Act is provided at **Appendix 1**.

1.7. Minimum Obligations

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

1.7.1. Responding to a Person's Stated Wish to Access Voluntary Assisted Dying

If a person clearly indicates to a medical practitioner that they wish to access voluntary assisted dying, the medical practitioner **must** provide the person with the VAD Commission's contact details.[22]

[22] Ibid section 18(1).

This obligation applies to medical practitioners regardless of whether the practitioner has a conscientious objection to voluntary assisted dying and regardless of whether the medical practitioner thinks that the person is eligible, or ineligible, to access voluntary assisted dying. It also applies regardless of whether the practitioner's employer, or facility, supports access to voluntary assisted dying.

This obligation may be discharged by providing the person with a copy of the VAD Commission's Business Card, copies of which may be obtained from the Office of the VAD Commission by calling 1800 568 956 or emailing vad@health.tas.gov.au, by writing the VAD Commission's contact details on a piece of paper and giving this to the patient, by emailing the details to the patient, or by using another method that the medical practitioner thinks fit.

1.7.2. Responding to a First Request

The voluntary assisted dying process starts when a person makes a valid First Request.

A valid First Request is a request, from a person (who has received the *Relevant Facts* from a medical practitioner) to that medical practitioner, to determine whether the person is eligible to access voluntary assisted dying.[23]

A medical practitioner who is asked by a person to determine whether the patient is eligible to access voluntary assisted dying must give the person a copy of the *Relevant Facts*.[24]

A medical practitioner who is asked by a person to determine whether the patient is eligible to access voluntary assisted dying and who has given the person a copy of the *Relevant Facts* must either accept the request, or refuse to accept the request, **within 48 hours** of the request being made.[25] They must also notify the person, and the VAD Commission, of their decision, **within seven (7) days** of their decision.[26]

See Patient Makes a First Request for further information about obligations associated with responding to a valid First Request.

1.7.3. Responding to Requests for Records or Information

A person who is asked to provide records or information to a patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner to enable the practitioner to determine whether the patient is eligible to access voluntary assisted dying **must not fail**, without reasonable excuse, to comply with the request as soon as reasonably practicable.[27]

[23] Ibid section 18(2).
[24] Ibid section 18(6).
[25] Ibid section 19.
[26] Ibid sections 20(3) and 23.
[27] Ibid sections 25, 32, 46, 54, and 79.

2. Communicating About Voluntary Assisted Dying

2.1. Implications of the Commonwealth *Criminal Code Act 1995*

Sections 474.29A and 474.29B of the Commonwealth *Criminal Code Act 1995* (the Commonwealth Criminal Code) contain offences which limit the use of a carriage service (including telephone, fax, email, use of audio-visual communication, or via the internet) to access and transmit suicide related material, including material that is, or could be, interpreted as being related to a person ending their own life.

This directly influences how particular parts of the voluntary assisted dying process should be communicated. Although voluntary assisted dying in accordance with the Act is not suicide for the purposes of Tasmanian law, it has been interpreted as such for the purposes of the Commonwealth Criminal Code.[28]

As a general rule, any information that relates specifically to the act of administering a VAD Substance or provides details or instructions about the act of administering a VAD Substance, must not be discussed or shared by means of a carriage service.

Informing people about the laws and associated processes in Tasmania (either in general terms, or in relation to a person's specific circumstances) may be undertaken by a carriage service to the extent that the information does not counsel, encourage or incite the choice of voluntary assisted dying or promote a particular method or provide instructions about taking or administering a VAD Substance. Eligibility determinations up to and including the Final Request may also be conducted via a carriage service if clinically appropriate.

All other steps in the voluntary assisted dying process should occur in person, including the Final Permission.

Where an interpreter is required during any discussions that may be at risk of breaching the Commonwealth Criminal Code, the interpreter should also attend in person.

If unsure, Participating Practitioners should seek legal advice specific to the situation through their usual channels.

[28] *Carr v Attorney General (Cth)* [2023] FCA 1500

2.2. Limitations on Discussing Voluntary Assisted Dying

A person may choose to discuss voluntary assisted dying with anyone, including with registered health practitioners involved in their treatment and care.

2.2.1. Discussions Initiated by Patients/Residents

The Act does not prevent registered health practitioners from answering questions and providing information to a person who initiates a discussion about voluntary assisted dying, so long as it is commensurate with their level of expertise and understanding of the process.[29]

If a practitioner does not feel confident or comfortable answering a question, they can refer the person to the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au

2.2.2. Discussions Initiated by Registered Health Practitioners

A registered health practitioner who provides health services or professional care services can initiate a discussion about voluntary assisted dying with a person provided they comply with certain obligations. These differ depending on whether the practitioner is, or is not, a medical practitioner.

A medical practitioner who provides health services or professional care services to a person **can only**, in the course of providing the service to the person:

- initiate a discussion with them that is, in substance, about the VAD Substance, or
- in substance, suggest to the person that they may wish to participate in the voluntary assisted dying process,

if, at the same time, the practitioner also informs the person about their treatment and care options, including palliative care and treatment, options, and the likely outcomes of those options.[30]

A registered health practitioner (other than a medical practitioner) who provides health services or professional care services to a person **can only**, in the course of providing the services to the person:

- initiate a discussion with them that is, in substance, about the voluntary assisted dying substance, or
- in substance, suggest to the person that they may wish to participate in the voluntary assisted dying process,

if, before the end of the discussion, the practitioner informs the person that a medical practitioner would be the most appropriate person with whom to discuss the voluntary assisted dying process and care and treatment options.[31]

During conversations about voluntary assisted dying, registered health practitioners should be cognisant of their clinical role and the scope of their clinical practice to ensure that their professional conduct is in line with the Health Practitioner Regulation National Law (Tasmania).

[29] VAD Act (n 1) section 17(4).
[30] Ibid sections 17(1) and 17(2).
[31] Ibid sections 17(1) and 17(3).

It is important to remember that some people may be uncomfortable talking about voluntary assisted dying and it may not be appropriate to raise the subject. Employees, contractors, and others who are not registered health practitioners are likely to need support and guidance in relation to conversations about voluntary assisted dying.

2.3. Responding to Inquiries from potentially Ineligible Patients before they make a First Request

Some people who request information about voluntary assisted dying may clearly be ineligible. This includes people who are under the age of 18 and people who do not have a terminal illness, injury, or other condition.

A person who is clearly ineligible for voluntary assisted dying may find it more difficult emotionally to make a First Request and be determined ineligible, than to be told, through a clear, compassionate, and respectful discussion with a registered health practitioner, that they are ineligible.

A discussion about voluntary assisted dying with a person in this situation may also indicate that the person requires other support or counselling. If a registered health practitioner feels that a person requires further support, they should refer the person to an appropriate person or service. Where there are concerns about the person's mental health and wellbeing, details of support services including Access Mental Health (1800 332 388), or Lifeline Tasmania (13 11 14), should be given.

Practitioners who require support in responding to an inquiry from an ineligible patient can contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au.

2.4. Discussing the Outcome with a Patient who is Determined to be Ineligible to Access Voluntary Assisted Dying

It may be difficult for a patient to accept that they have been found, by their Primary Medical Practitioner or Consulting Medical Practitioner, to be ineligible to access voluntary assisted dying.

This difficulty may be compounded for a patient who has been determined, by their Consulting Medical Practitioner, to be ineligible following findings of eligibility by their Primary Medical Practitioner.

The 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 other distresses 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 the patient does not want others to be informed of their wish to access voluntary assisted dying, this must be upheld.

As part of explaining to the patient why they are ineligible, the practitioner should address, if applicable, that the patient's eligibility may change if their circumstances change, and that if this occurs, the patient can start the process again by making a new First Request to either the same, or a different, medical practitioner. See Patient Withdrawal from the Voluntary Assisted Dying Process and Re-Starting the VAD Process for further information.

In the case of patients who are found ineligible to access voluntary assisted dying by their Consulting Medical Practitioner, the patient's Primary Medical Practitioner should explain the process for a second referral, and the consequences if the patient is found ineligible following a second determination of ineligibility. See Effect of One Consulting Medical Practitioner Determination that the Patient is Ineligible, Effect of Two Consulting Medical Practitioner Determinations that the Patient is Ineligible and Re-Starting the VAD Process After Two Consulting Medical Practitioners Have Determined the Person Ineligible for further information.

If a registered health practitioner feels that a person requires further support, they can refer the person to another appropriate person or service. Where there are concerns about the person's mental health and wellbeing, details of support services including Access Mental Health (1800 332 388), or Lifeline Tasmania (13 11 14), should be given.

Practitioners who require support in discussing a finding of ineligibility with a patients can contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au.

2.5. Communication Assistance in the Voluntary Assisted Dying Process

2.5.1. Translated Materials

To assist patients and their families and carers whose first language is not English, translated versions of the *Relevant Facts* are available from the Department of Health's website.

Where a translated version is not available in the patient's language, contact should be made with the Office of the VAD Commission to arrange for a written translation of the document in a language that the patient can read. The Office of the VAD Commission can be contacted by calling 1800 568 956 or emailing vad@health.tas.gov.au

To assist patients and their families and carers with written language difficulties, a spoken version, and a plain language version, of the *Relevant Facts* are also available from the Department of Health's website.

2.5.2. Communication Assistance and Use of Translators

Some patients may require assistance to communicate with their Participating Practitioner. This may be because the patient has a method of communication that is not comprehensible to the Participating Practitioner. It may also be because the patient and the Participating Practitioner do not speak, or read, the same language.[32]

[32] Ibid section 15(2).

In this circumstance, another person may communicate with the patient's Participating Practitioner on the patient's behalf, provided certain criteria are met. This applies to both written, and verbal communication.

The matters that may be communicated by another person on the patient's behalf include:

- the patient's First Request,
- a decision by a patient to withdraw from the voluntary assisted dying process,
- a decision by a patient to designate another person to complete, or to complete and sign, a document on the patient's behalf, and
- any other communication made as part of, or in relation to, the voluntary assisted dying process.[33]

If communication assistance is needed because the patient has a **method of communication** that is not comprehensible to the Participating Practitioner (for example, Australian Sign Language or AUSLAN), the communication may be made by a person who is familiar with the patient or with their method of communication.

If communication assistance is needed because the patient and the Participating Practitioner do not speak or read the same **language**, the communication may be made by a person who is fluent in the patient's language.

In either circumstance, communication may only be made if the Participating Practitioner concerned is satisfied that:

- the patient has decision-making capacity, wishes the other person to communicate on the patient's behalf, and is acting voluntarily in wishing the other person to communicate on the patient's behalf, and
- the other person is not a member of the patient's family, and
- the other person does not know, or believe, that they are likely to benefit from the patient's death, and
- the other person is not the patient's residential care provider, and
- the other person is not directly involved in providing the patient with health services or professional care services.[34]

In the case of written communication, if the other person providing the communication assistance is a translator, the Participating Practitioner must also be satisfied that the person is accredited by the National Accreditation Authority for Translators and Interpreters Limited (NAATI) as a translator in the patient's language.[35]

While no similar accreditation requirement applies under the Act to language or AUSLAN interpreters, preference should be given to using NAATI certified or recognised interpreters whenever practicable.

[33] Ibid section 15(1).
[34] Ibid section 15(4).
[35] Ibid section 15(4(c)(ii) and *End-of-Life Choices (Voluntary Assisted Dying) Regulations 2022.*

It is for the Participating Practitioner to decide whether communication assistance is needed, and to arrange for a translator, interpreter or other person who can provide communication assistance. Consideration should be given ahead of time to matters including:

- the time that it may take to identify a person who can provide the patient with communication assistance, particularly if the patient's condition is rapidly deteriorating,
- that the person providing communication assistance may wish to receive copies of forms or other documentation requiring translation ahead of time,
- that the person providing communication assistance cannot also be the patient's designated person – see Designated Persons for further information, and
- that face-to-face interpreting services may be required due to factors including the value of gestural and demonstrative actions (such as pointing), facial and behavioural aspects for some communication methods, including AUSLAN, and for any discussions that may be at risk of breaching the Commonwealth Criminal Code, such as discussions about the VAD Substance.

In some circumstances, a patient's method of communication may be well understood by only those closest to them, such as their spouse or parents. The VAD Commission can exempt a person from the requirement that the person providing communication assistance be someone other than a member of the patient's family, a person who is likely to benefit from the patient's death, the patient's residential care provider or a person who provides the patient with health services or professional care services. A Participating Practitioner who believes that an exemption is required should contact the Office of the VAD Commission by calling 1800 568 956 or emailing vad.commission@health.tas.gov.au as soon as possible after the need for an exemption is identified.

The VAD Navigation Service can help to book translating and interpreter services for voluntary assisted dying processes in which communication assistance is needed. It is the Participating Practitioner's responsibility to:

- contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au , and
- record the communication assistance that is given using **Form 40: Communication Assistance.**

Patients with certain conditions, such as motor neurone disease, may use technology including a speech generating device to communicate their wishes around voluntary assisted dying. If the Participating Practitioner can understand the patient's method of communication, then no communication assistance is required in this circumstance. It is only if the patient's means of communication is not comprehensible to the Participating Practitioner in question, that communication assistance will need to be considered.

Patients may be able to communicate with some of their Participating Practitioners but not others. Only those Participating Practitioners who cannot understand the patient's method of communication or language will need to consider whether communication assistance is required.

2.5.3. Designated Persons

The Act requires a patient's First Request, Second Request, Final Request, Request for Private Self-Administration Certificate and Final Permission to be in writing, and to be signed.

A patient who is unable to complete or sign a document may designate another person to:

- complete but not sign, or
- sign but not complete, or
- both complete and sign,

the document for them (a designated person).

The designated person must be an adult and may not be the same person as the person who provided the patient with communication assistance (if communication assistance is also required).

A patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner is also precluded from being a designated person.[36]

The forms and accompanying Fact Sheets for the patient's First Request, Second Request, Final Request, Request for Private Self-Administration Certificate and Final Permission give instructions for designated persons in how to complete the forms.

2.6. Documenting in the Patient's Medical Record

The Act requires Participating Practitioners to document certain information in a patient's medical record throughout the patient's voluntary assisted dying process. These are set out in **Table 1**.

The Act's requirements do not replace other, existing requirements around record keeping, and Participating Practitioners must still comply with usual processes for documenting clinical encounters, and with other documentation requirements such as those under the Tasmanian *Personal Information Protection Act 2004,* applicable Codes of Conduct and local policies and procedures.

Table 1 summarises the Act's record keeping requirements.

[36] VAD Act (n 1) sections 18, 30, 53, 82, 83 and 85.

Table 1: Table of Record Keeping Requirements

Step of the Process	Minimum documentation in the medical record required by the Act
First Request	A medical practitioner to whom a First Request is made must note that person made a First Request, and that the medical practitioner has either accepted, or refused to accept the Request, in the practitioner's medical record for the patient.[37] A Primary Medical Practitioner must place a copy of their determination of the patient's First Request in the practitioner's medical records for the patient.[38]
Second Request	A Primary Medical Practitioner must place either their determination, or a copy of their determination, of the patient's Second Request in the practitioner's medical records for the patient.[39]
Second Opinion	A Consulting Medical Practitioner must place a copy of their determination of whether the patient is eligible to access voluntary assisted dying in the practitioner's medical records for the patient.[40] A Primary Medical Practitioner who has been given notice of a Consulting Medical Practitioner's determination of whether a patient is eligible to access voluntary assisted dying must place a copy of the determination in the practitioner's medical records for the patient.[41]
Final Request	A Primary Medical Practitioner must place a copy of their determination of the patient's Final Request in the practitioner's medical records for the patient.[42]
Patient Withdrawal from Process	A Primary Medical Practitioner, or Administering Health Practitioner, who is informed by the patient that the patient no longer wishes to access voluntary assisted dying must make a record in the patient's medical record that the person no longer wishes to access voluntary assisted dying.[43]

[37] Ibid sections 20 and 23.
[38] Ibid section 29.
[39] Ibid section 36.
[40] Ibid section 50(1).
[41] Ibid section 50(3).
[42] Ibid section 58.
[43] Ibid section 16.

3. Voluntary Assisted Dying in the Context of End-of-Life Care

3.1. Overview

This part of the Handbook provides information about voluntary assisted dying in the context of end-of-life care and guidance regarding the roles and legal obligations of registered health practitioners.

Voluntary assisted dying has been a legal choice for eligible Tasmanians since the Act's commencement in October 2022. The Act offers patients who are eligible to access voluntary assisted dying an extra choice regarding their care, alongside:

- other treatment choices that they already have, and
- their treatment preferences including preferences set out in their advance care directive, and
- choices about palliative care and treatment, and
- choices about when and where they would like to die, and
- choices about who they would like to be involved.

Choosing voluntary assisted dying does not replace these other choices.

3.2. Legislative Requirements

The Act requires a person who has asked a medical practitioner to determine whether they are eligible to access voluntary assisted dying to be given a copy of the *Relevant Facts*, which includes information about where advice in relation to palliative care, or other treatment or pain relief, may be obtained.[44] See Responding to a First Request and Patient Makes a First Request for more information.

The Act requires a patient's Primary Medical Practitioner to give the patient certain information about matters relevant to their condition and treatment options, including information about palliative care that is available to the patient, in the period after the patient's First Request has been accepted and before it is determined.[45] See Primary Medical Practitioner Provides the Relevant Information for more information.

[44] Ibid sections 18(2) and 18(6).
[45] Ibid section 24.

3.3. Palliative and End-of-Life Care and Voluntary Assisted Dying

Palliative care aims to relieve physical symptoms and provide help with social, spiritual, emotional, and cultural needs for people living with a life-limiting illness. The care provided focusses on the comfort and quality of life for the person and their loved ones and is appropriate for any person of any age at any stage of a life-limiting illness.

Voluntary assisted dying exists as an option in the context of other health services, including palliative care. It is not a replacement for palliative care or other health services in general. Most patients with a terminal illness, injury, or other condition are likely to benefit from palliative care; and for those people who wish to access voluntary assisted dying, it should be considered alongside palliative care.

Participating Practitioners should be aware that voluntary assisted dying-related activities can impact on the delivery of palliative care services. For instance, patients receiving palliative care services in facilities operated by organisations that do not support voluntary assisted dying may be required to leave the facility temporarily to meet with their Participating Practitioners - see, for example, Calvary's Position Statement on Voluntary Assisted Dying.

Participating Practitioners should also be mindful of the importance of communicating clearly with all members of the patient's treating team when delivering voluntary assisted dying services. For example, it may be challenging for a Participating Practitioner who is not the patient's usual General Practitioner to communicate with palliative care service providers in circumstances where the Participating Practitioner does not have access to, or the ability to document in, the same medical record keeping system as the patient's palliative care services team. In these instances, Participating Practitioners should seek to communicate directly with all members of the patient's treating team, including members of the palliative care team.

Table 2 suggests resources for the delivery of high-quality end-of-life and palliative care. It is not exhaustive.

Table 2: Resources for the Delivery of High-Quality End-of-Life and Palliative Care

Resource	Details
Palliative Care Tasmania	Palliative Care Tasmania (PCT) is Tasmania's peak body for palliative care. PCT hosts PalliHub, a new online platform for people to connect, engage and learn with fellow palliative care sector members. Members can access community libraries and resources and find out about educational opportunities and events in the palliative care sector. PalliHub is supported by the Tasmanian Government. PCT also hosts PalliConnect, a purpose-built portal for the Tasmanian community that provides a "one stop" resource enabling access to key relevant information and links relating to palliative care services. To find out more, visit PCT's website or visit PalliHub or PalliConnect directly.

Resource	Details
End-of-Life Essentials	End-of-Life Essentials provides free educational modules designed to assist medical practitioners, nurses and allied health professionals working in acute hospitals in delivering end-of-life care. Visit End-of-Life Essentials for more information.
Australian Commission on Safety and Quality in Health Care	The Australian Commission on Safety and Quality in Health Care's Essential Elements for Safe and High Quality End-of-Life Care Consensus Statement describes nine guiding principles that provide a best-practice approach to caring for people approaching the end of their life.
CareSearch Palliative Care Knowledge Network	The CareSearch palliative care knowledge network is an online resource that brings together evidence-based and quality information for various groups within the palliative care community.
Royal Australian College of GPs (RACGP) Aged Care Clinical Guide	The RACGP's Aged Care Clinical Guide (Silver Book) provides useful information on palliative and end-of-life care.
Royal Australian College of Physicians' (RACP) Improving Care at the End of Life: Our Roles and Responsibilities	The RACP's Improving Care at the End of Life: Our Roles and Responsibilities Position Statement describes the role of physicians in the delivery of end-of-life care.
Queensland University of Technology (QUT) End of Life Law	QUT's End of Life Law for Clinicians website provides accurate and practical information to help practitioners navigate the challenging legal issues that can arise with end of life decision-making. It provides a broad introduction to end-of-life laws in each Australian State and Territory.
palliMEDS app	The palliMEDS app familiars primary care prescribers with eight palliative care medicines that have been endorsed by the Australian and New Zealand Society of Palliative Medicine (ANZSPM) for management of terminal symptoms. The app is free and can be downloaded from Google Play or the Apple Store.
Tasmanian Adult Palliative Care Formulary	The Tasmanian Palliative Care Formulary is a resource for healthcare professionals caring for adult patients who require palliative care.

3.4. Advance Care Planning and Voluntary Assisted Dying

Advance care planning is the process of a person considering and planning for their future health care for use when the person has lost the ability to make or communicate those decisions themselves due to illness or injury.[46]

An advance care directive is a written document that contains a person's wishes and directions so that registered health practitioners understand what is important to the person, and what medical treatments the person does, and does not, want. An advance care directive may be completed as part of a person's advance care planning but only comes into effect once a person has lost the ability (either permanently or temporarily) to make those decisions for themselves (has lost decision-making capacity). Advance care directives are regulated by the Tasmanian *Guardianship and Administration Act 1995*.

Advance care planning and advance care directives are conceptually different from voluntary assisted dying. This is because to access voluntary assisted dying a person must have, and must retain, decision-making capacity and the ability to communicate requests and decisions throughout the entire voluntary assisted dying process. Because an advance care directive only comes into effect when a person no longer has capacity, advance requests for voluntary assisted dying cannot be given in an advance care directive (or any other advance care planning document), nor can a person's substitute decision-maker seek voluntary assisted dying on their behalf.

Registered health practitioners and others engaged in advance care planning discussions should be prepared for the possibility that voluntary assisted dying may be raised.

If a person expresses an interest in voluntary assisted dying during an advance care planning discussion, the registered health practitioner or health professional facilitating the conversation should provide the person with the VAD Commission's contact details and/or a copy of the *Relevant Facts*, depending on whether the person's approach to the practitioner constitutes a First Request. If the registered health practitioner or health professional feels confident to do so, they may also provide the person with information about the eligibility criteria and the process for making a First Request. See Responding to a Person's Stated Wish to Access Voluntary Assisted Dying and Responding to a First Request for further information. If the person's interest is more general, the registered health practitioner or health professional should direct the person to the Department of Health's website, and/or suggest that the person contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au.

If the registered health practitioner is a medical practitioner who has completed the Tasmanian Voluntary Assisted Dying Training, they should consider whether the patient's expression of interest in voluntary assisted dying meets the criteria for a formal First Request to access voluntary assisted dying. If so, the advance care planning discussion might need to be put on hold until a later day, while the person's request is considered.

[46] Tasmanian Department of Health website, *Advance Care Directives Information Sheet,* Advance Care Directive Information Sheet (health.tas.gov.au), accessed 21 February 2024.

In any discussion about voluntary assisted dying in the context of advance care planning, registered health practitioners should be aware of the circumstances in which voluntary assisted dying may be raised with a patient if the practitioner chooses to include voluntary assisted dying as part of a holistic discussion about end-of-life choices. See Limitations on Discussing Voluntary Assisted Dying for further information.

It is also important to note that choosing voluntary assisted dying does not preclude advance care planning or completion of an advance care directive. Completing these processes ensures that the end-of-life preferences can be respected in the event the person loses decision-making capacity and becomes unable to complete the voluntary assisted dying process.

Table 3 suggests resources for advance care planning.

Table 3: Resources for Advanced Care Planning

Resource	Details
Department of Health ACD Information Sheet	The Department of Health's ACD Information Sheet provides general information about ACDs.
Palliative Care Tasmania Advance Care Planning	Palliative Care Tasmania (PCT) is Tasmania's peak body for palliative care. PCT's website provides information about advance care planning.
Queensland University of Technology (QUT) End of Life Law for Clinicians	Queensland University of Technology's End of life Law for Clinicians website contains an ACD-specific module which explores the law relating to Advance Care Directives, including common law Advance Care Directives, and statutory Advance Care Directives.
Navigating the Topic of Voluntary Assisted Dying in Advance Care Planning Conversations: Guiding Principles for Health Professionals	Queensland University of Technology and Advance Care Planning Australia's Guiding Principles for Health Professionals document suggests guiding principles for health professionals navigating the topic of voluntary assisted dying in advance care planning discussions.

4. Overview of the Voluntary Assisted Dying Process

The duration and pace of the voluntary assisted dying process will differ from person to person. However, the Act requires certain steps to be taken in sequence and outlines certain minimum timeframes that must be adhered to throughout the process.

The high-level steps involved in the voluntary assisted dying process are shown in **Figure 1.** Depending on the nature of each patient's process, additional steps may be required.

4.1. Patient Withdrawal from the Voluntary Assisted Dying Process

A patient can decide to pause the voluntary assisted dying process at any time.

Participating Practitioners should advise patients that they can progress from one request stage to another at their own pace; and the patient's wish to progress to the next request stage should always be confirmed.

Pausing between request stages does not require any special permission or approval and is a way of keeping the process open so that it can be progressed at the patient's own pace.

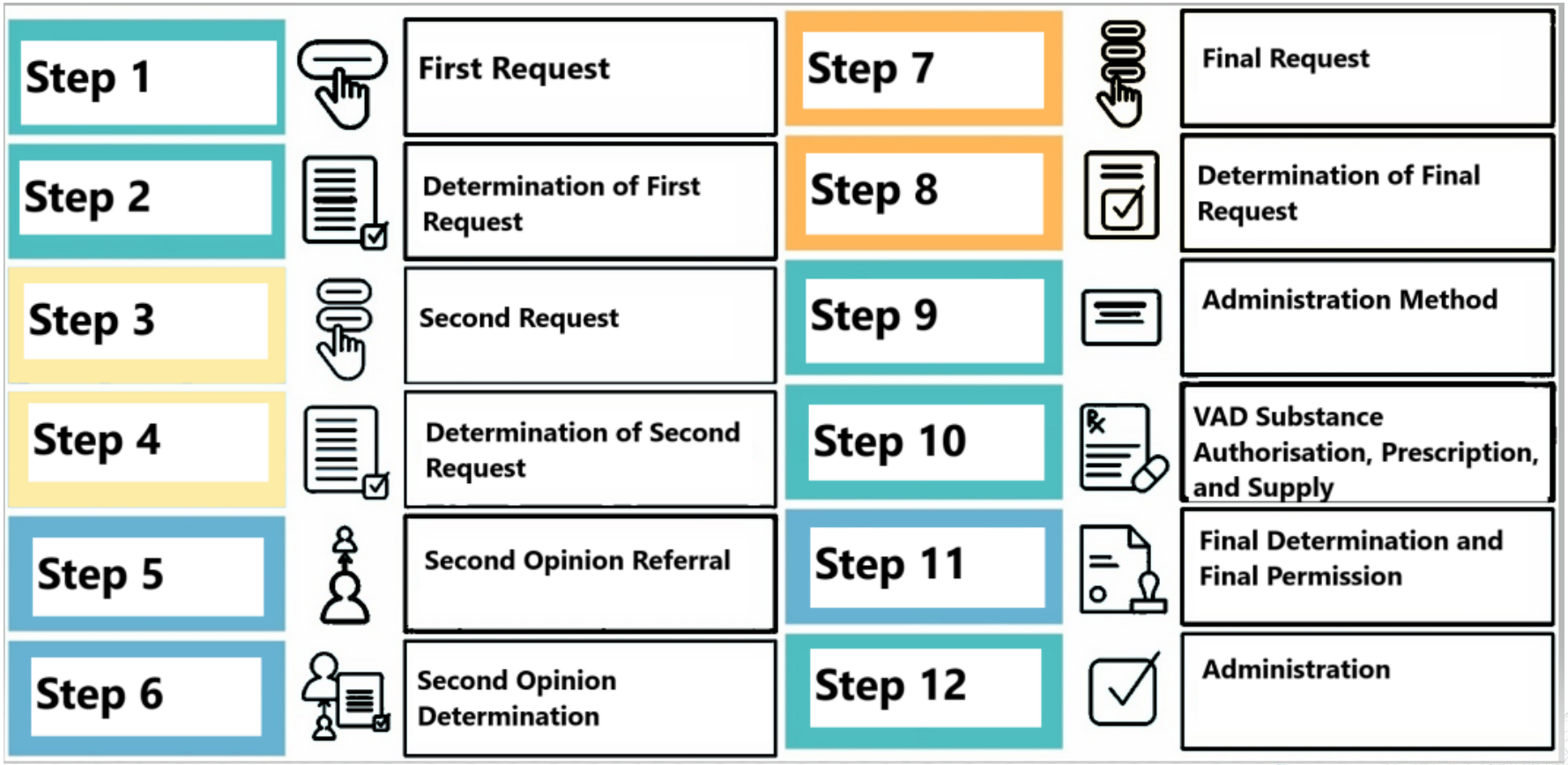
A patient can also decide to withdraw from the voluntary assisted dying process entirely by formally informing their Administering Health Practitioner or Primary Medical Practitioner that they no longer wish to access voluntary assisted dying. This can be done verbally, or in writing.[47]

The Act obliges an Administering Health Practitioner or Primary Medical Practitioner who is notified by a patient of the patient's withdrawal from the voluntary assisted dying process to take certain actions, as follows:

- An Administering Health Practitioner who is notified of a patient's withdrawal by the patient is required to, as soon as reasonably practicable and **within two (2) days** of being notified:
    - If the Administering Health Practitioner is a medical practitioner – make a record in the patient's medical record that the patient no longer wishes to access voluntary assisted dying.
    - If the Administering Health Practitioner is not also the patient's Primary Medical Practitioner – notify the patient's Primary Medical Practitioner that the patient no longer wishes to access voluntary assisted dying.
    - Notify the VAD Commission, using **Form 33: Notification of Patient Withdrawal from Process**, that the patient no longer wishes to access voluntary assisted dying.[48]

[47] VAD Act (n 1) section 16(1).
[48] Ibid section 16(5).

Figure 1: Overview of the Voluntary Assisted Dying Process



- A Primary Medical Practitioner who is notified of a patient's withdrawal by the patient is required to, as soon as reasonably practicable and **within two (2) days** of being notified:
    - Make a record in the patient's medical record that the patient no longer wishes to access voluntary assisted dying.
    - Notify the patient's Administering Health Practitioner and Consulting Medical Practitioner, if any, that the patient no longer wishes to access voluntary assisted dying.
    - Notify the VAD Commission, using **Form 32: Notification of Patient Withdrawal from Process**, that the patient no longer wishes to access voluntary assisted dying.[49]
- A Primary Medical Practitioner who is notified of a patient's withdrawal by the patient's Administering Health Practitioner is required to, as soon as reasonably practicable and **within two (2) days** of being notified:
    - Make a record in the patient's medical record that the patient no longer wishes to access voluntary assisted dying.
    - Notify the patient's Consulting Medical Practitioner (if any).[50]

A Participating Practitioner who is required to notify the VAD Commission that a patient no longer wishes to access voluntary assisted dying should do so by completing **Form 33** or **Form 32**, as applicable, and providing the completed Form to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

A patient who has withdrawn from the voluntary assisted dying process can make a new First Request, either to the medical practitioner who was the patient's Primary Medical Practitioner or to a new medical practitioner. The Act does not restrict number of First Requests that can be made (although there are some other limitations). See Re-Starting the VAD Process for more information.

[49] Ibid section 16(4).
[50] Ibid section 16(6)

4.2. Practitioner Withdrawal from the Voluntary Assisted Dying Process

4.2.1. Primary Medical Practitioner Withdrawal

A medical practitioner automatically ceases to be a patient's Primary Medical Practitioner if:

- the practitioner dies, or
- the practitioner ceases to be able to carry out the functions of a Primary Medical Practitioner due to loss of mental or physical capacity, or
- the practitioner ceases to be an authorised medical practitioner for the patient, or
- the patient's Consulting Medical Practitioner and Primary Medical Practitioner enter into a family, employment, or supervisory relationship, or
- the voluntary assisted dying process ends because two Consulting Medical Practitioners have determined that the patient is not eligible to access voluntary assisted dying and all relevant actions required to be taken by the Consulting Medical Practitioners have been taken (see Effect of Two Consulting Medical Practitioner Determinations that the Patient is Ineligible), or
- the voluntary assisted dying processes ends because the VAD Commission has determined that the patient does not meet the residency requirements, does not have decision-making capacity, or is not acting voluntarily (see Effect of VAD Commission Decision), or
- the patient dies and all relevant actions required to be taken by the Primary Medical Practitioner have been taken, or
- the patient withdraws from the voluntary assisted dying process and all actions required to be taken by the Primary Medical Practitioner have been taken.[51]

A patient's Primary Medical Practitioner can also withdraw from the voluntary assisted dying process by notifying the patient, the patient's Consulting Medical Practitioner, and the patient's Administering Health Practitioner (if any), as well as the VAD Commission, that the practitioner has ceased, or is to cease to be, the patient's Primary Medical Practitioner. A practitioner who notifies the VAD Commission of their withdrawal ceases to be the patient's Primary Medical Practitioner.[52]

The notification must be in writing.

The Primary Medical Practitioner can discharge their obligation to notify the VAD Commission by completing **Form 36: Notification by PMP of PMP Withdrawal from Process** and providing the completed Form to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

[51] Ibid section 106(1).
[52] Ibid section 106(2).

Options available to a patient whose Primary Medical Practitioner has withdrawn from the voluntary assisted dying process include:

- the patient's Consulting Medical Practitioner becoming their Primary Medical Practitioner (see Transferring a Practitioner Role), or
- re-starting the voluntary assisted dying process by making a new First Request (see Re-Starting the VAD Process).

4.2.2. Consulting Medical Practitioner Withdrawal

A medical practitioner automatically ceases to be a patient's Consulting Medical Practitioner if:

- the practitioner dies, or
- the practitioner ceases to be able to carry out the functions of a Consulting Medical Practitioner due to loss of mental or physical capacity, or
- the practitioner ceases to be an authorised medical practitioner for the patient, or
- the patient's Primary Medical Practitioner and Consulting Medical Practitioner enter into a family, employment, or supervisory relationship,
- the voluntary assisted dying process ends because two Consulting Medical Practitioners have determined that the patient is not eligible to access voluntary assisted dying and all relevant actions required to be taken by the Consulting Medical Practitioners have been taken (see Effect of Two Consulting Medical Practitioner Determinations that the Patient is Ineligible), or
- the voluntary assisted dying processes ends because the VAD Commission has determined that the patient does not meet the residency requirements, does not have decision-making capacity, or is not acting voluntarily (see Effect of VAD Commission Decision), or
- the patient dies, or
- the patient's Primary Medical Practitioner notifies the Consulting Medical Practitioner that the patient has withdrawn from the voluntary assisted dying process.[53]

A patient's Consulting Medical Practitioner can also withdraw from the voluntary assisted dying process by notifying the patient's Primary Medical Practitioner, if any, and the VAD Commission, that the practitioner is to cease to be the patient's Consulting Medical Practitioner.[54]

The notification must be in writing.

The Consulting Medical Practitioner can discharge their obligation to notify the VAD Commission by completing **Form 39: Notification by CMP of CMP Withdrawal from Process** and providing the completed Form to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

[53] Ibid section 108(1).
[54] Ibid section 108(2).

Consulting Medical Practitioner Withdrawal due to Delay

A patient's Primary Medical Practitioner can also, in effect, withdraw a patient's Consulting Medical Practitioner from the patient's voluntary assisted dying process by advising the Consulting Medical Practitioner that the Consulting Medical Practitioner has ceased to have this status.

The circumstances in which a patient's Primary Medical Practitioner can withdraw a patient's Consulting Medical Practitioner from the patient's voluntary assisted dying process are limited to circumstances in which the Consulting Medical Practitioner has failed to make a determination that the patient is, or is not, eligible to access voluntary assisted dying within:

- 14 days of the Consulting Medical Practitioner's receipt of the Primary Medical Practitioner's referral, or
- 14 days of the Consulting Medical Practitioner's receipt of any information requested from the Primary Medical Practitioner to enable the Consulting Medical Practitioner to make a determination,

whichever occurs later, unless, in the Primary Medical Practitioner's opinion, the patient is likely to die within seven (7) days or is likely to cease to have decision-making capacity within 48 hours, in which case the 14-day period does not apply.[55]

This is to accommodate situations in which a patient's voluntary assisted dying process cannot progress beyond the Second Opinion stage in a suitably timely manner due to delays in the Consulting Medical Practitioner's determination.

The Act prevents a patient's Primary Medical Practitioner from referring the patient to more than two Consulting Medical Practitioners if each practitioner has determined that the patient is not eligible to access voluntary assisted dying. There is, however, no limitation on the number of times that a patient's Primary Medical Practitioner can refer the patient in circumstances where no determination of eligibility has been made by a second practitioner. Primary Medical Practitioners can contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au for assistance to find a new medical practitioner to whom a referral can be made.

4.2.3. Administering Health Practitioner Withdrawal

A medical practitioner or registered nurse automatically ceases to be a patient's Administering Health Practitioner if:

- the practitioner dies, or
- the practitioner ceases to be able to carry out the functions of an Administering Health Practitioner due to loss of mental or physical capacity, or
- if the practitioner is a medical practitioner – the practitioner ceases to be an authorised medical practitioner for the patient, or
- the practitioner enters into a family, employment, or supervisory relationship with the patient's Consulting Medical Practitioner or Primary Medical Practitioner, or

[55] Ibid sections 108(3) and 108(4).

- if the practitioner is a registered nurse – the practitioner ceases to be a registered nurse or becomes aware that they are likely to benefit, either directly or indirectly, from the patient's death, other than by receiving reasonable fees for the provision of services as the patient's Administering Health Practitioner, or
- the voluntary assisted dying processes ends because the VAD Commission has determined that the patient does not meet the residency requirements, does not have decision-making capacity or is not acting voluntarily (see Effect of VAD Commission Decision), or
- the patient dies, or
- the patient withdraws from the voluntary assisted dying process and all actions required to be taken by the Administering Health Practitioner have been taken.[56]

The Act does not provide a mechanism for a patient's Administering Health Practitioner to withdraw from the process by notifying the VAD Commission. However, see Transferring the Administering Health Practitioner Role for information about the steps to be followed if an Administering Health Practitioner is no longer able to continue in the role.

[56] Ibid section 109.

5. Practitioner Participation in Voluntary Assisted Dying

A medical practitioner must have completed the Tasmanian Voluntary Assisted Dying Training in the five (5) year period immediately before a patient makes a First Request to be able to act as the patient's Primary Medical Practitioner.

A medical practitioner must have completed the Tasmanian Voluntary Assisted Dying Training in the five (5) year period immediately before a patient is referred to them for a Second Opinion to be able to act as the patient's Consulting Medical Practitioner.

A medical practitioner or registered nurse must have completed the Tasmanian Voluntary Assisted Dying Training in the five (5) year period immediately before being appointed as the patient's Administering Health Practitioner by the VAD Commission.

The Tasmanian Voluntary Assisted Dying Training is currently provided as an offline application. Any medical practitioner or registered nurse wishing to complete it should contact the Office of the VAD Commission by calling 1800 568 956 or emailing vad@health.tas.gov.au

The Tasmanian Voluntary Assisted Dying Training is free to complete and can be undertaken at a practitioner's own pace. It includes modules on:

- Overview of voluntary assisted dying, and the international and Australian context.
- The voluntary assisted dying process and roles of practitioners.
- Conversations about voluntary assisted dying.
- Voluntary assisted dying requests.
- Eligibility determination.
- Substance administration.
- Self-care for practitioners.
- Oversight and liability.

It also includes a formal assessment component to reinforce key learning objectives.

A practitioner who completes the Tasmanian Voluntary Assisted Dying Training is not obliged to participate in voluntary assisted dying either for a particular patient, or at all.

Participating Practitioners should also be aware that additional employment/appointment and credentialling arrangements may apply to the practitioner's performance of functions as a patient's Primary Medical Practitioner, Consulting Medical Practitioner or Authorised Health Practitioner while the patient is a receiving care and treatment in certain facilities (including public and private hospitals) in Tasmania.

5.1. Primary Medical Practitioner

The Primary Medical Practitioner is the medical practitioner who:

- accepts and determines a patient's First Request, and
- receives and determines a patient's Second Request, and
- refers the patient to another medical practitioner for a Second Opinion, and
- receives and determines a patient's Final Request, and
- applies to the VAD Commission for a VAD Substance Authorisation, and
- issues a VAD Substance Prescription.

The Primary Medical Practitioner is responsible for ensuring that the patient is supported and that the requirements of the Act are met.

As the main contact point throughout the voluntary assisted dying process for the patient, and between the Consulting Medical Practitioner, the VAD Commission, and the patient's Administering Health Practitioner (if any); the Primary Medical Practitioner role is significant and requires substantial time and clinical commitment.

Medical practitioners considering acting as a patient's Primary Medical Practitioner should carefully consider their ability to take on the role, considering the likely duration of the process and their availability throughout the process, including during any planned leave periods.

To be eligible to act as a patient's Primary Medical Practitioner, a medical practitioner must be an authorised medical practitioner. That is, they must:

- be a registered medical practitioner, and
- have practised as a registered medical practitioner for at least five years after either:
    - completing a Fellowship with a specialist medical college, or
    - vocational registration as a General Practitioner, and
- have relevant experience in treating or managing the disease, illness, injury, or medical condition expected to cause the patient's death, and
- have successfully completed the Tasmanian Voluntary Assisted Dying Training in the five-year period before the patient makes their First Request, and
- not be a member of the patient's family, and
- not know, or believe, that they are likely to benefit from the patient's death, other than by receiving reasonable fees for the provisions of services as the patient's Primary Medical Practitioner, Consulting Medical Practitioner, or Administering Health Practitioner.[57]

Table 4 provides a summary of the key roles of a Primary Medical Practitioner.

[57] Ibid section 9.

Table 4: Primary Medical Practitioner Key Roles and Responsibilities

Process	PMP Role
Before Accepting a First Request	Completes the Tasmanian Voluntary Assisted Dying Training. Checks that they are an authorised medical practitioner in relation to the particular patient.
First Request	Gives the patient the *Relevant Facts*, meets with the patient (in person, and not by audio-visual link), receives and accepts the patient's First Request, and becomes the patient's Primary Medical Practitioner. Notifies the patient, makes a record of the acceptance in the patient's medical records, and documents the decision to accept the patient's First Request by completing **Form 2: Practitioner's Decision to Accept or Refuse Patient's First Request**. Provides **Form 2** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of accepting, or refusing to accept, the request.
Relevant Information Provided	Gives the patient relevant information in relation to their request (the "Relevant Information" – see Primary Medical Practitioner Provides the Relevant Information (Step 3) for further information). Documents the provision of the information by completing **Form 3: Practitioner's Provision of Relevant Information.** Provides **Form 3** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of giving the patient the Relevant Information.
First Request Determined	Requests further information and/or refers the patient. Determines whether the patient is eligible to access voluntary assisted dying. Completes **Form 4: Practitioner's Determination of Patient's First Request**. Notifies the patient of the determination, places a copy of **Form 4** in the patient's medical records, and provides **Form 4** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the determination.
Statement of Reasons Given (First Request)	Completes **Form 5: Practitioner's Statement of Reasons on Determination of First Request**. Provides **Form 5** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the practitioner's determination of the patient's First Request.

Process	PMP Role
Second Request Received	Receives the patient's Second Request (**Form 6: Patient's Second Request**) from the patient. Makes sure that the period between the First Request and the Second Request is more than 48 hours unless of the opinion that the patient is likely to die within seven (7) days or is likely to cease to have decision-making capacity within 48 hours. Checks that the Form has been correctly completed and witnessed.
Second Request Determined	Requests further information and/or refers the patient. Determines whether the patient is eligible to access voluntary assisted dying. Completes **Form 7: Practitioner's Determination of Patient's Second Request**. Notifies the patient of the determination, places a copy of **Form 7** in the patient's medical records, and provides **Form 7** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the determination.
Statement of Reasons Given (Second Request)	Completes **Form 8: Practitioner's Statement of Reasons on Determination of Second Request**. Provides **Form 8** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the practitioner's determination of the patient's Second Request.
Second Opinion Referral Made	Refers the patient to another medical practitioner for a Second Opinion. The referral must be in writing (letter, or by email, text, or fax with the other medical practitioner's approval) and may be made at any time after the Second Request Determination.
Second Opinion Documentation Provided	Receives the Second Opinion Determination (**Form 10: Practitioner's Second Opinion Determination**) from the patient's Consulting Medical Practitioner. Notifies the patient of the determination, places a copy of **Form 10** in the patient's medical records, and provides **Form 10** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of being given a copy of the determination.
Final Request Received	Receives the patient's Final Request (**Form 12: Patient's Final Request**) from the patient. Makes sure that the period between the Second Request and the Final Request is more than 48 hours unless of the opinion that the patient is likely to die within seven (7) days or is likely to cease to have decision-making capacity within 48 hours.

Process	PMP Role
	Provides **Form 12** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of receiving the Request from the patient.
Final Request Determined	Requests further information and/or refers the patient. Determines whether the patient is eligible to access voluntary assisted dying. Completes **Form 13: Practitioner's Determination of Patient's Final Request**. Notifies the patient of the determination, places a copy of **Form 13** in the patient's medical records, and provides **Form 13** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the determination.
Statement of Reasons Given (Final Request)	Completes **Form 14: Practitioner's Statement of Reasons on Determination of Final Request**. Provides **Form 14** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the practitioner's determination of the patient's Final Request.
Decision About Being the Patient's AHP	As soon as reasonably practicable and within 48 hours of determining the patient's Final Request - decides whether to be the patient's AHP. If the practitioner does not wish to be the patient's AHP: • as soon as practicable and within 48 hours of determining the patient's Final Request - advises the patient, and • as soon as practicable and within two (2) days of advising the patient - completes **Form 15: Practitioner's Request to Appoint an AHP** and provides **Form 15** to the VAD Commission.
Requests VAD Substance Authorisation	With the patient, makes an administration decision. Completes **Form 18: Practitioner's Request to Issue a VAD Substance Authorisation**. Provides **Form 18** to the VAD Commission.
Issues VAD Substance Prescription	Issues a VAD Substance Prescription and receives the VAD Substance.
Supplies VAD Substance	If PMP is not the patient's AHP – supplies the VAD Substance to the patient's AHP.

5.2. Consulting Medical Practitioner

The Consulting Medical Practitioner is the medical practitioner who accepts a referral from the patient's Primary Medical Practitioner to determine whether the patient is, or is not, eligible to access voluntary assisted dying. This determination is referred to as a Second Opinion.

While the Consulting Medical Practitioner role requires less time and clinical commitment than the Primary Medical Practitioner, medical practitioners considering performing functions as a patient's Consulting Medical Practitioner should be aware that they may be asked to "step in" as the patient's Primary Medical Practitioner if the patient's Primary Medical Practitioner withdraws from the role. See Transferring the Primary Medical Practitioner Role for further information.

Medical practitioners considering acting as a patient's Consulting Medical Practitioner should therefore carefully consider both their ability to take on the role, and their likely willingness to take on the Primary Medical Practitioner role if asked and advise any preferences in this regard to the VAD Navigation Service at an early point in time by calling 1800 568 956 or emailing vad@health.tas.gov.au

To be eligible to act as a patient's Consulting Medical Practitioner, a medical practitioner must be an authorised medical practitioner. That is, they must:

- be a registered medical practitioner, and
- have practised as a registered medical practitioner for at least five years after either:
    - completing a Fellowship with a specialist medical college, or
    - vocational registration as a General Practitioner, and
- have relevant experience in treating or managing the disease, illness, injury, or medical condition expected to cause the patient's death, and
- have successfully completed the Tasmanian Voluntary Assisted Dying Training in the five-year period before the patient makes their First Request, and
- not be a member of the patient's family, and
- not know, or believe, that they are likely to benefit from the patient's death, other than by receiving reasonable fees for the provisions of services as the patient's Primary Medical Practitioner, Consulting Medical Practitioner, or Administering Health Practitioner.[58]

Table 5 provides a summary of the key roles of a Consulting Medical Practitioner.

[58] Ibid section 9.

Table 5: Consulting Medical Practitioner Key Roles and Responsibilities

Process	CMP Role
Before Accepting a Second Opinion Referral	Completes the Tasmanian Voluntary Assisted Dying Training. Checks that they are an authorised medical practitioner in relation to the particular patient.
Referral Received	Receives the PMP's referral. Accepts the referral **within 48 hours** of receiving it. Completes **Form 9: Practitioner's Decision to Accept or Refuse Second Opinion Referral.**
Second Opinion Determined	Requests further information from the patient's PMP. Determines whether the patient is eligible to access voluntary assisted dying. Completes **Form 10: Practitioner's Second Opinion Determination**. Provides a copy of **Forms 9 and 10** to the patient's PMP. Places a copy of **Form 10** in the patient's medical records and provides **Forms 9 and 10** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the determination.
Statement of Reasons Given (Second Opinion Referral)	Completes **Form 11: Practitioner's Statement of Reasons on Determination of Second Opinion**. Provides **Form 11** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the practitioner's determination of the Second Opinion referral.

5.3. Administering Health Practitioner

The Administering Health Practitioner is the medical practitioner or registered nurse who makes a Final Determination of a patient's decision-making capacity and voluntariness, receives the patient's Final Permission, and administers or supplies a VAD Substance to the patient.

While the Administering Health Practitioner role requires less time and clinical commitment than the Primary Medical Practitioner role, medical practitioners and registered nurses considering performing functions as a patient's Administering Health Practitioner should be aware that they:

- may be asked to make a Final Determination, receive a Final Permission, and administer or supply a VAD Substance at short notice, including outside of their usual working hours, and
- in the case of AHP Administration - must stay in the same room or place as the patient, or in a room or place in which any noise made by the patient may be heard during and after the patient has been administered the VAD Substance, until the patient has died or is removed from the room or the place to receive medical treatment (as the case may be).

Medical practitioners and registered nurses considering acting as a patient's Administering Health Practitioner should carefully consider their ability to take on the role, noting the above.

The Primary Medical Practitioner is by default the patient's Administering Health Practitioner unless another medical practitioner or registered nurse is appointed by the VAD Commission to be the patient's Administering Health Practitioner. See Primary Medical Decides Whether to Be the Patient's Administering Health Practitioner for further information.

Any medical practitioner or registered nurse who is eligible may be appointed by the VAD Commission to be a patient's Administering Health Practitioner, including the person who is the patient's Consulting Medical Practitioner.

To be eligible to be appointed by the VAD Commission as a patient's Administering Health Practitioner, a medical practitioner or registered nurse must:

- be a registered medical practitioner or registered nurse, and
- have agreed to be appointed as the patient's Administering Health Practitioner, and
- have signed a statutory declaration stating that the medical practitioner or registered nurse, respectively:
    - has successfully completed the Tasmanian Voluntary Assisted Dying Training in the five (5) year period before being appointed, and
    - is not a member of the patient's family, and
    - does not know, or believe, that they are likely to benefit from the patient's death, other than by receiving reasonable fees for the provision of services as the patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner, and

- has at least five (5) years' experience as a registered medical practitioner or registered nurse after having become registered as a medical practitioner or registered nurse respectively.[59]

Table 6 provides a summary of the key roles of an Administering Health Practitioner if private self-administration is chosen, while **Table 7** provides a summary of the key roles of an Administering Health Practitioner if AHP Administration is chosen.

Table 6: Administering Health Practitioner Key Roles and Responsibilities – Private Self-Administration

Process	AHP Role
Before Agreeing to be Appointed as an AHP	Completes the Tasmanian Voluntary Assisted Dying Training. Checks that they have the appropriate experience, is not a member of the patient's family, and does not have a conflict.
Appointment Agreed	If the PMP is not also the AHP - agrees to be appointed. Completes **Form 16: Agreement to be Appointed as an AHP** and provides **Form 16** to the VAD Commission as soon as reasonably practicable. Receives confirmation of appointment from the VAD Commission.
Plans for VAD Substance Supply and Administration	Discusses patient's administration plan with the patient. Advises patient and Contact Person of Contact Person's obligations under the Act including the obligation to provide a copy of **Form 26** to the patient's AHP and to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of completing the Form. Provides patient with: • **Form 22A: Patient's Final Permission (Private Self-Administration) Form** and accompanying **Fact Sheet**. • **Form 24: Patient's Private Self-Administration Certificate Request** and accompanying **Fact Sheet.** • **Form 26: Contact Person Appointment Form** and accompanying **Fact Sheet**.

[59] Ibid section 63.

Process	AHP Role
Receives Private Self-Administration Request and Issues Private Self-Administration Certificate	Provides Receives patient's Private Self-Administration Request (**Form 24**) Completes and signs **Form 25** and provides **Form 25** to the patient, and to the VAD Commission, as soon as reasonably practicable and **within 48 hours** of completing and signing the Form. If PMP is not the patient's AHP – provides Form 25 to the patient's PMP, as soon as reasonably practicable and **within 48 hours** of completing and signing the Form. Shows the patient how to self-administer the VAD Substance that is to be supplied to the patient.
Final Determination and Final Permission	In the 48 hours prior to the patient's Final Permission - determines patient's decision-making capacity and voluntariness. If determination is that the patient does not have decision-making capacity or is not acting voluntarily – completes **Form 23: Final Determination (Lack of Decision-Making Capacity, Voluntariness).** Receives patient's Final Permission **(Form 22A: Patient's Final Permission – Private Self-Administration).**
Receives VAD Substance and Supplies VAD Substance to Patient	If PMP is not the patient's AHP – receives VAD Substance from the patient's PMP. Checks that the patient has appointed a Contact Person. Supplies VAD Substance to the patient for private self-administration.
Notifies VAD Commission of Patient's Death	Receives notification of the patient's death from the patient's Contact Person. Notifies VAD Commission of patient's death.
Returns Unused/Remaining VAD Substance	Receives any unused/remaining VAD Substance from the Contact Person. Returns any unused/remaining VAD Substance to the pharmacist who supplied the VAD Substance to the patient's PMP as soon as reasonably practicable and **within seven (7) days** of receiving the VAD Substance. Completes **Form 31: Notification that VAD Substance has been returned – AHP** and provides a copy of **Form 31** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of receiving the VAD Substance.

Table 7: Administering Health Practitioner Key Roles and Responsibilities – AHP Administration

Process	AHP Role
Before Agreeing to be Appointed as an AHP	Completes the Tasmanian Voluntary Assisted Dying Training. Checks that they have the appropriate experience, is not a member of the patient's family, and does not have a conflict.
Appointment Agreed	If the PMP is not also the AHP - agrees to be appointed. Completes **Form 16: Agreement to be Appointed as an AHP** and provides **Form 16** to the VAD Commission as soon as reasonably practicable. Receives confirmation of appointment from the VAD Commission.
Plans for Administration	Discusses patient's administration plan with the patient.
Final Determination and Final Permission	In the 48 hours prior to the patient's Final Permission - determines patient's decision-making capacity and voluntariness. If determination is that the patient does not have decision-making capacity or is not acting voluntarily – completes **Form 23: Final Determination (Lack of Decision-Making Capacity, Voluntariness).** Receives patient's Final Permission **(Form 22B: Patient's Final Permission – AHP Administration)**.
AHP Administration Certificate	Completes **Form 27: AHP Administration Certificate**. Places a copy of completed **Form 27** on the practitioner's medical records of the patient and provides a copy to the VAD Commission as soon as reasonably practicable.
Receives VAD Substance and Administers VAD Substance	If PMP is not the patient's AHP – receives VAD Substance from the patient's PMP. Administers VAD Substance to the patient/supplies the VAD Substance to the patient for the patient to administer with assistance/in the presence of the AHP. AHP remains in the same room/place as the patient or within hearing while the VAD Substance is administered and until the patient has died or is removed from the room/place.
Notifies VAD Commission of Patient's Death	Notifies VAD Commission of patient's death.

Process	AHP Role
Returns Unused/Remaining VAD Substance	Returns any unused/remaining VAD Substance to the pharmacist who supplied the VAD Substance to the patient's PMP as soon as reasonably practicable and **within seven (7) days** of the patient's death. Completes **Form 31: Notification that VAD Substance has been returned – AHP** and provides a copy of **Form 31** to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the patient's death.

6. Planning for Death

Discussions between the patient and their Primary Medical Practitioner and broader care team may occur many times throughout the voluntary assisted dying process. It is important to ensure that the patient, and any other people they wish to have involved at their death are prepared and informed about the patient's values, wishes, and needs. It is also important to discuss what dying might look like to someone present at the time.

Access to voluntary assisted dying may provide a patient with some control over the timing and manner of their death, however, given their diagnosis of a terminal illness, injury, or other condition, preparations should occur for death regardless of whether the VAD Substance is ever prescribed or administered.

Primary Medical Practitioners are encouraged to discuss the patient's values and wishes around dying with them.

6.1. End-of-Life Care Planning

Preparation for any end-of-life care trajectory should ideally involve completion of any financial and advance care planning documentation and discussion. This may include, but is not limited to:

- Appointing an enduring power of attorney.
- Appointing an enduring guardian.
- Completing a will.
- Ensuring that *Medical Goals of Care* Plans are completed and provided to the appropriate authorities.
- Completing an advance care plan and/or advance care directive (noting that an advance care directive cannot be used to request voluntary assisted dying – see Advance Care Planning and Voluntary Assisted Dying) and ensuring that goals of care for unexpected events are clearly defined and discussed with family, carers, and the patient's immediate care team.
- Considering the timing for deactivation of implantable defibrillation devices.
- Considering funeral arrangements.
- Considering whether the patient wishes to be an organ and tissue donor (see End-of-Life Care Planning).
- For patients who wish to donate their body to science – alerting patients to the fact that they **must** have **completed and registered** the required donation paperwork with the University of Tasmania **prior to death** and that there are occasions where a donation **cannot be accepted**, and encouraging them to consider the arrangements that will be required if the patient's donation is not accepted (see Body Bequest Program).
- Who will verify the patient's death and complete the Declaration of Life Extinct and/or Medical Certificate of Cause of Death (see Verification of Death and Completion of the Declaration of Life Extinct and Completion of the Medical Certificate of Cause of Death).

These steps should preferably be taken at an early point in the voluntary assisted dying process, to ensure that if the patient loses capacity at any stage during the process, there is guidance, and people appointed to act on the patient's behalf.

Planning is particularly important if the patient chooses private self-administration, as planning for verification of the patient's death and completion of the Declaration of Life Extinct and/or Medical Certificate of Cause of Death will need to be considered well ahead of time. Participating Practitioners should encourage patients considering private self-administration to contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au for support and assistance in putting suitable plans in place, if required.

It is important to note that the patient must complete the voluntary assisted dying process themselves. Neither an enduring guardian (or other substitute decision-maker) nor an advance care directive can be used to complete the voluntary assisted dying process. If the patient loses capacity, the voluntary assisted dying process is no longer possible for the patient. See Advance Care Planning and Voluntary Assisted Dying for further information.

The content of discussions on planning for death will vary according to a range of factors, including but not limited to the following:

Place of Death

Establishing with the patient where they would like to die is an important aspect of end-of-life care. It is recommended that the Primary Medical Practitioner talks with the patient about their preferences for place of death, whether the VAD Substance is administered or not. When a VAD Substance is to be administered, these discussions are imperative.

When discussing the location of administration of the VAD Substance, the following places within Tasmania are some of the potential options for patients:

- At the patient's home.
- At a family or friend's home.
- At a residential aged care facility.
- In hospital.
- At a hospice.
- On country.

If the patient wishes to die in a residential aged care facility or in hospital, the patient and/or their family should discuss that with the facility manager. This is because some residential aged care facilities and private hospitals may not support, or allow, voluntary assisted dying. The **Voluntary Assisted Dying Private Entity Handbook** (available from the Office of the VAD Commission by calling 1800 568 956 or emailing vad@health.tas.gov.au) provides more information about accessing voluntary assisted dying in these facilities.

While there is nothing preventing a patient who has chosen private self-administration from dying in a public place, there are risks that should be thought through before a public place is chosen as the location of administration. Factors to consider include how the VAD Substance will be secured so that it is not inadvertently accessed by a member of the public, the chance that a child or other vulnerable member of the community may be the first person to find the patient's body, and the risk that the police may be called, and the death reported to the Coroner, with all that entails.

Connections

Relationships with family and friends can be more challenging when people approach the end of their life. There may be social and familial connections that the patient would like to discuss or have further support to put in place. Patients and families can often decrease stress if people are preparing and talking about death before it occurs. Some of the questions that might come up at this time that should be addressed by the Primary Medical Practitioner directly or through referral to support services may include:

- Has the patient disclosed their decision to access voluntary assisted dying with family and friends? Is there any conflict around this decision?
- Are there relationships that are estranged or cause friction?
- Are there people that the patient would like to say goodbye to, and have they considered doing this?
- Does the patient have any concerns about dying and leaving things unsaid?
- Are there any significant relationships with medical or healthcare teams that the patient is concerned about?
- Is there anything worrying the patient that support services can help with?
- Is the patient responsible for children, dependents, or pets, and if so what considerations or plans will be required for them?

Information about appropriate support services can be accessed from the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au

Symptom Burden

The patient may or may not be engaged with a palliative and end of life care service. Ensure that any pain or other symptoms causing the patient distress are addressed, and if necessary and not already engaged, the patient should be referred to a palliative care service. Further advice on simple symptom management for patients can be found on the Caresearch website.

Values and Wishes

Establishing goals and wishes for a patient approaching end of life will allow for individualised and patient-centred care, noting that values and wishes may vary greatly.

Some prompts that might be useful for discussion about values and wishes include:

- What is important to you as a person?
- What brings you joy?
- Who are the people you want, or don't want, to be present at this time?
- Are there important cultural beliefs that need to be addressed?
- Do you have any religious needs?
- Are there spiritual/cultural or religious elders you want involved in this process?
- Are there rituals or practices that should be followed?
- Are there pets that should be visiting or around?
- Is there music or television that is important to you, that should be playing?
- What are favourite foods or drinks that you might wish to eat or drink in the time before your death?

- Are there photos, personal belongings, or trinkets that should be present at or near the time of death?

This list is not exhaustive.

Dying and Death as a Process

Patients approaching the end of life will often become increasingly fatigued, spend less time out of bed, and be less interested in eating and drinking. These are all normal parts of dying. Voluntary assisted dying means that some patients will be able to choose the date and time of their death. There are several important points that should be discussed with all patients preparing for death, especially in the context of voluntary assisted dying. Ensure that any discussions remain patient-centred, and family and friends are only included with the patient's consent.

Points to consider include, but are not limited to:

- Who will be present when the VAD Substance is administered and when will it be administered?
  Ensure the people with the patient are prepared for what death will look like, the signs and symptoms which may be expected, and timeframes in which death may occur. See Unexpected Complications of a Medical Kind and Requirements if Unexpected Complications Arise for further information.
- Who will verify the patient's death, and complete the Declaration of Life Extinct?
  How can that person be contacted and who will contact them?
- Who will complete the Medical Certificate of Cause of Death?
  How can that person be contacted and who will contact them?
- In the case of an adverse or emergency event, what actions should be taken to support the patient and family?
  Normal emergency response services will be available.
- If the person dies at home or in a facility without a mortuary, which funeral director will be called?
  Guidance and discussion should occur about timeframes to keep someone at home after death.

6.2. Resources for End-of-Life Care Planning

Advance Care Planning and Voluntary Assisted Dying provides more information about Advance Care Planning generally.

Table 8 suggests some additional resources for end-of-life care planning. The list is not exhaustive.

Table 8: Resources for End-of-Life Care Planning

Resource	Details
Legal Aid Fact Sheet: Making a Will	Legal Aid Tasmania's Fact sheet – Making a Will provides useful information on making a will including what happens if a person dies without making a will and what is required to make a will.
Medical Goals of Care Planning	The Department of Health's website provides information about *Medical Goals of Care* Plans. Information for General Practitioners can be found on Primary Health Tasmania's website.
Services Australia	Services Australia's website provides information on what to do when a loved one dies.
Service Tasmania	Service Tasmania's website includes a wide range of useful information on what to do when someone dies including information on arranging a funeral.
Public Trustee	As with Services Australia's website, the Public Trustee's website provides brief guidance on what to do when someone dies.

6.3. Organ and Tissue Donation

Organ and tissue donation is an altruistic decision that can benefit others. Donation after voluntary assisted dying is legal and possible in clinically appropriate circumstances.

A person's suitability to become an organ or tissue donor is assessed on an individual basis.

The nature of a patient's illness may, in many cases, make them unsuitable to be an organ or tissue donor. For example, people with advanced stage active cancers would generally not be eligible for organ donation (although they may be eligible for tissue donation).

Patients considering voluntary assisted dying and organ donation should also consider the following:

- A patient who wishes to donate their organs, other than eye tissue, may only do so if they die in a hospital. This is because the donation of organs, other than eye tissue, after death, requires a surgical procedure in an operating theatre.
- There is no need for a person who wishes to donate their eye tissue to die in a hospital. This is because it is possible to remove a person's eye tissue for up to 12 hours after their death.
- A patient who wishes to donate their organs after accessing voluntary assisted dying will need to provide formal consent with a donation specialist and undergo a series of tests to determine their suitability as an organ donor. These tests may be invasive and will need to occur prior to the donation proceeding.

- The donation and transplantation process is complex, and in some cases organ and tissue donation may not be able to proceed if there are no suitable recipients.
- Some medical practitioners may be concerned about the pressure that a patient's wish to donate their organs may place on them to die at a particular time or to progress with voluntary assisted dying when they may otherwise have chosen to withdraw from the process.

Organ and tissue donation is best explored after the patient's Final Request to access voluntary assisted dying has been determined. This is to ensure that decision-making around voluntary assisted dying, and organ and tissue donation, occurs separately and is seen to occur separately.

If a person initiates a discussion about donation with their Primary Medical Practitioner before their Final Request has been determined, the request should be acknowledged and sensitively deferred until the Final Request stage is complete. The Primary Medical Practitioner should contact DonateLife Tasmania by calling 03 6166 8308 or emailing dltcaseworker@ths.tas.gov.au and ask to speak with a "donation specialist nurse" about receiving more information about organ and tissue donation in Tasmania.

See the Department of Health's Fact Sheet: Voluntary Assisted Dying and Organ and Tissue Donation After Death for more information.

6.4. Body Bequest Program

The Body Bequest Program at the University of Tasmania enables people to register to "donate their body to science". Where a donation is accepted, the University will make arrangements and meet expenses for the transport and eventual cremation of the person's body.

Donation after voluntary assisted dying is legal and possible in appropriate circumstances.

However, patients and Participating Practitioners need to be aware that the patient **must** have **completed and registered** the required donation paperwork with the University **prior to death**. They also need to be aware that there are occasions where a donation **cannot be accepted**. Donations may be declined due to the patient's condition or because of the University's storage limitations and cannot be accepted if the patient has been dead for more than five (5) days or if the patient's family does not wish the donation to proceed. All donations are considered on a case-by-case basis at the time of death and a final decision can only be made once a medical assessment has been completed. **That is, there is no guarantee that a person who has registered to donate their body will be able to do so.**

If the University decides not to accept a patient's body, it will not be responsible for the funeral arrangements or associated costs, and patients and their families will need to have alternative arrangements in place. This includes identifying who will complete the Declaration of Life Extinct and Medical Certificate of Cause of Death for the patient and contacting a funeral home to arrange for transport of the patient's body.

Participating Practitioners who are aware of a patient's request to donate their body to the University should strongly encourage the patient, and their family and Contact Person (if there is one) to review the University of Tasmania's Procedure to Follow Upon the Death of a Body Bequest Program Donor Fact Sheet, to make sure that alternative arrangements are in place in the event that donation to the University does not proceed, and to contact the Body Bequest Program on 1800 792 661 during

business hours if there are any questions or concerns about what those alternative arrangements should include.

See the University of Tasmania's Body Bequest Program website for more information.

7. Practitioner Determination of Eligibility

The Act requires a patient's eligibility to access voluntary assisted dying to be determined on four (4) separate occasions:

- A patient's Primary Medical Practitioner is required to determine whether the patient is, or is not, eligible to access voluntary assisted dying on three (3) separate occasions following acceptance of the patient's First Request, following receipt of the patient's Second Request, and following receipt of the patient's Final Request.
- A patient's Consulting Medical Practitioner is required to determine whether the patient is, or is not, eligible to access voluntary assisted dying following acceptance of the Primary Medical Practitioner's referral.

A patient's decision-making capacity and voluntariness is required to be determined for a fifth time by the patient's Administering Health Practitioner before the patient gives their Final Permission to access voluntary assisted dying. See Making a Final Determination and Taking a Patient's Final Permission for further information.

The process for determining the patient's eligibility, and the matters to be considered, are the same on each occasion.

7.1. Age Requirements

To be eligible to access voluntary assisted dying, a patient must be an adult (18 years of age or older).[60]

The patient's Participating Practitioner must be satisfied that the patient is at least 18 years of age. If required to inform their decision, the practitioner should sight and obtain copies of supporting documentation, such as the patient's driver licence, Australian birth certificate, Australian passport, or other photo identification.

7.2. Residency Requirements

To be eligible to access voluntary assisted dying, a patient must:

- be an Australian citizen, or a permanent resident of Australia, or have been resident in Australia for at least three continuous years immediately before making their First Request, and
- have been ordinarily resident in Tasmania for at least 12 continuous months immediately before they make their First Request.[61]

Where there is a longstanding relationship between the patient and the Participating Practitioner, it will likely be straightforward for the practitioner to determine the patient's eligibility against these criteria. If this is not the case, the practitioner should explicitly confirm the patient's citizenship or residency status with the patient and seek evidence of this.

[60] Ibid section 10(1)(a).
[61] Ibid sections 10(1)(b) and 11.

The supporting documentation required to confirm Australian citizenship depends on whether the patient was born overseas and when they were born. Further information is available on the Australian Government's Australian Passport Office website.

A patient's status as a permanent resident of Australia may be confirmed through the patient's proof of visa record from the patient's electronic visa record, held on the Visa Entitlement Verification Online system.

A patient's Australian residency status may be confirmed through supporting documentation such as bank statements, employment documentation, medical records, utility bills, and documentation from rental agreements.

A patient's Tasmanian residency status may be confirmed through evidence of:

- the day on which the patient was issued a Tasmanian, or interstate, driver licence, or
- the day on which the patient became enrolled to vote in a State, Territory, or Australian Government election, or
- the day on which the person purchased property or entered into a property lease or residential tenancy agreement in Tasmania.[62]

A patient may also provide a statutory declaration as to where the patient is or was ordinarily resident at a particular time.

To have been resident in Australia for at least three continuous years immediately before making a First Request, a patient must have been resident in Australia for at least three years of uninterrupted and unbroken periods of time, without cessation.

To have been ordinarily resident in Tasmania for at least 12 continuous months, a patient must have been ordinarily resident in Tasmania for at least 12 months of uninterrupted and unbroken periods of time.

A temporary absence will not prevent a patient from being ordinarily resident in either Australia or Tasmania; and a patient may be considered to be ordinarily resident in Australia or Tasmania if they can show a regular, habitual, deliberate and voluntarily adopted mode of life in a particular place the continuity of which has persisted despite temporary absences.

The Participating Practitioner should document any supporting documentation that informed their decision about the patient's Australian and Tasmanian residency in the patient's medical record.

If a patient's Participating Practitioner is unable to determine if the patient meets the residency requirements, the practitioner may ask the VAD Commission for advice about whether the patient meets, or does not meet, the requirements by calling 1800 568 956 or emailing vad.commission@health.tas.gov.au

If the VAD Commission advises the Participating Practitioner that the patient meets the residency requirements, the patient is taken to meet those requirements. If the VAD Commission advises the Participating Practitioner that the patient does not meet the residency requirements, the patient is taken

[62] Ibid section 11(5).

not to meet those requirements, unless and until the VAD Commission issues subsequent advice to the practitioner.

A decision by a patient's Participating Practitioner that the patient meets, or does not meet, the residency requirements is a decision that can be reviewed by the VAD Commission. This means that the patient, an agent of the patient, or a person that the VAD Commission is satisfied has a special interest in the patient's medical treatment and care, may apply to the VAD Commission for a review of the decision. See Applications to the VAD Commission for the Review of a Reviewable Decision for more information.

7.3. Decision-Making Capacity Requirements

To be eligible to access voluntary assisted dying, a person must have decision-making capacity.[63]

A person's decision-making capacity is specific to the type of decision that needs to be made and when the decision must be made. It can change or fluctuate and may be influenced by factors including the nature of the decision, the support the person has available to them to make the decision, the time of day, and the setting in which the decision is being made.

An adult with decision-making capacity has the right to make decisions about their life, including about their healthcare, where they live, and how they manage their finances and affairs.

Whether a patient has decision-making capacity in relation to a decision about voluntary assisted dying is outlined in section 9 of the Act.

That section makes it clear that:

- a patient must be presumed to have decision-making capacity in relation to a decision, and
- a patient may have the capacity to make some decisions and not others, and
- a patient's lack of capacity may be temporary and not permanent.

All adults must be **presumed to have decision-making capacity** unless there is evidence to the contrary. In good clinical practice, it should not be presumed that a person does not have decision making capacity because of a personal characteristic such as age, appearance, or language skills, because the person has a disability or illness or a history of trauma, or because the person makes a decision that other people may not agree with.

Under the Act, a patient's Participating Practitioner must not determine a patient's eligibility to access voluntary assisted dying unless the practitioner has met the patient after accepting the patient's First Request and been able, having met the patient, to determine the patient's decision-making capacity.[64] The meeting may be in person or by way of audio-visual link and may occur either during the same consultation or meeting in which the First Request is accepted, or at another consultation or meeting.

A person's decision-making capacity can fluctuate, and a person may temporarily lose capacity and then later regain it, for example due to the medications they are taking, or the presence of delirium.

[63] Ibid sections 10(1)(c) and 12.
[64] Ibid section 27(1).

When determining a patient's decision-making capacity, the Participating Practitioner should work with the patient to choose a time when the patient is likely to be at their best – that is, when the patient's symptom control is optimal, when they are least fatigued, and when they are not experiencing adverse effects from medication. Consideration may need to be given to treating reversible conditions that may be affecting a patient's decision-making capacity, such as infection, and to whether the patient needs to be given information in a way that is tailored to the patient's needs, including whether the patient needs communication assistance such as the use of technology to alleviate a patient's disability. Importantly, consideration should be given to the time that may be needed to discuss the matter with the patient and their family and support people.

It is not uncommon for people who are at the end of their life and experiencing suffering and a loss of hope to experience **depression**. The presence of depression in a patient does not mean that the patient has lost decision-making capacity.

It is also not uncommon for people who are at the end of their life and experiencing major physical illness to experience **cognitive impairment**. As with depression, the fact that a person has cognitive impairment does not automatically mean that the patient does not have decision-making capacity in relation to voluntary assisted dying. In each case, the Participating Practitioner may wish to explore with the patient how the presence of depression or cognitive impairment is affecting them, as part of determining whether the patient has decision-making capacity.

Other factors that may impact on a person's decision-making capacity in relation to voluntary assisted dying include severe financial stress or lack of carer support or sufficient other support services.

Practitioners routinely use their professional judgment to assess an individual's decision-making capacity in relation to other medical treatments and should draw on this experience in voluntary assisted dying-related determinations. **Table 9** lists factors that may be helpful in framing discussions about assessment of a patient's decision-making capacity. Practitioners may also wish to refer to the Tasmanian Capacity Toolkit for an overview of the guiding principles of decision-making capacity and clinical assessments in decision-making capacity.

If a patient's Participating Practitioner is unable to determine whether the patient has decision-making capacity, they must refer the patient to a suitably skilled and trained medical practitioner (who could be a psychiatrist) or a psychologist to decide about the patient's decision-making capacity. The Participating Practitioner may adopt the other practitioner's decision about the patient's decision-making capacity for the purposes of their determination. Referral Requirements provides more information about the referral process.

A decision by a patient's Participating Practitioner that the patient has, or does not have, decision-making capacity is a reviewable decision; and the patient, an agent of the patient, or a person that the VAD Commission is satisfied has a special interest in the patient's medical treatment and care, may apply to the VAD Commission for a review of the decision. See Applications to the VAD Commission for the Review of a Reviewable Decision for more information.

When assessing decision-making capacity, remember that voluntary assisted dying cannot be accessed for a patient via the patient's substitute decision-maker or Advance Care Directive.

Table 9: Factors of Relevance in Framing Decision-Making Capacity Discussions

Criterion	Patient's Task	Practitioner Approach	Questions for Clinical Assessment	Red Flags
Understand, remember, and use or evaluate the information or advice that is reasonably required to make the decision. Communicate the 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, their medical condition, their prognosis, the treatment options, the palliative care options, and the nature of voluntary assisted dying and the fact it would lead to their death. Also encourage the patient to express their thoughts and decision-making process around their medical condition and end-of-life choices.	What is the problem with your health now? How do you feel about your health now? What are your treatment options? What would happen if you are not treated for your health condition? What are the benefits of palliative care? What are the risks of palliative care? What is voluntary assisted dying? What would happen if you took the voluntary assisted dying substance?	Patient does not accept or remember their condition. Patient is unclear about their medical condition or prognosis. Patient fails to recount possible palliative care options. Patient fails to recount treatment options and their consequences. Patient fails to recount what would happen if they are not treated. Patient cannot remember their choices or express them in a consistent way.

7.4. Voluntariness Requirements

To be eligible to access voluntary assisted dying, a patient's practitioner must be satisfied that the patient is acting voluntarily and not because of duress, coercion, or because of a threat of punishment or unfavourable treatment, or a promise to give a reward or benefit to the patient or to another person.[65]

Duress and coercion are not always easy to identify. Although it may be an explicit threat or pressure, it is often unspoken or subtle, particularly in the case of vulnerable patients. It is important to recognise that duress and coercion may be perceived rather than actual.

Often, the possibility that a patient is not acting voluntarily will become clear during conversations about voluntary assisted dying. It is important to distinguish whether there is actual duress or coercion, or whether a patient is simply putting pressure on themselves.

The practitioner should take time to understand why the patient is requesting access to voluntary assisted dying. This will help to understand the patient's concerns and why they think that accessing voluntary assisted dying will address those concerns.

[65] Ibid sections 10 and 13.

If the patient is requesting access to voluntary assisted dying because they are worried that they are a burden on their family or carers, their situation should be explored. This may involve investigating other options for supportive or respite care. The practitioner should also seek to understand why the patient has raised this concern and what they mean by it. Some people may say that they feel like 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. In other cases, such comments may raise a “red flag” and prompt the practitioner to explore whether there are any elements of coercion underlying the patient’s request to access voluntary assisted dying.

Practitioners should also take care to identify the presence of depression or cognitive impairment and to assess the extent to which the patient’s condition may be impacting on their voluntariness, if at all.

The patient’s financial situation and the level of assistance they receive from others with everyday tasks may help to identify how reliant they are on others and, therefore, their ability to make an independent decision. Talking with the patient about their relationships and life may also help to identify whether they have multiple sources of influence and support.

It is also relevant for the Participating Practitioner to recognise if the patient is being coerced or pressured not to access voluntary assisted dying. A patient’s family, carers, loved ones, or others around them may be discouraging the patient in their choice to access voluntary assisted dying and a patient may choose not to proceed due to this pressure, even though voluntary assisted dying is their preferred option. In this case, the patient may need additional support and planning. The 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. Participating Practitioners who require support in managing potentially complex situations in general can seek assistance from the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au

In this situation, the practitioner should first talk with the patient on their own and, if appropriate and with the patient’s consent, with the patient’s family to gauge how they feel about the patient’s decision to request access to voluntary assisted dying and observe the family dynamics. Discussion with members of the patient’s treating team about observations and conversations they have had with the patient and their family may also provide useful insights into the motivation for the patient’s decision.

Assessing voluntariness can be difficult and depends on the facts of the situation. There is no formula, however indicators of possible pressure or duress 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 members or friends talking over the patient and answering questions on their behalf.
- Inconsistencies in the patient’s answers to questions about their suffering, illness experience, or about voluntary assisted dying in general.
- Carers, family, or friends threatening to withdraw care and support from the patient.

It may be necessary to talk with the patient away from others to determine if there is potential or perceived coercion. However, it is important not to apply this test too broadly. Many people will need advice from others before they decide: this doesn't mean that the decision wasn't made freely and voluntarily. The question is whether the patient can make the decision free of intimidation, pressure, or influence. Questions the Participating Practitioner could ask in their discussion with the patient include:

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

Elder abuse is a significant issue in Australia, and although voluntary assisted dying may be sought by adults with a terminal illness, injury, or other condition at any age, older people are statistically more likely to pursue voluntary assisted dying.

If there is a concern that the patient may be experiencing elder abuse, or domestic and family violence, financial abuse, or other forms of abuse, it is imperative that a safe, appropriate, and timely response is provided separate to the voluntary assisted dying process. This includes ensuring immediate safety, risk assessment, safety planning and management, and referral to a specialist service, as per usual clinical practice. Resources that might assist in such situations include the Responding to Family Violence Guide for Service Providers and Practitioners in Tasmania document and the Tasmania Police Family and Sexual Violence website.

In the case of suspected elder abuse, referrals can be made to the following:

- Legal Aid for Tasmanians – Senior Assist (1300 366 311)
- The Office of the Public Guardian Tasmania (1800 955 772)
- Elder Abuse Tasmania (1800 441 169)
- Advocacy Tasmania
- Relationships Australia Tasmania
- Council on the Ageing Tasmania

If urgent assistance is required, the practitioner should call Tasmania Police on Triple Zero (000).

If the Participating Practitioner is not satisfied that the patient's request to access voluntary assisted dying is being made voluntarily and free from pressure or duress, they must determine the patient to be ineligible to access voluntary assisted dying.

A decision by a patient's Participating Practitioner that the patient is, or is not, acting voluntarily is a reviewable decision; and the patient, an agent of the patient, or a person that the VAD Commission is satisfied has a special interest in the patient's medical treatment and care, may apply to the VAD Commission for a review of the decision. See Applications to the VAD Commission for the Review of a Reviewable Decision for more information.

7.5. Illness Requirements

The patient's Participating Practitioner must be satisfied that the patient is suffering intolerably in relation to a disease, illness, injury, or medical condition that is:

- **advanced**, **incurable**, and **irreversible**, and
- expected to **cause the person's death** within six (6) months (or within 12 months for neurodegenerative diseases like motor neurone disease).[66]

This requires assessing the patient's diagnosis and prognosis, as well as the patient's perception of the suffering they are experiencing because of their disease, illness, injury or medical condition and the options available to alleviate their suffering.

7.5.1. Diagnosis

The patient's Participating Practitioner must determine if the patient has at least one disease, illness, injury, or medical condition that is advanced, incurable, and irreversible, and expected to cause the patient's death within six (6) months, or within 12 months if the disease is a neurodegenerative disease.

Advanced refers to a point in the trajectory of the patient's condition.

A disease, illness, injury, or medical condition, is **incurable** and **irreversible** and **expected to cause the person's death** if there is no reasonably available treatment that:

- is acceptable to the person, and
- can cure or reverse the disease, illness, injury, or medical condition and prevent the person's expected death from the disease, illness, injury, or medical condition.

Determining whether a patient has an eligible diagnosis should take into account information obtained during the Primary Medical Practitioner's consultation with the patient, the patient's circumstances including their condition, comorbidities and treatment choices, and the entirety of the context of the patient's history and investigations, including relevant reports and information about the patient that have been prepared by, or at the instigation of, another registered health practitioner.

[66] Ibid sections 10, 6 and 14.

7.5.2. Prognosis

The Act requires the patient's disease to be expected to cause their death within six (6) months, or if the disease is neurodegenerative, within 12 months (the Act's life expectancy requirement).

The patient's Participating Practitioner is expected to use their clinical judgement to make this determination.

As with a determination of whether a patient has an eligible diagnosis, determining whether a patient has an eligible prognosis should take into account information obtained during the Participating Practitioner's consultation with the patient, the patient's circumstances including their condition, comorbidities and treatment choices, and the entirety of the context of the patient's history and investigations, including relevant reports and information about the patient that have been prepared by, or at the instigation of, another registered health practitioner.

During the last six (6) or 12 months of life, a person with a terminal condition may experience rapid and severe changes and fluctuations in their condition; and predicting when a patient is entering the final months of their life can be difficult.

Table 10 contains a list of resources which may be helpful in assessing whether the person's disease, illness or medical condition can be expected to cause death within the eligible six (6)- or 12-month period. These are for guidance only; they have not been developed specifically for voluntary assisted dying and are not intended to replace individual clinical judgement.

It is important that a patient's Participating Practitioner acts within their scope of experience and expertise in determining life expectancy and seeks a further opinion where necessary. See Referral Requirements for more information.

A person may choose to withdraw from active treatment for their condition towards the end of their life, and this may lead to a change in the patient's prognosis. In these circumstances, the patient's prognosis should be determined in the context of their treatment choice, and they may become eligible to access voluntary assisted dying where previously, they were not.

Conversely, a person may commence novel treatment for their condition, such as treatment that is only available under a clinical trial, which may extend their life expectancy. In these circumstances, consideration may need to be given to pausing or withdrawing from the voluntary assisted dying process. For more information, see Patient Withdrawal from the Voluntary Assisted Dying Process.

The VAD Commission may also determine that a patient is exempted from the Act's life expectancy requirement. The VAD Commission may only determine that a patient is exempted from the life expectancy requirement:

- if an application is received from the patient, and
- if the VAD Commission is satisfied that the patient's prognosis is such that the life expectancy requirement should not apply in relation to the patient, and
- following the receipt of advice from a medical practitioner who has specialist knowledge as to the patient's condition in relation the condition.[67]

[67] Ibid section 6.

An application may be made both if the patient does not agree with their Participating Practitioner's decision about their life expectancy and in circumstances where the Participating Practitioner is unable to make a determination.

Practitioners seeking more information about the VAD Commission's power to exempt a person from the Act's life expectancy requirement should contact the Office of the VAD Commission by calling 1800 568 956 or emailing vad.commission@health.tas.gov.au in the first instance. Practitioners are encouraged to contact the Office as soon as possible after they have determined that the patient is eligible to access voluntary assisted dying in every dimension except for the life expectancy requirement.

Table 10: Resources to assist with prognostication.

Resource	Contains	Notes
Australian-modified Karnofsky Performance Status Scale Abernethy AP, et al. 2005. *"The Australia-modified Karnofsky Performance Status (AKPS) Scale: a revised scale for contemporary palliative care clinical practice."* BMJ Palliative Care 4:7.	Measures the patient's overall performance status or ability to perform their activities of daily living.	Not a prognostic tool – mainly used by oncologists and palliative care clinicians as a flag for the likelihood of need for services, timing of interventions, and as outcome measurement for clinical programs and research.
Charlson Comorbidity Index Charlson ME, et al. 1987. "*A new method of classifying prognostic comorbidity in longitudinal studies: Development and validation".* Journal of Chronic Diseases 40(5): 373-83.	Validated tool which quantifies a person's burden of disease and mortality risk.	Internationally validated, disease specific, and easy to use using information from clinical notes.
CareSearch review collection – Prognosis CareSearch. 2023. *"CareSearch review collection - Prognosis".* Last modified September 2023.	Collection of systematic reviews relating to prognostication.	
Supportive and Palliative Care Indicators Tool The University of Edinburgh. *"SPICTTM: Supportive and Palliative Care Indicators Tool."* Last modified 2022.	Helps identify people at risk of deteriorating health and dying. Identifies general indicators of poor and deteriorating health; clinical indicators for cancer, heart/vascular disease, kidney disease, dementia/frailty, respiratory disease, liver disease and neurological disease; but doesn't narrow this down to a prognosis.	
The Gold Standards Framework Thomas K, et al. 2011. *"The GSF Prognostic Indicator Guidance 4th edition".* Last modified October 2011.	Guidance to help health practitioners with earlier identification of adult patients who are nearing the end of their life and may need additional support.	Relatively succinct tool with information and specifics about individual medical conditions. Uses the surprise question.

Resource	Contains	Notes
The surprise question van Lummel, EV, et al. 2022. *"The utility of the surprise question: A useful tool for identifying patients nearing the last phase of life? A systematic review and meta-analysis".* Palliative Medicine 36(7), pp. 1023–1046.	Asks "Would I be surprised if this patient died in the next 12 months?" to identify patients at high risk of death who might benefit from palliative care services.	High specificity and sensitivity.
NHMRC Clinical Trials Tool See also the University of Sydney website, *Assessing life expectancy for voluntary assisted dying may prove challenging*, Assessing life expectancy for voluntary assisted dying may prove challenging - The University of Sydney, accessed 21 February 2024.	Converts median survival times into ranges representing three (3) scenarios for survival: a best case, a worst case, and a typical range.	

7.5.3. Suffering

A further requirement for accessing voluntary assisted dying is that the patient's disease, illness, injury, or medical condition is causing persistent suffering that is, from the patient's perspective, intolerable.[68]

Suffering is complex and difficult to define. While it often occurs in the presence of physical pain, or other symptoms such as nausea/vomiting or dyspnoea, a person's experience of physical and psychological suffering can be the result of a range of interconnected factors, including:

- The disease, illness, or medical condition itself (alone, or in combination with the person's other medical conditions).
- The treatment provided for the disease, illness, or medical condition.
- Complications of the person's medical treatment.
- A wish to control the circumstances of their death.
- A desire to relieve distress over a loss of autonomy.

In relation to voluntary assisted dying, suffering is a subjective experience, to be determined by the patient. Despite exploration of measures to alleviate as much of a person's suffering as humanly possible, for some patients their suffering will be greater than their capacity to bear it.

[68] Ibid section 14.

7.5.4. Treatment

A disease, illness, injury, or medical condition, is incurable and irreversible and expected to cause the person's death if there is **no reasonably available treatment** that:

- is acceptable to the person, and
- can cure or reverse the disease, illness, injury, or medical condition and prevent the person's expected death from the disease, illness, injury, or medical condition.[69]

Reasonably available treatment is clinically proven treatment that is available to the patient in Australia within a reasonable timeframe and at a cost to the patient that is not prohibitive, and that the patient is willing to accept. As with suffering, whether treatment is reasonably available treatment is to be determined by the patient, with assistance from registered health practitioners.

7.6. Referral Requirements

A patient's Primary Medical Practitioner must not determine a patient's eligibility to access voluntary assisted dying without having sufficient information; and may refuse to determine a request until the practitioner has enough information to enable the determination to be made. This requirement applies equally to a patient's Consulting Medical Practitioner.[70]

Where there is a longstanding relationship between the patient and the Primary Medical Practitioner, the Primary Medical Practitioner may already have enough information to determine whether the patient is eligible to access voluntary assisted dying and/or to provide to the patient's Consulting Medical Practitioner to assist in their determination.

If needed for the Final Determination of a patient's decision-making capacity or voluntariness, the patient's Administering Health Practitioner may be required to also seek additional information. This is particularly likely if the patient's Administering Health Practitioner is not also their Primary Medical Practitioner.

A Participating Practitioner who requires more information or another opinion to enable the practitioner to determine whether the patient is eligible to access voluntary assisted dying, may do any one or more of the following:

- Refer the patient to another medical practitioner for examination.
- Ask the patient to provide the Primary Medical Practitioner or Administering Health Practitioner with information that the practitioner reasonably requires to make the determination.
- Ask a medical practitioner, or other medical record holder, for copies of the patient's medical records, where these are reasonably required for the practitioner to make the determination.
- Ask a registered health practitioner (including a psychiatrist or psychologist), or any other person that the practitioner thinks fit, to provide the practitioner with the information that the practitioner reasonably requires to make the determination.[71]

[69] Ibid sections 5 and 10.
[70] Ibid sections 27(2), 34(2), 48(2) and 56(2).
[71] Ibid sections 25, 32, 46, 54 and 76.

These steps may also be taken by a Primary Medical Practitioner who is asked by a patient's Consulting Medical Practitioner for more information to allow the Consulting Medical Practitioner to make a determination.

A person who is asked to provide information, or conduct an examination of the patient, must comply with the request as soon as reasonably practicable, unless they have a reasonable excuse.[72]

While the Act does not place any limitations on who can be asked to examine the patient, the Primary Medical Practitioner (or Administering Health Practitioner, in the case of a Final Determination) should seek to limit the potential for any perception that the voluntary assisted dying process has not been conducted appropriately by not referring the patient to practitioners who:

- are family members, or
- know, or believe, that they are likely to benefit from the patient's death (other than by receiving reasonable fees for the provisions of services as the patient's Primary Medical Practitioner, Consulting Medical Practitioner, or Administering Health Practitioner), or
- have a supervisory or contractual relationship with the Primary Medical Practitioner or Administering Health Practitioner.

Consideration should also be given to the other practitioner's understanding of the voluntary assisted dying process in Tasmania.

In line with good clinical practice, when a Primary Medical Practitioner or Administering Health Practitioner makes a referral, they should explain the reason for the referral to the patient.

If the Primary Medical Practitioner or Administering Health Practitioner does not accept the other practitioner's opinion, they should have robust reasons for their decision that are well documented.

[72] Ibid sections 25(2), 32(2), 46(2), 54(2) and 76(2).

8. Managing Requests

As outlined in **Figure 1**, the voluntary assisted dying process requires a patient to make three separate requests to their Primary Medical Practitioner - a First Request, a Second Request, and a Final Request.

8.1. Form Completion Requirements

While a patient's First Request may be made verbally or in writing, the patient's Second and Final Requests must be in writing, and the Second Request must be witnessed. Each of the requests must be made using a set Form that is filled and signed by the patient, or the patient's designated person. See Designated Persons for more information.

Patients who wish to make a First Request in writing may do so using **Form 1: Patient's First Request. Form 1.**

Patients who are determined to be eligible to access voluntary assisted dying following their First Request and who wish to make a Second Request may do so using **Form 6: Patient's Second Request**.

Patients who are determined to be eligible to access voluntary assisted dying following their First and Second Requests and by their Consulting Medical Practitioner and who wish to make a Final Request may do so using **Form 12: Patient's Final Request**.

While some patients will have no difficulty completing documentation in their final weeks or months, for others completing **Form 6** and **Form 12** can be challenging. Errors in the Forms can invalidate the Primary Medical Practitioner's subsequent determination of the patient's eligibility, resulting in the patient needing to re-complete the relevant Form and a new determination process. This can be very stressful for the patient and time consuming for the practitioner.

Form 6 can present particular challenges. This is due to the Act's witnessing requirements, which are strict and different to witnessing requirements that apply to other documentation that witnesses may be familiar with.

Fact Sheets highlighting common pitfalls in completing the Forms and giving detailed visual instructions for how to avoid them are available to assist patients, and any designated person that may be involved.

Primary Medical Practitioners are strongly encouraged to provide patients with **two (2) copies** of each of the relevant Forms, and with the accompanying Fact Sheets, at an early point in time. Providing patients with copies of the Forms and the Fact Sheets early in the relevant part of the voluntary assisted dying process allows patients, and designated persons, if applicable, to familiarise themselves with the Forms and with the requirements for their completion ahead of time and to ask any questions that they may have about them. Providing patients with two (2) copies of the Forms avoids the need for Forms to be re-provided in the event of errors in their completion.

Form 1, Form 6, and **Form 12,** and accompanying **Fact Sheets**, are available in printed or electronic formats from the Office of the VAD Commission by calling 1800 568 956 or emailing vad.commission@health.tas.gov.au. Practitioners can ask the Office of the VAD Commission to provide them with the Forms and Fact Sheets for on-provision to the patient. Alternatively, the Office can provide the Forms and Fact Sheets directly to the patient on an "as needed" basis.

Form 1 and the accompanying Fact Sheet can also be downloaded from the Department of Health's website.

Primary Medical Practitioners are also strongly encouraged to review Second and Final Request Forms that are provided to them to check that they are accurately filled and signed. Practitioners who are unsure about whether a Form is accurately filled and signed can provide a copy of the Form to the Office of the VAD Commission for review by emailing it to vad.commission@health.tas.gov.au

8.2. Request Timing Requirements

8.2.1. Request Timing Requirements

The gap between a patient's First Request and Second Request, and between a patient's Second Request and Final Request, must be 48 hours or more. This period can be waived in circumstances where the Primary Medical Practitioner is of the opinion that the patient is likely to:

- die within seven (7) days, or
- cease to have decision-making capacity within 48 hours.

Primary Medical Practitioners who believe that the 48 hour period ought to be waived are encouraged to contact the Office of the VAD Commission on 1800 568 956 or vad.commission@health.tas.gov.au so that appropriate steps can be taken to expedite the "Manual Portal" process.

8.2.2. Ensuring that the Process is Sequential

Voluntary assisted dying is a sequential process. A patient cannot make a Second Request to access voluntary assisted dying until the patient's First Request has been determined. Similarly, a patient cannot make a Final Request until the patient's Consulting Medical Practitioner has determined the patient to be eligible to access voluntary assisted dying. These requirements are a requirement of the Act and are inflexible, and even inadvertent failure to comply with them may render a part of the patient's voluntary assisted dying process invalid.

Primary Medical Practitioners are strongly encouraged to keep the sequential nature of the process in mind when considering the timing of a patient's requests.

8.2.3. When is a Request "Made"?

A patient's First, Second and Final Request is made when it is given to the Primary Medical Practitioner. This may be different to the date that the relevant Form was filled and signed.

Primary Medical Practitioners who are given a request Form that was filled and signed some time prior are encouraged to have a discussion with the patient to confirm that the patient still wishes to proceed

with the Request and may wish to ask the patient to complete a new Form to ensure more contemporaneous evidence of the patient's ongoing wish to access voluntary assisted dying.

9. First Request

A person who wishes to access voluntary assisted dying may ask their medical practitioner to determine whether the person is eligible to access voluntary assisted dying. This is the patient's First Request.

A patient's First Request will be valid if the patient has received the *Relevant Facts* **in person from the medical practitioner to whom the First Request is made.**

When a valid First Request is made, the medical practitioner must decide whether to accept or refuse the request.

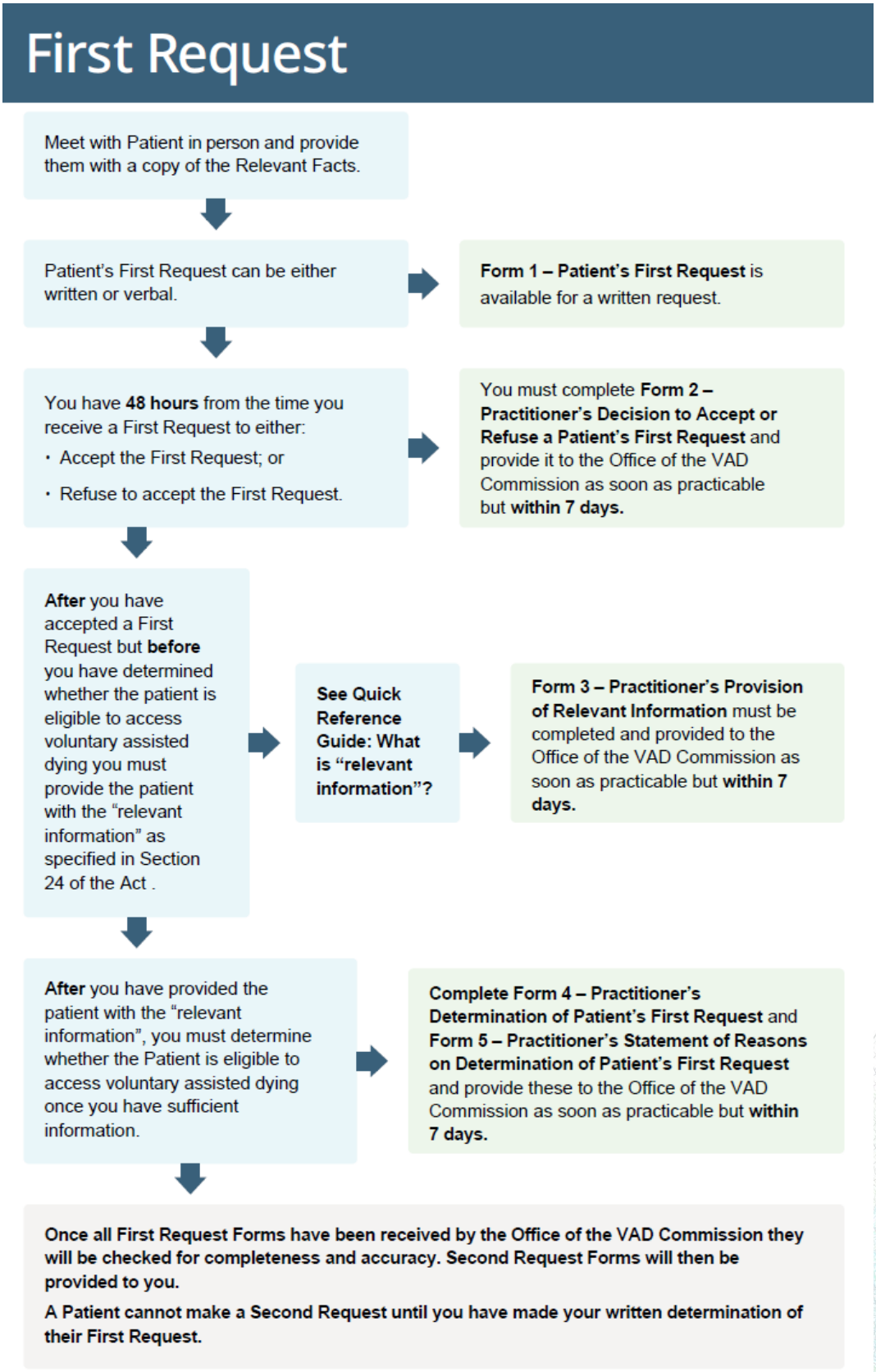
If the medical practitioner to whom a First Request is made **is not** an authorised medical practitioner in relation to the person, the request must be refused. Patients are unlikely to know which medical practitioners are authorised medical practitioners. For support in finding an authorised medical practitioner, patients can contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au

All medical practitioners have obligations under the Act when a patient makes a First Request to them, even if they refuse the request.

A medical practitioner who **is** an authorised medical practitioner and who accepts a patient's First Request becomes the patient's Primary Medical Practitioner.

Figure 2 outlines the steps in the First Request stage of the voluntary assisted dying process.

Figure 2: First Request - Steps



9.1. Patient Makes a First Request (Step 1)

A First Request may be made verbally, or in writing.[73]

To be valid, the person making the request must have received the *Relevant Facts* from the medical practitioner to whom they make their request.[74]

A person who attempts to make a First Request to a medical practitioner before they have received the *Relevant Facts* from that practitioner must be given a copy of the *Relevant Facts* by that practitioner.[75]

The person making the request must have received the *Relevant Facts* from the medical practitioner in person, and not by way of audio-visual link, by email, via a colleague, or by directing the person to the Department of Health's website to download the document.

In the case of a First Request that is made verbally, the person must have also clearly indicated to the medical practitioner to whom they make their request that the person wishes to access voluntary assisted dying. This indication must be made to the medical practitioner in person and not by way of audio-visual link.[76]

That is, at least one face to face meeting with the person will be required; and, in the case of a verbal request, a second face to face meeting may be needed.

A patient who chooses to make their First Request in writing can use **Form 1: Patient's First Request. Form 1.**

Whether a written First Request is made using **Form 1** or given in some other form, it must be signed by either the person, or by the person's designated person on the patient's behalf. See Designated Persons for more information.

A First Request may be made in any setting, including in the person's home, at a meeting, or during a scheduled medical consultation between the patient and the medical practitioner.

A First Request can only be made by the person seeking to access voluntary assisted dying, and a First Request cannot be made using an advance care directive or by the person's guardian or other substitute decision-maker. See Advance Care Planning and Voluntary Assisted Dying for more information.

A First Request can only be made to a medical practitioner.

9.1.1. Recognising a First Request

People seeking access to voluntary assisted dying do not have to use the words "voluntary assisted dying" in their First Request. Statements such as "how can I get medication to end my life" or "how can I access euthanasia" may be sufficient to constitute a First Request. Medical practitioners should confirm that a person who appears to be making a First Request is making a request for access, and not simply seeking further information about voluntary assisted dying generally.

[73] Ibid section 18(2).
[74] Ibid section 18(2).
[75] Ibid section 18(6).
[76] Ibid section 18(3).

To determine if a person is making a First Request, the medical practitioner may wish to:

- Carefully explore what the person is asking with curiosity, respect and in a non-judgemental way, so that they can be very clear about exactly what it is the person wants from them.
- Empathise with the person's experience of distress or suffering and ask clarifying questions to understand its source.
- Clarify their circumstances, including their understanding of their diagnosis and prognosis, palliative care and other treatment options, any unmet needs, and the motivation for their request.
- Explore whether the desire for an assisted death is persistent, intermittent, or new.
- Ascertain the person's values and preferences for end-of-life care, with specific attention to their culture and beliefs.

Regardless of whether the person's request is a First Request, if the person has clearly indicated to a medical practitioner that they wish to access voluntary assisted dying, the medical practitioner must provide the person with the VAD Commission's contact details.[77] This obligation applies regardless of whether the medical practitioner has a conscientious objection to voluntary assisted dying and regardless of whether the medical practitioner thinks that the person is eligible, or ineligible, to access voluntary assisted dying. It may be discharged by providing the person with a copy of the VAD Commission's Business Card, copies of which may be obtained from the Office of the VAD Commission by calling 1800 568 956 or emailing vad@health.tas.gov.au

9.2. Medical Practitioner Decides Whether to Accept, or Refuse to Accept, the First Request (Step 2)

A medical practitioner to whom a First Request is made must either accept the request, or refuse to accept the request, **within 48 hours** of the request being made.[78]

When deciding whether to accept or refuse a First Request, the medical practitioner must consider:

- Whether they are an authorised medical practitioner in relation to the person making the request.
- Their ability to commit to acting as the person's Primary Medical Practitioner.
- Their professional context and the local policies and procedures of their facility or employer.

See Primary Medical Practitioner for more information about eligibility and an overview of the Primary Medical Practitioner's responsibilities.

9.2.1. Refusing a First Request

A medical practitioner may refuse to accept a person's First Request for any reason, including (but not limited to) because the practitioner has a conscientious objection to voluntary assisted dying.[79]

A medical practitioner must refuse to accept a person's First Request if the medical practitioner is not an authorised medical practitioner.[80]

[77] Ibid section 18(1).
[78] Ibid section 19.
[79] Ibid section 20(2).
[80] Ibid section 20(1).

If the medical practitioner refuses to accept the person's First Request, they must notify the person, and the VAD Commission, of their decision. They must also make a note in their medical records to indicate that the person has made a First Request and that they have refused to accept the request. These actions must be taken as soon as reasonably practicable and **within seven (7) days** of refusing the request.[81]

The medical practitioner can discharge their obligation to notify the VAD Commission of their refusal by completing **Form 2: Practitioner's Decision to Accept or Refuse Patient's First Request** and providing the completed Form to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

A medical practitioner who refuses a person's First Request may give the persons, and the VAD Commission, reasons for the refusal but does not have to do so.[82]

While the Act provides a medical practitioner with seven (7) days in which to notify the person of a decision to refuse the person's First Request, notifying the person sooner will provide more time in which to identify a medical practitioner who is an authorised medical practitioner willing to act as the person's Primary Medical Practitioner and is encouraged wherever possible.

9.2.2. Accepting a First Request

A medical practitioner may only accept a person's First Request if they are an authorised medical practitioner.

A medical practitioner who accepts a person's First Request becomes the person's Primary Medical Practitioner.[83]

If the medical practitioner accepts the person's First Request, they must notify the person, and the VAD Commission, of their decision. They must also make a note in their medical records to indicate that the person has made a First Request and that they have accepted the request. These actions must be taken as soon as reasonably practicable and **within seven (7) days** of accepting the request.[84]

The medical practitioner can discharge their obligation to notify the VAD Commission of their acceptance by completing **Form 2: Practitioner's Decision to Accept or Refuse Patient's First Request** and providing the completed Form to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

[81] Ibid section 20(3).
[82] Ibid section 21.
[83] Ibid section 22.
[84] Ibid section 23.

9.3. Primary Medical Practitioner Provides the Relevant Information (Step 3)

After accepting a patient's First Request, but before determining it, a patient's Primary Medical Practitioner is required to give the patient information about:

- The patient's terminal illness, injury, or other condition and any other conditions (if any) that may affect the illness, injury or condition, or its treatment.
- Treatments that have been, or that may be, administered to the patient for the terminal illness, injury, or other condition and for the patient's other conditions (if any), and medical complications that have arisen, or that may arise, from the treatment or treatments.
- The patient's prognosis.
- The reasonably available treatments that may relieve the patient's suffering arising from the terminal illness, injury, or other condition and any other conditions, including suffering arising from the patient's anticipation or expectation of suffering that may arise from the illness, treatment, and medical complications that have arisen or that may arise.
- Information about palliative care options.[85]

The information can be given in writing or verbally and may be sent electronically.

This information is referred to in the Act as the "relevant information in relation to the person's request" (or Relevant Information) and is separate to, and additional to, the general and patient-specific information that may have been provided to the patient before their First Request, the information that is set out in the *Relevant Facts*, which is general in nature, and the information that is required to be included in the practitioner's determination of the patient's First Request (the "Relevant Information about Eligibility" – see Primary Medical Practitioner Documents the First Request (Step 5)).

The Primary Medical Practitioner must notify the VAD Commission that they have given the patient the Relevant Information. The notification must be made as soon as reasonably practicable and **within seven (7) days** of the Relevant Information having been given.[86]

The Primary Medical Practitioner can discharge their obligation to notify the VAD Commission that the Relevant Information has been given by completing **Form 3: Practitioner's Provision of Relevant Information** and providing the completed Form to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

The Primary Medical Practitioner is not required by the Act to make a note in their medical records for the patient that the Relevant Information has been given. The Primary Medical Practitioner may choose to do so, nonetheless.

[85] Ibid section 24.
[86] Ibid section 24(3).

9.4. Primary Medical Practitioner Determines the First Request (Step 4)

To be able to access voluntary assisted dying, a patient must be determined by their Primary Medical Practitioner, following their First Request, to be eligible to access voluntary assisted dying.[87] This requires the Primary Medical Practitioner to decide about each of the eligibility criteria set out in section 10 of the Act and referred to in Practitioner Determination of Eligibility.

The Primary Medical Practitioner may refuse to make a determination until the practitioner has sufficient information; and, conversely, must not determine that the patient is eligible to access voluntary assisted dying until the practitioner has sufficient information to enable the practitioner to make a determination. See Referral Requirements for more information.[88]

Beyond those requirements, there is no timeframe in which the determination must be completed. It can occur at any time after the First Request is accepted, in line with the patient's preferences, practitioner availability and preferences, and other relevant factors including the patient's prognosis.

In practice, the determination may be made at the same meeting or during the same consultation as the First Request is accepted and the Relevant Information is given, provided the Primary Medical Practitioner has sufficient information and to do so is suitable in the circumstances.

The Primary Medical Practitioner does not need to notify the VAD Commission that the First Request has been accepted, and that the Relevant Information has been provided, before determining the First Request.

If the patient's Primary Medical Practitioner determines that the patient is eligible to access voluntary assisted dying, and if the patient consents, the Primary Medical Practitioner must:

- give a member of the patient's family, if any, a copy of the *Relevant Facts*, and
- take all reasonable steps to explain to the family member the patient's plan to access voluntary assisted dying including the arrangements to be made in relation to the patient's body if the patient is intending to choose private self-administration.[89]

[87] Ibid section 28.
[88] Ibid section 27(2).
[89] Ibid section 27(4).

9.5. Primary Medical Practitioner Documents the First Request (Step 5)

A Primary Medical Practitioner's determination of the patient's First Request must be in writing. It must also contain the following information about the patient's eligibility to access voluntary assisted dying (the "Relevant Information about Eligibility"):

- Information about whether the patient meets the age requirements.
- Information about whether the patient meets the residency requirements.
- Information about whether the patient has decision-making capacity.
- Information about whether the patient is acting voluntarily.
- Information about the patient's illness requirements.
- Information about the patient's prognosis.
- Information about treatment for the patient's illness that is available and that may relieve the patient's suffering.

A Primary Medical Practitioner's determination will not be made until it is documented in writing. The Primary Medical Practitioner can ensure compliance with their obligation to document their determination of the patient's First Request appropriately by completing **Form 4: Practitioner's Determination of Patient's Final Request.**

9.5.1. Notification Requirements

The Primary Medical Practitioner must notify the patient of their determination. They must also place the determination (or a copy of the determination) on their medical records for the patient and give the VAD Commission a copy of the determination. These actions must be taken as soon as reasonably practicable and **within seven (7) days** of the determination being made.[90]

If asked to do so by the patient, the Primary Medical Practitioner may also provide the patient's usual medical practitioner with a copy of their determination.[91]

The Primary Medical Practitioner can discharge their obligation to give the VAD Commission a copy of the determination by providing completed **Form 4: Practitioner's Determination of Patient's Final Request** to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

[90] Ibid section 29(2).
[91] Ibid section 29(3).

9.6. Primary Medical Practitioner Documents their Reasons for Determination (Step 6)

In addition to giving the VAD Commission a copy of their determination, a patient's Primary Medical Practitioner must also give the VAD Commission a statement setting out the reasons for their determination (a Statement of Reasons).[92]

The Primary Medical Practitioner can discharge their obligation to provide the VAD Commission with a copy of their Statement of Reasons by completing **Form 5: Practitioner's Statement of Reasons on Determination of First Request** and providing completed **Form 5** to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

There is no requirement for the Primary Medical Practitioner to give the patient, or any other person, a copy of **Form 5**. However, if asked to do so by the patient, the Primary Medical Practitioner may provide the patient's usual medical practitioner with completed **Form 5** also.

[92] Ibid section 29(1)(c).

10. Second Request

A patient who wishes to access voluntary assisted dying and who has been determined by their Primary Medical Practitioner, following their First Request, to be eligible to access voluntary assisted dying may make a second request to access voluntary assisted dying. This is the patient's Second Request and can only be made once the patient's First Request has been determined.

The gap between the patient's First Request and their Second Request must be 48 hours or more. This period can be waived in certain circumstances. See Request Timing Requirements for further information.

Figure 3 outlines the steps in the Second Request stage of the voluntary assisted dying process.

10.1. Patient Makes a Second Request (Step 1)

A Second Request must be made in writing using **Form 6: Patient's Second Request.**

A patient's Second Request is made when it is **given** to the patient's Primary Medical Practitioner.[93]

For a patient's Second Request to be valid:

- It must be filled, and signed, by either the patient or by the patient's designated person - see Designated Persons for more information.
- It must be given to the patient's Primary Medical Practitioner after the Primary Medical Practitioner has determined the patient's First Request.
- A single Commissioner for Declarations, or two other witnesses, must have observed the patient, and/or the designated person (if there is one - see Designated Persons for more information) - complete and sign **Form 6**, in the patient's presence.[94]

10.1.1. Witnessing Requirements

A single Commissioner for Declarations, or two (2) other witnesses, must have observed **Form 6** being completed and signed. If the person who observes **Form 6** being completed and signed is a Commissioner for Declarations, then only one (1) witness is required. The patient must have been present while **Form 6** is completed and signed, and this must be confirmed by the witness or witnesses.[95]

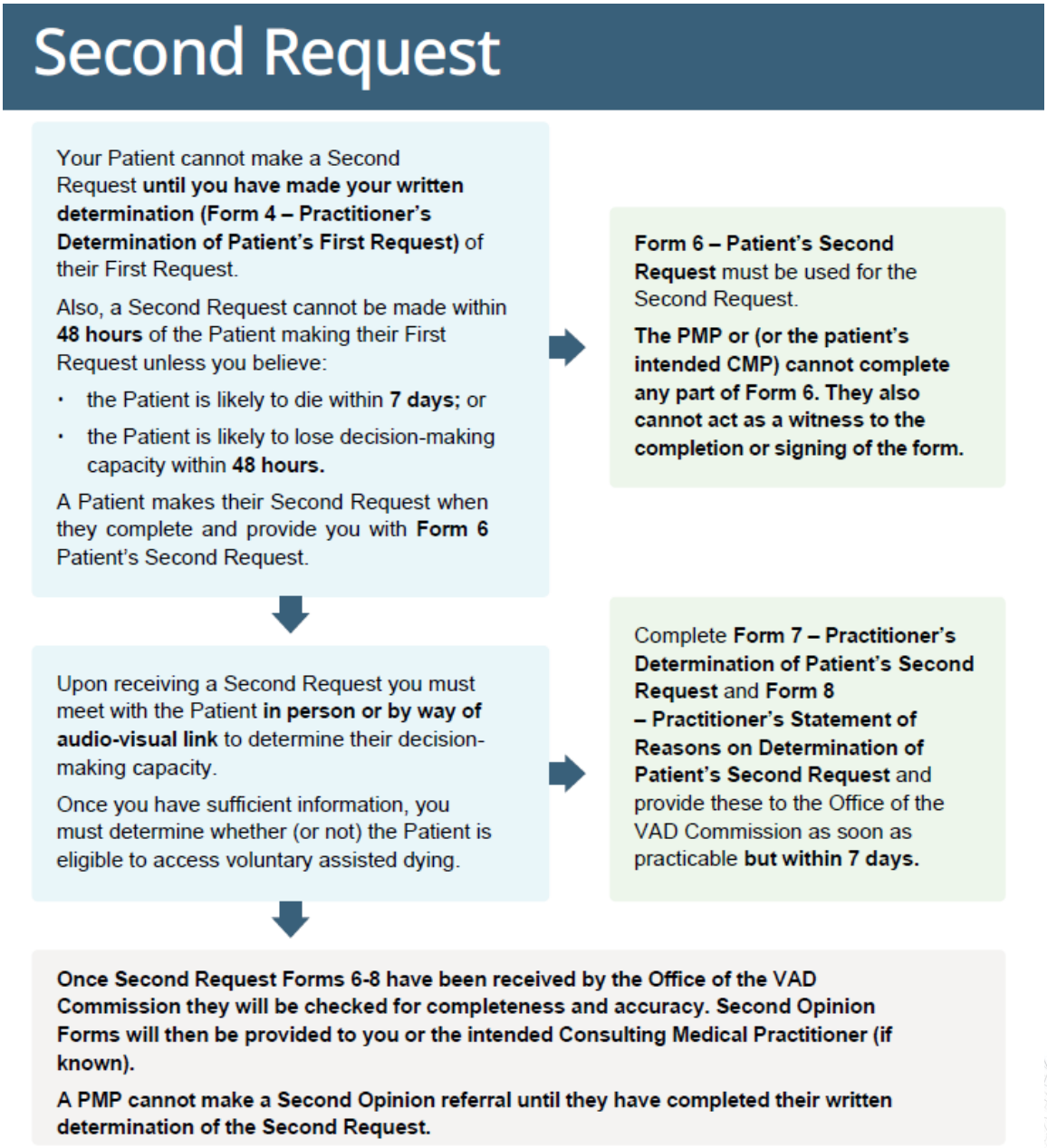
A person can be a Commissioner for Declarations because of their profession or employment. A person can also be appointed as a Commissioner for Declarations.

Medical practitioners, nurses, pharmacists, dentists, legal practitioners, and veterinary surgeons are all Commissioners for Declarations because of their profession.

Justices of the Peace, registered marriage celebrants, Members of Parliament and police officers are all Commissioners for Declarations because of their employment.

[93] Ibid section 30(3).
[94] Ibid sections 30 and 31.
[95] Ibid section 31.

Figure 3: Second Request – Steps



More information about Commissioners for Declarations, including a full list of professions and types of employment that can make a person a Commissioner for Declarations, can be found on the Department of Justice website.

Rules if the witness is a Commissioner for Declarations

If the witness is a single Commissioner for Declarations, that person may not be:

- the patient's Primary Medical Practitioner, or
- the patient's designated person - see Designated Persons for more information, or
- a member of the patient's family, or
- a person who is likely to be benefit from the patient's death, other than by receiving reasonable fees for the provision of services to the patient, or
- the patient's residential care provider or a person who works or acts for the patient's residential care provider, or
- if the patient lives in a facility that is owned or operated by a residential care provider – another resident of the facility.[96]

Rules if there are two (2) witnesses (neither of whom is a Commissioner for Declarations)

If there are two (2) witnesses, neither of the witnesses can be the patient's Primary Medical Practitioner or designated person – see Designated Persons for more information.

Only one (1) of the witnesses can be:

- a member of the patient's family, or
- a person who is likely to be benefit from the patient's death, other than by receiving reasonable fees for the provision of services to the patient, or
- the patient's residential care provider or a person who works or acts for the patient's residential care provider, or
- if the patient lives in a facility that is owned or operated by a residential care provider – another resident of the facility.[97]

10.2. Primary Medical Practitioner Determines the Second Request (Step 2)

To be able to access voluntary assisted dying, a patient must be determined by their Primary Medical Practitioner, following the making of a Second Request, to be eligible to access voluntary assisted dying.[98] This requires the Primary Medical Practitioner to decide about each of the eligibility criteria set out in section 10 of the Act and referred to in Practitioner Determination of Eligibility.

A patient's Primary Medical Practitioner may not determine a patient's Second Request unless the practitioner has met the patient after receiving the Second Request and has been able, having met the patient, to determine the patient's decision-making capacity.[99]

[96] Ibid section 31.
[97] Ibid.
[98] VAD Act (n 1) section 34(3).
[99] Ibid section 34(1).

The Primary Medical Practitioner may refuse to make a determination until the practitioner has sufficient information; and, conversely, must not determine that the patient is eligible to access voluntary assisted dying until the practitioner has sufficient information to enable the practitioner to make a determination.[100] See Referral Requirements for more information.

Beyond those requirements, there is no timeframe in which the determination must be completed. It can occur at any time after the Second Request is made, in line with the patient's preferences, practitioner availability and preferences, and other relevant factors including the patient's prognosis, provided the practitioner has sufficient information and to do so is appropriate in the circumstances.

10.3. Primary Medical Practitioner Documents the Second Request Determination (Step 3)

A Primary Medical Practitioner's determination of the patient's Second Request must be in writing. It must also contain the following information about the patient's eligibility to access voluntary assisted dying (the "Relevant Information about Eligibility"):

- Information about whether the patient meets the age requirements.
- Information about whether the patient meets the residency requirements.
- Information about whether the patient has decision-making capacity.
- Information about whether the patient is acting voluntarily.
- Information about the patient's illness requirements.
- Information about the patient's prognosis.
- Information about treatment for the patient's illness that is available and that may relieve the patient's suffering.[101]

A Primary Medical Practitioner's determination will not be made until it is documented in writing. The Primary Medical Practitioner can ensure compliance with their obligation to document their determination of the patient's Second Request appropriately by completing **Form 7: Practitioner's Determination of Patient's Second Request**.

10.3.1. Notification Requirements

The Primary Medical Practitioner must notify the patient of their determination. They must also place the determination (or a copy of the determination) on their medical records for the patient and give the VAD Commission a copy of the determination. These actions must be taken as soon as reasonably practicable and **within seven (7) days** of the determination.[102]

If asked to do so by the patient, the Primary Medical Practitioner may also provide the patient's usual medical practitioner with a copy of their determination.[103]

The Primary Medical Practitioner can discharge their obligation to give the VAD Commission a copy of the determination by providing completed **Form 7: Practitioner's Determination of Patient's Second**

[100] Ibid section 34(2).
[101] Ibid section 35.
[102] Ibid section 36(1).
[103] Ibid section 36(2).

Request to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

10.4. Primary Medical Practitioner Documents their Reasons for Determination (Step 4)

In addition to giving the VAD Commission a copy of their determination, a patient's Primary Medical Practitioner must also give the VAD Commission a statement setting out the reasons for their determination (a Statement of Reasons).[104]

The Primary Medical Practitioner can discharge their obligation to provide the VAD Commission with a copy of their Statement of Reasons by completing **Form 8: Practitioner's Statement of Reasons on Determination of Patient's Second Request** and providing completed **Form 8** to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

There is no requirement for the Primary Medical Practitioner to give the patient, or any other person, a copy of **Form 8.** However, if asked to do so by the patient, the Primary Medical Practitioner may provide the patient's usual medical practitioner with completed **Form 8** also.

[104] Ibid section 36(1)(c).

11. Second Opinion

A patient's Primary Medical Practitioner who has determined a patient's Second Request to access voluntary assisted dying by determining that the patient is eligible to access voluntary assisted dying must refer the patient to another medical practitioner for that medical practitioner to determine whether the patient is eligible to access voluntary assisted dying.[105] This is the Second Opinion Referral and can only be made once the patient's Second Request has been determined.

The medical practitioner to whom a referral has been made must decide whether to accept or refuse the referral.[106]

If the medical practitioner to whom a referral is made is not an authorised medical practitioner in relation to the person, the referral must be refused.[107] A patient's Primary Medical Practitioner may not know which medical practitioners are authorised medical practitioners. For support in finding an authorised medical practitioner willing to accept a referral, Primary Medical Practitioners can contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au

A medical practitioner who is an authorised medical practitioner and who accepts a referral becomes the patient's Consulting Medical Practitioner.[108]

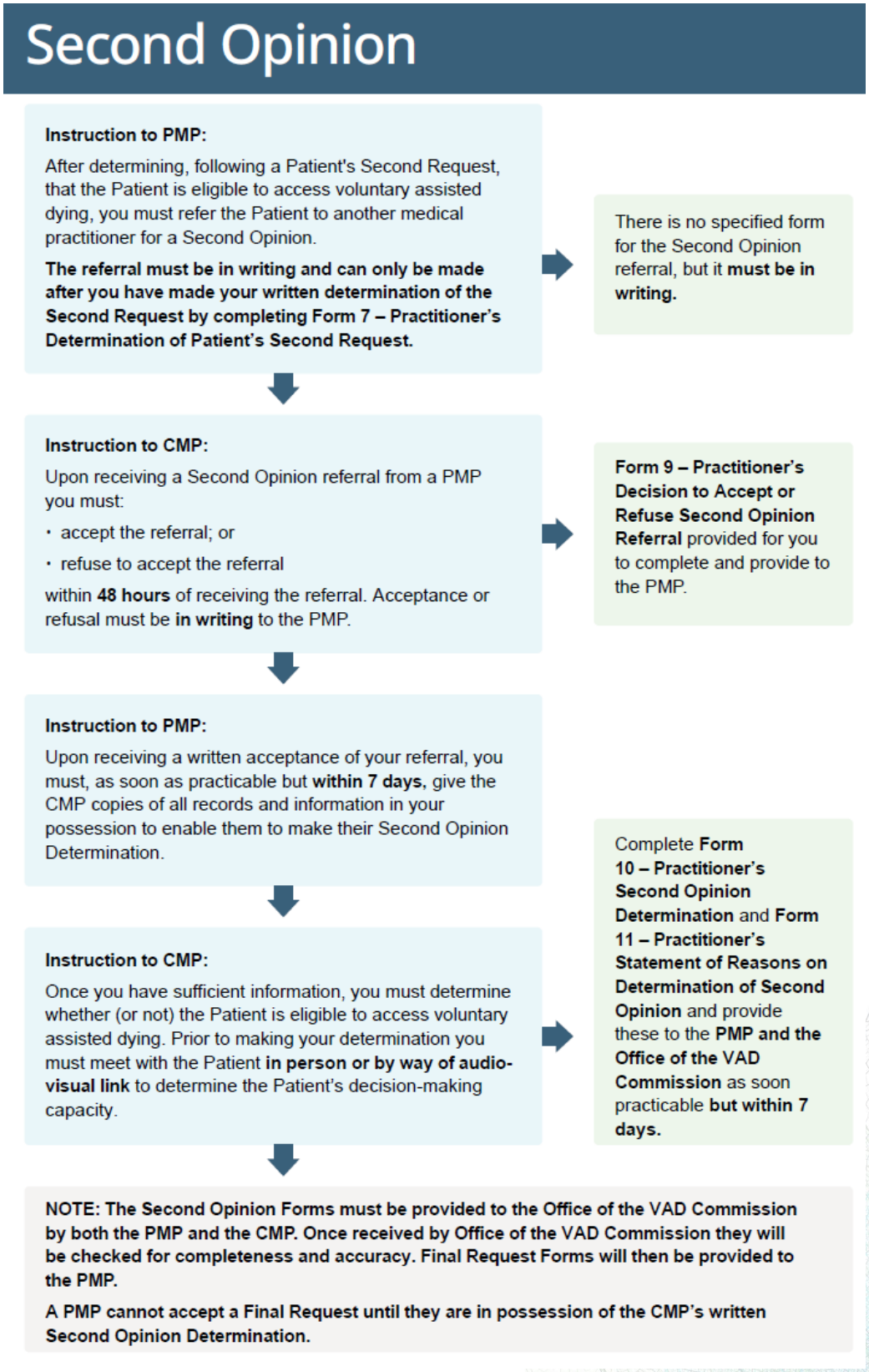
If a patient's Consulting Medical Practitioner determines the patient to be ineligible to access voluntary assisted dying, a subsequent Second Opinion Referral can be made, with the patient's consent.[109]

If, however, two Consulting Medical Practitioners determine that a patient is ineligible to access voluntary assisted dying, the voluntary assisted dying process ends for the patient.[110]

Figure 4 outlines the steps in the Second Opinion stage of the voluntary assisted dying process.

[105] Ibid section 37(1).
[106] Ibid section 39.
[107] Ibid section 40(1).
[108] Ibid section 42.
[109] Ibid sections 37(3) and 38(2).
[110] Ibid section 39(1).

Figure 4: Second Opinion - Steps



11.1. Primary Medical Practitioner Makes a Referral (Step 1)

A Second Opinion Referral can only be made by the patient's Primary Medical Practitioner; and can only be made to another medical practitioner.

There are some limitations on who a Second Opinion Referral can be made to. Specifically, a patient's Primary Medical Practitioner may not refer the patient to a medical practitioner who:

- is a member of the Primary Medical Practitioner's family, or
- has an employment or supervisory relationship with the Primary Medical Practitioner.[111]

A Second Opinion Referral must be made in writing and may be made by letter, or by email, fax, or text, with the Consulting Medical Practitioner's approval.

A Second Opinion Referral that is given in person is taken to have been made when it is given to the intended Consulting Medical Practitioner or left at the practitioner's address.[112]

A Second Opinion Referral that is posted is taken to have been made at the time when the correspondence would be delivered in the ordinary course of post.[113]

A Second Opinion Referral that is emailed or faxed is taken to have been made when the email or fax reaches the intended Consulting Medical Practitioner's email address or fax machine.[114]

11.2. Medical Practitioner Decides Whether to Accept, or Refuse to Accept, the Second Opinion Referral (Step 2)

A medical practitioner to whom a Second Opinion Referral is made must either accept the referral, or refuse to accept the referral, **within 48 hours** of the referral.[115] By accepting the referral, the practitioner is agreeing to assume the role of Consulting Medical Practitioner for the patient and to fulfil all the associated responsibilities.

When deciding whether to accept or refuse a Second Opinion Referral, the medical practitioner must consider:

- Whether they are an authorised medical practitioner in relation to the person making the request.
- Whether they are a member of the Primary Medical Practitioner's family.
- Whether they have an employment or supervisory relationship with the Primary Medical Practitioner.
- Their ability to commit to acting as the patient's Consulting Medical Practitioner.
- Their professional context and the local policies and procedures of their facility or employer.

The practitioner should also consider whether they are prepared to become the patients' Primary Medical Practitioner if the Primary Medical Practitioner can no longer continue in the role. While inability

[111] Ibid section 37(2).
[112] *Acts Interpretation Act 1931 (Tas)* ('AIA'), section 29AB.
[113] AIA (n 112), section 30.
[114] *Electronic Transactions Act 2000 (Tas)*, ('Electronic Transactions Act'), section 11A.
[115] VAD Act (n 1) section 39.

or unwillingness to become the patient's Primary Medical Practitioner should not be the deciding factor in whether a Second Opinion Referral is accepted, it may influence the patient's future management.

See Consulting Medical Practitioner for more information about eligibility and an overview of the Consulting Medical Practitioner's responsibilities.

11.2.1. Refusing a Referral

A medical practitioner may refuse to accept a Second Opinion Referral for any reason, including (but not limited to) because the practitioner has a conscientious objection to voluntary assisted dying.[116]

A medical practitioner must refuse to accept a Second Opinion Referral if the medical practitioner is not an authorised medical practitioner or if the practitioner is a person to whom a referral cannot be made – for example, if they are a member of the Primary Medical Practitioner's family.[117]

A medical practitioner who refuses a Second Opinion Referral may give the referring Primary Medical Practitioner, and the VAD Commission, reasons for the refusal but does not have to do so.

11.2.2. Accepting a Referral

A Second Opinion Referral is taken to have been accepted when notice in writing of the acceptance is provided to the patient's Primary Medical Practitioner.

An acceptance must be made in writing and may be provided by letter, or by email, fax, or text with the Primary Medical Practitioner's approval.

An acceptance that is given in person is taken to have been provided when it is given to the referring Primary Medical Practitioner or left at the practitioner's address.[118]

An acceptance that is posted is taken to have been provided at the time when the correspondence would be delivered in the ordinary course of post.[119]

An acceptance that is emailed or faxed is taken to have been provided when the email or fax reaches the intended Consulting Medical Practitioner's email address or fax machine.[120]

A medical practitioner who accepts a Second Opinion Referral becomes the person's Consulting Medical Practitioner.[121]

A medical practitioner may only accept a Second Opinion Referral if they are an authorised medical practitioner.

[116] Ibid section 40(2).
[117] Ibid section 40(1).
[118] AIA (n 112) section 29AB.
[119] Ibid section 30.
[120] Electronic Transactions Act (n 114) section 11A.
[121] VAD Act (n 1) section 42.

The Consulting Medical Practitioner does not have to notify the patient, or the VAD Commission, of their decision, nor do they have to make a note in their medical records to indicate that a Second Opinion Referral has been made and that they have accepted the Referral. The Act does not, however, prevent these actions from being taken; and **Form 9: Practitioner's Decision to Accept or Refuse Second Opinion Referral** can be used to document the referral process including the date and time of the referral, the acceptance, and the Consulting Medical Practitioner's eligibility to accept the Referral.

While **Form 9** does not need to be provided to the VAD Commission, providing it allows the VAD Commission to confirm that the Act's requirements have been complied with in relation to the referral process.

11.3. Primary Medical Practitioner Provides the Consulting Medical Practitioner with Information (Step 3)

A patient's Primary Medical Practitioner must give the patient's Consulting Medical Practitioner a copy of all medical records, and other information, in relation to the patient that the Primary Medical Practitioner has in their possession and that may reasonably be required by the Consulting Medical Practitioner to be able to make a determination about whether the patient is eligible to access voluntary assisted dying. The information must be given as soon as reasonably practicable and **within seven (7) days** of the Second Opinion Referral being accepted.[122]

A Consulting Medical Practitioner who still thinks that they do not have enough information to be able to make a determination about whether the patient is eligible to access voluntary assisted dying may ask the patient's Primary Medical Practitioner to do one or more of the following:

- Give the Consulting Medical Practitioner a copy of any medical records, or information, in relation to the patient, that are or that is in the Primary Medical Practitioner's possession.
- Obtain medical records, or information, in relation to the patient, that are or that is held by another medical practitioner or person and give this to the Consulting Medical Practitioner.
- Refer the patient to another medical practitioner or other person for examination, and give a copy of any medical records, or information, in relation to the patient that the Primary Medical Practitioner obtains from that other medical practitioner or other person.[123]

A Primary Medical Practitioner who is asked to provide the information or refer the patient is required to comply with the request as soon as reasonably practicable unless they have a reasonable excuse, in accordance with the process referred to in Referral Requirements[124].

Neither the Primary Medical Practitioner nor the Consulting Medical Practitioner are required by the Act to make a note in their medical records for the patient that the information has been given or received. Either practitioner may choose to do so, nonetheless.

[122] Ibid section 43.
[123] Ibid section 45.
[124] Ibid section 46(2).

Unlike the Primary Medical Practitioner, the Consulting Medical Practitioner cannot directly ask another medical practitioner for additional information about the patient. Where additional information is needed, this must be requested via the Primary Medical Practitioner.

11.4. Consulting Medical Practitioner Determines Whether the Patient is Eligible to Access Voluntary Assisted Dying (Step 4)

To be able to access voluntary assisted dying, a patient must be determined by their Consulting Medical Practitioner to be eligible to access voluntary assisted dying.[125] This requires the Consulting Medical Practitioner to decide about each of the eligibility criteria set out in section 10 of the Act and referred to in Practitioner Determination of Eligibility.

The Consulting Medical Practitioner may refuse to make a determination until the practitioner has sufficient information; and, conversely, must not determine that the patient is eligible to access voluntary assisted dying until the practitioner has sufficient information to enable the practitioner to make a determination.[126] See Referral Requirements for more information.

Beyond those requirements, there is no timeframe in which the determination must be completed. It can occur at any time after the Second Opinion Referral is accepted, in line with the patient's preferences, practitioner availability and preferences, and other relevant factors including availability of information and the patient's prognosis.

The Consulting Medical Practitioner does not need to notify the VAD Commission that the Second Opinion Referral has been accepted, before determining whether the patient is eligible, or is not eligible, to access voluntary assisted dying.

11.4.1. Managing Disagreements on Eligibility

There may be times when the Consulting Medical Practitioner's determination about a patient's eligibility to access voluntary assisted dying is different to the Primary Medical Practitioner's determination. Examples where this might occur include situations where a patient's mental state has changed such that they no longer have decision-making capacity, or where there is a difference in opinion about prognosis.

Practitioners are expected to approach this situation, when it arises, with professional and open communication.

The patient's Primary Medical Practitioner should discuss the Consulting Medical Practitioner's determination with the patient to explain the determination and to explore whether they wish to continue to seek access to voluntary assisted dying. If they do, the Primary Medical Practitioner may make a Second Opinion Referral to another medical practitioner, following the process set out in Primary Medical Practitioner Makes a Referral (Step 1).

[125] Ibid section 48(3).
[126] Ibid section 48(2).

11.4.2. Effect of One Consulting Medical Practitioner Determination that the Patient is Ineligible

The Primary Medical Practitioner can also refer a patient, who has been found by the patient's Consulting Medical Practitioner to be ineligible to access voluntary assisted dying, to another medical practitioner for a further Second Opinion. This may only be done, however, if the Primary Medical Practitioner has informed the patient of the determination and has obtained the patient's permission to make a new referral to another medical practitioner.[127]

11.4.3. Effect of Two Consulting Medical Practitioner Determinations that the Patient is Ineligible

If two Consulting Medical Practitioners have determined that a patient is ineligible to access voluntary assisted dying, the voluntary assisted dying process ends in relation to the patient.[128]

A determination by two Consulting Medical Practitioners that a patient is ineligible to access voluntary assisted dying does not prevent the patient from making a new First Request. The new First Request may be made to:

- a new medical practitioner, or
- the same practitioner that accepted the patient's original First Request, but only if:
    - more than 12 months have passed or,
    - if less than 12 months have passed - if the VAD Commission has authorised the medical practitioner to accept another First Request from the patient.[129]

A person wishing to make a new First Request to the same medical practitioner that accepted their original First Request within 12 months of being determined by two Consulting Medical Practitioners to be ineligible to access voluntary assisted dying may apply to the VAD Commission for authorisation by calling 1800 568 956 or emailing vad.commission@health.tas.gov.au

See Re-Starting the VAD Process After Two CMPs Have Determined the Person Ineligible for more information.

[127] Ibid section 38(2).
[128] Ibid section 51.
[129] Ibid section 52.

11.5. Consulting Medical Practitioner Documents the Second Opinion Referral (Step 5)

A Consulting Medical Practitioner's determination of whether the patient is, or is not, eligible to access voluntary assisted dying must be in writing. It must also contain the following information about the patient's eligibility to access voluntary assisted dying (the "Relevant Information about Eligibility"):

- Information about whether the patient meets the age requirements.
- Information about whether the patient meets the residency requirements.
- Information about whether the patient has decision-making capacity.
- Information about whether the patient is acting voluntarily.
- Information about the patient's illness requirements.
- Information about the patient's prognosis.
- Information about treatment for the patient's illness that is available and that may relieve the patient's suffering.[130]

The Consulting Medical Practitioner can discharge their obligation to document their determination appropriately by completing **Form 10: Practitioner's Second Opinion Determination.**

11.5.1. Consulting Medical Practitioner Notification Requirements

The Consulting Medical Practitioner makes their determination when they give a copy of **Form 10: Practitioner's Second Opinion Determination** to the patient's Primary Medical Practitioner.

Notice of the practitioner's determination must be given in writing and may be made by letter, or by email, fax, or text with the Primary Medical Practitioner's approval.

Notice that is given in person is taken to have been given when **Form 10** is given to the Primary Medical Practitioner or left at the practitioner's address.[131]

Notice that is posted is taken to have been given at the time when the correspondence would be delivered in the ordinary course of post.[132]

Notice that is emailed or faxed is taken to have been given when the email, with **Form 10** attached, or faxed Form, reaches the Primary Medical Practitioner's email address or fax machine.[133]

After making their determination, the Consulting Medical Practitioner must place a copy of the determination (**Form 10)** on their medical records for the patient and give the VAD Commission a copy of the determination (**Form 10)**. These actions must be taken as soon as reasonably practicable and **within seven (7) days** of giving the Primary Medical Practitioner a copy of **Form 10**.

If asked to do so by the patient, the Consulting Medical Practitioner may also provide the patient's usual medical practitioner with a copy of their determination (**Form 10)**.

[130] Ibid section 49.
[131] AIA (n 112) section 29AB.
[132] Ibid section 30.
[133] Electronic Transactions Act (n 114) section 11A.

The Consulting Medical Practitioner can discharge their obligation to give the VAD Commission a copy of the determination by providing completed **Form 10** to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

11.5.2. Primary Medical Practitioner Notification Requirements

The Primary Medical Practitioner to whom the Consulting Medical Practitioner gives notice of their determination also has notification obligations.

Specifically, a Primary Medical Practitioner who has been given notice of a determination in relation to a patient must:

- notify the patient as to whether the determination states that the patient is, or is not, eligible to access voluntary assisted dying, and
- place a copy of the determination on the Primary Medical Practitioner's medical records for the patient, and
- give a copy of the determination to the VAD Commission.

These actions must be taken as soon as reasonably practicable and **within seven (7) days** of the Consulting Medical Practitioner's determination.[134]

The requirement for both the Consulting Medical Practitioner and Primary Medical Practitioner to give a copy of the Consulting Medical Practitioner's determination to the VAD Commission, while repetitive, is a strict requirement that must be met to ensure compliance with the Act's requirements.

11.6. Consulting Medical Practitioner Documents their Reasons for Determination (Step 6)

In addition to giving the VAD Commission a copy of their determination, a patient's Consulting Medical Practitioner must give the VAD Commission a statement setting out the reasons for their determination (a Statement of Reasons).[135]

The Consulting Medical Practitioner can discharge their obligation to provide the VAD Commission with a copy of their Statement of Reasons by completing **Form 11: Practitioner's Statement of Reasons on Determination of Second Opinion Referral** and providing completed **Form 11** to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

There is no requirement for the Consulting Medical Practitioner to give the patient, or any other person, a copy of **Form 11**. However, if asked to do so by the patient, the Consulting Medical Practitioner may provide the patient's usual medical practitioner with completed **Form 11** also.

[134] VAD Act (n 1) section 50(3).
[135] Ibid section 50(2).

12. Final Request

A patient who wishes to access voluntary assisted dying and who has been determined by their Consulting Medical Practitioner to be eligible to access voluntary assisted dying may make a final request to access voluntary assisted dying. This is the patient's Final Request and can only be made once the patient's Consulting Medical Practitioner has notified the patient's Primary Medical Practitioner of their determination.

The gap between the patient's Second Request and their Final Request must be 48 hours or more. This period can be waived in certain circumstances. See Request Timing Requirements for further information.

Figure 5 outlines the steps in the Final Request stage of the voluntary assisted dying process.

12.1. Patient Makes a Final Request (Step 1)

A Final Request must be made in writing using **Form 12: Patient's Final Request.**

A patient's Final Request is made when it is **given** to the patient's Primary Medical Practitioner.

For a patient's Final Request to be valid:

- it must be filled, and signed, by either the patient or by the patient's designated person (see Designated Persons for more information), and
- it must be given to the patient's Primary Medical Practitioner after the patient's Consulting Medical Practitioner has determined the patient to be eligible to access voluntary assisted dying.

There is no requirement for the patient's Final Request to be witnessed.

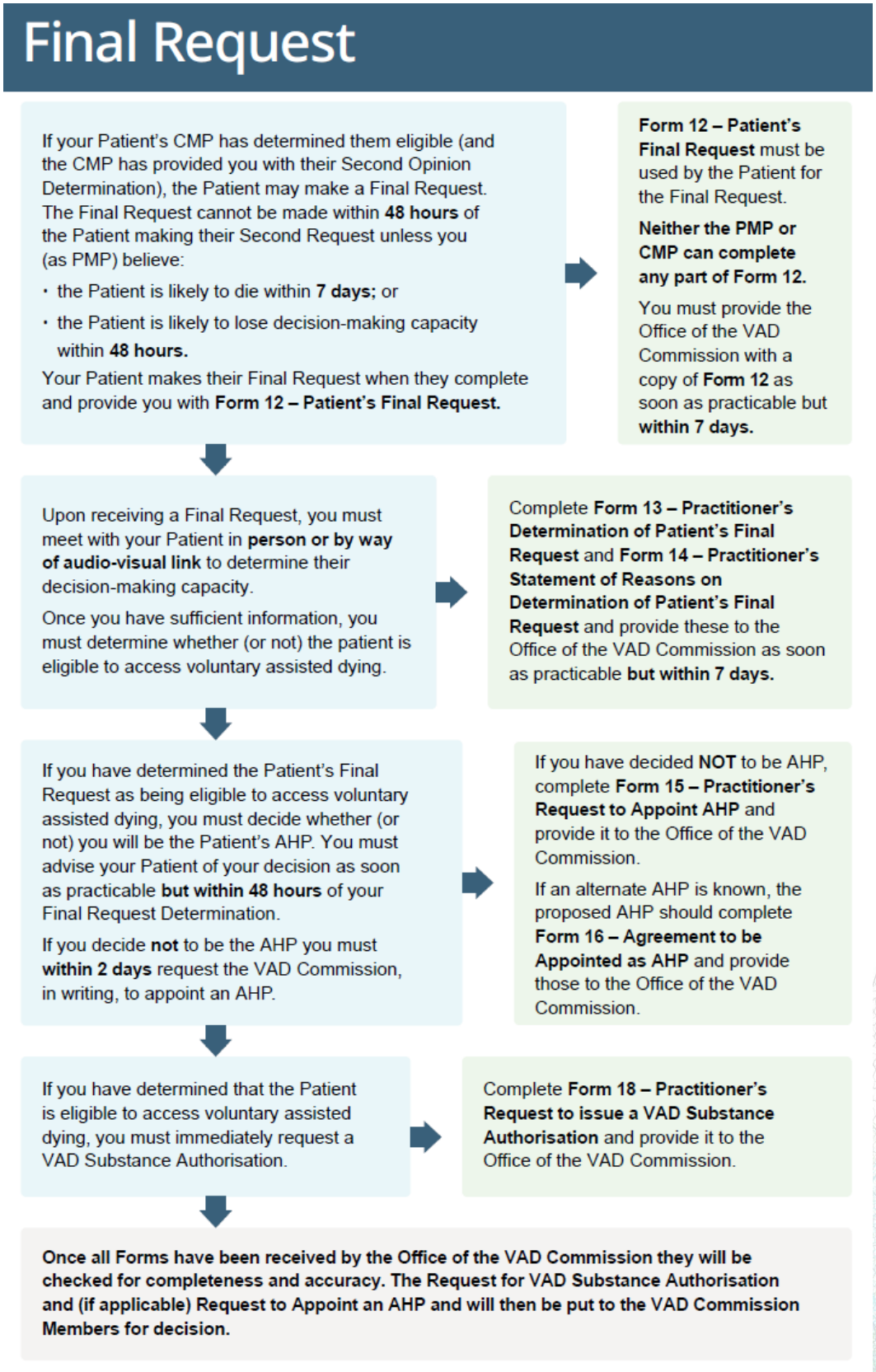
12.2. Primary Medical Practitioner Provides the VAD Commission with the Patient's Final Request (Step 2)

A Primary Medical Practitioner who receives a patient's Final Request must give a copy of the request to the VAD Commission as soon as reasonably practicable and **within seven (7) days** of receiving it.[136] This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

This obligation applies regardless of whether the request has been determined (that is, regardless of the timing of the Primary Medical Practitioner's determination).

[136] Ibid section 53(5).

Figure 5: Final Request - Steps



12.3. Primary Medical Practitioner Determines the Final Request (Step 3)

To be able to access voluntary assisted dying, a patient must be determined by their Primary Medical Practitioner, following the making of a Final Request, to be eligible to access voluntary assisted dying.[137] This requires the Primary Medical Practitioner to decide about each of the eligibility criteria set out in section 10 of the Act and referred to in Practitioner Determination of Eligibility

The Primary Medical Practitioner may refuse to make a determination until the practitioner has sufficient information; and, conversely, must not determine that the patient is eligible to access voluntary assisted dying until the practitioner has sufficient information to enable the practitioner to make a determination.[138] See Referral Requirements for more information.

Beyond those requirements, there is no timeframe in which the which the determination must be completed. It can occur at any time after the Final Request is made, in line with the patient's preferences, practitioner availability and preferences, and other relevant factors including the patient's prognosis.

A patient's Primary Medical Practitioner may not determine a patient's Final Request unless the practitioner has met the patient after receiving the Final Request and has been able, having met the patient, to determine the patient's decision-making capacity.[139]

12.4. Primary Medical Practitioner Documents the Final Request Determination (Step 4)

A Primary Medical Practitioner's determination of the patient's Final Request must be in writing. It must also contain the following information about the patient's eligibility to access voluntary assisted dying (the "Relevant Information about Eligibility"):

- information about whether the patient meets the age requirements, and
- information about whether the patient meets the residency requirements, and
- information about whether the patient has decision-making capacity, and
- information about whether the patient is acting voluntarily, and
- information about the patient's illness requirements, and
- information about the patient's prognosis, and
- information about treatment for the patient's illness that is available and that may relieve the patient's suffering.[140]

The Primary Medical Practitioner can discharge their obligation to document their determination of the patient's Final Request appropriately by completing **Form 13: Practitioner's Determination of Final Request**.

[137] Ibid section 56(3).
[138] Ibid section 56(2).
[139] Ibid section 56(1).
[140] Ibid section 57.

12.4.1. Notification Requirements

The Primary Medical Practitioner must notify the patient of their determination. They must also place the determination (or a copy of the determination) on their medical records for the patient and give the VAD Commission a copy of the determination. These actions must be taken as soon as reasonably practicable and **within seven (7) days** of the determination.[141]

If asked to do so by the patient, the Primary Medical Practitioner may also provide the patient's usual medical practitioner with a copy of their determination.[142]

The Primary Medical Practitioner can discharge their obligation to give the VAD Commission a copy of the determination by providing completed **Form 13** to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

12.5. Primary Medical Practitioner Documents their Reasons for Determination (Step 5)

In addition to giving the VAD Commission a copy of their determination, a patient's Primary Medical Practitioner must also give the VAD Commission a statement setting out the reasons for their determination (a Statement of Reasons). This action must be taken as soon as reasonably practicable and **within seven (7) days** of the determination.[143]

The Primary Medical Practitioner can discharge their obligation to provide the VAD Commission with a copy of their Statement of Reasons by completing **Form 14: Practitioner's Statement of Reasons on Determination of Final Request** and providing completed **Form 14** to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

There is no requirement for the Primary Medical Practitioner to give the patient, or any other person, a copy of **Form 14.** However, if asked to do so by the patient, the Primary Medical Practitioner may provide the patient's usual medical practitioner with completed **Form 14** also.[144]

[141] Ibid section 58(1).
[142] Ibid section 58(2).
[143] Ibid section 58(1)(c).
[144] Ibid section 58(2).

13. Administration Decisions

Discussion about administration options may occur many times throughout a patient's voluntary assisted dying process; and the patient may choose to make an administration decision at any time after they make their First Request, in line with their preferences and other relevant factors. However, the decision **must** be made before the patient's Primary Medical Practitioner applies to the VAD Commission for a VAD Substance Authorisation for the patient. This is because:

- the VAD Substance Authorisation is required to contain details of the VAD Substance to which the VAD Substance Prescription is to relate, and
- a VAD Substance Authorisation may relate to private self-administration or AHP administration, but not both.

This section of the Handbook should be read in conjunction with Supplying the VAD Substance for Private Self-Administration and Supplying the VAD Substance for AHP Administration and the **Prescription, Supply and Administration Protocol.**

The VAD Pharmacy Service is available during business hours to answer questions that Primary Medical Practitioners may have about administration, prescription, supply, and storage of the VAD Substance. Members of the VAD Pharmacy Service are also happy to travel to meet with patients, their families, and carers, to talk through what to expect.

Primary Medical Practitioners are encouraged to contact the VAD Pharmacy Service at an early point in time to discuss the timing of, and arrangements, for, supply of the VAD Substance by calling 03 6166 0168 or emailing vps@ths.tas.gov.au This is particular important for voluntary assisted dying processes that are expected to proceed quickly due to the patient's condition.

13.1. What is an Administration Decision?

An administration decision is a decision made by a patient, in consultation with, and on the advice of, their Primary Medical Practitioner, to either:

- administer a VAD Substance themselves in private (private self-administration), or
- administer a VAD Substance themselves while their Administering Health Practitioner is with or near to the patient (AHP Administration), or
- have their Administering Health Practitioner assist them to administer the VAD Substance (AHP Administration), or
- have their Administering Health Practitioner administer the VAD Substance to them (AHP Administration).

When discussing or advising on an administration decision, the Primary Medical Practitioner should consider factors that are relevant for the patient, including the patient's ability to prepare and/or self-administer the substance, the patient's preference (including any potential patient concerns or fears), and other factors that are unique to the patient or their family.

13.1.1. Private Self-Administration Decision

Private self-administration means that the patient takes the VAD Substance without any assistance from their Administering Health Practitioner, and without the need for an Administering Health Practitioner to be nearby or present. For more information, see Supplying the VAD Substance for Private Self-Administration.

13.1.2. AHP Administration Decision

AHP Administration can take three forms. It involves:

- the patient administering the VAD Substance themselves while their Administering Health Practitioner is with them or nearby, or
- the patient administering the VAD Substance themselves with help from their Administering Health Practitioner, or
- the patient's Administering Health Practitioner administering the VAD Substance to the patient,

The Act allows a patient to choose AHP Administration only if the Administering Health Practitioner is satisfied that it is, in effect, inappropriate for, or not desired by, the patient to privately self-administer the VAD Substance, having regard to any (or all) of the following factors:

- the patient's ability to administer the VAD Substance without the Administering Health Practitioner helping or being with or near to the patient, or
- the patient's ability to swallow and absorb the VAD Substance, or
- the patient's concern about administering the VAD Substance without the Administering Health Practitioner being with them, near to, or assisting the patient, or
- the method of administration that is suitable for the patient.[145]

For more information, see Supplying the VAD Substance for AHP Administration.

13.2. Primary Medical Practitioner Decides Whether to Be the Patient's Administering Health Practitioner

There is no requirement for a patient's Primary Medical Practitioner to also be the patient's Administering Health Practitioner; and there may be good reasons why a Primary Medical Practitioner may not wish to take on the Administering Health Practitioner role.

Some Primary Medical Practitioners may be unable to commit to responding to a patient's request to access the VAD Substance at short notice, while others may be unable to dedicate the time required to remain with a patient who has chosen AHP Administration until the patient has died. It may simply be the case that the Primary Medical Practitioner is not comfortable with participating in this part of the voluntary assisted dying process.

[145] Ibid section 86.

A Primary Medical Practitioner who knows that they will not elect to be the patient's Administering Health Practitioner should communicate this to the patient as soon as possible so that the patient can make an informed administration decision, and to the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au so that an alternative Administering Health Practitioner can be identified as early in the patient's voluntary assisted dying process as possible.

13.2.1. Primary Medical Practitioner Decides Whether to Be the Patient's Administering Health Practitioner (Step 1)

A Primary Medical Practitioner who has determined a patient's Final Request by determining that they are eligible to access voluntary assisted dying is required to decide whether to be the patient's Administering Health Practitioner and advise the patient of the decision. These actions must be taken as soon as reasonably practicable and **within 48 hours** of determining the Final Request.[146]

The Primary Medical Practitioner's advice to the patient about their decision may be given verbally or in writing. This decision should be documented in the practitioner's medical records for the patient.

A Primary Medical Practitioner who decides to be the patient's Administering Health Practitioner does not need to take any action after advising the patient of their decision; and Steps 2 -5 (noted below) do not need to be followed.[147]

13.2.2. Primary Medical Practitioner Asks VAD Commission to Appoint an Administering Health Practitioner for the Patient (Step 2)

A Primary Medical Practitioner who has decided that they do not wish to be the patient's Administering Health Practitioner and who has advised the patient of this must ask the VAD Commission to appoint someone else to be the patient's Administering Health Practitioner. This action must be taken as soon as reasonably practicable and **within two (2) days** of the Primary Medical Practitioner's advice to the patient.[148]

Primary Medical Practitioners may wish to align their request to the VAD Commission to appoint an Administering Health Practitioner for the patient with their request to the VAD Commission to issue a VAD Substance Authorisation for the patient, where the timing allows.

The Primary Medical Practitioner's request to the VAD Commission must be in writing.[149]

The Primary Medical Practitioner can make their request by completing **Form 15: Practitioner's Request to Appoint an AHP** and providing completed **Form 15** to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

There is no requirement for the Primary Medical Practitioner to give the patient, or any other person, a copy of **Form 15**.

[146] Ibid section 60.
[147] Ibid section 61(1).
[148] Ibid section 62(1).
[149] Ibid.

13.2.3. Alternative Administering Health Practitioner is Identified (Step 3)

The Primary Medical Practitioner is not required to identify an alternative Administering Health Practitioner, although they can do so by emailing the relevant details to the Office of the VAD Commission on vad.commission@health.tas.gov.au if they wish.

The VAD Navigation Service can assist with identifying an alternative Administering Health Practitioner, and Primary Medical Practitioners who cannot identify an alternative Administering Health Practitioner themselves are encouraged to contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au at an early point in time so that an alternative Administering Health Practitioner can be identified.

On becoming aware that a patient's Primary Medical Practitioner does not wish to become the patient's Administering Health Practitioner, the VAD Navigation Service will identify another medical practitioner, or a registered nurse, who is willing and eligible to take on the role.

Only a medical practitioner or registered nurse who is eligible may be appointed by the VAD Commission to be a patient's Administering Health Practitioner.

To be eligible to be appointed by the VAD Commission as a patient's Administering Health Practitioner, a medical practitioner or registered nurse must:

- be a registered medical practitioner or registered nurse, as the case may be,
- have agreed to be appointed as the patient's Administering Health Practitioner,
- have signed a statutory declaration stating that the medical practitioner or registered nurse, respectively:
    - has successfully completed the Tasmanian Voluntary Assisted Dying Training in the five-year period before being appointed,
    - is not a member of the patient's family,
    - does not know, or believe, that they are likely to benefit from the patient's death, other than by receiving reasonable fees for the provision of services as the patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner,
    - has at least five years' experience as a registered medical practitioner or registered nurse after having become registered as a medical practitioner or registered nurse respectively.[150]

The VAD Navigation Service will liaise with the potential appointee to check their eligibility and to arrange for the appointee, if they are willing and available to take on the role, to complete **Form 16: Agreement to be Appointed as an AHP.**

[150] VAD Act (n 1) section 63.

There is no requirement for a medical practitioner or registered nurse who is asked to become a patient's Administering Health Practitioner to accept the request; and a medical practitioner or registered nurse who is asked to take on the Administering Health Practitioner role is entitled to refuse to be appointed.[151] This may be for any reason, including because the practitioner or nurse has a conscientious objection to providing the patient with assistance to die. The practitioner or nurse does not need to give any reasons for refusing.

13.2.4. VAD Commission Appoints Administering Health Practitioner (Step 4)

If the VAD Commission receives a request from a patient's Primary Medical Practitioner to appoint an Administering Health Practitioner in relation to the patient, the VAD Commission must appoint a medical practitioner or registered nurse who is willing and eligible to be appointed, to be the patient's Administering Health Practitioner.[152]

The VAD Commission's appointment is required to be in writing; in practice, the VAD Commission will issue a formal Instrument of Appointment (**Form 17**).

13.2.5. VAD Commission Notifies Primary Medical Practitioner (Step 5)

As soon as practicable after appointing an Administering Health Practitioner for a patient, the VAD Commission is required to notify the patient's Primary Medical Practitioner of the appointment.[153]

The VAD Commission will discharge this obligation by providing the Primary Medical Practitioner with a copy of the Instrument of Appointment (**Form 17**).

[151] Ibid section 64.
[152] Ibid section 62(2).
[153] Ibid section 65.

14. VAD Substance Authorisation

After the patient's Final Request has been determined, and an administration decision has been made (including a decision about whether the Primary Medical Practitioner will be the patient's Administering Health Practitioner), the patient's Primary Medical Practitioner must request the VAD Commission to issue a VAD Substance Authorisation for the patient.[154]

The VAD Commission must, in turn, either issue, or refuse to issue, the requested authorisation.[155]

Before making a request to the VAD Commission to issue a VAD Substance Authorisation for a patient, the patient's Primary Medical Practitioner should check that they have provided the VAD Commission with all of the Forms, and any other information, that they have been required to provide to the VAD Commission throughout the patient's voluntary assisted dying process to that point. This is because the VAD Commission has no option under the Act but to refuse to issue a VAD Substance Authorisation if any of this documentation is outstanding.[156]

Table 11 lists the Forms that must have been submitted before a VAD Substance Authorisation may be issued.

Table 11: Required Forms

Form	Completed By	Submitted By
Form 2: Practitioner's Decision to Accept or Refuse Patient's First Request	PMP	PMP
Form 3: Practitioner's Provision of Relevant Information	PMP	PMP
Form 4: Practitioner's Determination of Patient's First Request	PMP	PMP
Form 5: Practitioner's Statement of Reasons on Determination of Patient's First Request	PMP	PMP
Form 6: Patient's Second Request	Patient	PMP
Form 7: Practitioner's Determination of Patient's Second Request	PMP	PMP
Form 8: Practitioner's Statement of Reasons on Determination of Patient's Second Request	PMP	PMP
Form 9: Practitioner's Decision to Accept or Refuse Second Opinion Referral	CMP	CMP
Form 10: Practitioner's Second Opinion Determination	CMP	CMP and PMP

[154] Ibid section 66.
[155] Ibid section 67(1).
[156] Ibid section 68(1).

Form	Completed By	Submitted By
Form 11: Practitioner's Statement of Reasons on Determination of Second Opinion	CMP	CMP
Form 12: Patient's Final Request	Patient	PMP
Form 13: Practitioner's Determination of Patient's Second Request	PMP	PMP
Form 14: Practitioner's Statement of Reasons on Determination of Patient's Final Request	PMP	PMP

A patient's Primary Medical Practitioner can only prescribe a VAD Substance, and the patient can only access the VAD Substance, if the VAD Commission has issued a VAD Substance Authorisation.

There is no timeframe within which the Primary Medical Practitioner must request the VAD Commission to issue a VAD Substance Authorisation. However, the request can only be made after the Final Request has been determined and an administration decision has been made. Consideration should also be given to the timing of the request in the context of the patient's condition and preferences.

14.1. Primary Medical Practitioner Requests a VAD Substance Authorisation (Step 1)

To request a VAD Substance Authorisation, the patient's Primary Medical Practitioner should complete **Form 18: Practitioner's Request to Issue a VAD Substance Authorisation** and provide completed **Form 18** to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

In urgent circumstances, the Primary Medical Practitioner may make a request to the VAD Commission verbally, by calling the Office of the VAD Commission on 1800 568 956.

There is no requirement for the Primary Medical Practitioner to give the patient, or any other person, a copy of **Form 18.**

14.2. VAD Commission Considers the Primary Medical Practitioner's Request (Step 2)

The VAD Commission must consider a Primary Medical Practitioner's request to issue a VAD Substance Authorisation as soon as reasonably practicable after the request is received.[157]

The VAD Commission meets each Tuesday afternoon; with requests received by Friday the previous week usually being listed for consideration the following Tuesday. Primary Medical Practitioners are encouraged to contact the Office of the VAD Commission by calling 1800 568 956 or emailing vad.commission@health.tas.gov.au at an early point in time if their patient's condition is such that out-of-session consideration of their request may be required.

The VAD Commission must issue a VAD Substance Authorisation that has been requested unless the VAD Commission:

- has not received all the notices and other information that the Primary Medical Practitioner has been required, by the Act, to have given to the VAD Commission, or
- suspects that the requirements of the Act have not been met in relation to the patient,

in which case the VAD Commission must refuse the request.[158]

14.3. VAD Commission Issues, or Refuses to Issue, a VAD Substance Authorisation (Step 3)

14.3.1. VAD Substance Authorisation Issued

A VAD Substance Authorisation (**Form 20**) is an instrument in writing that is signed by the VAD Commission, that specifies that the patient's Primary Medical Practitioner is authorised to issue a VAD Substance Prescription for the patient, and that contains the following information:

- the patient's name and address, and
- the Primary Medical Practitioner's name, and
- details of the VAD Substance to which the VAD Substance Prescription is to relate, including the maximum amount of the VAD Substance that is to be authorised by the VAD Substance Prescription, and
- the period for which the Primary Medical Practitioner is authorised to issue the VAD Substance Prescription.[159]

The VAD Substance Authorisation will refer to, and be specific about, the patient's preferred administration method.[160]

[157] Ibid section 67(1).
[158] Ibid sections 67(1) and 68(1).
[159] Ibid sections 67(2) and 67(3).
[160] Ibid section 67(4).

The Office of the VAD Commission will advise the Primary Medical Practitioner by email once a VAD Substance Authorisation has been issued; and a copy of the VAD Substance Authorisation (**Form 20**), along with a prescription template to be completed by the Primary Medical Practitioner to prescribe the VAD Substance, will be provided by the patient's Primary Medical Practitioner by courier.

VAD Commission meetings are generally held in Hobart, and the time that it may take for the Commission's courier service to reach the patient's Primary Medical Practitioner should be factored into the Primary Medical Practitioner and patient's plans for prescribing, supplying, and administering the VAD Substance.

14.3.2. VAD Substance Authorisation Refused

The VAD Commission must refuse to issue a VAD Substance Authorisation if the VAD Commission:

- has not received all the notices and other information that the Primary Medical Practitioner has been required, by the Act, to have given to the VAD Commission, or
- suspects that the requirements of the Act have not been met in relation to the patient.[161]

If the VAD Commission refuses to issue a VAD Substance Authorisation, it must notify the Primary Medical Practitioner of the refusal and of the reasons for the refusal. The VAD Commission must do this within **two (2) business days**.[162]

The VAD Commission will discharge this obligation by providing the Primary Medical Practitioner with a copy of an Instrument of Refusal (**Form 19**), with reasons for the refusal.

In practice, the Office of the VAD Commission will advise the Primary Medical Practitioner by phone or email if the practitioner's request for a VAD Substance Authorisation is refused; and a copy of the Instrument of Refusal (**Form 19**) and reasons for the refusal will be provided to the patient's Primary Medical Practitioner by courier.

14.4. Primary Medical Practitioner Advises the Patient (Step 4)

It is the Primary Medical Practitioner's responsibility to advise the patient of whether the VAD Commission has issued (or refused to issue) the VAD Substance Authorisation, and the next steps. If the VAD Commission has refused to issue the VAD Substance Authorisation, the Primary Medical Practitioner should advise the patient of the reasons for refusal and discuss options for the patient's ongoing care and support.

[161] Ibid section 68(1).
[162] Ibid section 68(2).

14.5. If Applicable - VAD Commission Amends, or Revokes, VAD Substance Authorisation (Step 5)

The VAD Commission can amend, or revoke, a VAD Substance Authorisation that has been issued to a patient's Primary Medical Practitioner. This action may be taken following a request from the patient's Primary Medical Practitioner, or on the VAD Commission's own motion (without a request to do so).[163]

Circumstances in which the VAD Commission may amend a VAD Substance Authorisation include:

- if the patient's Consulting Medical Practitioner becomes their Primary Medical Practitioner, in which case amendment may be required to authorise the issue, by the "new" Primary Medical Practitioner, of a VAD Substance Prescription, and
- if the patient's administration preferences change, in which case amendment may be required to the VAD Substance Authorisation to refer to a different VAD Substance.

The VAD Commission may decide to revoke a VAD Substance Authorisation that has been issued if the patient withdraws from the voluntary assisted dying process or if amendments of a substantial nature are required (in which case a new VAD Substance Authorisation would be issued).

[163] Ibid section 69.

15. Prescribing and Managing the VAD Substance

This section of the Handbook should be read in conjunction with the **Prescription, Supply and Administration Protocol**.

Once the VAD Commission has issued a VAD Substance Authorisation for a patient, the patient's Primary Medical Practitioner can issue a VAD Substance Prescription.[164]

The VAD Substance Prescription must be sent directly to the VAD Pharmacy Service - it does not go to the patient; and there is no need for the VAD Substance prescription to be provided to the VAD Commission.

The Primary Medical Practitioner has the period specified in the VAD Substance Authorisation to prescribe the VAD Substance. In most cases, this will be six (6) months (or 12 months for patients with neurodegenerative conditions).

Before supplying a VAD Substance, members of the VAD Pharmacy Service are required to meet with the patient to discuss the patient's condition.[165]

The VAD Pharmacy Service is based in Hobart, and the time that it may take for the postal service or Commission's courier service to deliver the VAD Substance Prescription to the VAD Pharmacy Service, and logistical delays associated with the meeting, should all be factored into the Primary Medical Practitioner and patient's plans for supplying, and administering the VAD Substance.

The VAD Pharmacy Service should be contacted at an early point in time in the case of urgent cases by calling 03 6166 0168 or emailing vps@ths.tas.gov.au.

15.1. Primary Medical Practitioner Prescribes the VAD Substance (Step 1)

The Primary Medical Practitioner must prescribe the VAD Substance in accordance with the instructions and protocols set out in the **Prescription, Supply and Administration Protocol** and using the prescription template supplied to the practitioner by the Office of the VAD Commission.

The Primary Medical Practitioner must use the VAD Substance Prescription template supplied to the practitioner, which includes:

- the patient's name and usual address, and
- the Primary Medical Practitioner's name, and
- the details of the VAD Substance being prescribed, being the VAD Substance specified in the VAD Substance Authorisation, including the maximum amount of the VAD Substance that is to be authorised by the VAD Substance Prescription.[166]

[164] Ibid section 70(1).
[165] Ibid section 71(2).
[166] Ibid section 71(5).

The VAD Substance Prescription must not be in the form of a medication chart, or on the prescriber's usual prescription stationery.

The Primary Medical Practitioner should contact the VAD Pharmacy Service by calling 03 6166 0168 or emailing vps@ths.tas.gov.au to discuss specific considerations of the case, including any considerations relating to the timing of supply, before writing the prescription. The practitioner is also encouraged to contact the VAD Pharmacy Service for advice about completing the prescription, and once written, to notify them of the incoming prescription.

Care must be taken to complete the prescription clearly and accurately in accordance with the **Prescription, Supply and Administration Protocol** so that it can be checked by the VAD Pharmacy Service without delay. Any supportive medications required by the patient must also be prescribed on the supplied prescription form and sent to the VAD Pharmacy Service.

The VAD Substance Prescription and any prescription for supportive medications can be given to the VAD Pharmacy Service either:

- in person,
- via registered post, or
- via courier.

Practitioners wishing to arrange courier collection should email vad@health.tas.gov.au or call 1800 568 956.

15.1.1. Primary Medical Practitioner to Destroy VAD Substance Prescription in Certain Circumstances

A practitioner who has completed a VAD Substance Prescription must destroy the VAD Substance Prescription and notify the VAD Commission of the destruction if the prescription has not been provided to the VAD Pharmacy Service to be dispensed and:

- the practitioner ceases to be the relevant patient's Primary Medical Practitioner, or
- the practitioner is informed that the patient has withdrawn from the voluntary assisted dying process, or
- the practitioner becomes aware that a different VAD Substance is required either because a private self-administration certificate has been issued or because the patient no longer intends to privately self-administer the VAD Substance.[167]

The obligation to notify the VAD Commission of the destruction can be discharged by completing **Form 29: Notification that VAD Substance Prescription has been Destroyed** and providing the completed Form to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

[167] Ibid section 72.

This action must be taken as soon as reasonably practicable and **within seven (7) days** of the relevant circumstance/event occurring.[168]

15.2. VAD Pharmacy Service Speaks with the Patient (Step 2)

After receiving a VAD Substance Prescription from a patient's Primary Medical Practitioner, but before supplying the VAD Substance, a member of the VAD Pharmacy Service is required to discuss the patient's medical condition with the patient. This is to ensure that the VAD Substance that has been prescribed is the most suitable and appropriate for the patient; and is a mandatory requirement.[169]

While the Act allows such discussions to be in person or by way of audio-visual link, to avoid issues under the Commonwealth Criminal Code, the VAD Pharmacy Service's practice is to meet with all patients face to face.

There is no requirement for the patient's Primary Medical Practitioner, Consulting Medical Practitioner or any other member of the patient's care and treatment team to be present during the discussion.

15.3. VAD Pharmacy Service Supplies the VAD Substance (Step 3)

After both receiving a VAD Substance Prescription from a patient's Primary Medical Practitioner and visiting with the patient to discuss the patient's condition with them, the VAD Pharmacy Service will supply the VAD Substance to the Primary Medical Practitioner.[170]

The VAD Substance cannot be supplied directly to the patient. It must always, and can only, be supplied to the patient via the patient's Primary Medical Practitioner.

The VAD Substance for oral/NGT/PEG administration is provided to the Primary Medical Practitioner in a small, black, locked box within a larger, clear tub. The locked box contains both the VAD Substance and any supportive medications that have been prescribed and dispensed and is labelled with a sticker which states: "this box does not contain valuables". The patient's details are on the inside of the box, and on a clear outer tub. The box is provided to the Primary Medical Practitioner, along with a key to the locked box, by the VAD Pharmacy Service.

The VAD Substance for intravenous administration is provided to the Primary Medical Practitioner in a large black case that is padlocked. The outside of the case is labelled with a sticker which states: "this box does not contain valuables".

The VAD Substance is provided to the Primary Medical Practitioner in person. The VAD Pharmacy Service is based in Hobart and the time that it may take for the VAD Substance to be provided, considering transportation time, should be factored into the Primary Medical Practitioner's considerations about the timing for supply and administration to the patient.

[168] Ibid section 72.
[169] Ibid section 71(2).
[170] Ibid section 71(1).

The member of the VAD Pharmacy Service who supplies the VAD Substance must make a record of the supply of the substance and notify the VAD Commission of the supply.

This obligation can be discharged by completing **Form 28: Pharmacist's Notification that VAD Substance has been Supplied** and providing the completed Form to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

This action must be taken as soon as reasonably practicable and within **three (3) business days.**[171]

15.4. If Applicable - Primary Medical Practitioner Supplies the VAD Substance to the Patient's Administering Health Practitioner (Step 4)

This step applies only if the patient's Primary Medical Practitioner is not also their Administering Health Practitioner.

A Primary Medical Practitioner to whom a VAD Substance has been supplied may supply the VAD Substance, in turn, to the patient's Administering Health Practitioner once the patient has given their Final Permission.[172] The VAD Substance may not be supplied to the Administering Health Practitioner ahead of the patient's Final Permission.

15.4.1. Storage Requirements

A Primary Medical Practitioner or Administering Health Practitioner to whom a VAD Substance has been supplied is required to ensure that the VAD Substance is kept in the locked box at the practitioner's usual place of employment as a medical practitioner in a manner that ensures that the VAD Substance is not readily accessible by any other person.[173]

This obligation will be discharged if the practitioner stores the locked box, with the VAD Substance inside it, in the drug safe at the practitioner's place of employment and retains the key to the locked box. Where storage in a drug safe is not an option, storage should be in a space that is not readily accessible by other members of the treating team.

[171] Ibid section 71(4).
[172] Ibid section 74(2).
[173] Ibid sections 73 and 75.

Exceptions to this requirement are:

- if the VAD Substance is in the practitioner's immediate physical possession and is being transported to another place for administration or supply to the patient, or
- if the VAD Substance is in the practitioner's immediate physical possession and is not readily accessible by any other person, or
- if the practitioner is administering the VAD Substance to the patient, or
- if the VAD Substance has been given to the patient to privately self-administer, or
- if the practitioner has returned the VAD Substance to either the VAD Pharmacy Service or, if the practitioner is an Administering Health Practitioner, to the patient's Primary Medical Practitioner.[174]

If the Primary Medical Practitioner is not the patient's Administering Health Practitioner, additional exceptions are:

- if the VAD Substance is in the Primary Medical Practitioner's immediate physical possession and is being transported to another place for provision to the patient's Administering Health Practitioner, or
- if the Primary Medical Practitioner has given the VAD Substance to the patient's Administering Health Practitioner.[175]

15.5. If Applicable - Primary Medical Practitioner Returns the VAD Substance (Step 5)

A Primary Medical Practitioner who is in possession of a VAD Substance that is no longer required is obliged to ensure that any remaining or unused amount of the VAD Substance is returned to the VAD Pharmacy Service. Notification of the return must also be given to the VAD Commission.[176]

The circumstances in which this obligation applies are as follows:

- if the Primary Medical Practitioner is informed by the patient or the patient's Administering Health Practitioner that the patient no longer wishes to access voluntary assisted dying, or
- if the Administering Health Practitioner determines, during a Final Determination, that the patient does not have decision-making capacity or is not acting voluntarily, or
- if the Primary Medical Practitioner is in possession of a VAD Substance supplied to them and the patient has died, or
- if the Primary Medical Practitioner is in possession of a VAD Substance that was supplied to them for AHP administration who has changed their mind and who has subsequently chosen private self-administration.

Notice may be given to the VAD Commission by posting **Form 30 – Notification that VAD Substance Has Been Returned – PMP** to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

[174] Ibid section 74.
[175] Ibid section 73.
[176] Ibid section 76.

These actions must be taken **within (7) seven days** of notification of the VAD Substance no longer being required or being returned.[177]

15.6. Administering Health Practitioner Returns the VAD Substance (Step 6)

An Administering Health Practitioner who is in possession of a VAD Substance that is no longer required, or to whom a VAD Substance has been returned, is obliged to ensure that any remaining or unused amount of the VAD Substance is returned to the VAD Pharmacy Service. Notification of the return must also be given to the VAD Commission.[178]

The circumstances in which this obligation applies are as follows:

- if the Administering Health Practitioner is informed by the patient or the patient's Primary Medical Practitioner that the patient no longer wishes to access voluntary assisted dying, or
- if the Administering Health Practitioner determines, in the course of a Final Determination, that the patient does not have decision-making capacity or is not acting voluntarily, or
- if the Administering Health Practitioner is in possession of a VAD Substance supplied to them and the patient has since died, or
- if the Administering Health Practitioner is in possession of a VAD Substance that was supplied to a patient who has changed their mind about privately self-administering the substance and has not obtained an AHP Administration certificate that would allow them to choose AHP administration, or
- if the Administering Health Practitioner is in possession of a VAD Substance that was supplied to them for AHP administration and the patient has changed their mind and subsequently chosen private self-administration, or
- if the Administering Health Practitioner is supplied with the VAD Substance by the patient's Contact Person.[179]

Notice may be given to the VAD Commission by posting **Form 31 – Notification that VAD Substance Has Been Returned – AHP** to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

These actions must be taken **within seven (7) days** of the VAD Substance no longer being required or being returned.[180]

15.7. Pharmacist Destroys VAD Substance (Step 6)

A pharmacist to whom a VAD Substance is returned must destroy the substance and make a record of the destruction. This must be done as soon as practicable.[181]

There is no set form to use for this and the VAD Commission does not need to be notified.

[177] Ibid section 76(3).
[178] Ibid section 76.
[179] Ibid section 76(2).
[180] Ibid section 76(3).
[181] Ibid section 76(4)

16. Administering the VAD Substance

This section of the Handbook is concerned with administration of the VAD Substance to a patient. It should be read in conjunction with the **Prescription, Supply and Administration Protocol** and with VAD Substance Authorisation and Prescribing the VAD Substance which provide information about VAD Substance Authorisations and VAD Substance Prescriptions generally.

This section is structured in two parts:

- Part 16.3 applies to private self-administration, and
- Part 16.4 applies to AHP Administration.

16.1. Discussing Administration

Some patients find discussing end-of-life choices and plans for administration with friends and family difficult. Primary Medical Practitioners and Administering Health Practitioners should encourage and support patients to have these discussions throughout the voluntary assisted dying process.

Similarly, some family and friends, and members of the patient's treating team, may find the experience of being present with the patient when the patient is administered the VAD Substance confronting. Primary Medical Practitioners and Administering Health Practitioners should ensure that the patient's family and friends, and members of their treating team, are aware of what they can expect during and after administration and ensure that they are well-supported and connected with appropriate supports when required.

Administering Health Practitioners should consider, in advance, the timing of the steps in the patient's private self-administration or AHP Administration pathway, including the timing of their Final Permission, and discuss this with the patient ahead of time, noting limitations contained in the VAD Substance Authorisation issued for the patient on the period for which a VAD Substance Prescription may be issued and therefore on the time periods for the supply of the VAD Substance to the patient.

16.2. Making a Final Determination and Taking a Patient's Final Permission

Regardless of a patient's administration choice, to be able to access voluntary assisted dying, a patient must be determined by their Administering Health Practitioner to have decision-making capacity and to be acting voluntarily. The patient must also give their Final Permission. The process for determining the patient's decision-making capacity and voluntariness, and relating to the patient's Final Permission, are (in most respects) the same on each occasion.

16.2.1. Final Determination

To be valid, the Administering Health Practitioner's determination of the patient's decision-making capacity and voluntariness (the Final Determination) must be made in the **48 hours before** a patient gives their Final Permission.[182]

Determining a patient's decision-making capacity and voluntariness requires the Administering Health Practitioner to decide about the criteria set out in sections 10(1)(c), 10(1)(d), 12 and 13 of the Act and referred to in Decision-Making Capacity Requirements and Voluntariness Requirements as they apply to the patient.

The actions that must be taken after the Final Determination has been made differ depending on the Administering Health Practitioner's determination.

16.2.1.1. Administering Health Practitioner Determines that the Patient Has Decision-Making Capacity and is Acting Voluntarily

If the Administering Health Practitioner's determination is that the patient does have decision-making capacity and is acting voluntarily, the patient's Administering Health Practitioner must advise the patient of the following:

- that the patient is entitled to receive assistance to die, and
- how the VAD Substance is to be administered and the consequences of administration, and
- that the patient must give the Administering Health Practitioner a Final Permission if they wish to receive assistance to die, and
- that the patient is not required to give the Administering Health Practitioner a Final Permission, and
- that the patient can, at any point before they give a Final Permission to their Administering Health Practitioner, advise the Administering Health Practitioner that they do not wish to receive assistance to die, and
- that, once they give a Final Permission, the patient will immediately be supplied with a VAD Substance.[183]

The advice that must be given is referred to for the purposes of this Handbook as the Final Determination Information.

These actions must be taken as soon as reasonably practicable and **within 24 hours** of the practitioner's Final Determination.[184]

There is no requirement in the Act for the Administering Health Practitioner to document their determination in any particular manner, or to notify the patient's Primary Medical Practitioner (if the Administering Health Practitioner is not also the patient's Primary Medical Practitioner) or the Office of the VAD Commission of their determination (although this is not prevented by the Act). This does not prevent the practitioner from making a record of their determination in their medical records for the patient, in accordance with good clinical practice.

[182] Ibid section 78.
[183] Ibid section 81.
[184] Ibid.

16.2.1.2. Administering Health Practitioner Determines that the Patient Does Not Have Decision-Making Capacity and is Not Acting Voluntarily

If the Administering Health Practitioner's determination is that the patient does not have decision-making capacity, or is not acting voluntarily (or both), the patient's Administering Health Practitioner must notify the patient, and the patient's guardian or carer, of their determination. They must also notify the patient's Primary Medical Practitioner (if the Administering Health Practitioner is not also the patient's Primary Medical Practitioner), and the VAD Commission, of the determination.[185]

The Administering Health Practitioner can discharge their obligation to notify the VAD Commission by completing **Form 23: Notification that Patient does not have Decision-Making Capacity, is not acting Voluntarily** and providing a copy of the completed Form to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

These actions must be taken as soon as reasonably practicable and **within 24 hours** of the Administering Health Practitioner's determination.[186]

16.2.2. Final Permission

A patient who has been told by their Administering Health Practitioner that they are entitled to receive assistance to die following a Final Determination, may give their Administering Health Practitioner a Final Permission.[187]

The patient's Final Permission will be valid if it is given **within 48 hours** of the Final Determination and after the Administering Health Practitioner's advice to the patient that they are entitled to receive assistance to die.

A patient's Final Permission must be in writing and must be completed and signed by the patient or their designated person (see Designated Persons for more information). It must also include the following:

- a statement from the patient that the patient has received the Final Determination Information, and
- in the case of private self-administration:
    - a statement from the patient that the patient wishes to access voluntary assisted dying and understands that they will be supplied with the VAD Substance to privately self-administer as soon as practicable after they give their Final Permission, and
- in the case of AHP administration:
    - a statement from the patient confirming the patient's preferred administration method, and
    - a statement from the patient that the patient wishes to access voluntary assisted dying and understands that their Administering Health Practitioner will administer the VAD Substance to them as soon as practicable after they give their Final Permission, in accordance with the patient's wishes about their preferred administration method, and

[185] VAD Act (n 1) section 80.
[186] Ibid.
[187] VAD Act (n 1) section 82(1).

- a statement about what the patient wishes to happen if unexpected complications of a medical kind arise (see Unexpected Complications of a Medical Kind and Requirements if Unexpected Complications Arise for more information).[188]

A patient's Final Permission will be valid if it is made by completing **Form 22A: Patient's Final Permission (Private Self-Administration)** in the case of private self-administration or **Form 22B: Final Permission Form – AHP Administration** in the case of AHP Administration and provided to the patient's Administering Health Practitioner in person, by post, courier, or email.

There is no requirement for the patient or the Administering Health Practitioner to provide a copy of the patient's Final Permission to the patient's Primary Medical Practitioner (if the Administering Health Practitioner is not also the patient's Administering Health Practitioner) (although this is not prevented by the Act).

While there is no requirement to provide the patient's Final Permission to the VAD Commission, Administering Health Practitioners are encouraged to do so as soon as reasonably practicable and within **seven (7) days** of the permission being given. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

16.3. Private Self-Administration

A patient who has chosen private self-administration can take the VAD Substance at a time and place of their choosing, such as at home, in hospital, or in an aged care facility.

There is no requirement for a witness to be present with the patient when they privately self-administer the VAD Substance; and the patient can choose to take the VAD Substance alone or in the presence of others, such as their family, friends, Contact Person, or even one or more of their Participating Practitioners or members of their broader treating team.

While a patient who has chosen private self-administration can have others with them when they take the VAD Substance, they cannot be given help to prepare (including to mix) or administer the VAD Substance.

Primary Medical Practitioners and Administering Health Practitioners may wish to ask patients who have chosen private self-administration to keep them informed about their plans to administer the VAD Substance. Open communication between Participating Practitioners and patients makes it more likely that patients will advise practitioners of their plans, and advise of any concerns or anticipated issues should, for example, the patient's health deteriorate so that they can no longer privately self-administer the VAD Substance without assistance, in which case other administration options can be explored.

[188] Ibid section 82(3).

A patient's Administering Health Practitioner can only supply a VAD Substance to a patient for private self-administration once:

- the VAD Commission has issued a VAD Substance Authorisation, and
- a VAD Substance Prescription has been completed and the VAD Substance has been dispensed, and
- a private self-administration certificate has been issued, and
- a Final Determination has been made and the patient has given their Final Permission.

The Administering Health Practitioner should also check to make sure that a Contact Person has been appointed before supplying the VAD Substance. This is important given the Contact Person's responsibilities in relation to the VAD Substance after the patient's death.

This Part of the Handbook is concerned with the private self-administration certificate, Contact Person, and Final Determination/Final Permission components of the process. Information on the VAD Substance Authorisation and VAD Substance Prescription components of the process can be found here VAD Substance Authorisation and here Prescribing and Managing the VAD Substance

This Part of the Handbook suggests a sequential process. However:

- a patient may request a private self-administration certificate, and a private self-administration certificate may be issued, at any time after the patient's Primary Medical Practitioner determines the patient's Final Request, provided the VAD Commission has appointed an Administering Health Practitioner, if an appointment is required, and
- a patient may appoint a Contact Person at any time after a private self-administration certificate is issued, and
- a patient may give their Final Permission at any time after the VAD Commission issues a VAD Substance Authorisation, provided the VAD Commission has appointed an Administering Health Practitioner, if an appointment is required.

16.3.1. Private Self-Administration Certificate Issued (Step 1)

16.3.1.1. Private Self-Administration Request

A patient who has been determined by their Primary Medical Practitioner, following their Final Request, to be eligible to access voluntary assisted dying may give their Administering Health Practitioner a private self-administration request.[189] The request must be in writing and be completed and signed by the patient or their designated person (see Designated Persons for more information).

A patient's private self-administration request will be valid if it is made by completing **Form 24: Requesting a Private Self-Administration Certificate.** Primary Medical Practitioners are encouraged to provide **Form 24**, along with the accompanying **Fact Sheet: Requesting a Private Self-Administration Certificate** to patients as soon as possible after the patient's Final Request has been determined and once an administration decision has been made.

[189] Ibid section 83.

There is no requirement for the patient or the Administering Health Practitioner to provide a copy of **Form 24** to the VAD Commission, although this is not prevented by the Act.

16.3.1.2. Private Self-Administration Certificate

An Administering Health Practitioner who receives a private self-administration request from a patient must issue a private self-administration certificate to the patient, provided the Administering Health Practitioner is satisfied that the patient will be able to self-administer the VAD Substance.

The certificate must be in writing certifying that the patient may self-administer a VAD Substance without the need for the patient's Administering Health Practitioner to be with or near to the patient while the patient administers the substance or to remain with or near to the patient until the patient dies.[190]

The Administering Health Practitioner must give a copy of the private self-administration certificate, once issued, to the patient, the patient's Primary Medical Practitioner (if the Primary medical Practitioner is not the patient's Administering Health Practitioner), and to the VAD Commission.[191]

The Administering Health Practitioner can discharge their obligations in relation to the form and content of the certificate and its provision to the VAD Commission by completing **Form 25: Private Self-Administration Certificate** and providing a copy of the completed Form to the Office of the VAD Commission. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

These actions must be taken **within 48 hours** of the private self-administration certificate being completed and signed.

16.3.2. Contact Person Appointed (Step 2)

A patient who has been issued with a private self-administration certificate must appoint a Contact Person who:

- is an adult (18 years of age or older), and
- accepts the appointment, and
- signs the Contact Person Appointment Form (**Form 26: Contact Person Appointment Form**).[192]

The Contact Person may be the patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner, another member of the patient's treating team, or someone else, such as a family member or friend.

A person who is asked to be a patient's Contact Person does not have to agree to the appointment.

A patient's Administering Health Practitioner should take all reasonable steps to ensure the Contact Person is aware of their responsibilities under the Act (see Contact Person Notifies the Administering Health Practitioner of the Patient's Death and Returns the VAD Substance (Step 9) for further information). Steps that can be taken include providing the Contact Person with a copy of the **Fact**

[190] Ibid section 84.
[191] Ibid section 84(4).
[192] Ibid section 85(1).

Sheet: Choosing a Contact Person, and being a Contact Person (available from the Office of the VAD Commission), speaking with the Contact Person about their responsibilities, and encouraging them to contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au with any questions or concerns.

Providing the intended Contact Person with a copy of the **Fact Sheet** ensures that the Contact Person can make an informed decision about accepting the appointment; the Fact Sheet also contains instructions for completing **Form 26** that may be of benefit to both the patient and their intended Contact Person.

16.3.2.1. Appointing a Contact Person

When a Contact Person has been identified, both the Contact Person and the patient, or their designated person (see Designated Persons for more information) must complete and sign **Form 26**. The Contact Person must also notify the patient's Administering Health Practitioner and the VAD Commission of the appointment.

These obligations may be discharged by both the patient (or their designated person), and the Contact Person completing **Form 26** and by the patient providing a copy of completed **Form 26** to the patient's Administering Health Practitioner and the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the appointment.

16.3.2.2. Changing the Contact Person

A person who has agreed to be a patient's Contact Person can change their mind at any time. If this happens, the Contact Person should tell the patient that they no longer want to continue. This allows the patient to appoint someone else as their Contact Person.

Conversely, the patient may choose to appoint a new Contact Person. If this happens, the patient should tell the person that they are no longer the patient's Contact Person. The patient should also tell their Administering Health Practitioner and the VAD Commission.

The patient, or their designated person (see Designated Persons for more information), and new Contact Person must complete a new **Form 26**. The Contact Person must provide it the patient's Administering Health Practitioner and VAD Commission in accordance with the process set out in **Form 26**. These actions must be taken as soon as reasonably practicable and **within seven (7) days** of the appointment.

16.3.3. Final Determination (Step 3)

To be able to access voluntary assisted dying, a patient must be determined by their Administering Health Practitioner to have decision-making capacity and to be acting voluntarily.

To be valid, this determination (the Final Determination) must be made in the **48 hours before** a patient gives their Final Permission.[193]

Determining a patient's decision-making capacity and voluntariness requires the Administering Health Practitioner to decide about the criteria set out in sections 10(1)(c), 10(1)(d), 12 and 13 of the Act and

[193] Ibid section 78.

referred to in Decision-Making Capacity Requirements and Voluntariness Requirements as they apply to the patient.

The actions that must be taken after the Final Determination has been made are set out in Making a Final Determination and Taking a Patient's Final Permission.

16.3.4. Final Permission (Step 4)

A patient who has been told by their Administering Health Practitioner that they are entitled to receive assistance to die following a Final Determination, may give their Administering Health Practitioner a Final Permission.[194]

The patient's Final Permission will be valid if it is given **within 48 hours** of the Final Determination and after the Administering Health Practitioner's advice to the patient that they are entitled to receive assistance to die.

Final Permission Provides more information about the Final Permission stage of the voluntary assisted dying process.

16.3.5. If Applicable - Administering Health Practitioner is Supplied with the VAD Substance (Step 5)

This step applies only if the patient's Primary Medical Practitioner is not also their Administering Health Practitioner.

Once the patient has given their Final Permission, a patient's Administering Health Practitioner may be supplied with the VAD Substance by their Primary Medical Practitioner.[195]

The Act anticipates a patient being supplied with the VAD Substance in the hours or days following the patient's Final Permission. Administering Health Practitioners are encouraged to consider the timing of their Final Determination ahead of time to ensure that the patient's wishes and preferences around the timing of administration of the VAD Substance can be facilitated.

16.3.6. Administering Health Practitioner Supplies the VAD Substance to the Patient (Step 6)

A patient's Administering Health Practitioner who has issued a patient with a private self-administration certificate and shown the patient how to self-administer the VAD Substance may supply the patient with the VAD Substance.[196]

16.3.7. Patient Stores the VAD Substance (Step 7)

A patient to whom a VAD Substance has been supplied is required to ensure that the VAD Substance is kept in its original packaging and in the locked box provided and in a place that is not readily accessible by any other person until the patient privately self-administers the VAD Substance, returns the

[194] Ibid section 82.
[195] Ibid section 89.
[196] Ibid section 90.

VAD Substance to the Administering Health Practitioner or supplies the VAD Substance to the patient's Contact Person for subsequent return to the Administering Health Practitioner.

The only exceptions to this requirement are if the VAD Substance is being transported to the patient's house, to the place that the patient intends to privately self-administer the VAD Substance, or to the patient's Administering Health Practitioner.[197]

16.3.7.1. Patient Loss of Decision-Making Capacity or non-VAD Death

In the event that a patient's Primary Medical Practitioner or Administering Health Practitioner becomes aware that the patient has permanently lost decision-making capacity after the VAD Substance has been supplied for private self-administration, or has died before (or without) accessing the VAD Substance, contact should immediately be made with the VAD Pharmacy Service by calling 03 6166 0168 or emailing vps@ths.tas.gov.au to discuss options for retrieving and transporting the VAD Substance.

16.3.8. Patient Self-Administers the VAD Substance (Step 8)

Once the VAD Substance has been supplied to a patient for private self-administration, the patient can decide when to administer the VAD Substance, provided no more than six (6) months have passed (or 12 months if the patient's condition is neurodegenerative) **since the private self-administration certificate was issued**.[198]

A patient who chooses not to privately self-administer the VAD Substance that has been supplied to them must return the VAD Substance either directly to the patient's Administering Health Practitioner or to the patient's Contact Person for the Contact Person to return the VAD Substance to the patient's Administering Health Practitioner.[199]

16.3.8.1. Administration After Six (or 12) Months Have Passed

If more than six (6) months have passed (or 12 months if the patient's condition is neurodegenerative) since the private self-administration certificate was issued to the patient, the patient may still self-administer the VAD Substance but only if:

- an AHP Certificate has been issued by the AHP, and
- the patient's AHP remains in the same room, or same place as the patient (or within hearing of the person) until the patient has died, and
- if there are unexpected complications of a medical kind - the patient's AHP either administers a substance to the patient to enable the patient to die more quickly and painlessly than would otherwise be the case or takes action to preserve the patient's life, depending on the patient's wishes (as set out in their Final Permission, if applicable).[200]

See AHP Administration Certificate Issued (Step 1) for further information about AHP Administration Certificates.

[197] Ibid sections 91(1) and 91(2).
[198] Ibid section 91.
[199] Ibid section 91(4).
[200] Ibid section 91(5).

See Requirement to Stay with the Patient for more information about the requirement for the AHP to remain in the same room or place of the patient.

See Unexpected Complications of a Medical Kind and Requirements if Unexpected Complications Arise for more information about the requirement for the AHP to take applicable actions in the event of unexpected complications of a medical kind.

16.3.9. Contact Person Notifies the Administering Health Practitioner of the Patient's Death and Returns the VAD Substance (Step 9)

The patient's Contact Person is responsible for notifying the patient's Administering Health Practitioner:

- if the patient dies after privately self-administering the VAD Substance, and
- of the location of the patient's body, if they have not died at home.

The Contact Person has **24 hours after** becoming aware of the patient's death to notify the Administering Health Practitioner of these matters.[201]

While there is no requirement for the Contact Person to notify the patient's Administering Health Practitioner if the patient dies before privately self-administering the VAD Substance, they are encouraged to do so. This is important because it allows the Administering Health Practitioner to contact the patient's Primary Medical Practitioner (if the Primary Medical Practitioner is not also the patient's Administering Health Practitioner), other members of the patient's treating team, and the VAD Commission, and for the VAD Substance to be retrieved as outlined in Patient Loss of Decision-Making Capacity or non-VAD Death.

In most cases there won't be any unused VAD Substance at the end of the voluntary assisted dying process. However, if there is some VAD Substance left over after the patient has died, the Contact Person is also responsible for returning any unused or remaining VAD Substance to the patient's Administering Health Practitioner.

The Contact Person has **14 days** from the patient's death to return any unused or remaining VAD Substance. In the meantime, the Contact Person must keep the VAD Substance in the locked container that it is provided in and make sure that it is not readily accessible by any other person.[202]

Returning any unused or remaining VAD Substance to the patient's Administering Health Practitioner within 14 days of the patient's death is very important including because it is an offence for a Contact Person to fail to comply with this requirement and they could face a fine of up to $19 500.[203]

16.3.10. Administering Health Practitioner Notifies VAD Commission of the Patient's Death (Step 10)

An Administering Health Practitioner who has been advised of a patient's death by the patient's Contact Person is responsible for notifying the VAD Commission of the death.[204] Notification may be made

[201] Ibid section 92(2).
[202] Ibid section 92(1).
[203] Ibid section 131 and *Penalty Units and Other Penalties Act 1987 (Tas)*. Accurate as of 22 December 2023.
[204] VAD Act (n 1) section 93(1).

verbally or in writing by calling 1800 568 956 or emailing vad.commission@health.tas.gov.au There is no set form for the notification.

While the Act does not require the notification to be given in any set timeframe, Administering Health Practitioners are encouraged to notify the VAD Commission of a patient's death **within seven (7) days** of being notified of the same.

16.4. AHP Administration

AHP Administration can involve the following:

- The patient's Administering Health Practitioner administering the VAD Substance to the patient.
- The patient taking the VAD Substance with assistance from the patient's Administering Health Practitioner.
- The patient taking the VAD Substance while the patient's Administering Health Practitioner is with them or nearby.

The option taken will vary depending on:

- the route of administration (whether oral or intravenous), noting that a patient's Administering Health Practitioner will always administer the VAD Substance if it requires intravenous administration, and
- the amount and type of assistance the patient requires from their Administering Health Practitioner.

While a patient who has chosen AHP Administration can still choose when and where to take the VAD Substance, their choice must be made in consultation with the patient's Administering Health Practitioner and considering the Administering Health Practitioner's preferences and availability.

The patient can choose to take the VAD Substance in the presence of only their Administering Health Practitioner, or to have others present with them, such as their family and friends, or even members of their healthcare team. However, only the Administering Health Practitioner can help the patient to prepare (including to mix) or administer the VAD Substance.

There is no requirement for a patient who chooses AHP Administration to appoint a Contact Person.

A patient's Administering Health Practitioner will maintain custody of the VAD Substance until the patient requests administration and will only supply the VAD Substance to a patient for AHP administration if:

- the VAD Commission has issued a VAD Substance Authorisation, and
- a VAD Substance Prescription has been completed and the VAD Substance has been dispensed, and
- an AHP Administration Certificate has been issued, and
- a Final Determination has been made and the patient has given their Final Permission, and
- the patient has not withdrawn from the voluntary assisted dying process.

This Part of the Handbook is concerned with the AHP Administration certificate, and Final Determination/Final Permission components of the process. Information on the VAD Substance Authorisation and VAD Substance Prescription components of the process can be found here VAD Substance Authorisation and here Prescribing and Managing the VAD Substance

16.4.1. AHP Administration Certificate Issued (Step 1)

16.4.1.1. AHP Administration Certificate Request

A patient whose Primary Medical Practitioner has determined their Final Request by determining that they are eligible to access voluntary assisted dying may choose to apply to their Administering Health Practitioner for an AHP Administration Certificate.[205] However, the Act does not require an application and that an AHP Administration Certificate may be issued by the patient's Administering Health Practitioner regardless of whether the patient has applied for it.

A request that is made does not have to take any set form and may be made verbally or in writing as the patient, and Administering Health Practitioner, see fit.

There is no requirement for the patient or the Administering Health Practitioner to provide a copy of the patient's request for an AHP Administration Certificate to the patient's Primary Medical Practitioner (if the patient's Primary Medical Practitioner is not also their Administering Health Practitioner), or to the VAD Commission, although this is not prevented by the Act.

16.4.1.2. AHP Administration Certificate

An Administering Health Practitioner may issue an AHP Administration Certificate in relation to a patient if the Administering Health Practitioner is satisfied that it is inappropriate for the patient to privately self-administer the VAD Substance, considering the following factors:

- the patient's ability to administer the VAD Substance without the Administering Health Practitioner assisting or being in close proximity to the patient, and
- the patient's ability to swallow and absorb the VAD Substance, and
- the patient's concern about administering the VAD Substance without the Administering Health Practitioner being in close proximity to the patient or assisting the patient, and
- the method of administration that is suitable for the patient.[206]

The Act does not require an AHP Administration Certificate to take any set form nor is there any requirement for the Administering Health Practitioner to give a copy of the Certificate, once issued, to the patient, the patient's Primary Medical Practitioner (if the Primary Medical Practitioner is not the patient's Administering Health Practitioner) or the VAD Commission.

Administering Health Practitioners are, however, encouraged to complete **Form 27: AHP Administration Certificate** and to provide a copy of the completed Form to the Office of the VAD Commission as soon as reasonably practicable and **within seven (7) days** of the Certificate being completed.

Notification may be made to the VAD Commission by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

[205] Ibid section 86(4).
[206] Ibid section 86(5).

16.4.2. Final Determination (Step 2)

To be able to access voluntary assisted dying, a patient must be determined by their Administering Health Practitioner to have decision-making capacity and to be acting voluntarily throughout the voluntary assisted dying process.

To be valid, this determination (the Final Determination) must be made in the **48 hours before** a patient gives their Final Permission.[207]

Determining a patient's decision-making capacity and voluntariness requires the Administering Health Practitioner to decide about the criteria set out in sections 10(1)(c), 10(1)(d), 12 and 13 of the Act and referred to in Decision-Making Capacity Requirements and Voluntariness Requirements as they apply to the patient.

The actions that must be taken after the Final Determination has been made are set out in Making a Final Determination and Taking a Patient's Final Permission.

16.4.3. Final Permission (Step 3)

A patient who has been told by their Administering Health Practitioner that they are entitled to receive assistance to die following a Final Determination, may give their Administering Health Practitioner a Final Permission.[208]

The patient's Final Permission will be valid if it is given **within 48 hours** of the Final Determination and after the Administering Health Practitioner's advice to the patient that they are entitled to receive assistance to die.

Final Permission provides more information about the Final Permission stage of the voluntary assisted dying process.

16.4.3.1. Unexpected Complications of a Medical Kind

In relation to AHP Administration, the Act requires a patient's Final Permission to include a statement about whether, if unexpected complications arise from the administration of the VAD Substance, the patient wishes the Administering Health Practitioner to:

- administer a substance to the patient that will allow them to die more quickly and painlessly than would otherwise be the case, or
- take action to preserve the person's life.[209]

See Requirements if Unexpected Complications Arise for further information.

[207] Ibid section 78.
[208] Ibid section 82(1).
[209] Ibid section 82(3)(d).

16.4.3.2. Amending the Final Permission

In relation to AHP Administration, a patient can amend the part of their Final Permission that relates to their preferred administration method. The amendment must be in writing and must be completed and signed by the patient or their designated person (see Designated Persons for more information).[210]

A patient's amendment of their Final Permission will be valid if it is in writing and has been completed and signed by the patient or their designated person and provided to the patient's Administering Health practitioner in person, by post, courier, or email.

There is no set Form to be completed nor is there a requirement for the patient or the Administering Health Practitioner to provide a copy of the amendment document to the patient's Primary Medical Practitioner (if the Administering Health Practitioner is not also the patient's Primary Medical Practitioner).

While there is no requirement to provide the patient's amendment document to the VAD Commission, Administering Health Practitioners are encouraged to do so as soon as reasonably practicable and **within seven (7) days** of the amendment being made. This may be done by posting the Form to the VAD Commission at GPO Box 125, Hobart, Tasmania, 7000; by emailing the Form to vad.commission@health.tas.gov.au or by calling 1800 568 956 to arrange for courier collection.

16.4.4. Administering Health Practitioner is Supplied with the VAD Substance (Step 4)

This step applies only if the patient's Primary Medical Practitioner is not also their Administering Health Practitioner.

Once the patient has given their Final Permission, a patient's Administering Health Practitioner may be supplied with the VAD Substance by their Primary Medical Practitioner.[211]

The Act anticipates a patient being supplied with the VAD Substance in the hours or days following the patient's Final Permission (as soon as practicable). Administering Health Practitioners are encouraged to consider the timing of their Final Determination, and the timeframes needed for the patient's Primary Medical Practitioner to supply the VAD Substance to the Administering Health Practitioner ahead of time to ensure that the patient's wishes and preferences around the timing of administration of the VAD Substance can be facilitated.

16.4.5. Administering Health Practitioner Administers the VAD Substance to the Patient (Step 5)

A patient's Administering Health Practitioner who has issued a patient with an AHP Administration Certificate and who has been supplied with the VAD Substance may:

- administer the VAD Substance to the patient, or
- supply the VAD Substance to the patient and help the person to self-administer the VAD Substance, or

[210] Ibid section 82(4).
[211] Ibid section 74.

- supply the VAD Substance to the patient for the patient to self-administer while the Administering Health Practitioner is nearby,

if to do so is in accordance with the patient's wishes in relation to administration method and what the patient would like to happen if unexpected complications of a medical kind arise, and provided the patient still wishes to access voluntary assisted dying.[212]

The VAD Navigation Service and VAD Pharmacy Service can provide practical assistance a patient's Administering Health Practitioner prior to, and on the day of, administration. Assistance can be requested by calling 1800 568 956 or emailing vad@health.tas.gov.au at an early point in time.

16.4.5.1. Requirement to Stay with the Patient

The Act requires a patient's Administering Health Practitioner to be in the same room or place as the patient, or within hearing distance of the patient, while the VAD Substance is being administered under an AHP Administration Certificate, and to stay in the same room or place, or within hearing of the patient, until the patient has died or is removed from the room or place to receive medical treatment, as the case may be.[213]

An Administering Health Practitioner who has administered the VAD Substance and stayed within hearing distance of the patient, rather than in the same room or place as the patient, is required to take reasonable steps to determine whether the patient has died or unexpected complications have arisen. This may involve moving into the room or place where the patient is.[214]

The patient's Administering Health Practitioner is required to consider the patient's wishes when deciding which room or place to be in, and to stay in, while the VAD Substance is being administered and until the patient has died or is removed.[215]

16.4.5.2. Requirements if Unexpected Complications Arise

If AHP Administration is chosen, the Act requires a patient's Final Permission to include a statement about whether, if unexpected complications arise from the administration of the VAD Substance, the patient wishes the Administering Health Practitioner to either:

- administer a substance to the patient that will allow them to die more quickly and painlessly than would otherwise be the case, or
- take action to preserve the person's life.[216]

If unexpected complications do arise, the Act requires the Administering Health Practitioner to act in accordance with the patient's Final Permission. That is, to either:

- administer a substance to the patient that will allow them to die more quickly and painlessly than would otherwise be the case, or
- take action to preserve the person's life.[217]

[212] Ibid section 86(1).
[213] Ibid section 87(1).
[214] Ibid section 87(2).
[215] Ibid section 87(3).
[216] Ibid section 82(3)(d).
[217] Ibid section 88.

An unexpected complication of a medical kind can be understood as an unforeseen and undesired problem arising after the administration of the VAD Substance, whether related to the substance itself, or an underlying condition.

The medications approved as VAD Substances are substances with known efficacies, prescribed and administered at doses designed to result in death. Complications following administration of the VAD Substance are very rare.

See the **Prescription, Supply and Administration Protocol** for further information.

16.4.6. Administering Health Practitioner Notifies VAD Commission of the Patient's Death (Step 6)

An Administering Health Practitioner who has administered the VAD Substance to a patient, or assisted or been nearby while the patient self-administered the VAD Substance, is responsible for notifying the VAD Commission of the death[218]. Notification may be made verbally or in writing by calling 1800 568 956 or emailing vad.commission@health.tas.gov.au. There is no set form for the notification.

While the Act does not require the notification to be given in any particular timeframe, Administering Health Practitioners are encouraged to notify the VAD Commission of a patient's death **within seven (7) days** of the patient's death.

[218] Ibid section 92.

17. After the Patient Dies

Preparing for after death is an important part of the preparation for administration of a VAD Substance. Ensuring that plans are made well in advance of the administration of the substance will enable the patient and others to understand the plan and process for care after death.

Regardless of whether each patient has chosen private self-administration or AHP Administration, the broad steps for verification of death and completion of the Declaration of Life Extinct (DOLE) and/or Medical Certificate of Cause of Death (MCCD) are the same. However, these steps may occur within different timeframes, depending on whether there is a medical practitioner present at the bedside at the time of death.

The death of a patient who has died following administration of a VAD Substance in accordance with the Act is not a reportable death for the purposes of the Tasmanian *Coroners Act 1995.*[219] This means that there is no need to notify a police officer or coroner of the death; and that a DOLE and/or MCCD can be issued.

17.1. Verification of Death and Completion of the Declaration of Life Extinct (DOLE)

Verification of death is the clinical examination that must occur to confirm that life is extinct. This can be completed by demonstrating the following assessment after five (5) minutes of continued cessation of respiratory function:

- absence of pupillary responses to light, and
- absence of response to central painful stimulus, and
- absence of a central pulse on palpitation, and
- absence of heart sounds on auscultation.

Where available, a medical practitioner should conduct the verification of death assessment. In cases where there is no medical practitioner available to verify the death, a registered nurse, registered midwife, or paramedic can do this.

The Act does not provide guidance on who should complete a declaration of life extinct for a patient who has died following administration of a VAD Substance. This means that there is nothing preventing a medical practitioner or registered nurse who was a patient's Primary Medical Practitioner, Consulting Medical Practitioner, or Administering Health Practitioner from verifying the death and completing the DOLE. This is often a practical option in the case of Administering Health Practitioner administration.

When the patient has died, it is important to allow the people present privacy and time alone with the patient if they wish prior to verification as a mark of respect to the patient. This may only be a brief time; however, this time should be protected.

The DOLE forms approved by the Director of Local Government under the Burial and Cremation Regulations are to be used to record the death of a patient following the administration or

[219] Ibid section 93.

self-administration of a VAD Substance. The forms can be found on the Department of Premier and Cabinet's website.

17.2. Completion of the Medical Certificate of Cause of Death (MCCD)

The MCCD must be completed by a medical practitioner. This may be the patient's usual medical practitioner by prior arrangement, a medical officer in attendance in a facility such as a hospital, or a medical practitioner who was a patient's Primary Medical Practitioner, Consulting Medical Practitioner, or Administering Health Practitioner. Planning for who will complete the MCCD should occur in advance, as part of planning for death (see Advance Care Planning and Voluntary Assisted Dying and End-of-Life Care Planning). Participating Practitioners are encouraged to discuss this with their patient's General Practitioner or other treating medical practitioners prior to administration of the VAD Substance, to establish who will complete the MCCD.

The MCCD must be completed and provided to the Registrar of Births, Deaths, and Marriages **within 48 hours** of the death. This is the case for all deaths, not only those where the patient has died following administration of the VAD Substance.

The Act is silent on whether VAD should be mentioned on the patient's MCCD. The VAD Commission and the Secretary, Department of Health have recommended that the manner of death of patient who has died following administration of the VAD Substance be recorded as natural and that voluntary assisted dying is not referred to in the Cause of Death details or anywhere else on the certificate.

The Death Certificate issued for the patient by the Registrar of Births, Deaths and Marriages will not refer to voluntary assisted dying. It is important for the Primary Medical Practitioner to inform the patient and their family of this if there are any concerns.

17.3. Death Prior to Administration of a VAD Substance

There is no requirement for a Primary Medical Practitioner who becomes aware that a patient has died before the VAD Substance has been administered to inform the patient's Consulting Medical Practitioner, Administering Health Practitioner or VAD Commission of the death. However, Primary Medial Practitioners are encouraged to do so and, in relevant circumstances, to take steps to retrieve any VAD Substance that was in the patient's possession at the time of their death. See Patient Loss of Decision-Making Capacity or non-VAD Death for further information.

Notification may be made to the VAD Commission by calling or emailing the Office of the VAD Commission on 1800 568 956 or vad.commission@health.tas.gov.au

17.4. Bereavement Support

It is normal for a person to experience grief and bereavement both before, and after, any death. Grief is a natural and normal response to loss. Community supports are important, and the Primary Medical Practitioner should encourage those connections. Some people may require further supports and the Primary Medical Practitioner should ensure that family and friends of the deceased person have access to bereavement supports (see **Table 12** below).

A person who has chosen to access voluntary assisted dying is aware of their approaching death. It is likely that at least some of their family, carers or friends are also aware the person may die soon. Voluntary assisted dying can be both protective of, and create risk factors for, complex grief. Those close to the person will likely experience a level of anticipatory grief as they prepare for the impending loss. Accepting another person's choice to access voluntary assisted dying will be easy for some people and very difficult for others. They may experience some conflicting feelings of sadness, relief, or distress. For some people, voluntary assisted dying may include stigma that may complicate, or simplify, the grieving process.

Even those who are supportive will face an inevitable outcome – the loss of a loved one and the grief that follows. Once the death has occurred, those present should be supported according to their individual needs. This may include:

- Acknowledging and validating a range of grief-related responses.
- Providing privacy if desired.
- Allowing family, carers, and friends to spend time with the person.
- Involvement in helping with personal care of the person.
- Support to carry out specific cultural, spiritual, or religious practices or rituals.
- Assistance with practical matters such as contacting a funeral director.

17.4.1. Bereavement Care

Bereavement care should be offered to a patient's carers, family, and friends, whether directly or via their health service's existing bereavement support services. Where palliative care services have been involved in the care of the person, they usually offer bereavement support or referral to other services.

Table 12 outlines resources that may be useful in supporting the patient's carers, family, and friends as part of bereavement support.

Table 12: Bereavement Supports

Resource	Details
Griefline	Dying with Dignity's Griefline Support Service for Voluntary Assisted Dying offers free telephone support, online forums, self-care resources and information with pre-or post-VAD support groups. It is operated by Dying with Dignity Victoria and is available to Tasmanians.
Grief Australia	Grief Australia can help family, friends and carers deal with the death of a loved one and put them in touch with appropriate support groups.
A Tasmanian Lifeline	A Tasmanian Lifeline is a Tasmanian-based telephone support service that provides one off or ongoing support.
Lifeline	Lifeline is a national service available to Australians experiencing emotional distress with access to 24-hour crisis support and suicide prevention services.
Beyond Blue	Beyond Blue can provide support for mental health and wellbeing, especially for people experiencing anxiety and depression.
RHH Grief and Loss Service	The Royal Hobart Hospital's Grief and Loss Counselling Service provides up to six sessions of professional counselling support. It is available to people 18 years of age and over, who experience a significant loss in connection to the Royal Hobart Hospital. The Service operates Monday – Friday from 9:00 AM – 5:00 PM and can be contacted by calling 03 6166 8344.

18. Applications to the VAD Commission for the Review of a Reviewable Decision

The VAD Commission can, on application, review decisions made by a patient's Primary Medical Practitioner, Consulting Medical Practitioner, or Administering Health Practitioner; however only about whether the patient meets the residency requirements, has decision-making capacity, or is acting voluntarily (a reviewable decision).[220]

The VAD Commission does not have jurisdiction to review decisions about the nature and prognosis of a patient's illness, injury, or other condition or conditions.

An application can be made by the patient or an agent of the patient, or by any other person that the VAD Commission is satisfied, after considering the VAD Commission's Special Interest Guidelines, has a special interest in the patient's medical treatment and care. See the Special Interest Guidelines for more information.[221]

An application to the VAD Commission for review of a reviewable decision effectively pauses the voluntary assisted dying process, and no further action that forms part of the voluntary assisted dying process can be undertaken until the application is determined, is withdrawn, or is dismissed.[222]

The Primary Medical Practitioner will be notified by the VAD Commission if an application for review of a reviewable decision is made. While not required to do so by the Act, the Primary Medical Practitioner is encouraged to inform the patient's Consulting Medical Practitioner, Administering Health Practitioner and other members of the patient's treatment team as may be appropriate.[223]

People wishing to apply to the VAD Commission for a review of a reviewable decision should call 1800 568 956 or email vad@health.tas.gov.au for information on next steps.

18.1. Effect of VAD Commission Decision

The VAD Commission may determine an application by determining that the patient:

- meets, or does not meet, the residency requirements, or
- has, or does not have, decision-making capacity, or
- is, or is not, acting voluntarily.[224]

If the VAD Commission's determination is that the patient does not meet the residency requirements, does not have decision-making capacity, or is not acting voluntarily, the voluntary assisted dying process ends and no further action that relates to the voluntary assisted dying process for the patient may be taken.[225]

[220] Ibid section 95.
[221] Ibid sections 94 and 95(1).
[222] Ibid section 96.
[223] Ibid section 95(3).
[224] Ibid sections 99 and 103.
[225] Ibid section 103(3)

If the VAD Commission's determination is that the patient does have decision-making capacity, or is acting voluntarily, the practitioner who made the original decision (the patient's Primary Medical Practitioner, Consulting Medical Practitioner or Administering Health Practitioner, as the case may be) may adopt the VAD Commission's determination, in which case, the VAD Commission's determination is taken to be the practitioner's decision.[226]

[226] Ibid section 103(6).

19. Other Considerations

19.1. Transferring a Practitioner Role

The Primary Medical Practitioner is the main contact point throughout the voluntary assisted dying process for the patient, the Consulting Medical Practitioner, the VAD Commission, and the patient's Administering Health Practitioner (if any). The role is significant and requires substantial time and clinical commitment through the duration of a patient's voluntary assisted dying process.

Similarly, the Administering Health Practitioner role requires the registered nurse or medical practitioner appointed to the role to remain available to supply and/or administer the VAD Substance to the patient at a time of the patient's choosing, and to remain with or near to the patient following administration until the patient dies.

There may be occasions where these commitments cannot continue to be undertaken. For example, a practitioner may need to travel overseas unexpectedly, leaving them unavailable to supply the VAD Substance to the patient's Administering Health Practitioner for administration to the patient. Alternatively, a patient may live longer than expected, in which time the practitioner may have ceased to be a registered health practitioner.

In these circumstances, consideration should be given to transferring the Primary Medical Practitioner and/or Administering Health Practitioner role.

19.1.1. Transferring the Primary Medical Practitioner Role

The VAD Commission may effectively determine that a patient's Consulting Medical Practitioner becomes their Primary Medical Practitioner in circumstances where the Primary Medical Practitioner cannot continue in the role. This determination can be made at any point after the patient's Final Request has been determined. The patient's consent, and the Consulting Medical Practitioner's agreement is required.

The steps involved in the transfer process are as follows:

- The Primary Medical Practitioner must firstly cease to be the patient's Primary Medical Practitioner by notifying the patient, the patient's Consulting Medical Practitioner, and the patient's Administering Health Practitioner (if they have one), and the VAD Commission, that the practitioner is to cease to be the patient's Primary Medical Practitioner. The notification must be in writing.[227] The requirement to notify the VAD Commission can be met by emailing the Office of the VAD Commission (vad.commission@health.tas.gov.au).
- The patient must then agree to the patient's Consulting Medical Practitioner becoming their Primary Medical Practitioner. The patient's agreement should be in writing and may be given to the patient's former Primary Medical Practitioner, their Consulting Medical Practitioner, or directly to the VAD Commission.[228] The agreement can be given by letter, or by email, fax, or text if the Participating Practitioner and/or VAD Commission agree.

[227] Ibid section 106(2).
[228] Ibid section 59(3).

- Lastly, the Consulting Medical Practitioner must apply to the VAD Commission to become the patient's Primary Medical Practitioner.[229] The application must confirm that the Consulting Medical Practitioner agrees to become the patient's Primary Medical Practitioner and may be made by emailing the Office of the VAD Commission (vad.commission@health.tas.gov.au)

Once all required documentation has been received, the VAD Commission will meet to consider the application. Advice of the outcome will be provided to the patient's Consulting Medical Practitioner and to the patient in writing by letter or email.

If the VAD Commission determines that a patient's Consulting Medical Practitioner is to become their Primary Medical Practitioner, that person becomes the patient's Primary Medical Practitioner for the purposes of section 16 of the Act (relating to the patient's withdrawal from the voluntary assisted dying process) and Part 16 of the Act (relating to practitioner withdrawal from the voluntary assisted dying process) and in respect of so much of the voluntary assisted dying process as has not yet occurred in relation to the patient.[230]

Following the VAD Commission's determination, the new Primary Medical Practitioner can decide whether to be the patient's Administering Health Practitioner and, if applicable, can request the VAD Commission appoint an Administering Health Practitioner in relation to the patient. See AHP Administration Decision for more information.

This is the only mechanism provided under the Act for transfer of the Primary Medical Practitioner role. If a patient's Primary Medical Practitioner cannot continue in the role and transfer to the patient's Consulting Medical Practitioner is not possible, then the only option open to the patient is to commence the voluntary assisted dying process again by making a new First Request to another medical practitioner.

19.1.2. Transferring the Administering Health Practitioner Role

This Part applies to registered nurses and medical practitioners who have been appointed as Administering Health Practitioners by the VAD Commission.

Transferring the Primary Medical Practitioner Role provides the mechanism for transfer of responsibility for Administering Health Practitioners who are also the patient's Primary Medical Practitioner.

An Administering Health Practitioner who cannot continue in the role should contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au to discuss options and next steps.

19.2. Re-Starting the VAD Process

There is no limit on the number of First Requests to access voluntary assisted dying that a person may make.

[229] Ibid section 59(1).
[230] Ibid section 59(5).

19.2.1. Re-Starting the VAD Process After a VAD Commission Determination

If the VAD Commission's determination, following the review of a reviewable decision, is that the patient does not meet the residency requirements, does not have decision-making capacity, or is not acting voluntarily, the voluntary assisted dying process ends and no further action that relates to the voluntary assisted dying process for the patient may be taken. See Effect of VAD Commission Decision for more information.

The VAD Commission's determination does not prevent a person from commencing the voluntary assisted dying process again, and the person may make a new First Request to a medical practitioner at any time.

However, a person who wishes to make a new First Request following a determination that the patient is not acting voluntarily, the VAD Commission's written approval is required.[231] Contact the Office of the VAD Commission on 1800 568 956 or vad.commission@health.tas.gov.au for information about next steps.

19.2.2. Re-Starting the VAD Process After Two Consulting Medical Practitioners Have Determined the Person Ineligible

If two Consulting Medical Practitioners have determined a person to be ineligible to access voluntary assisted dying, the voluntary assisted dying process ends for the person.[232]

The fact that the person has been determined ineligible by two separate Consulting Medical Practitioners does not prevent the person from commencing the voluntary assisted dying process again, and the person may make a new First Request to a medical practitioner at any time.

However, the VAD Commission's authorisation is required if a person wishes to make a new First Request to the person who was their Primary Medical Practitioner following two determinations of ineligibility by Consulting Medical Practitioners within 12 months of the last Consulting Medical Practitioner's determination.[233] A medical practitioner who is asked to accept a person's First Request in these circumstances should contact the Office of the VAD Commission by calling 1800 568 956 or emailing vad.commission@health.tas.gov.au for information about next steps.

[231] Ibid section 103(5).
[232] Ibid section 52.
[233] Ibid sections 52(2) and 107(3).

20. Practitioner Self-Care and Support

20.1. Self-Care

Caring for patients at the end of life can be extremely rewarding, but it can also be emotionally challenging. As well as managing the needs and expectations of patients, families, and colleagues, practitioners are strongly encouraged to attend to their own care as an essential part of participating in the voluntary assisted dying process.

Even in Australian states where it has been legalised for several years, voluntary assisted dying is a relatively uncommon practice that sits outside of the current scope of many practitioners. Practitioners might want to consider how to manage their own feelings and their unique workplace stressors, which may include:

- practitioners' own reactions to, and experiences of, supporting a planned death, and
- local community views around voluntary assisted dying, and
- varying views on voluntary assisted dying within the workplace, and
- isolation in rural or remote areas, and
- differing levels of organisational support, and
- the circumstances of patients and their carers.

These factors, along with the ethical, personal, and professional issues that voluntary assisted dying can pose, can all come together to challenge practitioners.

It is widely recognised that health professionals provide the best care to their patients when they are experiencing their own optimal wellness; and practitioners are encouraged to have a plan and to follow it to remain resilient, productive, and able to continue to care for others.

Tables 13, **14** and **15** list resources that may be useful to support medical practitioners and registered nurses. They are not exhaustive.

Table 13: Mental Health and Wellbeing Support Resources

Resources	Contact
Employee Assistance Programs	All Department of Health (including the Tasmanian Health Service) and Ambulance Tasmania employees, and members of their immediate families, can access the Employee Assistance Program (EAP) for free, confidential, independent, and professional counselling services. See the Department of Health's website for more information. Other organisations may offer similar programs for staff.
CRANAplus Bush Support Line	The CRANA Plus Bush Support Line is a free and confidential telephone support line. It operates 24/7 and is staffed by experienced psychologists with rural, remote, and cross-cultural experience. It is free and available to anyone working in the rural and remote health sector and their families.
Hand-n-Hand Peer Support	Hand-n-Hand Peer Support offers free, confidential peer support for health professionals in Australia and New Zealand.
Beyond Blue	Beyond Blue supports individuals experiencing anxiety and depression.
Lifeline	Lifeline Tasmania provides 24-hour crisis support and suicide prevention.
Black Dog Institute	The Black Dog Institute's TEN – The Essential Network for Health Professionals e-hub gives healthcare professionals access to a network of support including self-guided mental health check-ups, evidence-based tools and resources and up to five free telehealth sessions with a clinical psychologist or psychiatrist through Black Dog Institute's TEN Clinic.
Australian Centre for Grief and Bereavement (Grief Australia)	Grief Australia offers a range of education, training, research and professional service options for those working in the area of grief and bereavement.
Palliative Care Australia	Palliative Care Australia Self-Care Matters has a range of resources to help practitioners build resilience and prevent burnout.

Table 14: Additional resources for medical practitioners

Resources	Contact
DRS4DRS	DRS4DRS supports doctors and medical students to care for themselves, their colleagues, and their patients through an extensive network of doctors' health and referral services. DRS4DRS also offers a free, confidential mental health support service that operates 24/7. It is available to doctors, medical students and their spouses/partners.
Royal Australian College of General Practitioners (RACGP) Support Program	The RACGP's GP Support Program is a free and confidential service offered by the RACGP and is available to all members regardless of where they live or work. The Program can provide help to RACGP members with a range of issues including handling work pressures, grief and loss, anxiety and depression, and traumatic incidents. Members who are registered medical practitioners can access three free consultations.
Royal Australasian College of Physicians (RACP)	The Royal Australian College of Physicians (RACP)'s website provides details of a range of support services and resources. Fellows and trainees can also access the RACP Support Program for free, 24/7, confidential support.
Australian College of Rural and Remote Medicine (ACRRM)	The Australian College of Rural and Remote Medicine's website also offers a range of wellbeing resources.

Table 15: Additional resources for registered nurses

Resources	Contact
Nurse and Midwife Support	Nurse and Midwife Support offers a free, 24-hour national support services for nurses, providing access to confidential advice and referral.
NurseStrong – Australian College of Nursing	NurseStrong encourages nurses to improve their physical, mental, and emotional strength in a safe and supportive environment.

20.2. Community of Practice

Connecting with other health professionals who are providing voluntary assisted dying services to patients and families can help manage some challenging aspects of this work experienced by health professionals. These include managing a sense of isolation, especially for rural and remote practitioners, and navigating differing views about voluntary assisted dying amongst professional, institutional, and wider communities.

A *Community of Practice* supports practitioners by providing an inclusive forum that can offer practical and emotional support, as well as opportunities to learn from one another and seek guidance from senior practitioners with experience in palliative and end of life care and managing complex deaths.

The VAD Navigation Service hosts a Tasmanian Community of Practice (CoP). The CoP is a forum that brings together Participating Practitioners in Tasmania to discuss topics of interest relating to clinical practice. The CoP meets monthly and is an important way to build connections with other Participating Practitioners across the state. To become involved, please contact the VAD Navigation Service by calling 1800 568 956 or emailing vad@health.tas.gov.au

21. Tasmanian Voluntary Assisted Dying Services

21.1. Voluntary Assisted Dying (VAD) Commission

The VAD Commission is established by section 110(1) of the Act. It is an independent oversight and decision-making body with responsibility for performing the functions and exercising the powers conferred upon it by the Act, and other Acts.

The VAD Commission consists of:

- a person who is to be the chairperson and the Executive Commissioner, and
- a person who is to be the Deputy Executive Commissioner, and
- at least three other members as may be necessary for the proper function of the VAD Commission.

The members of the Commission are jointly appointed by the Minister for Mental Health and Wellbeing, and the Attorney-General.

The VAD Commission is supported in the performance of its functions by a Manager and small team of Department of Health employees (the Office of the VAD Commission).

The Act sets out the following functions for the Commission:

- monitor the operation of the Act, and
- provide an appropriate level of assistance to persons who wish to access voluntary assisted dying but who are prevented from, or hampered in, accessing the process because of their personal circumstances, which may include their access to medical practitioners who are willing and able to assist them in achieving such access, and
- establish and maintain a list of:
    - medical practitioners and registered nurses who have completed approved voluntary assisted dying training, and
    - medical practitioners who are willing to be primary medical practitioners, consulting medical practitioners, or administrating health practitioners, and
    - registered nurses who are willing to be administering health practitioners, and
    - pharmacists who are willing to dispense VAD substances, and
- collect statistical information in relation to the operation of the Act, and
- distribute information relating to
    - the functions of the Commission, and
    - the operation of the Act, and
- any other functions that may be prescribed.[234]

Some of these functions have been delegated to the Voluntary Assisted Dying (VAD) Navigation Service. The delegation allows these functions to be performed by the VAD Navigation Service on behalf of the VAD Commission. See VAD Navigation Service for further information.

[234] No functions are prescribed.

21.1.1. Monitoring and Compliance Functions

Under sections 67 and 68 of the Act, the VAD Commission is prevented from issuing a VAD Substance Authorisation if:

- the VAD Commission has not received all notices, and information, in relation to the person that the PMP is required to give to the VAD Commission under the Act, or
- the VAD Commission suspects that the requirements of the Act have not been met in relation to the person.

See The VAD Commission's "Manual Portal" for more information about the discharge of these functions.

21.1.2. Review, Investigation and Decision-Making Functions

The VAD Commission's functions also include:

- Receiving and determining applications from eligible applicants for review of a decision, by a person's PMP, CMP or AHP, that the person meets (or does not meet) the Act's residency requirements, that the person has (or does not have) decision-making capacity, or that the person is (or is not) acting voluntarily.[235]
- Receiving notifications of suspected contraventions of the Act and investigating the matter to which the suspected contravention relates.[236]
- Considering whether there are reasonable grounds for why the requirements of section 15(4)(c) of the Act (relating to communication assistance) ought not to apply.
- Advising a person's PMP that a person does, or does not, meet the Act's residency requirements.[237]
- Determining that a person is exempt from the requirement that the person's illness is expected to cause the person's death within six (6) months, or within 12 months if the disease is neurodegenerative.[238]

21.1.3. Contacting the VAD Commission

The VAD Commission is based in Hobart but operates Statewide.

The VAD Commission operates during business hours (Monday – Friday, 9.00 - AM 5.00 PM).

Post: GPO Box 125
HOBART TAS 7000

Email: vad.commission@health.tas.gov.au

Call: 1800 568 956

[235] VAD Act (n 1) Part 15.
[236] Ibid sections 121 – 132.
[237] Ibid section 11.
[238] Ibid section 6.

21.2. VAD Navigation Service

The Voluntary Assisted Dying (VAD) Navigation Service provides a central point of contact for general and individualised information and support about voluntary assisted dying to patients, families and carers, and health professionals.

The Navigation Service is a small team of nursing and allied health professionals. The Service operates Statewide.

Members of the Navigation Service also perform the following functions as delegates of the VAD Commission:

- provide an appropriate level of assistance to persons who wish to access voluntary assisted dying but who are prevented from, or hampered in, accessing the process because of their personal circumstances, which may include their access to medical practitioners who are willing and able to assist them in achieving such access, and
- establish and maintain a list of:
    - medical practitioners and registered nurses who have completed approved voluntary assisted dying training, and
    - medical practitioners who are willing to be primary medical practitioners, consulting medical practitioners, or administrating health practitioners, and
    - registered nurses who are willing to be administering health practitioners, and
- distribute information relating to the operation of the Act, and
- providing to a person the name and contact details of a medical practitioner or registered nurse, with that practitioner or nurse's permission.

21.2.1. Contacting the VAD Navigation Service

The VAD Navigation Service is based in Hobart but operates Statewide.

The VAD Navigation Service operates during business hours (Monday – Friday, 9.00 - AM 5.00 PM).

Post:	GPO Box 125 HOBART TAS 7000
Email:	vad@health.tas.gov.au
Call:	1800 568 956

21.3. VAD Pharmacy Service

The Voluntary Assisted Dying (VAD) Pharmacy Service consists of a small team of pharmacists employed by the Statewide Hospital Pharmacy who have an interest and willingness to participate in the voluntary assisted dying process.

The VAD Pharmacy Service is the only pharmacy in Tasmania that can supply the VAD Substance, and trained and accredited members of the Pharmacy Service are the only pharmacists in Tasmania who can perform the functions assigned to pharmacists by the Act. This includes:

- supplying a person's PMP with a VAD Substance,
- discussing the person's illness with them to ensure a VAD Substance supplied is suitable for their use, and
- accepting the return of, and destroying, any VAD Substance that is no longer required and is returned to the pharmacist by a person's PMP, or by their AHP.

The VAD Pharmacy Service also has a key role in educating medical practitioners and others about VAD Substances and their prescription, supply, storage, and administration.

21.3.1. Contacting the VAD Pharmacy Service

The VAD Pharmacy Service is based in Hobart but operates Statewide.

The VAD Pharmacy Service operates during business hours (Monday – Friday, 9.00 AM - 5.00 PM).

Post: GPO Box 125
HOBART TAS 7000

Email: vps@ths.tas.gov.au

Call: 03 6166 0168

Appendix 1: Approved Forms

Colour Code	Form	Completed By
	Form 1: Patient's First Request ***Form 1: Making a First Request Fact Sheet***	Patient
	Form 2: Practitioner's Decision to Accept or Refuse Patient's First Request	PMP
	Form 3: Practitioner's Provision of Relevant Information	PMP
	Form 4: Practitioner's Determination of Patient's First Request	PMP
	Form 5: Practitioner's Statement of Reasons on Determination of Patient's First Request	PMP
	Form 6: Patient's Second Request ***Form 6: Making a Second Request Fact Sheet***	Patient
	Form 7: Practitioner's Determination of Patient's Second Request	PMP
	Form 8: Practitioner's Statement of Reasons on Determination of Patient's Second Request	PMP
	Form 9: Practitioner's Decision to Accept or Refuse Second Opinion Referral	CMP
	Form 10: Practitioner's Second Opinion Determination	CMP
	Form 11: Practitioner's Statement of Reasons on Determination of Second Opinion	CMP
	Form 12: Patient's Final Request ***Form 12: Making a Second Request Fact Sheet***	Patient
	Form 13: Practitioner's Determination of Patient's Second Request	PMP
	Form 14: Practitioner's Statement of Reasons on Determination of Patient's Final Request	PMP
	Form 15: Practitioner's Request to Appoint an AHP	PMP
	Form 16: Agreement to be appointed as an AHP	AHP
	Form 17: Commission Instrument of Appointment	VAD Commission

Colour Code	Form	Completed By
	Form 18: Practitioner's Request to Issue a VAD Substance Authorisation	PMP
	Form 19: VAD Substance Authorisation – Refused	VAD Commission
	Form 20: VAD Substance Authorisation – Issued	VAD Commission
	Form 21: VAD Substance Authorisation – Revocation	VAD Commission
	Form 22A: Patient's Final Permission – Private Self-Administration ***Form 22A: Patient's Final Permission – Private Self-Administration Fact Sheet***	Patient
	Form 22B: Patient's Final Permission – AHP Administration ***Form 22B: Patient's Final Permission – AHP Administration Fact Sheet***	Patient
	Form 23: Notification that Patient does not have Decision-Making Capacity, is not acting Voluntarily	AHP
	Form 24: Patient's Private Self-Administration Certificate Request ***Form 24: Requesting a Private Self-Administration Certificate Fact Sheet***	AHP
	Form 25: Private Self-Administration Certificate	AHP
	Form 26: Contact Person Appointment Form ***Form 26: Choosing a Contact Person, and Being a Contact Person Fact Sheet***	Patient and Contact Person
	Form 27: AHP Administration Certificate	AHP
	Form 28: Pharmacist's Notification that VAD Substance has been Supplied	Pharmacist
	Form 29: Notification that VAD Substance Prescription has been destroyed	PMP
	Form 30: Notification that VAD Substance has been returned – PMP	PMP
	Form 31: Notification that VAD Substance has been returned – AHP	AHP

Colour Code	Form	Completed By
	Form 32: Notification of Patient Withdrawal from Process – PMP	PMP
	Form 33: Notification of Patient Withdrawal from Process – AHP	AHP
	Form 34: Application for Review of Relevant Decision	Patient/Agent/Person with a Special Interest
	Form 35: Withdrawal of Application for Review of Relevant Decision	Patient/Agent/Person with a Special Interest
	Form 36: Notification by PMP of PMP Withdrawal from Process	PMP
	Form 37: Application to Commission from former PMP to become PMP again	PMP
	Form 38: Notification by PMP of CMP withdrawal from process	PMP
	Form 39: Notification by CMP of CMP withdrawal from process	CMP
	Form 40: Communication Assistance	PMP/CMP/AHP

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