

Time for Action: Voluntary assisted dying, telehealth and the Criminal Code

Health leaders, legal experts and patient advocates call on the federal government to immediately remove unnecessary barriers to voluntary assisted dying access for dying people.

Remove restrictions on the use of electronic communications in voluntary assisted dying (VAD) care, contained in the *Criminal Code Act 1995* (Cth)¹, which harm dying Australians and disrupt the delivery of care.

VAD is a legally available choice in every Australian state and the ACT. In the past decade, it has become an accepted part of end-of-life care. All states have responded to strong community demand for choice by providing the required legislative frameworks and investment. Now, the federal government must do its part by removing unnecessary barriers to access for dying people.

This move is supported by health, legal and consumer organisations including the Australian Medical Association;² the Law Council of Australia;³ the peak body for VAD health professionals, VADANZ;⁴ and Consumers Health Forum of Australia.⁵

Immediate change is needed to

- Amend the Criminal Code to distinguish VAD from suicide and thus exempt VAD from its purpose

The issue

In 2005, sections 474.29A and 474.29B were added to the Criminal Code to make it an offence to use a carriage service such as telephone or internet to counsel, promote or provide instruction on suicide.⁶

The intent was to stop cyber bullying and the distribution of pro-suicide materials online. However, since then the Federal Court of Australia has interpreted the definition of suicide to include VAD.⁷

The result is that **health professionals who use electronic communications to provide VAD care risk breaking federal law** – despite acting within state laws. Actions prohibited by the Criminal Code include

- discussing the VAD process over the phone
- making arrangements for VAD care via email
- performing eligibility assessments via telehealth
- emailing or faxing scripts for VAD medications.

This severely limits access for patients in regional and rural areas, or who are too frail to travel to multiple in-person appointments. In some instances, the delays caused by the prohibition prevent people from accessing their legal VAD choice altogether.

Electronic communication is an essential part of high-quality care

The therapeutic value of telehealth has been recognised by the MBS Review Advisory Committee, who in 2024 recommended that the Australian Government continue to support telehealth.

Their report found:

For some patients, such as those who are house bound, a telehealth consultation can mean the difference between accessing health care or not...

*Telehealth should not completely replace face to face consultations, which remain the preferred standard of care... However, there are many scenarios where telehealth – both video and phone – can have **equivalent outcomes to in-person care** and has potential to add value with increased flexibility and frequency of care.¹¹*

Doctors' peak body backs reform

The Australian Medical Association (AMA) has consistently supported reform and said medical practitioners are rightly concerned about potential prosecution. In 2023, it wrote to the former Attorney General Mark Dreyfus to urge immediate reform.⁸

President Danielle McMullen said ahead of the 2025 Federal Election:

The next government must act to ensure eligible patients have equal access to the end-of-life planning of their choice. This is not a new issue and problems with the current legislation are well known to the federal government.⁹

The AMA's position statement on VAD, released in 2025, clearly states:

Legislation should not prohibit the use of telehealth to provide VAD services as this may severely disadvantage patients living in regional, rural and remote communities and those who are physically unable to travel for face-to-face consultations.¹⁰

In May 2024, state, territory and federal branches of the AMA wrote to the Australian government to urge reform.

Research shows telehealth is safe for VAD, subject to safeguards

A systematic review of telehealth use in VAD published in the *Australian Health Review* found that research across disciplines indicates it is **no less effective or safe than in-person consultations**.¹² The review found:

- Australia is the only jurisdiction to criminalise the use of telehealth in VAD
- Telehealth is used in countries where VAD is available and is overwhelmingly reported to benefit patients and clinicians (e.g. New Zealand)
- Canadian provinces and some US states provide regional regulations and clinical guidelines in this area. Those regulations are based on clinical standards that mitigate potential risks, such as preventing coercion, ensuring service effectiveness, maintaining privacy and cybersecurity protocols, and safe prescribing and use of medication
- Electronic witnessing and dual-assessment protocols are used in some countries to maximise safety, particularly to prevent coercion during eligibility assessment. New Zealand allows patients and witnesses to participate via telehealth.

Te Whatu Ora, Health New Zealand, shared the benefits of virtual consultations for dying people

*For people in rural areas, **the use of virtual consultation has been most useful to ensure the applicant can continue their assisted dying journey**. Additionally, where instances beyond the control of the practitioner or the applicant affects the ability to meet face to face the use of **virtual consultation ensures continuous access to the service**.*

*From my point of view, **the use of telehealth consultation and carrier services increases accessibility, equity and improves the overall outcomes for health consumers engaging with the Assisted Dying Service**.*

Doctors are best placed to decide when telehealth is clinically appropriate – not politicians

It is for health professionals and their patients to decide if electronic communications are an appropriate alternative to in-person care, in line with expected professional standards.

The Australian Health Practitioner Regulation Agency (AHPRA) and the Medical Board of Australia provide explicit guidance on the use of telehealth.¹³ Health professionals must also follow their professional bodies' Code of Conduct at all times, including when providing care by electronic means (e.g. Codes from Medical Board of Australia,¹⁴ AHPRA's Shared Code of Conduct¹⁵ and the Nursing and Midwifery Board's Code).¹⁶

MBS Telehealth Principles

The MBS Review Advisory Committee has written seven principles to support health professionals to decide the appropriateness of telehealth in different situations.

1. Should be **patient-focused and based on patient need**, as determined by **shared decision making** between the clinician and the patient.
2. Must support safe, private and quality services for patients, aligning with the clinical requirements of the equivalent face-to-face service and demonstrating clinical efficacy.
3. Should be provided in the context of **coordinated and continuous care** between patient and clinician.
4. Must not create unintended consequences or perverse incentives that undermine the role of face-to-face care.
5. Options of telephone, video and face-to-face consultations must be offered to patients, though the type of service is subject to Principles 1 and 2. Video should be encouraged over phone where it will provide a better patient and/or provider experience.
6. Should support optimal clinical engagement with the patient by allowing clinician participation at both ends of the MBS telehealth consultation, if appropriate, enabling rebates for support by both the treating clinician and patient-end clinician.
7. Amendments to MBS telehealth should follow sufficient advance notice of changes to MBS items for clinicians and patients to adjust.

The telehealth ban harms dying people and families

VAD is a legally available choice in all six Australian states and the ACT, with drafting underway for a law in the Northern Territory. To receive VAD medication, a person must make three separate requests and have a minimum of two assessments by different health professionals; in some cases, more.

The Criminal Code's prohibition on using telehealth in VAD harms dying people. It causes:

- Inequitable access for people who are too sick, frail or far away to travel to multiple in-person consults
- Distress, delays and unnecessary suffering for dying people and their families
- Occasionally, people die waiting for VAD because of delays imposed by the Criminal Code.

Postal delays meant Queensland man missed out on his VAD choice

Queensland GP Dr Deb Ibbotson tried to expedite VAD for a dying and suffering patient, only to be hampered by a requirement to send scripts by post.

The patient, aged 38 and living in Emu Park in central Queensland. He applied and was found eligible for VAD.

However, Queensland's strict interpretation of the Criminal Code led to delays. Unlike other states, where scripts for VAD medications are uploaded to central electronic portals, Queensland requires scripts to be posted to a central pharmacy in Brisbane. The estimated delivery time from central Queensland, in this case, was 5-7 days. Dr Ibbotson asked if the post office could expedite delivery, but was told it was not possible.

The patient died while the script was still making its way to Brisbane.

Dr Ibbotson and the man's family were left distraught and disappointed with the system, which heavily disadvantages patients from rural and regional areas.

"I promised him I was going to give him the best passing – but I wasn't able to do that. The law needs to change."

8500km and prescription delays left Tom unable to use VAD in far-north Queensland

Tom*, 79, had end-stage lung disease and wanted to access VAD. Too sick to travel, he needed VAD practitioners to come and assess him at home. Unfortunately, nobody was available in the Townsville Hospital and Health Service District.

One week after Tom requested VAD, a coordinating practitioner was found 1,500km away in Ipswich. The doctor made the 3,000km return trip to conduct the first assessment in-person, as required by Queensland's interpretation of the Criminal Code.

A week later, a second doctor who acted as the consulting practitioner travelled 2500km to do the second assessment. Finally, the first coordinating practitioner took another 3000km round

trip to conduct the final assessment.

Five days and 8500km later, the pharmacy received the prescription (which was required to be hand delivered) but Tom died before the substance could be dispensed. Telehealth would have saved three weeks, enabling Tom's wish for VAD to be honoured.

*Tom's name has been changed to protect his family's privacy

Practitioner delays robbed Alan Clark of his VAD choice in regional Victoria

Alan had a rare neurological condition called progressive supranuclear palsy. He lived in Warragul in regional Victoria. Alan was approved for VAD, but died a day before he was due to receive the VAD medication following long delays – caused in part by the ban on telehealth. His wife Zenda told ABC News:

*By the time all the approvals went through, it was too late. It was just the most horrific end. Everything he dreaded happened.*¹⁷ – Zenda, Alan's wife

Mrs Clark said the Criminal Code restrictions and the lack of assisted dying doctors in regional Victoria combined to make the process almost impossible. Alan ended up dying without VAD, in the circumstances he feared the most.

Telehealth assessment could have changed the outcome for Terry Hargreaves, Melbourne

If telehealth had been an option, it would have made an enormous difference. It could have changed the outcome and, most importantly, empowered my dad in his final moments.
– Emma, Terry's daughter

Terry lived with prostate cancer for 13 years. However, towards the end of 2024 his health sharply declined and he was hospitalised for a short period. Determined to die in his own home, he decided it was time to apply for VAD. Unfortunately, this proved very difficult. Being mid-December, there were fewer oncologists available to provide assessments and Terry was advised he would need to attend in person.

There was no way he could move. We had a hospital bed in the home, he was so weak and exhausted from not eating, and generally feeling awful. The idea of getting him from a carpark to the waiting rooms was not possible.

After three weeks of receiving hospice care at home, Terry moved into a palliative care unit and died a day later – without VAD.

The telehealth ban interferes with high-quality VAD care

It's not just telehealth. The Code is commonly read to mean

- No part of the VAD process can take place by phone or email
- All consults must be in person, no matter the delays or suffering caused
- Patients and families struggle to access support between appointments
- Scripts for VAD medications must be posted, hand delivered or couriered.

This causes

- Fears that clinicians will face criminal prosecution and even prison
- Distress for VAD practitioners who feel unable to meet their patients' needs
- Harmful stigma that VAD health professionals, patients and families are doing something 'wrong'
- Inefficient workarounds and wastage within health systems.

'It would have been much better if one appointment had been via telehealth'

– Tammy Hudson, SA

My dad had to attend more appointments than required because the first assessing doctor mistakenly thought they could conduct the appointment via telehealth. In the end, we had to travel to Port Broughton on another day to redo the appointment. This increased my Dad's anxiety and forced him to repeat emotionally difficult conversations. The process was exhausting and stressful for him.

'Telemedicine makes VAD possible in a place like Tassie'

– Dr Bryan Walpole, retired VAD practitioner, Tasmania

We used telehealth from the start to be able to offer VAD services at all, but we were doing so under the threat of criminal consequences, hoping nobody charged us because we were acting in good faith. The federal government shouldn't be putting doctors in this position for doing our jobs.

'Nothing novel or new about using telehealth'

– Dr Roger Hunt, palliative care specialist, South Australia

There is nothing novel or new about using telehealth for important decisions that may have life and death consequences for a patient. In fact, it's part of usual practice for many clinicians – especially if they are working with patients in rural and remote regions.

'Unnecessary suffering, delays and waste'

– Professor Liz Reymond, President Elect VADANZ

The VAD process is made overly complex by the Criminal Code restrictions. To be found eligible, a person needs at least three consultations with VAD practitioners – sometimes more – and the Code demands they take place in person. That's fine until the person lives in rural Australia and is too sick to travel. In that case, they have to wait for a practitioner to visit their home. That can be a round trip of thousands of kilometres.

Then a VAD prescription must be couriered or personally delivered to the central VAD pharmacist. And after that, the VAD medication must be hand-delivered either to the patient's home or their VAD practitioner.

Given transportation constraints in the Australian outback, this process is unacceptably time consuming.

Patients risk increased suffering, loss of cognitive capacity (rendering them ineligible for VAD), and some have died while waiting.

'I could regularly be seen to violate the Criminal Code'

– VAD practitioner, Western Australia

I tell every patient I see over video conference the names of the medications and how they're administered. I used to be anxious. Now I just think the whole thing is ridiculous. I don't want to be prosecuted, but if nothing else it would force the Commonwealth to do something about this.

Practitioners will continue to do what they see is best for patients, which will lead to clinicians such as myself deliberately violating guidelines, without clarity as to whether there truly is a risk to us from a legal perspective.

Reform has been recommended by VAD oversight bodies in every state

Every state's independent VAD Review Board, established to oversee VAD's safe operation, has repeatedly recommended Criminal Code reform to ensure the quality and long-term sustainability of VAD services.

Suicide prevention leaders agree that VAD is not suicide

The Federal Court's judgment that VAD is included in the definition of suicide is out of touch with where Australia is on the issue. Lifeline, Beyond Blue, Black Dog Institute and EveryMind have issued a joint statement that conflating VAD with suicide causes harm.¹⁹

Suicide prevention and VAD should be discussed separately. Confusing these terms can delay access to suicide prevention services for people in distress, and complicate or delay care for people with terminal illness who are seeking an additional choice at the end of life.

In any public communication, it is important that we refrain from talking about VAD as suicide or using language that associates the two.

VAD is not treated as suicide in coronial data nor suicide statistics, and the majority of state VAD legislation (bar Victoria) explicitly states that VAD is not suicide.

VAD clinicians support reform

The peak body for VAD clinicians, VADANZ, says that while in-person consultation is preferred, telehealth is an alternative for VAD practitioners to consider when needed to deliver timely, person-led care.

It is the position of Voluntary Assisted Dying Australia New Zealand (VADANZ) that people can receive high-quality and effective Voluntary Assisted Dying (VAD) services using telehealth and that telecommunications are important for the timely access and delivery of health information and care.

While telehealth is now an essential part of the healthcare landscape, the optimal mode of delivery for some VAD services will be in-person. For example at least one of the assessments of a person requesting VAD should be performed in person. However when needed to deliver timely, person-led care, telehealth is an alternative for VAD practitioners to consider.²⁰

Legal groups support reform

In 2024, the Law Council of Australia wrote to the former Attorney-General calling for changes to the Code to exclude its application to VAD. Its President Mr Greg McIntyre SC said:

Not being able to seek assistance from a medical professional can limit people's ability to fully discuss and weigh all their options and access approved VAD medicines. To ensure Australians considering VAD can do so armed with all the medical knowledge and support they deserve, the Criminal Code must be urgently amended to allow for consultations on VAD to occur via a carriage service.²¹

The Law Institute of Victoria says it is 'deeply concerned about the lack of clarity and exposure for medical practitioners supporting the needs of patients, particularly in remote areas or extreme circumstances.'²²

Queensland's Law Reform Commission warned: *It is inherently undesirable that health practitioners should be left under such an apparently unintended grey cloud.*²³

Advocacy groups support reform

Go Gentle Australia, a charity founded by Andrew Denton in 2016 to support end-of-life choices, has long called for this change. CEO Dr Linda Swan says:

The federal government must catch up with Australians on this issue. Amending the Criminal Code is simple to do and costs little. The alternative is the continuation of a broken system that costs dying people their end-of-life choice.

Joint Statements

Joint statement: Electronic communications must be available for voluntary assisted dying

We call on the government to urgently amend the Commonwealth Criminal Code where it negatively impacts voluntary assisted dying service provision.



Electronic communication is essential for high-quality and safe health care. However, the Cth Criminal Code's restriction on how health professionals communicate about voluntary assisted dying (VAD) is causing disruptions and delays in care, and limiting health professionals' ability to do their jobs.

The prohibition of electronic communication for VAD care disadvantages people who are unable to travel for face-to-face consultations due to the complexity of their medical condition or because they live in a rural or remote area. Essential communications between health professionals are also negatively impacted.

The use of electronic communications in health care, such as telehealth and video conference, is governed by specific [guidance](#) from the Australian Health Practitioner Regulation Agency (AHPRA) and the Medical Board of Australia. Health professionals must also follow their professional bodies' Code of Conduct at all times, irrespective of the type of care (e.g. Codes from [Medical Board of Australia](#), [AHPRA's Shared Code of Conduct](#) and the [Nursing and Midwifery Board's](#) Code).

It should be for health professionals and their patients to decide if electronic communications are an appropriate alternative to in-person care. In May 2024, state, territory and federal branches of the Australian Medical Association (AMA) [wrote to the Australian government](#) to urge reform.

The Cth Criminal Code provisions were never intended to impact VAD. All state laws, except Victoria, explicitly distinguish VAD from suicide. Australian suicide prevention organisations agree that VAD should not be described as suicide because conflating the two can be damaging. Criminal Code provisions should not apply.

Australian health leaders have called for electronic communications to be available for VAD care.²⁴

<https://assets.nationbuilder.com/gogentleaustralia/pages/3036/attachments/original/1736895342/Joint_statement_Electronic_communications_and_VAD_%284%29.pdf?1736895342>

Joint statement by Australia's suicide prevention leaders

VOLUNTARY ASSISTED DYING SHOULD NOT BE DESCRIBED AS SUICIDE

As organisations working in suicide prevention, we acknowledge that both suicide and voluntary assisted dying (VAD) are important issues to our communities.

The words we choose matter. It's important we keep discussions about suicide prevention and VAD separate. Confusing these terms can complicate or delay access to care.

We ask all governments, people working in suicide prevention and the media to uphold this distinction and refrain from talking about VAD as suicide.

We encourage anyone who is commenting on the topic of suicide to be familiar with the [Mindframe guidelines](#).



November 2023

A process facilitated by Go Gentle Australia

Australia's suicide prevention leaders have urged that VAD is not conflated with suicide.²⁵

<https://assets.nationbuilder.com/gogentleaustralia/pages/2601/attachments/original/1700703250/FINAL_Joint_statement_short.pdf?1700703250>

Contact

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End Notes

- ¹ Criminal Code Amendment (Suicide Related Material Offences) Act 2005 No. 92, 2005 - Schedule 1
<https://classic.austlii.edu.au/au/legis/cth/num_act/ccarma2005452/sch1.html>
- ² Australian Medical Association 2025, Attorney General must act on telehealth and voluntary assisted dying, media release 29 March 2025.
<<https://www.ama.com.au/media/attorney-general-must-act-telehealth-and-voluntary-assisted-dying>>
- ³ McIntyre SC, G 2024, 'Full medical not a given when deciding to end one's life', Law Council of Australia website, 25 Oct, viewed 23 May 2025.
<<https://lawcouncil.au/media/news/opinion-piece-full-medical-not-a-given-when-deciding-to-end-ones-life>>
- ⁴ Voluntary Assisted Dying Australia and New Zealand (VADANZ), 2024 Position on telehealth use in voluntary assisted dying practice
<<https://www.vadanz.org.au/content/uploads/VADANZ-position-statement-on-Telehealth-for-VAD-practice.docx.pdf>>
- ⁵ Go Gentle Australia 2024, Joint Statement: Joint statement: Electronic communications must be available for voluntary assisted dying.
<https://assets.nationbuilder.com/gogentleaustralia/pages/3036/attachments/original/1736895342/Joint_statement_Electronic_communications_and_VAD_%284%29.pdf?1736895342>
- ⁶ Del Villar, Close, Hews, Willmott, & White (2022) Voluntary assisted dying and the legality of using a telephone or internet service: The impact of Commonwealth 'Carriage Service' offences. Monash University Law Review, 47(1), pp. 125-173.
- ⁷ Carr v Attorney-General (Cth) [2023] FCA 1500
- ⁸ Australian Medical Association 2023, AMA urges Attorney-General to amend laws relevant to VAD and telehealth, media release 7 Dec 2023.
<<https://www.ama.com.au/ama-rounds/8-december-2023/articles/ama-urges-attorney-general-amend-laws-relevant-vad-and>>
- ⁹ Australian Medical Association 2025, Attorney General must act on telehealth and voluntary assisted dying, media release 29 March 2025.
<<https://www.ama.com.au/media/attorney-general-must-act-telehealth-and-voluntary-assisted-dying>>
- ¹⁰ Australian Medical Association (2025) Position statement on voluntary assisted dying.
<<https://www.ama.com.au/articles/ama-position-statement-voluntary-assisted-dying-2025>>
- ¹¹ MBS Review Advisory Committee (2024) Telehealth Post-Implementation Review.
<<https://www.health.gov.au/sites/default/files/2024-06/mbs-review-advisory-committee-telehealth-post-implementation-review-final-report.pdf>>
- ¹² Summers I, Reymond E, Haydon HM. (2025) Telehealth use in Voluntary Assisted Dying: a systematic review. Australian Health Review 49, AH25113. <<https://doi.org/10.1071/AH25113>>
- ¹³ Australian Health Practitioner Regulation Agency (2023) Guidelines - Telehealth Consultations with Patients.
<<https://www.medicalboard.gov.au/Codes-Guidelines-Policies/Telehealth-consultations-with-patients.aspx>>
- ¹⁴ Medical Board of Australia (2020) Good Medical Practice: a code of conduct for doctors in Australia.
<<https://www.medicalboard.gov.au/codes-guidelines-policies/code-of-conduct.aspx>>
- ¹⁵ Ahpra (2022) Shared Code of Conduct.
<<https://www.ahpra.gov.au/Resources/Code-of-conduct/Shared-Code-of-conduct.aspx>>
- ¹⁶ Nursing and Midwifery Board Ahpra (2025) Professional Codes and Standards for Midwives
<<https://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Professional-standards.aspx>>
- ¹⁷ Chwasta M (2022). 'Victoria's voluntary assisted dying program under the spotlight after regional man's long wait' ABC 6 Dec. Available at:
<<https://www.abc.net.au/news/2022-12-06/zenda-alan-clark-voluntary-assisted-dying-victoria/101706420>>.
- ¹⁸ Victoria Voluntary Assisted Dying Review Board (2024/5) Annual Report. Available at:
<<https://www.health.vic.gov.au/voluntary-assisted-dying/voluntary-assisted-dying-review-board>>
- ¹⁹ Joint statement by Australia's suicide prevention leaders (2023) VAD should not be described as suicide. Available at:
<https://assets.nationbuilder.com/gogentleaustralia/pages/2982/attachments/original/1702513241/Joint_statement.pdf?1702513241>
- ²⁰ VADANZ (2024) Position on telehealth use in voluntary assisted dying practice.
<<https://www.vadanz.com.au/position-statements/>>
- ²¹ McIntyre SC, G, Law Council of Australia (2024) 'Full medical not a given when deciding to end one's life'. Available at:
<<https://lawcouncil.au/media/news/opinion-piece-full-medical-not-a-given-when-deciding-to-end-ones-life>>
- ²² Law Institute of Victoria 2021, Telehealth ban for voluntary assisted dying needs to end now says LIV, media release 20 Apr 2021.
<https://www.liv.asn.au/Web/Advocacy__Media/Media_Releases/Web/Advocacy/Media_Releases/Telehealth_ban_for_voluntary_assisted_dying_needs_to_end_now_says_LIV.aspx>
- ²³ Queensland Law Reform Commission (2021) A legal framework for voluntary assisted dying (Report No. 79)
<<https://www qlrc.qld.gov.au/publications/reports>>
- ²⁴ Go Gentle Australia 2024, Joint Statement: Joint statement: Electronic communications must be available for voluntary assisted dying.
<https://assets.nationbuilder.com/gogentleaustralia/pages/3036/attachments/original/1736895342/Joint_statement_Electronic_communications_and_VAD_%284%29.pdf?1736895342>
- ²⁵ Joint statement by Australia's suicide prevention leaders (2023) VAD should not be described as suicide. Available at:
<https://assets.nationbuilder.com/gogentleaustralia/pages/2982/attachments/original/1702513241/Joint_statement.pdf?1702513241>