

# Voluntary Assisted Dying

## Assessing decision-making capacity in relation to voluntary assisted dying practice tool

The below table supports registered medical practitioners to assess whether a person has decision-making capacity in relation to voluntary assisted dying.

A patient may communicate their decision verbally or non-verbally, for example by writing, drawing, pointing or head nodding. Practitioners should make reasonable attempts to ensure a patient has practicable and appropriate support to communicate their decisions.

For more information read the Voluntary Assisted Dying Clinical Guidelines at [www.sahealth.sa.gov.au/vadclinicalguidelines](http://www.sahealth.sa.gov.au/vadclinicalguidelines).

Criterion	Patient's task	Medical practitioner's assessment approach	Suggested questions for clinical assessment	Red flags
<b>Understand the information relevant to the decision about voluntary assisted dying</b>	Grasp the fundamental nature of voluntary assisted dying and that it would lead to the patient's death	Encourage the patient to paraphrase what the medical practitioner has said about the patient's medical condition, prognosis, treatment options and what is involved with voluntary assisted dying	Please describe what I have explained to you about: <ul style="list-style-type: none"> <li>the problem with your health now</li> <li>the treatment options and voluntary assisted dying</li> <li>the possible benefits and risks (or discomforts) of the treatment or voluntary assisted dying</li> <li>any alternative treatments and their risks and benefits</li> <li>the risks and benefits of no treatment</li> </ul>	Patient fails to remember or understand their medical condition or prognosis.  Patients cannot recount the possible treatment options and their consequences (including no treatment) and their benefits and risks.  Patient does not accept their condition (for example, those who lack insight because of delusions or denial).
<b>Retain the information to the extent necessary to make a decision about voluntary assisted dying</b>	Remember the information provided about treatment options (including voluntary assisted dying) and their consequences	Ask the patient to describe their thoughts about their medical condition, prognosis, possible treatment options and outcomes, and about voluntary assisted dying	<ul style="list-style-type: none"> <li>How do you feel about your health now?</li> <li>What is treatment or voluntary assisted dying likely to do for you?</li> <li>What makes you believe it will have that effect?</li> <li>What do you believe will happen if you are not treated?</li> </ul>	Patient cannot remember or is unclear about their medical condition, prognosis, possible treatment options and voluntary assisted dying.  Patient cannot remember their prior choices or express them in a consistent way.

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<p><b>Use or weigh the information to make a decision</b></p>	<p>Reason about treatment options and voluntary assisted dying using the relevant information provided by the medical practitioner</p>	<p>Ask the patient to compare treatment options and outcomes, including voluntary assisted dying, and provide reasons for the chosen option</p>	<ul style="list-style-type: none"> <li>• How did you decide to accept or reject the other treatment options?</li> <li>• What makes [the chosen option] better than [the alternative option]?</li> </ul>	<p>Patients are able to make decisions that medical practitioners might think are unwise. The focus here should be on the process and whether it leads logically to the outcome.</p> <p>A red flag would be a decision-making process that appears unusually brief or does not appear to be grounded in the patient's personal beliefs or values.</p> <p>Frequent reversals of choice because of psychiatric or neurological conditions may indicate lack of capacity.</p>
<p><b>Communicate the decision</b></p>	<p>Clearly state their request to access voluntary assisted dying</p>	<p>Listen to the patient's request and seek clarification if it is not clear</p>	<ul style="list-style-type: none"> <li>• Have you decided which treatment option to follow?</li> <li>• Can you tell me what that decision is?</li> <li>• [If no decision] What's making it hard for you to decide?</li> </ul>	<p>A patient who appears to respond inconsistently to questions.</p> <p>A patient whose family member or carer constantly speaks or communicates on their behalf.</p>

This table has been adapted from original article by Appelbaum PS 2007, 'Assessment of patients' competence to consent to treatment', *New England Journal of Medicine*, no. 357, pp. 1834–1840 and Willmott L, White B 2018, Voluntary Assisted Dying Act 2017 *Assessment Training Module 4*, for the Department of Health and Human Services, Melbourne.