

Authorised Version
Voluntary Assisted Dying Act 2017
No. 61 of 2017

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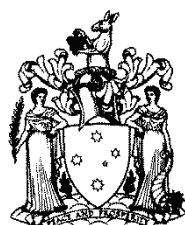
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Authorised Version



Victoria

Voluntary Assisted Dying Act 2017[†]

No. 61 of 2017

[Assented to 5 December 2017]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

- (a) to provide for and regulate access to voluntary assisted dying; and
- (b) to establish the Voluntary Assisted Dying Review Board; and

- (c) to make consequential amendments to the **Births, Deaths and Marriages Registration Act 1996**, the **Coroners Act 2008**, the **Drugs, Poisons and Controlled Substances Act 1981** and other Acts.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 19 June 2019, it comes into operation on that day.

3 Definitions

- (1) In this Act—

administration request means a request made under section 64 for the administration of a voluntary assisted dying substance;

approved assessment training means training approved by the Secretary under section 114;

Australian Health Practitioner Regulation Agency means the Australian Health Practitioner Regulation Agency established by section 23 of the Health Practitioner Regulation National Law;

Board means the Voluntary Assisted Dying Review Board established under section 92;

Chief Commissioner of Police has the same meaning as Chief Commissioner has in the **Victoria Police Act 2013**;

consulting assessment means an assessment of a person conducted in accordance with Division 4 of Part 3 by a consulting medical practitioner for the person;

consulting assessment report form means a form in the form of Form 2 in Schedule 1 completed under section 30;

consulting medical practitioner for a person means a registered medical practitioner who accepts a referral to conduct a consulting assessment of the person;

contact person means a person appointed under section 39;

contact person appointment form means a form in the form of Form 4 in Schedule 1 completed under section 40;

co-ordinating medical practitioner for a person means a person who is—

- (a) a registered medical practitioner who accepts the person's first request; or
- (b) a consulting medical practitioner for the person who accepts a transfer of the role of co-ordinating medical practitioner under section 33;

co-ordinating medical practitioner administration form means a form in the form of Form 8 in Schedule 1 completed by a witness under section 65 and a co-ordinating medical practitioner under section 66;

decision-making capacity has the meaning set out in section 4;

de-identified, in relation to personal information or health information, means personal information or health information that no longer relates to an identifiable individual or an individual who can be reasonably identified;

dispensing pharmacy means the pharmacy, pharmacy business or pharmacy department from which a pharmacist sold or supplied a voluntary assisted dying substance;

domestic partner of a person means—

- (a) a person who is in a registered relationship with the person; or
- (b) an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—
 - (i) for fee or reward; or
 - (ii) on behalf of another person or an organisation (including a government, a government agency, a body corporate or a charitable or benevolent organisation);

drug of dependence has the same meaning as in section 4 of the **Drugs, Poisons and Controlled Substances Act 1981**;

eligibility criteria means the criteria set out in section 9;

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

final request means a request for access to voluntary assisted dying made under section 37 by a person to the co-ordinating medical practitioner for the person;

final review means a review conducted under section 41 by the co-ordinating medical practitioner for the person;

final review form means a form in the form of Form 5 in Schedule 1 completed under section 41;

first assessment means an assessment of a person conducted in accordance with Division 3 of Part 3 by the co-ordinating medical practitioner for the person;

first assessment report form means a form in the form of Form 1 in Schedule 1 completed under section 21;

first request means a request for access to voluntary assisted dying made under section 11 by a person to a registered medical practitioner;

health facility has the same meaning as in the **Medical Treatment Planning and Decisions Act 2016**;

health information has the same meaning as in the **Health Records Act 2001**;

health service has the same meaning as in the **Health Complaints Act 2016**;

identifying information means health information or personal information about a person whose identity is apparent, or can reasonably be ascertained, from that information;

ineligible witness has the meaning given by section 35(2);

labelling statement means a statement attached to a container as required by section 59(1);

mental illness has the same meaning as in the **Mental Health Act 2014**;

palliative care has the same meaning as in the **Medical Treatment Planning and Decisions Act 2016**;

personal information has the same meaning as in the **Privacy and Data Protection Act 2014**;

pharmacist means a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student);

pharmacy has the same meaning as in the **Pharmacy Regulation Act 2010**;

pharmacy business has the same meaning as in the **Pharmacy Regulation Act 2010**;

pharmacy department has the same meaning as in the **Pharmacy Regulation Act 2010**;

poison or controlled substance has the same meaning as in section 4 of the **Drugs, Poisons and Controlled Substances Act 1981**;

Poisons Code has the same meaning as in section 4 of the **Drugs, Poisons and Controlled Substances Act 1981**;

practitioner administration permit means a permit issued under section 49(2)(a)(ii);

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

- (a) support or assistance;

(b) special or personal care;

(c) a disability service within the meaning of the **Disability Act 2006**;

psychiatrist means a person who is registered under the Health Practitioner Regulation National Law as a medical practitioner in the speciality of psychiatry (other than as a student);

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

Registrar has the same meaning as in the **Births, Deaths and Marriages Registration Act 1996**;

request and assessment process means, in respect of a person, the making or the conducting of the following under Part 3—

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

Secretary means the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department of Health and Human Services;

self-administration permit means a permit issued under section 49(2)(a)(i);

special or personal care means—

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

spouse of a person means a person to whom the person is married;

supply has the same meaning as in section 4 of the **Drugs, Poisons and Controlled Substances Act 1981**;

vocationally registered general practitioner has the same meaning as in the Health Insurance Act 1973 of the Commonwealth;

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

voluntary assisted dying permit means—

- (a) a self-administration permit; or
- (b) a practitioner administration permit;

voluntary assisted dying substance means a poison or controlled substance or a drug of dependence specified in a voluntary assisted dying permit for the purpose of causing a person's death;

voluntary assisted dying substance dispensing form means a form in the form of Form 6 in Schedule 1 completed by a pharmacist under section 60;

voluntary assisted dying substance disposal form means a form in the form of Form 7 in Schedule 1 completed by a pharmacist under section 63;

written declaration means a declaration made under section 34 in the form of Form 3 in Schedule 1.

- (2) For the purposes of the definition of ***domestic partner*** in subsection (1)—
- (a) ***registered relationship*** has the same meaning as it has in the **Relationships Act 2008**; and
 - (b) in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of the relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case; and
 - (c) a person is not a domestic partner of another person merely because they are co-tenants.

4 Meaning of *decision-making capacity*

- (1) A person has decision-making capacity in relation to voluntary assisted dying if the person is able to—
 - (a) understand the information relevant to the decision relating to access to voluntary assisted dying and the effect of the decision; and
 - (b) retain that information to the extent necessary to make the decision; and
 - (c) use or weigh that information as part of the process of making the decision; and
 - (d) communicate the decision and the person's views and needs as to the decision in some way, including by speech, gestures or other means.
- (2) For the purposes of subsection (1), a person is presumed to have decision-making capacity unless there is evidence to the contrary.
- (3) For the purposes of subsection (1)(a), a person is taken to understand information relevant to a decision if the person understands an explanation of the information given to the person in a way that is appropriate to the person's circumstances, whether by using modified language, visual aids or any other means.
- (4) In determining whether or not a person has decision-making capacity, regard must be had to the following—
 - (a) a person may have decision-making capacity to make some decisions and not others;
 - (b) if a person does not have decision-making capacity to make a particular decision, it may be temporary and not permanent;

- (c) it should not be assumed that a person does not have decision-making capacity to make a decision—
 - (i) on the basis of the person's appearance; or
 - (ii) because the person makes a decision that is, in the opinion of others, unwise;
- (d) a person has decision-making capacity to make a decision if it is possible for the person to make a decision with practicable and appropriate support.

Examples

Practicable and appropriate support includes the following—

- (a) using information or formats tailored to the particular needs of a person;
 - (b) communicating or assisting a person to communicate the person's decision;
 - (c) giving a person additional time and discussing the matter with the person;
 - (d) using technology that alleviates the effects of a person's disability.
- (5) A person who is assessing whether a person has decision-making capacity for the purposes of this Act must take reasonable steps to conduct the assessment at a time and in an environment in which the person's decision-making capacity can be most accurately assessed.

5 Principles

- (1) A person exercising a power or performing a function or duty under this Act must have regard to the following principles—
 - (a) every human life has equal value;
 - (b) a person's autonomy 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;
 - (d) every person approaching the end of life should be provided with quality care 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) individuals should be encouraged to openly discuss death and dying and an individual's preferences and values should be encouraged and promoted;
 - (g) individuals should be supported in conversations with the individual's health practitioners, family and carers and community about treatment and care preferences;
 - (h) individuals are entitled to genuine choices regarding their treatment and care;
 - (i) there is a need to protect individuals who may be subject to abuse;
 - (j) all persons, including health practitioners, have the right to be shown respect for their culture, beliefs, values and personal characteristics.
- (2) In subsection (1), the reference to a person exercising a power or performing a function or duty under this Act includes VCAT.

6 When may a person 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 co-ordinating medical practitioner for the person; and
 - (ii) a consulting medical practitioner for the person; and
- (c) the person has made a written declaration; and
- (d) the person has made a final request to the co-ordinating medical practitioner; and
- (e) the person has appointed a contact person; and
- (f) the co-ordinating medical practitioner has certified in a final review form that the request and assessment process has been completed as required by this Act; and
- (g) the person is the subject of a voluntary assisted dying permit.

7 Conscientious objection of registered health practitioners

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) to provide information about voluntary assisted dying;
- (b) to participate in the request and assessment process;

- (c) to apply for a voluntary assisted dying permit;
- (d) to supply, prescribe or administer a voluntary assisted dying substance;
- (e) to be present at the time of administration of a voluntary assisted dying substance;
- (f) to dispense a prescription for a voluntary assisted dying substance.

8 Voluntary assisted dying must not be initiated by registered health practitioner

- (1) A registered health practitioner who provides health services or professional care services to a person must not, in the course of providing those services to the person—
 - (a) initiate discussion with that person that is in substance about voluntary assisted dying; or
 - (b) in substance, suggest voluntary assisted dying to that person.
- (2) Nothing in subsection (1) prevents a registered health practitioner providing information about voluntary assisted dying to a person at that person's request.
- (3) A contravention of subsection (1) is to be regarded as unprofessional conduct within the meaning and for the purposes of the Health Practitioner Regulation National Law.

Part 2—Criteria for access to voluntary assisted dying

9 Eligibility criteria for access to voluntary assisted dying

- (1) For a person to be eligible for access to voluntary assisted dying—
 - (a) the person must be aged 18 years or more; and
 - (b) the person must—
 - (i) be an Australian citizen or permanent resident; and
 - (ii) be ordinarily resident in Victoria; and
 - (iii) at the time of making a first request, have been ordinarily resident in Victoria for at least 12 months; and
 - (c) the person must have decision-making capacity in relation to voluntary assisted dying; and
 - (d) the person must be diagnosed with a disease, illness or medical condition that—
 - (i) is incurable; and
 - (ii) is advanced, progressive and will cause death; and
 - (iii) is expected to cause death within weeks or months, not exceeding 6 months; and
 - (iv) is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable.
- (2) A person is not eligible for access to voluntary assisted dying only because the person is diagnosed with a mental illness, within the meaning of the **Mental Health Act 2014**.

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Part 2—Criteria for access to voluntary assisted dying

- (3) A person is not eligible for access to voluntary assisted dying only because the person has a disability, within the meaning of section 3(1) of the **Disability Act 2006**.
- (4) Despite subsection (1)(d)(iii), if the person is diagnosed with a disease, illness or medical condition that is neurodegenerative, that disease, illness or medical condition must be expected to cause death within weeks or months, not exceeding 12 months.

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

Division 1—Minimum requirements for co-ordinating medical practitioners and consulting medical practitioners

10 Minimum requirements for co-ordinating medical practitioners and consulting medical practitioners

- (1) Each co-ordinating medical practitioner and consulting medical practitioner must—
 - (a) hold a fellowship with a specialist medical college; or
 - (b) be a vocationally registered general practitioner.
- (2) Either the co-ordinating medical practitioner or each consulting medical practitioner must have practised as a registered medical practitioner for at least 5 years after completing a fellowship with a specialist medical college or vocational registration (as the case requires).
- (3) Either the co-ordinating medical practitioner or each consulting medical practitioner must have relevant expertise and experience in the disease, illness or medical condition expected to cause the death of the person being assessed.

Division 2—First request

11 Person may make first request to registered medical practitioner

- (1) A person may make a request to a registered medical practitioner for access to voluntary assisted dying.

- (2) A request for access to voluntary assisted dying must be—
 - (a) clear and unambiguous; and
 - (b) made by the person personally.
- (3) The person may make the request verbally or by gestures or other means of communication available to the person.

12 No obligation to continue after making first request

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

13 Registered medical practitioner must accept or refuse first request

- (1) Within 7 days after receiving a first request from a person, the registered medical practitioner to whom the request was made must inform the person that the practitioner—
 - (a) accepts the first request; or
 - (b) refuses the first request because the practitioner—
 - (i) has a conscientious objection to voluntary assisted dying; or

- (ii) believes that the practitioner will not be able to perform the duties of co-ordinating medical practitioner due to unavailability; or
 - (iii) is required under subsection (2) to refuse the first request.
- (2) The registered medical practitioner must not accept the first request unless the practitioner—
- (a) holds a fellowship with a specialist medical college; or
 - (b) is a vocationally registered general practitioner.

14 Registered medical practitioner who accepts first request must record first request and acceptance

If the registered medical practitioner accepts the person's first request, the practitioner must—

- (a) record the practitioner's decision to accept the first request in the person's medical record; and
- (b) record the first request in the person's medical record.

15 Registered medical practitioner who accepts first request becomes co-ordinating medical practitioner

On acceptance of a person's first request, the registered medical practitioner to whom the request was made becomes the co-ordinating medical practitioner for the person.

Division 3—First assessment

16 Commencement of first assessment

After becoming the co-ordinating medical practitioner for a person, the co-ordinating medical practitioner must assess whether the

person requesting access to voluntary assisted dying meets the eligibility criteria.

Note

The person must meet all eligibility criteria to be assessed as eligible for access to voluntary assisted dying—see section 20(1)(a).

17 Co-ordinating medical practitioner must not commence first assessment unless approved assessment training completed

The co-ordinating medical practitioner must not commence the first assessment unless the practitioner has completed approved assessment training.

18 Referral for specialist opinion

- (1) If the co-ordinating medical practitioner is unable to determine whether the person has decision-making capacity in relation to voluntary assisted dying as required by the eligibility criteria, for example, due to a past or current mental illness of the person, the co-ordinating medical practitioner must refer the person to a registered health practitioner who has appropriate skills and training, such as a psychiatrist in the case of mental illness.
- (2) If the co-ordinating medical practitioner is unable to determine whether the person's disease, illness or medical condition meets the requirements of the eligibility criteria, the co-ordinating medical practitioner must refer the person to a specialist registered medical practitioner who has appropriate skills and training in that disease, illness or medical condition.
- (3) If the co-ordinating medical practitioner refers the person to—
 - (a) a registered health practitioner under subsection (1); or

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

(b) a specialist registered medical practitioner under subsection (2)—

the co-ordinating medical practitioner may adopt the determination of the registered health practitioner or specialist registered medical practitioner (as the case requires) in relation to the matter in respect of which the person was referred.

(4) If the co-ordinating medical practitioner is able to determine that the person has a disease, illness or medical condition that is neurodegenerative in accordance with section 9(4) that—

(a) will cause death; and

(b) is expected to cause death between 6 and 12 months—

the co-ordinating medical practitioner must refer the person to a specialist registered medical practitioner who has appropriate skills and training in that particular disease, illness or medical condition that is neurodegenerative, whether or not the co-ordinating medical practitioner had also made a referral under subsection (2).

(5) The specialist registered medical practitioner referred to in subsection (4) must—

(a) determine whether the person has a disease, illness or medical condition that is neurodegenerative that—

(i) will cause death; and

(ii) is expected to cause death between 6 and 12 months; and

(b) provide a clinical report to the co-ordinating medical practitioner that sets out the specialist registered medical practitioner's determination.

- (6) If the co-ordinating medical practitioner refers the person to a specialist registered medical practitioner under subsection (4), the co-ordinating medical practitioner must adopt the determination of the specialist registered medical practitioner in respect of the matter in relation to which the person was referred.

19 Information to be provided if co-ordinating medical practitioner assesses person as meeting eligibility criteria

- (1) If the co-ordinating medical practitioner is satisfied that the person requesting access to voluntary assisted dying meets all the eligibility criteria, the co-ordinating medical practitioner must inform the person about the following matters—
- (a) the person's diagnosis and prognosis;
 - (b) the treatment options available to the person and the likely outcomes of that treatment;
 - (c) palliative care options available to the person and the likely outcomes of that care;
 - (d) the potential risks of taking a poison or controlled substance or a drug of dependence likely to be prescribed under this Act for the purposes of causing the person's death;
 - (e) that the expected outcome of taking a poison or controlled substance or a drug of dependence referred to in paragraph (d) is death;
 - (f) that the person may decide at any time not to continue the request and assessment process;
 - (g) that if the person is receiving ongoing health services from a registered medical practitioner other than the co-ordinating medical practitioner, the person is

encouraged to inform the registered medical practitioner of the person's request to access voluntary assisted dying.

- (2) In addition to the matters of which the co-ordinating medical practitioner must inform the person under subsection (1), the co-ordinating medical practitioner must, if the person consents, take all reasonable steps to fully explain to a member of the family of the person—
 - (a) all relevant clinical guidelines; and
 - (b) a plan in respect of the self-administration of a voluntary assisted dying substance for the purpose of causing death.
- (3) Nothing in this section affects any duty a registered medical practitioner has at common law or under any other enactment.

20 Outcome of first assessment

- (1) The co-ordinating medical practitioner must assess the person as eligible for access to voluntary assisted dying if the co-ordinating medical practitioner is satisfied that—
 - (a) the person meets all the eligibility criteria for access to voluntary assisted dying; and
 - (b) the person understands the information required to be provided under section 19(1); and
 - (c) the person is acting voluntarily and without coercion; and
 - (d) the person's request for access to voluntary assisted dying is enduring.

- (2) If the co-ordinating medical practitioner is not satisfied as to any matter in subsection (1)—
 - (a) the person requesting access to voluntary assisted dying is ineligible for access to voluntary assisted dying; and
 - (b) the request and assessment process ends.

21 Recording and notification of outcome of first assessment

- (1) The co-ordinating medical practitioner must notify the person requesting access to voluntary assisted dying of the outcome of the first assessment.
- (2) Within 7 days after completing the first assessment, the co-ordinating medical practitioner must complete the first assessment report form and give a copy of that form to the Board.

22 Referral for consulting assessment if person assessed as eligible

If the co-ordinating medical practitioner for the person assesses the person as eligible for access to voluntary assisted dying, the co-ordinating medical practitioner must refer the person to another registered medical practitioner for a consulting assessment.

Division 4—Consulting assessment

23 Registered medical practitioner must accept or refuse referral for a consulting assessment

- (1) Within 7 days after a registered medical practitioner receives a referral for a consulting assessment of a person from the co-ordinating medical practitioner for the person under section 22, 31, 33(3)(a) or 73(4), the registered medical practitioner must inform the person and the co-ordinating medical practitioner that the practitioner—

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- (a) accepts the referral; or
- (b) refuses the referral because the practitioner—
 - (i) has a conscientious objection to voluntary assisted dying; or
 - (ii) believes that the practitioner will not be able to perform the duties of consulting medical practitioner due to unavailability; or
 - (iii) is required under subsection (2), (3) or (4) to refuse the referral.
- (2) The registered medical practitioner must not accept the referral unless the practitioner—
 - (a) holds a fellowship with a specialist medical college; or
 - (b) is a vocationally registered general practitioner.
- (3) Subject to subsection (5), the registered medical practitioner must refuse the referral if the practitioner has not practised as a medical practitioner for at least 5 years after completing a fellowship with a specialist medical college or vocational registration (as the case requires).
- (4) Subject to subsection (6), the registered medical practitioner must refuse the referral if the practitioner does not have relevant expertise and experience in the disease, illness or medical condition expected to cause the person's death.
- (5) Subsection (3) does not apply if the co-ordinating medical practitioner has practised as a medical practitioner for at least 5 years after completing a fellowship with a specialist medical college or vocational registration (as the case requires).

- (6) Subsection (4) does not apply if the co-ordinating medical practitioner has relevant expertise and experience in the disease, illness or medical condition expected to cause the person's death.

24 Registered medical practitioner who accepts referral becomes consulting medical practitioner

On acceptance of a referral for a consulting assessment of a person, the registered medical practitioner to whom the referral was made becomes a consulting medical practitioner for the person.

25 Commencement of consulting assessment

The consulting medical practitioner for a person must assess whether the person requesting access to voluntary assisted dying meets the eligibility criteria.

Note

The person must meet all eligibility criteria to be assessed as eligible for access to voluntary assisted dying—see section 29(1)(a).

26 Consulting medical practitioner must not commence consulting assessment unless approved assessment training completed

The consulting medical practitioner must not commence a consulting assessment unless the practitioner has completed approved assessment training.

27 Referral for specialist opinion

- (1) If the consulting medical practitioner is unable to determine whether the person has decision-making capacity in relation to voluntary assisted dying as required by the eligibility criteria,, for example, due to a past or current mental illness of the person, the consulting medical practitioner must refer the person to a

registered health practitioner who has appropriate skills and training, such as a psychiatrist in the case of mental illness.

- (2) If the consulting medical practitioner is unable to determine whether the person's disease, illness or medical condition meets the requirements of the eligibility criteria, the consulting medical practitioner must refer the person to a specialist registered medical practitioner who has appropriate skills and training in that disease, illness or medical condition.
- (3) If the consulting medical practitioner refers the person to—
 - (a) a registered health practitioner under subsection (1); or
 - (b) a specialist registered medical practitioner under subsection (2)—

the consulting medical practitioner may adopt the determination of the registered health practitioner or specialist registered medical practitioner (as the case requires) in relation to the matter in respect of which the person was referred.

28 Information to be provided if consulting medical practitioner assesses person as meeting eligibility criteria

- (1) If the consulting medical practitioner is satisfied that the person requesting access to voluntary assisted dying meets all the eligibility criteria, the consulting medical practitioner must inform the person about the following matters—
 - (a) the person's diagnosis and prognosis;
 - (b) the treatment options available to the person and the likely outcomes of that treatment;
 - (c) palliative care options available to the person and the likely outcomes of that care;

- (d) the potential risks of taking a poison or controlled substance or a drug of dependence likely to be prescribed under this Act for the purposes of causing the person's death;
 - (e) that the expected outcome of taking a poison or controlled substance or a drug of dependence referred to in paragraph (d) is death;
 - (f) that the person may decide at any time not to continue the request and assessment process;
 - (g) that if the person is receiving ongoing health services from a registered medical practitioner other than the co-ordinating medical practitioner, the person is encouraged to inform the registered medical practitioner of the person's request to access voluntary assisted dying.
- (2) Nothing in this section affects any duty a registered medical practitioner has at common law or under any other enactment.

29 Outcome of consulting assessment

- (1) The consulting medical practitioner must assess the person as eligible for access to voluntary assisted dying if the consulting medical practitioner is satisfied that—
- (a) the person meets all the eligibility criteria for access to voluntary assisted dying; and
 - (b) the person understands the information required to be provided under section 28(1); and
 - (c) the person is acting voluntarily and without coercion; and
 - (d) the person's request for access to voluntary assisted dying is enduring.

- (2) If the consulting medical practitioner is not satisfied as to any matter in subsection (1), the consulting medical practitioner must assess the person requesting access to voluntary assisted dying as ineligible for access to voluntary assisted dying.

30 Recording and notification of outcome of consulting assessment

- (1) The consulting medical practitioner must—
- (a) notify the person requesting access to voluntary assisted dying of the outcome of the consulting assessment; and
 - (b) complete the consulting assessment report form and give a copy of it to—
 - (i) the Board; and
 - (ii) the co-ordinating medical practitioner for the person.
- (2) The consulting medical practitioner must give the copy of the consulting assessment report form to the Board within 7 days after completing the consulting assessment.

31 Co-ordinating medical practitioner may refer person assessed as ineligible for further consulting assessment

If a consulting medical practitioner assesses a person requesting access to voluntary assisted dying as ineligible for access to voluntary assisted dying, the co-ordinating medical practitioner for the person may refer the person to another registered medical practitioner for a further consulting assessment.

**32 Co-ordinating medical practitioner may transfer
role of co-ordinating medical practitioner**

The co-ordinating medical practitioner for a person may transfer the role of co-ordinating medical practitioner in accordance with section 33—

- (a) at the request of the person; or
- (b) at the co-ordinating medical practitioner's own initiative.

**33 Process for transfer of co-ordinating medical
practitioner role**

- (1) The co-ordinating medical practitioner for a person may transfer the role of co-ordinating medical practitioner to a consulting medical practitioner for the person if—
 - (a) the consulting medical practitioner has assessed the person as eligible for access to voluntary assisted dying; and
 - (b) the consulting medical practitioner accepts the transfer of the role.
- (2) Within 7 days after being requested by the co-ordinating medical practitioner to accept a transfer under subsection (1), the consulting medical practitioner must inform the co-ordinating medical practitioner whether the consulting medical practitioner accepts or refuses the transfer of the role.
- (3) If the consulting medical practitioner refuses the transfer of the role of co-ordinating medical practitioner, the co-ordinating medical practitioner for the person may—
 - (a) refer the person to another registered medical practitioner to conduct a further consulting assessment; and

- (b) transfer the role of co-ordinating medical practitioner to that registered medical practitioner if that practitioner—
 - (i) accepts the referral to conduct a further consulting assessment; and
 - (ii) assesses the person as eligible for access to voluntary assisted dying; and
 - (iii) accepts the transfer of the role.
- (4) If the registered medical practitioner accepts a referral to conduct a further consulting assessment, the consulting assessment that previously assessed the person as eligible for access to voluntary assisted dying becomes void.

Division 5—Written declaration

34 Person assessed as eligible for access to voluntary assisted dying may make written declaration

- (1) A person may make a written declaration requesting access to voluntary assisted dying if the person has been assessed as eligible for access to voluntary assisted dying by—
 - (a) the co-ordinating medical practitioner for the person; and
 - (b) a consulting medical practitioner for the person.
- (2) The written declaration must—
 - (a) specify that the person—
 - (i) makes the declaration voluntarily and without coercion; and
 - (ii) understands the nature and the effect of the declaration the person is making; and

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- (b) be signed by the person making the declaration in the presence of 2 witnesses and the co-ordinating medical practitioner.
- (3) Despite subsection (2)(b), a person may sign a written declaration at the direction of the person making the declaration if—
 - (a) the person making the declaration is unable to sign the declaration; and
 - (b) the person signing—
 - (i) is aged 18 years or more; and
 - (ii) is not a witness to the signing of the declaration.
- (4) A person who signs a written declaration on behalf of the person making the declaration must do so in that person's presence.
- (5) If a person makes a 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.

Note

Interpreters who assist in relation to requesting access to or accessing voluntary assisted dying must meet certain requirements—see section 115.

35 Witness to making of written declaration

- (1) A person is eligible to witness the making of a written declaration if the person is—
 - (a) aged 18 years or more; and
 - (b) not an ineligible witness.

- (2) A person is an *ineligible witness* for the purposes of a written declaration if the person—
- (a) knows or believes that the person—
 - (i) is a beneficiary under a will of the person making the declaration; or
 - (ii) may otherwise benefit financially or in any other material way from the death of the person making the declaration; or
 - (b) is an owner of, or is responsible for the day-to-day operation of, any health facility at which—
 - (i) the person making the declaration is being treated; or
 - (ii) the person making the declaration resides; or
 - (c) is directly involved in providing health services or professional care services to the person making the declaration.
- (3) Not more than one witness may be a family member of the person making the written declaration.

36 Certification of witness to signing of written declaration

- (1) A witness who witnesses a person signing a written declaration must—
- (a) certify in writing in the declaration—
 - (i) that, in the presence of the witness, the person making the declaration appeared to freely and voluntarily sign the declaration; and

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- (ii) that, at the time the person signed the declaration, the person appeared to have decision-making capacity in relation to voluntary assisted dying; and
 - (iii) that, at the time the person signed the declaration, the person appeared to understand the nature and effect of making the declaration; and
 - (b) state that the witness is not knowingly an ineligible witness.
- (2) A witness who witnesses another person signing a written declaration on behalf of the person making it must—
- (a) certify in writing in the declaration—
 - (i) that, in the presence of the witness, the person making the declaration appeared to freely and voluntarily direct the other person to sign the declaration; and
 - (ii) that the other person signed the declaration in the presence of the person making the declaration and the witness; and
 - (iii) that, at the time the other person signed the declaration, the person making it appeared to have decision-making capacity in relation to voluntary assisted dying; and
 - (iv) that, at the time the other person signed the declaration, the person making it appeared to understand the nature and effect of making the declaration; and
 - (b) state that the witness is not knowingly an ineligible witness.

- (3) A certification and statement under subsection (1) or (2) must be signed by the witness making it in the presence of the co-ordinating medical practitioner.

Division 6—Final request, contact person and final review by co-ordinating medical practitioner

37 Person may make final request

- (1) A person may make a final request for access to voluntary assisted dying if the person has made a written declaration.
- (2) A final request must be made to the co-ordinating medical practitioner for the person, by that person personally.
- (3) The person may make the final request verbally or by gestures or other means of communication available to the person.

38 Final request to be made a certain time after first request and consulting assessment

- (1) A person's final request must be made—
 - (a) subject to subsection (2), at least 9 days after the day on which the person made the first request; and
 - (b) in any case, at least one day after the day on which the consulting assessment that assessed the person as eligible for access to voluntary assisted dying was completed.
- (2) Subsection (1)(a) does not apply if the co-ordinating medical practitioner for the person considers that the person's death is likely to occur before the expiry of the time period specified in that subsection, and this is consistent with the prognosis of the consulting medical practitioner for the person set out in the consulting assessment report form.

39 Contact person

- (1) A person must, after making a final request, appoint a person who is aged 18 years or more as the contact person in respect of the person.
- (2) The contact person must return to a pharmacist at the dispensing pharmacy any unused or remaining voluntary assisted dying substance dispensed to the person making the final request either—
 - (a) if the person dies and the contact person knows that any voluntary assisted dying substance is unused or remaining after the death, within 15 days after the date of death; or
 - (b) if the person decides to make a request under section 53 for practitioner administration or decides not to self-administer, at the person's request.
- (3) The Board may contact the contact person to request information.

40 Formal requirements for appointment of contact person

- (1) A person cannot be appointed as the contact person unless the person accepts the appointment.
- (2) An appointment of the contact person must—
 - (a) be made in a contact person appointment form; and
 - (b) in the presence of another person who is aged 18 years or more, be signed by—
 - (i) the person making the appointment; and
 - (ii) the person being appointed.

- (3) Despite subsection (2)(b)(i), a person may sign a contact person appointment form at the direction of the person making the appointment if—
- (a) the person making the appointment is unable to sign the form; and
 - (b) the person signing—
 - (i) is aged 18 years or more; and
 - (ii) is not a witness to the signing of the form; and
 - (iii) is not the person to be appointed as the contact person.
- (4) A person who signs a contact person appointment form on behalf of the person making the appointment must do so in that person's presence.
- (5) If a person appoints a contact person with the assistance of an interpreter, the interpreter must certify on the contact person appointment form that the interpreter provided a true and correct translation of any material translated.

Note

Interpreters who assist in relation to requesting access to or accessing voluntary assisted dying must meet certain requirements—see section 115.

41 Final review by co-ordinating medical practitioner on receipt of final request

- (1) On receipt of a final request made by a person, the co-ordinating medical practitioner for the person must—
- (a) review the following forms completed under this Part—
 - (i) the first assessment report form;
 - (ii) all consulting assessment report forms;
 - (iii) the written declaration;

- (iv) the contact person appointment form;
and
 - (b) complete the final review form in respect of
the person; and
 - (c) certify whether the request and assessment
process has been completed as required by
this Act.
- (2) The co-ordinating medical practitioner must give
the Board a copy of the completed final review
form, accompanied by copies of all forms referred
to in subsection (1)(a), within 7 days after
completing the final review form.

**42 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 41(1)(a).

**43 Co-ordinating medical practitioner may apply for
voluntary assisted dying permit on certification of
request and assessment process on final review**

If the co-ordinating medical practitioner
certifies in a final review form that the request
and assessment process has been completed as
required by this Act, the co-ordinating medical
practitioner may apply under section 47 or 48
for a voluntary assisted dying permit for the
person.

**44 No obligation for person to continue after
certification of request and assessment process on
final review**

A person in respect of whom a final review has
been completed and certified may decide at any
time not to take any further step in relation to
access to voluntary assisted dying.

Part 4—Voluntary assisted dying permits

Division 1—Authorisations under a voluntary assisted dying permit

45 What is authorised by self-administration permit?

A self-administration permit in respect of a person specified in the permit authorises—

- (a) the co-ordinating medical practitioner for the person, for the purpose of causing the person's death, to prescribe and supply the voluntary assisted dying substance specified in the permit to the person that—
 - (i) is able to be self-administered; and
 - (ii) is of a sufficient dose to cause death; and
- (b) the person to obtain, possess, store, use and self-administer the voluntary assisted dying substance; and
- (c) in the case of the death of the person, within 15 days after the date of the person's death, the contact person specified in the permit—
 - (i) to possess and store the unused or remaining voluntary assisted dying substance (if any) for the purpose of returning it to a pharmacist at the dispensing pharmacy; and
 - (ii) to carry and transport the unused or remaining voluntary assisted dying substance to a pharmacist at the dispensing pharmacy; and

- (d) in the case that the person decides to make a request under section 53 or decides not to self-administer, or in the case of an order made by VCAT to return the voluntary assisted dying substance to the dispensing pharmacy, a contact person specified in the permit—
 - (i) to possess and store the voluntary assisted dying substance (if any) that has been dispensed to the person; and
 - (ii) to carry and transport the voluntary assisted dying substance to a pharmacist at the dispensing pharmacy.

46 What is authorised by practitioner administration permit?

A practitioner administration permit in respect of a person specified in the permit authorises the co-ordinating medical practitioner for the person, for the purpose of causing the person's death—

- (a) to prescribe and supply to the person a sufficient dose of the voluntary assisted dying substance specified in the permit; and
- (b) in the presence of a witness receive an administration request; and
- (c) to possess, use, and administer in the presence of a witness, the voluntary assisted dying substance to the person if—
 - (i) the person is physically incapable of the self-administration or digestion of the voluntary assisted dying substance; and
 - (ii) the person at the time of making the administration request has decision-making capacity in relation to voluntary assisted dying; and

- (iii) the person in requesting access to voluntary assisted dying is acting voluntarily and without coercion; and
- (iv) the person's request to access voluntary assisted dying is enduring; and
- (v) the person is administered the voluntary assisted dying substance immediately after making the administration request.

Division 2—Voluntary assisted dying permits

47 Application for self-administration permit

- (1) Subject to subsection (3), the co-ordinating medical practitioner for a person may apply to the Secretary for a self-administration permit in respect of the person if the person is physically able to self-administer and ingest the poison or controlled substance or the drug of dependence proposed to be specified in the permit for the purpose of causing the person's death.
- (2) An application for a self-administration permit must—
 - (a) be in the prescribed form; and
 - (b) identify the person in respect of whom the permit is sought; and
 - (c) specify the poison or controlled substance or the drug of dependence the applicant seeks to prescribe or supply in a sufficient dose to the person, for the purpose of self-administration to cause the person's death; and
 - (d) specify the contact person in respect of the person; and
 - (e) be accompanied by a copy of the completed final review form and all forms referred to in section 41(1)(a); and

- (f) be accompanied by a statement that the applicant is satisfied of the matters specified in subsection (3).
- (3) The co-ordinating medical practitioner must not apply for a self-administration permit unless the co-ordinating medical practitioner is satisfied that—
 - (a) the person has decision-making capacity in relation to voluntary assisted dying; and
 - (b) the person's request for access to voluntary assisted dying is enduring.

48 Application for practitioner administration permit

- (1) Subject to subsection (3), the co-ordinating medical practitioner for a person may apply to the Secretary for a practitioner administration permit in respect of the person, if the person is to be supplied and administered the poison or controlled substance or the drug of dependence proposed to be specified in the permit by the co-ordinating medical practitioner for the purpose of causing the person's death.
- (2) An application for a practitioner administration permit must—
 - (a) be in the prescribed form; and
 - (b) identify the person in respect of whom the permit is sought; and
 - (c) specify the poison or controlled substance or the drug of dependence the applicant seeks to prescribe, supply and administer to the person in a sufficient dose to cause the person's death; and
 - (d) specify the contact person in respect of the person; and

- (e) be accompanied by a copy of the completed final review form and all forms referred to in section 41(1)(a); and
 - (f) be accompanied by a statement that the applicant is satisfied of the matters specified in subsection (3); and
 - (g) if the person in respect of whom the permit is sought was the subject of a self-administration permit cancelled under section 52, be accompanied by evidence to the satisfaction of the Secretary—
 - (i) that any prescription under that self-administration permit which was not filled has been destroyed by the applicant; or
 - (ii) that any voluntary assisted dying substance supplied under that self-administration permit has been disposed of by a pharmacist at the dispensing pharmacy.
- (3) The co-ordinating medical practitioner must not apply for a practitioner administration permit unless the co-ordinating medical practitioner is satisfied that—
- (a) the person is physically incapable of the self-administration or digestion of an appropriate poison or controlled substance or drug of dependence; and
 - (b) the person has decision-making capacity in relation to voluntary assisted dying; and
 - (c) the person's request for access to voluntary assisted dying is enduring.

49 Secretary to determine application for a voluntary assisted dying permit

- (1) The Secretary must determine an application for a voluntary assisted dying permit made under section 47 or 48 by the co-ordinating medical practitioner for a person within the prescribed period.
- (2) The Secretary—
 - (a) may issue—
 - (i) a self-administration permit; or
 - (ii) a practitioner administration permit; or
 - (b) may refuse to issue a voluntary assisted dying permit.
- (3) Without limiting subsection (2), the Secretary may refuse to issue a voluntary assisted dying permit if the Secretary is not satisfied the request and assessment process has been completed as required by this Act.
- (4) After determining the application the Secretary must—
 - (a) as soon as practicable—
 - (i) notify the co-ordinating medical practitioner in writing of the decision under subsection (2); and
 - (ii) if the Secretary refuses an application under subsection (2)(b), provide reasons for the decision; and
 - (b) within 7 days notify the Board in writing of the decision under subsection (2).
- (5) A voluntary assisted dying permit must be in the prescribed form.

50 Operation of voluntary assisted dying permit

A voluntary assisted dying permit comes into force on the day specified in the permit.

51 Secretary may amend voluntary assisted dying permit

- (1) The Secretary may amend a voluntary assisted dying permit if satisfied that the permit contains an administrative error or a minor defect.
- (2) The Secretary may exercise a power under subsection (1)—
 - (a) on the request of the relevant co-ordinating medical practitioner; or
 - (b) in the Secretary's discretion.
- (3) The Secretary must notify the relevant co-ordinating medical practitioner and the Board in writing of any amendment made under subsection (1).

52 Cancellation of self-administration permit

A self-administration permit is cancelled—

- (a) on the co-ordinating medical practitioner destroying any unfilled prescription; or
- (b) on a pharmacist giving the Board a copy of the completed voluntary assisted dying substance disposal form.

Division 3—Later physical incapacity of person to self-administer voluntary assisted dying substance

53 Person may request co-ordinating medical practitioner apply for a practitioner administration permit

- (1) A person may request the co-ordinating medical practitioner for the person to apply for a practitioner administration permit if—

- (a) the person is the subject of a self-administration permit; and
 - (b) the person has lost the physical capacity to self-administer or ingest the voluntary assisted dying substance specified in the permit.
- (2) The person must make the request personally.
 - (3) The person may make the request verbally or by gestures or other means of communication available to the person.

54 Destruction of unfilled prescription by co-ordinating medical practitioner

The co-ordinating medical practitioner must, on receiving a request under section 53 destroy any prescription under the relevant self-administration permit which has not been filled.

55 Return of any dispensed voluntary assisted dying substance

Before making a request under section 53, the person or the relevant contact person must, if a voluntary assisted dying substance has been supplied, return the voluntary assisted dying substance to a pharmacist at the dispensing pharmacy.

56 Co-ordinating medical practitioner may apply for a practitioner administration permit

If a self-administration permit is cancelled under section 52, the co-ordinating medical practitioner for the person may apply for a practitioner administration permit for the person.

Part 5—Accessing voluntary assisted dying and death

Division 1—Prescribing, dispensing or disposing of voluntary assisted dying substance

57 Information to be given on prescribing a voluntary assisted dying substance

The co-ordinating medical practitioner for a person must, before prescribing a voluntary assisted dying substance in accordance with a self-administration permit, inform the person—

- (a) how to self-administer the voluntary assisted dying substance; and
- (b) that the person is not under any obligation to obtain the voluntary assisted dying substance and may at any time return an unfilled prescription to the co-ordinating medical practitioner; and
- (c) that the voluntary assisted dying substance must be stored in a locked box that satisfies the prescribed specifications; and
- (d) that the person is not under any obligation to self-administer the voluntary assisted dying substance; and
- (e) that any unfilled prescription must be returned to the co-ordinating medical practitioner for destruction on the making of a request under section 53; and
- (f) that the person or the relevant contact person must return to a pharmacist at the dispensing pharmacy for disposal any dispensed voluntary assisted dying substance—

- (i) that the person decides not to self-administer; or
- (ii) that the person does not self-administer before making a request under section 53; and
- (g) that the relevant contact person must return to a pharmacist at the dispensing pharmacy for disposal any dispensed voluntary assisted dying substance that is not self-administered after the person dies.

58 Information to be given by pharmacist dispensing a prescribed voluntary assisted dying substance

A pharmacist must, on dispensing a prescription for a voluntary assisted dying substance, inform the person to whom the voluntary assisted dying substance is being dispensed—

- (a) how to self-administer the voluntary assisted dying substance; and
- (b) that the voluntary assisted dying substance must be stored in a locked box that satisfies the prescribed specifications; and
- (c) that the person is not under any obligation to self-administer the voluntary assisted dying substance; and
- (d) that the person or the relevant contact person must return to a pharmacist at the dispensing pharmacy for disposal any dispensed voluntary assisted dying substance—
 - (i) that the person decides not to self-administer; or
 - (ii) that the person does not self-administer before making a request under section 53; and

- (e) that the relevant contact person must return to a pharmacist at the dispensing pharmacy for disposal any dispensed voluntary assisted dying substance that is not self-administered after the person dies.

59 Labelling requirements for voluntary assisted dying substance

- (1) In addition to any labelling requirements of the Poisons Code or under the **Drugs, Poisons and Controlled Substances Act 1981**, a pharmacist who supplies a voluntary assisted dying substance must attach a labelling statement in writing to the relevant package or container that—
 - (a) warns of the purpose of the dose of the voluntary assisted dying substance; and
 - (b) states the dangers of self-administering the voluntary assisted dying substance; and
 - (c) states that the voluntary assisted dying substance must be stored in a locked box that satisfies the prescribed specifications; and
 - (d) states that any unused or remaining voluntary assisted dying substance must be returned by the person to whom it was dispensed or the relevant contact person to a pharmacist at the dispensing pharmacy.
- (2) A labelling statement must be in the prescribed form.

60 Pharmacist to record and notify of voluntary assisted dying substance dispensed

- (1) A pharmacist who dispenses a voluntary assisted dying substance must immediately record in a voluntary assisted dying substance dispensing form—
 - (a) that the voluntary assisted dying substance was dispensed; and

(b) that the requirements under sections 58 and 59 were satisfied.

- (2) The pharmacist must within 7 days after dispensing the voluntary assisted dying substance give a copy of the completed voluntary assisted dying substance dispensing form to the Board.

61 Secure storage of voluntary assisted dying substance

The person in respect of whom a voluntary assisted dying substance has been dispensed must store the substance in a locked box that satisfies the prescribed specifications.

62 Pharmacist at dispensing pharmacy to dispose of returned voluntary assisted dying substance

If a person who is the subject of a self-administration permit or the contact person specified in the permit returns any of the dispensed voluntary assisted dying substance to a pharmacist at the dispensing pharmacy, the pharmacist must as soon as practicable dispose of it.

63 Pharmacist at dispensing pharmacy to record and notify of disposal of returned voluntary assisted dying substance

- (1) A pharmacist at the dispensing pharmacy who disposes of a voluntary assisted dying substance under section 62 must immediately record that disposal in a voluntary assisted dying substance disposal form.
- (2) The pharmacist must within 7 days after disposing of the voluntary assisted dying substance give a copy of the completed voluntary assisted dying substance disposal form to the Board.

**Division 2—Administration request and
administration of voluntary assisted
dying substance**

64 Person may make administration request

- (1) A person may make an administration request, to the co-ordinating medical practitioner for the person, that the co-ordinating medical practitioner administer to the person the voluntary assisted dying substance specified in a practitioner administration permit, if—
 - (a) the person is the subject of the permit; and
 - (b) the person has decision-making capacity in relation to voluntary assisted dying; and
 - (c) the person's request to access voluntary assisted dying is enduring; and
 - (d) the person understands that the voluntary assisted dying substance is to be administered immediately after the making of the administration request.
- (2) The person must make the request personally.
- (3) The person may make the request verbally or by gesture or other means of communication available to the person.
- (4) An administration request must be made in the presence of a witness.
- (5) The co-ordinating medical practitioner must refuse to accept the person's administration request if the co-ordinating medical practitioner is not satisfied of any matter under subsection (1).

65 Witness to administration request and administration of voluntary assisted dying substance

- (1) For the purposes of section 46(b) and (c) and section 64(4), a witness to the making of an administration request and the administration of the voluntary assisted dying substance must be—
 - (a) aged 18 years or more; and
 - (b) independent of the co-ordinating medical practitioner for the person to whom the voluntary assisted dying substance is to be administered.
- (2) The witness who witnesses a person making an administration request and who witnesses the administration of the voluntary assisted dying substance must, in a co-ordinating medical practitioner administration form—
 - (a) certify in writing that—
 - (i) the person at the time of making the administration request appeared to have decision-making capacity in relation to voluntary assisted dying; and
 - (ii) the person in requesting access to voluntary assisted dying appeared to be acting voluntarily and without coercion; and
 - (iii) the person's request to access voluntary assisted dying appeared to be enduring; and
 - (b) state that the co-ordinating medical practitioner administered the voluntary assisted dying substance to the person.

66 Certification by co-ordinating medical practitioner following administration of voluntary assisted dying substance

- (1) The co-ordinating medical practitioner for a person who has administered the voluntary assisted dying substance to the person must, in the same co-ordinating medical practitioner administration form completed by the relevant witness, certify in writing that the practitioner is satisfied—
 - (a) the person was physically incapable of the self-administration or digestion of the voluntary assisted dying substance; and
 - (b) the person at the time of making the administration request had decision-making capacity in relation to voluntary assisted dying; and
 - (c) the person in requesting access to voluntary assisted dying acted voluntarily and without coercion; and
 - (d) the person's request to access voluntary assisted dying was enduring.
- (2) The co-ordinating medical practitioner must within 7 days after administering a voluntary assisted dying substance to a person under a practitioner administration permit give the Board a copy of the co-ordinating medical practitioner administration form completed under subsection (1).

Division 3—Notification of cause of death

67 Notification of disease, illness or medical condition of person to the Registrar and Coroner

- (1) In addition to section 37(1) of the **Births, Deaths and Marriages Registration Act 1996**, a registered medical practitioner who was responsible for a person's medical care immediately before death, or who examines the body of a deceased person after death and reasonably believes or knows the person was the subject of a voluntary assisted dying permit must notify the Registrar of—
- (a) the registered medical practitioner's reasonable belief or knowledge that the person—
 - (i) was the subject of a voluntary assisted dying permit and the voluntary assisted dying substance specified in the permit was not self-administered by the person or administered to the person; or
 - (ii) was the subject of a self-administration permit and accessed voluntary assisted dying by self-administering the voluntary assisted dying substance specified in the permit; or
 - (iii) was the subject of a practitioner administration permit and accessed voluntary assisted dying by being administered the voluntary assisted dying substance specified in the permit; and
 - (b) the disease, illness or medical condition that was the grounds for the person to access voluntary assisted dying.

- (2) A registered medical practitioner who was responsible for a person's medical care immediately before death, or who examines the body of a deceased person after death and reasonably believes or knows the person was the subject of a voluntary assisted dying permit must notify the Coroner of—
- (a) the registered medical practitioner's reasonable belief or knowledge that the person—
 - (i) was the subject of a voluntary assisted dying permit and the voluntary assisted dying substance specified in the permit was not self-administered by the person or administered to the person; or
 - (ii) was the subject of a self-administration permit and accessed voluntary assisted dying by self-administering the voluntary assisted dying substance specified in the permit; or
 - (iii) was the subject of a practitioner administration permit and accessed voluntary assisted dying by being administered the voluntary assisted dying substance specified in the permit; and
 - (b) the disease, illness or medical condition that was the grounds for the person to access voluntary assisted dying.

Part 6—Review by VCAT

68 Application for review of certain decisions by VCAT

- (1) An eligible applicant may apply to VCAT for review of the following decisions—
- (a) a decision of the co-ordinating medical practitioner for a person in a first assessment that the person—
 - (i) is or is not ordinarily resident in Victoria; or
 - (ii) was or was not ordinarily resident in Victoria for at least 12 months at the time of making a first request; or
 - (iii) has or does not have decision-making capacity in relation to voluntary assisted dying;
 - (b) a decision of a consulting medical practitioner for a person in a consulting assessment that the person—
 - (i) is or is not ordinarily resident in Victoria; or
 - (ii) was or was not ordinarily resident in Victoria for at least 12 months at the time of making a first request; or
 - (iii) has or does not have decision-making capacity in relation to voluntary assisted dying;
 - (c) a decision of the co-ordinating medical practitioner for a person under section 47(3)(a) or 48(3)(b) that the person has or does not have decision-making capacity in relation to voluntary assisted dying;

(d) a decision under section 64(5) that the person has or does not have decision-making capacity in relation to voluntary assisted dying.

(2) In this section—

eligible applicant means—

- (a) a person who is the subject of a decision referred to in subsection (1); or
 - (b) an agent of a person referred to in paragraph (a); or
 - (c) any other person who VCAT is satisfied has a special interest in the medical treatment and care of the person referred to in paragraph (a).
- (3) For the purposes of section 59(1)(b)(iv) of the **Victorian Civil and Administrative Tribunal Act 1998**, if an application is made for review of a decision referred to in subsection (1), the person who is the subject of the decision is a party to a proceeding for review of the decision, whether or not the person was the applicant for the review.

69 Notice requirements

If an application under section 68(1) is made for review of a decision in respect of a person, the principal registrar of VCAT must give notice of the application and any order or determination (however described) of VCAT in respect of the application to—

- (a) the co-ordinating medical practitioner for the person; and
- (b) the Secretary; and
- (c) the Board.

70 No further action to be taken in relation to access to voluntary assisted dying if application to VCAT in existence

If an application has been made to VCAT under section 68(1) for review of a decision in respect of a person—

- (a) if the request and assessment process in relation to the person has not been completed it is suspended for the period during which the application is in existence; and
- (b) the co-ordinating medical practitioner for the person must not apply for a voluntary assisted dying permit for the person while the application is in existence; and
- (c) any application for a voluntary assisted dying permit, for the person is suspended for the period during which the application is in existence; and
- (d) any voluntary assisted dying permit that the person is the subject of is suspended for the period during which the application is in existence, other than the following authorisations in respect of a self-administration permit—
 - (i) an authorisation under section 45(b) to possess or store the voluntary assisted dying substance;
 - (ii) an authorisation under section 45(c) or (d).

71 Application to VCAT for review taken to be withdrawn in certain circumstances

An application for the review of a decision under section 68(1) is taken to be withdrawn if the person who is the subject of the decision has died.

72 Power of VCAT to make determinations

In determining an application under section 68(1) VCAT may determine that—

- (a) a person is ordinarily resident in Victoria; or
- (b) a person is not ordinarily resident in Victoria; or
- (c) a person was ordinarily resident in Victoria for at least 12 months at the time of making a first request; or
- (d) a person was not ordinarily resident in Victoria for at least 12 months at the time of making a first request; or
- (e) a person has decision-making capacity in relation to voluntary assisted dying; or
- (f) a person does not have decision-making capacity in relation to voluntary assisted dying.

73 Co-ordinating medical practitioner or consulting medical practitioner may refuse to continue process

- (1) The co-ordinating medical practitioner for a person may refuse to resume any first assessment in relation to the person or to continue to perform the role of co-ordinating medical practitioner or if—
 - (a) an application under section 68(1) was made for review of a decision of the co-ordinating medical practitioner that the person did not have decision-making capacity in relation to voluntary assisted dying; and
 - (b) VCAT determines that the person had decision-making capacity.

- (2) A consulting medical practitioner for a person may refuse to resume any consulting assessment that was not completed in relation to the person before the application was made if—
 - (a) an application under section 68(1) was made for review of a decision of the consulting medical practitioner that the person did not have decision-making capacity in relation to voluntary assisted dying; and
 - (b) VCAT determines that the person had decision-making capacity.
- (3) A co-ordinating medical practitioner who refuses under subsection (1) to continue to perform the role of co-ordinating medical practitioner must transfer the role of co-ordinating medical practitioner in accordance with section 33.
- (4) If a consulting medical practitioner refuses under subsection (2) to resume a consulting assessment, the co-ordinating medical practitioner for the person may refer the person to another registered medical practitioner for a further consulting assessment.

74 Interim and temporary orders

In an application under this Act, VCAT may make any interim orders or temporary orders that it considers necessary.

Part 7—Notifications and protections from liability

Division 1—Notifications to Australian Health Practitioner Regulation Agency

75 Mandatory notification by registered health practitioner

- (1) A registered health practitioner (the *first health practitioner*) must notify the Australian Health Practitioner Regulation Agency as soon as practicable after forming a belief on reasonable grounds that another registered health practitioner (the *second health practitioner*)—
 - (a) who provides health services or professional care services to a person is—
 - (i) in the course of providing those services to the person, initiating a discussion or attempting to initiate a discussion with that person that is in substance about voluntary assisted dying that is not, or would not be, in accordance with this Act; or
 - (ii) in substance, suggesting or attempting to suggest voluntary assisted dying to the person that is not, or would not be, in accordance with this Act; or
 - (b) is offering to provide or attempting to provide access to voluntary assisted dying in a manner that is not, or would not be, in accordance with this Act.
- (2) A failure by a first health practitioner to notify the Australian Health Practitioner Regulation Agency as required under subsection (1) is to be regarded as unprofessional conduct within the meaning and

for the purposes of the Health Practitioner
Regulation National Law.

76 Mandatory notification by employer

- (1) An employer of a registered health practitioner must notify the Australian Health Practitioner Regulation Agency as soon as practicable after forming a belief on reasonable grounds that the registered health practitioner—
 - (a) who provides health services or professional care services to a person is—
 - (i) in the course of providing those services to the person, initiating a discussion or attempting to initiate a discussion with that person that is in substance about voluntary assisted dying that is not, or would not be, in accordance with this Act; or
 - (ii) in substance, suggesting or attempting to suggest voluntary assisted dying to the person that is not, or would not be, in accordance with this Act; or
 - (b) is offering to provide or attempting to provide access to voluntary assisted dying in a manner that is not, or would not be, in accordance with this Act.
- (2) In this section—

employer of a registered health practitioner
means an entity that employs the registered health practitioner under a contract of employment or a contract for services.

77 Voluntary notification by persons

A person may notify the Australian Health Practitioner Regulation Agency of the person's belief on reasonable grounds that a registered health practitioner—

- (a) who provides health services or professional care services to a person is—
 - (i) in the course of providing those services to the person, initiating a discussion or attempting to initiate a discussion with that person that is in substance about voluntary assisted dying that is not, or would not be, in accordance with this Act; or
 - (ii) in substance, suggesting or attempting to suggest voluntary assisted dying to the person that is not, or would not be, in accordance with this Act; or
- (b) is offering to provide or attempting to provide access to voluntary assisted dying in a manner that is not, or would not be, in accordance with this Act.

78 Protection from liability for persons making notifications

- (1) A person who in good faith makes a notification under this Division is not personally liable for any loss, damage or injury suffered by another person merely because of the making of the notification.
- (2) Without limiting subsection (1)—
 - (a) the making of the notification or the giving of any information included in the notification does not constitute a contravention of professional etiquette or ethics or a departure from accepted standards of professional conduct; and
 - (b) no liability for defamation is incurred by the person because of the making of the notification or the giving of the information.

Division 2—Protection from liability for those who assist, facilitate, do not act or act in accordance with this Act

79 Protection from criminal liability of person who assists or facilitates request for or access to voluntary assisted dying

A person who in good faith does something or fails to do something—

- (a) that assists or facilitates any other person who the person believes on reasonable grounds is requesting access to or is accessing voluntary assisted dying in accordance with this Act; and
- (b) that apart from this section, would constitute an offence at common law or under any other enactment—

does not commit the offence.

80 No liability for registered health practitioner who acts in accordance with this Act

A registered health practitioner who, in good faith and without negligence, acts under this Act believing on reasonable grounds that the act is in accordance with this Act is not in respect of that act—

- (a) guilty of an offence; or
- (b) liable for unprofessional conduct or professional misconduct; or
- (c) liable in any civil proceeding; or
- (d) liable for contravention of any code of conduct.

81 No liability for registered health practitioner or ambulance paramedic present after person administered voluntary assisted dying substance

- (1) A registered health practitioner or an ambulance paramedic who, in good faith, does not administer life saving or life sustaining medical treatment to a person who has not requested it, and believes on reasonable grounds that the person is dying after being administered or self-administering a voluntary assisted dying substance in accordance with this Act, is not, in respect of that omission to act—
- (a) guilty of an offence; or
 - (b) liable for unprofessional conduct or professional misconduct; or
 - (c) liable in any civil proceeding; or
 - (d) liable for contravention of any code of conduct.
- (2) This section does not prevent a registered health practitioner or an ambulance paramedic from providing medical treatment for the purpose of ensuring the person's comfort.
- (3) In this section—

ambulance paramedic means a person employed or engaged by an ambulance service, within the meaning of the **Ambulance Services Act 1986**—

- (a) as an ambulance paramedic or intensive care paramedic; or
- (b) in any capacity to provide medical or other assistance to patients in an emergency.

82 Section 463B of the Crimes Act 1958 does not apply

Section 463B of the **Crimes Act 1958** does not apply to a person who knows or believes on reasonable grounds that a person is accessing voluntary assisted dying in accordance with this Act.

Part 8—Offences

83 Offence not to comply with practitioner administration permit

A co-ordinating medical practitioner must not administer to a person who is the subject of a practitioner administration permit a voluntary assisted dying substance specified in that permit, if the co-ordinating medical practitioner—

- (a) intends to cause the person's death by administering the voluntary assisted dying substance; and
- (b) knowingly administers the voluntary assisted dying substance other than as authorised by, and in accordance with, that permit.

Penalty: Level 1 imprisonment (life) or imprisonment for such other term as is fixed by the court.

Note

See section 46 for the authorisation of a co-ordinating medical practitioner by a practitioner administration permit.

84 Offence for person to administer voluntary assisted dying substance to another person—self-administration permit

A person must not knowingly administer to another person a voluntary assisted dying substance dispensed in accordance with a self-administration permit.

Penalty: Level 1 imprisonment (life) or imprisonment for such other term as is fixed by the court.

85 Offence to induce another person to request voluntary assisted dying

- (1) A person must not, by dishonesty or undue influence, induce another person to make a request for access to voluntary assisted dying.

Penalty: In the case of a natural person, level 6 imprisonment (5 years maximum) or 600 penalty units or both;

In the case of a body corporate, 2400 penalty units.

- (2) In this section—

request means—

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

86 Offence to induce self-administration of a voluntary assisted dying substance

A person must not, by dishonesty or undue influence, induce another person to self-administer a voluntary assisted dying substance dispensed in accordance with a self-administration permit.

Penalty: In the case of a natural person, level 6 imprisonment (5 years maximum) or 600 penalty units or both;

In the case of a body corporate, 2400 penalty units.

87 Offence to falsify form or record

- (1) A person must not falsify a form or record required to be made under this Act.

Penalty: In the case of a natural person, level 6 imprisonment (5 years maximum) or 600 penalty units or both;

In the case of a body corporate, 2400 penalty units.

- (2) In this section, *form or record* means—

- (a) a first assessment report form; or
- (b) a consulting assessment report form; or
- (c) a written declaration; or
- (d) a contact person appointment form; or
- (e) a final review form; or
- (f) a voluntary assisted dying substance dispensing form; or
- (g) a voluntary assisted dying substance disposal form; or
- (h) a co-ordinating medical practitioner administration form.

88 Offence to make a false statement

- (1) A person must not knowingly make a statement in a report or form in respect of another person who requests access to voluntary assisted dying that the person knows is false or misleading in a material particular.

Penalty: In the case of a natural person, level 6 imprisonment (5 years maximum) or 600 penalty units or both;

In the case of a body corporate, 2400 penalty units.

- (2) In this section, *report or form* means—
- (a) a first assessment report form; or
 - (b) a consulting assessment report form; or
 - (c) a written declaration; or
 - (d) a contact person appointment form; or
 - (e) a final review form; or
 - (f) an application for a self-administration permit under section 47; or
 - (g) an application for a practitioner administration permit under section 48; or
 - (h) a statement made under section 47(2)(f); or
 - (i) a statement made under section 48(2)(f); or
 - (j) a voluntary assisted dying substance dispensing form; or
 - (k) a voluntary assisted dying substance disposal form; or
 - (l) a co-ordinating medical practitioner administration form.

89 Offence for contact person to fail to return unused or remaining voluntary assisted dying substance after death of person who is the subject of a self-administration permit

The contact person for a person who is the subject of a self-administration permit must not fail to return to a pharmacist at the dispensing pharmacy, within 15 days after the date of death of the person, any voluntary assisted dying substance specified in the permit, and dispensed to the person, that the contact person knows is unused or remaining after the death.

Penalty: Level 8 imprisonment (12 months maximum) or 120 penalty units or both.

90 Offence to fail to give copies of forms to the Board

- (1) A person who is required in accordance with this Act to give a copy of a form to the Board must give that copy to the Board in accordance with this Act.

Penalty: 60 penalty units.

- (2) In this section, *form* means—
- (a) a first assessment report form; or
 - (b) a consulting assessment report form; or
 - (c) a final review form; or
 - (d) a voluntary assisted dying substance dispensing form; or
 - (e) a voluntary assisted dying substance disposal form; or
 - (f) a co-ordinating medical practitioner administration form.

**91 Criminal liability of officers of body corporate—
failure to exercise due diligence**

- (1) If a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision if the officer failed to exercise due diligence to prevent the commission of the offence by the body corporate.
- (2) For the purposes of subsection (1), the following provisions are specified—
- (a) section 85;
 - (b) section 86;
 - (c) section 87;
 - (d) section 88;
 - (e) section 90.

- (3) In determining whether an officer of a body corporate failed to exercise due diligence, a court may have regard to—
- (a) what the officer knew, or ought reasonably to have known, about the commission of the offence by the body corporate; and
 - (b) whether or not the officer was in a position to influence the body corporate in relation to the commission of the offence by the body corporate; and
 - (c) what steps the officer took, or could reasonably have taken, to prevent the commission of the offence by the body corporate; and
 - (d) any other relevant matter.
- (4) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.
- (5) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.
- (6) In this section—
- body corporate* has the same meaning as corporation has in section 57A of the Corporations Act;
- officer* in relation to a body corporate means—
- (a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or

- (b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.

Part 9—Voluntary Assisted Dying Review Board

Division 1—Establishment

92 Establishment of Voluntary Assisted Dying Review Board

The Voluntary Assisted Dying Review Board is established.

Division 2—Functions and powers

93 Functions and powers of the Board

- (1) The Board has the following functions—
- (a) to monitor matters related to voluntary assisted dying;
 - (b) to review the exercise of any function or power under this Act;
 - (c) to provide reports to each House of the Parliament on the operation of this Act and any recommendations for the improvement of voluntary assisted dying;
 - (d) to promote compliance with the requirements of this Act by the provision of information in respect of voluntary assisted dying to registered health practitioners and members of the community;
 - (e) to refer any issue identified by the Board in relation to voluntary assisted dying that is relevant to the following persons or bodies—
 - (i) the Chief Commissioner of Police;
 - (ii) the Registrar;
 - (iii) the Secretary;

- (iv) the State Coroner;
- (v) the Australian Health Practitioner Regulation Agency;
- (f) to promote continuous improvement in the quality and safety of voluntary assisted dying to those who exercise any function or power under this Act;
- (g) to conduct analysis of, and carry out research in relation to, information or forms given to the Board in accordance with this Act;
- (h) to provide information about voluntary assisted dying, and other matters identified by the Board in the performance of a function under this Act;
- (i) to collect, use and disclose forms and information provided in accordance with this Act for the purposes of carrying out a function of the Board;
- (j) to consult and engage with any of the following persons and groups in relation to voluntary assisted dying—
 - (i) the Victorian community;
 - (ii) relevant groups or organisations;
 - (iii) government departments and agencies;
 - (iv) registered health practitioners who provide voluntary assisted dying services;
- (k) to provide advice to the Minister or the Secretary in relation to the operation of this Act;
- (l) to provide reports to the Minister or the Secretary, in respect of any matter relevant to the functions of the Board as requested.

- (2) The Board has all the powers that are necessary or convenient to perform its functions under this Act.

Division 3—Membership and procedure

94 Membership of the Board

- (1) The Board consists of—
- (a) the Chairperson; and
 - (b) the Deputy Chairperson (if any); and
 - (c) the members appointed under section 95.
- (2) A member of the Board is not, in respect of the member's appointment, subject to the **Public Administration Act 2004** (other than Part 5 of that Act).

95 Appointment of member of the Board

- (1) The Minister, by order published in the Government Gazette, may appoint an eligible person to be a member of the Board.
- (2) A person is eligible for appointment as a member of the Board if the Minister is satisfied that the person has the appropriate knowledge and skills to perform all of the duties and functions of a member of the Board.

96 Terms and conditions of appointment of member

- (1) A member of the Board—
- (a) holds office for the period, not exceeding 3 years, specified in the instrument of appointment; and
 - (b) is appointed on a full-time or part-time basis, as specified in the instrument of appointment; and
 - (c) is eligible for reappointment.

(2) Despite subsection (1), an initial member of the Board—

- (a) holds office for the period, not exceeding 6 years, specified in the instrument of appointment; and
- (b) is appointed on a full-time or part-time basis, as specified in the instrument of appointment; and
- (c) is eligible for reappointment for a period not exceeding 3 years, specified in the instrument of reappointment.

(3) In this section—

initial member of the Board means a person appointed under section 95 who is a member of the first Board constituted on the coming into operation of Part 9.

97 Resignation and removal

- (1) A member of the Board may resign the office of member by writing signed by the member and delivered to the Minister.
- (2) The Minister may at any time remove a member of the Board from office.
- (3) If a member of the Board dies, resigns or is removed from office, the Minister may fill the vacant position by appointing a person who is eligible to be appointed as a member.

98 Chairperson and Deputy Chairperson

- (1) The Minister must appoint a member of the Board to be Chairperson.
- (2) The Minister may appoint a member of the Board to be Deputy Chairperson.

- (3) A person appointed to an office under subsection (1) or (2) holds office for the term specified in the person's instrument of appointment and is eligible for reappointment.
- (4) A person appointed to an office under subsection (1) or (2) may resign that office by writing signed by the person and delivered to the Minister.
- (5) The Minister may at any time remove a person appointed under subsection (1) or (2) from office.
- (6) A person appointed to an office under subsection (1) or (2) ceases to hold that office on ceasing to be a member of the Board.

99 Payment of members of the Board

A member of the Board is entitled to receive the fees and allowances that are fixed from time to time by the Minister.

100 Assistance to the Board

- (1) Subject to the approval of the Minister, the Board 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 is to be considered to be a member of the Board until the period of co-option ends.

101 Procedures of the Board

- (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson, must preside at a meeting of the Board.
- (2) A majority of the members of the Board currently holding office constitutes a quorum.
- (3) Subject to this Act, the Board may regulate its own proceedings.

102 Subcommittees

- (1) The Board, with the approval of the Minister, may appoint a subcommittee for the purposes of carrying out any of its functions.
- (2) The subcommittee may consist of—
 - (a) members of the Board as determined by the Board; and
 - (b) any person as the Board determines.
- (3) The subcommittee must report to the Board as required by the Board.

Division 4—Request for information, referral of identifying information held by the Board and notifications

103 Request for information by the Board

The Board may request that any person (including a contact person) give information to the Board to assist the Board in carrying out any of the Board's functions.

104 Referral of identifying information to others

- (1) Subject to subsection (2), the Board may use and disclose any identifying information obtained as a result of the Board performing a function or exercising a power of the Board for the purpose of referring a matter to the following—
 - (a) the Chief Commissioner of Police;
 - (b) the Registrar;
 - (c) the Secretary;
 - (d) the State Coroner;
 - (e) the Australian Health Practitioner Regulation Agency.

- (2) The Board must not refer a matter under subsection (1) unless the Board reasonably believes the identifying information discloses a matter that is relevant to the functions and powers of that person or body.

105 Board to notify registered medical practitioner, pharmacist or Secretary on receipt of certain forms

- (1) The Board must as soon as practicable after receiving a copy of any of the following forms from a registered medical practitioner or a pharmacist (as the case requires), notify the registered medical practitioner or the pharmacist that the copy has been received—
- (a) a first assessment report form;
 - (b) a consulting assessment report form;
 - (c) a final review form;
 - (d) a voluntary assisted dying substance dispensing form;
 - (e) a voluntary assisted dying substance disposal form;
 - (f) a co-ordinating medical practitioner administration form.
- (2) The Board must as soon as practicable after receiving a copy of a completed voluntary assisted dying substance disposal form give a copy of that form to the Secretary.

106 Board to provide information to the contact person after the notification of the person's death

The Board must within 7 days of being notified by the Registrar of the registration of a person's death in accordance with section 40A of the **Births, Deaths and Marriages Registration Act 1996** provide information to the contact person for the person that—

- (a) sets out the requirement under section 45(c) to return any unused or remaining voluntary assisted dying substance to a pharmacist at the dispensing pharmacy; and
- (b) outlines the support services available to assist the contact person with the performance of the requirement referred to in paragraph (a).

Division 5—Reports

107 Annual reports

- (1) The Board must, no more than 3 months after the end of a financial year, make a report on the operation of this Act during that financial year.
- (2) A report made under subsection (1) may make recommendations on any systemic voluntary assisted dying matter identified by the Board during the reporting period.
- (3) The first report under subsection (1) must relate to the period commencing on the second anniversary of the date of commencement of this section and ending on 30 June the following year.

108 Giving an annual report to Parliament

- (1) The Board must give an annual report made under section 107 to the Clerk of each House of the Parliament.
- (2) The Clerk of each House of the Parliament must cause the report to be laid before the House on—
 - (a) the day on which it is received; or
 - (b) the next sitting day of the House.

109 Report of the Board on request of the Minister or Secretary

The Minister or the Secretary may request the Board to consider and report on a matter relevant to the functions of the Board.

110 Reports of the Board for every 6 month period

- (1) As soon as practicable after 30 June in each year, but no more than 2 months after that date in each year, the Board must make a report on the operation of this Act during the 6 month period preceding that 30 June.
- (2) As soon as practicable after 31 December in each year, but no more than 2 months after that date in each year, the Board must make a report on the operation of this Act during the 6 month period preceding that 31 December.
- (3) A report made under subsection (1) or (2) may make recommendations on any systemic voluntary assisted dying matter identified by the Board during the reporting period.
- (4) The first report under this section must relate to the period commencing on the date of commencement of this section and ending on whichever is the earliest of 30 June or 31 December the following year.
- (5) The Board must give a copy of a report made under subsection (1) or (2) to the Clerk of each House of the Parliament.
- (6) The Clerk of each House of the Parliament must cause the report to be laid before the House on—
 - (a) the day on which it is received; or
 - (b) the next sitting day of the House.

111 Contents of reports

- (1) Subject to subsection (2), the Board may include any de-identified information of a person, who has during the relevant reporting period accessed or requested access to voluntary assisted dying under this Act, in a report under section 107 or 110.
- (2) The Board must not include in a report under section 107 or 110 any information (including de-identified information) that the Board considers would prejudice—
 - (a) any criminal proceeding or criminal investigation; or
 - (b) any civil proceeding; or
 - (c) any proceeding in the Coroners Court.

112 Repeal of reports of the Board for every 6 month period and consequential amendment

- (1) Section 110 is **repealed** on the second anniversary of the commencement of section 110 .
- (2) In section 111, for "section 107 or 110" (where twice occurring) **substitute** "section 107" on the second anniversary of the commencement of section 110.

Part 10—General

113 Delegation by Secretary

The Secretary, by instrument, may delegate the Secretary's powers under Division 2 of Part 4 to determine an application for a voluntary assisted dying permit, or amend a voluntary assisted dying permit, to a person or class of persons employed under Part 3 of the **Public Administration Act 2004**.

114 Secretary may approve training for medical practitioners

The Secretary, by notice published in the Government Gazette, may approve training relating to the following matters—

- (a) requirements under this Act relating to co-ordinating medical practitioners and consulting medical practitioners, including functions of co-ordinating medical practitioners and consulting medical practitioners;
- (b) assessing whether or not a person meets the eligibility criteria;
- (c) identifying and assessing risk factors for abuse or coercion.

115 Interpreters

For the purposes of this Act, an interpreter who assists a person in relation to requesting access to or accessing voluntary assisted dying—

- (a) must be accredited by a prescribed body; and
- (b) must not—
 - (i) be a family member of the person; or

- (ii) believe or have knowledge of—
 - (A) being a beneficiary under a will of the person; or
 - (B) otherwise benefiting financially or in any other material way from the death of the person; or
- (iii) be an owner of, or be responsible for the day-to-day management and operation of, any health facility at which the person is being treated or resides; or
- (iv) be a person who is directly involved in providing health services or professional care services to the person.

116 Five year review

- (1) The Minister must cause a review of the operation of this Act to be conducted.
- (2) The review must be conducted in the fifth year of the operation of the Act and be a review of the first 4 years of operation of the Act.
- (3) On completing the review, the Minister must cause a report of the review to be tabled before each House of the Parliament.

117 Board to record, retain and make public statistical information

- (1) The Board must record and retain statistical information about—
 - (a) persons who have been issued with a voluntary assisted dying permit; and
 - (b) persons who have died after being administered or self-administering a voluntary assisted dying substance in accordance with this Act.

- (2) The following statistical information must be recorded and retained in respect of the persons referred to in subsection (1)—
 - (a) the disease, illness or medical condition of the person that met the requirements of the eligibility criteria; and
 - (b) if the person has died after being administered or self-administering a voluntary assisted dying substance in accordance with this Act—the age of the person at the date of the person's death.
- (3) The Board must make the statistical information recorded and retained publicly available in a de-identified form on an Internet site maintained by the Board.

118 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) Regulations made under this Act—
 - (a) may be of general or limited application;
 - (b) may differ according to differences in time, place or circumstances;
 - (c) may provide for a specified case or class of case, for an exemption of persons or things or a class of persons or a class of things from any of the provisions of the regulations—
 - (i) whether unconditionally or on specified conditions; and
 - (ii) either wholly or to the extent specified in the regulations;

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Part 10—General

- (d) may apply, adopt or incorporate any matter contained in any document whether—
 - (i) wholly or partially or as amended by the regulations; or
 - (ii) as in force at a particular time; or
 - (iii) as in force from time to time.

Part 11—Consequential amendments

Division 1—Amendment of the Births, Deaths and Marriages Registration Act 1996

119 Registration

After section 40(1) of the **Births, Deaths and Marriages Registration Act 1996** insert—

- "(1A) The Registrar, on being notified by a doctor of a death under section 37 and in accordance with section 67 of the **Voluntary Assisted Dying Act 2017**, must register the death in the Register by making an entry about the death that records—
- (a) the cause of death as the disease, illness or medical condition that was the grounds for a person to access voluntary assisted dying; and
 - (b) in the case that the Registrar is notified in accordance with section 67(1)(a)(ii) or (iii), that—
 - (i) the person was the subject of a voluntary assisted dying permit, and accessed voluntary assisted dying by self-administering, or being administered by the person's co-ordinating medical practitioner the voluntary assisted dying substance specified in the permit; and
 - (ii) voluntary assisted dying was the manner of death.

120 New section 40A inserted

After section 40 of the **Births, Deaths and Marriages Registration Act 1996** insert—

"40A Notification of death to Voluntary Assisted Dying Review Board

If the Registrar registers a death in accordance with section 40(1A), the Registrar must notify the Voluntary Assisted Dying Review Board within the meaning of the **Voluntary Assisted Dying Act 2017** of—

- (a) the registration of the death; and
- (b) the information provided to the Registrar in accordance with section 67 of the **Voluntary Assisted Dying Act 2017**."

Division 2—Amendment of the Coroners Act 2008

121 Reportable death

After section 4(2) of the **Coroners Act 2008** insert—

- "(3) Despite subsection (2), the death of a person who has been administered or self-administered a voluntary assisted dying substance within the meaning of the **Voluntary Assisted Dying Act 2017** in accordance with that Act is not a reportable death.

Note

1. Section 14 includes a power for a coroner to investigate whether or not a death is a reportable death. If the death of a person is or may be due to the self-administration or administration of a voluntary assisted dying substance within the meaning of the **Voluntary Assisted Dying Act 2017** other than in accordance

with that Act, the coroner could investigate the death under section 14.

2. Section 52(1) provides for a coroner to hold an inquest into any death that the coroner is investigating."

Division 3—Amendment of the Drugs, Poisons and Controlled Substances Act 1981

122 Definitions

In section 4(1) of the **Drugs, Poisons and Controlled Substances Act 1981** insert the following definitions—

"voluntary assisted dying permit has the same meaning as it has in the **Voluntary Assisted Dying Act 2017**;

voluntary assisted dying substance has the same meaning as it has in the **Voluntary Assisted Dying Act 2017**;"

123 Act not to derogate from provisions of certain other Acts

In section 7 of the **Drugs, Poisons and Controlled Substances Act 1981**, after "**Cannabis Act 2016**," insert "**the Voluntary Assisted Dying Act 2017**,".

124 Persons authorized to have possession etc. of poisons or controlled substances

After section 13(6) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

- "(7) If a registered medical practitioner obtains, has in the registered medical practitioner's possession, uses, supplies, sells or administers a voluntary assisted dying substance to a person who is the subject of a voluntary assisted dying permit in accordance with the **Voluntary Assisted Dying Act 2017** in the lawful practice of the

registered medical practitioner's profession as a registered medical practitioner, the obtaining, possession, use, supply, selling or administration is, for the purposes of subsection (1)—

- (a) taken to be the obtaining, possession, use, supply, selling or administration in the lawful practice of the practitioner's profession by the registered medical practitioner; and
 - (b) authorised by this Act.
- (8) If a pharmacist obtains, has in the pharmacist's possession, sells or supplies a voluntary assisted dying substance to a person who is the subject of a voluntary assisted dying permit in accordance with the **Voluntary Assisted Dying Act 2017** for use by the person in the lawful practice of the pharmacist's profession as a pharmacist, the obtaining, possession, sale or supply is, for the purposes of subsection (1)—
- (a) taken to be the obtaining, possession, sale or supply in the lawful practice of the pharmacist's profession by the pharmacist; and
 - (b) authorised by this Act."

125 Effect of this Division

In section 36C of the **Drugs, Poisons and Controlled Substances Act 1981**, after "Act or the Regulations" insert "or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".

126 Administration of drugs of dependence, Schedule 9 poisons, Schedule 8 poisons and Schedule 4 poisons in aged care services

- (1) In section 36E of the **Drugs, Poisons and Controlled Substances Act 1981**, for "A person who" **substitute** "Subject to subsection (2), a person who".
- (2) At the end of section 36E of the **Drugs, Poisons and Controlled Substances Act 1981** **insert—**
 - "(2) Subsection (1) does not apply to the management of the administration of any voluntary assisted dying substance specified in a voluntary assisted dying permit to a resident in an aged care service who is the subject of that permit."

127 Inspections

- (1) In section 42(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "manufacturing licence)" **insert** "or the **Voluntary Assisted Dying Act 2017** and the regulations under that Act".
- (2) After section 42(1)(ab) of the **Drugs, Poisons and Controlled Substances Act 1981** **insert—**
 - "(ac) enter upon any premises (other than residential premises) occupied by any person authorised by or under the **Voluntary Assisted Dying Act 2017** or the regulations under that Act to have in that person's possession any voluntary assisted dying substance;"
- (3) In section 42(1)(e) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "manufacturing licence)" **insert** "or the **Voluntary Assisted Dying Act 2017**".

128 Trafficking in a drug or drugs of dependence—large commercial quantity

In section 71(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" **substitute** ", the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".

129 Trafficking in a drug or drugs of dependence—commercial quantity

In section 71AA of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" **substitute** ", the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".

130 Trafficking in a drug of dependence

- (1) In section 71AC(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" **substitute** ", the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".
- (2) In section 71AC(2) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" **substitute** ", the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act or the **Voluntary**

Assisted Dying Act 2017 or the regulations under that Act".

131 Possession of substance, material, documents or equipment for trafficking in a drug of dependence

In section 71A(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" substitute "**the Access to Medicinal Cannabis Act 2016** or the regulations under that Act or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".

132 Permitting use of premises for trafficking or cultivation of drug of dependence

In section 72D(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" substitute "**the Access to Medicinal Cannabis Act 2016** or the regulations under that Act or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".

133 Possession of a drug of dependence

- (1) In section 73(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" substitute "**the Access to Medicinal Cannabis Act 2016** or the regulations under that Act or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".
- (2) In section 73(2) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" substitute "**the Access to Medicinal Cannabis Act 2016**

or the regulations under that Act or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".

134 Introduction of a drug of dependence into the body of another person

In section 74 of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" **substitute** ", the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".

135 Use of drug of dependence

In section 75 of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" **substitute** ", the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".

136 Obtaining drugs of dependence etc. by false representation

In section 78(a), (b) and (d) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act" **substitute** ", the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act or the **Voluntary Assisted Dying Act 2017** or the regulations under that Act".

137 List of licences and permits

- (1) In section 118(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "under this Act" insert "or the **Voluntary Assisted Dying Act 2017**".
- (2) In section 118(3) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "The Secretary" substitute "Subject to subsection (3A), the Secretary".
- (3) After section 118(3) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—
 - "(3A) The Secretary must not make a copy of the list available for inspection by members of the public unless any information about a voluntary assisted dying permit or any other authorisation under the **Voluntary Assisted Dying Act 2017** has been omitted from the list."

138 Regulations

After section 129(1)(f) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

- "(fa) regulating the issue of prescriptions or orders or classes of prescriptions or orders by registered medical practitioners and the dispensing or disposal by a pharmacist of any prescriptions, orders or classes of prescriptions or orders for a voluntary assisted dying substance;"

Division 4—Amendment of the Health Records Act 2001

139 Definitions

In section 3(1) of the **Health Records Act 2001**,
in the definition of *health service*—

- (a) after paragraph (ca) **insert**—
 - "(cb) the sale or supply of a voluntary assisted dying substance within the meaning of the **Voluntary Assisted Dying Act 2017** in accordance with that Act by a pharmacist registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student); or
 - (cc) the supply or administration of a voluntary assisted dying substance within the meaning of the **Voluntary Assisted Dying Act 2017** in accordance with that Act by a registered medical practitioner; or";
- (b) in paragraph (d), for "(c) or (ca)" **substitute** "(c), (ca), (cb) or (cc)".

Division 5—Amendment of the Medical Treatment Planning and Decisions Act 2016

140 New section 8A inserted

After section 8 of the **Medical Treatment
Planning and Decisions Act 2016** **insert**—

"8A Act does not apply to decisions about voluntary assisted dying

Nothing in this Act authorises the making
of either of the following with respect to
voluntary assisted dying within the meaning

of the **Voluntary Assisted Dying Act 2017**—

- (a) a statement in an advance care directive;
- (b) a decision by a medical treatment decision maker."

Division 6—Amendment of the Pharmacy Regulation Act 2010

141 Definitions

In section 3(1) of the **Pharmacy Regulation Act 2010**, for the definition of *prescription substitute*—

"prescription includes—

- (a) a patient medicinal cannabis access authorisation within the meaning of the **Access to Medicinal Cannabis Act 2016**; and
- (b) a voluntary assisted dying permit within the meaning of the **Voluntary Assisted Dying Act 2017**;"

142 Disclosure of information to other agencies

In section 107(1) of the **Pharmacy Regulation Act 2010**—

- (a) in paragraph (c)(ii), for "that Act;" **substitute** "that Act; or";
- (b) after paragraph (c)(ii) **insert**—
 - "(iii) the **Voluntary Assisted Dying Act 2017** and the regulations made under that Act;"

Division 7—Repeal of amending Part

143 Repeal of amending Part

This Part is **repealed** on the first anniversary of the first day on which all of the provisions of this Act are in operation.

Note

The repeal of this Part does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Schedule 1—Forms

FORM 1

Section 21

FIRST ASSESSMENT REPORT FORM

Instructions for completing this form

This form is to be completed by the co-ordinating medical practitioner for a person who has made a first request for access to voluntary assisted dying. The co-ordinating medical practitioner is required under the **Voluntary Assisted Dying Act 2017** to conduct a first assessment of a person who has made a first request.

Use this form to—

- (a) notify the Board that the person has made a first request; and
- (b) report to the Board the outcome of the first assessment of the person.

Do not complete this form unless you are a registered medical practitioner who is a fellow of a specialist medical college or a vocationally registered general practitioner, and you have completed the approved assessment training.

You must give a copy of this form to the Board within 7 days after completing the first assessment, whether or not you have assessed the person as eligible for access to voluntary assisted dying.

Part A—Details of person who has been assessed

Full name:

Date of birth:

Address:

Contact telephone number:

Part B—Co-ordinating medical practitioner details

Full name:

Practice address:

Practice telephone number:

Email address:

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I am a—

fellow of a specialist medical college

vocationally registered general practitioner

Year *fellowship awarded/vocational registration granted:

Date approved assessment training last completed:

Co-ordinating medical practitioner's relevant expertise and experience in the person's disease, illness or medical condition (if any)

[Insert details and specify disease, illness or medical condition]

Part C—First request

Date on which person requesting access made first request for access to voluntary assisted dying:

Part D—First assessment report

Instructions for completing this Part

If you have assessed the person as eligible for access to voluntary assisted dying—complete section 1 only.

If you have assessed the person as ineligible for access to voluntary assisted dying—complete section 2 only.

Section 1: person assessed as eligible

I, *[insert co-ordinating medical practitioner's name]*, have completed an assessment of *[insert name of person being assessed]* and I am satisfied that *[insert name of person being assessed]*—

- (a) is aged 18 years or more; and
- (b) is an Australian citizen or permanent resident, and is ordinarily resident in Victoria and was ordinarily resident in Victoria for at least 12 months at the time of making a first request; and
- (c) has decision-making capacity in relation to voluntary assisted dying; and
- (d) has been diagnosed with a disease, illness or medical condition that—
 - (i) is incurable; and
 - (ii) is advanced, progressive and will cause death; and

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- (iii) is expected to cause death within weeks or months, not exceeding 6 months or, in the case of a disease, illness or medical condition that is neurodegenerative, not exceeding 12 months; and
- (iv) is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable.

Details of person's diagnosis and prognosis

[Insert details]

Was a referral required for a specialist opinion regarding decision-making capacity?

Yes

No

If the referral was required, provide details of the referral

[Insert details of referral]

Was a referral required for a specialist opinion in relation to the person's disease, illness or medical condition?

Yes

No

If a referral was required, provide details of the referral

[Insert details of referral]

Was a referral required for a specialist opinion in relation to whether the person's disease, illness or medical condition was a disease, illness or medical condition that is neurodegenerative that would cause death and was expected to cause death between 6 and 12 months?

Yes

No

If a referral was required, provide details of the referral and attach a clinical report from that specialist.

I have provided the person being assessed with the following information and I am satisfied that the person understands this information—

- (a) the person's diagnosis and prognosis;
- (b) the treatment options available to the person and the likely outcomes of that treatment;
- (c) palliative care options available to the person and the likely outcomes of that care;

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- (d) the potential risks of taking a poison or controlled substance or a drug of dependence likely to be prescribed under this Act for the purposes of causing the person's death;
- (e) that the expected outcome of taking a poison or controlled substance or a drug of dependence likely to be prescribed under this Act is death;
- (f) that the person may decide at any time not to continue the request and assessment process;
- (g) that if the person is receiving ongoing health services from a registered medical practitioner other than the co-ordinating medical practitioner, the person is encouraged to inform the registered medical practitioner of the person's request to access voluntary assisted dying.

To the best of my knowledge the person informed the relevant registered medical practitioner of the person's request to access voluntary assisted dying—

Yes

No

If No, why not?

[Specify reasons]

I have, with the consent of the person, taken all reasonable steps to fully explain to a member of the family of the person, all relevant clinical guidelines; and a plan in respect of the self-administration of a voluntary assisted dying substance for the purpose of causing death.

I am satisfied that the person being assessed is acting voluntarily and without coercion, and that the person's request for access to voluntary assisted dying is enduring.

[Attach necessary supporting material demonstrating that the person satisfies all the eligibility criteria.]

Signed

Signature of co-ordinating medical practitioner

Date

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Instructions to co-ordinating medical practitioner on assessing person as eligible

If you have assessed the person as eligible for access to voluntary assisted dying, you as the co-ordinating medical practitioner must refer the person to another registered medical practitioner for a consulting assessment.

If the consulting medical practitioner assesses the person as eligible for access to voluntary assisted dying, you are required to perform the remaining tasks of co-ordinating medical practitioner in relation to the request and assessment process (see Divisions 3 to 6 of Part 3 of the **Voluntary Assisted Dying Act 2017**). If, on completion of the final review, you certify that the request and assessment process has been completed, you as the co-ordinating medical practitioner are required to apply for a voluntary assisted dying permit and perform the other tasks required of the co-ordinating medical practitioner, set out in Parts 4 and 5 of the **Voluntary Assisted Dying Act 2017**.

Section 2: person assessed as ineligible

I, [*insert co-ordinating medical practitioner's name*] have completed an assessment of [*insert name of person being assessed*] and I am not satisfied that [*insert name of person being assessed*] is eligible for access to voluntary assisted dying.

The person does not satisfy the following requirements of section 20(1) of the **Voluntary Assisted Dying Act 2017**

[*State relevant eligibility criteria or other requirements of section 20(1) that have not been satisfied. Attach any necessary supporting material demonstrating that the person does not satisfy those criteria or requirements.*]

Signed

Signature of co-ordinating medical practitioner

Date

*delete if inapplicable

FORM 2

Section 30

CONSULTING ASSESSMENT REPORT FORM

Instructions for completing this form

This form is to be completed by a consulting medical practitioner who has conducted a consulting assessment of a person who has made a first request for access to voluntary assisted dying.

Use this form to report to the Board the outcome of the consulting assessment of the person.

Do not complete this form unless you are a registered medical practitioner who is a fellow of a specialist medical college or a vocationally registered general practitioner and you have completed the approved assessment training.

You must give a copy of this form to the Board within 7 days after completing the consulting assessment, whether or not you have assessed the person as eligible for access to voluntary assisted dying.

You must also give a copy of this form to the co-ordinating medical practitioner.

Part A—Details of person who has been assessed

Full name:

Date of birth:

Address:

Contact telephone number:

Part B—Consulting medical practitioner details

Full name:

Practice address:

Practice telephone number:

Email address:

I am a—

fellow of a specialist medical college

vocationally registered general practitioner.

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Year *fellowship awarded/vocational registration granted:

Date approved assessment training last completed:

Consulting medical practitioner's relevant expertise and experience in the person's disease, illness or medical condition (if any):

[Insert details and specify disease, illness or medical condition]

Part C—Consulting assessment report

Instructions for completing this Part

If you have assessed the person as eligible for access to voluntary assisted dying—complete section 1 only.

If you have assessed the person as ineligible for access to voluntary assisted dying—complete section 2 only.

Section 1: person assessed as eligible

I, *[insert consulting medical practitioner's name]*, have completed an assessment of *[insert name of person being assessed]* and I am satisfied that *[insert name of person being assessed]*—

- (a) is aged 18 years or more; and
- (b) is an Australian citizen or permanent resident, and is ordinarily resident in Victoria and was ordinarily resident in Victoria for at least 12 months at the time of making a first request; and
- (c) has decision-making capacity in relation to voluntary assisted dying; and
- (d) has been diagnosed with a disease, illness or medical condition that—
 - (i) is incurable; and
 - (ii) is advanced, progressive and will cause death; and
 - (iii) is expected to cause death within weeks or months, not exceeding 6 months or, in the case of a disease, illness or medical condition that is neurodegenerative, not exceeding 12 months; and
 - (iv) is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable.

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Details of person's diagnosis and prognosis

[Insert details]

Was a referral required for a specialist opinion regarding decision-making capacity?

Yes

No

If the referral was required, provide details of the referral

[Insert details of referral]

Was a referral required for a specialist opinion in relation to the person's disease, illness or medical condition?

Yes

No

If the referral was required, provide details of the referral

[Insert details of referral]

I have provided the person being assessed with the following information and I am satisfied that the person understands this information—

- (a) the person's diagnosis and prognosis;
- (b) the treatment options available to the person and the likely outcomes of that treatment;
- (c) palliative care options available to the person and the likely outcomes of that care;
- (d) the potential risks of taking a poison or controlled substance or a drug of dependence likely to be prescribed under this Act for the purposes of causing the person's death;
- (e) that the expected outcome of taking a poison or controlled substance or a drug of dependence likely to be prescribed under this Act is death;
- (f) that the person may decide at any time not to continue the request and assessment process;
- (g) that if the person is receiving ongoing health services from a registered medical practitioner other than the co-ordinating medical practitioner, the person is encouraged to inform the registered medical practitioner of the person's request to access voluntary assisted dying.

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To the best of my knowledge the person informed the relevant registered medical practitioner of the person's request to access voluntary assisted dying—

Yes

No

If No, why not?

[Specify reasons]

I am satisfied that the person being assessed is acting voluntarily and without coercion, and that the person's request for access to voluntary assisted dying is enduring.

[Attach necessary supporting material demonstrating that the person satisfies all the eligibility criteria.]

Signed

Signature of consulting medical practitioner

Date

Section 2: person assessed as ineligible

I, *[insert consulting medical practitioner's name]* have completed an assessment of *[insert name of person being assessed]* and I am not satisfied that *[insert name of person being assessed]* is eligible for access to voluntary assisted dying.

The person does not satisfy the following requirements of section 29(1) of the **Voluntary Assisted Dying Act 2017**

[State relevant eligibility criteria or other requirements of section 29(1) that have not been satisfied. Attach any necessary supporting material demonstrating that the person does not satisfy those criteria or requirements.]

Signed

Signature of consulting medical practitioner

Date

*delete if inapplicable

FORM 3

Section 34

WRITTEN DECLARATION

I [*insert name of person making declaration*]

of [*insert address of person making declaration*]

request access to voluntary assisted dying under the **Voluntary Assisted Dying Act 2017**. I am advised that I have been assessed as eligible for access to voluntary assisted dying by my co-ordinating medical practitioner and a consulting medical practitioner.

I make this declaration voluntarily and without coercion.

I understand the nature and effect of this declaration, being that if I meet the requirements of the **Voluntary Assisted Dying Act 2017** I will be prescribed a voluntary assisted dying substance, and I expect to die when I self-administer or I am administered that substance.

If I am not physically capable of self-administration or digestion of the voluntary assisted dying substance, only my coordinating medical practitioner may administer the voluntary assisted dying substance to me.

Signed

Signature of person making declaration or signing on that person's behalf

Signature of witness 1

Signature of witness 2

Signature of co-ordinating medical practitioner

Date

Note—signing on behalf of person making the declaration

If the person making the declaration is unable to sign it another person may sign the declaration on that person's behalf, at that person's direction and in that person's presence. The person who signs the declaration must be aged 18 years or more and must not witness the declaration.

Note regarding witnesses

Not more than one witness may be a family member of the person making the declaration—see section 35(3) of the **Voluntary Assisted Dying Act 2017**. A family member means a person who is a spouse or domestic partner, parent, sibling, child or grandchild of the person making the declaration.

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Witness certification—complete this section if declaration signed by person making it

I, [*name of witness 1*]

of [*insert address of witness 1*] certify—

- (a) that, in my presence, the person making the declaration appeared to freely and voluntarily sign the declaration; and
- (b) that, at the time the person signed the declaration the person appeared to have decision-making capacity in relation to voluntary assisted dying; and
- (c) that, at the time the person signed the declaration, the person appeared to understand the nature and effect of making the declaration; and
- (d) that I am aged 18 years or more; and
- (e) that I am not knowingly—
 - (i) a beneficiary under a will of the person making the declaration; or
 - (ii) a person who may otherwise benefit financially or in any other material way from the death of the person making the declaration; or
 - (iii) an owner of, or a person responsible for the day-to-day operation of, any health facility at which—
 - (A) the person making the declaration is being treated; or
 - (B) the person making the declaration resides; or
 - (iv) directly involved in providing health services or professional care services to the person making the declaration.

Signed

Signature of witness 1

I, [*name of witness 2*]

of [*insert address of witness 2*] certify—

- (a) that, in my presence, the person making the declaration appeared to freely and voluntarily sign the declaration; and

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- (b) that, at the time the person signed the declaration the person appeared to have decision-making capacity in relation to voluntary assisted dying; and
- (c) that, at the time the person signed the declaration, the person appeared to understand the nature and effect of making the declaration; and
- (d) that I am aged 18 years or more; and
- (e) that I am not knowingly—
 - (i) a beneficiary under a will of the person making the declaration; or
 - (ii) a person who may otherwise benefit financially or in any other material way from the death of the person making the declaration; or
 - (iii) an owner of, or a person responsible for the day-to-day operation of, any health facility at which—
 - (A) the person making the declaration is being treated; or
 - (B) the person making the declaration resides; or
 - (iv) directly involved in providing health services or professional care services to the person making the declaration.

Signed

Signature of witness 2

Witness certification—complete this section if another person signed declaration on behalf of person making it

I, [*name of witness 1*]

of [*insert address of witness 1*] certify—

- (a) that, in my presence, the person making the declaration appeared to freely and voluntarily direct the other person to sign the declaration; and
- (b) that, in my presence and in the presence of the person making the declaration, the other person signed the declaration; and

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- (c) that, at the time the other person signed the declaration, the person making it appeared to have decision-making capacity in relation to voluntary assisted dying; and
- (d) that, at the time the other person signed the declaration, the person making the declaration appeared to understand the nature and effect of making the declaration; and
- (e) that I am aged 18 years or more; and
- (f) that I am not knowingly—
 - (i) a beneficiary under a will of the person making the declaration; or
 - (ii) a person who may otherwise benefit financially or in any other material way from the death of the person making the declaration; or
 - (iii) an owner of, or a person responsible for the day-to-day operation of, any health facility at which—
 - (A) the person making the declaration is being treated; or
 - (B) the person making the declaration resides; or
 - (iv) directly involved in providing health services or professional care services to the person making the declaration.

Signed

Signature of witness 1

I, [*name of witness 2*]

of [*insert address of witness 2*] certify—

- (a) that, in my presence, the person making the declaration appeared to freely and voluntarily direct the other person to sign the declaration; and
- (b) that, in my presence and in the presence of the person making the declaration, the other person signed the declaration; and
- (c) that, at the time the other person signed the declaration, the person making it appeared to have decision-making capacity in relation to voluntary assisted dying; and

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- (d) that, at the time the other person signed the declaration, the person making the declaration appeared to understand the nature and effect of making the declaration; and
- (e) that I am aged 18 years or more; and
- (f) that I am not knowingly—
 - (i) a beneficiary under a will of the person making the declaration; or
 - (ii) a person who may otherwise benefit financially or in any other material way from the death of the person making the declaration; or
 - (iii) an owner of, or a person responsible for the day-to-day operation of, any health facility at which—
 - (A) the person making the declaration is being treated; or
 - (B) the person making the declaration resides; or
 - (iv) directly involved in providing health services or professional care services to the person making the declaration.

Signed

Signature of witness 2

Interpreter certification—complete this section if declaration was made with the assistance of an interpreter

I, [*insert name of interpreter*] certify that—

- (a) I provided a true and correct translation of any material translated; and
- (b) I am an interpreter accredited by [*insert name of accrediting body*]; and
- (c) I am not a family member of the person making the declaration; and
- (d) I am not knowingly—
 - (i) a beneficiary under a will of the person making the declaration; or
 - (ii) a person who may otherwise benefit financially or in any other material way from the death of the person making the declaration; or

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- (iii) an owner of, or a person responsible for day-to-day operation of, any health facility at which—
 - (A) the person making the declaration is being treated; or
 - (B) the person making the declaration resides; or
- (iv) directly involved in providing health services or professional care services to the person making the declaration.

Signed

Signature of interpreter

FORM 4

Section 40

CONTACT PERSON APPOINTMENT FORM

I, [*insert name of person making the appointment*]

of [*insert address of person making appointment*]

appoint [*insert name of contact person*]

of [*insert address of contact person*]

to be my contact person for the purposes of the **Voluntary Assisted Dying Act 2017**.

Signed

Signature of person making appointment or signing on that person's behalf

Date

Note—signing on behalf of person making this appointment

If the person making the appointment is unable to sign it another person may sign this appointment on that person's behalf, at that person's direction and in that person's presence. The person who signs the appointment must be aged 18 years or more, and must not be the contact person or a witness to this appointment.

Contact person's acceptance of appointment

I [*insert name of contact person*] accept the appointment as contact person and understand that this will require me to return any unused or remaining voluntary assisted dying substance to the place of dispensing either at the request of the person making the appointment, or that I know is unused or remaining after the person dies. I understand that it is an offence to fail to return, within 15 days after the death of the person, any voluntary assisted dying substance that I know is unused or remaining.

I also understand that the Voluntary Assisted Dying Review Board may contact me to request information.

Signed

Signature of contact person

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Witness certification—complete this section if appointment form signed by person making the appointment

I, *[insert name of witness]*

of *[insert address of witness]* certify that this appointment form was signed by the person making the appointment in my presence.

Signed

Signature of witness

Witness certification—complete this section if another person signed appointment form on behalf of person making the appointment

I, *[insert name of witness]*

of *[insert address of witness]* certify that this appointment form was signed in my presence by the other person, at the direction of the person making the appointment.

Signed

Signature of witness

Interpreter certification—complete this section if appointment was made with the assistance of an interpreter

I, *[insert name of interpreter]* certify that—

- (a) I provided a true and correct translation of any material translated; and
- (b) I am an interpreter accredited by *[insert name of accrediting body]*; and
- (b) I am not a family member of the person making the appointment; and
- (c) I am not knowingly—
 - (i) a beneficiary under a will of the person making the appointment; or
 - (ii) a person who may otherwise benefit financially or in any other material way from the death of the person making the appointment; or
 - (iii) an owner of, or a person responsible for the day to day operation of, any health facility at which—
 - (A) the person making the appointment is being treated; or
 - (B) the person making the appointment resides; or

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- (iv) directly involved in providing health services or professional care services to the person making the appointment.

Signed

Signature of interpreter

Contact person's contact details

Contact telephone number:

Email address:

FORM 5

Section 41

FINAL REVIEW FORM

Instructions for completing this form

This form is to be completed by the co-ordinating medical practitioner for a person who has made a final request.

Use this form to review and certify whether the request and assessment process has been completed in accordance with the requirements of the **Voluntary Assisted Dying Act 2017**.

You must not apply for a voluntary assisted dying permit unless you certify that the request and assessment process has been completed in accordance with the requirements of the **Voluntary Assisted Dying Act 2017**.

You must complete this form and give it to the Board whether or not you certify that the request and assessment process has been completed as required by the **Voluntary Assisted Dying Act 2017**.

You must attach to this form copies of the following documents—

- (a) the first assessment report form;
- (b) all consulting assessment report forms;
- (c) the written declaration;
- (d) the contact person appointment form.

You must give a copy of this form and all required copies of documents to the Board within 7 days of completing this form.

Details of person who has requested access to voluntary assisted dying and is subject of the final review

Full name:

Date of birth:

Address:

Contact telephone number:

Co-ordinating medical practitioner details

Full name:

Practice address:

Practice telephone number:

Email address:

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Part A—Details of request and assessment process

First assessment

Date on which first assessment was completed:

Does the first assessment assess the person as eligible for access to voluntary assisted dying?

Yes

No—you must not certify the request and assessment process.

Please attach copy of first assessment report form.

Consulting assessment

Does a consulting assessment assess the person as eligible for access to voluntary assisted dying?

Yes

No—you must not certify the request and assessment process.

Please attach copy of consulting assessment report form.

Full name of consulting medical practitioner who assessed the person as eligible for access to voluntary assisted dying:

Practice address:

Practice telephone number:

Email address:

Date on which consulting assessment was completed:

If more than one consulting assessment was conducted, please attach copies of all other consulting assessment report forms.

Minimum requirements for co-ordinating medical practitioner and consulting medical practitioner who assessed person as eligible for access to voluntary assisted dying

In relation to the co-ordinating medical practitioner and the consulting medical practitioner who assessed the person as eligible for access to voluntary assisted dying—

Are both the co-ordinating medical practitioner and the consulting medical practitioner fellows of a specialist medical college or vocationally registered general practitioners?

Yes [*specify qualifications held by each practitioner*]

No—you must not certify the request and assessment process.

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Did both the co-ordinating medical practitioner and the consulting medical practitioner complete the approved assessment training before commencing the relevant assessment?

- Yes [*specify date on which each practitioner completed the training*]
 No—you must not certify the request and assessment process.

Does the co-ordinating medical practitioner or the consulting medical practitioner have relevant expertise and experience in the person's disease, illness or medical condition?

- Yes, *the co-ordinating medical practitioner/the consulting medical practitioner [*specify which*]
 No, neither the co-ordinating medical practitioner nor the consulting medical practitioner—you must not certify the request and assessment process.

Does the co-ordinating medical practitioner or the consulting medical practitioner have at least 5 years of experience post fellowship or vocational registration?

- Yes, *the co-ordinating medical practitioner/the consulting medical practitioner [*specify which*]
 No, neither the co-ordinating medical practitioner nor the consulting medical practitioner—you must not certify the request and assessment process.

Written declaration

Date of written declaration:

Has the written declaration been signed by or on behalf of the person making the declaration in accordance with the Act?

- Yes
 No—you must not certify the request and assessment process.

Has the declaration been witnessed in accordance with the Act by 2 witnesses?

- Yes
 No—you must not certify the request and assessment process.

Attach copy of written declaration.

Final request

Date of first request:

Date of final request:

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Was the final request made at least one day after the day on which the consulting assessment was completed?

- Yes
- No—you must not certify the request and assessment process.
- The final request was made at least 9 days after the day on which the person made a first request.

OR

- The final request was made less than 9 days after the day on which the person made the first request, and—
 - (a) at time of making the final request, I considered that the person's death was likely to occur within 9 days, and
 - (b) this assessment was consistent with the prognosis of the consulting medical practitioner who assessed the person as eligible for access to voluntary assisted dying.

Contact person

Has a contact person been appointed in accordance with sections 39 and 40 of the Act?

- Yes
- No—you must not certify the request and assessment process.

Date of appointment:

Has the contact person appointment form been signed by or on behalf of the person making the appointment in accordance with the Act?

- Yes
- No—you must not certify the request and assessment process.

Has the contact person appointment form been signed by the contact person?

- Yes
- No—you must not certify the request and assessment process.

Has the contact person appointment form been witnessed in accordance with the Act by one witness?

- Yes
- No—you must not certify the request and assessment process.

Attach copy of contact person appointment form.

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Based on the information provided above and in the attached forms, has the person been assessed as eligible for access to voluntary assisted dying AND have all requirements of the request and assessment process been completed as required by the **Voluntary Assisted Dying Act 2017**?

Yes—complete certification in Part B.

No—you must not certify the request and assessment process. Do not complete certification in Part B.

Part B—Certification of co-ordinating medical practitioner

I, [*insert name of co-ordinating medical practitioner*] certify that the request and assessment process in respect of [*insert name of person requesting access to voluntary assisted dying who is the subject of the final review*] has been completed as required by the **Voluntary Assisted Dying Act 2017**.

Signed

Signature of co-ordinating medical practitioner

Date

FORM 6

Section 60

**VOLUNTARY ASSISTED DYING
SUBSTANCE DISPENSING FORM**

Instructions for completing this form

Use this form to record that a voluntary assisted dying substance has been dispensed on prescription (and provide the details of that prescription) for a person who is the subject of a self-administration permit, and to certify that the required information was given to the person to whom it was dispensed and the labelling statement attached to the voluntary assisted dying substance package or container.

Part A—Pharmacist details

Full name:

Dispensing pharmacy name:

Dispensing pharmacy telephone number:

Place of dispensation:

Part B—Person dispensed the voluntary assisted dying substance

Full name of person named on the prescription:

Address of the person:

Date of birth of the person:

Part C—Prescription details

Prescription authority number (or equivalent):

Date the voluntary assisted dying substance dispensed:

I, [*insert pharmacist's name*] confirm that I have instructed the person to whom the voluntary assisted dying substance was dispensed in accordance with section 58 of the **Voluntary Assisted Dying Act 2017** of the following matters—

- (a) how to self-administer the voluntary assisted dying substance;
- (b) that the voluntary assisted dying substance must be stored in a locked box that satisfies the prescribed specifications;
- (c) that the person is not under any obligation to self-administer the voluntary assisted dying substance;

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- (d) that the person or the relevant contact person must return to a pharmacist at the dispensing pharmacy for disposal any dispensed voluntary assisted dying substance:
- (i) that the person has decided to not self-administer; or
 - (ii) that was not self-administered by the person.

I, [*insert pharmacist's name*] confirm that I attached a label to the voluntary assisted dying substance package or container in the prescribed form in accordance with section 59 of the **Voluntary Assisted Dying Act 2017**.

Signature

You must give a copy of this form to the Board within 7 days after dispensing the voluntary assisted dying substance.

FORM 7

Section 63

**VOLUNTARY ASSISTED DYING
SUBSTANCE DISPOSAL FORM**

Instructions for completing this form

Use this form to record that a voluntary assisted dying substance has been returned to the dispensing pharmacy by a person who is the subject of a self-administration permit or their contact person and that it has been destroyed as soon as practicable after its return.

Part A—Pharmacist details

Full name:

Dispensing pharmacy name:

Dispensing pharmacy telephone number:

Place of dispensation:

Part B—Person dispensed the voluntary assisted dying substance

Full name of person named on the prescription:

Address of the person:

Date of birth of the person:

Part C—Person or contact person who returned the voluntary assisted dying substance

Full name:

Address of the person:

Contact telephone number:

Email address:

Part D—Prescription details

Prescription authority number (or equivalent):

Date the voluntary assisted dying substance dispensed:

Date the voluntary assisted dying substance returned:

Voluntary assisted dying substance returned and quantity:

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I, [*insert pharmacist's name*] confirm that the voluntary assisted dying substance dispensed to [*insert person's name*] was returned to me, and that in accordance with section 62 of the **Voluntary Assisted Dying Act 2017** as soon as practicable after receiving it, I disposed of it.

Signature

You must give a copy of this form to the Board within 7 days after disposing of the voluntary assisted dying substance.

FORM 8

Sections 65 and 66

**CO-ORDINATING MEDICAL PRACTITIONER
ADMINISTRATION FORM**

Instructions for completing this form

Use this form to record a person's administration request and to certify that the person had decision-making capacity in relation to voluntary assisted dying when the person made the administration request, that the person's request for access to voluntary assisted dying appeared to be enduring and made voluntarily without coercion, and that the person was physically incapable of the self-administration or digestion of the voluntary assisted dying substance.

Further, the purpose of this form is for a witness to the administration of the voluntary assisted dying substance to state that the co-ordinating medical practitioner administered the voluntary assisted dying substance to the person.

Only the co-ordinating medical practitioner for a person is authorised by the **Voluntary Assisted Dying Act 2017** to administer the voluntary assisted dying substance to the person in accordance with the **Voluntary Assisted Dying Act 2017**.

Part A—Co-ordinating medical practitioner details

Full name:

Practice address:

Practice telephone number:

Email address:

Part B—Details of person making the administration request

Full name:

Date of birth:

Address:

Contact telephone:

Part C—Administration request details

I, [*insert co-ordinating medical practitioner's name*] received an administration request made in accordance with section 64 of the **Voluntary Assisted Dying Act 2017** [*insert name of person who made the administration request*] on [*insert date that the*

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administration request was made] at [*insert time at which the administration request was made*].

Part D—Certification by co-ordinating medical practitioner

Instructions for completing this Part

If you have accepted the person's administration request—complete section 1 only.

If you have refused the person's administration request—complete section 2 only.

Section 1: person's administration request accepted

I certify that, [*insert the person's name*] was physically incapable of the self-administration or digestion of the voluntary assisted dying substance. I certify that their request to access voluntary assisted dying was enduring and made voluntarily and without coercion and that at the time of making the administration request they had decision-making capacity in relation to voluntary assisted dying.

Signature

Reason the person was physically incapable of the self-administration or digestion of the voluntary assisted dying substance:

[*Insert details*]

Section 2: person's administration request refused

I certify that, [*insert the person's name*] at the time of making an administration request to me did not satisfy me of a matter under section 64(1) of the **Voluntary Assisted Dying Act 2017** [*insert details of the matter not satisfied*] and I refused the administration request.

Signature

Reason the person did not satisfy a matter under section 64(1) of the **Voluntary Assisted Dying Act 2017**

[*Insert details*]

Part E—Witness certification

Instructions for completing this Part

Complete this Part if you witnessed the making of an administration request and the administration of the voluntary assisted dying substance to the person.

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I, *[insert name of witness]* certify that I witnessed the person make the administration request and at the time of making the administration request—

- (a) that the person appeared to have decision-making capacity in relation to voluntary assisted dying; and
- (b) the person in requesting access to voluntary assisted dying appeared to be acting voluntarily and without coercion; and
- (c) that the person's request to access voluntary assisted dying appeared to be enduring.

Signed

Signature of witness

I, *[insert name of witness]* state that the co-ordinating medical practitioner *[insert co-ordinating medical practitioner's name]* administered the voluntary assisted dying substance to the person.

Signed

Signature of witness

Part F—Administration details—co-ordinating medical practitioner to complete

Date of administration of the voluntary assisted dying substance:

Route of administration of the voluntary assisted dying substance:

Time to unconsciousness:

Time to death:

Complications (if any):

You must give a copy of this form to the Board within 7 days after administering the voluntary assisted dying substance to the person.

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 21 September 2017

Legislative Council: 31 October 2017

The long title for the Bill for this Act was "A Bill for an Act to provide for and regulate access to voluntary assisted dying, to establish the Voluntary Assisted Dying Review Board, to make consequential amendments to the **Births, Deaths and Marriages Registration Act 1996**, the **Coroners Act 2008**, the **Drugs, Poisons and Controlled Substances Act 1981**, the **Health Records Act 2001**, the **Medical Treatment Planning and Decisions Act 2016**, the **Pharmacy Regulation Act 2010** and other Acts and for other purposes."