Implications of voluntary assisted dying for advance care planning

Voluntary assisted dying is now lawful in all Australian states, with territories likely to follow.[1] As this new end-of-life choice becomes more widely available and known, we should anticipate it arising during end-of-life care discussions with patients. In Australia, unlike some international models,[2,3] voluntary assisted dying is not available to people without decision-making capacity. Therefore, patients cannot request voluntary assisted dying through an advance care directive or other advance care planning document. However, some competent adult patients undertaking advance care planning may want to discuss voluntary assisted dying. Reflection is needed to prepare patients, clinicians and health services for discussions about voluntary assisted dying during advance care planning.

Advance care planning is conceptually different from voluntary assisted dying

As voluntary assisted dying was being debated and legalised across Australia, efforts were made to distinguish it from advance care planning.[4] This conceptual work is important because the implementation of voluntary assisted dying is often accompanied by confusion and anxiety,[5,6] and the two concepts are often misunderstood and conflated.[7] We support educative efforts that define and distinguish voluntary assisted dying and advance care planning because this clarity enables patients to make informed choices.

Advance care planning is a "process of planning for future health and personal care whereby the person's values, beliefs and preferences are made known to guide decision-making at a future time when that person cannot make or communicate their decisions."[8] By contrast, in Australia, voluntary assisted dying provides assistance to die for adults with decision-making capacity who meet strict eligibility criteria, for example, if the patient is expected to die within 6 or 12 months from an advanced, progressive medical condition.[1]

A critical difference is that voluntary assisted dying in Australia is available only to adults with decision-making capacity, while advance care planning focuses on decision making about future care at a time when capacity is lost. Because access to voluntary assisted dying requires a person to retain decision-making capacity throughout the process, 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 the person's behalf. This distinction is clearly reflected in law (indeed, some medical decision-making legislation expressly excludes voluntary assisted dying) and guidance across Australia.[9-13]

Advance care planning practices and systems need to recognise voluntary assisted dying

Although voluntary assisted dying is not the focus of advance care planning, clinicians and health services undertaking advance care planning need to be prepared for this topic. A pragmatic reason is voluntary assisted dying will inevitably be raised by some patients in their end-of-life planning. Attempts to exclude voluntary assisted dying are impractical as patients see end-of-life choices holistically and are unlikely to partition advance care planning and voluntary assisted dying.

An ethical reason to prepare for voluntary assisted dying discussions during advance care planning is it may sometimes be appropriate to inform patients about their potential or future eligibility for voluntary assisted dying.[14,15] Some patients, as with end-of-life discussions generally,[7] may be waiting for health practitioners to initiate voluntary assisted dying discussions. Other patients may not be aware of voluntary assisted dying or their potential eligibility.

Where it is legally possible to raise voluntary assisted dying (Box 1) and clinically appropriate, informing patients of all possible end-of-life choices would facilitate decisions that align with the values, beliefs and preferences at the heart of advance care planning. We emphasise this must be done sensitively, within the law, and guided by good clinical practice about end-of-life care discussions.[18]

Three critical issues for advance care planning systems and practices to consider

Restrictions on raising voluntary assisted dying

If a patient raises voluntary assisted dying during an advance care planning discussion, health practitioners are free to discuss it. However, if not initiated by a patient, Australian law (Box 1) is unusual internationally because it regulates whether, and how, a health practitioner can raise voluntary assisted dying with a patient.

In Victoria and South Australia, law prohibits registered health practitioners from raising voluntary assisted dying with a patient or initiating a discussion about it. No other lawful health care option is prohibited from being raised in this way.[19] Victorian doctors and family caregivers have reported confusion and access barriers as a result of this restriction.[20,21] Advance care planning programs in these states should ensure health practitioners are aware of this legal duty but make it clear that voluntary assisted dying can be discussed once raised by a patient. This includes understanding when voluntary assisted dying has been raised, given reports that patients struggle to know the "right words"[21] to successfully raise this topic, and the need for open questions to facilitate a lawful discussion.

Ben P White
Madeleine Archer
Casey M Haining
Lindy Willmott

Australian Centre for Health Law Research, Queensland University of Technology, Brisbane, QLD.

bp.white@qut.edu.au

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1 Permissibility of registered health practitioners initiating discussions about voluntary assisted dying in Australia*

	New South Wales	Queensland	South Australia	Tasmania	Victoria	Western Australia
Doctors	Yes, provided they inform at same time of available treatment and palliative care options and their likely outcomes	Yes, provided they inform at same time of available treatment and palliative care options and their likely outcomes	No	Yes, provided they inform at same time of available treatment and palliative care options and their likely outcomes	No	Yes, provided they inform at same time of available treatment and palliative care options and their likely outcomes
Nurse practitioners	Yes, provided they inform at same time that palliative care and treatment options are available, and that the patient should discuss these with their doctor	As above	No	Yes, provided they inform during discussion that a doctor would be the most appropriate person with whom to discuss the VAD process and care and treatment options	No	As above
Other registered health practitioners	As for nurse practitioners	No	No	As for nurse practitioners	No	No

* Note: Some voluntary assisted dying legislation also regulates the conduct of discussions by health care workers. Table adapted from Waller et al,[1] Voluntary assisted dying in aged care: roles and obligations of medical practitioners,[16] and Voluntary assisted dying in aged care: roles and obligations of registered nurses.[17] ◆

In all other states, doctors can raise voluntary assisted dying, as can some or all other health practitioners, depending on the state, but this is subject to providing certain information at the same time (Box 1).[1] Again, advance care planning programs in these jurisdictions need to ensure their practitioners understand these laws.

Individual conscience and institutional objection

Advance care planning programs must address conscientious objection, which is legally protected. Some opposed health practitioners may be willing to engage in advance care planning discussions that include voluntary assisted dying, but others may not.[22] However, objecting practitioners must still be aware of potential legal duties. For example, voluntary assisted dying laws in some states require that patients making a first formal request for voluntary assisted dying be provided specific information about it, including about practitioners or voluntary assisted dying services (Box 2). Professional and ethical duties imposed by bodies such as the Medical Board of Australia and the Australian Medical Association also include not hindering access to voluntary assisted dying.[23,24]

Institutions objecting to voluntary assisted dying can also affect advance care planning. While institutions may object to a range of practices,[25,26] relevant here is an objecting institution whose advance care planning program does not permit discussion of voluntary assisted dying. Complex laws about institutional objection to voluntary assisted dying exist in New South Wales, Queensland and South Australia[1] and can affect implementation of local advance care planning programs.

Accessing voluntary assisted dying requires planning and time

If advance care planning discussions do include voluntary assisted dying, they should ensure patients know that accessing voluntary assisted dying takes time, and requires planning[20,21] (although it can be expedited in urgent cases).[1] The most recent Victorian Voluntary Assisted Dying Review Board report advises voluntary assisted dying is not an emergency procedure, with a median time from first request to dispensing medication of 34 days (interquartile range, 23–53 days).[27] This need to plan arises from: the time needed for the rigorous assessment and approval process; eligibility criteria that mean a person is expected to die within 6 or 12 months, and so is on a trajectory to death and reduced physical (and potentially mental) capacity; and the possibility of voluntary assisted dying requests being made late in a person's illness.[21]

Preparing advance care planning programs and practices for voluntary assisted dying

Voluntary assisted dying will increasingly arise in advance care planning discussions now that it is legal in all Australian states. The palliative care sector has been proactive in addressing voluntary assisted dying in end-of-life discussions, with Palliative Care Australia, Australia's peak palliative care body, developing a position statement and guiding principles to support people providing care for individuals with a life-limiting condition who may wish to access voluntary assisted dying. These principles state that individuals and their families and carers "must be treated with dignity and respect and supported to explore options available to them, which may include [voluntary assisted dying]".[28]

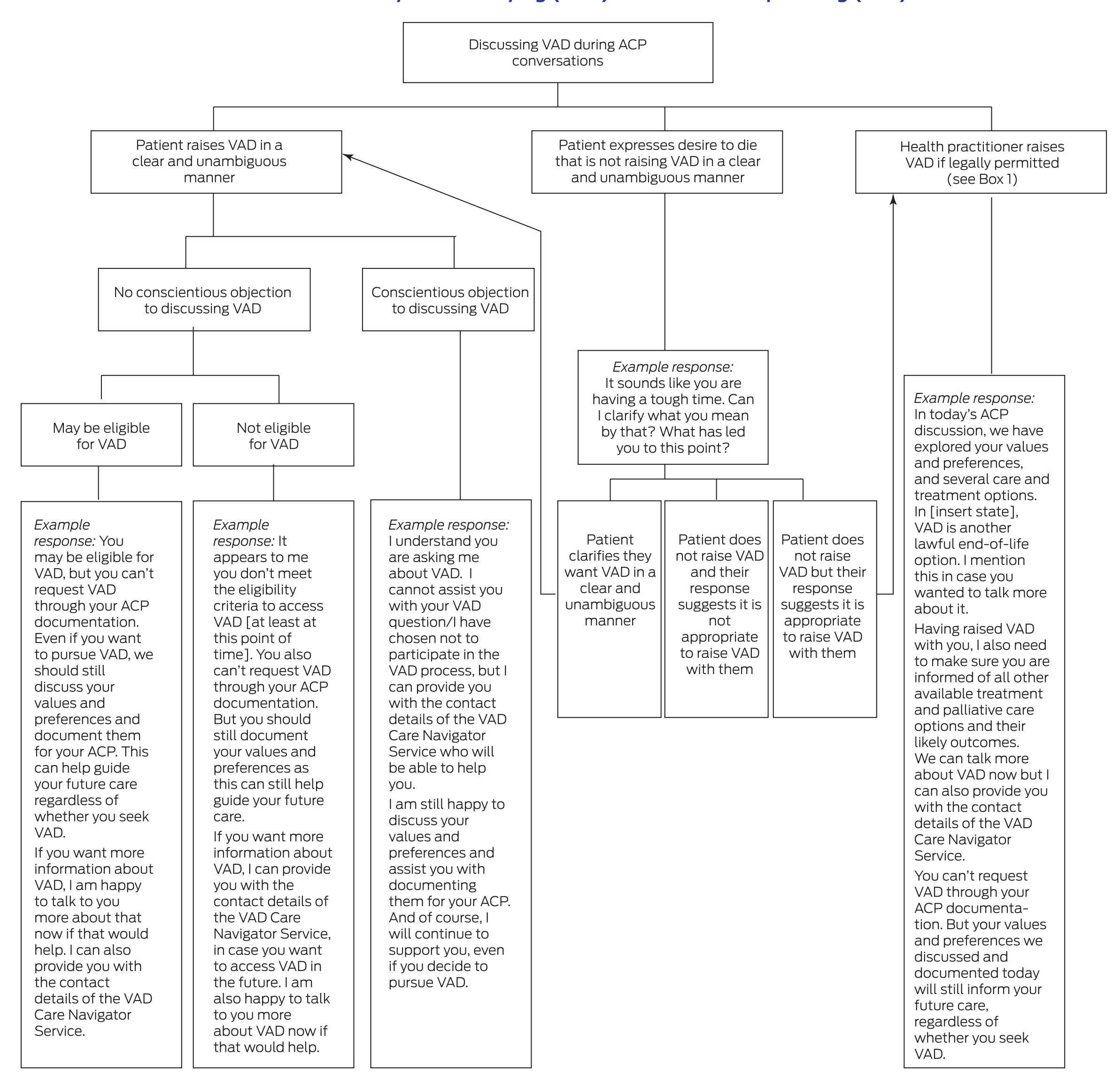
Advance care planning programs, policies and practices must also explicitly recognise the impact of voluntary assisted dying, including addressing the three issues outlined above. Much of the work to date has focused on differentiating advance care planning and voluntary assisted dying. This is important, but efforts must now extend to support optimal advance care planning in the context of new voluntary assisted dying laws. This requires health systems and

2 Doctors' conscientious objection obligations to patients who make a first request* for voluntary assisted dying

	New South Wales	Queensland	South Australia	Tasmania	Victoria	Western Australia
Provision of information	–	Contact details of a medical practitioner or service who can assist or the details of the care navigator service	–	Information sheet about voluntary assisted dying, and contact details of the Voluntary Assisted Dying Commission	–	Information sheet about voluntary assisted dying
Timeframe to notify the patient of refusal of first request	Immediately	Immediately	Within 7 days	Within 7 days (plus 48 hours to decide)	Within 7 days	Immediately

* A first request is a formal part of the voluntary assisted dying request and assessment process where a patient makes a clear request to a doctor for voluntary assisted dying. Table adapted from Waller et al[1] and Voluntary assisted dying in aged care: roles and obligations of medical practitioners.[16] ◆

3 Framework for discussion of voluntary assisted dying (VAD) in advance care planning (ACP)



advance care planning programs to adapt advance care planning policies, guidelines and information to engage with how voluntary assisted dying will be discussed in advance care planning conversations (see Box 3 for a framework for such conversations).

Health practitioners undertaking advance care planning should receive training on the impact of voluntary assisted dying on these discussions. Conversation guides can also help navigate lawful and patient-centred advance care planning discussions that

4 Selection of voluntary assisted dying health practitioner guidance relevant for advance care planning

State	Resource	Care navigator (or equivalent) service details
New South Wales	NSW Voluntary Assisted Dying Clinical Practice Handbook: https://www.health.nsw.gov.au/voluntary-assisted-dying/Pages/practitioner-handbook.aspx	NSW Voluntary Assisted Dying Care Navigator Service: https://www.health.nsw.gov.au/voluntary-assisted-dying/Pages/navigator.aspx
Queensland	Advance care planning and voluntary assisted dying: https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/voluntary-assisted-dying/information-for-healthcare-workers/advance-care-planning-and-vad	Queensland Voluntary Assisted Dying Support Service (QVAD-Support): https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/voluntary-assisted-dying/support/qvad-support
	Queensland Voluntary Assisted Dying Handbook: https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/voluntary-assisted-dying/information-for-healthcare-workers/handbook	
	Conversation guides for GPs: Voluntary assisted dying: https://www.health.qld.gov.au/__data/assets/pdf_file/0034/1195675/Conversation-guide-on-voluntary-assisted-dying-for-GPs.pdf	
South Australia	Voluntary Assisted Dying Clinical Guideline for Health Practitioners: https://www.sahealth.sa.gov.au/wps/wcm/connect/e148edcb-134b-449d-8e57-9c3f7ad21eb2/FINAL+Voluntary+Assisted+Dying+Clinical+Guideline+for+Health+Practitioners+v2.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-e148edcb-134b-449d-8e57-9c3f7ad21eb2-oK80Khi	South Australian Voluntary Assisted Dying Care Navigator Service (SAVAD-CNS): https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/services/primary+and+specialised+services/voluntary+assisted+dying/support+services/south+australian+voluntary+assisted+dying+care+navigator+service+savad-cns
Tasmania		Voluntary Assisted Dying Navigation Service: https://www.health.tas.gov.au/health-topics/voluntary-assisted-dying/voluntary-assisted-dying-services/navigation-service-voluntary-assisted-dying
Victoria	Voluntary assisted dying – Guidance for health practitioners: https://www.health.vic.gov.au/publications/voluntary-assisted-dying-guidance-for-health-practitioners	The Statewide Voluntary Assisted Dying Care Navigator Service: https://www.health.vic.gov.au/patient-care/voluntary-assisted-dying
Western Australia	Western Australian Voluntary Assisted Dying Guidelines: https://www.health.wa.gov.au/Articles/U_Z/Voluntary-assisted-dying/Resources-for-health-professionals	Western Australian Voluntary Assisted Dying Statewide Care Navigator Service: https://www.health.wa.gov.au/Articles/U_Z/Voluntary-assisted-dying/Statewide-Care-Navigator-Service

See also "How to do advance care planning: a quick guide for health professionals" for general information about advance care planning: https://end-of-life.qut.edu.au/advance-care-directives. ◆

include voluntary assisted dying where appropriate. Processes for health practitioners to access support or escalate for advice are also needed. These responses should harness existing voluntary assisted dying resources and services where possible, such as health department voluntary assisted dying guidance and voluntary assisted dying care navigators in each state (Box 4).

Advance care planning is centred on respecting a person's values, beliefs and preferences, which may now include a choice for voluntary assisted dying. Existing approaches to advance care planning must adapt to reflect this, requiring thoughtful engagement at the system, program, and practitioner level.

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