

# SESLHD GUIDELINE COVER SHEET



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| <b>NAME OF DOCUMENT</b>                      | Responding to requests for information or access to voluntary assisted dying (VAD) within SESLHD  |
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| <b>SUMMARY</b>                               | Provide guidance to all SESLHD staff on how to respond to requests for information or access to voluntary assisted dying within SESLHD to support appropriate patient access. Outlines legislative requirements and professional obligations for health workers who may be involved in the care of a person requesting information of access to a voluntary assisted dying pathway. |

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## Responding to requests for information or access to voluntary assisted dying (VAD) within SESLHD

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## Section 1 - Background

The Parliament of New South Wales (NSW) passed the [Voluntary Assisted Dying Act 2022](#) (the Act) on 19 May 2022. The Act allows eligible people the choice to access voluntary assisted dying (VAD) from 28 November 2023.

NSW is the last state in Australia to legislate VAD. There are many differences between each states legislation therefore it is important that processes are drawn only from the *Voluntary Assisted Dying Act 2022* (NSW).

A patient may make a request for information or access to VAD to any healthcare worker or Medical Practitioner providing them with care. Under the Act in NSW, all healthcare workers and Medical Practitioners are allowed to answer questions and provide information to patients initiating discussions about VAD, subject to some provisions and depending on their role and scope of practice.

This document has been developed to outline best practice within SESLHD in relation to managing and responding to requests for information and or access to VAD within SESLHD. It was developed in response to the [NSW Voluntary Assisted Dying Policy Directive](#), which outlines mandatory requirements for LHDs to manage and respond to requests for information about and access to VAD, and in supporting patients through the VAD process. All LHDs must ensure they have protocols in place that are consistent with and address the content of this Policy Directive, in addition to the legal requirements of the Act.

This guideline outlines mandatory and legal requirements documented within the NSW Voluntary Assisted Dying Policy Directive and the Act while also highlighting SESLHD's expectation of staff in relation to responding to requests for information or access to VAD.

Further information on SESLHD's response to the Act and NSW Voluntary Assisted Dying Policy Directive can be found within the Voluntary Assisted Dying Liaison Services Model of Care.

This document applies to all SESLHD staff.

## Section 2 - Definitions

Table 1: Definitions

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| <b>Authorised Practitioner</b>                                     | A medical practitioner or nurse practitioner who is eligible to take on a role under the Act and has successfully completed mandatory education and training as an authorised practitioner.   |
| <b>Coordinating Practitioner</b>                                   | The authorised practitioner who accepts a patient's first request and is responsible for assessing and supporting the patient throughout the VAD process.   |
| <b>Conscientious Objection</b>                                     | Is when a person declines to participate in a lawful process or procedure due to their personal beliefs, values, or moral concerns. Health practitioners who have a conscientious objection may still have legal obligations under the Act.   |
| <b>eMR</b>   | Electronic medical record   |
| <b>First Request</b>   | The first step within the VAD process where a person makes a clear and unambiguous request for VAD to a medical practitioner during a medical consultation.   |
| <b>Healthcare Worker</b>   | A healthcare worker is a registered health practitioner, or another person who provides health services or professional care services.  |
| <b>Medical Practitioner</b>  | A person registered to practise as a Medical Practitioner under the Health Practitioner Regulation National Law.  |
| <b>NSW VAD Support Service - Care Navigator Service (NVSS-CNS)</b> | An operational arm of the NVSS, appointed by the Secretary to provide support to anyone seeking information or access to VAD in NSW. This includes patients, families, carers, members of the community and health practitioners.   |
| <b>The Act</b>   | <i>Voluntary Assisted Dying Act 2022</i> (NSW)  |
| <b>Voluntary Assisted Dying (VAD)</b>                              | A legal end-of-life option where an eligible person can ask for medical help to end their life.   |
| <b>Voluntary Assisted Dying Board (the Board)</b>                  | An independent oversight and decision-making body with responsibility for performing the functions and exercising the powers conferred upon it by <i>the Act</i> . Key functions include monitoring and reporting on the operation of <i>the Act</i> , deciding whether to approve or refuse VAD applications and keep record of accredited VAD practitioners within NSW. |
| <b>Voluntary Assisted Dying Liaison Service (VAD-LS)</b>           | The SESLHD service supporting people seeking information or access to VAD while also providing process navigation, support and guidance to staff who directly and indirectly involved in VAD.   |
| <b>Voluntary Assisted Dying Portal (the Portal)</b>                | The official digital platform by which all forms and decisions for the VAD process are managed and recorded.  |
| <b>Voluntary Assisted Dying Substance</b>                          | <i>An approved Schedule 4 poison or Schedule 8 poison for use under the Act for the purpose of causing a patient's death.</i>   |

## Section 3 - Responsibilities

### All SESLHD employees are responsible for:

- Providing exceptional person-centred care and associated services within the individual's scope of practice and level of expertise, to all patients and their support networks irrespective of their request for information or access to VAD.
- Ensuring there are no barriers for patients requesting information or access to VAD.
- Continuing to document discussions and escalation processes in relation to VAD in the patient's health record as per normal processes.
- Familiarising themselves with the local VAD procedures of their facility and of the District, including understanding what to do if a patient raises VAD with them as outlined in this document.

### Healthcare workers are responsible for:

- Ensuring they work within their scope of practice. Healthcare workers can provide information to patients who initiate a discussion about VAD as per the Act, if this aligns with their scope of practice and level of expertise.
- Escalating requests for information or access to VAD to the patient's senior treating medical practitioner.
- Documenting in the patients' medical file in accordance with existing documentation requirements.

### Line Managers are responsible for:

- Acting as a local escalation point for staff seeking advice and support in relation to responding to requests for information or access to VAD.
- Supporting the organisation in identifying and mitigating barriers associated with patients accessing information or services related to VAD.
- Promoting access to resources and staff education to support capacity building and awareness of VAD processes, while ensuring staff are also aware of the wellbeing supports available within SESLHD, should they need to utilise them.
- Respecting healthcare workers' right to have a conscientious objection to VAD and will therefore plan / liaise with their teams to ensure appropriate staffing is available to care for patients on a VAD pathway within their local settings.

### General Managers / Service Managers are responsible for:

- Providing executive level leadership supporting the implementation of VAD as a lawful end of life option available to eligible community members within SESLHD.
- Acting as a senior escalation point for unmitigated barriers associated with patients accessing information or services related to VAD.

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### Junior Medical Officers (JMO) are responsible for:

- Escalating requests for information or access to VAD to the patient's senior treating medical practitioner who will lead the request.
- Providing uninterrupted care as usual and support to patients ensuring any unmet care needs that may be causing intolerable suffering are assessed, with appropriate interventions offered.
- Documenting in the patients' medical file in accordance with existing documentation requirements.

### Senior Medical Staff are responsible for:

- Supporting healthcare workers who escalate patient requests for information or access to VAD.
- Having end of life conversations with patients which may require an assessment of unmet care needs leading to suffering that may require medical or psychosocial intervention.
- Making referrals to the SESLHD VAD-LS to ensure patients seeking information or access to VAD receive specialised support.

### SESLHD Voluntary Assisted Dying Liaison (VAD-LS) staff are responsible for:

- Providing support to patients, their families, caregivers, and staff in navigating requests for information or access to VAD and facilitating access to this service across the district as a consulting service. Services can be provided in the inpatient, outpatient and community settings.
- Responding to referrals made to the service, including provision of information to patients, and support in connecting them to appropriate Authorised Practitioners.
- Supporting SESLHD staff with capacity building and education in relation to VAD.

## Section 4 - Discussing voluntary assisted dying

### Healthcare workers

Healthcare workers can only initiate a discussion about VAD, or suggest it as an option to a person, if in the same discussion they also:

- advise that palliative care and other treatment options are available, and
- advise the person that they should discuss the palliative care and other treatment options with their medical practitioner.

This is different from other legislative frameworks in other Australian states.

During conversations about VAD, healthcare workers should be cognisant of their clinical role and the scope of their clinical practice to ensure professional conduct in line with the Health Practitioner Regulation National Law (NSW).

All requests for information or access to VAD must be addressed sensitively, while ensuring patients are provided with person centred care. This may require an assessment of unmet care needs leading to suffering that may require medical or psychosocial intervention.

As part of this process within SESLHD, requests for information or access to VAD need to be escalated to the person's senior treating medical practitioner, who will lead the request.

This assessment may lead to a SESLHD VAD-LS referral which can only be made by a medical practitioner. Referrals can be made:

- via an eMR order titled - Consult Voluntary Assisted Dying (VAD)
- within MOSAIQ

SESLHD medical practitioners without access to eMR or MOSAIQ can refer patients by completing the [VAD-LS referral form](#) which can then be emailed to the [SESLHD-VAD@health.nsw.gov.au](mailto:SESLHD-VAD@health.nsw.gov.au).

[Appendix A](#) provides an outline of how to respond to requests for information or access to VAD within SESLHD.

### Medical Practitioners

As per the Act, all medical practitioners can only initiate a discussion about VAD or suggest it as an option to a person, if in the same discussion they also advise of:

- Standard treatment options and their likely outcomes for the disease, illness or medical condition with which the person has been diagnosed, and
- Palliative care and treatment options, and their likely outcomes.

[Appendix A](#) provides an outline of how to respond to requests for information or access to VAD within SESLHD. It may also be appropriate to explore developing an Advance Care Directive with the patient during these conversations.

### **Junior Medical Officers (JMO)**

Although JMOs may have discussions about VAD as per the Act, SESLHD recognises that the requirements to discuss standard treatment options, palliative care and outcomes of both are unlikely to be within the scope of practice of a JMO. It is generally not appropriate for JMOs to lead end of life conversations. VAD adds a layer of complexity to what is already an advanced and important skill.

Therefore, SESLHD JMOs are required to escalate all requests for information or access to VAD to the patient's senior treating medical practitioner.

### **Senior Medical staff**

Senior medical staff who are unable to provide information or access to VAD due to scope of practice limitations or conscientious objection should notify the SESLHD VAD-LS to ensure there are no barriers to patient access to VAD services.

Referrals can be made:

- via an eMR order titled - Consult Voluntary Assisted Dying (VAD)
- within MOSAIQ

SESLHD medical practitioners without access to eMR or MOSAIQ can refer patients by completing the [VAD-LS referral form](#) which can then be emailed to the [SESLHD-VAD@health.nsw.gov.au](mailto:SESLHD-VAD@health.nsw.gov.au).



## Section 5 - Conscientious Objection

Healthcare workers and medical practitioners, may have a conscientious objection to VAD, and may therefore choose not to participate in any or all of the following:

- participate in the request and assessment process,
- prescribe, supply, or administer a VAD substance,
- be present at the time of the administration of a VAD substance.

However, all SESLHD healthcare workers and medical practitioners, regardless of their position on VAD, should understand their professional obligations, including under codes of conduct and codes of ethics set by National Health Practitioner Boards, and any legal obligations legislation, including under privacy legislation, and should not obstruct the patient's VAD process or access to information.

For example, a patient should not be denied access to their personal health information (such as health records containing or advising on the patient's diagnosis and prognosis details) merely because this information is to be used for the purposes of a VAD application.

It is against the law for a medical practitioner to withdraw other services the practitioner would usually provide to the person, or their family and other close contacts, because of the persons request for access to VAD. If this occurs, there should be prompt attention to local problem solving, and escalation and may be the subject of a complaint to the Health Care Complaints Commission (HCCC).

Medical practitioners who have a conscientious objection to VAD still have obligations under the Act. These obligations can be found within [Appendix B](#) of this document. Medical practitioners who receive a first request for VAD and are conscientious objectors, must:

- refuse the request immediately and advise the patient of this,
- complete an online first request form via [the Portal](#) and document appropriately in the medical file as per guidance in [Section 9](#) of this document.

[Appendix A](#) provides an outline of how to respond to requests for information or access to VAD within SESLHD.

[Appendix C](#) outlines how to complete a first request form on the Portal.

Notwithstanding the legal framework, all SESLHD staff with a conscientious objection should escalate requests for information or access to VAD to an appropriate senior medical practitioner who will lead the response. This ensures that important clinical information is not missed, and any unmet care needs are managed appropriately.

Further information on healthcare workers and medical practitioner obligations can be found on the NSW Health webpage – [Obligations of healthcare workers](#).

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## Section 6 - First Request

To start the formal VAD process, the patient must make a first request for access to VAD to a medical practitioner.

The first request must be:

- Clear and unambiguous,
- Made during a medical consultation,
- Made in person or via telehealth if a face-to-face consultation is not practicable,
- Made by the person seeking access to VAD.

A first request can be made using any method of communication the person uses, such as spoken language, sign language or alternative communication, or with the assistance of an interpreter. The medical consultation during which a first request can be made may be in a clinical setting (e.g., hospital or health clinic) or a non-clinical setting (e.g., in a patient's home).

No one can make a first request on behalf of another person. A first request cannot be made using an Advance Care Directive as the person requesting VAD must have capacity throughout the process.

### Process

When a first request is made, the medical practitioner must decide whether to accept or refuse the request. Only medical practitioners who have completed the approved training can accept a first request, these practitioners are referred to as Authorised Practitioners.

An overview of the responsibilities of medical practitioners who are not authorised VAD practitioners can be found within the NSW Health [Obligations of healthcare workers factsheet](#).

By accepting a first request the medical practitioner becomes the person's Coordinating Practitioner.

Medical practitioners who have not completed the approved training will need to refuse the request, document this in the patient's health record and complete a first request form on [the Portal](#).

[Appendix B](#) outlines the steps in the first request and how to respond.

[Appendix C](#) outlines how to complete a first request form on the Portal.

If a first request is refused, the patient can make a first request to a different medical practitioner. The VAD-LS can support in finding an authorised practitioner.

All medical practitioners have obligations under *the Act* when a patient makes a first request to them, even if they refuse the request. Further information on medical practitioner obligations can be found on the NSW Health webpage – [Obligations for healthcare worker](#).

If a formal first request is made to a medical practitioner, with a conscientious objection, the Act requires them to:

- inform the person immediately that they refuse the request based on this conscientious objection,
- document this in the medical file and complete a first request form on [the Portal](#) for viewing by the Board.

Further information on the first request process can be found in Section 8 of the [Clinical Practice Handbook](#).

### Recognising a First Request

Patients seeking access to VAD do not have to use the words “voluntary assisted dying” in their first request, as they may not be aware of the terminology or process involved. Table 2 outlines some examples of statements that patients could make to indicate they want to access VAD, and some examples that would not indicate an explicit request.

Medical practitioners should confirm that a person who appears to be making a first request is in fact making a request for access, and not simply seeking further information about VAD.

To explore a person’s suffering and wish for hastened death more broadly, and to better determine if the person is making a first request, the medical practitioner should:

- Carefully explore what the person is asking with curiosity, respect, and in a patient-centred, non-judgmental way, allowing the person to be very clear about what they are asking
- 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 hastened 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.

### What is not considered a first request

A first request must meet the criteria outlined above to be considered a first request. Examples of what is not considered a first request include:

- A request made to someone other than a medical practitioner or outside of a medical consultation.
- A request made by someone on behalf of someone else.
- A person asking general questions or expressing interest in VAD or seeking further information, but not specifically requesting access to it themselves as per examples in (Table 2).
- A request in an advance care directive.

**Table 2**

| <b>Example statements of a first request for voluntary assisted dying</b> | <b>Example statements that would not be considered a first request but rather a request for information</b> |
|---|---|
| “Can you help me end my life?”  | “I want to die. What are my options?”   |
| “I want you to help me to die.”   | “I’m tired of life. I’ve had enough.”   |
| “How can I get medication to end my life?”                                | “Can you tell me more about VAD?”   |
| “Can I access euthanasia?”  | “Does this hospital/facility provide VAD?”  |

## Section 7 - Commonwealth Criminal Code

The [Criminal Code Act 1995 \(Cth\)](#), sections 474.29A and 474.29B, contain offences related to the use of a carriage service to disseminate or access suicide related material.

A carriage service is an electronic means of communication (including telehealth, telephone, fax, email, internet webpage or a videoconference).

Suicide related material is material that directly or indirectly:

- counsels or incites committing or attempting to commit suicide, or
- promotes, or provides instruction on, a particular method of committing suicide.

While the Act provides that VAD is not suicide for the purposes of NSW law, it is not clear whether VAD would be considered suicide for the purposes of the *Criminal Code Act 1995* (Cth).

SESLHD clinicians should not provide information to or communicate with patients about VAD via any electronic means, and all such communications must be in person or in writing via hard copy letter.

## Section 8 - Responding to enquiries from ineligible patients

Some patients who request information about VAD may be clearly and unequivocally ineligible. For example, if they:

- are under 18 years of age,
- do not have a life-limiting disease, illness or medical condition
- do not have capacity.

In these circumstances, the discussion should be given the same respect and consideration as all end-of-life discussions. However, the healthcare worker and medical practitioner should ensure they respond in a way that manages the patient's expectations, and clearly, but sensitively, explains why VAD is not an option for the patient.

Allowing a patient who is clearly ineligible for VAD to progress to a first request through referral to the SESLHD VAD-LS may be more difficult for the patient than having a clear, compassionate discussion prior to the enquiry progressing. Staff who need support and guidance with this are encouraged to contact the SESLHD VAD-LS via the hospital switchboard.

A discussion about VAD with a patient in this situation may also indicate that the patient requires other support or counselling. This further supports escalating requests of this kind to a senior medical practitioner. Further local support should be considered for every patient in this circumstance.

## Section 9 - Documentation

All SESLHD employees are to continue to document discussions and escalation processes in relation to VAD in a patient's health record as per normal processes.

As per the Act any medical practitioner who receives a first request must complete a first request form in [the Portal](#) as well as record this in the patient's health record and include the following:

- The first request
- The medical practitioner's decision to accept or refuse the request,
- If the request is refused, the reason for refusal, and
- Whether the medical practitioner has given the patient the [First Request Information Guide](#)

Under the Act, it is not mandatory for the [First Request Information Guide](#) to be provided to the patient if the practitioner has a conscientious objection to VAD. In line with best practice, practitioners should ensure that in addition to meeting minimum legislative obligations, care is patient-centred.

By submitting an online form via [the Portal](#), a medical practitioner is submitting to the VAD Board. Under the Act, the Board must notify of the receipt of forms submitted, which is done in two ways via the Portal; an email confirmation is sent to the medical practitioner, and a PDF receipt is displayed and downloadable from the submission page.

Documentation in [the Portal](#) does not remove the requirement for clinical encounters to be well-documented in the patients' health record, and practitioners must still comply with usual processes for health record-keeping, and other documentation requirements, such as those under:

- [Health Records and Information Privacy Act 2002 \(NSW\)](#)
- [Health Practitioner Regulation \(New South Wales\) Regulation 2016 \(NSW\)](#)
- [Good medical practice: a code of conduct for doctors in Australia](#)
- [NSW Ministry of Health Policy Directive PD2012\\_069 Health Care Records – Documentation and Management](#)
- Local policies and procedures

## Section 10 - SESLHD Voluntary Assisted Dying Liaison Service (VAD-LS)

The SESLHD VAD-LS is a district consultative service that provides specialist advice and care in relation to VAD as an EoL option. The SESLHD VAD-LS does not have admitting rights and provides VAD services to people in their usual place of care within SESLHD acute facilities or within the outpatient and community settings.

SESLHD medical practitioner who receive a request for information related to VAD can refer patients to the SESLHD VAD-LS, however, will not accept clearly ineligible referrals.

Referrals to the SESLHD VAD-LS service can be made by SESLHD medical practitioner:

- via an eMR order titled - Consult Voluntary Assisted Dying (VAD)
- -ithin MOSAIQ

SESLHD medical practitioners without access to eMR or MOSAIQ can refer patients by completing the [VAD-LS referral form](#) which can then be emailed to the [SESLHD-VAD@health.nsw.gov.au](mailto:SESLHD-VAD@health.nsw.gov.au).

Staff who need guidance responding to requests for information of access to VAD are welcome to contact the SESLHD VAD-LS via the hospital switchboard. Note that the referral contacts are internal only and are not accessible to the public.

The SESLHD VAD-LS is a Monday to Friday 8:30am – 4:30pm service and can be contacted during these times.



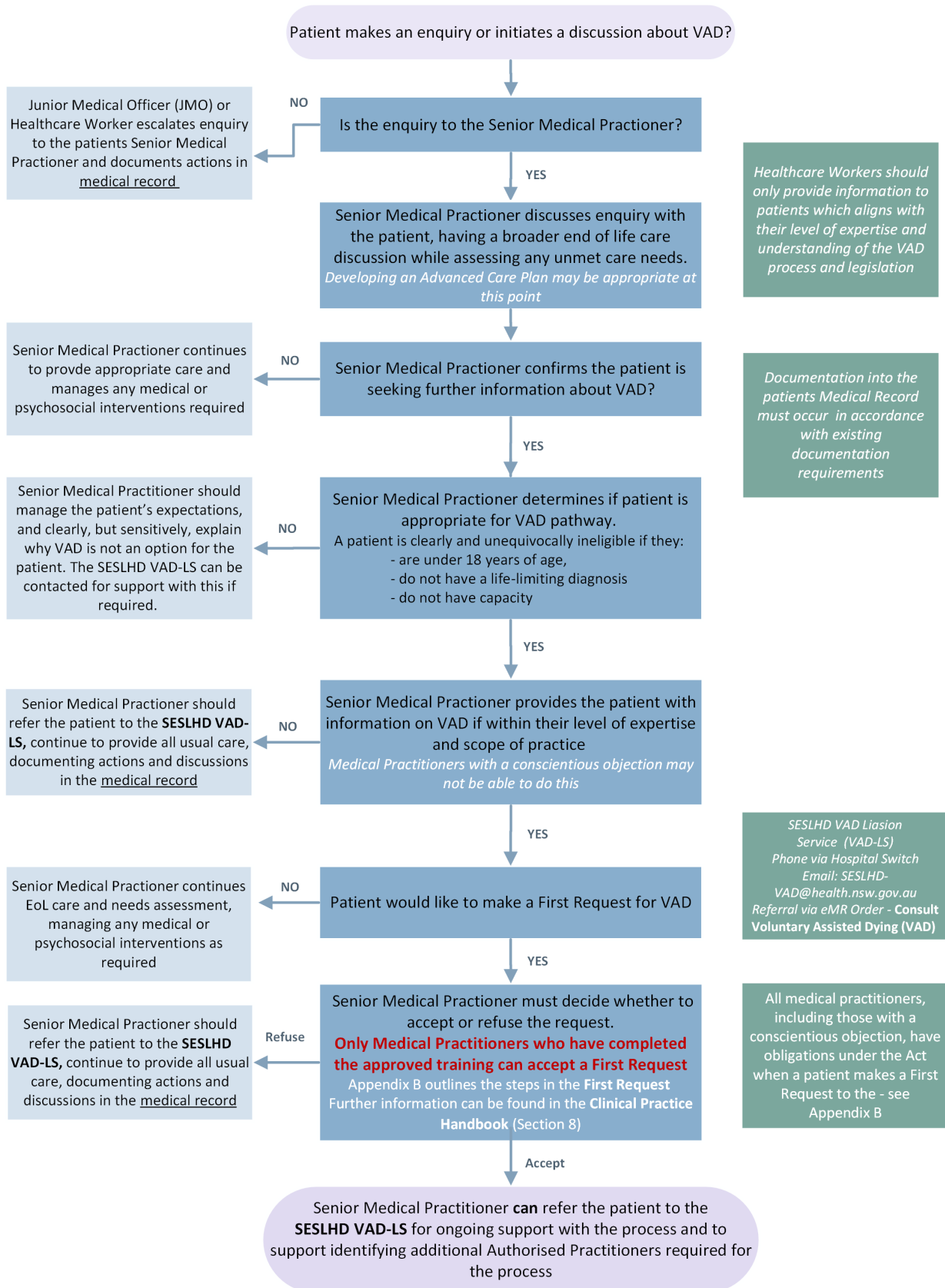
## Section 11 - Resources

- [NSW Voluntary Assisted Dying Portal](#)
- [Clinical Practice Handbook: NSW Voluntary Assisted Dying](#)
- [NSW Ministry of Health Policy Directive PD2023\\_037 - Voluntary Assisted Dying](#)
- [Obligations for healthcare worker Fact Sheet](#)
- [NSW Voluntary Assisted Dying Care Navigator Service](#)
- [NSW Health - Voluntary assisted dying in NSW](#)

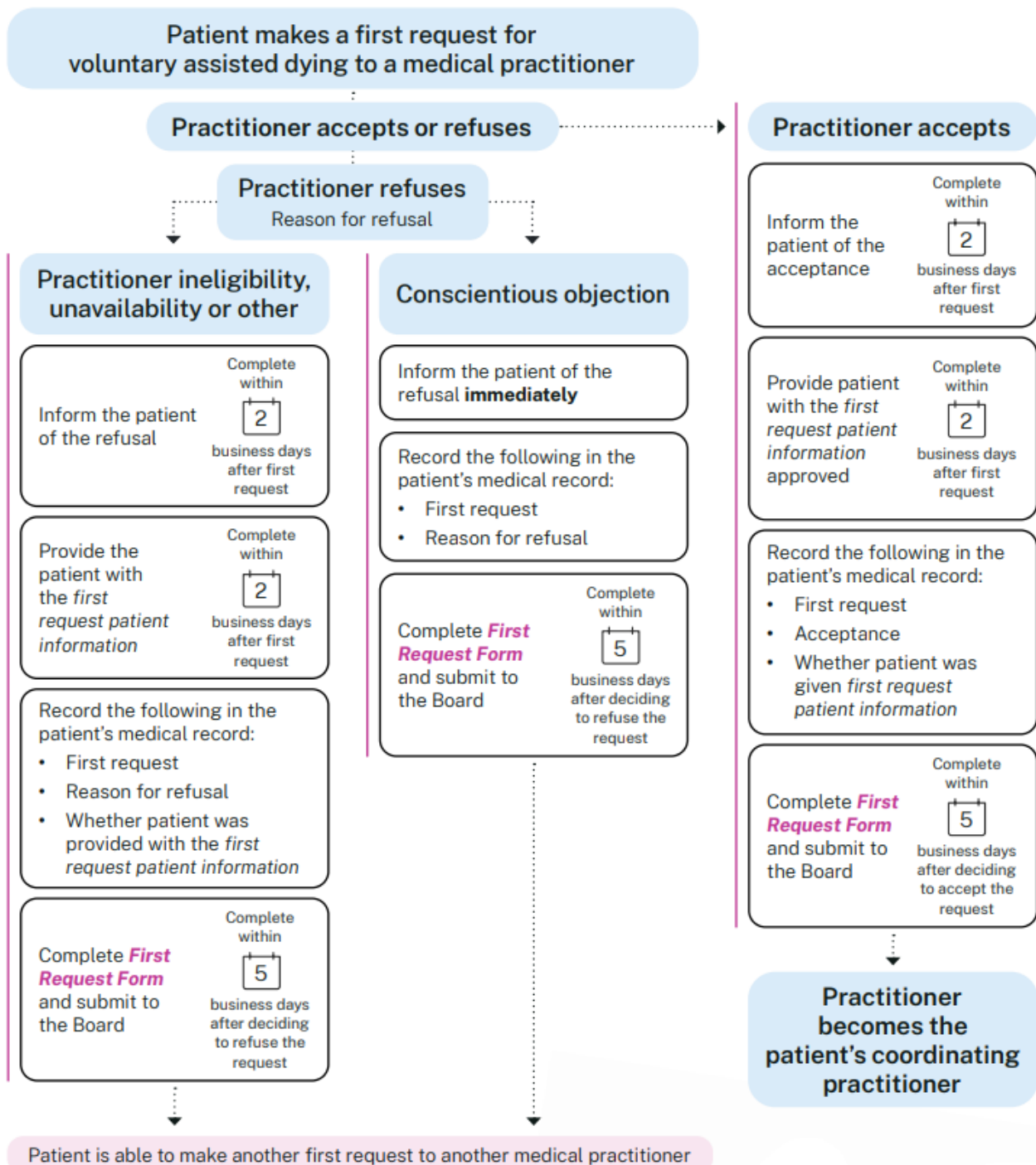
### Version and Approval History

| Date         | Version | Version and approval notes   |
|--------------|---------|--|
| 20 May 2024  | 1.0     | New guideline. Approved by SESLHD Clinical and Quality Council.  |
| 26 July 2024 | 1.1     | Amendment on the advice of NSW Health on page 8 and 9 regarding Senior Medical staff and conscientious objection. Approved by Executive Sponsor. |

## Appendix A: SESLHD Responding to VAD Requests Flow Chart



## Appendix B: First Request Flow Chart



## Appendix C: How to complete a first request form on the Portal

### Step 1:

To get to the below screen please visit the NSW Voluntary Assisted Dying Portal webpage - <https://nswvadportal.health.nsw.gov.au/>

### Step 2:

**Authorised Practitioners** need to log in by clicking the blue log in button under Practitioner Access to complete the first request form.

**Medical Practitioners who are not Authorised Practitioners** who need to refuse a first request need to slightly scroll down and click on the first request form button, circled in red in the below picture.

**\*\*note:** there is a video available to walk you through how to complete this form as circled in yellow in the below image\*\*

