



Western Australia

Voluntary Assisted Dying Act 2019

Voluntary Assisted Dying Act 2019

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Defined terms

Western Australia

Voluntary Assisted Dying Act 2019

An Act —

- **to provide for and regulate access to voluntary assisted dying;**
- **and**
- **to establish the Voluntary Assisted Dying Board; and**
- **to make consequential amendments to other Acts.**

Part 1 — Preliminary

Division 1 — Introductory provisions

1. Short title

This is the *Voluntary Assisted Dying Act 2019*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 (other than Divisions 2 to 4) — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

3. Act binds Crown

This Act binds the Crown in right of Western Australia, and so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Division 2 — Principles

4. Principles

- (1) A person exercising a power or performing a function under this Act must have regard to the following principles —
 - (a) every human life has equal value;
 - (b) a person's autonomy, including autonomy in respect of end of life choices, should be respected;
 - (c) a person has the right to be supported in making informed decisions about the person's medical treatment, and should be given, in a manner the person understands, information about medical treatment options including comfort and palliative care and treatment;

- (d) a person approaching the end of life should be provided with high quality care and treatment, including palliative care and treatment, to minimise the person's suffering and maximise the person's quality of life;
 - (e) a therapeutic relationship between a person and the person's health practitioner should, wherever possible, be supported and maintained;
 - (f) a person should be encouraged to openly discuss death and dying, and the person's preferences and values regarding their care, treatment and end of life should be encouraged and promoted;
 - (g) a person should be supported in conversations with the person's health practitioners, family and carers and community about treatment and care preferences;
 - (h) a person is entitled to genuine choices about the person's care, treatment and end of life, irrespective of where the person lives in Western Australia and having regard to the person's culture and language;
 - (i) a person who is a regional resident is entitled to the same level of access to voluntary assisted dying as a person who lives in the metropolitan region;
 - (j) there is a need to protect persons who may be subject to abuse or coercion;
 - (k) all persons, including health practitioners, have the right to be shown respect for their culture, religion, beliefs, values and personal characteristics.
- (2) In subsection (1), the reference to a person exercising a power or performing a function under this Act includes the Tribunal exercising its review jurisdiction in relation to a decision made under this Act.

Division 3 — Interpretation

5. Terms used

In this Act, unless the contrary intention appears —

administering practitioner, for a patient, means —

- (a) the coordinating practitioner for the patient; or
- (b) a person to whom the role of administering practitioner is transferred under section 63(2);

administration, in relation to a voluntary assisted dying substance, includes self-administration;

administration decision means a self-administration decision or a practitioner administration decision;

approved form means a form approved by the CEO under section 161 for the purposes of the provision in which the term is used;

approved training means training approved by the CEO under section 160;

authorised disposal form has the meaning given in section 76(1);

authorised disposer has the meaning given in section 79(4);

authorised supplier has the meaning given in section 79(2);

Board means the Voluntary Assisted Dying Board established by section 116;

business day means a day other than a Saturday, a Sunday or a public holiday throughout Western Australia;

CEO means the chief executive officer of the Department;

completed, in relation to the request and assessment process, has the meaning given in section 8;

consulting assessment means an assessment of a patient conducted under section 35(1);

consulting assessment report form has the meaning given in section 40(2);

consulting practitioner, for a patient, means a medical practitioner who accepts a referral to conduct a consulting assessment of the patient;

contact details, in relation to a person, includes the address, telephone number and email address of the person;

contact person, for a patient, means the person appointed by the patient under section 65(1);

contact person appointment form has the meaning given in section 66(1);

coordinating practitioner, for a patient, means —

- (a) a medical practitioner who accepts the patient's first request; or
- (b) a consulting practitioner for the patient who accepts a transfer of the role of coordinating practitioner under section 157;

decision-making capacity, in relation to voluntary assisted dying, has the meaning given in section 6(2);

Department means the department of the Public Service principally assisting in the administration of this Act;

disability has the meaning given in the *Disability Services Act 1993* section 3;

eligibility criteria means the criteria set out in section 16(1);

family member, of a person, means the person's spouse, de facto partner, parent, sibling, child or grandchild;

final request means a final request for access to voluntary assisted dying made under section 47(1);

final review means a review conducted under section 51(1)(a) by the coordinating practitioner for a patient;

final review form has the meaning given in section 51(1)(b);

first assessment means an assessment of a patient conducted under section 24(1);

first assessment report form has the meaning given in section 29(2);

first request means a request for access to voluntary assisted dying made under section 18(1);

health service has the meaning given in the *Health Services Act 2016* section 7;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession (other than as a student);

medicine has the meaning given in the *Medicines and Poisons Act 2014* section 3;

member means a member of the Board;

metropolitan region has the meaning given in the *Planning and Development Act 2005* section 4(1);

nurse practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing profession whose registration under that Law is endorsed as nurse practitioner;

palliative care and treatment means care and treatment that —

- (a) is provided to a person who is diagnosed with a disease, illness or medical condition that is progressive and life-limiting; and
- (b) is directed at preventing, identifying, assessing, relieving or treating the person's pain, discomfort or suffering in order to improve their comfort and quality of life;

patient means a person who makes a request for access to voluntary assisted dying under this Act;

personal information has the meaning given in the *Freedom of Information Act 1992* Glossary clause 1;

practitioner administration decision has the meaning given in section 56(1)(b);

practitioner administration form has the meaning given in section 61(3);

practitioner disposal form has the meaning given in section 78(1);

prepare, in relation to a prescribed substance —

- (a) means to do anything necessary to ensure that the substance is in a form suitable for administration; and
- (b) includes to decant, dilute, dissolve, mix, reconstitute, colour or flavour the substance;

prescribe, in relation to a voluntary assisted dying substance, means to issue a prescription for the substance;

prescribed substance means —

- (a) a voluntary assisted dying substance prescribed for a patient by the coordinating practitioner for the patient; and
- (b) in relation to a patient, the voluntary assisted dying substance prescribed for the patient by the coordinating practitioner for the patient;

prescription, in relation to a voluntary assisted dying substance, has the same meaning as it has, in relation to a Schedule 4 or 8 poison, in the *Medicines and Poisons Act 2014* section 7(1);

professional care services means any of the following provided to another person under a contract of employment or a contract for services —

- (a) assistance or support, including the following —
 - (i) assistance with bathing, showering, personal hygiene, toileting, dressing, undressing or meals;
 - (ii) assistance for persons with mobility problems;
 - (iii) assistance for persons who are mobile but require some form of assistance or supervision;
 - (iv) assistance or supervision in administering medicine;

- (v) the provision of substantial emotional support;
- (b) a disability service as defined in the *Disability Services Act 1993* section 3;

regional resident means a person who ordinarily resides in an area of Western Australia that is outside the metropolitan region;

registered health practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* to practise a health profession (other than as a student);

request and assessment process means the process that consists of the following steps —

- (a) a first request;
- (b) a first assessment;
- (c) a consulting assessment;
- (d) a written declaration;
- (e) a final request;
- (f) a final review;

self-administration decision has the meaning given in section 56(1)(a);

supply, in relation to a voluntary assistance dying substance, has the same meaning as it has, in relation to a poison, in the *Medicines and Poisons Act 2014* section 8;

Tribunal means the State Administrative Tribunal;

voluntary assisted dying means the administration of a voluntary assisted dying substance and includes steps reasonably related to that administration;

voluntary assisted dying substance has the meaning given in section 7(2);

written declaration means a written declaration made under section 42(1).

6. Decision-making capacity

- (1) In this section —
- voluntary assisted dying decision* means —
- (a) a request for access to voluntary assisted dying; or
 - (b) a decision to access voluntary assisted dying.
- (2) For the purposes of this Act, a patient has *decision-making capacity* in relation to voluntary assisted dying if the patient has the capacity to —
- (a) understand any information or advice about a voluntary assisted dying decision that is required under this Act to be provided to the patient; and
 - (b) understand the matters involved in a voluntary assisted dying decision; and
 - (c) understand the effect of a voluntary assisted dying decision; and
 - (d) weigh up the factors referred to in paragraphs (a), (b) and (c) for the purposes of making a voluntary assisted dying decision; and
 - (e) communicate a voluntary assisted dying decision in some way.
- (3) For the purposes of this Act, a patient is presumed to have decision-making capacity in relation to voluntary assisted dying unless the patient is shown not to have that capacity.

7. Voluntary assisted dying substance

- (1) The CEO may, in writing, approve a Schedule 4 poison or Schedule 8 poison (as those terms are defined in the *Medicines and Poisons Act 2014* section 3) for use under this Act for the purpose of causing a patient's death.
- (2) A poison approved under subsection (1) is a *voluntary assisted dying substance*.

8. When request and assessment process completed

For the purposes of this Act, the request and assessment process has been *completed* in respect of a patient if the coordinating practitioner for the patient —

- (a) has completed the final review form in respect of the patient; and
- (b) has certified in the final review form that the request and assessment process has been completed in accordance with this Act.

Division 4 — Other provisions

9. Registered health practitioner may refuse to participate in voluntary assisted dying

- (1) A registered health practitioner who has a conscientious objection to voluntary assisted dying has the right to refuse to do any of the following —
 - (a) participate in the request and assessment process;
 - (b) prescribe, supply or administer a voluntary assisted dying substance;
 - (c) be present at the time of the administration of a voluntary assisted dying substance.
- (2) Subsection (1) is not intended to limit the circumstances in which a registered health practitioner may refuse to do any of the things referred to in that subsection.

10. Health care worker not to initiate discussion about voluntary assisted dying

- (1) In this section —

health care worker means —

 - (a) a registered health practitioner; or

- (b) any other person who provides health services or professional care services.
- (2) A health care worker who provides health services or professional care services to a person must not, in the course of providing the services to the person —
 - (a) initiate discussion with the person that is in substance about voluntary assisted dying; or
 - (b) in substance, suggest voluntary assisted dying to the person.
- (3) Nothing in subsection (2) prevents a medical practitioner or nurse practitioner from doing something referred to in subsection (2)(a) or (b) if, at the time it is done, the medical practitioner or nurse practitioner also informs the person about the following —
 - (a) the treatment options available to the person and the likely outcomes of that treatment; and
 - (b) the palliative care and treatment options available to the person and the likely outcomes of that care and treatment.
- (4) Nothing in subsection (2) prevents a health care worker from providing information about voluntary assisted dying to a person at the person's request.
- (5) A contravention of subsection (2) by a registered health practitioner is unprofessional conduct for the purposes of the *Health Practitioner Regulation National Law (Western Australia)*.
- (6) Subsection (5) overrides section 11(1).
- (7) A contravention of subsection (2) by a provider, as defined in the *Health and Disability Services (Complaints) Act 1995* section 3(1), is taken to be unreasonable conduct described in section 25(1)(c) of that Act.

11. Contravention of Act by registered health practitioner

- (1) A contravention of a provision of this Act by a registered health practitioner is capable of constituting professional misconduct or unprofessional conduct for the purposes of the *Health Practitioner Regulation National Law (Western Australia)*.
- (2) Subsection (1) applies whether or not the contravention constitutes an offence under this Act.

12. Voluntary assisted dying not suicide

For the purposes of the law of the State, a person who dies as the result of the administration of a prescribed substance in accordance with this Act does not die by suicide.

13. Inherent jurisdiction of Supreme Court not affected

Nothing in this Act affects the inherent jurisdiction of the Supreme Court.

14. Relationship with *Medicines and Poisons Act 2014* and *Misuse of Drugs Act 1981*

If there is a conflict or inconsistency between a provision of this Act and a provision of the *Medicines and Poisons Act 2014* or the *Misuse of Drugs Act 1981*, the provision of this Act prevails to the extent of the conflict or inconsistency.

Part 2 — Requirements for access to voluntary assisted dying

15. When person can access voluntary assisted dying

A person may access voluntary assisted dying if —

- (a) the person has made a first request; and
- (b) the person has been assessed as eligible for access to voluntary assisted dying by —
 - (i) the coordinating practitioner for the person; and
 - (ii) the consulting practitioner for the person;and
- (c) the person has made a written declaration; and
- (d) the person has made a final request to the coordinating practitioner for the person; and
- (e) the coordinating practitioner for the person has certified in a final review form that —
 - (i) the request and assessment process has been completed in accordance with this Act; and
 - (ii) the practitioner is satisfied of each of the matters referred to in section 51(3)(f);and
- (f) the person has made an administration decision; and
- (g) if the person has made a self-administration decision, the person has appointed a contact person.

16. Eligibility criteria

- (1) The following criteria must be met for a person to be eligible for access to voluntary assisted dying —
 - (a) the person has reached 18 years of age;

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- (b) the person —
 - (i) is an Australian citizen or permanent resident;
and
 - (ii) at the time of making a first request, has been ordinarily resident in Western Australia for a period of at least 12 months;
 - (c) the person is diagnosed with at least 1 disease, illness or medical condition that —
 - (i) is advanced, progressive and will cause death;
and
 - (ii) will, on the balance of probabilities, cause death within a period of 6 months or, in the case of a disease, illness or medical condition that is neurodegenerative, within a period of 12 months;
and
 - (iii) is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable;
 - (d) the person has decision-making capacity in relation to voluntary assisted dying;
 - (e) the person is acting voluntarily and without coercion;
 - (f) the person's request for access to voluntary assisted dying is enduring.
- (2) A person is not eligible for access to voluntary assisted dying only because the person has a disability or is diagnosed with a mental illness (as defined in the *Mental Health Act 2014* section 4).

Part 3 — Requesting access to voluntary assisted dying and assessment of eligibility

Division 1 — Eligibility requirements for medical practitioners

17. Eligibility to act as coordinating practitioner or consulting practitioner

(1) In this section —

general registration means general registration under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

limited registration means limited registration under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

provisional registration means provisional registration under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

specialist registration means specialist registration under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession in a recognised specialty.

(2) A medical practitioner is eligible to act as a coordinating practitioner or consulting practitioner for a patient if —

(a) the medical practitioner —

- (i) holds specialist registration, has practised the medical profession for at least 1 year as the holder of specialist registration and meets the requirements approved by the CEO for the purposes of this subparagraph; or
- (ii) holds general registration, has practised the medical profession for at least 10 years as the holder of general registration and meets the requirements approved by the CEO for the purposes of this subparagraph; or

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Part 3 Requesting access to voluntary assisted dying and assessment of eligibility

Division 2 First request

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- (iii) is an overseas-trained specialist who holds limited registration or provisional registration and meets the requirements approved by the CEO for the purposes of this subparagraph;
- and
- (b) the medical practitioner is not a family member of the patient; and
- (c) the medical practitioner does not know or believe that the practitioner —
 - (i) is a beneficiary under a will of the patient; or
 - (ii) may otherwise benefit financially or in any other material way from the death of the patient, other than by receiving reasonable fees for the provision of services as the coordinating practitioner or consulting practitioner for the patient.
- (3) The CEO must publish the requirements approved for the purposes of subsection (2)(a)(i), (ii) and (iii) on the Department's website.

Division 2 — First request

18. Person may make first request to medical practitioner

- (1) A person may make a request to a medical practitioner for access to voluntary assisted dying.
- (2) The request must be —
 - (a) clear and unambiguous; and
 - (b) made during a medical consultation; and
 - (c) made in person or, if that is not practicable, in accordance with section 158(2)(a).
- (3) The person may make the request verbally or in another way (for example, by gestures).

19. No obligation to continue after making first request

- (1) A person who makes a first request may decide at any time not to continue the request and assessment process.
- (2) The request and assessment process ends if the person decides not to continue the process.
- (3) If the request and assessment process ends under subsection (2), the person may begin a new request and assessment process by making a new first request.

20. Medical practitioner to accept or refuse first request

- (1) If a first request is made to a medical practitioner, the practitioner must accept or refuse the request.
- (2) The reasons for which the medical practitioner can refuse the first request are as follows —
 - (a) the practitioner has a conscientious objection to voluntary assisted dying or is otherwise unwilling to perform the duties of a coordinating practitioner;
 - (b) the practitioner is unable to perform the duties of a coordinating practitioner because of unavailability or some other reason;
 - (c) the practitioner is required to refuse the request under subsection (3).
- (3) The medical practitioner must refuse the first request if the practitioner is not eligible to act as a coordinating practitioner.
- (4) Unless subsection (5) applies, the medical practitioner must, within 2 business days after the first request is made —
 - (a) inform the patient that the practitioner accepts or refuses the request; and
 - (b) give the patient the information approved by the CEO for the purposes of this section.

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Division 2 First request

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- (5) If the medical practitioner refuses the first request because the practitioner has a conscientious objection to voluntary assisted dying, the practitioner must, immediately after the first request is made —
- (a) inform the patient that the practitioner refuses the request; and
 - (b) give the patient the information referred to in subsection (4)(b).

21. Medical practitioner to record first request and acceptance or refusal

The medical practitioner must record the following in the patient's medical record —

- (a) the first request;
- (b) the practitioner's decision to accept or refuse the first request;
- (c) if the practitioner's decision is to refuse the first request, the reason for the refusal;
- (d) whether the practitioner has given the patient the information referred to in section 20(4)(b).

22. Medical practitioner to notify Board of first request

- (1) Within 2 business days after deciding to accept or refuse the first request, the medical practitioner must complete the approved form (the *first request form*) and give a copy of it to the Board.
- (2) The first request form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the medical practitioner;
 - (c) the date when the first request was made;

- (d) whether the first request was made in person or using audiovisual communication and whether it was made verbally or in another way (for example, by gestures);
- (e) the medical practitioner's decision to accept or refuse the first request;
- (f) if the medical practitioner's decision is to refuse the first request, the reason for the refusal;
- (g) the date when the medical practitioner informed the patient of the practitioner's decision and gave the patient the information referred to in section 20(4)(b);
- (h) the signature of the medical practitioner and the date when the form was signed.

23. Medical practitioner becomes coordinating practitioner if first request accepted

If the medical practitioner accepts the first request, the practitioner becomes the coordinating practitioner for the patient.

Division 3 — First assessment

24. First assessment

- (1) The coordinating practitioner for a patient must assess whether the patient is eligible for access to voluntary assisted dying.
- (2) For the purposes of subsection (1), the coordinating practitioner must make a decision in respect of each of the eligibility criteria.
- (3) Nothing in this section prevents the coordinating practitioner from having regard to relevant information about the patient that has been prepared by, or at the instigation of, another registered health practitioner.

25. Coordinating practitioner to have completed approved training

The coordinating practitioner must not begin the first assessment unless the practitioner has completed approved training.

26. Referral for determination

- (1) Subsection (2) applies if the coordinating practitioner is unable to determine whether —
 - (a) the patient has a disease, illness or medical condition that meets the requirements of section 16(1)(c); or
 - (b) the patient has decision-making capacity in relation to voluntary assisted dying as required by section 16(1)(d).
- (2) The coordinating practitioner must refer the patient to a registered health practitioner who has appropriate skills and training to make a determination in relation to the matter.
- (3) If the coordinating practitioner is unable to determine whether the patient is acting voluntarily and without coercion as required by section 16(1)(e), the coordinating practitioner must refer the patient to another person who has appropriate skills and training to make a determination in relation to the matter.
- (4) If the coordinating practitioner makes a referral under subsection (2) or (3), the coordinating practitioner may adopt the determination of the registered health practitioner or other person, as the case requires, in relation to the matter in respect of which the referral was made.
- (5) A registered health practitioner or other person to whom the patient is referred under subsection (2) or (3) must not be —
 - (a) a family member of the patient; or
 - (b) a person who knows or believes that they —
 - (i) are a beneficiary under a will of the patient; or

- (ii) may otherwise benefit financially or in any other material way from the death of the patient, other than by receiving reasonable fees for the provision of services in connection with the referral.

27. Information to be provided if patient assessed as meeting eligibility criteria

- (1) If the coordinating practitioner is satisfied that the patient meets all of the eligibility criteria, the coordinating practitioner must inform the patient about the following matters —
 - (a) the patient’s diagnosis and prognosis;
 - (b) the treatment options available to the patient and the likely outcomes of that treatment;
 - (c) the palliative care and treatment options available to the patient and the likely outcomes of that care and treatment;
 - (d) the potential risks of self-administering or being administered a voluntary assisted dying substance likely to be prescribed under this Act for the purposes of causing the patient’s death;
 - (e) that the expected outcome of self-administering or being administered a substance referred to in paragraph (d) is death;
 - (f) the method by which a substance referred to in paragraph (d) is likely to be self-administered or administered;
 - (g) the request and assessment process, including the requirement for a written declaration signed in the presence of 2 witnesses;
 - (h) that if the patient makes a self-administration decision, the patient must appoint a contact person;

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- (i) that the patient may decide at any time not to continue the request and assessment process or not to access voluntary assisted dying;
 - (j) that if the patient is receiving ongoing health services from a medical practitioner other than the coordinating practitioner, the patient is encouraged to inform the medical practitioner of the patient's request for access to voluntary assisted dying.
- (2) In addition to informing the patient about the matters referred to in subsection (1), the coordinating practitioner must take all reasonable steps to fully explain to the patient and, if the patient consents, another person nominated by the patient —
- (a) all relevant clinical guidelines; and
 - (b) a plan in respect of the administration of a voluntary assisted dying substance.
- (3) Nothing in this section affects any duty a medical practitioner has at common law or under any other enactment.

28. Outcome of first assessment

- (1) The coordinating practitioner must assess the patient as eligible for access to voluntary assisted dying if the coordinating practitioner is satisfied that —
- (a) the patient meets all of the eligibility criteria; and
 - (b) the patient understands the information required to be provided under section 27(1).
- (2) If the coordinating practitioner is not satisfied as to any matter in subsection (1) —
- (a) the coordinating practitioner must assess the patient as ineligible for access to voluntary assisted dying; and
 - (b) the request and assessment process ends.

29. Recording and notification of outcome of first assessment

- (1) The coordinating practitioner must inform the patient of the outcome of the first assessment as soon as practicable after its completion.
- (2) Within 2 business days after completing the first assessment, the coordinating practitioner must complete the approved form (the *first assessment report form*) and give a copy of it to the Board.
- (3) As soon as practicable after completing the first assessment report form, the coordinating practitioner must give a copy of it to the patient.
- (4) The first assessment report form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the following information in respect of the patient —
 - (i) gender;
 - (ii) nationality;
 - (iii) ethnicity;
 - (iv) whether the patient has a disability;
 - (v) whether the patient's first language is a language other than English;
 - (vi) whether the coordinating practitioner engaged an interpreter in accordance with section 162(2) to communicate the information in section 27 to the patient;
 - (c) the name and contact details of the coordinating practitioner;
 - (d) a statement confirming that the coordinating practitioner meets the requirements of section 17(2);
 - (e) the date when the first request was made;
 - (f) the date when the first assessment was completed;

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- (g) the outcome of the first assessment, including the coordinating practitioner's decision in respect of each of the eligibility criteria;
- (h) the date when the patient was informed of the outcome of the first assessment;
- (i) if the patient was referred under section 26(2) or (3), the outcome of the referral (including a copy of any report given by the registered health practitioner or other person to whom the patient was referred);
- (j) if the patient was assisted by an interpreter when having the first assessment, the name, contact details and accreditation details of the interpreter;
- (k) the palliative care and treatment options available to the patient and the likely outcomes of that care and treatment;
- (l) the signature of the coordinating practitioner and the date when the form was signed.

30. Referral for consulting assessment if patient assessed as eligible

If the coordinating practitioner assesses the patient as eligible for access to voluntary assisted dying, the practitioner must refer the patient to another medical practitioner for a consulting assessment.

Division 4 — Consulting assessment

31. Medical practitioner to accept or refuse referral for consulting assessment

- (1) If a patient is referred to a medical practitioner for a consulting assessment under section 30, 41 or 157(6)(a), the practitioner must accept or refuse the referral.

- (2) The reasons for which the medical practitioner can refuse the referral are as follows —
 - (a) the practitioner has a conscientious objection to voluntary assisted dying or is otherwise unwilling to perform the duties of a consulting practitioner;
 - (b) the practitioner is unable to perform the duties of a consulting practitioner because of unavailability or some other reason;
 - (c) the practitioner is required to refuse the referral under subsection (3).
- (3) The medical practitioner must refuse the referral if the practitioner is not eligible to act as a consulting practitioner.
- (4) Unless subsection (5) applies, the medical practitioner must, within 2 business days after receiving the referral, inform the patient and the coordinating practitioner for the patient that the practitioner accepts or refuses the referral.
- (5) If the medical practitioner refuses the referral because the practitioner has a conscientious objection to voluntary assisted dying, the practitioner must, immediately after receiving the referral, inform the patient and the coordinating practitioner for the patient that the practitioner refuses the referral.

32. Medical practitioner to record referral and acceptance or refusal

The medical practitioner must record the following in the patient's medical record —

- (a) the referral;
- (b) the practitioner's decision to accept or refuse the referral;
- (c) if the practitioner's decision is to refuse the referral, the reason for the refusal.

33. Medical practitioner to notify Board of referral

- (1) Within 2 business days after deciding to accept or refuse the referral, the medical practitioner must complete the approved form (the *consultation referral form*) and give a copy of it to the Board.
- (2) The consultation referral form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the medical practitioner;
 - (c) the date when the referral was received;
 - (d) the medical practitioner's decision to accept or refuse the referral;
 - (e) if the medical practitioner's decision is to refuse the referral, the reason for the refusal;
 - (f) the date when the medical practitioner informed the patient and the coordinating practitioner for the patient of the practitioner's decision;
 - (g) the signature of the medical practitioner and the date when the form was signed.

34. Medical practitioner becomes consulting practitioner if referral accepted

If the medical practitioner accepts the referral, the practitioner becomes the consulting practitioner for the patient.

35. Consulting assessment

- (1) The consulting practitioner for a patient must assess whether the patient is eligible for access to voluntary assisted dying.
- (2) For the purposes of subsection (1), the consulting practitioner must make a decision in respect of each of the eligibility criteria.

- (3) For the purposes of subsection (1), the consulting practitioner must independently of the coordinating practitioner form their own opinions on the matters to be decided.
- (4) Nothing in this section prevents the consulting practitioner from having regard to relevant information about the patient that has been prepared by, or at the instigation of, another registered health practitioner.

36. Consulting practitioner to have completed approved training

The consulting practitioner must not begin the consulting assessment unless the practitioner has completed approved training.

37. Referral for determination

- (1) Subsection (2) applies if the consulting practitioner is unable to determine whether —
 - (a) the patient has a disease, illness or medical condition that meets the requirements of section 16(1)(c); or
 - (b) the patient has decision-making capacity in relation to voluntary assisted dying as required by section 16(1)(d).
- (2) The consulting practitioner must refer the patient to a registered health practitioner who has appropriate skills and training to make a determination in relation to the matter.
- (3) If the consulting practitioner is unable to determine whether the patient is acting voluntarily and without coercion as required by section 16(1)(e), the consulting practitioner must refer the patient to another person who has appropriate skills and training to make a determination in relation to the matter.
- (4) If the consulting practitioner makes a referral under subsection (2) or (3), the consulting practitioner may adopt the determination of the registered health practitioner or other

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person, as the case requires, in relation to the matter in respect of which the referral was made.

- (5) A registered health practitioner or other person to whom the patient is referred under subsection (2) or (3) must not be —
- (a) a family member of the patient; or
 - (b) a person who knows or believes that they —
 - (i) are a beneficiary under a will of the patient; or
 - (ii) may otherwise benefit financially or in any other material way from the death of the patient, other than by receiving reasonable fees for the provision of services in connection with the referral.

38. Information to be provided if patient assessed as meeting eligibility criteria

- (1) If the consulting practitioner is satisfied that the patient meets all of the eligibility criteria, the consulting practitioner must inform the patient about the matters referred to in section 27(1).
- (2) Nothing in this section affects any duty a medical practitioner has at common law or under any other enactment.

39. Outcome of consulting assessment

- (1) The consulting practitioner must assess the patient as eligible for access to voluntary assisted dying if the consulting practitioner is satisfied that —
 - (a) the patient meets all of the eligibility criteria; and
 - (b) the patient understands the information required to be provided under section 38(1).
- (2) If the consulting practitioner is not satisfied as to any matter in subsection (1), the consulting practitioner must assess the patient as ineligible for access to voluntary assisted dying.

40. Recording and notification of outcome of consulting assessment

- (1) The consulting practitioner must inform the patient and the coordinating practitioner for the patient of the outcome of the consulting assessment as soon as practicable after its completion.
- (2) Within 2 business days after completing the consulting assessment, the consulting practitioner must complete the approved form (the *consulting assessment report form*) and give a copy of it to the Board.
- (3) As soon as practicable after completing the consulting assessment report form, the consulting practitioner must give a copy of it to the patient.
- (4) The consulting assessment report form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the consulting practitioner;
 - (c) a statement confirming that the consulting practitioner meets the requirements of section 17(2);
 - (d) the date when the first request was made;
 - (e) the date when the referral for the consulting assessment was made;
 - (f) the date when the referral for the consulting assessment was received;
 - (g) the date when the consulting assessment was completed;
 - (h) the outcome of the consulting assessment, including the consulting practitioner's decision in respect of each of the eligibility criteria;
 - (i) the date when the patient was informed of the outcome of the consulting assessment;

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- (j) the date when the coordinating practitioner for the patient was informed of the outcome of the consulting assessment;
 - (k) if the patient was referred under section 37(2) or (3), the outcome of the referral (including a copy of any report given by the registered health practitioner or other person to whom the patient was referred);
 - (l) if the patient was assisted by an interpreter when having the consulting assessment, the name, contact details and accreditation details of the interpreter;
 - (m) the palliative care and treatment options available to the patient and the likely outcomes of that care and treatment;
 - (n) the signature of the consulting practitioner and the date when the form was signed.
- (5) The consulting practitioner must give a copy of the consulting assessment report form to the coordinating practitioner for the patient as soon as practicable after completing the consulting assessment.

41. Referral for further consulting assessment if patient assessed as ineligible

If the consulting practitioner assesses the patient as ineligible for access to voluntary assisted dying, the coordinating practitioner for the patient may refer the patient to another medical practitioner for a further consulting assessment.

Division 5 — Written declaration

42. Patient assessed as eligible may make written declaration

- (1) A patient may make a written declaration requesting access to voluntary assisted dying if the patient has been assessed as eligible for access to voluntary assisted dying by —
- (a) the coordinating practitioner for the patient; and

- (b) the consulting practitioner for the patient.
- (2) The written declaration must be in the approved form and given to the coordinating practitioner for the patient.
- (3) The written declaration must —
 - (a) specify that the patient —
 - (i) makes it voluntarily and without coercion; and
 - (ii) understands its nature and effect;and
 - (b) be signed by the patient, or a person referred to in subsection (4), in the presence of 2 witnesses; and
 - (c) include the following —
 - (i) the name, date of birth and contact details of the patient;
 - (ii) if the patient was assisted by an interpreter, the name, contact details and accreditation details of the interpreter;
 - (iii) the name and contact details of the coordinating practitioner for the patient.
- (4) A person may sign the written declaration on behalf of the patient if —
 - (a) the patient is unable to sign the declaration; and
 - (b) the patient directs the person to sign the declaration; and
 - (c) the person —
 - (i) has reached 18 years of age; and
 - (ii) is not a witness to the signing of the declaration; and
 - (iii) is not the coordinating practitioner or consulting practitioner for the patient making the declaration.

- (5) A person who signs the written declaration on behalf of the patient must do so in the patient's presence.
- (6) If the patient makes the written declaration with the assistance of an interpreter, the interpreter must certify on the declaration that the interpreter provided a true and correct translation of any material translated.

43. Witness to signing of written declaration

- (1) For the purposes of section 42(3)(b), a person is eligible to witness the signing of a written declaration if the person —
 - (a) has reached 18 years of age; and
 - (b) is not an ineligible witness.
- (2) For the purposes of subsection (1)(b), a person is an ineligible witness if the person —
 - (a) knows or believes that the person —
 - (i) is a beneficiary under a will of the patient making the declaration; or
 - (ii) may otherwise benefit financially or in any other material way from the death of the patient making the declaration;
 - or
 - (b) is a family member of the patient making the declaration; or
 - (c) is the coordinating practitioner or consulting practitioner for the patient making the declaration.

44. Certification of witness to signing of written declaration

- (1) In this section —
ineligible witness means a person who is an ineligible witness under section 43(2).

- (2) A witness who witnesses the signing of a written declaration by the patient making the declaration must —
- (a) certify in writing in the declaration that, in the presence of the witness, the patient appeared to freely and voluntarily sign the declaration; and
 - (b) state that the witness is not knowingly an ineligible witness.
- (3) A witness who witnesses the signing of a written declaration by another person on behalf of the patient making the declaration must —
- (a) certify in writing in the declaration that —
 - (i) in the presence of the witness, the patient appeared to freely and voluntarily direct the other person to sign the declaration; and
 - (ii) the other person signed the declaration in the presence of the patient and the witness;
 - and
 - (b) state that the witness is not knowingly an ineligible witness.

45. Coordinating practitioner to record written declaration

If a patient gives a written declaration to the coordinating practitioner for the patient, the coordinating practitioner must record the following in the patient's medical record —

- (a) the date when the written declaration was made;
- (b) the date when the written declaration was received by the coordinating practitioner.

46. Coordinating practitioner to notify Board of written declaration

Within 2 business days after receiving a written declaration made by a patient, the coordinating practitioner for the patient must give a copy of it to the Board.

Division 6 — Final request and final review

47. Patient may make final request to coordinating practitioner

- (1) A patient who has made a written declaration may make a final request to the coordinating practitioner for the patient for access to voluntary assisted dying.
- (2) The final request must be —
 - (a) clear and unambiguous; and
 - (b) made in person or, if that is not practicable, in accordance with section 158(2)(a).
- (3) The patient may make the final request verbally or in another way (for example, by gestures).

48. When final request can be made

- (1) In this section —
designated period means the period of 9 days beginning on the day on which the patient made the first request.
- (2) The final request cannot be made —
 - (a) before the end of the designated period, except as provided in subsection (3); and
 - (b) in any case, until after the day on which the consulting assessment that assessed the patient as eligible for access to voluntary assisted dying was completed.
- (3) The final request can be made before the end of the designated period if —
 - (a) in the opinion of the coordinating practitioner for the patient, the patient is likely to die, or to lose decision-making capacity in relation to voluntary assisted dying, before the end of the designated period; and

- (b) the opinion of the coordinating practitioner is consistent with the opinion of the consulting practitioner for the patient.

49. Coordinating practitioner to record final request

The coordinating practitioner for the patient must record the following in the patient's medical record —

- (a) the date when the final request was made;
- (b) if the final request was made before the end of the designated period as defined in section 48(1), the reason for it being made before the end of that period.

50. Coordinating practitioner to notify Board of final request

- (1) Within 2 business days after receiving a final request made by a patient, the coordinating practitioner for the patient must complete the approved form (the *final request form*) and give a copy of it to the Board.
- (2) The final request form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the coordinating practitioner;
 - (c) the date when the first request was made;
 - (d) the date when the final request was made;
 - (e) whether the final request was made in person or using audiovisual communication and whether it was made verbally or in another way;
 - (f) if the patient was assisted by an interpreter when making the final request, the name, contact details and accreditation details of the interpreter;
 - (g) if the final request was made before the end of the designated period as defined in section 48(1), the reason for it being made before the end of that period;

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- (h) the signature of the coordinating practitioner and the date when the form was signed.

51. Final review by coordinating practitioner on receiving final request

- (1) On receiving a final request made by a patient, the coordinating practitioner for the patient must —
 - (a) review the following in respect of the patient —
 - (i) the first assessment report form;
 - (ii) all consulting assessment report forms;
 - (iii) the written declaration;and
 - (b) complete the approved form (the *final review form*) in respect of the patient.
- (2) When conducting the final review, the coordinating practitioner must have regard to any decision made by the Tribunal under Part 5 in respect of a decision made in the request and assessment process.
- (3) The final review form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the coordinating practitioner;
 - (c) a statement that the coordinating practitioner has reviewed the forms referred to in subsection (1)(a);
 - (d) a statement certifying whether or not the request and assessment process has been completed in accordance with this Act;
 - (e) if the patient was assisted by an interpreter, the name, contact details and accreditation details of the interpreter;

- (f) a statement certifying whether or not the coordinating practitioner is satisfied of each of the following —
 - (i) that the patient has decision-making capacity in relation to voluntary assisted dying;
 - (ii) that the patient in requesting access to voluntary assisted dying is acting voluntarily and without coercion;
 - (iii) that the patient’s request to access voluntary assisted dying is enduring;
 - (g) the signature of the coordinating practitioner and the date when the form was signed.
- (4) Within 2 business days after completing the final review form, the coordinating practitioner must give a copy of it to the Board.

52. Technical error not to invalidate request and assessment process

The validity of the request and assessment process is not affected by any minor or technical error in a final review form or a form referred to in section 51(1)(a).

53. No obligation for patient to continue after completion of request and assessment process

A patient in respect of whom the request and assessment process has been completed may decide at any time not to take any further step in relation to access to voluntary assisted dying.

Part 4 — Accessing voluntary assisted dying and death

Division 1 — Eligibility requirements for administering practitioners

54. Eligibility to act as administering practitioner

- (1) A person is eligible to act as an administering practitioner for a patient if —
 - (a) the person is —
 - (i) a medical practitioner who is eligible to act as a coordinating practitioner for the patient under section 17(2); or
 - (ii) a nurse practitioner who has practised the nursing profession for at least 2 years as a nurse practitioner and meets the requirements approved by the CEO for the purposes of this subparagraph;
 - and
 - (b) the person has completed approved training; and
 - (c) the person is not a family member of the patient; and
 - (d) the person does not know or believe that they —
 - (i) are a beneficiary under a will of the patient; or
 - (ii) may otherwise benefit financially or in any other material way from the death of the patient, other than by receiving reasonable fees for the provision of services as the administering practitioner for the patient.
- (2) The CEO must publish the requirements approved for the purposes of subsection (1)(a)(ii) on the Department's website.

Division 2 — Administration of voluntary assisted dying substance

55. Application of Division

This Division applies if —

- (a) the request and assessment process has been completed in respect of a patient; and
- (b) the final review form in respect of the patient certifies that the coordinating practitioner for the patient is satisfied of each of the following —
 - (i) that the patient has decision-making capacity in relation to voluntary assisted dying;
 - (ii) that the patient in requesting access to voluntary assisted dying is acting voluntarily and without coercion;
 - (iii) that the patient's request to access voluntary assisted dying is enduring.

56. Administration decision

- (1) The patient may, in consultation with and on the advice of the coordinating practitioner for the patient —
 - (a) decide to self-administer a voluntary assisted dying substance (a *self-administration decision*); or
 - (b) decide that a voluntary assisted dying substance is to be administered to the patient by the administering practitioner for the patient (a *practitioner administration decision*).
- (2) A practitioner administration decision can only be made if the coordinating practitioner for the patient advises the patient that self-administration of a voluntary assisted dying substance is inappropriate having regard to 1 or more of the following —
 - (a) the ability of the patient to self-administer the substance;

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- (b) the patient's concerns about self-administering the substance;
 - (c) the method for administering the substance that is suitable for the patient.
- (3) An administration decision must be —
 - (a) clear and unambiguous; and
 - (b) made in person before the coordinating practitioner for the patient or, if that is not practicable, in accordance with section 158(2)(a).
- (4) The patient may make an administration decision verbally or in another way (for example, by gestures).
- (5) If the patient makes an administration decision, the coordinating practitioner for the patient must record the decision in the patient's medical record.

57. Revocation of administration decision

- (1) The patient may at any time —
 - (a) revoke a self-administration decision by informing the coordinating practitioner for the patient that the patient has decided not to self-administer a voluntary assisted dying substance; or
 - (b) revoke a practitioner administration decision by informing the administering practitioner for the patient that the patient has decided not to proceed with the administration of a voluntary assisted dying substance.
- (2) For the purposes of subsection (1), the patient may inform the coordinating practitioner or administering practitioner of the patient's decision in writing, verbally or in another way (for example, by gestures).

- (3) If the patient revokes an administration decision under subsection (1), the coordinating practitioner or administering practitioner who is informed of the patient's decision must —
- (a) record the revocation in the patient's medical record; and
 - (b) if the practitioner is not the coordinating practitioner for the patient, inform the coordinating practitioner of the revocation; and
 - (c) within 2 business days after the revocation, complete the approved form (the *revocation form*) and give a copy of it to the Board.
- (4) The revocation form must include the following —
- (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the person completing the form;
 - (c) if the person completing the form is not the coordinating practitioner for the patient, the name and contact details of the coordinating practitioner;
 - (d) the date when the administration decision was made;
 - (e) the date when the administration decision was revoked;
 - (f) if the patient was assisted by an interpreter when revoking the administration decision, the name, contact details and accreditation details of the interpreter;
 - (g) the signature of the person completing the form and the date when the form was signed.
- (5) The revocation of an administration decision does not prevent the patient from making another administration decision under section 56(1).

58. Self-administration

- (1) This section applies if the patient has made a self-administration decision and has not revoked it.

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- (2) The coordinating practitioner for the patient is authorised to prescribe a voluntary assisted dying substance for the patient that is of a sufficient dose to cause death.
- (3) Subsection (2) is subject to section 66(6).
- (4) The authorised supplier who is given the prescription for the patient is authorised to —
 - (a) possess the prescribed substance for the purpose of preparing it and supplying it to a person referred to in paragraph (c); and
 - (b) prepare the prescribed substance; and
 - (c) supply the prescribed substance to the patient, the contact person for the patient or an agent of the patient.
- (5) The patient is authorised to —
 - (a) receive the prescribed substance from an authorised supplier, the contact person for the patient or an agent of the patient; and
 - (b) possess the prescribed substance for the purpose of preparing and self-administering it; and
 - (c) prepare the prescribed substance; and
 - (d) self-administer the prescribed substance.
- (6) The contact person for the patient is authorised as set out in section 67(1).
- (7) An agent of the patient is authorised to —
 - (a) receive the prescribed substance from an authorised supplier; and
 - (b) possess the prescribed substance for the purpose of supplying it to the patient; and
 - (c) supply the prescribed substance to the patient.

59. Practitioner administration

- (1) This section applies if the patient has made a practitioner administration decision and has not revoked it.
- (2) The coordinating practitioner for the patient is authorised to prescribe a voluntary assisted dying substance for the patient that is of a sufficient dose to cause death.
- (3) The authorised supplier who is given the prescription for the patient is authorised to —
 - (a) possess the prescribed substance for the purpose of preparing it and supplying it to the administering practitioner for the patient; and
 - (b) prepare the prescribed substance; and
 - (c) supply the prescribed substance to the administering practitioner for the patient.
- (4) The administering practitioner for the patient is authorised to —
 - (a) receive the prescribed substance from an authorised supplier; and
 - (b) possess the prescribed substance for the purpose of preparing it and administering it to the patient; and
 - (c) prepare the prescribed substance.
- (5) The administering practitioner for the patient is authorised, in the presence of a witness, to administer the prescribed substance to the patient if the administering practitioner is satisfied at the time of administration that —
 - (a) the patient has decision-making capacity in relation to voluntary assisted dying; and
 - (b) the patient is acting voluntarily and without coercion; and
 - (c) the patient's request for access to voluntary assisted dying is enduring.

60. Coordinating practitioner to notify Board of administration decision and prescription of substance

- (1) Within 2 business days after prescribing a voluntary assisted dying substance for the patient, the coordinating practitioner for the patient must —
 - (a) complete the approved form (the *administration decision and prescription form*); and
 - (b) give the Board —
 - (i) a copy of the administration decision and prescription form; and
 - (ii) if the patient has made a self-administration decision, a copy of the contact person appointment form given to the coordinating practitioner under section 66(3).
- (2) The administration decision and prescription form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the coordinating practitioner;
 - (c) the administration decision made by the patient;
 - (d) the date when the administration decision was made;
 - (e) a statement confirming that the coordinating practitioner has complied with section 69(2) or (3), as the case requires;
 - (f) the date when the prescription for the voluntary assisted dying substance was issued;
 - (g) if the patient was assisted by an interpreter when making the administration decision, the name, contact details and accreditation details of the interpreter;
 - (h) the signature of the coordinating practitioner and the date when the form was signed.

61. Certification by administering practitioner following administration of prescribed substance

- (1) This section applies if the administering practitioner for the patient administers the prescribed substance to the patient.
- (2) The administering practitioner must certify in writing that —
 - (a) the patient made a practitioner administration decision and did not revoke the decision; and
 - (b) the administering practitioner was satisfied at the time of administering the prescribed substance to the patient —
 - (i) that the patient had decision-making capacity in relation to voluntary assisted dying; and
 - (ii) that the patient was acting voluntarily and without coercion; and
 - (iii) that the patient’s request for access to voluntary assisted dying was enduring.
- (3) The certificate must be in the approved form (the *practitioner administration form*) and must include the following —
 - (a) the name and date of birth of the patient;
 - (b) the name and contact details of the administering practitioner;
 - (c) the name, date of birth and contact details of the witness to the administration of the prescribed substance (the *witness*);
 - (d) the date, time and location where the prescribed substance was administered;
 - (e) the date and time of the patient’s death;
 - (f) the period of time that lapsed between the administration of the prescribed substance and the patient’s death;
 - (g) details of any complications relating to the administration of the prescribed substance;

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- (h) the certificate of the witness required under section 62(3);
 - (i) the signature of the administering practitioner and the date when the form was signed;
 - (j) the signature of the witness and the date when the form was signed.
- (4) Within 2 business days after administering the prescribed substance, the administering practitioner must give a copy of the practitioner administration form to the Board.

62. Witness to administration of prescribed substance

- (1) For the purposes of section 59(5), a person is eligible to witness the administration of a prescribed substance to a patient if the person —
- (a) has reached 18 years of age; and
 - (b) is not an ineligible witness.
- (2) For the purposes of subsection (1)(b), a person is an ineligible witness if the person —
- (a) is a family member of the administering practitioner for the patient; or
 - (b) is employed, or engaged under a contract for services, by the administering practitioner for the patient.
- (3) The witness to the administration of a prescribed substance to a patient must certify in the practitioner administration form for the patient that —
- (a) the patient's request for access to voluntary assisted dying appeared to be free, voluntary and enduring; and
 - (b) the administering practitioner for the patient administered the prescribed substance to the patient in the presence of the witness.

63. Transfer of administering practitioner's role

- (1) This section applies if —
 - (a) a patient has made a practitioner administration decision; and
 - (b) the coordinating practitioner for the patient has prescribed a voluntary assisted dying substance for the patient; and
 - (c) the administering practitioner for the patient (the ***original practitioner***) is unable or unwilling for any reason to administer the prescribed substance to the patient, whether the original practitioner is the coordinating practitioner for the patient or a person to whom the role of administering practitioner has been transferred under subsection (2).
- (2) The original practitioner must transfer the role of administering practitioner to another person who is eligible to act as an administering practitioner for the patient and accepts the transfer of the role.
- (3) If a person (the ***new practitioner***) accepts the transfer of the role, the original practitioner must —
 - (a) inform the patient of the transfer and of the name and contact details of the new practitioner; and
 - (b) record the transfer in the patient's medical record; and
 - (c) within 2 business days after the acceptance of the transfer, complete the approved form (the ***administering practitioner transfer form***) and give a copy of it to the Board.
- (4) The administering practitioner transfer form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the original practitioner;
 - (c) the name and contact details of the new practitioner;

- (d) the date when the new practitioner accepted the transfer;
 - (e) the date when the patient was informed of the transfer;
 - (f) the signature of the original practitioner and the date when the form was signed.
- (5) If the original practitioner has possession of the prescribed substance when the role is transferred —
- (a) the original practitioner is authorised to supply the prescribed substance to the new practitioner; and
 - (b) the new practitioner is authorised to receive the prescribed substance from the original practitioner.
- (6) The coordinating practitioner for the patient remains the coordinating practitioner despite any transfer of the role of administering practitioner under subsection (2), but subject to section 157.

Division 3 — Contact person

64. Application of Division

This Division applies if a patient has made a self-administration decision.

65. Patient to appoint contact person

- (1) The patient must appoint a person as the contact person for the patient.
- (2) A person is eligible for appointment if the person has reached 18 years of age.
- (3) Without limiting who can be appointed as the contact person, the patient may appoint their coordinating practitioner, their consulting practitioner or another registered health practitioner.
- (4) A person cannot be appointed as the contact person unless the person consents to the appointment.

- (5) The patient may revoke the appointment of the contact person.
- (6) If the patient revokes the appointment of the contact person —
 - (a) the patient must inform the person of the revocation; and
 - (b) the person ceases to be the contact person for the patient on being informed under paragraph (a); and
 - (c) the patient must make another appointment under subsection (1).

66. Contact person appointment form

- (1) An appointment under section 65(1) must be made in the approved form (the *contact person appointment form*) and include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the coordinating practitioner for the patient;
 - (c) the name, date of birth and contact details of the contact person;
 - (d) a statement that the contact person consents to the appointment;
 - (e) a statement that the contact person understands their role under this Act (including the requirements under section 105 to give the prescribed substance, or any unused or remaining prescribed substance, to an authorised disposer and the penalties for offences under that section);
 - (f) if the patient was assisted by an interpreter when making the appointment, the name, contact details and accreditation details of the interpreter;
 - (g) the signature of the contact person and the date when the form was signed;

- (h) the signature of the patient, or other person who completes the form on behalf of the patient, and the date when the form was signed.
- (2) If the patient is unable to complete the contact person appointment form, another person can complete the form on behalf of the patient if —
 - (a) the patient directs the person to complete the contact person appointment form; and
 - (b) the person has reached 18 years of age.
- (3) The patient or the contact person for the patient must give the contact person appointment form to the coordinating practitioner for the patient.
- (4) Within 2 business days after receiving the contact person appointment form, the coordinating practitioner for the patient must give a copy of it to the Board.
- (5) Subsection (4) does not apply if a copy of the form is given to the Board under section 60(1)(b)(ii).
- (6) The coordinating practitioner for the patient cannot prescribe a voluntary assisted dying substance for the patient before the contact person appointment form is given to the coordinating practitioner.

67. Role of contact person

- (1) The contact person for the patient is authorised to —
 - (a) receive the prescribed substance from an authorised supplier; and
 - (b) possess the prescribed substance for the purpose of paragraph (c) or (d); and
 - (c) supply the prescribed substance to the patient; and
 - (d) give the prescribed substance, or any unused or remaining prescribed substance, to an authorised disposer as required by section 105.

- (2) The contact person for the patient must inform the coordinating practitioner for the patient if the patient dies (whether as a result of self-administering the prescribed substance or from some other cause).

68. Contact person may refuse to continue in role

- (1) The contact person for a patient may refuse to continue to perform the role of contact person.
- (2) If the contact person for a patient refuses to continue to perform the role —
- (a) the person must inform the patient of the refusal; and
 - (b) the person ceases to be the contact person for the patient on informing the patient under paragraph (a); and
 - (c) the patient must make another appointment under section 65(1).

Division 4 — Prescribing, supplying and disposing of voluntary assisted dying substance

69. Information to be given before prescribing substance

- (1) In this section —
- Schedule 4 poison* and *Schedule 8 poison* have the meanings given in the *Medicines and Poisons Act 2014* section 3.
- (2) The coordinating practitioner for a patient who has made a self-administration decision must, before prescribing a voluntary assisted dying substance for the patient, inform the patient, in writing, of the following —
- (a) the Schedule 4 poison or Schedule 8 poison, or combination of those poisons, constituting the substance;
 - (b) that the patient is not under any obligation to obtain the substance;

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- (c) that the patient is not under any obligation to self-administer the substance;
 - (d) that the substance must be stored in accordance with the information provided by the authorised supplier who supplies the substance;
 - (e) how to prepare and self-administer the substance;
 - (f) the method by which the substance will be self-administered;
 - (g) the expected effects of self-administration of the substance;
 - (h) the period within which the patient is likely to die after self-administration of the substance;
 - (i) the potential risks of self-administration of the substance;
 - (j) that, if the patient decides not to self-administer the substance, their contact person must give the substance to an authorised disposer for disposal;
 - (k) that, if the patient dies, their contact person must give any unused or remaining substance to an authorised disposer for disposal.
- (3) The coordinating practitioner for a patient who has made a practitioner administration decision must, before prescribing a voluntary assisted dying substance for the patient, inform the patient, in writing, of the following —
- (a) the Schedule 4 poison or Schedule 8 poison, or combination of those poisons, constituting the substance;
 - (b) that the patient is not under any obligation to have the substance administered;
 - (c) the method by which the substance will be administered;
 - (d) the expected effects of administration of the substance;

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- (5) The prescription cannot provide for the prescribed substance to be supplied on more than 1 occasion.
- (6) The coordinating practitioner must give the prescription directly to an authorised supplier.

71. Authorised supplier to authenticate prescription

An authorised supplier who is given a prescription for a voluntary assisted dying substance must not supply the substance in accordance with the prescription unless the authorised supplier has confirmed —

- (a) the authenticity of the prescription; and
- (b) the identity of the person who issued the prescription; and
- (c) the identity of the person to whom the substance is to be supplied.

72. Information to be given when supplying prescribed substance

- (1) Subsection (2) applies if an authorised supplier supplies a prescribed substance to a patient, the contact person for a patient or an agent of a patient (the *recipient*).
- (2) The authorised supplier must, when supplying the prescribed substance, inform the recipient, in writing, of the following —
 - (a) that the patient is not under any obligation to self-administer the substance;
 - (b) how to store the substance in a safe and secure way;
 - (c) how to prepare and self-administer the substance;
 - (d) that, if the patient decides not to self-administer the substance, their contact person must give the substance to an authorised disposer for disposal;

- (e) that, if the patient dies, their contact person must give any unused or remaining substance to an authorised disposer for disposal.
- (3) If the recipient is not the patient, the authorised supplier must, when supplying the prescribed substance, advise the recipient to give the information provided under subsection (2) to the patient.

73. Labelling requirements for prescribed substance

- (1) In addition to any labelling requirements under the *Medicines and Poisons Act 2014*, an authorised supplier who supplies a prescribed substance must attach a statement in writing to the relevant package or container that —
 - (a) warns of the purpose of the dose of the substance; and
 - (b) states the dangers of administration of the substance; and
 - (c) states that, if the substance is supplied for self-administration —
 - (i) the substance must be stored in accordance with the advice given by the authorised supplier; and
 - (ii) any unused or remaining substance must be given to an authorised disposer by the contact person for the patient to whom it is supplied.
- (2) The statement must be in the approved form.

74. Authorised supplier to record and notify of supply

- (1) An authorised supplier who supplies a prescribed substance must immediately complete the approved form (the *authorised supply form*).
- (2) The authorised supply form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the authorised supplier;

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- (c) a statement certifying that the prescribed substance was supplied;
 - (d) the name and contact details of the person to whom the prescribed substance was supplied;
 - (e) the date when the prescribed substance was supplied;
 - (f) a statement certifying that the requirements under sections 72 and 73 were complied with;
 - (g) the signature of the authorised supplier and the date when the form was signed.
- (3) Within 2 business days after supplying the prescribed substance, the authorised supplier must give a copy of the completed authorised supply form to the Board.

75. Disposal of prescribed substance by authorised disposer

- (1) This section applies if a prescribed substance, or any unused or remaining prescribed substance, is given to an authorised disposer by the contact person for a patient.
- (2) The authorised disposer is authorised to —
 - (a) possess the prescribed substance for the purpose of disposing of it; and
 - (b) dispose of the prescribed substance.
- (3) The authorised disposer must dispose of the prescribed substance as soon as practicable after receiving it.
- (4) In disposing of the prescribed substance, the authorised disposer must comply with any requirements of the *Medicines and Poisons Act 2014* that apply to the disposal.

76. Authorised disposer to record and notify of disposal

- (1) An authorised disposer who disposes of a prescribed substance must immediately complete the approved form (the *authorised disposal form*).

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- (4) Subsections (5) and (6) apply if —
- (a) a patient who has made a practitioner administration decision dies (whether or not after being administered the prescribed substance); and
 - (b) the administering practitioner for the patient has possession of any prescribed substance that is unused or remaining after the patient's death (the *unused or remaining substance*).
- (5) The administering practitioner is authorised to —
- (a) possess the unused or remaining substance for the purpose of disposing of it; and
 - (b) dispose of the unused or remaining substance.
- (6) The unused or remaining substance must be disposed of by the administering practitioner as soon as practicable after the patient's death.
- (7) In disposing of the prescribed substance or the unused or remaining substance, as the case requires, the administering practitioner must comply with any requirements of the *Medicines and Poisons Act 2014* that apply to the disposal.

78. Administering practitioner to record and notify of disposal

- (1) An administering practitioner for a patient who disposes of a prescribed substance must immediately complete the approved form (the *practitioner disposal form*).
- (2) The practitioner disposal form must include the following —
- (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the administering practitioner;
 - (c) the date when the prescribed substance was supplied to the administering practitioner;
 - (d) the date when the patient revoked the practitioner administration decision or died;

- (e) the date when the prescribed substance was disposed of by the administering practitioner;
 - (f) the signature of the administering practitioner and the date when the form was signed.
- (3) Within 2 business days after disposing of the prescribed substance, the administering practitioner must give a copy of the completed practitioner disposal form to the Board.

Division 5 — Other matters

79. Authorised suppliers and authorised disposers

- (1) The CEO may, in writing, authorise a registered health practitioner, or persons in a class of registered health practitioners, to supply prescribed substances for the purposes of this Part.
- (2) A person who is authorised under subsection (1) is an *authorised supplier*.
- (3) The CEO may, in writing, authorise a registered health practitioner, or persons in a class of registered health practitioners, to dispose of prescribed substances for the purposes of this Part.
- (4) A person who is authorised under subsection (3) is an *authorised disposer*.
- (5) The CEO may, in writing, revoke an authorisation given under subsection (1) or (3).
- (6) The CEO must publish an up-to-date list of authorised suppliers and authorised disposers on the Department's website.

80. Certain directions as to supply or administration prohibited

- (1) In this section —
authorised health professional has the meaning given in the *Medicines and Poisons Act 2014* section 3.

- (2) The coordinating practitioner for a patient cannot direct an authorised health professional to supply a prescribed substance to the patient, the contact person for the patient or an agent of the patient, unless —
 - (a) the authorised health professional is an authorised supplier; and
 - (b) the direction is in the form of a prescription for the prescribed substance given directly to the authorised supplier.
- (3) The coordinating practitioner or administering practitioner for a patient cannot direct an authorised health professional to administer a prescribed substance to the patient.

81. Structured administration and supply arrangement not to be issued for substance

- (1) In this section —

structured administration and supply arrangement means a document that sets out the circumstances in which a health professional (as defined in the *Medicines and Poisons Act 2014* section 3) specified, or of a class specified, in the document may administer or supply a medicine specified in the document.
- (2) A person cannot issue a structured administration and supply arrangement in relation to the administration or supply of a medicine for the purpose of voluntary assisted dying.

82. Notification of death

- (1) In this section —

cause of death certificate means a certificate of the cause of a person's death under the *Births, Deaths and Marriages Registration Act 1998* section 44(1).
- (2) The coordinating practitioner or administering practitioner for a patient must, within 2 business days after becoming aware that

the patient has died (whether or not after self-administering, or being administered, a voluntary assisted dying substance in accordance with this Act), notify the Board, in the approved form, of the patient's death.

- (3) Subsection (2) does not apply if the administering practitioner for a patient gives the Board a copy of a practitioner administration form in respect of the patient under section 61(4).
- (4) Subsections (5) and (6) apply if a medical practitioner who is required to give a cause of death certificate for a person knows or reasonably believes that the person was a patient who self-administered, or was administered, a voluntary assisted dying substance in accordance with this Act.
- (5) The medical practitioner must, within 2 business days after becoming aware that the person has died, notify the Board, in the approved form, of the person's death, unless the medical practitioner is the coordinating practitioner or administering practitioner for the person.
- (6) The medical practitioner must not include any reference to voluntary assisted dying in the cause of death certificate for the person.

Part 5 — Review by Tribunal

83. Terms used

eligible applicant means —

- (a) a patient who is the subject of a decision referred to in section 84(1); or
- (b) an agent of a patient referred to in paragraph (a); or
- (c) any other person who the Tribunal is satisfied has a special interest in the medical care and treatment of a patient referred to in paragraph (a);

party to the proceeding, in relation to a review application, means a party to the proceeding before the Tribunal relating to the application;

review application, in relation to a patient, means an application under section 84(1) for a review of a decision made in relation to the patient;

reviewed decision, in relation to a review application, means the decision the subject of the application.

84. Application for review of certain decisions by Tribunal

- (1) An eligible applicant may apply to the Tribunal for a review of any of the following decisions —
 - (a) a decision of the coordinating practitioner for a patient in a first assessment that the patient —
 - (i) at the time of making the first request, has or has not been ordinarily resident in Western Australia for a period of at least 12 months; or
 - (ii) has or does not have decision-making capacity in relation to voluntary assisted dying; or
 - (iii) is or is not acting voluntarily and without coercion;

- (b) a decision of the consulting practitioner for a patient in a consulting assessment that the patient —
 - (i) at the time of making the first request, has or has not been ordinarily resident in Western Australia for a period of at least 12 months; or
 - (ii) has or does not have decision-making capacity in relation to voluntary assisted dying; or
 - (iii) is or is not acting voluntarily and without coercion;
 - (c) a decision of the coordinating practitioner for a patient to make a statement in a final review form certifying that the coordinating practitioner is satisfied that the patient —
 - (i) has or does not have decision-making capacity in relation to voluntary assisted dying; or
 - (ii) in requesting access to voluntary assisted dying is or is not acting voluntarily and without coercion.
- (2) If a review application is made in relation to a patient, the patient is a party to the proceeding whether or not the patient is the applicant for the review.

85. Notice of decision and right to have it reviewed

Despite the *State Administrative Tribunal Act 2004* section 20(1), the only person who has to be given notice under that section in relation to a decision referred to in section 84(1) is the patient who is the subject of the decision.

86. Consequences of review application

- (1) This section applies if a review application is made in relation to a patient.

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- (2) If the request and assessment process in respect of the patient has not been completed, the request and assessment process is suspended and no further step in the process is to be taken until the review application is determined or otherwise disposed of.
- (3) If the request and assessment process in respect of the patient has been completed, the process for accessing voluntary assisted dying under Part 4 is suspended and no step under that Part (including the prescription, supply or administration of a voluntary assisted dying substance) is to be taken in relation to the patient until the review application is determined or otherwise disposed of.

87. Review application taken to be withdrawn if patient dies

A review application made in relation to a patient is taken to be withdrawn if the patient dies.

88. Decision of Tribunal

In determining a review application made in relation to a patient the Tribunal may decide that —

- (a) at the time of making the first request, the patient had been ordinarily resident in Western Australia for a period of at least 12 months; or
- (b) at the time of making the first request, the patient had not been ordinarily resident in Western Australia for a period of at least 12 months; or
- (c) the patient has decision-making capacity in relation to voluntary assisted dying; or
- (d) the patient does not have decision-making capacity in relation to voluntary assisted dying; or
- (e) the patient is acting voluntarily and without coercion; or
- (f) the patient is not acting voluntarily and without coercion.

89. Effect of decision under s. 88(a), (c) or (e)

- (1) If the Tribunal makes a decision referred to in section 88(a), (c) or (e) on a review application made in relation to a patient —
 - (a) section 86 ceases to apply; and
 - (b) if the request and assessment process in respect of the patient had not been completed when the review application was made — the request and assessment process can be resumed; and
 - (c) if the request and assessment process in respect of the patient had been completed when the review application was made — the process under Part 4 can be resumed, and any step that is authorised under that Part can be taken, in relation to the patient; and
 - (d) if the Tribunal sets aside the reviewed decision — subsection (2), (3) or (4) applies, as the case requires.
- (2) If the reviewed decision set aside by the Tribunal is a decision of a coordinating practitioner in a first assessment —
 - (a) the Tribunal's decision is substituted for the reviewed decision; and
 - (b) if the outcome of the first assessment would, but for the reviewed decision, have been that the patient was assessed as eligible for access to voluntary assisted dying — the coordinating practitioner is taken to have made a first assessment assessing the patient as eligible for access to voluntary assisted dying.
- (3) If the reviewed decision set aside by the Tribunal is a decision of a consulting practitioner in a consulting assessment —
 - (a) the Tribunal's decision is substituted for the reviewed decision; and
 - (b) if the outcome of the consulting assessment would, but for the reviewed decision, have been that the patient was assessed as eligible for access to voluntary assisted dying — the consulting practitioner is taken to have

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made a consulting assessment assessing the patient as eligible for access to voluntary assisted dying.

- (4) If the reviewed decision set aside by the Tribunal is a decision of a coordinating practitioner in a final review —
- (a) the Tribunal’s decision is substituted for the reviewed decision; and
 - (b) the final review form is taken to include —
 - (i) if the reviewed decision is a decision referred to in section 84(1)(c)(i) — a statement certifying that the coordinating practitioner is satisfied that the patient has decision-making capacity in relation to voluntary assisted dying; or
 - (ii) if the reviewed decision is a decision referred to in section 84(1)(c)(ii) — a statement certifying that the coordinating practitioner is satisfied that the patient in requesting access to voluntary assisted dying is acting voluntarily and without coercion.

90. Effect of decision under s. 88(b), (d) or (f)

If the Tribunal makes a decision referred to in section 88(b), (d) or (f) on a review application made in relation to a patient —

- (a) the patient is taken to be ineligible for access to voluntary assisted dying for the purposes of the request and assessment process in respect of the patient; and
- (b) if the request and assessment process in respect of the patient had not been completed when the review application was made — the request and assessment process ends; and
- (c) if the request and assessment process in respect of the patient had been completed when the review application was made — the process for accessing voluntary assisted dying under Part 4 ends and no step under that Part (including the prescription, supply or administration

of a voluntary assisted dying substance) is to be taken in relation to the patient.

91. Coordinating practitioner may refuse to continue in role

- (1) If a decision of the Tribunal is substituted for a decision of the coordinating practitioner for a patient under section 89(2)(a) or (4)(a), the coordinating practitioner may refuse to continue to perform the role of coordinating practitioner.
- (2) A coordinating practitioner who refuses under subsection (1) to continue to perform the role of coordinating practitioner must transfer the role of coordinating practitioner in accordance with section 157.

92. Constitution and membership of Tribunal

- (1) In this section —
judicial member, non-judicial member and *public sector employee* have the meanings given in the *State Administrative Tribunal Act 2004* section 3(1).
- (2) For the purposes of this Part —
 - (a) the Tribunal, when exercising its review jurisdiction, must be constituted by, or so as to include, a judicial member; and
 - (b) a person who is a public sector employee may be appointed to be a non-judicial member in respect of matters in the Tribunal's review jurisdiction.

93. Hearings of Tribunal to be held in private

- (1) Hearings of the Tribunal in respect of a review application must be held in private.
- (2) The Tribunal may give directions as to persons who may be present at a hearing in respect of a review application.

94. Notice requirements

- (1) If a review application is made in relation to a patient, the Tribunal must give notice of the application and any decision or order (however described) of the Tribunal in respect of the application to —
 - (a) the coordinating practitioner for the patient if the coordinating practitioner is not a party to the proceeding; and
 - (b) the consulting practitioner for the patient if the consulting practitioner is not a party to the proceeding; and
 - (c) if the role of administering practitioner for the patient has been transferred under section 63(2), the administering practitioner for the patient; and
 - (d) the CEO; and
 - (e) the Board.
- (2) Subsection (1) does not limit the operation of the *State Administrative Tribunal Act 2004* section 75 and is in addition to any requirements for notice under that Act.
- (3) The Board must, as soon as practicable after receiving notice of a review application under subsection (1), give written notice of the effect of section 86(2) and (3) to —
 - (a) each party to the proceeding; and
 - (b) the coordinating practitioner for the patient if the coordinating practitioner is not a party to the proceeding; and
 - (c) if the role of administering practitioner for the patient has been transferred under section 63(2), the administering practitioner for the patient.

95. Coordinating practitioner to give Tribunal relevant material

Within 7 business days after receiving notice of a review application under section 94(1) or any shorter period ordered by the Tribunal, the coordinating practitioner for a patient must —

- (a) if the coordinating practitioner is the decision-maker for the purposes of the *State Administrative Tribunal Act 2004*, provide the following to the Tribunal —
 - (i) a statement of the reasons for the reviewed decision;
 - (ii) other documents and material in the practitioner's possession or under the practitioner's control and relevant to the Tribunal's review of the reviewed decision;

or

- (b) if the coordinating practitioner is not the decision-maker for the purposes of the *State Administrative Tribunal Act 2004*, provide to the Tribunal documents and material in the practitioner's possession or under the practitioner's control and relevant to the Tribunal's review of the reviewed decision.

96. Tribunal to give written reasons for decision

- (1) The Tribunal must give written reasons for a decision made in respect of a review application.
- (2) The Tribunal must give a copy of the written reasons to —
 - (a) each party to the proceeding; and
 - (b) the coordinating practitioner for the patient if the coordinating practitioner is not a party to the proceeding; and
 - (c) the consulting practitioner for the patient if the consulting practitioner is not a party to the proceeding; and

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- (d) if the role of administering practitioner for the patient has been transferred under section 63(2), the administering practitioner for the patient; and
 - (e) the CEO; and
 - (f) the Board.
- (3) A written transcript of the part of the proceeding in which the Tribunal's reasons for the decision are given orally is sufficient to constitute written reasons for the purposes of this section.

97. Published decisions or reasons to exclude personal information

- (1) If the Tribunal publishes a decision, or its reasons for a decision, made in respect of a review application, the Tribunal must ensure that the decision or reasons are published in a form that does not disclose personal information about any of the following —
- (a) a party to the proceeding;
 - (b) a person who has appeared before the Tribunal in the proceeding;
 - (c) the coordinating practitioner for the patient if the coordinating practitioner is not a party to the proceeding;
 - (d) the consulting practitioner for the patient if the consulting practitioner is not a party to the proceeding;
 - (e) a former coordinating practitioner or consulting practitioner for the patient if the person is not a party to the proceeding;
 - (f) if the role of administering practitioner for the patient has been transferred under section 63(2), a person to whom the role has been transferred.

- (2) Subsection (1) does not prevent the Tribunal from disclosing personal information about a person referred to in that subsection in written reasons given under section 96(1) or in a copy of written reasons given under section 96(2).

98. Interim orders

On a review application, the Tribunal may make any interim order that it considers necessary.

Part 6 — Offences

99. Unauthorised administration of prescribed substance

A person commits a crime if —

- (a) the person administers a prescribed substance to another person; and
- (b) the person is not authorised by section 59(5) to administer the prescribed substance to the other person.

Penalty: imprisonment for life.

100. Inducing another person to request or access voluntary assisted dying

- (1) In this section —

request for access to voluntary assisted dying means —

- (a) a first request; or
- (b) a written declaration; or
- (c) a final request; or
- (d) an administration decision.

- (2) A person commits a crime if the person, by dishonesty, undue influence or coercion, induces another person —

- (a) to make a request for access to voluntary assisted dying; or
- (b) to access voluntary assisted dying.

Penalty for this subsection: imprisonment for 7 years.

Summary conviction penalty for this subsection: imprisonment for 3 years and a fine of \$36 000.

101. Inducing self-administration of prescribed substance

A person commits a crime if the person, by dishonesty, undue influence or coercion, induces another person to self-administer a prescribed substance.

Penalty: imprisonment for life.

102. False or misleading information

- (1) A person commits a crime if the person does anything set out in subsection (2) —
- (a) in, or in connection with, a form, declaration or other document required under this Act; or
 - (b) in compliance, or purported compliance, with a requirement under this Act; or
 - (c) for any other purpose under this Act.

Penalty for this subsection: imprisonment for 7 years.

Summary conviction penalty for this subsection: imprisonment for 3 years and a fine of \$36 000.

- (2) The things to which subsection (1) applies are making a statement or giving information that —
- (a) the person knows is false or misleading in a material particular; or
 - (b) omits anything without which the statement or information is, to the person's knowledge, misleading in a material particular.

103. Advertising Schedule 4 or 8 poison as voluntary assisted dying substance

A person commits a crime if the person advertises a Schedule 4 poison or Schedule 8 poison as a voluntary assisted dying substance.

Penalty: imprisonment for 3 years and a fine of \$36 000.

104. Cancellation of document presented as prescription

- (1) This section applies if —
- (a) an authorised supplier is given a document that is presented as a prescription for a voluntary assisted dying substance; and

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- (b) the authorised supplier is satisfied that the document —
 - (i) does not comply with section 70; or
 - (ii) is not issued by the coordinating practitioner for the patient to whom it relates; or
 - (iii) is false in a material particular.
- (2) The authorised supplier must —
 - (a) cancel the document by marking the word “cancelled” across it; and
 - (b) inform the CEO that the document has been cancelled and of the reasons for cancelling it.

Penalty for this subsection: imprisonment for 12 months.

105. Contact person to give unused or remaining substance to authorised disposer

- (1) If a patient revokes a self-administration decision after an authorised supplier has supplied a prescribed substance for the patient, the contact person for the patient must, as soon as practicable and in any event within 14 days after the day on which the decision is revoked, give the prescribed substance to an authorised disposer.

Penalty for this subsection: imprisonment for 12 months.

- (2) If a patient who has made a self-administration decision dies and the patient’s death occurs after an authorised supplier has supplied a prescribed substance for the patient, the contact person for the patient must, as soon as practicable and in any event within 14 days after the day on which the patient dies, give any unused or remaining substance to an authorised disposer.

Penalty for this subsection: imprisonment for 12 months.

- (3) In subsection (2) the reference to any unused or remaining substance is a reference to any prescribed substance that the

contact person knows is unused or remaining after the patient's death.

106. Recording, use or disclosure of information

- (1) A person must not, directly or indirectly, record, use or disclose information obtained by the person because of a function that the person has, or at any time had, under this Act.

Penalty for this subsection: imprisonment for 12 months.

- (2) Subsection (1) does not apply to the recording, use or disclosure of information —

- (a) for the purpose of performing a function under this Act; or
- (b) as required or allowed under this Act or another written law; or
- (c) under an order of a court or other person or body acting judicially; or
- (d) for the purpose of a proceeding under Part 5 or another proceeding before a court or other person or body acting judicially; or
- (e) for the purpose of the investigation of a suspected offence or the conduct of proceedings against a person for an offence; or
- (f) with the written consent of —
 - (i) the person to whom the information relates; or
 - (ii) an executor or administrator of the estate of that person.

- (3) Subsection (1) does not apply to the recording, use or disclosure of statistical or other information that is not personal information.

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107. Publication of personal information concerning proceeding before Tribunal

(1) In this section —

information about a proceeding means information about —

- (a) a proceeding before the Tribunal under Part 5; or
- (b) a decision or order (however described) of the Tribunal in a proceeding under that Part;

publish means to disseminate to the public or a section of the public by any means, including the following —

- (a) in a newspaper or periodical publication;
- (b) by radio broadcast, television, a website, an online facility or other electronic means.

(2) A person must not publish information about a proceeding in a form that discloses personal information about any of the following —

- (a) a party to the proceeding;
- (b) a person who has appeared before the Tribunal in the proceeding;
- (c) the coordinating practitioner for the patient if the coordinating practitioner is not a party to the proceeding;
- (d) the consulting practitioner for the patient if the consulting practitioner is not a party to the proceeding;
- (e) a former coordinating practitioner or consulting practitioner for the patient if the person is not a party to the proceeding;
- (f) if the role of administering practitioner for the patient has been transferred under section 63(2), a person to whom the role has been transferred.

Penalty for this subsection: imprisonment for 12 months.

108. Failure to give form to Board

A person who contravenes a provision of this Act listed in the Table commits an offence.

Penalty: a fine of \$10 000.

Table

s. 29(2)	s. 33(1)
s. 40(2)	s. 46
s. 50(1)	s. 51(4)
s. 57(3)(c)	s. 60(1)(b)
s. 61(4)	s. 63(3)(c)
s. 66(4)	s. 74(3)
s. 76(3)	s. 78(3)
s. 82(2)	s. 82(5)
s. 157(4)(c)	

Part 7 — Enforcement

109. Application of *Medicines and Poisons Act 2014* Part 7

- (1) The provisions of the *Medicines and Poisons Act 2014* Part 7 Divisions 1 to 5 (the ***applied provisions***) apply, for the purposes of the enforcement of this Act, with the modifications set out in subsections (2) to (7) and any other necessary modifications.
- (2) References in the applied provisions to “this Act” are to be read as references to this Act.
- (3) References in the applied provisions to “the CEO” are to be read as references to the CEO as defined in section 5 of this Act.
- (4) Section 94 is to be read as if “or the *Medicines and Poisons Act 2014*” were inserted after “the *Misuse of Drugs Act 1981*”.
- (5) Section 95(1) is to be read as if section 95(1)(c) were deleted.
- (6) Section 101 is to be read as if section 101(1)(a) and (2) were deleted.
- (7) Section 103 is to be read as if section 103(2) and (3) were replaced by the following provision —
 - (2) An investigator who enters a place under section 102(1) is entitled under this section to seize any patient records or data relating to a patient.
- (8) Any definition in the *Medicines and Poisons Act 2014* of a term used in the applied provisions also applies for the purposes of the application of those provisions under subsection (1).

110. Court to notify CEO of conviction of offence under Act

If a court convicts a person of an offence under this Act, the registrar of the court must notify the CEO of the conviction and the penalty imposed.

111. Who may commence proceedings for simple offence

A prosecution for a simple offence under this Act can only be commenced by the CEO or by a person authorised by the CEO to do so.

112. Time limit for prosecution of simple offence

- (1) A prosecution for a simple offence under this Act must be commenced within 2 years after the day on which the offence is alleged to have been committed.
- (2) However, if a prosecution notice alleging an offence specifies the day on which evidence of the alleged offence first came to the attention of a person authorised under section 111 to commence the prosecution —
 - (a) the prosecution may be commenced within 2 years after that day; and
 - (b) the prosecution notice need not contain particulars of the day on which the offence is alleged to have been committed.
- (3) The day on which evidence first came to the attention of a person authorised under section 111 to commence a prosecution is, in the absence of evidence to the contrary, the day specified in the prosecution notice.

Part 8 — Protection from liability

113. Protection for persons assisting access to voluntary assisted dying or present when substance administered

A person does not incur any criminal liability if the person —

- (a) in good faith, assists another person to request access to, or access, voluntary assisted dying in accordance with this Act; or
- (b) is present when another person self-administers or is administered a prescribed substance in accordance with this Act.

114. Protection for persons acting in accordance with Act

- (1) This section applies if a person, in good faith and with reasonable care and skill, does a thing —
 - (a) in accordance with this Act; or
 - (b) believing on reasonable grounds that the thing is done in accordance with this Act.
- (2) The person does not incur any civil liability, or any criminal liability under this Act, for doing the thing.
- (3) The doing of the thing is not to be regarded as —
 - (a) a breach of professional ethics or standards or any principles of conduct applicable to the person's employment; or
 - (b) professional misconduct or unprofessional conduct.
- (4) In this section, a reference to the doing of a thing includes a reference to an omission to do a thing.

115. Protection for certain persons who do not administer lifesaving treatment

- (1) In this section —
ambulance officer means a person employed or engaged (including on a voluntary basis) by the provider of an

ambulance service to provide medical or other assistance to persons in an emergency;

lifesaving treatment means lifesaving or life-preserving medical treatment;

protected person means —

- (a) a registered health practitioner; or
 - (b) an ambulance officer; or
 - (c) a person (other than a person referred to in paragraph (a) or (b)) who has a duty to administer lifesaving treatment to another person.
- (2) This section applies if a protected person, in good faith, does not administer lifesaving treatment to another person in circumstances where —
- (a) the other person has not requested the administration of lifesaving treatment; and
 - (b) the protected person believes on reasonable grounds that the other person is dying after self-administering or being administered a prescribed substance in accordance with this Act.
- (3) The protected person does not incur any civil liability or criminal liability for not administering the lifesaving treatment.
- (4) The non-administration of the lifesaving treatment is not to be regarded as —
- (a) a breach of professional ethics or standards or any principles of conduct applicable to the protected person's employment; or
 - (b) professional misconduct or unprofessional conduct.

Part 9 — Voluntary Assisted Dying Board

Division 1 — Establishment

116. Board established

A body called the Voluntary Assisted Dying Board is established.

117. Status

The Board is an agent of the Crown and has the status, immunities and privileges of the Crown.

Division 2 — Functions and powers

118. Functions of Board

The Board has the following functions —

- (a) to monitor the operation of this Act;
- (b) to provide to the Minister or the CEO, on its own initiative or on request, advice, information and reports on matters relating to the operation of this Act, including any recommendations for the improvement of voluntary assisted dying;
- (c) to refer to any of the following persons or bodies any matter identified by the Board in relation to voluntary assisted dying that is relevant to the functions of the person or body —
 - (i) the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;
 - (ii) the Registrar of Births, Deaths and Marriages referred to in the *Births, Deaths and Marriages Registration Act 1998* section 5;
 - (iii) the State Coroner appointed under the *Coroners Act 1996* section 6;

- (iv) the CEO;
- (v) the chief executive officer of the department of the Public Service principally assisting in the administration of the *Prisons Act 1981*;
- (vi) the Australian Health Practitioner Regulation Agency established by the *Health Practitioner Regulation National Law (Western Australia)* section 23;
- (vii) the Director of the Health and Disability Services Complaints Office appointed under the *Health and Disability Services (Complaints) Act 1995* section 7(1);
- (d) to conduct analysis of, and research in relation to, information given to the Board under this Act;
- (e) to collect, use and disclose information given to the Board under this Act for the purposes of performing its functions;
- (f) any other function given to the Board under this Act.

119. Powers of Board

The Board has all the powers it needs to perform its functions.

120. Delegation by Board

- (1) The Board may delegate any power or duty of the Board under another provision of this Act to a member or to a committee established under section 145.
- (2) The delegation must be in writing executed by the Board.
- (3) A person or committee to whom or which a power or duty is delegated under this section cannot delegate the power or duty.
- (4) A person or committee exercising or performing a power or duty that has been delegated to the person or committee under

this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.

- (5) Nothing in this section limits the ability of the Board to perform a function through a member of staff provided to the Board under section 121 or an agent of the Board.

Division 3 — Staff and assistance

121. Staff and services

The CEO must ensure that the Board is provided with the staff, services and facilities, and other resources and support, that are reasonably necessary to enable it to perform its functions.

122. Assistance

- (1) The Board, with the approval of the Minister, may co-opt any person with special knowledge or skills to assist the Board in a particular matter.
- (2) A person who has been co-opted to assist the Board may attend meetings of the Board and participate in its deliberations but cannot vote at a meeting of the Board.

Division 4 — Accountability

123. Minister may give directions

- (1) The Minister may give written directions to the Board with respect to the performance of its functions, and the Board must give effect to any such direction.
- (2) However, a direction under subsection (1) cannot be about the performance of a function in relation to a particular person or matter.

124. Minister to have access to information

- (1) In this section —
- document* includes any tape, disk or other device or medium on which information is recorded or stored;
- information* means information specified, or of a description specified, by the Minister that relates to the functions of the Board.
- (2) The Minister is entitled —
- (a) to have information in the possession of the Board; and
 - (b) if the information is in or on a document, to have, and make and retain copies of, that document.
- (3) However, the Minister is not entitled to have personal information about a person unless the person has consented to the disclosure of the information.
- (4) For the purposes of subsection (2), the Minister may —
- (a) request the Board to give information to the Minister; and
 - (b) request the Board to give the Minister access to information; and
 - (c) for the purposes of paragraph (b), make use of staff provided to the Board under section 121 to obtain the information and give it to the Minister.
- (5) The Board must comply with a request under subsection (4) and make staff and facilities available to the Minister for the purposes of subsection (4)(c).

Division 5 — Membership

125. Membership of Board

The Board consists of 5 members appointed by the Minister.

126. Chairperson and deputy chairperson

- (1) The Minister must designate one member to be the chairperson of the Board and another member to be the deputy chairperson of the Board.
- (2) If the chairperson is unable to act because of illness, absence or other cause or if there is no chairperson, the deputy chairperson must act in the chairperson's place.
- (3) An act or omission of the deputy chairperson acting in the chairperson's place cannot be questioned on the ground that the occasion to act in the chairperson's place had not arisen or had ceased.

127. Term of office

- (1) A member holds office for the term, not exceeding 3 years, that is specified in the member's instrument of appointment.
- (2) A member is eligible for reappointment.

128. Casual vacancies

- (1) In this section —
misconduct includes conduct that renders the member unfit to hold office as a member even though the conduct does not relate to a duty of the office.
- (2) The office of a member becomes vacant if the member —
 - (a) dies, resigns or is removed from office under this section; or
 - (b) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
 - (c) is convicted of an offence punishable by imprisonment for more than 12 months; or
 - (d) is convicted of an offence under section 140.

- (3) A member may at any time resign from office by written notice given to the Minister.
- (4) The Minister may remove a member from office on the grounds of —
 - (a) neglect of duty; or
 - (b) misconduct or incompetence; or
 - (c) mental or physical incapacity, other than temporary illness, impairing the performance of the member's duties; or
 - (d) absence, without leave, from 3 consecutive meetings of the Board of which the member has had notice.

129. Extension of term of office during vacancy

- (1) If the office of a member becomes vacant because the member's term of office expires by effluxion of time, the member continues to be a member during that vacancy until the day on which the vacancy is filled (whether by reappointment of the member or appointment of a successor to the member).
- (2) Subsection (1) ceases to apply if the member resigns or is removed from office under section 128.
- (3) The maximum period for which a member continues to be a member under this section after the member's term of office expires is 3 months.

130. Alternate members

- (1) If a member other than the chairperson is unable to act because of illness, absence or other cause, the Minister may appoint another person as an alternate member to act temporarily in the member's place.
- (2) If the deputy chairperson is acting in the chairperson's place, the Minister may appoint another person as an alternate member to act temporarily in the deputy chairperson's place.

- (3) While acting in accordance with their appointment an alternate member is taken to be, and to have any entitlement of, a member.
- (4) An act or omission of an alternate member cannot be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.

131. Remuneration of members

A member is entitled to be paid any remuneration and allowances that the Minister may from time to time determine on the recommendation of the Public Sector Commissioner.

Division 6 — Board meetings

132. Holding meetings

- (1) The first meeting of the Board must be convened by the chairperson, and subsequent meetings must be held at times and places determined by the Board.
- (2) A special meeting of the Board may at any time be convened by the chairperson.

133. Quorum

A quorum for a meeting of the Board is 3 members of the Board.

134. Presiding member

- (1) The chairperson, if present, must preside at a meeting of the Board.
- (2) If neither the chairperson, nor the deputy chairperson acting in the chairperson's place, is presiding under subsection (1), the members present at the meeting must elect one of their number to preside.

135. Procedure at meetings

The Board must determine its own meeting procedures to the extent that they are not fixed by this Act.

136. Voting

- (1) At a meeting of the Board each member present has a deliberative vote unless section 141 prevents the member from voting.
- (2) In the case of an equality of votes, the member presiding has a casting vote in addition to a deliberative vote.
- (3) A question is resolved by a majority of the votes cast.

137. Holding meetings remotely

The presence of a person at a meeting of the Board need not be by attendance in person but may be by that person and each other person at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.

138. Resolution without meeting

A resolution in writing signed or otherwise assented to in writing by each member has the same effect as if it had been passed at a meeting of the Board.

139. Minutes

The Board must cause accurate minutes to be kept of the proceedings at each of its meetings.

Division 7 — Disclosure of interests

140. Disclosure of material personal interest

- (1) A member who has a material personal interest in a matter being considered or about to be considered by the Board must, as soon as practicable after the relevant facts have come to the

member's knowledge, disclose the nature of the interest at a meeting of the Board.

Penalty for this subsection: a fine of \$10 000.

- (2) A disclosure under subsection (1) must be recorded in the minutes of the meeting.

141. Voting by interested member

- (1) A member who has a material personal interest in a matter that is being considered by the Board —
- (a) must not vote, whether at a meeting or otherwise, on the matter; and
 - (b) must not be present while the matter is being considered at a meeting.
- (2) A reference in subsection (1) to a matter includes a reference to a proposed resolution under section 142 in respect of the matter, whether relating to that member or a different member.

142. Section 141 may be declared inapplicable

Section 141 does not apply if —

- (a) a member has disclosed under section 140 an interest in a matter; and
- (b) the Board has at any time passed a resolution that —
 - (i) specifies the member, the interest and the matter; and
 - (ii) states that the members voting for the resolution are satisfied that the interest is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct and should not disqualify the member from considering or voting on the matter.

143. Quorum where s. 141 applies

- (1) Despite section 133, if a member is disqualified under section 141 in relation to a matter, a quorum is present during the consideration of the matter if 2 members of the Board who are entitled to vote on any motion that may be moved at the meeting in relation to the matter are present.
- (2) The Minister may deal with a matter to the extent that the Board cannot deal with it because of subsection (1).

144. Minister may declare s. 141 and 143 inapplicable

- (1) The Minister may in writing declare that section 141 or 143 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must cause a copy of a declaration made under subsection (1) to be laid before each House of Parliament within 14 sitting days of the House after the declaration is made.

Division 8 — Committees

145. Establishment of committees

- (1) The Board may establish committees to assist it in the performance of its functions.
- (2) The Board may discharge, alter or reconstitute a committee.
- (3) The Board may —
 - (a) determine the functions, membership and constitution of a committee; and
 - (b) appoint any members of the Board or other persons as it thinks fit to be members of a committee.

146. Directions to committee

- (1) The Board may give directions to a committee with respect to its functions and procedures.

- (2) A committee must comply with a direction given to it by the Board.

147. Committee to determine own procedures

Subject to any directions of the Board and the terms of any delegation under section 120, a committee may determine its own procedures.

148. Remuneration of committee members

A member of a committee is entitled to be paid any remuneration and allowances that the Minister may from time to time determine on the recommendation of the Public Sector Commissioner.

Division 9 — Information

149. Board to send information to contact person for patient

The Board must, within 2 business days after receiving a copy of a contact person appointment form for a patient under section 60(1)(b)(ii) or 66(4), send information to the contact person for the patient that —

- (a) explains the requirements under section 105 to give the prescribed substance, or any unused or remaining prescribed substance, to an authorised disposer; and
- (b) outlines the support services available to assist the contact person to comply with the requirements referred to in paragraph (a).

150. Request for information

- (1) The Board may request any person (including the contact person for a patient) to give information to the Board to assist it in performing any of its functions.

- (2) A person may comply with a request under subsection (1) despite any enactment that prohibits or restricts the disclosure of the information.

151. Disclosure of information

The Board may, on request, disclose information (other than personal information) obtained in the performance of its functions to —

- (a) a public authority as defined in the *Health Services Act 2016* section 6; or
- (b) a person or body for the purposes of education or research.

152. Board to record and retain statistical information

- (1) The Board must record and retain statistical information about the following matters relating to voluntary assisted dying —
- (a) the disease, illness or medical condition of a patient that met the requirements of section 16(1)(c) (whether or not the patient made a final request);
 - (b) if a patient has died after self-administering or being administered a voluntary assisted dying substance in accordance with this Act, the age of the patient on the day the patient died;
 - (c) participation in the request and assessment process, and access to voluntary assisted dying, by patients who are regional residents;
 - (d) a matter specified in a direction under subsection (2).
- (2) The Minister may give a written direction to the Board requiring it —
- (a) to record and retain statistical information about a matter relating to voluntary assisted dying specified in the direction; and

- (b) to include that statistical information in its report under section 155(1).
- (3) The Board must give effect to a direction under subsection (2).

Division 10 — Miscellaneous

153. Board to notify receipt of forms

- (1) The Board must, as soon as practicable after receiving a form or a copy of a form from a person under this Act, notify the person that it has been received.
- (2) The Board must, as soon as practicable after receiving a copy of an authorised disposal form or practitioner disposal form, give a copy of that form to the CEO.

154. Execution of documents by Board

- (1) A document is duly executed by the Board if it is signed on behalf of the Board by 2 members authorised to do so under subsection (2).
- (2) The Board may authorise any of its members to sign documents on behalf of the Board, either generally or subject to the conditions that are specified in the authorisation.
- (3) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.

155. Annual report

- (1) The Board must, within 6 months after the end of each financial year, prepare and give to the Minister a report on the operation of this Act during that financial year.
- (2) The report must include —
 - (a) any recommendations that the Board considers appropriate in relation to voluntary assisted dying; and

- (b) any information that the Board considers relevant to the performance of its functions; and
 - (c) the number of any referrals made by the Board under section 118(c); and
 - (d) the text of any direction given to the Board under section 123(1) or 152(2); and
 - (e) details of any disclosure under section 140(1) that relates to a matter dealt with in the report and of any resolution under section 142 in respect of the disclosure; and
 - (f) statistical information that the Board is directed under section 152(2) to include in the report; and
 - (g) information about the extent to which regional residents had access to voluntary assisted dying, including statistical information recorded and retained under section 152(1)(c), and having regard to the access standard under section 156.
- (3) The report must not include —
- (a) personal information about a patient, medical practitioner or other person who has participated in the request and assessment process or the process for accessing voluntary assisted dying under Part 4; or
 - (b) information that would prejudice —
 - (i) any criminal investigation or criminal proceeding; or
 - (ii) any civil proceeding; or
 - (iii) any proceeding in the Coroner’s Court of Western Australia.
- (4) The Minister must cause a copy of the report to be laid before each House of Parliament within 6 sitting days of the House after the day on which the Minister receives the report.

Part 10 — Access standard

156. Standard about access to voluntary assisted dying

- (1) The CEO must issue a standard (the *access standard*) setting out how the State intends to facilitate access to voluntary assisted dying for persons ordinarily resident in Western Australia, including how the State intends to facilitate those persons' access to —
 - (a) the services of medical practitioners and other persons who carry out functions under this Act; and
 - (b) prescribed substances; and
 - (c) information about accessing voluntary assisted dying.
- (2) The access standard must specifically set out how the State intends to facilitate access to voluntary assisted dying for regional residents.
- (3) The CEO may modify or replace the access standard.
- (4) The CEO must publish the access standard on the Department's website.

Part 11 — General

157. Transfer of coordinating practitioner's role

- (1) The coordinating practitioner for a patient (the *original practitioner*) may transfer the role of coordinating practitioner to the consulting practitioner for the patient if —
 - (a) the consulting practitioner has assessed the patient as eligible for access to voluntary assisted dying; and
 - (b) the consulting practitioner accepts the transfer of the role.
- (2) The transfer of the role can be —
 - (a) at the request of the patient; or
 - (b) on the original practitioner's own initiative.
- (3) Within 2 business days after being requested by the original practitioner to accept a transfer under subsection (1), the consulting practitioner must inform the original practitioner whether the consulting practitioner accepts or refuses the transfer of the role.
- (4) If the consulting practitioner accepts the transfer of the role, the original practitioner must —
 - (a) inform the patient of the transfer; and
 - (b) record the transfer in the patient's medical record; and
 - (c) within 2 business days after the acceptance of the transfer, complete the approved form (the *coordinating practitioner transfer form*) and give a copy of it to the Board.
- (5) The coordinating practitioner transfer form must include the following —
 - (a) the name, date of birth and contact details of the patient;
 - (b) the name and contact details of the original practitioner;

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- (c) the name and contact details of the consulting practitioner;
 - (d) the date when the consulting practitioner accepted the transfer;
 - (e) the date when the patient was informed of the transfer;
 - (f) the signature of the original practitioner and the date when the form was signed.
- (6) If the consulting practitioner refuses the transfer of the role, the original practitioner may —
- (a) refer the patient to another medical practitioner for a further consulting assessment; and
 - (b) transfer the role of coordinating practitioner to that medical practitioner if the practitioner —
 - (i) accepts the referral for a further consulting assessment; and
 - (ii) assesses the patient as eligible for access to voluntary assisted dying; and
 - (iii) accepts the transfer of the role.
- (7) On acceptance of the referral for a further consulting assessment, the consulting assessment that previously assessed the patient as eligible for access to voluntary assisted dying becomes void.

158. Communication between patient and practitioner

- (1) In this section —
- audiovisual communication*** means a method of electronic communication that is designed to allow people to see and hear each other simultaneously.
- (2) If it is not practicable for a patient to make a first request, final request or administration decision in person —
- (a) the patient may make the request or decision using audiovisual communication; and

- (b) the medical practitioner who receives the request or is being informed of the decision may give the patient advice or information in relation to the request or decision using audiovisual communication.
- (3) Except as provided in subsection (2)(b), a medical practitioner or other registered health practitioner may give advice or information to, or otherwise communicate with, a person for the purposes of this Act using any method of communication (including electronic communication) that the practitioner considers appropriate.
- (4) However, subsections (2) and (3) do not authorise the use of a method of communication if, or to the extent that, the use is contrary to or inconsistent with a law of the Commonwealth.

159. Information about voluntary assisted dying

- (1) In this section —
authorised official means —
 - (a) the CEO; or
 - (b) a public service officer employed in the Department; or
 - (c) a person designated as an authorised official under subsection (2).
- (2) The CEO may, in writing, designate persons, or persons in a class, as authorised officials for the purposes of this section.
- (3) An authorised official may make information about voluntary assisted dying publicly available.
- (4) Information may be made available under this section using any method of communication (including electronic communication) that the authorised official considers appropriate.
- (5) However, subsection (4) does not authorise the use of a method of communication if, or to the extent that, the use is contrary to or inconsistent with a law of the Commonwealth.

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160. CEO may approve training

The CEO may approve training relating to the following matters —

- (a) the operation of this Act in relation to medical practitioners and nurse practitioners, including the functions of coordinating practitioners, consulting practitioners and administering practitioners;
- (b) assessing whether or not a patient meets the eligibility criteria;
- (c) identifying and assessing risk factors for abuse or coercion;
- (d) other matters relating to the operation of this Act.

161. CEO may approve forms

The CEO may approve forms for use under this Act.

162. Interpreters

- (1) In this section —

health facility means any of the following —

- (a) a hospital as defined in the *Health Services Act 2016* section 8;
- (b) a private psychiatric hostel as defined in the *Private Hospitals and Health Services Act 1927* section 2(1);
- (c) premises where residential care, as defined in the *Aged Care Act 1997* (Commonwealth) section 41-3, is provided;
- (d) premises, other than a private residence, where accommodation and personal care or nursing care, or both, are provided to a person with a disability;

interpreter, for a patient, means an interpreter who assists a patient in relation to —

- (a) the request and assessment process; or

- (b) the process for accessing voluntary assisted dying under Part 4; or
 - (c) a proceeding under Part 5.
- (2) An interpreter for a patient —
- (a) must be accredited by a body approved by the CEO; and
 - (b) must not —
 - (i) be a family member of the patient; or
 - (ii) know or believe that they are a beneficiary under a will of the patient or that they may otherwise benefit financially or in any other material way from the death of the patient; or
 - (iii) be an owner of, or be responsible for the day-to-day management and operation of, any health facility at which the patient is being treated or resides; or
 - (iv) be a person who is directly involved in providing health services or professional care services to the patient.

163. Regulations

The Governor may make regulations prescribing matters necessary or convenient to be prescribed for giving effect to this Act.

164. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review —
- (a) as soon as practicable after the 2nd anniversary of the day on which this section comes into operation; and
 - (b) after that, at intervals of not more than 5 years.

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- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 2nd anniversary or the expiry of the period of 5 years, as the case may be.

Part 12 — Consequential amendments to other Acts

Division 1 — *Constitution Acts Amendment Act 1899* amended

165. Act amended

This Division amends the *Constitution Acts Amendment Act 1899*.

166. Schedule V amended

In Schedule V Part 3 before the item relating to the Waste Authority insert:

The Voluntary Assisted Dying Board established by the *Voluntary Assisted Dying Act 2019*.

Division 2 — *Coroners Act 1996* amended

167. Act amended

This Division amends the *Coroners Act 1996*.

168. Section 3A inserted

After section 3 insert:

3A. Death under *Voluntary Assisted Dying Act 2019* not reportable death

- (1) Despite the definition of *reportable death* in section 3, a Western Australian death of a person who has self-administered, or has been administered, a voluntary assisted dying substance in accordance with the *Voluntary Assisted Dying Act 2019* is not a reportable death for the purposes of this Act.

Voluntary Assisted Dying Act 2019

Part 12 Consequential amendments to other Acts

Division 3 Guardianship and Administration Act 1990 amended

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- (2) Subsection (1) does not apply to a Western Australian death of a person who immediately before death was a person held in care.

Division 3 — *Guardianship and Administration Act 1990* amended

169. Act amended

This Division amends the *Guardianship and Administration Act 1990*.

170. Section 3B inserted

At the end of Part 1 insert:

3B. Act does not authorise decisions about voluntary assisted dying

Nothing in this Act authorises the making of a treatment decision, whether in an advance health directive or otherwise, in relation to voluntary assisted dying as defined in the *Voluntary Assisted Dying Act 2019* section 5.

Division 4 — *Health and Disability Services (Complaints) Act 1995* amended

171. Act amended

This Division amends the *Health and Disability Services (Complaints) Act 1995*.

172. Section 3 amended

In section 3 in the definition of *health service* paragraph (b) delete “including palliative health care; and” and insert:

including —

- (i) palliative health care; and
- (ii) voluntary assisted dying as defined in the *Voluntary Assisted Dying Act 2019* section 5;

and

Division 5 — Medicines and Poisons Act 2014 amended

173. Act amended

This Division amends the *Medicines and Poisons Act 2014*.

174. Section 3 amended

- (1) In section 3 insert in alphabetical order:

voluntary assisted dying substance means a Schedule 4 or 8 poison that is a voluntary assisted dying substance as defined in the *Voluntary Assisted Dying Act 2019* section 7(2).

- (2) In section 3 in the definition of *veterinary surgeon* delete “1960.” and insert:

1960;

175. Section 7 amended

- (1) In section 7(1) delete the definition of *prescriber* and insert:

prescriber means —

- (a) in relation to a Schedule 4 or 8 poison (other than a voluntary assisted dying substance prescribed for the purposes of the *Voluntary Assisted Dying Act 2019*) — an authorised health professional who has authority to prescribe the poison; or
- (b) in relation to a voluntary assisted dying substance prescribed for the purposes of the *Voluntary Assisted Dying Act 2019* — a person who is authorised by that Act to prescribe the substance;

- (2) In section 7(1) in the definition of *prescription*:

- (a) delete paragraph (a) and insert:

- (a) sets out particulars of the poison, or a substance that contains the poison, that is —
 - (i) to be used by, or administered to, a person named in the document for therapeutic purposes or for the purposes of the *Voluntary Assisted Dying Act 2019*; or
 - (ii) to be administered to an animal described in the document for therapeutic purposes;

and

- (b) delete paragraph (c) and insert:
 - (c) complies with —
 - (i) any requirements prescribed by the regulations; or
 - (ii) if the poison is a voluntary assisted dying substance that is to be used or administered for the purposes of the *Voluntary Assisted Dying Act 2019*, any requirements under that Act or prescribed by the regulations to the extent they are consistent with that Act.

(3) In section 7(3):

- (a) in paragraph (b)(i)(I) delete “a person — ” and insert:

a person or for the use of, or administration to, a person under the *Voluntary Assisted Dying Act 2019* —

- (b) in paragraph (b)(ii) after “obtain” insert:

or receive

176. Section 14 amended

- (1) In section 14(1) delete the passage that begins with “unless” and ends with “in accordance with the regulations.” and insert:

unless subsection (1A) is complied with.

(2) After section 14(1) insert:

(1A) This subsection is complied with —

(a) in the case of the manufacture of a Schedule 4 or 8 poison, if the person who manufactures the poison does so —

(i) under and in accordance with an appropriate licence or a professional authority; and

(ii) in accordance with the regulations;

or

(b) in the case of the supply of a Schedule 4 or 8 poison (other than the supply of a voluntary assisted dying substance for the purposes of the *Voluntary Assisted Dying Act 2019*), if the person who supplies the poison does so —

(i) under and in accordance with an appropriate licence or a professional authority; and

(ii) in accordance with the regulations;

or

(c) in the case of the supply of a voluntary assisted dying substance for the purposes of the *Voluntary Assisted Dying Act 2019*, if —

(i) the person who supplies the substance is authorised by that Act to supply it; and

(ii) the supply is in accordance with that Act.

- (3) In section 14(3) delete the passage that begins with “unless — ” and ends with “in accordance with the regulations.” and insert:

unless subsection (3A) is complied with.

- (4) After section 14(3) insert:

(3A) This subsection is complied with —

- (a) in the case of the prescription of a Schedule 4 or 8 poison (other than the prescription of a voluntary assisted dying substance for the purposes of the *Voluntary Assisted Dying Act 2019*), if —
- (i) the person who prescribes the poison is a health professional who is authorised under section 25 to prescribe the poison; and
 - (ii) the prescription is in accordance with the regulations;

or

- (b) in the case of the prescription of a voluntary assisted dying substance for the purposes of the *Voluntary Assisted Dying Act 2019*, if —
- (i) the person who prescribes the substance is authorised by that Act to prescribe the substance; and
 - (ii) the prescription is in accordance with that Act and the regulations to the extent they are consistent with that Act.

Voluntary Assisted Dying Act 2019

Part 12 Consequential amendments to other Acts

Division 5 Medicines and Poisons Act 2014 amended

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(5) In section 14(4)(i) after “1981” insert:

or the *Voluntary Assisted Dying Act 2019*

177. Section 28 amended

After section 28(1)(a)(ii) insert:

(ia) the *Voluntary Assisted Dying Act 2019*;

178. Section 83 amended

After section 83(2) insert:

(3) Regulations referred to in subsection (1) cannot make provision in relation to the supply or prescription, for the purposes of the *Voluntary Assisted Dying Act 2019*, of a drug of addiction that is a voluntary assisted dying substance.

179. Section 115 amended

In section 115(1)(a):

(a) in subparagraph (iii) delete “substance,” and insert:

substance; or

(b) after subparagraph (iii) insert:

(iv) a voluntary assisted dying substance prescribed, supplied, possessed or used

for the purposes of the *Voluntary Assisted Dying Act 2019*,

Division 6 — *Misuse of Drugs Act 1981* amended

180. Act amended

This Division amends the *Misuse of Drugs Act 1981*.

181. Section 5C inserted

At the end of Part I insert:

5C. Authorisation under *Voluntary Assisted Dying Act 2019*

- (1) For the purposes of this Act, a person is authorised under the *Voluntary Assisted Dying Act 2019* to prepare, sell or supply a prohibited drug if —
 - (a) the person is authorised by section 58, 59, 63 or 67 of that Act to prepare or supply the drug; and
 - (b) the preparation or supply is in accordance with that Act.

- (2) For the purposes of this Act, a person is authorised under the *Voluntary Assisted Dying Act 2019* to possess a prohibited drug if —
 - (a) the person is authorised by section 58, 59, 63, 67, 75 or 77 of that Act to receive or possess the drug; and
 - (b) the receipt or possession is in accordance with that Act.

Voluntary Assisted Dying Act 2019

Part 12 Consequential amendments to other Acts

Division 6 Misuse of Drugs Act 1981 amended

s. 182

- (3) For the purposes of this Act, a person is authorised under the *Voluntary Assisted Dying Act 2019* to use a prohibited drug if —
- (a) the person is authorised by section 58 or 59 of that Act to prepare, self-administer or administer the drug; and
 - (b) the preparation, self-administration or administration is in accordance with that Act.

182. Section 5 amended

In section 5(3):

- (a) after paragraph (a) insert:
 - (aa) that the preparation, sale or supply of the drug was by a person authorised under the *Voluntary Assisted Dying Act 2019* to prepare, sell or supply the drug; or
- (b) in paragraph (b) delete “Act or the *Medicines and Poisons Act 2014*” and insert:

Act, the Medicines and Poisons Act 2014 or the Voluntary Assisted Dying Act 2019

183. Section 6 amended

- (1) In section 6(3)(a) and (b) delete “Act or the *Medicines and Poisons Act 2014*” and insert:

Act, the Medicines and Poisons Act 2014 or the Voluntary Assisted Dying Act 2019

- (2) In section 6(4) and (5) delete “Act or the *Medicines and Poisons Act 2014*.” and insert:

Act, the Medicines and Poisons Act 2014 or the Voluntary Assisted Dying Act 2019.

184. Section 7 amended

In section 7(3)(a) and (b) delete “Act or the *Medicines and Poisons Act 2014*” and insert:

Act, the Medicines and Poisons Act 2014 or the Voluntary Assisted Dying Act 2019

185. Section 7B amended

In section 7B(7)(a) and (b)(i) delete “Act or the *Medicines and Poisons Act 2014*” and insert:

Act, the Medicines and Poisons Act 2014 or the Voluntary Assisted Dying Act 2019

186. Section 27 amended

In section 27(1):

- (a) in paragraph (a)(ii) delete “Act or under the *Medicines and Poisons Act 2014*” and insert:

Act, the Medicines and Poisons Act 2014 or the Voluntary Assisted Dying Act 2019

Voluntary Assisted Dying Act 2019

Part 12 Consequential amendments to other Acts

Division 6 Misuse of Drugs Act 1981 amended

s. 186

- (b) in paragraph (b) delete “Act or by or under the *Medicines and Poisons Act 2014*” and insert:

Act, the *Medicines and Poisons Act 2014* or the *Voluntary Assisted Dying Act 2019*

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Notes

This is a compilation of the *Voluntary Assisted Dying Act 2019* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Voluntary Assisted Dying Act 2019</i>	27 of 2019	19 Dec 2019	Pt. 1 (other than Div. 2-4): 19 Dec 2019 (see s. 2(a)); Act other than Pt. 1 Div. 1: 1 Jul 2021 (see s. 2(b) and SL 2021/83 cl. 2)

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

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administration decision and prescription form.....	60(1)
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