



Mercy Health

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VOLUNTARY ASSISTED DYING

integrity, accountability and ethical decision making



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Voluntary Assisted Dying

- Voluntary assisted dying (VAD) - is the term used in Australia to refer to the assistance provided to a person by a health practitioner to end their life.
- VAD involves a process where a person (with a life-limiting illness) may have to access a lethal substance to enable them to legally choose the manner and timing of their death.
- The term 'Voluntary' emphasises that this practice is the person's voluntary choice, and that they are competent and have the enduring capacity to make the decision to access VAD.



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Presentation content

Voluntary Assisted Dying

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VAD - Legislation

- Laws legalising VAD have been passed in five of Australia's six States:
 - VIC 19 June 2019 - *VAD is accessible by request to people at end of life who meet strict eligibility criteria under the Voluntary Assisted Dying Act 2017.*
 - WA 01 July 2021 - *VAD is a choice available to eligible people under the Voluntary Assisted Dying Act 2019.*
 - TAS 23 October 2022 - *VAD Bill incorporating use of telehealth consultations passed in Tasmania's House of Assembly in March 2021.*
 - SA late 2022 - *VAD Bill passed in SA parliament on 24 June 2021*
 - QLD 01 January 2023 - *Did not meet the May 2021 deadline for introducing the Bill into Parliament. Legislation will be passed in 2022 as planned.*
- Where VAD remains illegal, anyone who assists another person to die may be charged with murder, manslaughter or assisting suicide.
- Providing appropriate pain and symptom relief to relieve a person's pain and suffering is not VAD.



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Eligibility criteria - Victoria

VAD is only available to a person who is 'eligible':

- is aged 18 years or over;
- is an Australian citizen or permanent resident, who has been ordinarily resident in the state (VIC & WA) for at least 12 months;
- has decision-making capacity and is acting voluntarily without coercion throughout the process;
- has an enduring request for access to voluntary assisted dying;
- has been diagnosed with at least one disease, illness or medical condition that is:
 - incurable;
 - advanced, progressive and will cause death;
 - expected to cause death within a period of six months; (or 12 months if neurodegenerative)
 - causing suffering that cannot be relieved in a manner that the person finds tolerable
- Disability or mental illness alone does not satisfy the eligibility requirements.
A person needs to meet all of the eligibility criteria to access VAD.



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Safeguards - Victoria

- At least three separate requests for VAD
- Assessed for eligibility by two independent medical practitioners
- Health practitioners are prohibited from initiating a discussion about VAD
- Must be provided with information about their diagnosis and prognosis, available treatment and palliative care options, and risks associated with taking the lethal substance
- Must be advised that they may decide not to continue with VAD at any time
- Protection from criminal liability
- Regulations governing prescription, dispensing, disposal, and administration of VAD substances
- VAD substances must be stored securely in a locked box
- Mandatory reporting requirements
- Offences punishable by law
- Health practitioners have a right to conscientiously object to participation in VAD.



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Differences between VIC and WA

Administration

A person can decide whether to self-administer the lethal substance, or for it to be given by an ‘administering practitioner’.

Conscientious objection

Health practitioners [and provider organisations] have the right to conscientiously object to involvement in VAD. Unlike Victoria, a Western Australian health practitioner who has a conscientious objection must immediately inform the person that they refuse the request, and must give the person information about VAD.

Discussion and providing information

Unlike Victoria, in WA a medical practitioner or nurse practitioner may initiate a discussion about VAD or suggest VAD to a person. They must however inform the person, at the same time, about available treatment and palliative care options, and likely outcomes.

Other health workers are prohibited from initiating a discussion or suggesting VAD, but may provide information about VAD if a person requests it.



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Mercy Health Response





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Mercy Health response to VAD

Since 1891, the Catholic Church has put forward key ideas and principles as ethical formation and as a guide to make moral, ethical and just decisions in all areas of social life.

As such, Catholic Social Teaching is that body of thought and action through experience and tradition that helps guide us to deeper understanding of the role of our faith values and how to live them in concrete social and historical situations. Key principles or themes are:

- ✓ Life and dignity of the human person
- ✓ Common good
- ✓ Solidarity
- ✓ Preferential option for the poor
- ✓ Stewardship of creation
- ✓ Subsidiarity and the role of government
- ✓ Participation
- ✓ Rights and responsibilities
- ✓ Economic justice
- ✓ Promotion of peace

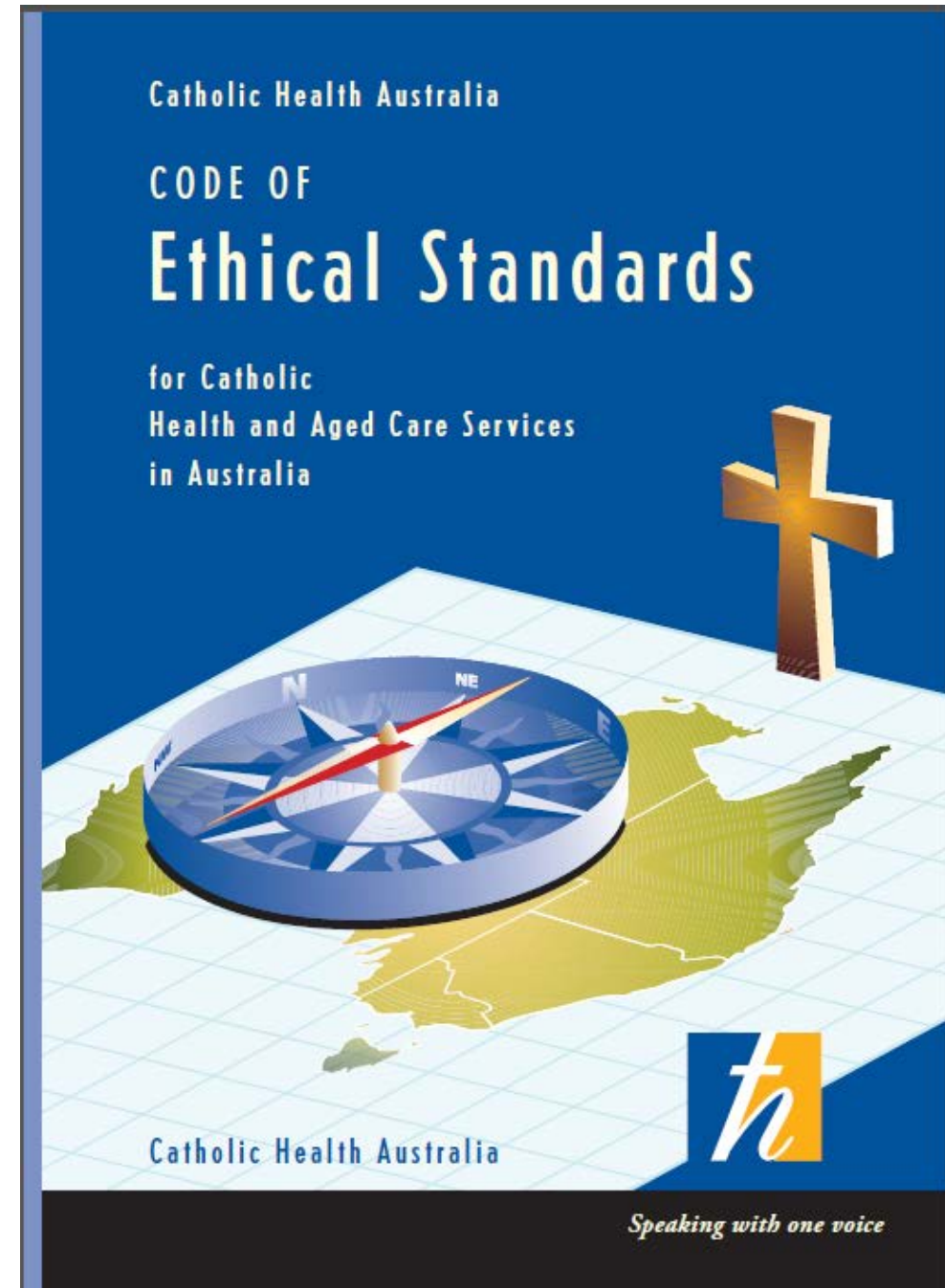
Mercy Health response to VAD

As a Catholic organisation, Mercy Health is guided by the healing ministry of Jesus and operates in accordance with the Code of Ethical Standards for Catholic Health and Aged Care Services in Australia (2001).

The first principle in the Code of Ethical Standards is that we have – **“Respect for people within a culture of life”**

Mercy Health:

- advocated against VAD legislation
- advised the Department in early discussions that it would not participate in VAD
- was proactive in developing a range of responses including a rolling education program that has informed and supported our health services and aged care services staff
- has a clear position, policy and procedure for Mercy Health staff on not participating in VAD





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Mercy Health response to VAD

Essentially this means:

- ✓ We are called to respect the dignity of every person
- ✓ All stages of human life are sacred
- ✓ It is when a person's life is most vulnerable – just when it is beginning or when it is about to end, and during times of illness and disability – that more vigilant and effective care is required
- ✓ While VAD does not align with our ethic of care, it highlights our need to continue to provide high quality end of life care.
- ✓ Our commitment is to have open discussions with residents about their treatment and care **INCLUDING** where they disclose that they are considering or have decided to access VAD.
- ✓ Mercy Health cannot assist in causing someone to die, nor can Mercy Health coordinate or participate in VAD.
- ✓ Mercy Health can and will continue to care for a person in every other way before and after death – regardless of how they die.



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Mercy Health response to VAD

Mercy Health's "Requests for Voluntary Assisted Dying" **Policy**

- Uphold and honour each person from their natural beginning of life to their natural end of life
- Moral responsibility to minimise pain and suffering and not to use means of sustaining life which are overly burdensome, futile or morally unacceptable.
- Does not support Voluntary Assisted Dying and will not provide or facilitate VAD.
- While it is illegal for a health professional to initiate discussion regarding VAD, the issue may be raised by a patient, resident or client in our care.
- Staff should respond in a timely and compassionate manner which is congruent with Mercy Health's identity, values and tradition of person-centred care.



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Mercy Health response to VAD

In applying this policy, Mercy Health will:

1. Encourage conversations with people about death and dying and promote the use of Advance Care Planning and respond openly, respectfully, sensitively and without discrimination to anyone in our care who wishes to explore VAD
2. Support and accompany families and loved ones through the death and dying process
3. Provide palliative and end-of-life care - while VAD is new, what has not changed is our enduring commitment to the provision of high-quality end of life care
4. Provide holistic care that is attentive to a person's deep existential anguish and suffering
5. Provide information regarding Mercy Health's policy on VAD, adhering to the principle of non-abandonment and the duty to inform
6. Provide appropriate ethical advice, review and support to staff regarding VAD



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Compassion and clarity

As a Mercy Health employee, can I choose whether to participate in VAD while working in a Mercy Health facility?

No. Should a resident choose VAD, Catholic teaching precludes an employee of Mercy Health from participating in the voluntary assisted dying process.

Even though you will not be participating in or supporting VAD, the topic may be brought up by someone in your care.

You need to:

- consider how you will respond to best support your resident.
- become familiar with the resources, systems and processes that are available in your workplace to manage requests for information about, or access to VAD.





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Compassion and clarity

What if I hold a conscientious objection to VAD?

You are under no obligation to be involved in any part of the VAD process. However, you must not inhibit a person's access to VAD, and you will be expected, along with your colleagues to provide normal care to the resident, in order to maintain their dignity and comfort while residing in a Mercy Health home.

What about my obligations as a healthcare worker?

You must not initiate discussion about voluntary assisted dying with, or suggest voluntary assisted dying to, a person to whom you are providing professional care services.

However, if the resident initiates discussion, you will need to respond in a non-judgmental and compassionate manner and explain to them that you will escalate their request to your manager, for further discussion.

You must ensure confidentiality of discussions.



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Compassion and clarity

The **Discernment** process within the Catholic Tradition:

- *Engages the whole person – spirit, heart, intuition and intellect and respects the differing contexts and experiences of those involved.*
- *Intentionally focuses on naming and being explicit about the values informing our choices.*
- *Involves weighing or sifting through value choices to decide about what we ought to do, and how we will achieve this end.*
- *Assists in aligning what we say as an organisation is important, with what we do - to ensure harmony with our purpose and fundamental orientation.*

1. *Outline the decision that needs to be made*
2. *Acknowledge reactions and intuitive input*
3. *What are the key facts?*
4. *Who do we need to be consulting about this issue?*
5. *Identify options and weigh against Mercy Mission, Philosophy and Catholic Social Teaching*
6. *Explore other alternative courses of action*
7. *Make a decision*
8. *Implement and document implementation plan*
9. *Review and revisit*
10. *Any additional key learning identified?*



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VAD – Case Study 1

A resident at St Ralph's Aged Care Home in Victoria has requested VAD. She has fulfilled all the eligibility criteria and has been approved for VAD. The GP permit has been provided to the Apex Hospital Pharmacist who is ready to dispense the VAD substance.

The resident is aware that St Ralph's is a conscientious objector and has acknowledged that no Care staff are allowed to assist or facilitate the VAD process.

The resident's initial plan was to be admitted to Apex Hospital, stay for a day or two and then have the substance administered. However, St Ralph's is managing a COVID outbreak as a Tier 1 site, and is in lockdown with visitor restrictions in place, so this option is no longer available.

While the Apex Hospital Pharmacist is exempt under COVID restrictions to visit St Ralph's, as the outbreak spreads within the home, restrictions are tightened as to who can enter and who can leave the quarantine. The resident has indicated no urgency to take the substance and always planned to give her sister the responsibility for holding the substance until it is required.

The resident has authorised for the substance to be dispensed and handed to her sister for safekeeping. The resident's sister has a co-carer exemption and is allowed to visit the resident during lockdown as per the Victorian outbreak lockdown guidelines at the time. The sister is required to be in full Personal Protective Equipment (PPE) during any visits.

Care staff eventually discover that the sister has brought the VAD substance into St Ralph's and has left it with the resident for safe and secure storage.



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VAD – Case Study 1

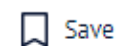
1. What ethical dilemmas or risks might St Ralph's be facing in this unfolding situation?
2. How could St Ralph's avoid the perception or the reality of facilitating VAD, and act with integrity in remaining true to Catholic teaching and its position on VAD?
3. What advice or counsel would you give to the staff who are caring for the resident?

‘Discriminatory and unethical’: palliative care service criticised over failure to verify euthanasia deaths

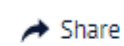


By [Melissa Cunningham](#)

April 17, 2021 – 5.00am



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View all comments

A large Victorian palliative care organisation is refusing to verify the deaths of patients who have died at home under the state’s voluntary assisted dying laws in a move described by some doctors as “discriminatory and unethical.”

Doctors have also reported instances of pharmacists carrying lethal medication for people with permits to die under the laws being refused entry into religious palliative care organisations, [almost two years after landmark laws were introduced in Victoria.](#)



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VAD – Case Study 2

The Manager of St Charles Catholic Aged Care Home (Victoria) became aware of a resident who had requested VAD.

The resident had not raised the issue of VAD with anyone at the home herself and this only came to light via contact from the regional VAD navigator who advised that the resident was eligible and had been approved for VAD. The GP permit had been provided to the Pharmacist who is ready to dispense the VAD substance.

The resident is a former long-time employee of St Charles and is much loved by her former colleagues. The resident is aware that St Charles is a conscientious objector and has acknowledged that no Care staff are allowed to assist or facilitate the VAD process.

Two staff members requested a meeting with their manager to discuss a personal matter. At the meeting they revealed that they had agreed to a request by the resident (their former work colleague and now close friend) to accompany her during the administration of the VAD substance.

The two staff members stated that they would be attending on their day off, and therefore outside of their roles as St Charles staff members.

The staff members were fraught with concern about their ongoing employment at St Charles should their actions be seen to be in breach of St Charles' policy position on VAD, and were seeking guidance as to what they should do in this situation.



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VAD – Case Study 2

1. If the two staff members accompanied their colleague and friend while the lethal substance was being administered, would they be participating in VAD? Would they be in breach of St Charles' conscientious objector position?
2. What support could you provide to the two staff members to enable them to discern what to do?
3. How could St Charles avoid the perception or the reality of facilitating or participating in VAD, and act with integrity in remaining true to Catholic teaching and its position on VAD?



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Compassion and clarity

What to say:

“You’ve said something important ... this is an important conversation ... I will get someone who can help...”

and/or

“This must be very difficult for you...”

and/or

“You must have given this some consideration...”



What NOT to say:

“We don’t do that here”

or worse

“We’re a Catholic facility and we don’t allow that.”



Compassion and clarity



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- A Acknowledge** *“You’ve said something important ... this is an important conversation ... I will get someone who can help...”*

- E Explore** *“I can only imagine how difficult it must be to be living with this... Could you tell me more about how you are feeling?”*

- I Inform** *“It is important that you have all the information you need to make the best decision for yourself...”*

- O Organise** *“Our Palliative Care Clinical Nurse Consultant may have some helpful advice regarding your symptoms and will be able to assist with further discussions.”*

- U Understand** *Ensure that all who need to know are aware of outcomes such as the resident, family, care teams and external agencies*



Epilogue

- Residents and clients who disclose VAD are reviewed by the Palliative Care Nurse Consultant and provided counselling.
- Staff continue to find visiting and attending the patient for care after the substance has been taken as challenging. Continued support is provided to remind staff that this is care as usual. VAD and Mercy Health's response are included in the orientation program.
- Staff feedback is considered by operational areas and discussed at team meetings to ensure Mercy Health continues to respond to all patients, residents and clients who are approaching end-of-life care with compassion, respect and as much clarity as possible regarding care and treatment options, with the aim of reducing fear, managing pain and providing the necessary support required.
- Safe and secure storage options are continuously under review for the rare circumstance where a patient or resident may bring the VAD substance into the hospital or aged care home. Our preference is for the VAD substance to be taken home, however, at times this may not be immediately possible.
- The Mercy Health Board, Mercy Health Ethics Committee and Executive regularly review the "Request for VAD" policy.



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*Let us dream, then, as a single human family,
as fellow travellers sharing the same flesh, as
children of the same earth which is our common
home, each of us bringing the richness of his or
her beliefs and convictions, each of us with his
or her own voice, brothers and sisters all.*

Fratelli Tutti 3 October 2020

