



New South Wales

Voluntary Assisted Dying Bill 2017

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is co-sponsored by the Hon T J Khan MLC, Dr Mehreen Faruqi MLC and the Hon L J Voltz MLC.

Overview of Bill

The object of this Bill is to provide a legislative framework for the rights of terminally ill persons to request and receive assistance to end their lives voluntarily. Under this framework, certain terminally ill persons may be assisted by their medical practitioners and other qualified health practitioners to administer a substance to themselves.

The Bill provides protection for persons providing such assistance and sets up safeguards against possible abuse of the right recognised by the Bill.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act 6 months after the date of assent to the proposed Act, unless sooner commenced by proclamation.

Part 2 Interpretation and key concepts

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 defines *terminal illness* to mean an illness that will, in reasonable medical judgment, result in the death of the person suffering from the illness within the next 12 months.

Clause 5 defines when a medical practitioner *assists* or *provides assistance* to end a patient's life for the purposes of the proposed Act. Assistance is provided when the practitioner does any of the following for the purpose of, or in connection with, ending the patient's life:

- (a) prescribes and prepares an authorised substance for a patient,
- (b) gives an authorised substance to the patient for self-administration,
- (c) if the patient is physically incapable of self-administering a lethal dose of an authorised substance—administers the substance to the patient or gives the substance to a medical practitioner or nurse who has certain qualifications.

Clause 6 defines *authorised substance* to mean a substance that is declared by the regulations to be an authorised substance for the purposes of the proposed Act.

Clause 7 defines *decision-making capacity* in relation to a patient's request for assistance as having the capacity to:

- (a) understand the facts relevant to the patient's illness and condition, and
- (b) understand the medical treatment and other options available to the patient, and
- (c) assess the consequences of the patient's decision to request the assistance and understand the impact of those consequences on the patient, and
- (d) communicate the patient's decisions (whether by speaking, sign language or any other means).

Clause 8 defines when a person is *closely associated* with another person for the purposes of the proposed Act. A person is closely associated with another person if the person is a close relative or employee of the other person or if both persons are medical practitioners who are members of the same medical practice.

Part 3 Request for and provision of assistance

Division 1 Request for assistance

Clause 9 establishes the right of an eligible person to request assistance from a medical practitioner to end the person's life. A person is eligible to make a request for assistance if:

- (a) the person is at least 25 years of age, and
- (b) the person is an Australian citizen, or a permanent resident of Australia, and is ordinarily resident in New South Wales, and
- (c) the person is suffering from a terminal illness, and
- (d) the medical practitioner (referred to in the proposed Act as the *primary medical practitioner*) has informed the person that, in the medical practitioner's opinion, the person is suffering from a terminal illness, and
- (e) as a consequence of the terminal illness, the person has been experiencing severe pain, suffering or physical incapacity to an extent unacceptable to the person.

The primary medical practitioner must not be a close relative of the person who makes the request. A person who makes a request for assistance is referred to in the proposed Act as the *patient*.

Clause 10 makes it clear that a patient who has requested assistance may rescind that request at any time. If a health care provider becomes aware that the patient has rescinded a request, the health care provider must immediately notify the primary medical practitioner of the rescission. If a request is rescinded, the primary medical practitioner must note that fact on the patient's medical record and on each page of the formal request certificate.

Division 2 Provision of assistance

Clause 11 provides that the primary medical practitioner may assist the patient to end the patient's life if the practitioner is satisfied that the requirements of the proposed Act relating to the request for assistance have been met.

Clause 12 provides for a cooling-off period of 48 hours, commencing on the completion of the request certificate, during which the primary medical practitioner must not provide assistance to a patient to end the patient's life.

Clause 13 requires the primary medical practitioner, in providing assistance under the proposed Act, to be guided by appropriate medical standards and pharmaceutical information about the relevant authorised substance and any guidelines prescribed by regulations made under the proposed Act.

Clause 14 provides that the primary medical practitioner must not provide the assistance if he or she knows that any financial or other advantage is likely to be gained by certain persons participating in the provision of assistance, or their associates, as a result of the death of the patient.

Clause 15 makes it an offence for a person to engage in conduct that influences the provision of assistance under the proposed Act. Such conduct involves giving or promising any financial advantage (other than a reasonable payment for medical services), or causing or threatening to cause any disadvantage, to any person participating in the provision of the assistance.

The clause also makes it an offence for a person to accept any financial or other advantage (other than a reasonable payment for medical services) for assisting or refusing to assist in the provision of assistance under the proposed Act.

Clause 16 makes it an offence to cause a person, by deception or improper influence, to make a request for assistance.

Part 4 Preconditions to provision of assistance

Part 4 sets out the requirements that must be met before a primary medical practitioner may assist a patient to end the patient's life.

Clause 17 requires the patient to be independently examined by his or her primary medical practitioner and one other medical practitioner (the *secondary medical practitioner*). The secondary medical practitioner must be a specialist in relation to the diagnosis or treatment of the relevant terminal illness and must not be closely associated with the primary medical practitioner or a close relative of the patient.

Clause 18 requires the primary medical practitioner to form an opinion about the patient's terminal illness and prognosis, and requires the secondary medical practitioner to confirm the opinion.

Clause 19 requires the primary medical practitioner to provide to the patient certain information relating to the patient's terminal illness, available treatment, consequences of the administration of the authorised substance and the right to rescind the request for assistance. The patient must, after receiving the information, indicate that the patient's decision to request assistance to end his or her life still stands.

Clause 20 requires the patient to be examined and assessed by an independent psychiatrist or psychologist. The psychiatrist or psychologist must provide to the primary and secondary medical practitioners a report of the assessment. The primary medical practitioner must not provide assistance to the patient under the proposed Act unless the qualified psychiatrist or qualified psychologist makes an assessment that the patient has decision-making capacity in relation to the request for assistance and that the patient's decision to request the assistance has been made freely, voluntarily and after due consideration.

Clause 21 requires the primary medical practitioner to provide to the secondary medical practitioner and qualified psychiatrist or qualified psychologist any previous reports and opinions

relating to the patient that were given to the primary medical practitioner by other secondary medical practitioners or qualified psychiatrists or qualified psychologists.

Clause 22 requires a formal certificate to be completed confirming the patient's request for assistance at least 7 days after the initial request is made. An audio-visual record (an *audio-visual request*) may be made instead of the request certificate if the patient is physically unable to sign the certificate or is unable to communicate with reasonable fluency in English.

Clause 23 requires an interpreter to be present at the time of any communication between the patient and certain other participants for the purposes of the Part, and during the signing of the request certificate or making of the audio-visual request, if the patient and other person are unable to communicate with each other with reasonable fluency in any language.

Part 5 Supreme Court review of requests

Clause 24 enables a close relative of a patient to apply to the Supreme Court for an order that a request certificate is not an effective request certificate for the purposes of the proposed Act. The Court may make an order if satisfied that the patient was not suffering from a terminal illness, was not at least 25 years old, was neither an Australian citizen nor a permanent Australian resident or was not ordinarily resident in New South Wales, that he or she did not have decision-making capacity in relation to the request or that he or she did not make the decision to request the assistance freely, voluntarily and after due consideration. The Supreme Court may make such other orders (including interim orders pending the determination of the application) as it considers necessary to prevent action being taken in reliance on the request certificate.

Clause 25 makes provision with respect to the parties to an application for an order.

Clause 26 provides that if an order is made under the Part in respect of a request certificate, the certificate is not to be treated as a request certificate for the purposes of the proposed Act. However, the order does not prevent the making of a further request or the provision of assistance to the patient after the requirements of the proposed Act have been met with respect to the further request.

Clause 27 provides that the Part does not limit the jurisdiction of the Supreme Court.

Part 6 Effect of Act on other rights and obligations

Clause 28 provides that a health care facility operator, health care provider or other person is not under any duty to participate in the provision of assistance under the proposed Act. Any health care facility operator or health care provider who is unable or unwilling to participate must, if requested to do so by the patient, transfer the patient's medical records to another health care provider.

Clause 29 protects certain persons from criminal and civil liability for participating, or refusing to participate, in the provision of assistance under the proposed Act. A death resulting from the lawful provision of assistance under the proposed Act is not to be regarded as suicide for the purposes of a provision of the *Crimes Act 1900* that relates to aiding and abetting a suicide. The use of force to prevent the making of a request, or the provision of assistance, under the proposed Act is not authorised by this clause or by section 574B of the *Crimes Act 1900* (which otherwise provides for the lawful use of force for the prevention of suicide). The clause authorises the destruction of unused authorised substances, but no other dealing with such substances.

Clause 30 provides that a will, contract or other agreement is not valid to the extent that it would affect whether a person may make or rescind a request for assistance under the proposed Act or provide or refuse to provide that assistance. This clause also provides that a provision of a contract or other agreement is void to the extent that it purports to exclude or limit liability of a party to the contract in the event of a person making or rescinding a request for, or receiving or lawfully providing, assistance under the proposed Act.

Part 7 Records and reporting of death

Clause 31 sets out the records that a primary medical practitioner providing assistance under the proposed Act must make and keep as part of the patient's medical record.

Clause 32 extends the application of provisions of the *Coroners Act 2009* (including, in particular, provisions relating to the reporting of deaths and the conferral of jurisdiction to hold inquests) to deaths resulting from assistance provided under the proposed Act.

Clause 33 facilitates the recording and notification of a death resulting from assistance provided under the proposed Act.

Clause 34 requires a primary medical practitioner who provides assistance under the proposed Act to send to the Voluntary Assisted Death Review Board established under Part 8 (the **Review Board**) a copy of the death notification required under the *Births, Deaths and Marriages Registration Act 1995* and any part of the patient's medical record that relates to the terminal illness and death of the patient.

Part 8 Voluntary Assisted Death Review Board

Clause 35 provides for the establishment and composition of the Review Board.

Clause 36 provides for the functions of the Review Board, including the review of deaths that occur as a result of assistance provided under the proposed Act, reporting to Parliament on matters relating to the exercise of the functions of the Board, communicating breaches of the proposed Act to appropriate authorities and promoting research into the operation of the Act.

Clause 37 provides for the employment and use of the services of staff and consultants to assist the Review Board in exercising its functions.

Clause 38 requires the Review Board to review each death of a patient that occurs as a result of assistance provided under the proposed Act. In conducting the review, the Review Board is to have regard to the notice of death, and medical records, provided by the primary medical practitioner in relation to the patient.

Clause 39 allows the Review Board to require a person to provide information or documents for the purpose of conducting a review. It is an offence to fail to comply with such a requirement or to provide false or misleading information in response to such a requirement.

Clause 40 provides for the referral to appropriate authorities of matters relating to breaches of the proposed Act.

Clause 41 provides for the reporting by the Board on matters relating to the Board's functions to each House of Parliament and to the Minister. **Clause 42** provides for the reporting procedure.

Clause 43 makes it an offence (with certain exceptions) to disclose to any person any information obtained in connection with the administration or execution of the proposed Act or any other Act conferring or imposing functions on the Review Board.

Part 9 Miscellaneous

Clause 44 provides that a request certificate, or an audio-visual request, for assistance under the proposed Act is admissible and prima facie evidence before a court of the request for that assistance.

Clause 45 allows the Governor to make regulations for the purposes of the proposed Act.

Clause 46 confers jurisdiction on the Local Court for offences against the proposed Act (other than offences against section 15 or 16).

Clause 47 provides for a review of the proposed Act by the Minister after the period of 5 years from the commencement of the proposed Act.

Schedule 1 Form

Schedule 1 sets out the form of request certificate to be used in relation to a request for assistance under the proposed Act.

Schedule 2 Constitution and procedure of Review Board

Schedule 2 contains provisions relating to the members and procedure of the Review Board.

Schedule 3 Amendment of other Acts

Schedule 3 makes consequential amendments to other Acts. The Schedule includes an amendment to the *Coroners Act 2009* to require the State Coroner to report to the Attorney General in relation to deaths resulting from the provision of assistance under the proposed Act. An amendment is also made to the *Criminal Procedure Act 1986* to provide for an otherwise indictable offence against proposed section 15 or 16 to be dealt with summarily unless the prosecutor elects otherwise. The Schedule also includes an amendment to ensure that guardians appointed under the *Guardianship Act 1987* may not exercise any function of making or rescinding a request for assistance under the proposed Act.



New South Wales

Voluntary Assisted Dying Bill 2017

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New South Wales

Voluntary Assisted Dying Bill 2017

No. , 2017

A Bill for

An Act to establish the right of persons who are terminally ill to request assistance from medically qualified persons to voluntarily end their own lives; and for related purposes.

The Legislature of New South Wales enacts:	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>Voluntary Assisted Dying Act 2017</i> .	4
2 Commencement	5
This Act commences 6 months after the date of assent to this Act, unless sooner commenced by proclamation.	6
	7

Part 2 Interpretation and key concepts

3 Definitions

(1) In this Act:

assist or *provide assistance*—see section 5.

assisted death means the death of a patient as a result of the provision of assistance under this Act.

audio-visual request—see section 22.

authorised substance—see section 6.

close relative of a person means:

(a) a parent, guardian or child of the person, or

(b) a brother, sister, half-brother, half-sister, stepbrother or stepsister of the person, or

(c) an existing spouse or de facto partner of the person.

closely associated—see section 8.

decision-making capacity—see section 7.

designated health practitioner—see section 5.

guardian has the same meaning as in the *Guardianship Act 1987*.

health care facility, in relation to a patient, means a hospital, nursing home or other institution in which the patient is located for care or attention.

health care facility operator, in relation to a patient, means the owner or operator of a hospital, nursing home or other institution in which the patient is located for care or attention.

health care provider, in relation to a patient, means any nurse, medical practitioner, manager of a health care facility or other person whose duties include, or directly or indirectly relate to, the care or medical treatment of the patient.

illness includes injury or degeneration of mental or physical faculties.

participate in the provision of assistance—see section 29.

patient—see section 9.

primary medical practitioner—see section 9.

qualified psychiatrist—see section 20.

qualified psychologist—see section 20.

request certificate—see section 22.

request for assistance—see section 9.

Review Board means the Voluntary Assisted Death Review Board established by the Minister under Part 8.

secondary medical practitioner—see section 17.

terminal illness—see section 4.

unused authorised substance—see section 29.

Note. The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

(2) Notes included in this Act do not form part of this Act.

4 Terminal illness

A *terminal illness* is an illness that will, in reasonable medical judgment, result in the death of the person suffering from the illness within the next 12 months.

5	Provision of assistance	1
(1)	A primary medical practitioner <i>assists</i> or <i>provides assistance</i> to end a patient’s life if the medical practitioner does any of the following for the purpose of, or in connection with, ending the patient’s life:	2
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		4
(a)	prescribes and prepares an authorised substance for the patient,	5
(b)	gives an authorised substance to the patient for self-administration,	6
(c)	if the patient is physically incapable of self-administering a lethal dose of an authorised substance—administers the substance to the patient or gives the substance to a designated health practitioner for administration to the patient.	7
		8
		9
(2)	A <i>designated health practitioner</i> is a registered medical practitioner, or a nurse, whose registration under the Health Practitioner Regulation National Law in the relevant health profession is endorsed under that Law as being qualified to administer, obtain, possess, prescribe, sell, supply or use a substance included in Schedule 8 to the current Poisons Standard within the meaning of the <i>Therapeutic Goods Act 1989</i> of the Commonwealth.	10
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		15
(3)	A <i>designated health practitioner</i> does not include any person who is a close relative of the patient.	16
		17
6	Authorised substances	18
	An <i>authorised substance</i> is a substance that is declared by the regulations to be an authorised substance for the purposes of this Act or that belongs to a class of substances so declared.	19
		20
		21
7	Decision-making capacity	22
	A patient has <i>decision-making capacity</i> in relation to a request for assistance under this Act if the patient has the capacity to:	23
		24
(a)	understand the facts relevant to the patient’s illness and condition, and	25
(b)	understand the medical treatment and other options available to the patient, and	26
		27
(c)	assess the consequences of the patient’s decision to request the assistance and understand the impact of those consequences on the patient, and	28
		29
(d)	communicate the patient’s decisions (whether by speaking, sign language or any other means).	30
		31
8	Close associates	32
(1)	A person is <i>closely associated</i> with another person (the <i>associate</i>) if:	33
(a)	the person is a close relative of the associate, or	34
(b)	the person is an employee of the associate, or	35
(c)	the person and the associate are both medical practitioners who are members of the same medical practice.	36
		37
(2)	A person is not closely associated with an associate merely because the person works at the same health care facility as the associate.	38
		39

Part 3	Request for and provision of assistance	1
Division 1	Request for assistance	2
9	Request for assistance to voluntarily end life	3
(1)	An eligible person may request a registered medical practitioner for assistance to end the person's life in accordance with this Act.	4 5
(2)	A person is <i>eligible</i> to make a request under this section if:	6
(a)	the person is at least 25 years of age, and	7
(b)	the person is an Australian citizen, or a permanent resident of Australia, and is ordinarily resident in New South Wales, and	8 9
(c)	the person is suffering from a terminal illness, and	10
(d)	the registered medical practitioner to whom the request is made (referred to in this Act as the <i>primary medical practitioner</i>) has informed the person that, in the practitioner's opinion, the person is suffering from a terminal illness, and	11 12 13
(e)	as a consequence of the terminal illness, the person has been experiencing severe pain, suffering or physical incapacity to an extent unacceptable to the person.	14 15 16
(3)	The primary medical practitioner must not be a close relative of the person who makes the request.	17 18
(4)	A request under this section is referred to in this Act as a <i>request for assistance</i> .	19
(5)	A person who makes a request for assistance is referred to in this Act as the <i>patient</i> .	20
10	Right to rescind request	21
(1)	Despite anything in this Act, a patient may rescind a request for assistance at any time and in any manner.	22 23
(2)	If a health care provider other than the primary medical practitioner becomes aware that the patient has rescinded a request for assistance, the health care provider must immediately notify the primary medical practitioner of the rescission.	24 25 26
(3)	If a patient rescinds a request for assistance, the primary medical practitioner must, as soon as practicable after the rescission, note the fact that the request has been rescinded:	27 28 29
(a)	on the patient's medical record, and	30
(b)	if a request certificate has been signed by the patient—on each page of the request certificate.	31 32
Division 2	Provision of assistance	33
11	Right to provide or refuse assistance	34
(1)	A primary medical practitioner may assist the patient to end the patient's life if satisfied that all of the requirements of Part 4 have been met in relation to the request for assistance.	35 36 37
	Note. Section 29 provides for the protection from liability of persons participating in (or refusing to participate in) the provision of assistance under this Act. The assistance must be provided in accordance with the requirements of this Act (including the requirements of this Division).	38 39 40
(2)	A primary medical practitioner may, for any reason and at any time, refuse to provide assistance to the patient under this Act.	41 42

(3)	For the avoidance of doubt, Part 4 does not impose on any person a duty to comply with any requirement of that Part, except to the extent that compliance is required for the purposes of authorising the primary medical practitioner to provide assistance under this section.	1 2 3 4
	Note. For example, the primary medical practitioner is not entitled to provide assistance to the patient under this Act unless the practitioner is satisfied that the psychiatrist or psychologist has assessed the patient as having decision-making capacity or as having made the decision to request assistance freely, voluntarily and after due consideration. However, subsection (3) makes it clear that section 20 does not impose a duty on a qualified psychiatrist or qualified psychologist to make that assessment.	5 6 7 8 9 10
12	Cooling-off period	11
	A primary medical practitioner must not provide assistance to a patient under this Act unless at least 48 hours has elapsed since the request certificate was completed in accordance with Part 4.	12 13 14
13	Standards for provision of assistance	15
	In providing assistance to a patient under this Act, a primary medical practitioner is to be guided by appropriate medical standards and such guidelines, if any, as are prescribed by the regulations, and must consider the appropriate pharmaceutical information about any authorised substance to be given or administered to the patient.	16 17 18 19 20
14	Financial and other advantages	21
(1)	A primary medical practitioner must not provide assistance to a patient under this Act if he or she knows that a financial or other advantage (other than a reasonable payment for medical services) is likely to be gained by any interested person as a result of the death of the patient.	22 23 24 25
(2)	Each of the following is an <i>interested person</i> :	26
(a)	the primary medical practitioner,	27
(b)	the secondary medical practitioner,	28
(c)	the qualified psychiatrist or qualified psychologist who has conducted an examination of the patient under Part 4,	29 30
(d)	any interpreter required under that Part to be present at the signing of the request certificate,	31 32
(e)	any designated health practitioner who administers an authorised substance to the patient,	33 34
(f)	any person who is closely associated with any other person referred to in this section.	35 36
15	Conduct influencing provision of assistance	37
(1)	A person must not engage in conduct that influences the provision of assistance under this Act. Maximum penalty: imprisonment for 4 years.	38 39 40
(2)	A person engages in conduct that <i>influences the provision of assistance</i> if the person does either of the following in connection with the provision of assistance under this Act:	41 42 43
(a)	gives or promises any financial or other advantage (other than a reasonable payment for medical services) to a primary medical practitioner or other person who participates in the provision of the assistance,	44 45 46

- (b) by any means causes or threatens to cause any disadvantage to a primary medical practitioner or any such other person. 1
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- (3) Subsection (1) does not prevent a health care facility operator or health care provider from engaging in any otherwise lawful conduct that detrimentally affects, or threatens to detrimentally affect, the employment of a primary medical practitioner or other person. 3
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- (4) A primary medical practitioner or other person must not accept any financial or other advantage (other than a reasonable payment for medical services) for assisting or refusing to assist in the provision of assistance under this Act. 7
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9
Maximum penalty: imprisonment for 4 years. 10
- 16 Improper conduct relating to request certificate** 11
- A person must not, by deception or improper influence, cause a person to make a request for assistance under this Act. 12
13
Maximum penalty: imprisonment for 4 years. 14

Part 4	Preconditions to provision of assistance	1
17	Examination by medical practitioners	2
(1)	A patient who has made a request for assistance must be examined by the primary medical practitioner and one other registered medical practitioner who is eligible to conduct the examination (the <i>secondary medical practitioner</i>).	3 4 5
(2)	The examinations must each be conducted independently.	6
(3)	A secondary medical practitioner is eligible to conduct an examination of a patient under this section if:	7 8
(a)	the secondary medical practitioner is registered under the Health Practitioner Regulation National Law in a specialty in the medical profession that is relevant to the diagnosis or treatment of the terminal illness from which the patient is suffering, and	9 10 11 12
(b)	the secondary medical practitioner and primary medical practitioner are not closely associated with each other, and	13 14
(c)	the secondary medical practitioner is not a close relative of the patient.	15
18	Opinion of medical practitioners	16
(1)	The primary medical practitioner must not provide assistance to the patient under this Act unless the primary medical practitioner has, after examining the patient under this Part, formed the opinion that:	17 18 19
(a)	the patient is suffering from a terminal illness, and	20
(b)	the illness is causing the patient severe pain, suffering or physical incapacity to an extent unacceptable to the patient, and	21 22
(c)	there is no medical measure acceptable to the patient that can reasonably be undertaken in the hope of effecting a cure.	23 24
(2)	In addition, the primary medical practitioner must not provide the assistance to the patient unless the secondary medical practitioner has, after examining the patient under this Part, confirmed that opinion in a written statement provided to the primary medical practitioner.	25 26 27 28
19	Information to be provided by primary medical practitioner	29
(1)	The primary medical practitioner must, after conducting an examination under this Part, provide the following information to the patient in writing:	30 31
(a)	information relating to the nature of the illness and its likely course,	32
(b)	information relating to the medical treatment, including palliative care, counselling and psychiatric support and measures for keeping the patient alive, that might be available to the patient,	33 34 35
(c)	information relating to the consequences of the administration to the patient of an authorised substance, including the risk and possible adverse consequences of the administration not resulting in the death of the patient,	36 37 38
(d)	information relating to the right of the patient to rescind a request for assistance,	39 40
(e)	any other information required by the regulations.	41
(2)	If the patient is unable to read the written information, the primary medical practitioner must also provide the information to the patient orally.	42 43
(3)	In addition, the primary medical practitioner must offer to refer the patient to a palliative care specialist. The patient is not required to accept the offer of referral.	44 45

- (4) The patient must, after receiving information and offer of referral under this section, indicate to the primary medical practitioner that the decision to request the assistance still stands. 1
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- 20 Examination by qualified psychiatrist or psychologist 4**
- (1) After the patient is examined by the primary medical practitioner and secondary medical practitioner under this Part, the patient must be examined and assessed by a qualified psychiatrist or a qualified psychologist. 5
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- (2) The qualified psychiatrist or qualified psychologist must not be closely associated with the patient, the primary medical practitioner or the secondary medical practitioner. 8
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- (3) The qualified psychiatrist or qualified psychologist must provide to the primary medical practitioner and secondary medical practitioner a written report of the assessment of the patient under this section. 11
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- (4) The primary medical practitioner must not provide assistance to the patient under this Act unless the qualified psychiatrist or qualified psychologist, after examining the patient, makes an assessment that, in the opinion of the qualified psychiatrist or qualified psychologist: 14
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- (a) the patient has decision-making capacity in relation to the request for assistance, and 18
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- (b) the patient's decision to request the assistance has been made freely, voluntarily and after due consideration. 20
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- Note.** See section 11. The primary medical practitioner is not entitled to provide assistance to the patient under this Act unless the practitioner is satisfied that the psychiatrist or psychologist has assessed the patient as having decision-making capacity or as having made the decision to request assistance freely, voluntarily and after due consideration. However, section 11 (3) makes it clear that the above section does not impose a duty on a qualified psychiatrist or qualified psychologist to make that assessment. 22
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- (5) In this section: 28
- qualified psychiatrist** means a person who is registered under the Health Practitioner Regulation National Law in the specialty of psychiatry in the medical profession. 29
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- qualified psychologist** means a registered psychologist whose registration under the Health Practitioner Regulation National Law in the health profession of psychology is endorsed under that Law as being qualified to practise in the area of clinical psychology. 31
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- 21 Provision of information to examining practitioners 35**
- (1) The primary medical practitioner must provide to each examining practitioner the relevant documents relating to any previous examination of the patient under this section by an examining practitioner (the **former examining practitioner**) in connection with a request for assistance made to the primary medical practitioner. 36
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- (2) The **relevant documents** are any report of the results of the previous examination and any written opinion of the former examining practitioner provided by that practitioner to the primary medical practitioner. 40
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- (3) The relevant documents are required to be provided only if, as a result of the previous examination, the former examining practitioner formed the opinion that the patient was not eligible to make a request for assistance under this Act. 43
44
45
- (4) The relevant documents are to be provided to the examining practitioner before the practitioner conducts the examination. 46
47

(5)	In this section:	1
	<i>examining practitioner</i> , in relation to a patient, means the secondary medical practitioner, or the qualified psychiatrist or qualified psychologist, who examines the patient under this Part.	2 3 4
22	Request certificate	5
(1)	A certificate in the form set out in Schedule 1 (a <i>request certificate</i>) relating to a request for assistance must be completed in accordance with this section.	6 7
(2)	The patient must sign the patient's declaration on the request certificate.	8
(3)	If the patient is physically unable to sign the request certificate, or is unable to communicate with reasonable fluency in English, the patient must make an audio-visual record (an <i>audio-visual request</i>) of:	9 10 11
	(a) the patient reading aloud the patient's declaration on the request certificate, or	12
	(b) if the patient is unable to read the declaration aloud, any other person reading the declaration aloud with the apparent agreement of the patient.	13 14
(4)	The signature or audio-visual record must be made no earlier than 7 days after the patient makes the initial request for assistance.	15 16
(5)	The primary medical practitioner must be present during the signing of the request certificate or making of the audio-visual request.	17 18
(6)	The primary medical practitioner must sign the primary medical practitioner's declaration on the request certificate in the presence of the patient.	19 20
(7)	The secondary medical practitioner must sign the secondary medical practitioner's declaration on the request certificate in the presence of the patient.	21 22
(8)	If an interpreter is required under this Part to be present at the signing of the request certificate or making of the audio-visual request, the interpreter must sign the interpreter's declaration on the request certificate in the presence of the patient and the primary medical practitioner.	23 24 25 26
(9)	A requirement under this section for a primary medical practitioner, secondary medical practitioner or interpreter to sign a declaration on the request certificate applies whether or not the patient makes an audio-visual request.	27 28 29
23	Requirement for interpreter	30
(1)	If a patient and a participant are not able to communicate with each other with reasonable fluency in any language, an interpreter must be present to provide interpretive assistance to the patient at the following times:	31 32 33
	(a) at the time of any communication between the patient and the participant for the purposes of this Part,	34 35
	(b) at the time the patient signs the declaration on the request certificate or, if applicable, makes the audio-visual request,	36 37
	(c) at the time the participant signs any declaration on the request certificate applicable to the participant.	38 39
(2)	The interpreter must hold a professional qualification for interpreters prescribed by the regulations (if any) in a language in which the patient can communicate with reasonable fluency.	40 41 42
(3)	The interpreter must not be a close relative of the patient.	43
(4)	In this section:	44
	<i>participant</i> , in relation to a patient, means:	45

- (a) the primary medical practitioner, or 1
 - (b) the secondary medical practitioner, or 2
 - (c) the qualified psychiatrist or qualified psychologist who conducts an 3
examination of the patient under this Part. 4
- present* includes (except in relation to the signing by a patient or participant of a 5
declaration on a request certificate) present by way of an audio-visual link. 6

Part 5	Supreme Court review of requests	1
24	Close relatives may apply for order in respect of request certificate	2
(1)	The Supreme Court may, on the application of a close relative of a patient, make an order that a request certificate relating to the patient is not an effective request certificate for the purposes of this Act.	3 4 5
(2)	Before making an order under this section, the Court must be satisfied that:	6
(a)	at the time of making the initial request for assistance:	7
(i)	the patient was not suffering from a terminal illness, or	8
(ii)	the patient was not at least 25 years of age, or	9
(iii)	the patient was neither an Australian citizen nor a permanent Australian resident, or	10 11
(iv)	the patient was not ordinarily resident in New South Wales, or	12
(b)	at the time of making the initial request for assistance, signing the request certificate or undergoing the examination under Part 4, the patient did not have decision-making capacity in relation to the request for assistance, or	13 14 15
(c)	the patient's decision to request the assistance was not made freely, voluntarily and after due consideration.	16 17
(3)	The Court may, on the making of an order under this section (or pending the determination of an application under this section), make such orders as it considers necessary to prevent any action being taken in reliance on the request certificate.	18 19 20
25	Parties to applications	21
(1)	Each of the following persons is a party to an application under this Part in respect of a request certificate:	22 23
(a)	the applicant,	24
(b)	the primary medical practitioner,	25
(c)	the patient.	26
(2)	The Supreme Court may, on its own initiative or on the application of a close relative of the patient, decide to join, as a party to any proceedings before the Court under this Part, any person who, in the opinion of the Court, should be a party to the proceedings (whether because of the person's concern for the welfare of the patient or for any other reason).	27 28 29 30 31
(3)	If the Court joins a person as a party to any proceedings, the Court must, as soon as practicable, notify the applicant (or cause the applicant to be notified) accordingly.	32 33
26	Effect of order	34
(1)	If an order is made under this Part in respect of a request certificate, the certificate is not to be treated as a request certificate for the purposes of this Act.	35 36
(2)	An order under this Part in respect of a request certificate does not prevent:	37
(a)	the patient making a further request for assistance in accordance with Division 1 of Part 3, or	38 39
(b)	the patient or any other person completing a further request certificate in accordance with Part 4, or	40 41
(c)	any person providing assistance to the patient under Division 2 of Part 3 after the requirements of this Act have been met with respect to the further request.	42 43

27 Jurisdiction of Supreme Court

1

Nothing in this Part limits the jurisdiction of the Supreme Court.

2

Part 6	Effect of Act on other rights and obligations	1
28	Participation in provision of assistance discretionary	2
(1)	A health care facility operator, health care provider or other person is not under any duty, whether by contract, statute or other legal requirement, to participate in the provision of assistance to a patient under this Act.	3 4 5
(2)	A health care facility operator, or health care provider, who is unable or unwilling to carry out a direction of a primary medical practitioner for the purpose of the provision of assistance to a patient under this Act must comply with any request (of the patient or a person acting on behalf of the patient) to provide a copy of the patient's medical records to a new health care facility operator or health care provider.	6 7 8 9 10 11
29	Protection from liability	12
(1)	No criminal or civil liability is incurred by a protected person, or any person acting under the direction of a protected person, for doing either of the following in good faith:	13 14 15
(a)	participating in the lawful provision of assistance under this Act,	16
(b)	refusing to participate in the provision of assistance under this Act.	17
(2)	Each of the following is a <i>protected person</i> :	18
(a)	a primary medical practitioner,	19
(b)	a secondary medical practitioner,	20
(c)	a designated health practitioner,	21
(d)	a qualified psychiatrist,	22
(e)	a qualified psychologist,	23
(f)	a health care facility operator or health care provider.	24
(3)	A person <i>participates</i> in the provision of assistance if the person:	25
(a)	provides the assistance, or	26
(b)	is a designated health practitioner and administers an authorised substance to the patient, or	27 28
(c)	prepares, sells, possesses or supplies an authorised substance to be administered to the patient in accordance with a request for assistance under this Act, or	29 30 31
(d)	refuses or fails to provide life-saving measures to the patient at any time while a request for assistance is in force in relation to the patient under this Act, or	32 33
(e)	is present when the assistance is provided by the primary medical practitioner, or when an authorised substance is self-administered by the patient or administered to the patient by a designated health practitioner, or	34 35 36
(f)	destroys an unused authorised substance (under the supervision of the primary medical practitioner if the person is not the primary medical practitioner) or possesses the substance for that purpose, or	37 38 39
(g)	does any thing required or permitted under Part 4.	40
(4)	A person does not participate in the provision of assistance if the person deals in any way with an unused authorised substance (other than by destroying or possessing the substance as referred to in subsection (3) (f)).	41 42 43
	Note. See the <i>Drug Misuse and Trafficking Act 1985</i> , the <i>Poisons and Therapeutic Goods Act 1966</i> and regulations under those Acts for provisions restricting or prohibiting the use, supply, possession, storage and disposal of certain substances.	44 45 46

- (5) An authorised substance is *unused* if: 1
- (a) it has been prescribed or prepared for a patient for the purposes of the provision of assistance to the patient under this Act, and 2
3
 - (b) it is no longer required for that purpose either because the patient has died or has rescinded the request for assistance. 4
5
- (6) This section does not limit the manner in which a person participates in the provision of assistance for the purpose of this section (except in relation to dealing with an unused authorised substance as provided by subsection (3)). 6
7
8
- (7) A lawful assisted death is not to be regarded as a suicide for the purposes of section 31C of the *Crimes Act 1900*. 9
10
- (8) Nothing in this section or in section 574B of the *Crimes Act 1900* authorises a person to use force to prevent the making of a request for, or the provision of, assistance under and in accordance with this Act. 11
12
13
- (9) In this section: 14
- civil liability* includes liability in any disciplinary proceedings. 15
 - deal* with an unused authorised substance includes use, supply, possess, sell, store and dispose of the substance. 16
17
- 30 Effect on construction of wills and contracts** 18
- (1) Any will, contract or other agreement, whether or not in writing or executed or made before or after the commencement of this Act, is void to the extent that it affects whether a person may make or rescind a request for assistance, or provide assistance, under this Act. 19
20
21
22
- (2) Any provision of a contract or other agreement is void to the extent that it purports to exclude or limit the liability of a party to the contract or other agreement in the event of a person making or rescinding a request for, or receiving or lawfully providing, assistance under this Act. 23
24
25
26

Part 7 Records and reporting of death

31 Medical records to be kept

- (1) A primary medical practitioner who provides assistance to a patient under this Act must make the following records:
- (a) a record of any oral request of the patient for the assistance,
 - (b) a note by the primary medical practitioner:
 - (i) certifying that the patient's secondary medical practitioner and qualified psychiatrist or qualified psychologist are not closely associated with the primary medical practitioner, and
 - (ii) indicating that all requirements under this Act have been met, and
 - (iii) indicating the steps taken to carry out the request for assistance, and
 - (iv) including a notation of any authorised substance prescribed by the primary medical practitioner in connection with the request for assistance,
 - (c) such other records as are prescribed by the regulations.

Maximum penalty: \$11,000.

- (2) The primary medical practitioner must keep each of the following documents as part of the patient's medical record for at least 7 years after the document is recorded:
- (a) the records made under subsection (1),
 - (b) the request certificate and, if applicable, the audio-visual request relating to the patient,
 - (c) the written statement of the secondary medical practitioner confirming the opinion of the primary medical practitioner under Part 4,
 - (d) the report of the assessment of the qualified psychiatrist or qualified psychologist under Part 4.

Maximum penalty: \$11,000.

32 Application of Coroners Act 2009

An assisted death is taken to be a reportable death for the purposes of the *Coroners Act 2009*.

33 Certification as to death

- (1) Despite section 38 (1) of the *Coroners Act 2009*, a medical practitioner may give a certificate as to the cause of a lawful assisted death of a patient.
- (2) For the purposes of the application of section 39 of the *Births, Deaths and Marriages Registration Act 1995* to the assisted death of a patient:
- (a) the primary medical practitioner who provides the assistance is taken to have been responsible for the patient's medical care immediately before death, and
 - (b) the cause of death of the patient:
 - (i) is taken to include the terminal illness of the patient, and
 - (ii) is taken not to include suicide or homicide.

34 Medical record to be provided to Review Board

- (1) The primary medical practitioner must provide a copy of the patient's relevant medical records to the Review Board within 14 days after the assisted death.

- (2) A patient's *relevant medical records* are: 1
- (a) the notice given to the Registrar under section 39 of the *Births, Deaths and Marriages Registration Act 1995*, and 2
3
- (b) any part of the medical record of the patient that relates to the terminal illness and death of the patient (including any record required by this Part to be kept). 4
5

Part 8 Voluntary Assisted Death Review Board

35 Establishment and composition of Review Board

- (1) The Minister is to establish a Voluntary Assisted Death Review Board.
- (2) The Review Board is to consist of the following 7 members appointed by the Minister:
 - (a) an independent person appointed by the Minister as the Chairperson of the Review Board,
 - (b) the State Coroner or a nominee of the State Coroner,
 - (c) a representative of the New South Wales Board of the Medical Board of Australia,
 - (d) a representative of Australian Medical Association (NSW) Limited or The Royal Australasian College of Physicians,
 - (e) a representative of The Royal Australian and New Zealand College of Psychiatrists or Australian Clinical Psychology Association Limited,
 - (f) a representative of Palliative Care New South Wales Incorporated,
 - (g) a person who, in the opinion of the Minister, has relevant expertise in law.
- (3) Schedule 2 contains provisions relating to the members and procedure of the Review Board.

36 Functions of Review Board

- (1) The Review Board has the following functions:
 - (a) to monitor and review assisted deaths,
 - (b) to communicate to appropriate authorities any breach of this Act that the Review Board has identified in conducting a review of an assisted death,
 - (c) to make recommendations as to policies and practices to be implemented by government, health care facilities and health care providers for the prevention or reduction of contraventions of this Act,
 - (d) to maintain a register of assisted deaths, classifying the deaths according to such factors as the Review Board considers appropriate,
 - (e) to undertake and promote research into matters relating to the operation of this Act,
 - (f) to promote the provision of information and advice to the public about compliance with this Act,
 - (g) to provide advice to the Minister about matters relating to the operation of this Act,
 - (h) to report to Parliament about the exercise of the functions of the Review Board under this Act,
 - (i) any other function conferred or imposed on the Review Board by or under this or any other Act.
- (2) For the purpose of exercising those functions, the Review Board may:
 - (a) keep under scrutiny systems for reporting assisted deaths, and
 - (b) undertake detailed reviews of information relating to assisted deaths, and
 - (c) analyse data to identify patterns and trends relating to assisted deaths, and
 - (d) consult with and obtain advice from any person or body having appropriate expertise.

37	Staff of Review Board	1
(1)	Persons may be employed in the Public Service under the <i>Government Sector Employment Act 2013</i> to enable the Review Board to exercise its functions.	2 3
	Note. Section 59 of the <i>Government Sector Employment Act 2013</i> provides that the persons so employed (or whose services the Review Board makes use of) may be referred to as officers or employees, or members of staff, of the Review Board. Section 47A of the <i>Constitution Act 1902</i> precludes the Review Board from employing staff.	4 5 6 7
(2)	The Review Board may engage persons as consultants to the Review Board or to perform services for it.	8 9
(3)	The Review Board may arrange for the use of the services of any staff or facilities of the Ministry of Health.	10 11
38	Review of deaths resulting from provision of assistance	12
(1)	The Review Board is to conduct a review of each assisted death.	13
(2)	The review is to be conducted as soon as practicable after the Review Board receives a copy of the notice and medical record relating to the patient under Part 7.	14 15
(3)	In conducting a review, the Review Board is to have regard to that notice and medical record and any other information provided to the Review Board under this Part.	16 17
39	Requirement to provide information and records	18
(1)	The Review Board may, by notice in writing given to a person, require the person to provide to the Review Board such information or records (or both) relating to the assisted death as the Review Board may require for the purpose of conducting a review under this Part.	19 20 21 22
(2)	A notice under this section must specify the manner in which information or records are required to be provided and a reasonable time by which the information or records are required to be provided.	23 24 25
(3)	A notice under this Part may only require a person to provide existing records that are in the person's possession or that are within the person's power to obtain lawfully.	26 27 28
(4)	The Review Board may take copies of any record provided to the Review Board under this section.	29 30
(5)	A person must not:	31
	(a) fail or refuse to comply with a requirement under this section, or	32
	(b) in purported compliance with a requirement under this section, provide information, or a record, that he or she knows is false or misleading in a material particular.	33 34 35
	Maximum penalty: \$5,500.	36
40	Referral of matter to investigative authority	37
(1)	The Review Board may refer an assisted death to any other person or body (the <i>investigating authority</i>) for investigation or other action if the Review Board considers it appropriate in the circumstances to do so.	38 39 40
(2)	The Review Board may recommend to the investigating authority what action should be taken in relation to the matter and the time within which it should be taken.	41 42
(3)	The Review Board may communicate to the investigating authority any information that the Board has obtained during the review of the assisted death.	43 44

(4)	The Review Board must consult with the investigating authority before referring an assisted death to the authority under this section.	1 2
41	Reports to Parliament	3
(1)	The Review Board may, at any time, and must, at least once a year, prepare a report on the exercise of the functions of the Board under this Act.	4 5
(2)	The report must be provided to the Presiding Officer of each House of Parliament and a copy of the report must also be provided to the Minister.	6 7
(3)	The Review Board may include in a report under this section a recommendation that the report be made public immediately.	8 9
42	Procedure for reporting	10
(1)	A copy of a report made or furnished to the Presiding Officer of a House of Parliament under this Part must be laid before that House on the next sitting day of that House after it is received by the Presiding Officer.	11 12 13
(2)	If a report includes a recommendation by the Review Board that the report be made public immediately, the Presiding Officer of a House of Parliament may make it public whether or not that House is in session and whether or not the report has been laid before that House.	14 15 16 17
(3)	A report that is made public by a Presiding Officer of a House of Parliament before it is laid before that House attracts the same privileges and immunities as it would if it had been laid before that House.	18 19 20
(4)	A Presiding Officer need not inquire whether all or any conditions precedent have been satisfied as regards a report purporting to have been made and provided in accordance with this Part.	21 22 23
(5)	A report of the Review Board under this Part may be presented separately from any other such report or together with any other such report.	24 25
(6)	In this Part, a reference to a Presiding Officer of a House of Parliament is a reference to the President of the Legislative Council or the Speaker of the Legislative Assembly. If there is a vacancy in the office of President, the reference to the President is taken to be a reference to the Clerk of the Legislative Council and, if there is a vacancy in the office of Speaker, the reference to the Speaker is taken to be a reference to the Clerk of the Legislative Assembly.	26 27 28 29 30 31
43	Unauthorised disclosure of information	32
	A member of the Review Board, a member of staff of the Review Board or a person engaged to assist the Review Board in the exercise of its functions must not disclose any information obtained in connection with the administration or execution of this Act (or any other Act conferring or imposing functions on the Review Board) unless that disclosure is made:	33 34 35 36 37
(a)	with the consent of the person from whom the information was obtained, or	38
(b)	in connection with the administration or execution of this Act (or any such other Act), or	39 40
(c)	for the purposes of any legal proceedings arising out of this Act (or any such other Act) or of any report of any such proceedings, or	41 42
(d)	in accordance with a requirement imposed under the <i>Ombudsman Act 1974</i> , or	43
(e)	with other lawful excuse.	44
	Maximum penalty: \$5,500.	45

Part 9	Miscellaneous	1
44	Certificate of request is evidence	2
	A document purporting to be a request certificate or an audio-visual request is, in any proceedings before a court, admissible in evidence and is prima facie evidence of the request by the person who purported to sign the certificate, or make the audio-visual request, for assistance under this Act.	3 4 5 6
45	Regulations	7
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	8 9 10 11
(2)	Without limiting subsection (1), the regulations may make provision for or with respect to the storage or disposal of, or any other dealing with, unused authorised substances.	12 13 14
(3)	The regulations may create an offence punishable by a penalty not exceeding \$11,000.	15 16
46	Nature of proceedings for offences	17
(1)	Except as provided by subsection (2), proceedings for an offence under this Act may be dealt with summarily before the Local Court.	18 19
(2)	Proceedings for an offence under section 15 or 16 are to be dealt with on indictment, subject to the <i>Criminal Procedure Act 1986</i> .	20 21
47	Review of Act	22
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	23 24 25
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the commencement of this Act.	26 27
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	28 29

Schedule 1 Form

(Section 22)

Form 1 Request certificate

(Voluntary Assisted Dying Act 2017, Part 4)

Declaration of patient

I, _____, declare that:

- (a) I have been informed by my primary medical practitioner that I am suffering from a terminal illness that is likely to result in my death within the next 12 months, and this has been confirmed by a secondary medical practitioner, and
- (b) I am experiencing severe pain, suffering or physical incapacity to an extent unacceptable to me, and
- (c) I have been provided information relating to the nature of my illness and its likely course and the medical treatment, including palliative care, counselling and psychiatric support and measures for keeping me alive, that might be available to me and I am satisfied that there is no medical treatment reasonably available that is acceptable to me in my circumstances, and
- (d) I have been examined by a psychiatrist or psychologist, and
- (e) I request my primary medical practitioner to assist me to end my life, and
- (f) I understand that I have the right to rescind this request at any time.

Signed:

Dated:

Declaration of primary medical practitioner

I declare that:

- (a) the patient who has signed this request certificate, or made an audio-visual request under Part 4 of the *Voluntary Assisted Dying Act 2017*, is personally known to me, and
- (b) he/she is a patient under my care, and
- (c) he/she has signed the request certificate, or made the audio-visual request, in my presence, and
- (d) I am satisfied that I will not gain any financial or other advantage (other than a reasonable payment for medical services) as a result of his/her death, and
- (e) I am satisfied that the patient has been examined by a qualified psychiatrist/qualified psychologist and the qualified psychiatrist/qualified psychologist has assessed the patient as having decision-making capacity in relation to the request for assistance and having made the decision to request assistance freely, voluntarily and after due consideration, and
- (f) I am satisfied that all other requirements of Part 4 of the *Voluntary Assisted Dying Act 2017* have been or will be met.

Signed:

Name:

Address:

Qualifications:

Declaration of secondary medical practitioner

I declare that:

- (a) the patient who has signed this request certificate, or made an audio-visual request under Part 4 of the *Voluntary Assisted Dying Act 2017*, is personally known to me, and
- (b) I have discussed his/her case with him/her and his/her medical practitioner, and
- (c) I am satisfied that I will not gain any financial or other advantage (other than a reasonable payment for medical services) as a result of his/her death, and
- (d) I am satisfied that the patient has been examined by a qualified psychiatrist/qualified psychologist and the qualified psychiatrist/qualified psychologist has assessed the patient as having decision-making capacity in relation to the request for assistance and having made the decision to request assistance freely, voluntarily and after due consideration, and

(e) I am satisfied that all other requirements of Part 4 of the <i>Voluntary Assisted Dying Act 2017</i> have been or will be met.	1 2
Signed:	3
Name:	4
Address:	5
Qualifications:	6
Declaration of interpreter	7
[Where under Part 4 of the <i>Voluntary Assisted Dying Act 2017</i> an interpreter is required to be present]	8
I declare that:	9
(a) I am an interpreter qualified as required by Part 4 of the <i>Voluntary Assisted Dying Act 2017</i> , and	10
(b) the patient who has signed this request certificate, or made an audio-visual request under Part 4 of the <i>Voluntary Assisted Dying Act 2017</i> , is personally known to me, and	11 12
(c) I have interpreted for him/her in connection with the completion and signing of this certificate, or the making of the audio-visual request, and	13 14
(d) I am satisfied that I will not gain any financial or other advantage (other than a reasonable payment for interpreting services) as a result of his/her death, and	15 16
(e) in my opinion, he/she understands the meaning and nature of this certificate.	17
Signed:	18
Name:	19

Schedule 2	Constitution and procedure of Review Board	1
Part 1	General	2
1	Definitions	3
	In this Schedule:	4
	<i>Chairperson</i> means the Chairperson of the Review Board.	5
	<i>member</i> means a member of the Review Board.	6
Part 2	Constitution	7
2	Terms of office of members	8
	Subject to this Schedule and the regulations, a member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	9 10 11
3	Remuneration	12
	A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.	13 14 15
4	Vacancy in office of member	16
(1)	The office of a member becomes vacant if the member:	17
(a)	dies, or	18
(b)	completes a term of office and is not re-appointed, or	19
(c)	resigns the office by instrument in writing addressed to the Minister, or	20
(d)	is removed from office by the Minister under this clause, or	21
(e)	is absent from 3 consecutive meetings of the Review Board of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or	22 23 24 25
(f)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	26 27 28
(g)	becomes a mentally incapacitated person, or	29
(h)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.	30 31 32 33
(2)	The Minister may remove a member from office at any time.	34
5	Filling of vacancy in office of member	35
	If the office of any member becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.	36 37
6	Chairperson	38
(1)	The Chairperson vacates office as Chairperson if he or she:	39
(a)	is removed from that office by the Minister under this clause, or	40

- (b) resigns that office by instrument in writing addressed to the Minister, or 1
(c) ceases to be a member of the Review Board. 2
- (2) The Minister may at any time remove the Chairperson from office as Chairperson. 3
- 7 Disclosure of pecuniary interests** 4
- (1) If: 5
- (a) a member has a direct or indirect pecuniary interest in a matter being 6
considered or about to be considered at a meeting of the Review Board, and 7
- (b) the interest appears to raise a conflict with the proper performance of the 8
member's duties in relation to the consideration of the matter, 9
- the member must, as soon as possible after the relevant facts have come to the 10
member's knowledge, disclose the nature of the interest at a meeting of the Review 11
Board. 12
- (2) A disclosure by a member at a meeting of the Review Board that the member: 13
- (a) is a member, or is in the employment, of a specified company or other body, or 14
- (b) is a partner, or is in the employment, of a specified person, or 15
- (c) has some other specified interest relating to a specified company or other body 16
or to a specified person, 17
- is a sufficient disclosure of the nature of the interest in any matter relating to that 18
company or other body or to that person that may arise after the date of the disclosure 19
and that is required to be disclosed under subclause (1). 20
- (3) Particulars of any disclosure made under this clause must be recorded by the Review 21
Board in a book kept for the purpose and that book must be open at all reasonable 22
hours to inspection by any person on payment of the fee determined by the Review 23
Board. 24
- (4) After a member has disclosed the nature of an interest in any matter, the member 25
must not, unless the Minister or the Review Board otherwise determines: 26
- (a) be present during any deliberation of the Review Board with respect to the 27
matter, or 28
- (b) take part in any decision of the Review Board with respect to the matter. 29
- (5) For the purposes of the making of a determination by the Review Board under 30
subclause (4), a member who has a direct or indirect pecuniary interest in a matter to 31
which the disclosure relates must not: 32
- (a) be present during any deliberation of the Review Board for the purpose of 33
making the determination, or 34
- (b) take part in the making by the Review Board of the determination. 35
- (6) A contravention of this clause does not invalidate any decision of the Review Board. 36
- (7) This clause applies to a member of a committee of the Review Board and the 37
committee in the same way as it applies to a member of the Review Board and the 38
Review Board. 39
- 8 Effect of certain other Acts** 40
- (1) The provisions of the *Government Sector Employment Act 2013* relating to the 41
employment of Public Service employees do not apply to the appointment of a 42
member. 43

(2)	If by or under any Act provision is made:	1
(a)	requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or	2 3
(b)	prohibiting the person from engaging in employment outside the duties of that office,	4 5
	the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.	6 7 8
9	Personal liability	9
(1)	A matter or thing done or omitted to be done by the Review Board, a member of the Review Board or a person acting under the direction of the Review Board does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.	10 11 12 13 14
(2)	However, any such liability attaches instead to the Crown.	15
Part 3	Procedure	16
10	General procedure	17
	The procedure for the calling of meetings of the Review Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Review Board.	18 19 20
11	Quorum	21
	The quorum for a meeting of the Review Board is a majority of its members for the time being.	22 23
12	Presiding member	24
(1)	The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the Review Board who are present at a meeting of the Review Board) is to preside at a meeting of the Review Board.	25 26 27
(2)	The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	28 29
13	Voting	30
	A decision supported by a majority of the votes cast at a meeting of the Review Board at which a quorum is present is the decision of the Review Board.	31 32
14	Transaction of business outside meetings or by telephone etc	33
(1)	The Review Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Review Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Review Board made at a meeting of the Review Board.	34 35 36 37
(2)	The Review Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone or other electronic means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	38 39 40 41
(3)	For the purposes of:	42
(a)	the approval of a resolution under subclause (1), or	43

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| (b) a meeting held in accordance with subclause (2), | 1 |
| the Chairperson and each other member have the same voting rights as they have at | 2 |
| an ordinary meeting of the Review Board. | 3 |
| (4) A resolution approved under subclause (1) is, subject to the regulations, to be | 4 |
| recorded in the minutes of the meetings of the Review Board. | 5 |
| (5) Papers may be circulated among the members for the purposes of subclause (1) by | 6 |
| electronic means. | 7 |

Schedule 3	Amendment of other Acts	1
3.1	Coroners Act 2009 No 41	2
	Section 37A	3
	Insert after section 37:	4
37A	State Coroner to report on assisted death under Voluntary Assisted Dying Act 2017	5
	(1) The State Coroner is to make a written report to the Minister containing a summary of the details of the deaths that:	7
	(a) the State Coroner has been informed about under section 35, and	8
	(b) appear to the State Coroner to involve the death of a person as a result of the provision of assistance under the <i>Voluntary Assisted Dying Act 2017</i> .	9
	(2) A report under subsection (1) is to be made for the period of 12 months commencing on 1 January of each year. A report is to be made within 4 months after the end of the period to which it relates.	10
	(3) The Minister may cause a summary of the report (not including any personal information within the meaning of the <i>Health Records and Information Privacy Act 2002</i>) to be published in any manner the Minister considers appropriate.	11
	Note. See section 32 of the <i>Voluntary Assisted Dying Act 2017</i> , which provides that an assisted death under that Act is taken to be a reportable death for the purposes of this Act.	12
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3.2	Criminal Procedure Act 1986 No 209	23
	Schedule 1 Indictable offences triable summarily	24
	Insert after clause 26 in Part 13 of Table 2:	25
	27 Voluntary Assisted Dying Act 2017	26
	An offence under section 15 or 16 of the <i>Voluntary Assisted Dying Act 2017</i> .	27
3.3	Guardianship Act 1987 No 257	28
	Section 3CA	29
	Insert after section 3C:	30
3CA	Relationship with Voluntary Assisted Dying Act 2017	31
	A guardianship order or instrument appointing an enduring guardian has no effect to the extent that it provides for the exercise of the function of making or rescinding a request for assistance under the <i>Voluntary Assisted Dying Act 2017</i> .	32
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