



New South Wales

Rights of the Terminally Ill Bill 2013

Explanatory note

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

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, terminally ill persons may be assisted by their medical 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 3 months after the date of assent to the proposed Act, unless sooner commenced by proclamation.

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

Part 2 Request for and provision of assistance

Clause 4 enables a patient with a terminal illness who is experiencing pain, suffering or distress to an unacceptable extent to request a medical practitioner (the *primary medical practitioner*) to assist the patient to end the patient's life.

Clause 5 empowers the primary medical practitioner (in due course) to assist the patient to end the patient's life, or to refuse to provide such assistance.

Clause 6 makes it an offence for a person:

- (a) to give or promise any reward or advantage, or
 - (b) to cause or threaten to cause any disadvantage,
- to a primary medical practitioner or other person:
- (c) for assisting in ending a life, or
 - (d) for refusing to assist in ending a life, or
 - (e) for the purpose of compelling or persuading the primary medical practitioner or other person to assist or refuse to assist in ending a life.

This clause also prevents the gift or promise of any such reward or advantage from being legally enforced or retained.

Clause 7 sets out the conditions that must be satisfied before a primary medical practitioner may provide assistance under the proposed Act.

Clause 8 deals with the situation where the patient requesting assistance under the proposed Act is physically unable to sign a certificate. In this case the patient may nominate a person to sign the certificate on the patient's behalf.

Clause 9 allows a patient who has requested assistance to rescind that request at any time. The primary medical practitioner must then destroy the patient's certificate of request and note the fact on the patient's medical record.

Clause 10 makes it an offence to procure the signing or witnessing of a certificate of request by deception or improper influence. A person who commits this offence forfeits any financial benefit that might follow from the death of the patient concerned.

Part 3 Records and reporting of death

Clause 11 sets out the information that a primary medical practitioner providing assistance under the proposed Act must keep as part of the patient's medical record.

Clause 12 facilitates the recording and notification of a death resulting from assistance provided under the proposed Act.

Clause 13 requires a primary medical practitioner who provides assistance under the proposed Act to send to the Voluntary Assisted Deaths Review Panel established under Part 4 (the *Panel*) a copy of the death notification required under the *Births, Deaths and Marriages Registration Act 1995* and so much of the patient's medical record as relates to the terminal illness and death of the patient.

Part 4 Voluntary Assisted Deaths Review Panel

Clause 14 provides for the establishment and composition of the Panel.

Clause 15 provides that the functions of the Panel are to review deaths that occur as a result of assistance provided under the proposed Act, to report to Parliament on matters relating to the exercise of the functions of the Panel, to communicate breaches of the proposed Act to appropriate authorities and to foster research into the operation of the Act.

Clause 16 requires the Panel to review each death of a patient that occurs as a result of assistance provided under the proposed Act. In conducting the review, the Panel is to have regard to the notice of death, and medical records, provided by the primary medical practitioner in relation to the patient.

Clause 17 allows the Panel 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 18 provides for the referral to appropriate authorities of matters relating to breaches of the proposed Act.

Clause 19 makes it an offence to make a record of, or disclose to any person, any information acquired by a person by the operation of the proposed Act, except in the exercise of functions under the proposed Act or otherwise in connection with the administration of the proposed Act.

Clause 20 provides for the reporting by the Panel on matters relating to the Panel's functions to each House of Parliament and to the Minister.

Clause 21 provides for the procedures relating to the provision of reports to Parliament.

Part 5 Miscellaneous

Clause 22 provides that action taken by a medical practitioner or other health care provider in accordance with the proposed Act does not constitute an offence, or an attempt or conspiracy to commit an offence, or aiding, abetting, counselling or procuring the commission of an offence, against the *Crimes Act 1900* or any other Act or law.

Clause 23 provides that a certificate of request for assistance under the proposed Act is admissible and prima facie evidence before a court of the request contained in the certificate.

Clause 24 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 contractual obligations are not affected by the making or rescinding of a request for assistance under the proposed Act.

Clause 25 provides that insurance contracts are not affected by the making or rescinding of a request for, or the provision of, assistance under the proposed Act.

Clause 26 confers immunity from civil or criminal action and professional disciplinary action for anything done in good faith and without negligence in compliance with the proposed Act.

Clause 27 allows the Governor to make regulations for the purposes of the proposed Act.

Clause 28 confers jurisdiction on the Local Court for offences against the proposed Act (other than offences against section 6 or 10).

Clause 29 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 certificate to be used in relation to a request for assistance under the proposed Act.

Schedule 2 Members and procedure of Panel

Schedule 2 contains ancillary provisions relating to the members and procedure of the Panel.



New South Wales

Rights of the Terminally Ill Bill 2013

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Definitions 2
Part 2	Request for and provision of assistance
4	Request for assistance to voluntarily end life 4
5	Response of primary medical practitioner 4
6	Response of primary medical practitioner etc not to be influenced by extraneous considerations 4
7	Conditions under which primary medical practitioner may assist 4
8	Patient who is unable to sign certificate of request 7
9	Right to rescind request 8
10	Improper conduct 8

	Page	
Part 3	Records and reporting of death	
11	Medical records to be kept	9
12	Certification as to death	9
13	Medical record to be sent to Panel	10
Part 4	Voluntary Assisted Deaths Review Panel	
14	Establishment and composition of Panel	11
15	Functions of Panel	11
16	Review of deaths resulting from assistance under Act	11
17	Requirement to provide information	12
18	Referral of matter	12
19	Confidentiality of information	12
20	Reports to Parliament	13
21	Procedure for reporting	13
Part 5	Miscellaneous	
22	Construction of Act	14
23	Certificate of request is evidence	14
24	Effect on construction of wills, contracts and statutes	14
25	Insurance or annuity policies	14
26	Immunities	15
27	Regulations	15
28	Nature of proceedings for offences	15
29	Review of Act	16
Schedule 1	Form	17
Schedule 2	Members and procedure of Panel	19



New South Wales

Rights of the Terminally Ill Bill 2013

No. , 2013

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 *Rights of the Terminally Ill Act 2013*. 4

2 Commencement 5

This Act commences 3 months after the date of assent to this Act, unless 6
sooner commenced by proclamation. 7

3 Definitions 8

In this Act: 9

assist or *assistance*, in relation to the death or proposed death of a 10
patient, includes: 11

(a) the prescribing and preparation of a substance for the patient, and 12
the giving of a substance to the patient, for self-administration, 13
and 14

(b) the administration of a substance to the patient, if the patient is 15
physically incapable of self-administering the substance. 16

certificate of request means a certificate in or to the effect of the form 17
in Schedule 1 that has been completed, signed and witnessed in 18
accordance with this Act. 19

decision-making capacity, in relation to a patient requesting assistance 20
under this Act, means the capacity of the patient to: 21

(a) understand the facts relevant to the patient's illness and 22
condition, and 23

(b) understand the medical treatment and other options available to 24
the patient, and 25

(c) assess the consequences of the patient's decisions and understand 26
the impact of those consequences on the patient, and 27

(d) communicate the patient's decisions (whether by speaking, sign 28
language or any other means). 29

health care provider, in relation to a patient, includes: 30

(a) a hospital, nursing home or other institution (including those 31
responsible for its management) in which the patient is located 32
for care or attention, and 33

(b) any nurse or other person whose duties include, or directly or 34
indirectly relate to, the care or medical treatment of the patient. 35

illness includes injury or degeneration of mental or physical faculties. 36

<i>independent qualified psychiatrist</i> , in relation to a patient, means a qualified psychiatrist who is not a relative or employee of, or a member of the same medical practice as, the patient's primary medical practitioner or secondary medical practitioner.	1 2 3 4
<i>independent qualified social worker</i> means a member of the Australian Association of Social Workers who is not a relative or employee of the patient's primary medical practitioner or secondary medical practitioner.	5 6 7 8
<i>Panel</i> means the Voluntary Assisted Deaths Review Panel established under Part 4.	9 10
<i>primary medical practitioner</i> —see section 4.	11
<i>qualified psychiatrist</i> means:	12
(a) a person entitled under a law of a State or Territory of the Commonwealth to practise as a specialist in the medical specialty of psychiatry, or	13 14 15
(b) a specialist whose qualifications are recognised by the Royal Australian and New Zealand College of Psychiatrists as entitling the person to fellowship of that College, or	16 17 18
(c) a person employed by the Commonwealth or a State or Territory of the Commonwealth, or an agency or authority of the Commonwealth or a State or Territory, as a specialist or consultant in the medical specialty of psychiatry.	19 20 21 22
<i>secondary medical practitioner</i> —see section 7.	23
<i>terminal illness</i> , in relation to a patient, means an illness which in reasonable medical judgment will, in the normal course, result in the death of the patient.	24 25 26

Part 2	Request for and provision of assistance	1
4	Request for assistance to voluntarily end life	2
	A patient who, in the course of a terminal illness, is experiencing pain, suffering or distress to an extent unacceptable to the patient may request a medical practitioner (the <i>primary medical practitioner</i>) to assist the patient to end the patient's life.	3 4 5 6
5	Response of primary medical practitioner	7
	A primary medical practitioner, if satisfied that the conditions of section 7 have been met, may assist the patient to end the patient's life in accordance with this Act or, for any reason and at any time, refuse to provide that assistance.	8 9 10 11
6	Response of primary medical practitioner etc not to be influenced by extraneous considerations	12 13
(1)	A person must not give or promise any reward or advantage (other than a reasonable payment for medical services), or by any means cause or threaten to cause any disadvantage, to a primary medical practitioner or other person for assisting or refusing to assist, or for the purpose of compelling or persuading the primary medical practitioner or other person to assist or refuse to assist, in ending the patient's life under this Act.	14 15 16 17 18 19 20
	Maximum penalty: 200 penalty units or imprisonment for 4 years.	21
(2)	A person to whom a reward or advantage is promised or given, as referred to in subsection (1), does not have the legal right or capacity to receive or retain the reward or accept or exercise the advantage, whether or not, at the relevant time, that person was aware of the promise or the intention to give the reward or advantage.	22 23 24 25 26
7	Conditions under which primary medical practitioner may assist	27
(1)	A primary medical practitioner may assist a patient to end the patient's life only if all of the following conditions are met:	28 29
(a)	the patient has attained the age of 18 years,	30
(b)	the patient is ordinarily resident in NSW,	31
(c)	the primary medical practitioner is satisfied, on reasonable grounds, that:	32 33
(i)	the patient is suffering from an illness that will, in the normal course, result in the death of the patient, and	34 35
(ii)	the illness is causing the patient severe pain, suffering or distress to an extent unacceptable to the patient, and	36 37

-
- | | | |
|-------|---|--------------------------|
| (iii) | in reasonable medical judgment, there is no medical measure acceptable to the patient that can reasonably be undertaken in the hope of effecting a cure, and | 1
2
3 |
| (iv) | any medical treatment reasonably available to the patient is confined to the relief of pain, suffering and distress (or any one or more of them) with the object of allowing the patient to die a comfortable death, | 4
5
6
7 |
| (d) | the primary medical practitioner has informed the patient of the nature of the illness and its likely course, and the medical treatment, including palliative care, counselling and psychiatric support and measures for keeping the patient alive, that might be available to the patient, | 8
9
10
11
12 |
| (e) | after being informed as referred to in paragraph (d), the patient has indicated to the primary medical practitioner that the decision to request the assistance still stands, and at no time before the assistance is provided does the patient indicate otherwise, | 13
14
15
16 |
| (f) | the primary medical practitioner is satisfied that the patient has considered the possible implications of the decision for the spouse or de facto partner or family of the patient, | 17
18
19 |
| (g) | an independent qualified psychiatrist and, if the primary medical practitioner considers it necessary, an independent qualified social worker, have examined the patient, | 20
21
22 |
| (h) | having considered the results of the examinations referred to in paragraph (g), the primary medical practitioner is satisfied that the patient has decision-making capacity and that the decision has been made freely, voluntarily and after due consideration, | 23
24
25
26 |
| (i) | the patient has been examined by one other medical practitioner (the <i>secondary medical practitioner</i>) who: | 27
28 |
| (i) | is not a relative or employee of, or a member of the same medical practice as, the primary medical practitioner, and | 29
30 |
| (ii) | holds prescribed qualifications, or has prescribed experience, in the treatment of the terminal illness from which the patient is suffering, | 31
32
33 |
| (j) | the secondary medical practitioner has: | 34 |
| (i) | confirmed the primary medical practitioner's opinion as to the existence and seriousness of the illness, and | 35
36 |
| (ii) | confirmed the primary medical practitioner's prognosis, and | 37
38 |
| (iii) | advised that, having considered the results of the examinations referred to in paragraph (g), the secondary medical practitioner is satisfied that the patient has | 39
40
41 |
-

- decision-making capacity and that the decision has been made freely, voluntarily and after due consideration, and 1
- (iv) if the primary medical practitioner provides the assistance by administering a substance to the patient, advised that the secondary medical practitioner is satisfied, on reasonable grounds, that the patient is physically incapable of self-administering the substance, 2 3 4 5 6 7
- (k) the patient, or a person acting on the patient's behalf in accordance with section 8, has, not earlier than 72 hours after the patient has indicated to the primary medical practitioner as referred to in paragraph (e), signed that part of the certificate of request required to be completed by or on behalf of the patient, 8 9 10 11 12
- (l) the primary medical practitioner has witnessed the patient's signature on the certificate of request, or that of the person who signed on behalf of the patient, and has completed and signed the relevant declaration on the certificate, 13 14 15 16
- (m) the certificate of request has been signed by the secondary medical practitioner, in the presence of the patient and the primary medical practitioner, after the secondary medical practitioner has discussed the case with the patient and the primary medical practitioner and is satisfied, on reasonable grounds, that the certificate is in order and that the above conditions have been complied with, 17 18 19 20 21 22 23
- (n) if an interpreter is required under subsection (4) to be present at the signing of the certificate of request, the certificate of request has been signed by the interpreter confirming the patient's understanding of the request for assistance, 24 25 26 27
- (o) the primary medical practitioner has no reason to believe that, as a result of the death of the patient, a financial or other advantage (other than a reasonable payment for medical services) will be gained by: 28 29 30 31
- (i) the primary medical practitioner, or 32
- (ii) the secondary medical practitioner, or 33
- (iii) the independent qualified psychiatrist or independent qualified social worker referred to in paragraph (g), or 34 35
- (iv) any interpreter required under subsection (4) to be present at the signing of the certificate of request, or 36 37
- (v) a close relative or associate of any of them, 38
- (p) not less than 24 hours has elapsed since the signing of the completed certificate of request, 39 40
- (q) if the primary medical practitioner provides the assistance by prescribing or preparing a substance for, or giving a substance to, 41 42

-
- the patient for self-administration, the primary medical practitioner is present during that self-administration and remains with the patient until the death of the patient. 1
2
3
- (2) In assisting 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, and must consider the appropriate pharmaceutical information about any substance reasonably available for use in the circumstances. 4
5
6
7
8
- (3) If the primary medical practitioner has no qualifications, or experience, in the field of palliative care, the information to be provided to the patient on the availability of palliative care must be given by a medical practitioner (who may be the secondary medical practitioner or any other medical practitioner) who has qualifications, or experience, in the field of palliative care. 9
10
11
12
13
14
- (4) A primary medical practitioner must not assist a patient under this Act if the primary medical practitioner or any other medical practitioner, or an independent qualified psychiatrist, who is required under subsection (1) or (3) to communicate with the patient does not share the same first language as the patient, unless there is present at the time of that communication and at the time the certificate of request is signed by or on behalf of the patient, an interpreter who holds a prescribed professional qualification for interpreters in the first language of the patient. 15
16
17
18
19
20
21
22
23
- 8 Patient who is unable to sign certificate of request 24**
- (1) If a patient who has requested a primary medical practitioner to provide assistance under this Act is physically unable to sign the certificate of request, any person who has attained the age of 18 years, other than: 25
26
27
- (a) the patient's primary medical practitioner, secondary medical practitioner or independent qualified psychiatrist, or 28
29
- (b) a person who is likely to receive a financial benefit directly or indirectly as a result of the death of the patient, 30
31
- may, at the patient's request and in the presence of the patient and both the medical practitioner witnesses (and where, in accordance with section 7 (4), an interpreter has been used, also in the presence of the interpreter), sign the certificate on behalf of the patient. 32
33
34
35
- (2) A person who signs a certificate of request on behalf of a patient forfeits any financial or other benefit the person would otherwise obtain, directly or indirectly, as a result of the death of the patient. 36
37
38

Clause 9	Rights of the Terminally Ill Bill 2013
Part 2	Request for and provision of assistance

9	Right to rescind request	1
(1)	Despite anything in this Act, a patient may rescind a request for assistance under this Act at any time and in any manner.	2 3
(2)	Where a patient rescinds a request, the primary medical practitioner must, as soon as practicable, destroy the certificate of request and note that fact on the patient's medical record.	4 5 6
10	Improper conduct	7
(1)	A person must not, by deception or improper influence, procure the signing or witnessing of a certificate of request. Maximum penalty: 200 penalty units or imprisonment for 4 years.	8 9 10
(2)	A person found guilty of an offence against subsection (1) forfeits any financial or other benefit the person would otherwise obtain, directly or indirectly, as a result of the death of the patient, whether or not the death results from assistance provided under this Act.	11 12 13 14

Part 3	Records and reporting of death	1
11	Medical records to be kept	2
	A primary medical practitioner who provides assistance in accordance with a patient's request under this Act must file and, subject to this Act, keep the following as part of the medical record of the patient:	3
	(a) a note of any oral request of the patient for the assistance,	4
	(b) the certificate of request,	5
	(c) a record of the opinion of the primary medical practitioner as to the patient's state of mind at the time of signing the certificate of request,	6
	(d) the reports of the secondary medical practitioner referred to in section 7 (1) (j) and the independent qualified psychiatrist (and, if applicable, independent qualified social worker) referred to in section 7 (1) (g),	7
	(e) a note by the primary medical practitioner:	8
	(i) certifying as to the independence of the patient's secondary medical practitioner, independent qualified psychiatrist and, if applicable, independent qualified social worker, and	9
	(ii) certifying as to the residential and period of practice qualifications of the primary medical practitioner, and	10
	(iii) indicating that all requirements under this Act have been met, and	11
	(iv) indicating the steps taken to carry out the request for assistance, and	12
	(v) including a notation of the substance prescribed by the primary medical practitioner, and	13
	(vi) containing such other information as is prescribed by the regulations.	14
	Maximum penalty: 100 penalty units or imprisonment for 2 years.	15
12	Certification as to death	16
(1)	For the purposes of section 39 of the <i>Births, Deaths and Marriages Registration Act 1995</i> , a primary medical practitioner who provides assistance in accordance with a patient's request under this Act is to be taken to have been responsible for the patient's medical care immediately before death.	17
(2)	A death as the result of assistance provided under this Act is not, for that reason only, to be taken for the purposes of the application of Chapters 3	18

Clause 13 Rights of the Terminally Ill Bill 2013

Part 3 Records and reporting of death

and 4 of the *Coroners Act 2009* to be violent or unnatural or to have occurred under suspicious or unusual circumstances. 1
2

(3) For the purposes of section 39 (1) (a) of the *Births, Deaths and Marriages Registration Act 1995*, the cause of death of a patient who dies as a result of assistance provided under this Act is taken to include the terminal illness of the patient and the assistance provided under this Act resulting in the death of the patient. 3
4
5
6
7

13 Medical record to be sent to Panel 8

Within 14 days after the death of a patient as the result of assistance provided under this Act, the primary medical practitioner who provided the assistance must send to the Panel a copy of the notice given to the Registrar under section 39 of the *Births, Deaths and Marriages Registration Act 1995* and a copy of so much of the medical record of the patient (including that required by section 11 of this Act to be kept) as relates to the terminal illness and death of the patient. 9
10
11
12
13
14
15

Part 4	Voluntary Assisted Deaths Review Panel	1
14	Establishment and composition of Panel	2
(1)	The Minister is to establish a Voluntary Assisted Deaths Review Panel.	3
(2)	The Panel is to consist of 6 members appointed by the Minister as follows:	4
	(a) one member is to represent the Minister,	5
	(b) one member is to represent the New South Wales Board of the Medical Board of Australia,	6
	(c) two members are to be experts in end-of-life care and management,	7
	(d) one member is to be an ethicist,	8
	(e) one member is to be a legal expert.	9
(3)	The Panel is to be supported and assisted in the exercise of its functions by members of staff of the Ministry of Health.	10
(4)	The Minister is to appoint one member of the Panel as the chairperson of the Panel.	11
(5)	Schedule 2 contains ancillary provisions relating to the members and procedure of the Panel.	12
15	Functions of Panel	13
	The Panel has the following functions:	14
(a)	to review each death that occurs as a result of assistance provided under this Act, for the purpose of monitoring compliance with this Act,	15
(b)	to communicate to appropriate authorities any breach of this Act that the Panel has identified in conducting any such review,	16
(c)	to report to Parliament on any matter relating to the functions of the Panel,	17
(d)	to provide advice to the Minister on, and to promote research into matters arising out of, the operation of this Act,	18
(e)	such other functions as are conferred or imposed on it by or under this or any other Act.	19
16	Review of deaths resulting from assistance under Act	20
(1)	As soon as practicable after the Panel receives a copy of a notice and medical record relating to a patient under section 13, the Panel is to conduct a review of the death of the patient.	21
		22
		23
		24
		25
		26
		27
		28
		29
		30
		31
		32
		33
		34
		35

(2)	In conducting a review, the Panel is to have regard to that notice and medical record and any other information provided to the Panel under this Part.	1 2 3
17	Requirement to provide information	4
(1)	For the purpose of conducting a review under this Part, the Panel may require any person to provide to the Panel any information or document relating to the death of a patient that has occurred as a result of assistance provided under this Act.	5 6 7 8
(2)	A person of whom a requirement is made under this section:	9
(a)	must comply with the requirement, and	10
(b)	must not, in purported compliance with the requirement, provide information that he or she knows is false or misleading in a material particular.	11 12 13
	Maximum penalty: 50 penalty units.	14
18	Referral of matter	15
(1)	If, in reviewing a death of a patient as a result of assistance provided under this Act, the Panel considers that a breach of this Act has occurred in connection with the death of that patient or the assistance provided, the Panel may refer the matter for investigation or other action to any person or body (the <i>relevant authority</i>) considered by the Panel to be appropriate in the circumstances.	16 17 18 19 20 21
(2)	The Panel may, when referring a matter, recommend what action should be taken by the relevant authority and the time within which it should be taken.	22 23 24
(3)	The Panel may communicate to the relevant authority any information that the Panel has obtained during the review of the death of the patient.	25 26
(4)	The Panel must not refer a matter to a relevant authority except after appropriate consultation with the relevant authority and after taking into consideration the views of the relevant authority with whom it has consulted.	27 28 29 30
19	Confidentiality of information	31
(1)	This section applies to the following:	32
(a)	a member of the Panel,	33
(b)	a person or body to whom a matter has been referred under this Part,	34 35
(c)	a member of staff of the Ministry of Health who is supporting and assisting the Panel in the exercise of its functions,	36 37

(d)	any other person who acquires information in the administration of this Act.	1 2
(2)	A person must not, directly or indirectly, make a record of, or disclose to any person, any information acquired by the person by the operation of this Act, except for the purpose of exercising a function under this Act in good faith or otherwise in connection with the administration of this Act, or for other lawful excuse. Maximum penalty: 50 penalty units.	3 4 5 6 7 8
20	Reports to Parliament	9
(1)	The Panel may, at any time, and must, at least once a year, make a report on any matter relating to the functions of the Panel to the Presiding Officer of each House of Parliament and must also provide the Minister with a copy of the report.	10 11 12 13
(2)	The Panel may include in a report under this section a recommendation that the report be made public immediately.	14 15
21	Procedure for reporting	16
(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.	17 18 19
(2)	If a report includes a recommendation by the Panel 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.	20 21 22 23
(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.	24 25 26 27
(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.	28 29 30
(5)	A report of the Panel under this Part may be presented separately from any other such report or together with any other such report.	31 32
(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.	33 34 35 36 37 38 39

Part 5	Miscellaneous	1
22	Construction of Act	2
(1)	Despite any provision of the <i>Crimes Act 1900</i> or any other Act or law, an action taken in accordance with this Act by a medical practitioner or by a health care provider on the instructions of a medical practitioner does not constitute an offence against the <i>Crimes Act 1900</i> or any other Act or law, or an attempt to commit such an offence, a conspiracy to commit such an offence, or an offence of aiding, abetting, counselling or procuring the commission of such an offence.	3 4 5 6 7 8 9
(2)	Assistance provided in compliance with this Act by a primary medical practitioner, and any action taken by a health care provider at the direction of a primary medical practitioner for the purpose of the provision of that assistance, is taken to be medical treatment for the purposes of the law.	10 11 12 13 14
23	Certificate of request is evidence	15
	A document purporting to be a certificate of 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 it, or on whose behalf it purports to have been signed, for assistance under this Act.	16 17 18 19 20
24	Effect on construction of wills, contracts and statutes	21
(1)	Any will, contract or other agreement, whether or not in writing or executed or made before or after the commencement of this Act, to the extent that it affects whether a person may make or rescind a request for assistance under this Act, or the provision of such assistance, is not valid.	22 23 24 25 26
(2)	An obligation owing under a contract, whether made before or after the commencement of this Act, is not to be conditioned on or affected by the making or rescinding of a request for assistance under this Act or the provision of that assistance.	27 28 29 30
25	Insurance or annuity policies	31
	The sale, procurement or issuing of any life, health or accident insurance or annuity policy or the rate charged for such a policy is not to be conditioned on or affected by the making or rescinding of, or failure to make, a request for assistance under this Act or the provision of that assistance.	32 33 34 35 36

26	Immunities	1
(1)	A person is not subject to civil or criminal action or professional disciplinary action for anything done in good faith and without negligence in compliance with this Act, including being present when a patient takes a substance prescribed for or supplied to the patient as the result of assistance under this Act to end the patient's life.	2 3 4 5 6
(2)	A professional organisation or association or health care provider must not subject a person to censure, discipline, suspension, loss of licence, certificate or other authority to practise, loss of privilege, loss of membership or other penalty for anything that, in good faith and without negligence, was done or refused to be done by the person and which may under this Act lawfully be done or refused to be done.	7 8 9 10 11 12
(3)	A request by a patient for assistance under this Act, or provision of such assistance in good faith by a primary medical practitioner in compliance with this Act, does not constitute neglect for any purpose of law or alone constitute or indicate grounds for the making of orders under the <i>Guardianship Act 1987</i> .	13 14 15 16 17
(4)	A health care provider 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.	18 19 20
(5)	If a health care provider is unable or unwilling to carry out a direction of a primary medical practitioner for the purpose of the primary medical practitioner assisting a patient under this Act, that health care provider must comply with any request (of the patient or a person acting on behalf of the patient) to transfer a copy of the patient's medical records to a new health care provider.	21 22 23 24 25 26
27	Regulations	27
	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.	28 29 30 31
28	Nature of proceedings for offences	32
(1)	Except as provided by subsection (2), proceedings for an offence under this Act may be dealt with summarily before the Local Court.	33 34
(2)	Proceedings for an offence under section 6 or 10 of this Act are to be dealt with on indictment.	35 36

Clause 29 Rights of the Terminally Ill Bill 2013

Part 5 Miscellaneous

29 Review of Act

- | | |
|--|-------------|
| | 1 |
| (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. | 2
3
4 |
| (2) The review is to be undertaken as soon as possible after the period of 5 years from the commencement of this Act. | 5
6 |
| (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. | 7
8 |

Schedule 1 Form

1

(Section 3)

2

Form 1 Request for assistance to end my life in a humane and dignified manner

3

4

(Rights of the Terminally Ill Act 2013, section 7)

5

I,, have been advised by my primary medical practitioner that I am suffering from an illness that will ultimately result in my death and this has been confirmed by a secondary medical practitioner.

6

7

8

I am experiencing pain, suffering or distress to an extent unacceptable to me.

9

I have been fully informed of the nature of my illness and its likely course and of 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.

10

11

12

13

I request my primary medical practitioner to assist me to end my life in a humane and dignified manner.

14

15

I understand that I have the right to rescind this request at any time.

16

Signed:

17

Dated:

18

Declaration of witnesses

19

I declare that:

20

(a) the person signing this request, or on whose behalf it is signed under section 8 (1) of the *Rights of the Terminally Ill Act 2013*, is personally known to me, and

21

22

(b) she/he is a patient under my care, and

23

(c) she/he signed the request, or the request was signed on her/his behalf, in my presence and in the presence of the secondary medical practitioner, and

24

25

(d) I am satisfied that she/he has decision-making capacity and that her/his decision to request assistance to end her/his life has been made freely, voluntarily and after due consideration, and

26

27

28

(e) I am satisfied that the conditions of section 7 of the *Rights of the Terminally Ill Act 2013* have been or will be complied with.

29

30

Signed:

31

[*patient's primary medical practitioner*]

32

I declare that:

33

(a) the person signing this request, or on whose behalf it is signed under section 8 (1) of the *Rights of the Terminally Ill Act 2013*, is personally known to me, and

34

35

(b) I have discussed her/his case with her/him and her/his medical practitioner, and

36

(c) she/he signed the request, or the request was signed on her/his behalf, in my presence and in the presence of her/his primary medical practitioner, and

37

38

(d)	I am satisfied that she/he has decision-making capacity and that her/his decision to request assistance to end her/his life has been made freely, voluntarily and after due consideration, and	1 2 3
(e)	I am satisfied that the conditions of section 7 of the <i>Rights of the Terminally Ill Act 2013</i> have been or will be complied with.	4 5
Signed:		6
<i>[secondary medical practitioner]</i>		7
Declaration of interpreter		8
<i>[Where under section 7 (4) of the Rights of the Terminally Ill Act 2013 an interpreter is required to be present]</i>		9 10
I declare that:		11
(a)	the person signing this request, or on whose behalf it is signed under section 8 (1) of the <i>Rights of the Terminally Ill Act 2013</i> , is known to me, and	12 13
(b)	I am an interpreter qualified to interpret in the first language of the patient as required by section 7 (4) of the <i>Rights of the Terminally Ill Act 2013</i> , and	14 15
(c)	I have interpreted for the patient in connection with the completion and signing of this certificate, and	16 17
(d)	in my opinion, the patient understands the meaning and nature of this certificate.	18
Signed:		19
<i>[qualified interpreter]</i>		20

Schedule 2	Members and procedure of Panel	1
	(Section 14)	2
1	Definitions	3
	In this Schedule:	4
	<i>Chairperson</i> means the Chairperson of the Panel.	5
	<i>member</i> means a member of the Panel.	6
2	Term of office of members	7
	A member holds office for such period (not exceeding 3 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	8 9 10
3	Remuneration	11
	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.	12 13 14
4	Vacancy in office of member	15
	(1) The office of a member becomes vacant if the member:	16
	(a) dies, or	17
	(b) completes a term of office and is not re-appointed, or	18
	(c) resigns the office by instrument in writing addressed to the Minister, or	19 20
	(d) is absent from 4 consecutive meetings of the Panel of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Panel or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Panel for having been absent from those meetings, or	21 22 23 24 25 26
	(e) 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	27 28 29 30
	(f) becomes a mentally incapacitated person, or	31
	(g) 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, or	32 33 34 35 36

(h)	is removed from office by the Minister under subclause (3).	1
(2)	The Chairperson is taken to have vacated office as Chairperson if the person:	2
	person:	3
(a)	resigns office by instrument in writing addressed to the Minister,	4
	or	5
(b)	ceases to be a member of the Panel.	6
(3)	The Minister may at any time remove a member from office for incapacity, incompetence or misbehaviour.	7
		8
(4)	If the office of a member becomes vacant, another person is, subject to this Schedule, to be appointed to fill the vacancy.	9
		10
5	Members not prevented from holding other offices	11
	If by or under any other Act provision is made:	12
(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	13
		14
(b)	prohibiting the person from engaging in employment outside the duties of that office,	15
		16
	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 such a member.	17
		18
		19
		20
6	Member holds statutory office	21
	A member holds a statutory office and is not employed in the Public Service.	22
		23
7	General procedure	24
	The procedure for the calling of meetings of the Panel and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Panel.	25
		26
		27
8	Quorum for meetings	28
	The quorum for a meeting of the Panel is 4 members.	29
9	Presiding member	30
(1)	The Chairperson is to preside at a meeting of the Panel.	31
(2)	In the absence of the Chairperson, another member chosen by the members present at the meeting is to preside at the meeting.	32
		33
(3)	The person presiding at a meeting of the Panel has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	34
		35

10 Voting

A decision supported by a majority of the votes cast at a meeting of the Panel at which a quorum is present is the decision of the Panel.

1
2
3