

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 provision of voluntary assisted dying services.



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.

Background

In 2005, the Criminal Code Act 1995 (Cth) was amended to, in the words of the then-Attorney General, 'protect vulnerable individuals from people who use the internet with destructive intent to counsel or incite others to take their own lives'. The intent was to restrict pro-suicide chatrooms and materials being distributed online.

Sections 474.29A and 474.29B of the Commonwealth Criminal Code (contained in [Schedule 1 of the Act](#)) made it an offence to use a 'carriage service' to publish or distribute material that counsels or incites a person to suicide.

Unfortunately, state voluntary assisted dying (VAD) laws are caught up in the same prohibition - despite leading suicide prevention organisations [releasing a joint statement](#) distinguishing VAD and suicide, and all state VAD laws (except Victoria) explicitly stating the same.

In practice, the prohibition means no conversations about the delivery or administration of the VAD substance can take place over telephone, video conference, email, fax or other forms of electronic communication. This disrupts and delays the delivery of high-quality, timely and accessible VAD care.

There is uncertainty about the extent to which the provisions apply to VAD communication, with a high level of concern that it may affect all conversations or information shared about VAD that uses a carriage service.

Some examples of the impact include:

- Even a person who is frail, suffering and in pain must attend all appointments in-person, or wait for a health professional to visit them at home. Sadly, some people have died waiting for at-home assessment.
- People in regional and remote areas face additional barriers to accessing VAD care as travel is required for all steps and stages of the VAD process.
- No follow-up information or support can be provided beyond in-person appointments (e.g. a pharmacist who delivers VAD medication to a person's home can only provide follow-up information by another visit).
- Prescriptions for the VAD substance must be hand-delivered to pharmacies.
- Doctors, nurses, pharmacists and allied health professionals making arrangements to support the administration of the VAD substance break the law if they email, fax, call or text each other.

Person centred communication is essential for the delivery of high-quality and safe health care. Health professionals and patients are best placed to decide which communication methods are appropriate, in line with [Ahpra telehealth guidance](#) and in accordance with their professional body's Code of Conduct (e.g. [Medical Board of Australia's Code of Conduct](#), [Ahpra's Shared Code of Conduct](#), [Ahpra's Nursing and Midwifery Board's Code of Conduct](#)).

Legal restrictions on communication methods do not apply to any other area of health care, and limit the ability of health professionals to do their jobs and provide the best care.