

House of Assembly—No 213

As laid on the table and read a first time, 31 October 2013

South Australia

Ending Life with Dignity (No 2) Bill 2013

A BILL FOR

An Act to provide for the administration of medical procedures to assist death of a limited number of persons who are terminally ill, suffering unbearably and who have expressed a desire for the procedures subject to appropriate safeguards; and for other purposes.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Ending Life with Dignity Act 2013*.

2—Commencement

- 5 This Act will come into operation 6 months after the date of assent or on an earlier date fixed by proclamation.

3—Interpretation

- (1) In this Act—

adult means a person of or above the age of 18 years;

10 *approved interpreter*, in relation to a language, means—

- (a) a person accredited as a translator or interpreter (or both) in that language by the National Accreditation Authority for Translators and Interpreters Ltd; or

- (b) a person approved by the Minister as an interpreter in that language under section 4;

15 *Board* means the Voluntary Euthanasia Board established under Part 2 Division 1;

certificate of confirmation—see section 27(1)(e);

medical practitioner means a medical practitioner within the meaning of the *Health Practitioner Regulation National Law*, but does not include a medical practitioner of a class excluded from the ambit of this definition by the regulations;

5 **psychiatrist** means a person registered under the *Health Practitioner Regulation National Law*—

- (a) to practise in the medical profession; and
- (b) holding specialist registration as a psychiatrist;

register means the register of voluntary euthanasia requests required to be kept under section 21;

10 **Registrar** means the Registrar of the Board appointed under section 10;

terminal illness means an illness or condition that is likely to result in death;

terminally ill—see subsection (2);

treating practitioner of a person who is terminally ill means—

- 15
- (a) a medical practitioner who is currently treating the person for the terminal illness; or
 - (b) a medical practitioner who is ordinarily responsible (whether solely or otherwise) for the care of the person;

20 **voluntary euthanasia** means the administration of medical treatment, in accordance with this Act, to bring about the death of a person who is terminally ill and who has made a voluntary euthanasia request;

voluntary euthanasia request—means a voluntary euthanasia request made in accordance with Part 3;

voluntary euthanasia request form—see section 17(1).

25 (2) Despite any other Act or law, a person is only **terminally ill** for the purposes of this Act if—

- 30
- (a) the person has a terminal illness; and
 - (b) there is no real prospect of recovery or remission of symptoms (on either a temporary or permanent basis); and
 - (c) the illness is causing unbearable suffering or distress of body or mind which cannot be alleviated to a degree the person finds acceptable.

4—Approved interpreters

(1) The Minister may approve a person as an interpreter in a particular language for the purposes of this Act.

35 (2) The following provisions apply in relation to an approval of a person under this section:

- (a) the approval only applies in relation to a voluntary euthanasia request made by a person specified in the approval;

- (b) the approval may only be granted if an interpreter of a kind referred to in paragraph (a) of the definition of *approved interpreter* in section 3(1) is not reasonably available in relation to the person who made the voluntary euthanasia request;
- 5 (c) the Minister must, as soon as is reasonably practicable, notify the Board in writing of the approval;
- (d) the approval may be made subject to any conditions specified in the approval;
- (e) the approval, or a condition of the approval, may be varied or revoked at any time by the Minister by further notice in writing to the Board.
- 10 (3) A person must not contravene or fail to comply with a condition of an approval under this section.
Maximum penalty: \$5 000.

5—Objects

The objects of this Act are—

- 15 (a) to give a limited number of competent adults who have a terminal illness, and who are suffering unbearably, the right to make an informed, deliberate and reasoned choice about the time and manner of their death;
- (b) to ensure that people who have voluntarily requested euthanasia can obtain appropriate and humane medical assistance to hasten death in accordance
20 with an accepted and sanctioned process;
- (c) to ensure that people who may want to request euthanasia are given adequate information before making their request (including information about palliative care) and are not subject to duress or other undue pressure to make a request;
- 25 (d) to ensure that the administration of euthanasia is subject to other appropriate safeguards and supervision;
- (e) to recognise the right of medical practitioners and other persons—
- (i) to refuse to carry out, or assist in the carrying out of, a voluntary euthanasia request and to protect those persons from victimisation;
30 and
- (ii) to be protected from victimisation.

Part 2—Voluntary Euthanasia Board

Division 1—Establishment of Voluntary Euthanasia Board

6—Establishment of Voluntary Euthanasia Board

- 35 (1) The *Voluntary Euthanasia Board* is established.
- (2) The Board—
- (a) is a body corporate; and
- (b) has perpetual succession and a common seal; and

- (c) is capable of suing and being sued in its corporate name; and
- (d) has all the powers of a natural person that are capable of being exercised by a body corporate; and
- (e) has the functions and powers assigned or conferred under this Act.

5 (3) If a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to the document.

7—Composition of Board

- 10 (1) The Board consists of no more than 8 members appointed by the Governor of whom—
- (a) 2 must be medical practitioners nominated by the Minister; and
 - (b) 2 must be legal practitioners of at least 5 years standing nominated by the Minister; and
 - (c) the remainder are to be nominated by 1 or more of the following:
 - 15 (i) The Palliative Care Council South Australia Incorporated;
 - (ii) South Australian Voluntary Euthanasia Society Incorporated;
 - (iii) South Australian Council of Churches Incorporated;
 - (iv) Disability Services SA.
- (2) At least 1 member of the Board must be a woman and at least 1 must be a man.
- 20 (3) The Governor may appoint a person to be a deputy of a member and a person so appointed may act as a member of the Board in the absence of the member.
- (4) The requirements of qualification and nomination (if applicable) made by this section in relation to the appointment of a member extend to the appointment of a deputy of that member.
- 25 (5) An act or proceeding of the Board is not invalid by reason only of a defect in the appointment of a member.

8—Terms and conditions of membership

- 30 (1) A member of the Board will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member of the Board will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person may not hold office for consecutive terms that exceed 9 years in total).
- 35 (3) A member of the Board is entitled to remuneration, allowances and expenses determined by the Governor.
- (4) The Governor may remove a member of the Board from office—
- (a) for breach of, or non-compliance with, a condition of appointment; or
 - (b) for misconduct; or
 - (c) for failure or incapacity to carry out official duties satisfactorily.

- (5) The office of a member of the Board becomes vacant if the member—
- (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - 5 (d) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Board; or
 - (e) is removed from office under subsection (4).
- (6) If a member of the Board's term of office expires, or the member resigns, before a matter currently before the Board is completed, the member may, for the purpose of continuing and completing that matter, continue to act as a member of the Board.
- 10

9—Presiding member

The Minister will appoint 1 of the members of the Board to be the presiding member.

10—Registrar

- (1) There will be a Registrar of the Board.
- 15 (2) The Registrar will be appointed by the Board on terms and conditions determined by the Board.
- (3) The Registrar has such powers and functions conferred or assigned by this Act.

11—Staff

- 20 (1) There will be such other staff of the Board as the Board thinks necessary for the proper performance of its functions.
- (2) A member of the staff of the Board is not, as such, an employee of the Public Service, but the Board may employ a person who is on leave from employment in the Public Service or with an instrumentality or agency of the Crown.
- 25 (3) The Board may, under an arrangement established by a Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

12—Procedures

- (1) Subject to this Act, 4 members (of whom 1 must be a medical practitioner and 1 must be a legal practitioner) constitute a quorum of the Board.
- 30 (2) In the absence of the presiding member from a meeting of the Board, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by members of the Board at a meeting is a decision of the Board.
- (4) The Board must have accurate minutes kept of its meetings.
- 35 (5) Subject to this Act, the Board may determine its own procedures.

13—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with persons in the medical or legal profession generally, or a substantial section of persons in the medical or legal profession.

14—Functions of Board

The functions of the Board are—

- (a) to monitor and keep under constant review the operation and administration of this Act; and
- (b) to provide advice to the Minister as the Board considers appropriate;
- (c) to carry out other functions assigned to the Board under this Act or by the Minister.

Note—

It is not a function of the Board to approve or otherwise authorise each voluntary euthanasia request.

15—Annual report

- (1) The Board must, on or before 30 September in each year, deliver to the Minister a report on the work of the Board during the financial year ending on the preceding 30 June.
- (2) The report must include the information required by the regulations.
- (3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

Part 3—Voluntary euthanasia requests

Division 1—Making, varying or revoking voluntary euthanasia request

16—Making voluntary euthanasia request—preliminary medical examination

- (1) An adult person of sound mind who is terminally ill may make a voluntary euthanasia request.
- (2) However, before a person makes a voluntary euthanasia request, the following requirements must be complied with:
 - (a) subject to paragraph (f), 2 medical practitioners must personally examine the person (including an examination of any symptoms of depression) and—
 - (b) each practitioner must—
 - (i) confirm that the diagnosis is terminal; and
 - (ii) fully inform the person of—
 - (A) the diagnosis of the person's illness; and
 - (B) the prognosis of the person's illness; and

- 5
- (C) the forms of treatment that may be available to the patient and the respective risks, side effects and likely outcomes of such treatments; and
 - (D) the extent to which the effects of the illness could be mitigated by appropriate palliative care; and
 - (E) the proposed voluntary euthanasia procedure, risks associated with the procedure and feasible alternatives to the procedure;
- 10
- (c) if a medical practitioner referred to in paragraph (a) is not a prescribed palliative care specialist, he or she must, within 30 days, consult such a specialist about the person's illness and the extent to which its effects may be mitigated by appropriate palliative or other care before informing the person of the matters under that paragraph;
 - (d) if a medical practitioner referred to in paragraph (a) suspects on reasonable grounds that—
- 15
- (i) the person intending to make the request is not of sound mind; or
 - (ii) the decision-making ability of the person is adversely affected by the person's state of mind; or
 - (iii) the person intending to make the request is acting under any form of duress, inducement or undue influence (including that due solely to a perception or mistake on the part of the person),
- 20
- then before making the request, the person must obtain a certificate from a psychiatrist certifying that, in the psychiatrist's opinion—
- (iv) the person is of sound mind; and
 - (v) the person's state of mind is unlikely to adversely affect the person's ability to decide to request that voluntary euthanasia be administered; and
 - (vi) the person is not acting under any form of duress, inducement or undue influence (including that due solely to a perception or mistake on the part of the person);
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- 30
- (e) the 2 medical practitioners must be in agreement that the person's diagnosis is terminal, but if such agreement is not reached, a further medical practitioner may personally examine the person (including an examination of any symptoms of depression) for the purpose of such agreement;
 - (f) only 1 of the medical practitioners referred to in this subsection is to be a treating practitioner of the person;
 - (g) the treating medical practitioner must make enquiries as to whether a voluntary euthanasia request is currently already registered in relation to the person and if there is such a request, inform the other medical practitioner or practitioners (as the case may be).
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(3) In this section—

prescribed palliative care specialist means a person—

- (a) who is registered under the *Health Practitioner Regulation National Law* to practise in the medical profession; and
- (b) who holds specialist registration under that Law, or a prescribed qualification, in palliative medicine or care, pain management, gerontology or geriatrics; and
- (c) whose principal area of practice is 1 or more of those areas.

17—Making voluntary euthanasia request—formal requirements

- (1) A voluntary euthanasia request must be made in writing in the form prescribed in Schedule 1 (a *voluntary euthanasia request form*).
- (2) The voluntary euthanasia request must be made in the presence of—
 - (a) the 2 medical practitioners who are in agreement about the person's diagnosis under section 16(2), following compliance with that subsection; and
 - (b) 2 other adult witnesses of sound mind.
- (3) The following persons cannot be witnesses under subsection (2)(b):
 - (a) a close relative of the person making the voluntary euthanasia request;
 - (b) a direct beneficiary of, or a person with a direct interest in, the estate of the person making the request.
- (4) Each witness must—
 - (a) certify as to the matters prescribed in Schedule 1 (Witnesses' certificate); and
 - (b) complete a statutory declaration declaring that he or she is not, to the best of his or her knowledge or belief, a person of a kind referred to in subsection (3).
- (5) Each witness who is a medical practitioner must also certify as to the matters prescribed in Schedule 1 (Medical practitioner's certificate).
- (6) If the person making the request is unable to write, the person may make the request orally, in which case the following requirements must be complied with:
 - (a) the voluntary euthanasia request form—
 - (i) must be completed by either or both of the witnesses referred to in subsection (2)(b) on behalf of the person in accordance with the person's expressed wishes; and
 - (ii) must, instead of the person's signature, bear an endorsement signed by each of the witnesses to the effect that the form has been completed by the witnesses in accordance with the person's expressed wishes;
 - (b) the witnesses must cause the request to be captured or recorded on videotape;
 - (c) the witnesses must, as soon as practicable after the making of the oral request, forward to the Registrar a notice in writing advising the Registrar of that fact.
- (7) A completed voluntary euthanasia request form, together with any supporting material, may be given to the Registrar for inclusion on the register.

(8) In this section—

close relative of a person means—

- (a) a spouse or domestic partner of the person; or
- (b) a child of the person of or over the age of 18 years; or
- 5 (c) a parent of the person; or
- (d) a brother or sister of the person of or over the age of 18 years; or
- (e) if the person is an Aboriginal person or Torres Strait Islander—an "appropriate person" according to the tradition or custom of the community to which the person belongs.

10 **18—Variation of voluntary euthanasia request**

- (1) A person who has made a voluntary euthanasia request may, with the written authority of the Board, by notice in writing given to the Registrar, vary the request.
- (2) The Board must not authorise a variation of a voluntary euthanasia request if, in the opinion of the Board, the variation significantly changes the timing, place or method of administration of the voluntary euthanasia.
- 15 (3) If the Board refuses to authorise a variation of a person's voluntary euthanasia request under this section, the Board must, as soon as reasonably practicable, give notice in writing to the person setting out the reasons for the refusal.

19—Revocation of voluntary euthanasia request

- 20 (1) A person who has made a voluntary euthanasia request may revoke the request at any time.
- (2) A written, oral, or other indication is sufficient to revoke a request for voluntary euthanasia.
- (3) A person must not, knowing of the revocation of a voluntary euthanasia request, deliberately or recklessly fail to communicate that knowledge to the Registrar.
- 25 Maximum penalty: Imprisonment for 5 years.

20—Later request revokes earlier request

A voluntary euthanasia request made by a person revokes all earlier voluntary euthanasia requests made by the person.

30 **Division 2—Register of voluntary euthanasia requests**

21—Register of voluntary euthanasia requests

- (1) The Registrar must keep a register in relation to voluntary euthanasia requests made in accordance with this Act (the *register*).
- 35 (2) The register must, in relation to each voluntary euthanasia request, contain the information required by the regulations and may contain any other information the Registrar thinks fit.

(3) In addition to the information required under subsection (2), the Registrar must keep, in relation to each entry in the register, the following:

- (a) the voluntary euthanasia request form relating to the entry;
- (b) any other document or material required under this Act to accompany the voluntary euthanasia request form;
- (c) any other document or material provided to the Registrar in relation to the entry;
- (d) any other document or material required by the regulations.

(4) If the Registrar is advised under this Act, or otherwise becomes aware, of a revocation or purported revocation of a voluntary euthanasia request, the Registrar must, as a matter of urgency, inquire into the revocation or purported revocation.

(5) If, after due inquiry, the Registrar suspects that a voluntary euthanasia request has been revoked, the Registrar must remove the relevant entry from the register.

(6) The Registrar must, at the request of a medical practitioner who is attending a terminally ill person—

- (a) inform the medical practitioner—
 - (i) as to whether a voluntary euthanasia request is registered in relation to the person; and
 - (ii) if such a request is registered—
 - (A) whether a revocation of the request has been registered in the register; or
 - (B) whether the Registrar has been notified of a revocation, or purported revocation, of the request but has not yet registered the revocation in the register; and
 - (iii) of any other information held by the Registrar that may be relevant to the request or to the carrying out of the request; and
- (b) if a voluntary euthanasia request is registered in relation to the person and no revocation of that request has been registered—give the medical practitioner a copy of the request.

(7) The Registrar must, at the request of the Commissioner of Police, provide the Commissioner with any information held by the Registrar that may be relevant to a voluntary euthanasia request.

(8) The register must be kept available for inspection by a person who, in the opinion of the Registrar, has proper grounds for inspecting the register.

(9) The Registrar must impose conditions in relation to inspection of the register protecting the privacy of persons and may impose any other condition the Registrar thinks fit in relation to such inspections.

(10) No fee may be charged in respect of a duty of the Registrar under this section.

(11) A certificate stating that a voluntary euthanasia request was, or was not, registered on the register and purporting to be signed by the Registrar will, in the absence of proof to the contrary, be accepted in legal proceedings as proof of the matters stated in the certificate.

22—Registrar may require information

- (1) The Registrar may, by notice in writing, for the purposes of preparing and administering the register, require a person to provide the Registrar with such information as the Registrar may require.
- 5 (2) A person must not refuse or fail to comply with a requirement under subsection (1).
Maximum penalty: \$10 000 or imprisonment for 6 months.
- (3) If a person is required under this section to provide information to the Registrar, the Registrar may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required
10 unless it has been verified in accordance with the requirements of the Registrar.

Division 3—Board's powers in relation to voluntary euthanasia requests

23—Interested persons

For the purposes of this Division, the following persons will be taken to be *interested persons* in relation to a voluntary euthanasia request:

- 15 (a) the person who made the voluntary euthanasia request;
- (b) the treating practitioner of the person;
- (c) a medical practitioner who has provided the person with the prescribed information in relation to the person's illness under section 16(2);
- (d) the medical practitioner referred to in section 27(1)(e);
- 20 (e) a medical practitioner who is, or is likely, to administer voluntary euthanasia to the person;
- (f) the Registrar;
- (g) a person authorised in writing for the purposes of this section by a person referred to in a preceding paragraph;
- 25 (h) a person who satisfies the Board that he or she has a proper interest in the welfare of the person who made the voluntary euthanasia request.

24—Board may make declarations and orders relating to voluntary euthanasia requests

- (1) An interested person in relation to a voluntary euthanasia request may apply to the
30 Board for 1 or both of the following declarations:
- (a) a declaration that the person who made the voluntary euthanasia request is, or is not, an adult person of sound mind who is terminally ill (that is, the preconditions relating to a person's eligibility to make a voluntary euthanasia request under section 16(1));
- 35 (b) a declaration that any other requirement under this Act relating to the making of a voluntary euthanasia request has, or has not, been complied with in relation to the voluntary euthanasia request.
- (2) An application under this section must be made in a manner and form determined by the Board.

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Part 3—Voluntary euthanasia requests

Division 3—Board's powers in relation to voluntary euthanasia requests

- (3) No fee may be charged in respect of an application under this section.
- (4) After receiving an application in relation to a voluntary euthanasia request under this section, the Board must give the applicant and the person who made the voluntary euthanasia request—
- 5 (a) notice in writing of—
- (i) the Board's receipt of the application; and
- (ii) the time and place at which the Board intends to conduct any proceedings in relation to the request; and
- 10 (b) if proceedings are intended to be conducted in relation to the request—a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses, and to make submissions to the Board.
- (5) Subject to this section, the Board may only make a declaration that the person who made the voluntary euthanasia request is an adult person of sound mind who is terminally ill (that is, the preconditions relating to a person's eligibility to make a voluntary euthanasia request under section 16(1)) if, after due inquiry, the Board is satisfied beyond reasonable doubt of those matters.
- 15
- (6) The Board may make any 1 or more of the following orders that the Board, after due inquiry in relation to a voluntary euthanasia request, considers appropriate:
- 20 (a) an order declaring the request to be void and of no effect;
- (b) an order postponing the carrying out of the request for a specified period not exceeding 1 month to enable further inquiries to be made in relation to the request;
- (c) an order imposing such conditions as the Board considers appropriate in relation to the carrying out of the request;
- 25 (d) any other order the Board considers appropriate in relation to the request (including an order that the person submit to an examination by a medical practitioner, or by a medical practitioner of a specified class).
- (7) The Board must, as soon as reasonably practicable after making a declaration or order under this section in relation to a voluntary euthanasia request, take reasonable steps to give each other interested person in relation to the request, notice in writing of the making, and the terms, of the declaration or order.
- 30
- (8) If the Board makes an order under subsection (6)(a), the Registrar must remove the relevant entry from the register.
- (9) A person must not knowingly contravene, or fail to comply with—
- 35 (a) an order under this section; or
- (b) a condition imposed under this section on the administration of voluntary euthanasia to the person.

Maximum penalty:

- 40 (a) in the case where a person has died as a consequence of the contravention or failure—imprisonment for 20 years; or
- (b) in any other case—imprisonment for 10 years.

- (10) In dealing with an application under this section, the Board—
- (a) is not bound by the rules of evidence and may inform itself on any matter as it thinks fit; and
 - (b) must act according to good conscience and the substantial merits of the case without regard to technicalities and legal forms; and
 - (c) must deal with the application or inquiry as a matter of urgency; and
 - (d) may refer any question of law for determination by the Supreme Court.
- (11) Any interested person in relation to a voluntary euthanasia request is entitled to be represented at the hearing of an application under this section for a declaration relating to the request.
- (12) The hearing of an application under this section is not to be open to the public.

25—Appeals from declarations or orders

- (1) An appeal lies to the Supreme Court against a declaration or order of the Board under section 24 in relation to a voluntary euthanasia request.
- (2) An appeal in relation to a voluntary euthanasia request may only be instituted by an interested person in relation to the request.
- (3) An appeal must be instituted within 7 days of the person being notified of the making of the declaration or order appealed against or such longer period as the Supreme Court may allow.
- (4) The Supreme Court may, on the hearing of the appeal, exercise 1 or more of the following powers:
 - (a) dismiss the appeal;
 - (b) affirm, vary or quash the declaration or order appealed against;
 - (c) substitute, or make in addition, any declaration or order that could be made by the Board;
 - (d) remit the subject matter of the appeal to the Board for further hearing or for rehearing;
 - (e) make any further or other order as to costs, or any other matter, that the case requires.
- (5) No order for costs can be made against an appellant if he or she is the person who made the voluntary euthanasia request.
- (6) The hearing of an appeal under this section is not to be open to the public.

26—Board's powers of investigation

- (1) For the purposes of this Part, the Board may—
 - (a) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the attendance before the Board of a person whom the Board thinks fit to call before it; or
 - (b) by summons signed on behalf of the Board by a member of the Board or the Registrar, require the production of relevant documents, records or equipment and, in the case of a document or record that is not in the English language—

- (i) a written translation of the document or record into English; and
- (ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record; or

- 5
- (c) inspect documents, records or equipment produced before it, and retain them for such reasonable period as it thinks fit, and make copies of the documents or records or their contents; or
 - (d) require a person to make an oath or affirmation (which may be administered by a member of the Board) to answer truthfully questions put by a member of the Board or a person appearing before the Board; or
 - (e) require a person appearing before the Board (whether summoned to appear or not) to answer questions put by a member of the Board or by a person appearing before the Board.

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- (2) On receipt of an application for the issue of a summons under this section, a member of the Board or the Registrar may, without referring the matter to the Board, issue a summons on behalf of the Board.
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- (3) A person who—

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- (a) having been served with a summons to attend, or to produce documents, records or equipment, before the Board, fails, without reasonable excuse, to comply with the summons; or
 - (b) having been served with a summons to produce—
 - (i) a written translation of the document or record into English; and
 - (ii) a certificate signed by a translator approved by the Board certifying that the translation accurately reproduces in English the contents of the document or record,
 - (c) misbehaves before the Board, wilfully insults the Board or 1 or more of its members in the exercise of the member's official duties, or wilfully interrupts the proceedings of the Board,

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is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 6 months.

- (4) A person who appears as a witness before the Board has the same protection as a witness in proceedings before the Supreme Court.

Division 4—Carrying out voluntary euthanasia request

27—Carrying out voluntary euthanasia request

- 35
- (1) A medical practitioner may carry out a voluntary euthanasia request in relation to a person if—
 - (a) the request is registered in the register; and
 - (b) the medical practitioner has made a request for information to the Registrar in relation to the request under section 21(6); and
- 40

- (c) there is no revocation of the request registered in the register, and there is no reason to believe that there has been a revocation, or purported revocation, of the request that has not been registered in the register; and
- 5 (d) the person has not expressed a desire to postpone the carrying out of the request; and
- (e) since the making of the request by the person, a medical practitioner other than a medical practitioner referred to in section 16(2) who is not involved in the day to day treatment or care of the person has personally examined the person and has given a certificate in the form prescribed by Schedule 2
- 10 (*certificate of confirmation*) certifying—
- (i) that the person is terminally ill; and
- (ii) that—
- (A) there is no reason to suppose that the person is suffering from treatable clinical depression; or
- 15 (B) if the person does exhibit symptoms of depression—the medical practitioner is of the opinion that treatment for depression, or further treatment for depression, is unlikely to influence the person's decision to request voluntary euthanasia; and
- 20 (f) at least 48 hours have elapsed since the examination of the person referred to in paragraph (e).
- (2) A medical practitioner must, in carrying out a voluntary euthanasia request in relation to a person, comply with the following provisions:
- 25 (a) the medical practitioner must give effect, as far as practicable, to the expressed wishes of the person;
- (b) the medical practitioner may only carry out the request by 1 or more of the following methods:
- (i) by administering drugs in appropriate concentrations to end life;
- 30 (ii) by prescribing drugs for self-administration by the person to allow the person to end his or her life;
- (iii) by withholding or withdrawing medical treatment in circumstances that will result in an end to life;
- (c) a method of administering voluntary euthanasia referred to in paragraph (b) must, as far as practicable, result in an end to life that is humane and painless;
- 35 (d) if the request is to be carried out by the method referred to in subparagraph (b)(ii)—
- (i) the medical practitioner may only supply the drugs to the person immediately before the person self-administers the drugs; and
- 40 (ii) the medical practitioner must, while the person self-administers the drugs, be present in the same premises as the person; and

(iii) if the patient revokes his or her request or indicates a desire to postpone the administration of voluntary euthanasia, the medical practitioner must, as soon as reasonably practicable after being made aware of those wishes, retrieve the drugs from the person;

5 (e) the medical practitioner must examine the person immediately following the carrying out of the request for the purpose of ensuring that the person has died.

28—Persons may decline to carry out or assist in carrying out voluntary euthanasia request

- 10 (1) A medical practitioner may decline to carry out a voluntary euthanasia request on any grounds.
- (2) However, if a medical practitioner who has the care of a person declines to carry out such a request, he or she must inform the person that another medical practitioner may be prepared to consider the request.
- 15 (3) A person may decline to assist a medical practitioner in carrying out a voluntary euthanasia request on any grounds without prejudice to the person's employment or any other form of adverse discrimination.
- (4) The administering authority of a hospital, hospice, nursing home or other institution for the care of the sick or infirm may refuse to permit voluntary euthanasia within the
20 institution but, if it does so, must take reasonable steps to ensure that the refusal is brought to the attention of persons entering the institution.

29—Report to State Coroner

- (1) A medical practitioner who carries out a voluntary euthanasia request in relation to a person must make a report to the State Coroner within 48 hours after doing so.
25 Maximum penalty: \$5 000.
- (2) The report—
- (a) must be in the form prescribed by Schedule 3; and
- (b) must be accompanied by—
- (i) the person's voluntary euthanasia request form; and
- 30 (ii) the certificate of confirmation required under section 27(1)(e).
- (3) The State Coroner must forward to the Minister copies of the reports made under this section and the accompanying materials.

30—Protection from liability

35 A medical practitioner who carries out a voluntary euthanasia request, or a person who assists a medical practitioner in carrying out a voluntary euthanasia request, in accordance with this Act incurs no civil or criminal liability by doing so.

Part 4—Miscellaneous

31—Failure by medical practitioner to comply with Act constitutes proper cause for disciplinary action

5 A failure by a medical practitioner to comply with a requirement of this Act in relation to the making or carrying out of a voluntary euthanasia request will be taken to constitute proper cause for disciplinary action against the medical practitioner for the purposes of the *Health Practitioner Regulation National Law*.

32—Limitation of fees

- 10 (1) A medical practitioner or other person must not require a fee to be paid (whether by the person the subject of a voluntary euthanasia request or otherwise) in relation to the making or carrying out of a voluntary euthanasia request that exceeds the reasonable costs incurred by the medical practitioner or other person in relation to that act.
Maximum penalty: \$10 000.
- 15 (2) If a court finds a person guilty of an offence against this section, the court may order the person to pay to the Crown an amount not exceeding the court's estimate of the fee received by the person in contravention of this section.

33—False or misleading representations

- 20 (1) A person must not make a false or misleading representation in a voluntary euthanasia request or other document under this Act, knowing it to be false or misleading.
Maximum penalty: Imprisonment for 10 years.
- (2) A person must not make a false or misleading representation to the Registrar in relation to a revocation, or purported revocation, of a voluntary euthanasia request, knowing it to be false or misleading.
Maximum penalty: Imprisonment for 10 years.

34—Undue influence etc

A person must not, by dishonesty or undue influence, induce another to make a voluntary euthanasia request.

Maximum penalty: Imprisonment for 10 years.

35—Certain persons to forfeit interest in estate

30 A person convicted or found guilty of an offence against section 33 or section 34 forfeits any interest that the person might otherwise have had in the estate of the person who has made the voluntary euthanasia request.

36—Confidentiality

- 35 (1) A person engaged or formerly engaged in the administration of this Act must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—
- (a) as required or authorised by or under this Act or any other Act or law; or
 - (b) with the consent of the person to whom the information relates; or

- (c) in connection with the administration of this Act; or
- (d) to an authority responsible under the law of a place outside this State, where the information is required for the proper administration of that law; or
- (e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

Maximum penalty: \$10 000.

- (2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.
- (3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—
 - (a) the person to whom the information was disclosed; or
 - (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$10 000.

37—Restriction on publication

A person must not publish by newspaper, radio, television or in any other way, a report tending to identify another person as carrying out, or being involved in the carrying out of, a voluntary euthanasia request, unless—

- (a) the other person consents to the publication; or
- (b) the other person has been convicted of an offence in relation to the carrying out or purported carrying out of a voluntary euthanasia request.

Maximum penalty:

- (a) in the case of a body corporate—\$100 000; or
- (b) in any other case—\$50 000 or imprisonment for 10 years.

38—Cause of death

For the purposes of the law of this State, and for any other purpose, the death of a person resulting from the carrying out of a voluntary euthanasia request in accordance with this Act—

- (a) will be taken to have been caused by the person's relevant illness, injury or medical condition; and
- (b) is not suicide or homicide.

39—Insurance

- (1) An insurer is not entitled to refuse to make a payment that is payable under a life insurance policy on death of the insured on the ground that the death resulted from the carrying out of a voluntary euthanasia request if it was carried out in accordance with this Act.

- (2) A person is not obliged to disclose a voluntary euthanasia request to an insurer, and an insurer must not ask a person to disclose whether the person has made a voluntary euthanasia request.

Maximum penalty: \$50 000.

- 5 (3) This section applies despite an agreement between a person and an insurer to the contrary.

40—Victimisation

- 10 (1) A person commits an act of victimisation against another person (*the victim*) if he or she causes detriment to the victim on the ground, or substantially on the ground, that the victim—

(a) takes part in, or is otherwise involved in relation to, the making of a voluntary euthanasia request in accordance with this Act; or

(b) carries out, or assists in the carrying out of, a voluntary euthanasia request in accordance with this Act.

- 15 (2) An act of victimisation under this Act may be dealt with—

(a) as a tort; or

(b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*,

20 but, if the victim commences proceedings in a court seeking a remedy in tort, he or she cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, he or she cannot subsequently commence proceedings in a court seeking a remedy in tort.

- 25 (3) If a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.

- (4) In this section—

detriment includes—

(a) injury, damage or loss; or

30 (b) intimidation or harassment; or

(c) discrimination, disadvantage or adverse treatment in relation to the victim's employment or business; or

(d) threats of reprisal.

41—Service

- 35 (1) Subject to this Act, a notice or document required or authorised to be given or sent to, or served on, a person for the purposes of this Act may—

(a) be given to the person personally; or

40 (b) be posted in an envelope addressed to the person at the person's last known nominated contact, residential, business or (in the case of a corporation) registered address; or

(c) be left for the person at the person's last known nominated contact, residential, business or (in the case of a corporation) registered address with someone apparently over the age of 16 years; or

(d) be transmitted by fax or email to a fax number or email address provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).

(2) Without limiting the effect of subsection (1), a notice or other document required or authorised to be given or sent to, or served on, a person for the purposes of this Act may, if the person is a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, be served on the person in accordance with that Act.

42—Review of Act

(1) The Social Development Committee of Parliament must review the operation of this Act as soon as practicable after the expiry of 2 years from its commencement.

(2) The Social Development Committee must ensure that, as part of the review, reasonable steps are taken to seek submissions from:

(a) State agencies that have an interest in public health; and

(b) prescribed health and community organisations,

(but may otherwise conduct the review in such manner as it thinks fit under the *Parliamentary Committees Act 1991*).

43—Regulations

(1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1) the regulations may—

(a) create offences punishable by a fine not exceeding \$10 000;

(b) make provisions facilitating proof of the commission of offences against the regulations.

(3) Regulations under this Act may—

(a) be of general application or limited application;

(b) make different provision according to the matters or circumstances to which they are expressed to apply;

(c) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or the Board.

Schedule 1—Voluntary euthanasia request form (section 17)

Form 1—Voluntary euthanasia request form

1 I [*state full name and residential address of the person making the request*] make a voluntary euthanasia request.

2 I believe that I am presently terminally ill and intend the request to be carried out in accordance with the directions given below.

- 3 I am not acting under any form of duress, inducement or undue influence.
- 4 I have received the information as required under section 16(2) of the *Ending Life with Dignity Act 2013*.
- 5 I give the following directions about the timing, place and method of voluntary euthanasia:
- [State directions. If any of these matters are to be left to the discretion of a medical practitioner, there should be a statement to that effect.]*

Signature:

Date:

10 **Witnesses' certificate**

We *[state the names and addresses of the 2 adult witnesses to the request]* certify that—

- (a) the above voluntary euthanasia request was made in our presence; and
- (b) the person who made the request appeared to be of sound mind and appeared to understand the nature and implications of the request; and
- 15 (c) the person who made the request did not appear to be acting under any form of duress, inducement or undue influence.

Signature:

Signature:

Medical practitioner's certificate

20 I *[state the name and address of the medical practitioner in whose presence the request is made]* certify that—

- (a) the above voluntary euthanasia request was made in my presence; and
- (b) the person who made the request appeared to be of sound mind and appeared to understand the nature and implications of the request; and
- 25 (c) the person who made the request did not appear to be acting under any form of duress, inducement or undue influence; and
- (d) before the above request was made I provided the person making the request with the information as required under section 16(2)(a) of the *Ending Life with Dignity Act 2013*; and
- 30 (e) after examining the person making the above request—
- (i) I found the patient to be suffering from the following illness:
[state description of the patient's illness]
- (ii) in my opinion the patient is terminally ill for the following reasons:
[state reasons for believing the patient to be terminally ill]
- 35 * I have no reason to suppose that the person is suffering from treatable clinical depression; or

* I have found that the person does exhibit symptoms of depression but I am of the opinion that treatment for depression, or further treatment for depression, is unlikely to influence the person's decision to request voluntary euthanasia; or

5 * I am satisfied that the person has obtained a certificate from a psychiatrist in accordance with section 16(2)(d) of the *Ending Life with Dignity Act 2013*.

[delete whichever statement is inapplicable]*

Signature:

Schedule 2—Certificate of confirmation (section 27(1)(e))

10 Form 1—Certificate of confirmation

I *[state full name and address of the medical practitioner giving the certificate of confirmation]* certify as follows:

1 I personally examined *[state full name and residential address of the patient]* at *[state place of examination]* at *[state time of examination]* on *[state date of examination]*.

15 2 I am not involved in the day to day treatment or care of the patient.

3 I find the patient to be suffering from the following illness:

[state description of the patient's illness]

4 In my opinion the patient is terminally ill for the following reasons:

[state reasons for believing the patient to be terminally ill]

20 5 After examining the patient—

* I have no reason to suppose that the patient is suffering from treatable clinical depression; or

25 * I find that the patient did exhibit symptoms of depression but I am of the opinion that treatment for depression, or further treatment for depression, is unlikely to influence the patient's decision to request voluntary euthanasia; or

* I am satisfied that the person has obtained a certificate from a psychiatrist in accordance with of the *Ending Life with Dignity Act 2013*.

*[*delete whichever statement is inapplicable]*

Signature:

30 Date:

Schedule 3—Report to State Coroner (section 29)

Form 1—Report to State Coroner

35 I *[state full name and address of the medical practitioner who carried out the voluntary euthanasia request]* carried out the voluntary euthanasia request of *[state full name and residential address of the patient]* at *[state place of administration]* on *[state date of administration]*.

1 The patient had been in my care for *[state the period]*.

2 The nature of the patient's illness was as follows:

[state description of the patient's illness]

3 In my opinion the patient was terminally ill for the following reasons:

[state reasons for believing the patient to be terminally ill]

5 4 After examining the patient—

* I had no reason to suppose that the patient was suffering from treatable clinical depression; or

10 * I found that the patient did exhibit symptoms of depression but I am of the opinion that treatment for depression, or further treatment for depression, was unlikely to influence the patient's decision to request voluntary euthanasia; or

* I was satisfied that the person had obtained a certificate from a psychiatrist in accordance with section 16(2)(d) of the *Ending Life with Dignity Act 2013*

*[*delete whichever statement is inapplicable]*

5 The voluntary euthanasia request was carried out as described below:

15 *[state time, place and method of carrying out the request]*

6 The death ensued as follows:

[state time, place and manner of death]

Signature:

Date:

20 **Note—**

This report must be accompanied by—

- (a) a copy of the person's voluntary euthanasia request; and
- (b) the certificate of confirmation given by another medical practitioner under section 27(1)(e) of the *Ending Life with Dignity Act 2013*.