

TASMANIA

**END-OF-LIFE CHOICES (VOLUNTARY ASSISTED
DYING) BILL 2020**

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END-OF-LIFE CHOICES (VOLUNTARY ASSISTED DYING) BILL 2020

(Brought in by the Honourable Michael Gaffney)

A BILL FOR

An Act to provide for, and regulate access to, voluntary assisted dying, to establish the Commissioner of Voluntary Assisted Dying, and for related purposes

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *End-of-Life Choices (Voluntary Assisted Dying) Act 2020*.

2. Commencement

This Act commences on a day to be proclaimed, but if this Act has not commenced before the first anniversary of the day on which it receives the Royal Assent it commences on that first anniversary.

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Part 1 – Preliminary

3. Act binds Crown

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

PART 2 – INTERPRETATION PROVISIONS

4. Interpretation

In this Act, unless the contrary intention appears –

AHP, in relation to a person, means the person –

- (a) who is, under section 59, the person’s administering health practitioner; and
- (b) who has not ceased, under section 108, to be the person’s AHP;

approved means approved by the Commissioner;

approved voluntary assisted dying training means a course of voluntary assisted dying training approved by the Commissioner under section 115;

authorised medical practitioner, in relation to a person, means a person who is, under section 8, an authorised medical practitioner in relation to the person;

CMP, in relation to a person, means a person –

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- (a) who is, under section 40, the person's consulting medical practitioner; and
- (b) who has not ceased, under section 107, to be the person's CMP;

Commissioner means the person appointed under section 109(1) to be the Commissioner of Voluntary Assisted Dying and includes a person who is appointed to be the Deputy Commissioner of Voluntary Assisted Dying under section 110(1);

contact person, in relation to a person, means a person who is appointed under section 84 to be the contact person in relation to the person;

decision-making capacity – see section 11;

driver licence means a licence, permit or other authorisation issued under an Act of this State, another State, or a Territory, authorising another person to drive;

eligible to access voluntary assisted dying – see section 9;

final permission, in relation to a person, means a final permission given by the person under section 80;

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final request, in relation to a person, means a final request made by the person under section 51;

first request, in relation to a person, means a first request made by the person under section 16(1);

medical practitioner means a person who is registered under the Health Practitioner Regulation National Law (Tasmania) in the medical profession (other than a student) and who is not a psychiatrist;

member of the family, in relation to a person, means a person who is –

- (a) the father, mother, grandfather or grandmother of the person; or
- (b) the spouse of the person; or
- (c) a brother, sister, niece or nephew of the person; or
- (d) a person in a family relationship, within the meaning of the *Relationships Act 2003*, with the person; or
- (e) a person in a caring relationship, within the meaning of the *Relationships Act 2003*, with the person; or
- (f) a child, or grandchild, of the person;

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officer of the Ambulance Service has the same meaning as in the *Ambulance Service Act 1982*;

pharmacist means a person who holds general registration under the Health Practitioner Regulation National Law (Tasmania) in the pharmacy profession (other than a student);

PMP, in relation to a person, means a person –

- (a) who becomes, under section 20 or section 57(5), the person’s primary medical practitioner; and
- (b) who has not ceased, under section 105, to be the person’s PMP;

private self-administration certificate, in relation to a person, means a private self-administration certificate completed and signed under section 82 by the person’s AHP;

private self-administration request, in relation to a person, means a private self-administration request given by the person under section 81(1);

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

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psychologist means a person registered under the Health Practitioner Regulation National Law (Tasmania) to practise psychology (other than as a student);

reasonably available treatment, in relation to a person, means treatment available to the person in Australia within a reasonable time and at a cost to the person that is not prohibitive;

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

registered nurse means a person registered under the Health Practitioner Regulation National Law (Tasmania) in the nursing profession whose name is entered on Division 1 of the Register of Nurses, kept under that Law, as a registered nurse;

relevant facts in relation to accessing voluntary assisted dying – see section 7;

relevant information about eligibility, in relation to a person, means the relevant information about eligibility, specified in section 6, in relation to the person;

relevant medical condition – see section 5;

request, in relation to a person, means –

- (a) a first request from the person; or

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(b) a second request from the person;
or

(c) a final request from the person;

residency requirements – see section 10;

residential care provider, in relation to a person, means a person who owns or operates premises at which –

(a) the first-mentioned person resides; and

(b) health services are, or may be, provided to the first-mentioned person by, or on behalf of, the person who owns or operates the premises;

second request, in relation to a person, means a second request made by the person under section 28(1);

spouse, in relation to a person, means –

(a) the husband or wife of the person; and

(b) a person in a significant relationship, within the meaning of the *Relationships Act 2003*, with the person;

VAD substance means a substance that is determined by the Commissioner under section 114 to be a VAD substance;

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VAD substance authorisation, in relation to a person, means a VAD substance authorisation, in relation to the person, that is issued under section 65(1)(a);

VAD substance prescription means a VAD substance prescription issued by a PMP under section 68(1)(a);

voluntary assisted dying means the administration to a person, or the self-administration by a person, of a VAD substance under this Act;

voluntary assisted dying process, in relation to a person, means the following:

- (a) the making of a first request by the person under section 16;
- (b) the acceptance of, or refusal to accept, under section 17, a first request made by the person under section 16;
- (c) a determination under section 24 of a first request made by the person;
- (d) the making of a second request by the person under section 28;
- (e) a determination under section 31 of a second request by the person;
- (f) a referral of the person, under section 35, by the person's PMP;

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- (g) the giving by the person of permission for the purposes of section 36(2);
- (h) the acceptance of, or the refusal to accept, under section 37, a referral of the person;
- (i) a determination under section 45 in relation to the person;
- (j) the making by the person of a final request under section 51;
- (k) a determination under section 53 of a final request made by the person;
- (l) the giving of advice to the person under section 58;
- (m) a request to the Commissioner under section 64(1) for a VAD substance authorisation in relation to the person;
- (n) the determination under section 65 by the Commissioner of a request for a VAD substance authorisation in relation to the person;
- (o) the issue under section 68 of a VAD substance prescription, in relation to the person;

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- (p) the supply under section 69, to the PMP in relation to the person, of a VAD substance;
 - (q) the supply, to the person's AHP, under section 72, of a VAD substance by the person's PMP;
 - (r) the making of a determination under section 76 in relation to the person and the giving to the person of a notice or advice under section 78 or 79 by the person's AHP;
 - (s) the giving by the person of a final permission under section 80;
 - (t) the giving by the person of a private self-administration request under section 81(1);
 - (u) the completion of a private self-administration certificate in relation to the person under section 82;
 - (v) the appointment by the person under section 84 of the contact person in relation to the person;
 - (w) the supply of a VAD substance under section 85 or section 88 by the person's AHP;
 - (x) the administration under section 85, by the person's AHP,

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of a VAD substance to the person or the self-administration by the person of a VAD substance in accordance with section 90(3).

5. Relevant medical condition

(1) For the purposes of this Act –

relevant medical condition, in relation to a person, means a disease, illness, injury, or medical condition, of the person that is advanced, incurable and irreversible and is expected to cause the death of the person.

(2) For the purposes of this Act, a disease, illness, injury, or medical condition, of a person is incurable and irreversible and is expected to cause the death of the person if there is no reasonably available treatment that –

(a) is acceptable to the person; and

(b) can cure or reverse the disease, illness, injury or medical condition and prevent the expected death of the person from the disease, illness, injury or medical condition.

6. Relevant information about eligibility

For the purposes of this Act, *the relevant information about eligibility*, in relation to a person, is information as to –

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- (a) whether the person has attained the age of 18 years; and
 - (b) whether the person meets the residency requirements; and
 - (c) whether the person has decision-making capacity; and
 - (d) whether the person is acting voluntarily; and
 - (e) whether the person is suffering intolerably in relation to a relevant medical condition; and
 - (f) the prognosis in relation to –
 - (i) the relevant medical condition or the relevant medical condition together with other medical conditions of the person; and
 - (ii) any complications of a medical kind that have arisen in relation to the treatment of the relevant medical condition or the combination of that treatment with the treatment of other medical conditions of the person; and
 - (g) the reasonably available treatment that may relieve the mental or physical suffering of the person that is related to (or that occurs in anticipation of the suffering, or in expectation, based on

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medical advice, of the suffering, that might arise from) –

- (i) the relevant medical condition or the relevant medical condition together with other medical conditions of the person; or
- (ii) the treatment of the relevant medical condition or the combination of that treatment with the treatment of other medical conditions of the person; or
- (iii) complications of a medical kind that have arisen, or may arise, in relation to the treatment of the relevant medical condition or the combination of that treatment with the treatment of other medical conditions of the person.

7. Relevant facts in relation to accessing voluntary assisted dying

For the purposes of this Act, the *relevant facts in relation to accessing voluntary assisted dying* are information, in a form approved by the Commissioner, that includes the following:

- (a) information as to the operation of this Act;

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- (b) information as to how the person's eligibility to access voluntary assisted dying is to be determined;
 - (c) information as to the functions of the Commissioner and contact details for the Commissioner;
 - (d) information as to what assistance to die the person may receive from a PMP or an AHP;
 - (e) information as to where advice in relation to palliative care, or other treatment or pain relief, may be obtained.

8. Authorised medical practitioners

For the purposes of this Act, a person is an authorised medical practitioner in relation to a person if –

- (a) the person is a medical practitioner with at least 5 years' experience as a medical practitioner after being registered under the Health Practitioner Regulation National Law (Tasmania) in the medical profession (other than a student); and
- (b) the medical practitioner has successfully completed an approved voluntary assisted dying training course within the 5-year period immediately before the person makes a first request to the medical practitioner under section 16 or

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is referred to the medical practitioner under section 35(1); and

- (c) the medical practitioner is not a member of the family of the person; and
- (d) the medical practitioner does not know or believe that he or she is likely to, either directly or indirectly, receive a financial benefit as a result of the death of the person.

**PART 3 – WHEN PERSON MAY ACCESS
VOLUNTARY ASSISTED DYING**

9. When person is eligible to access voluntary assisted dying

- (1) For the purposes of this Act, a person is eligible to access voluntary assisted dying if –
 - (a) the person has attained the age of 18 years; and
 - (b) the person meets the residency requirements; and
 - (c) the person has decision-making capacity; and
 - (d) the person is acting voluntarily; and
 - (e) the person is suffering intolerably in relation to a relevant medical condition.
- (2) For the purposes of this Act, a person is not eligible to access voluntary assisted dying by reason only that the person –
 - (a) has a mental illness, within the meaning of the *Mental Health Act 2013*; or
 - (b) has a disability, within the meaning of the *Disability Services Act 2011*.

10. When person meets residency requirements

- (1) For the purposes of this Act, a person meets the residency requirements if –

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- (a) the person –
 - (i) is an Australian citizen; or
 - (ii) is a permanent resident of Australia; or
 - (iii) has been resident in Australia for at least 3 continuous years immediately before the person makes the relevant first request; and
 - (b) the person has been ordinarily resident in Tasmania for at least 12 continuous months immediately before the person makes the relevant first request.
- (2) If a person’s PMP is unable to determine if the person meets the residency requirements, the person’s PMP may request the Commissioner to advise the PMP as to whether the person meets the residency requirements.
- (3) The Commissioner may, after receiving a request under subsection (2) from a person’s PMP, advise the PMP, in writing, that the person –
- (a) meets the residency requirements; or
 - (b) does not meet the residency requirements.
- (4) If the Commissioner, under subsection (3) –
- (a) advises a person’s PMP that the person meets the residency requirements, the

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person is to be taken for the purposes of this Act to meet the residency requirements; or

- (b) advises a person's PMP that the person does not meet the residency requirements, the person is to be taken for the purposes of this Act not to meet the residency requirements, unless and until the Commissioner issues a subsequent advice under this section.
- (5) For the purposes of this Act, evidence of a person being, or not being, at a particular time, ordinarily resident in Tasmania includes, but is not limited to including, evidence of any of the following:
- (a) the day on which the person was issued a driver licence under an Act of the State, or an Act of another State or a Territory;
 - (b) the day on which the person became, under an Act of the Commonwealth or the State, enrolled to vote for a member of the Tasmanian parliament or for a member of the Commonwealth parliament who is to represent Tasmania;
 - (c) the day on which the person became, under an Act of the Commonwealth or of another State or a Territory, enrolled to vote for a member of the parliament of another State or a Territory or to vote for a member of the Commonwealth

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parliament who is to represent another State or a Territory;

- (d) the day on which the person purchased property, entered into a lease of property or entered into, under the *Residential Tenancy Act 1997*, a residential tenancy agreement;
- (e) the existence of a lease, granted by or to the person, in relation to residential premises situated in another State or a Territory;
- (f) the existence of a statutory declaration from the person as to where, at a particular time, the person is or was ordinarily resident.

11. When person has decision-making capacity

- (1) For the purposes of this Act, a person has decision-making capacity in relation to a decision for the purposes of this Act if, when the person makes the decision, the person has the capacity to –
 - (a) understand the information or advice that is reasonably required in order to be able to make the decision; and
 - (b) remember such information or advice to the extent necessary to make the decision; and

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- (c) use or evaluate the information or advice for the purposes of making the decision; and
 - (d) communicate the decision, and the person's opinions in relation to the decision, whether by speech, in writing, by gesture or by other means.
- (2) For the purposes of subsection (1) –
- (a) a person is to be taken to have decision-making capacity in relation to a decision unless there is evidence to the contrary; and
 - (b) a person is taken to understand information and advice in relation to the making of a decision if it reasonably appears that he or she is able to understand an explanation of the consequences of making the decision.
- (3) In determining whether or not a person has decision-making capacity in relation to a decision, regard must be had to each of the following:
- (a) a person may have the capacity to make some decisions and not others;
 - (b) a person's lack of capacity to make a decision may be temporary and not permanent;

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- (c) an assumption that a person does not have the capacity to make a decision should not be made –
 - (i) on the basis of the person’s appearance; or
 - (ii) because the person makes a decision that another person may consider to be unwise.
- (4) If a person’s CMP, PMP or AHP is unable to determine whether the person has decision-making capacity in relation to a decision, the CMP, PMP, or AHP, respectively, must refer the person, under section 23, section 30, section 44, section 52 or section 77, as the case may be, to a medical practitioner, psychiatrist, or psychologist, who has the skills and training that are appropriate to make such a determination.
- (5) If a CMP, PMP or AHP refers a person in accordance with subsection (4) to another person, the CMP, PMP or AHP may adopt, for the purposes of the decision of the CMP, PMP or AHP in relation to which the person was referred to the other person, the decision of the other person as to whether the person has decision-making capacity at that time.

12. When person is acting voluntarily

For the purposes of this Act, a person is acting voluntarily if the person is not acting under duress, coercion or because of a threat of punishment or unfavourable treatment, or a

promise to give a reward or benefit, to the person or another person.

13. When person is suffering intolerably in relation to relevant medical condition

For the purposes of this Act, a person is suffering intolerably in relation to a relevant medical condition if –

- (a) the person has a relevant medical condition; and
- (b) persistent suffering that is, in the opinion of the person, intolerable is being caused to the person by any one or more of the following:
 - (i) the relevant medical condition or the relevant medical condition together with the person’s other medical conditions;
 - (ii) anticipation of the suffering, or expectation, based on medical advice, of the suffering, that may arise from the relevant medical condition or from the relevant medical condition together with the person’s other medical conditions;
 - (iii) the treatment that the person has received or the combination of that treatment with the treatment

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- of other medical conditions of the person;
- (iv) anticipation of the suffering, or expectation, based on medical advice, of the suffering, that may arise from the treatment that the person may receive in relation to the relevant medical condition or the combination of that treatment with the treatment of the person's other medical conditions;
 - (v) the complications of a medical kind arising from, or related to, the treatment of the relevant medical condition or the combination of that treatment with the treatment of the person's other medical conditions;
 - (vi) anticipation of the suffering, or expectation, based on medical advice, of the suffering, that may arise from the complications of a medical kind arising from, or related to, the treatment of the relevant medical condition or the combination of that treatment with the treatment of the person's other medical conditions; and
- (c) there is no reasonably available treatment that, having regard to both the treatment and the consequences, including side

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effects of the treatment, is reasonably likely to –

- (i) improve the person’s relevant medical condition, or overall health and wellbeing, in a manner, to an extent, and in a period of time, that is acceptable to the person; and
- (ii) in the opinion of the person, lessen the person’s suffering to an extent that is acceptable to the person.

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**PART 4 – COMMUNICATION IN RELATION TO
ACCESS TO VOLUNTARY ASSISTED DYING**

14. When person’s communication under Act may be made by another person

(1) In this section –

relevant communication means any of the following:

- (a) a first request;
- (b) a statement to a relevant practitioner under section 15;
- (c) the designation of a person, under section 16(3), section 28(3)(a)(ii), section 51(3)(b), section 80(1)(b), section 81(2)(b)(ii) or section 84(2)(b), to complete and sign, or complete or sign, a document on another person’s behalf;
- (d) a permission given by a person for the purposes of section 36(2)(b);
- (e) any other communication made to a relevant practitioner, in relation to a communication referred to in another paragraph of this definition;

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- (f) any other communication made as part of, or in relation to, the voluntary assisted dying process;

relevant practitioner, in relation to a person, means the PMP, CMP or AHP in relation to the person.

- (2) A relevant communication that may be made or given by a person (the ***VAD person***) to a relevant practitioner under this Act may, if –
 - (a) the VAD person is unable to communicate to a person who is unfamiliar with the VAD person’s method of communication; and
 - (b) the VAD person’s means of communication is comprehensible to another person who is familiar with the VAD person or the method of communication –

be made to the relevant practitioner by the other person, if the relevant practitioner is satisfied as to the relevant matters in relation to the VAD person and the other person.

- (3) A relevant communication that may be made or given by a person (the ***VAD person***) to a relevant practitioner under this Act may, if the VAD person is unable to communicate to the relevant practitioner in a language in which both the VAD person and the relevant practitioner are fluent, be made by another person who is fluent in that language, if the relevant practitioner is

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satisfied as to the relevant matters in relation to the VAD person and the other person.

- (4) For the purposes of this section, the relevant practitioner is satisfied as to the relevant matters in relation to a VAD person and the other person if the relevant practitioner is satisfied that –
- (a) the VAD person has decision-making capacity; and
 - (b) the VAD person wishes the other person to make relevant communications on behalf of the VAD person; and
 - (c) the VAD person is acting voluntarily in wishing the other person to make relevant communications on behalf of the VAD person.
- (5) If a relevant communication that may be made or given by a person under this Act may, under this section, be made or given by another person, the relevant communication may be made or given orally or in writing by the other person.
- (6) A person may not be designated under section 16(3), section 28(3)(a)(ii), section 51(3)(b), section 80(1)(b), section 81(2)(b)(ii) or section 84(2)(b) to complete and sign, or complete or sign, a document on another person's behalf, if the person so designated is the person who makes a relevant communication under this section designating the person.

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15. Person may withdraw from voluntary assisted dying process at any time

- (1) A person may at any time, orally or in writing, inform the person's PMP or AHP that the person no longer wishes to access voluntary assisted dying.
- (2) If a person's PMP or AHP is informed by the person under subsection (1) that the person no longer wishes to access voluntary assisted dying, the voluntary assisted dying process, begun by the making of the first request by the person, ceases in relation to the person.
- (3) Nothing in subsection (2) is to be taken to prevent a person from making another first request and the voluntary assisted dying process from beginning again, accordingly, in relation to the person.
- (4) A person's PMP who is not the person's AHP must, if the PMP is informed by the person under subsection (1) that the person no longer wishes to access voluntary assisted dying, as soon as reasonably practicable but in any case within 2 days –
 - (a) make a record, in the person's medical record, that the person no longer wishes to access voluntary assisted dying; and
 - (b) notify the person's AHP, if any, that the person no longer wishes to access voluntary assisted dying; and

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- (c) notify the person's CMP, if any, that the person no longer wishes to access voluntary assisted dying; and
 - (d) notify the Commissioner, in the approved form, that the person no longer wishes to access voluntary assisted dying.
- (5) A person's AHP who is informed by the person under subsection (1) that the person no longer wishes to access voluntary assisted dying must, as soon as reasonably practicable but in any case within 2 days –
 - (a) if the AHP is a medical practitioner, make a record, in the medical records kept by the practitioner in relation to the person, that the person no longer wishes to access voluntary assisted dying; and
 - (b) if the AHP is not the person's PMP, notify the person's PMP that the person no longer wishes to access voluntary assisted dying; and
 - (c) notify the Commissioner, in the approved form, that the person no longer wishes to access voluntary assisted dying.
- (6) If a person's PMP has been notified under subsection (5)(b) by the person's AHP that the person no longer wishes to access voluntary assisted dying, the PMP must, as soon as reasonably practicable but in any case within 2 days –

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- (a) make a record, in the medical records kept in relation to the person by the PMP, that the person no longer wishes to access voluntary assisted dying; and
- (b) notify the person’s CMP, if any.

PART 5 – FIRST REQUEST

Division 1 – Making and acceptance of first request

16. Person may make first request to access voluntary assisted dying

(1) A person –

(a) who has received from a medical practitioner the relevant facts in relation to accessing voluntary assisted dying; and

(b) who wishes to access voluntary assisted dying –

may, orally or in writing, request the medical practitioner to determine whether the person is eligible to access voluntary assisted dying.

(2) A person is not to be taken to have made a request under subsection (1) to a medical practitioner unless –

(a) the person has received the relevant facts in relation to accessing voluntary assisted dying from the medical practitioner in person and not by way of audio-visual link; and

(b) where the request is made orally, the person has clearly indicated to the medical practitioner, in person and not by way of audio-visual link, that the person wishes to access voluntary assisted dying.

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- (3) A written request under subsection (1) to a medical practitioner may be made by an instrument in writing signed –
- (a) by the person; or
 - (b) if the person is unable to complete or sign the instrument – by an adult designated by the person to complete or sign, or to complete and sign, the instrument on the person’s behalf.
- (4) A person who makes a request under subsection (1) to a medical practitioner is taken for the purposes of this Act to have made a first request to the medical practitioner.
- (5) If a person has attempted to make under subsection (1) a request to the medical practitioner but has not received from the medical practitioner the relevant facts in relation to accessing voluntary assisted dying, the medical practitioner must give to the person the relevant facts in relation to accessing voluntary assisted dying.

17. Medical practitioner must accept or refuse to accept first request

A medical practitioner to whom a first request is made by a person must, within 48 hours –

- (a) accept the request; or
- (b) refuse to accept the request.

18. Refusal to accept first request

- (1) A medical practitioner to whom a first request is made by a person must refuse under section 17(b) to accept the request if the medical practitioner is not an authorised medical practitioner in relation to the person.
- (2) A medical practitioner to whom a first request is made by a person may refuse under section 17(b) to accept the request for any reason, including, but not limited to, because the medical practitioner has a conscientious objection to providing assistance to the person to die.
- (3) A medical practitioner who refuses under section 17(b) to accept a first request from a person must, as soon as reasonably practicable but in any case within 7 days, note on the medical practitioner's medical records in relation to the person that the person has made a first request and that the medical practitioner has refused to accept the request.

19. Medical practitioner not required to give reasons for accepting or refusing request

A medical practitioner to whom a first request is made by a person may, but is not required to, provide to any person reasons for accepting, or refusing to accept, the request.

Division 2 – Effect of acceptance of first request

20. Medical practitioner who accepts first request becomes PMP

A medical practitioner who accepts under section 17(a) a first request from a person under section 16(1) becomes the person's primary medical practitioner (the person's **PMP**).

21. Notification of acceptance of first request

A person's PMP must, as soon as reasonably practicable, but in any case within 7 days, after accepting under section 17(a) a first request from the person –

- (a) notify the person of the acceptance of the first request; and
- (b) note on the medical practitioner's medical records in relation to the person that the medical practitioner has accepted a first request from the person; and
- (c) notify the Commissioner, in the approved form, that the medical practitioner has accepted a first request from the person.

22. Person who makes first request is to be provided with relevant information about eligibility

- (1) A person's PMP must, before determining under section 24 a first request from the person, give to

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the person the relevant information in relation to the person's first request.

- (2) The relevant information in relation to a person's first request is –
- (a) information as to –
 - (i) the relevant medical condition of the person and any other medical conditions of the person that may affect the relevant medical condition or its treatment; and
 - (ii) treatment of the relevant medical condition that has been, or may be, administered to the person; and
 - (iii) treatment, of other medical conditions of the person, that may have affected, or may affect, the relevant medical condition or its treatment and that has been, or may be, administered to the person; and
 - (b) information as to any complications of a medical kind that have arisen, or that may arise, from the treatment of the relevant medical condition or other medical conditions of the person; and
 - (c) the prognosis in relation to –
 - (i) the relevant medical condition or the relevant medical condition

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- together with other medical conditions of the person; and
- (ii) any complications of a medical kind that have arisen, or may arise, in relation to the treatment of the relevant medical condition or the combination of that treatment with the treatment of other medical conditions of the person; and
- (d) reasonably available treatment that may relieve the suffering of the person that is related to any of the following or to anticipation of suffering, or expectation, based on medical advice, of suffering, that may arise from any of the following:
- (i) the relevant medical condition or the relevant medical condition together with other medical conditions of the person;
 - (ii) the treatment of the relevant medical condition or the combination of that treatment with the treatment of other medical conditions of the person;
 - (iii) complications of a medical kind that have arisen, or may arise, in relation to the treatment of the relevant medical condition or its treatment or the combination of that treatment with the treatment

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of other medical conditions of the person; and

- (e) any palliative care that may reasonably be able to be provided to the person.
- (3) As soon as reasonably practicable, but in any case within 7 days, after giving to a person the relevant information in relation to the person's first request, the person's PMP is to give, to the Commissioner, notice, in the approved form, that the PMP has given to the person that information.

23. PMP may refer person, request information, &c.

A person's PMP may, for the purpose of enabling the PMP to determine the first request from the person, do any one or more of the following:

- (a) refer the person to another medical practitioner for examination;
- (b) request the person to provide to the PMP all information that the PMP reasonably requires in order to make the determination;
- (c) request a medical practitioner to provide to the PMP copies of the medical records of the person that are in the possession of the medical practitioner and that the PMP reasonably requires in order for the PMP to make the determination;

- (d) request a psychiatrist, psychologist, registered health practitioner, or any other person whom the PMP thinks fit, to provide to the PMP the information that the PMP reasonably requires in order to make the determination.

Division 3 – Determination of first request

24. PMP to determine first request

A person's PMP is to determine a first request from the person by –

- (a) determining that the person is eligible to access voluntary assisted dying; or
- (b) determining that the person is not eligible to access voluntary assisted dying.

25. Requirements in relation to determination of first request

- (1) A person's PMP must not make a determination under section 24 of a first request made by the person unless –
 - (a) the PMP has, after accepting under section 17 the first request from the person, met the person, in person or by way of audio-visual link; and
 - (b) the PMP, having met the person, in person or by way of audio-visual link, is able to determine the decision-making capacity of the person or adopts under

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section 11(5) the decision of another person in relation to the decision-making capacity of the person.

- (2) A person's PMP –
 - (a) must not determine under section 24(b) that the person is not eligible to access voluntary assisted dying, by reason only that the PMP does not have sufficient information to enable the PMP to determine that the person is eligible to access voluntary assisted dying; and
 - (b) may refuse to determine under section 24 the first request by the person until the PMP has sufficient information to enable the PMP to make the determination; and
 - (c) must not determine under section 24(a) that the person is eligible to access voluntary assisted dying until the PMP has sufficient information to enable the PMP to make the determination.
- (3) A person's PMP must determine under section 24 a first request by the person by determining under section 24(a) that the person is eligible to access voluntary assisted dying, if the PMP is satisfied that the person is eligible under section 9 to access voluntary assisted dying.

26. Determination of first request to be in writing

A determination under section 24 of a first request by a person is to be in writing and is to contain the relevant information about eligibility in relation to the person.

27. Records and notifications of determination of first request

A person's PMP who has made a determination under section 24 in relation to the person must, as soon as reasonably practicable but in any case within 7 days –

- (a) notify the person as to whether the PMP's determination states that the person is, or is not, eligible to access voluntary assisted dying; and
- (b) place, on the PMP's medical records in relation to the person, the determination or a copy of the determination; and
- (c) give to the Commissioner a copy of the determination.

PART 6 – SECOND REQUEST

Division 1 – Making of second request

28. Person may make second request

- (1) A person may, if the person's PMP has determined a first request from the person by determining under section 24(a) that the person is eligible to access voluntary assisted dying, make a second request to the PMP to determine whether the person is eligible to access voluntary assisted dying (a ***second request***).
- (2) A person must not make a second request to the person's PMP within 48 hours of the person having made a first request to the PMP, unless, in the opinion of the PMP –
 - (a) the person is likely to die within 7 days;
or
 - (b) the person is likely to cease to have decision-making capacity within 48 hours.
- (3) A person makes under subsection (1) a second request to the person's PMP by providing to the PMP an instrument in writing in the approved form –
 - (a) completed, and signed, by –
 - (i) the person; or
 - (ii) if the person is unable to complete or sign the instrument –

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an adult designated by the person to complete or sign, or to complete and sign, the instrument on the person's behalf; and

- (b) witnessed, in the presence of the person, by at least 2 adults who have observed the instrument being completed and signed in accordance with paragraph (a).
- (4) A person must not designate, under subsection (3)(a)(ii), the person's PMP to complete or sign, or complete and sign, a second request on the person's behalf.

29. Certain persons may not witness a second request

- (1) One of the witnesses to a person's second request must not be any one or more of the following persons:
 - (a) a member of the family of the person;
 - (b) a person who, at the time of witnessing the request, knows or believes that he or she is likely to, either directly or indirectly, receive a financial benefit as a result of the death of the person to whom the request relates;
 - (c) a person who is a residential care provider in relation to the person or an employee or agent of a residential care provider in relation to the person;

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- (d) a person who is a resident in the facility, owned or operated by a residential care provider in relation to the person, in which the person making the request resides.
- (2) The following persons must not be a witness to a person's second request:
- (a) the person's PMP or CMP;
 - (b) another person who completes or signs, or completes and signs, the second request for and on behalf of the person making the second request.

Division 2 – Determination of second request

30. PMP may refer person, request further information, &c.

A person's PMP may, for the purpose of enabling the PMP to determine the second request of the person, do any one or more of the following:

- (a) refer the person to another medical practitioner for examination;
- (b) request the person to give to the PMP all information that the PMP may reasonably require in order to make the determination;
- (c) request a medical practitioner to give to the PMP a copy of the medical records of the person that are in the possession of

the medical practitioner and that the PMP may reasonably require in order for the PMP to make the determination;

- (d) request a psychiatrist, psychologist, registered health practitioner, or any other person whom the PMP thinks fit, to give to the PMP the information that the PMP may reasonably require in order to make the determination.

31. Determination of second request

A person's PMP to whom a second request is made by the person under section 28 must determine the request by –

- (a) determining that the person is eligible to access voluntary assisted dying; or
- (b) determining that the person is not eligible to access voluntary assisted dying.

32. Requirements in relation to determination of second request

- (1) A person's PMP must not make a determination under section 31 of a second request made by the person unless –
 - (a) the PMP, after receiving the second request, has met the person, in person or by way of audio-visual link; and
 - (b) the PMP, having met the person, in person or by way of audio-visual link, is

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able to determine the decision-making capacity of the person or adopts under section 11(5) the decision of another person in relation to the decision-making capacity of the person.

- (2) A person's PMP –
 - (a) must not determine under section 31(b) that the person is not eligible to access voluntary assisted dying, by reason only that the PMP does not have sufficient information to determine that the person is eligible to access voluntary assisted dying; and
 - (b) may refuse to make a determination under section 31 until the PMP has sufficient information to enable the PMP to make the determination; and
 - (c) must not determine under section 31(a) that the person is eligible to access voluntary assisted dying until the PMP has sufficient information to enable the PMP to make the determination.
- (3) A person's PMP must determine under section 31 a second request by the person by determining under section 31(a) that the person is eligible to access voluntary assisted dying, if the PMP is satisfied that the person is eligible under section 9 to access voluntary assisted dying.

33. Determination of second request to be in writing and contain relevant information about eligibility

A determination under section 31 of a second request by a person is to be in writing and is to contain the relevant information about eligibility in relation to the person.

34. Records and notifications of determination of second request

A person's PMP who makes a determination under section 31 in relation to the person must, as soon as reasonably practicable but in any case within 7 days –

- (a) notify the person as to whether the determination states that the person is, or is not, eligible to access voluntary assisted dying; and
- (b) place on the PMP's medical records in relation to the person the determination or a copy of the determination; and
- (c) give to the Commissioner a copy of the determination.

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Part 7 – Referral to Medical Practitioner for Second Opinion

**PART 7 – REFERRAL TO MEDICAL PRACTITIONER
FOR SECOND OPINION**

35. PMP who determines person eligible must refer person to medical practitioner for second opinion

- (1) A person's PMP who has determined a second request from the person by determining under section 31(a) that the person is eligible to access voluntary assisted dying must, in writing, refer the person to another medical practitioner for that medical practitioner to determine whether or not the person is eligible to access voluntary assisted dying.
- (2) Subject to section 36, if a medical practitioner to whom a person is referred under subsection (1) –
 - (a) refuses under section 37(b) to accept the referral; or
 - (b) ceases under section 107 to be the person's CMP; or
 - (c) determines under section 45(b) that the person is not eligible to access voluntary assisted dying –

the PMP may refer the person to another medical practitioner under subsection (1).

36. Restrictions on referral to more than one medical practitioner

- (1) A person's PMP must not refer the person under section 35(1) to a medical practitioner if 2 CMPs

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in relation to the person have determined a referral, made to them by the PMP under section 35(1), by determining under section 45(b) that the person is not eligible to access voluntary assisted dying.

- (2) A person's PMP must not refer the person under section 35(1) to a medical practitioner after a CMP in relation to the person determines under section 45(b) that the person is not eligible to access voluntary assisted dying, unless the PMP –
 - (a) has informed the person of the determination by the CMP; and
 - (b) has obtained the permission of the person to the referral by the PMP, under section 35(1), of the person to another medical practitioner.

37. Medical practitioner must accept or refuse to accept referral

A medical practitioner to whom a person is referred under section 35(1) by a PMP in relation to the person must, within 48 hours, by notice in writing to the PMP –

- (a) accept the referral; or
- (b) refuse to accept the referral.

38. Refusal to accept referral

- (1) A medical practitioner to whom a person is referred under section 35(1) must refuse to accept the referral if the medical practitioner is not an authorised medical practitioner in relation to the person.
- (2) A medical practitioner to whom a person is referred under section 35(1) may refuse to accept the referral for any reason, including, but not limited to, because the medical practitioner has a conscientious objection to providing assistance to the person to die.

39. Medical practitioner not required to give reasons for decision as to whether to accept referral

A medical practitioner to whom a person is referred under section 35 may, but is not required to, give to any person reasons for accepting, or refusing to accept, the referral.

**PART 8 – REQUIREMENTS WHERE REFERRAL
ACCEPTED**

**40. Medical practitioner who accepts referral becomes
CMP**

A medical practitioner who accepts under section 37(a) a referral of a person becomes the person’s consulting medical practitioner (the person’s *CMP*).

41. PMP to provide reports and information to CMP

If a medical practitioner becomes a person’s CMP, the person’s PMP person must, as soon as reasonably practicable but in any case within 7 days, give to the CMP a copy of –

- (a) all medical reports in relation to the person; and
- (b) other information in relation to the person –

that is or are in the possession of the PMP and that the CMP may reasonably require in order to make a determination as to whether the person is eligible to access voluntary assisted dying.

**42. CMP may examine person and seek further
information from person**

A person’s CMP may examine the person, and request the person to answer questions, in order to make a determination under section 45 as to

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Part 8 – Requirements Where Referral Accepted

whether the person is eligible to access voluntary assisted dying.

43. CMP may seek further information, &c., from PMP

A person's CMP who is of the opinion that the CMP does not have sufficient information to make a determination under section 45 in relation to the person may request the person's PMP to do any one or more of the following:

- (a) to give to the CMP a copy of any medical records, or information, in relation to the person, that is in the possession of the PMP;
- (b) to obtain from another person under section 44, and to give to the CMP, a copy of any medical records, or information, in relation to the person, so obtained by the PMP;
- (c) to refer the person under section 44(1) to another medical practitioner or another person and to give to the CMP a copy of any medical records or information, in relation to the person, obtained by the PMP from the medical practitioner or other person –

so that the CMP may have the information necessary to enable the CMP to make the determination.

44. PMP may refer person, or request further information, &c., at request of CMP

- (1) A person's PMP may, for the purpose of enabling the person's CMP to determine the second request of the person, do any one or more of the following:
 - (a) refer the person to another medical practitioner for examination;
 - (b) request the person to give to the PMP all information that the CMP may reasonably require in order to make the determination;
 - (c) request a medical practitioner to give to the PMP a copy of the medical records of the person that are in the possession of the medical practitioner and that the CMP may reasonably require in order for the CMP to make the determination;
 - (d) request a psychiatrist, psychologist, registered health practitioner or any other person whom the PMP thinks fit, to give to the PMP the information that the CMP may reasonably require in order to make the determination.
- (2) A person's CMP must not refer the person to a medical practitioner, other than the person's PMP, for the purpose of obtaining information necessary to make a determination under section 45 in relation to the person.

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PART 9 – SECOND OPINION AS TO ELIGIBILITY TO ACCESS VOLUNTARY ASSISTED DYING

Division 1 – CMP to determine eligibility to access voluntary assisted dying

45. CMP to determine whether person eligible to access voluntary assisted dying

The CMP of a person who has been referred under section 35 to the CMP must, by notice to the person's PMP –

- (a) make a determination that the person is eligible to access voluntary assisted dying; or
- (b) make a determination that the person is not eligible to access voluntary assisted dying.

46. Requirements in relation to determination by CMP

(1) A person's CMP must not make a determination under section 45 in relation to the referral of the person under section 35 unless –

- (a) the CMP, after accepting the referral, has met the person, in person or by way of audio-visual link; and
- (b) the CMP, having met the person, in person or by way of audio-visual link, is able to determine the decision-making capacity of the person or adopts under

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section 11(5) the decision of another person in relation to the decision-making capacity of the person.

- (2) A CMP in relation to the person –
- (a) must not make a determination under section 45(b) that the person is not eligible to access voluntary assisted dying, by reason only that the CMP does not have sufficient information to enable the CMP to determine that the person is eligible to access voluntary assisted dying; and
 - (b) may refuse to make a determination under section 45 in relation to the person until the CMP has sufficient information to enable the CMP to make the determination; and
 - (c) must not make a determination under section 45(a) that the person is eligible to access voluntary assisted dying until the CMP has sufficient information to enable the CMP to make the determination.
- (3) A person's CMP must make a determination under section 45(a) that the person is eligible to access voluntary assisted dying, if the CMP is satisfied that the person is eligible under section 9 to access voluntary assisted dying.

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Part 9 – Second Opinion as to Eligibility to Access Voluntary Assisted Dying

47. Determination of CMP to be in writing and contain relevant information about eligibility

A determination under section 45 in relation to a person is to be in writing and is to contain the relevant information about eligibility in relation to the person.

48. CMP to keep record of determination and notify Commissioner

- (1) A person's CMP who makes a determination under section 45 in relation to the person must, as soon as reasonably practicable but in any case within 7 days –
 - (a) place on the CMP's medical records in relation to the person a copy of the determination; and
 - (b) give to the Commissioner a copy of the determination.
- (2) A person's PMP who has been given a notice under section 45 of a determination in relation to the person must, as soon as reasonably practicable, but in any case within 7 days –
 - (a) notify the person as to whether the determination states that the person is, or is not, eligible to access voluntary assisted dying; and

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- (b) place on the PMP’s medical records in relation to the person the determination or a copy of the determination; and
- (c) give to the Commissioner a copy of the determination.

Division 2 – Effect of 2 CMPs determining person not eligible to access voluntary assisted dying

49. Voluntary assisted dying process ends if 2 CMPs determine person not eligible

- (1) If 2 CMPs to whom a person has been referred under section 35 have made a determination under section 45(b) that the person is not eligible to access voluntary assisted dying, the voluntary assisted dying process ends in relation to the person.
- (2) Subsection (1) does not prevent a person from commencing the voluntary assisted dying process again by making a new first request.

50. Where process ends under section 49 former PMP may not accept first request for 12 months

- (1) If the voluntary assisted dying process ends in relation to a person under section 49, the medical practitioner who was the person’s PMP may not accept another first request from the person within 12 months after the second determination by a CMP is made under section 45(b).
- (2) Subsection (1) does not apply in relation to a medical practitioner if the Commissioner has

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issued to the medical practitioner an
authorisation under section 106(3)(a).

PART 10 – FINAL REQUESTS

51. Person may make final request to PMP

- (1) If a person's CMP has determined under section 45(a) that the person is eligible to access voluntary assisted dying, the person may make a final request to the person's PMP to determine whether the person is eligible to access voluntary assisted dying (a *final request*).
- (2) A person must not make a final request to the person's PMP within 48 hours of the person having made a second request to the PMP under section 28(1) unless, in the opinion of the PMP –
 - (a) the person is likely to die within 7 days; or
 - (b) the person is likely to cease to have decision-making capacity within 48 hours.
- (3) A final request by a person is an instrument in writing, in an approved form, completed, and signed, by –
 - (a) the person; or
 - (b) if the person is unable to complete or sign the instrument – an adult designated by the person to complete or sign, or to complete and sign, the instrument on the person's behalf.
- (4) A person may not designate under subsection (3)(b) the person's PMP or CMP to

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complete or sign, or complete and sign, a final request on the person's behalf.

- (5) A person's PMP who receives a final request under subsection (1) from the person must, as soon as reasonably practicable, but in any case within 7 days, give to the Commissioner a copy of the final request.

52. PMP may refer person to another health practitioner, &c.

A person's PMP to whom a final request is made by the person under section 51(1) may, before determining the request, do any one or more of the following:

- (a) refer the person to another medical practitioner for examination;
- (b) request the person to give to the PMP all information that the PMP may reasonably require in order to make the determination;
- (c) request a medical practitioner to give to the PMP a copy of the medical records of the person that are in the possession of the medical practitioner and that the PMP may reasonably require in order for the PMP to make the determination;
- (d) request a psychiatrist, psychologist, registered health practitioner or any other person whom the PMP thinks fit, to give to the PMP the information that the PMP

may reasonably require in order to make the determination.

53. Determination of final request

A person's PMP to whom a final request is made by the person under section 51(1) must determine the request –

- (a) by determining that the person is eligible to access voluntary assisted dying; or
- (b) by determining that the person is not eligible to access voluntary assisted dying.

54. Requirements in relation to determination of final request

- (1) A determination under section 53 of a final request made by a person must not be made by the person's PMP unless –
 - (a) the PMP, after receiving the final request, has met the person, in person or by way of audio-visual link; and
 - (b) the PMP, having met the person, in person or by way of audio-visual link, is able to determine the decision-making capacity of the person or adopts under section 11(5) the decision of another person in relation to the decision-making capacity of the person.
- (2) A person's PMP –

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- (a) must not determine under section 53(b) that the person is not eligible to access voluntary assisted dying, by reason only that the PMP does not have sufficient information to enable the PMP to determine that the person is eligible to access voluntary assisted dying; and
 - (b) may refuse to make a determination under section 53 in relation to the person until the PMP has sufficient information to enable the PMP to make the determination; and
 - (c) must not determine under section 53(a) that the person is eligible to access voluntary assisted dying until the PMP has sufficient information to enable the PMP to make the determination.
- (3) A person's PMP must determine under section 53 a final request by the person by determining under section 53(a) that the person is eligible to access voluntary assisted dying, if the PMP is satisfied that the person is eligible under section 9 to access voluntary assisted dying.

55. Determination of final request to be in writing and contain relevant information about eligibility

A determination under section 53 in relation to a person is to be in writing and is to contain the relevant information about eligibility in relation to the person.

56. Notification of determination

A person's PMP who has made a determination under section 53 in relation to the person must, as soon as reasonably practicable but in any case within 7 days –

- (a) notify the person as to whether the determination states that the person is, or is not, eligible to access voluntary assisted dying; and
- (b) place on the PMP's medical records in relation to the person a copy of the determination; and
- (c) give to the Commissioner a copy of the determination.

57. Change of PMP after final request made

- (1) If a person who was a person's PMP –
 - (a) has, after receiving a final request from the person, determined the request by determining that the person is eligible to access voluntary assisted dying; and
 - (b) has ceased to be the PMP in relation to the person –

a person who is the person's CMP and who has determined under section 53(a) that the person is eligible to access voluntary assisted dying may apply to the Commissioner to become the person's PMP for the purposes of section 15 and in respect of so much of the voluntary assisted

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dying process as has not occurred in relation to the person.

- (2) The Commissioner may, after receiving an application under subsection (1), determine that the person's CMP is to become the person's PMP for the purposes of section 15 and in respect of so much of the voluntary assisted dying process as has not occurred in relation to the person.
- (3) The Commissioner must not make a determination under subsection (2) that a person's CMP is to become the person's PMP unless the Commissioner is satisfied that –
 - (a) a person has ceased to be the person's PMP; and
 - (b) the person agrees to the CMP becoming the person's PMP.
- (4) If the Commissioner has determined under subsection (2) that a person's CMP is to become the person's PMP, the Commissioner must notify the CMP and the person of the determination.
- (5) If the Commissioner has determined under subsection (2) that a person's CMP is to become the person's PMP, the CMP becomes the person's primary medical practitioner (the person's *PMP*) for the purposes of section 15 and in respect of so much of the voluntary assisted dying process as has not occurred in relation to the person.

**PART 11 – HEALTH PRACTITIONER WHO IS TO
SUPPLY VAD SUBSTANCE TO PERSON**

58. PMP to decide whether to be AHP

If a person's PMP has determined a final request by the person by determining under section 53(a) that the person is eligible to access voluntary assisted dying, the PMP (or, if another person has become the person's PMP after the person's final request has been determined under section 53(a), that person) must, as soon as reasonably practicable but in any case within 48 hours, advise the person as to whether –

- (a) the PMP is to be the person's AHP; or
- (b) the PMP does not intend to be the person's AHP and intends to request the Commissioner to appoint an AHP in relation to the person.

59. AHP in relation to person

- (1) Subject to subsection (2), if a person's PMP has determined a final request by the person by determining under section 53(a) that the person is eligible to access voluntary assisted dying, the person's PMP (whether or not that PMP was the PMP who made the determination) becomes the person's administering health practitioner (the person's *AHP*).
- (2) Subsection (1) does not apply in relation to a person's PMP if –

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- (a) the PMP has advised the person under section 58(b) that the PMP does not intend to be the person's AHP; or
 - (b) subsection (3) applies in relation to the person.
- (3) If a person is appointed under section 60(2) to be the administering health practitioner in relation to a person, the person so appointed is the person's AHP.

60. Appointment of AHP

- (1) If a person's PMP gives advice to the person under section 58(b) that the PMP does not intend to be the person's AHP, the PMP must, as soon as reasonably practicable but in any case within 2 days, in writing, request the Commissioner to appoint an AHP in relation to the person.
- (2) If the Commissioner receives a request under subsection (1) from a person's PMP, the Commissioner must, by an instrument in writing, signed by the Commissioner, appoint a medical practitioner, or a registered nurse, to be the person's administering health practitioner (the person's *AHP*).

61. Requirements for appointment of AHP

- (1) The Commissioner may, under section 60(2), only appoint a medical practitioner, or a registered nurse, to be a person's administering health practitioner if –

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- (a) the medical practitioner or registered nurse has agreed to be appointed as the person's administering health practitioner; and
- (b) the medical practitioner or registered nurse has signed a statutory declaration stating that the medical practitioner or registered nurse, respectively –
- (i) has, within the 5-year period before being so appointed, successfully completed an approved voluntary assisted dying training course; and
 - (ii) is not a member of the family of the person; and
 - (iii) does not know or believe that he or she is likely to, either directly or indirectly, receive a financial benefit as a result of the death of the person; and
 - (iv) has the relevant experience.
- (2) For the purposes of subsection (1)(b)(iv) –
- (a) a medical practitioner has the relevant experience if the practitioner has at least 5 years' experience as a medical practitioner after having become a medical practitioner; and
 - (b) a registered nurse has the relevant experience if the nurse has at least 5

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years' experience as a registered nurse after becoming a registered nurse.

62. Person entitled to refuse to be appointed AHP

A medical practitioner, or a registered nurse, is entitled to refuse under section 61(1)(a) to be appointed under section 60(2) as a person's administering health practitioner for any reason, including but not limited to because the practitioner or nurse has a conscientious objection to providing assistance to the person to die, and is not required to give to any person any reason for so refusing.

63. PMP to be notified of appointment of AHP

The Commissioner must notify a person's PMP as soon as practicable after appointing a person under section 60(2) as the person's administering health practitioner.

**PART 12 – AUTHORISATIONS AND PRESCRIPTIONS
IN RELATION TO VAD SUBSTANCES**

Division 1 – VAD substance authorisation

64. PMP may request Commissioner to issue VAD substance authorisation

- (1) If a person's PMP has determined a final request by the person by determining under section 53(a) that the person is eligible to access voluntary assisted dying, the person's PMP (whether or not the person's PMP was the person who made under section 53 the determination of the final request) must request the Commissioner, orally or in writing, to issue a VAD substance authorisation.
- (2) Subsection (1) does not apply in relation to a person's PMP if –
 - (a) the person has informed the PMP under section 15(1) that the person no longer wishes to access voluntary assisted dying; or
 - (b) the PMP has been notified under section 15(5)(b) by the person's AHP that the person no longer wishes to access voluntary assisted dying.

65. Commissioner may issue or refuse to issue VAD substance authorisation

- (1) If the Commissioner receives a request under section 64(1) from a person's PMP, the

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Commissioner must, as soon as reasonably practicable –

- (a) issue to the PMP a VAD substance authorisation in relation to the person; or
 - (b) if section 66(1) applies, refuse to issue to the PMP a VAD substance authorisation in relation to the person.
- (2) A VAD substance authorisation in relation to a person is an instrument in writing, in the approved form, that is signed by the Commissioner and that –
- (a) contains the relevant details in relation to a VAD substance authorisation in respect of the person; and
 - (b) specifies that the person’s PMP is authorised to issue a VAD substance prescription in relation to the person.
- (3) For the purposes of subsection (2)(a), the relevant details in relation to a VAD substance authorisation in respect of a person are –
- (a) the name of the person and the address at which the person is ordinarily resident; and
 - (b) the name of the person’s PMP at the time when the VAD substance authorisation is issued; and

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- (c) the details of the VAD substance to which the VAD substance prescription is to relate; and
 - (d) the maximum amount of the VAD substance, the supply and possession of which is to be authorised by the VAD substance prescription; and
 - (e) the period for which the person’s PMP is authorised to issue the VAD substance prescription.
- (4) A VAD substance authorisation may relate to either of the following:
- (a) a VAD substance that may be self-administered by the person to whom the VAD substance relates;
 - (b) a VAD substance that may be administered to the person by the AHP in relation to the person.

66. Refusal to issue VAD substance authorisation

- (1) The Commissioner must refuse to issue to a person’s PMP a VAD substance authorisation in relation to the person if –
- (a) the Commissioner has not received all notices, and information, in relation to the person that the PMP is required under this Act to give to the Commissioner; or

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- (b) the Commissioner suspects that the requirements of this Act have not been met in relation to the person.
- (2) If the Commissioner refuses under subsection (1) to issue to a PMP a VAD substance authorisation, the Commissioner must, within 2 business days, notify the PMP of the refusal and the reasons for the refusal.

67. Amendment or revocation of VAD substance authorisation

- (1) The Commissioner may, by notice to a person's PMP, amend or revoke a VAD substance authorisation that has been issued to the PMP.
- (2) An amendment or revocation under subsection (1) of a VAD substance authorisation that has been issued to a person's PMP may be made on the Commissioner's own motion or at the request of the person's PMP.

Division 2 – VAD substance prescriptions

68. PMP may issue VAD substance prescription

- (1) A PMP to whom a VAD substance authorisation in relation to a person is issued under section 65(1)(a) –
 - (a) may issue a VAD substance prescription in relation to the person, containing the relevant prescription details in respect of the person, if the PMP is authorised to do so under subsection (2)(a); and

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(b) may request and receive from a pharmacist, in accordance with the VAD substance prescription, the amount of the VAD substance specified in the VAD substance prescription, if the PMP is authorised to do so under subsection (2)(b).

(2) A PMP to whom a VAD substance authorisation in relation to a person is issued under section 65(1)(a) –

(a) is authorised to issue a VAD substance prescription, containing the relevant prescription details in respect of the person, unless, before the prescription is issued –

(i) the VAD substance authorisation has been revoked under section 67; or

(ii) the person has informed the PMP under section 15(1) that the person no longer wishes to access voluntary assisted dying; or

(iii) the PMP has been notified under section 15(5)(b) by the AHP in relation to the person that the person no longer wishes to access voluntary assisted dying; and

(b) is authorised to request and receive from a pharmacist, as the agent of the person to whom the relevant prescription details relate, the amount of the VAD substance

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specified in the VAD substance prescription, unless, before the substance is requested or received –

- (i) the VAD substance authorisation has been revoked under section 67; or
 - (ii) the person has, under section 15(1), informed the PMP in relation to the person that the person no longer wishes to access voluntary assisted dying; or
 - (iii) the PMP has been notified under section 15(5)(b) by the AHP in relation to the person that the person no longer wishes to access voluntary assisted dying.
- (3) For the purposes of this section, the relevant prescription details in respect of a person are –
- (a) the name of the person and the address at which the person is ordinarily resident; and
 - (b) the name of the PMP who has issued the VAD substance prescription; and
 - (c) the details of the VAD substance to which the VAD substance prescription relates, being the VAD substance specified in the VAD substance authorisation; and

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- (d) the maximum amount of the VAD substance, the supply and possession of which is authorised by the VAD substance prescription.

69. What pharmacist may do on receiving VAD substance prescription

- (1) A pharmacist who –
 - (a) receives from a PMP a VAD substance prescription in relation to a VAD substance; and
 - (b) is given by the PMP a copy of a VAD substance authorisation issued to the PMP undersection 65(1)(a) –

may, after complying with subsection (2), supply to the PMP the VAD substance specified in the VAD substance prescription or may refuse to supply the VAD substance.

- (2) Unless the pharmacist does not intend to supply a VAD substance to a person, a pharmacist who receives from a person's PMP a VAD substance prescription in relation to the person is to discuss with the person (in person or by way of audio-visual link) the medical condition of the person so as to ensure that the VAD substance to which the VAD substance prescription relates is suitable for use in relation to the person for the purposes for which it has been prescribed.
- (3) A pharmacist may refuse to supply a VAD substance to a PMP for any reason, including but

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not limited to because the pharmacist has a conscientious objection to providing assistance to a person to die.

- (4) A pharmacist who supplies to a PMP a VAD substance under subsection (1) must –
- (a) as soon as reasonably practicable but in any case within 3 business days, make a record of the supply of the substance; and
 - (b) within 3 business days, notify the Commissioner of the supply of the VAD substance.

Penalty: Fine not exceeding 50 penalty units.

- (5) A pharmacist who supplies to a PMP a VAD substance under subsection (1) in relation to a person must ensure that the packaging, or container, in which the substance is contained clearly states, in English –
- (a) the name of the PMP; and
 - (b) the name of the person; and
 - (c) a description of the VAD substance; and
 - (d) that the substance is poisonous and that consumption of it may be fatal.

Penalty: Fine not exceeding 50 penalty units.

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70. PMP to destroy VAD substance prescription in certain circumstances

A person who is or was a person's PMP must destroy any VAD substance prescription that has been issued by the PMP and that has not been given by the PMP to a pharmacist, and notify the Commissioner of the destruction of the prescription, as soon as reasonably practicable, but in any case within 7 days, after the person who is or was a person's PMP –

- (a) has ceased to be the person's PMP; or
- (b) is informed under section 15(1) by a person that the person no longer wishes to access voluntary assisted dying or is notified under section 15(5)(b) by the person's AHP that the person no longer wishes to access voluntary assisted dying; or
- (c) becomes aware that a different VAD substance to the VAD substance specified in the VAD substance prescription is required because there is a private self-administration certificate in relation to the person or because the person no longer intends to self-administer the VAD substance specified in the prescription.

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***Division 3 – Duties of PMP and AHP after being supplied
VAD substance***

71. Duties of PMP when VAD substance supplied to PMP

- (1) If a VAD substance is supplied to a PMP under section 69, the PMP must ensure that –
 - (a) the substance is contained in a locked receptacle that is not readily accessible by any other person; and
 - (b) the substance is kept at the PMP’s usual place of employment as a medical practitioner.
- (2) Subsection (1) does not apply, in relation to a person’s PMP, in respect of a VAD substance, if –
 - (a) the substance is in the immediate physical possession of the PMP and is being transported to another place –
 - (i) for administration to the person; or
 - (ii) for provision of the substance to the person for the person to self-administer; or
 - (iii) for provision of the substance to the AHP in relation to the person; or

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- (b) the substance is in the immediate physical possession of the PMP and is not readily accessible by any other person; or
- (c) the substance is being administered to the person by the PMP as the person's AHP; or
- (d) the substance has been given to the person to self-administer or has been given to the person's AHP in relation to the person; or
- (e) the substance has been destroyed by the PMP in accordance with section 75.

72. Supply of VAD substance to AHP by PMP

- (1) A person's PMP may supply to the person's AHP a VAD substance supplied to the PMP under section 69, if the PMP is authorised to do so under subsection (2).
- (2) A person's PMP is authorised to supply a VAD substance to the person's AHP if –
 - (a) the AHP has received under section 80(1) a final permission from the person; and
 - (b) subsection (3) does not apply in relation to the PMP.
- (3) A person's PMP is not authorised to supply a VAD substance to the person's AHP if –

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- (a) the VAD substance authorisation in relation to the person has been revoked under section 67; or
- (b) the person has informed the PMP under section 15(1) that the person no longer wishes to access voluntary assisted dying; or
- (c) the PMP has been notified under section 15(5)(b) by the person's AHP that the person no longer wishes to access voluntary assisted dying; or
- (d) the PMP becomes aware that a different VAD substance is required because there is a private self-administration certificate in relation to the person or because the person no longer intends to self-administer the VAD substance.

73. Duties of AHP when VAD substance supplied to AHP by PMP

- (1) If a VAD substance is supplied to an AHP under section 72(1), the AHP must ensure that –
 - (a) the substance is contained in a locked receptacle that is not readily accessible by any other person; and
 - (b) the substance is kept at the AHP's usual place of employment as a registered health practitioner.

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- (2) Subsection (1) does not apply in relation to a person's AHP, in respect of a VAD substance, if –
- (a) the substance is in the immediate physical possession of the AHP and is being transported to another place –
 - (i) for administration to the person; or
 - (ii) for provision of the substance to the person for the person to self-administer; or
 - (b) the substance is in the immediate physical possession of the AHP and is not readily accessible by any other person; or
 - (c) the substance is being administered to the person by the AHP; or
 - (d) the substance has been given to the person to self-administer; or
 - (e) the substance has been destroyed by the AHP, or given to the person's PMP, under section 74(3).

74. Duties of AHP in relation to VAD substance when VAD substance no longer required

- (1) In this section –

current or former AHP means a person who is or was a person's AHP.

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- (2) In this section, the relevant circumstances apply, in relation to a VAD substance, to a current or former AHP of a person, if the current or former AHP –
- (a) is informed under section 15(1) by the person, or is notified under section 15(4)(b) by the person’s PMP, that the person no longer wishes to access voluntary assisted dying; or
 - (b) decides under section 76 that the person does not have decision-making capacity or is not acting voluntarily; or
 - (c) is, after the death of the person, in possession of a VAD substance supplied to the person; or
 - (d) is in possession of a VAD substance –
 - (i) that was supplied to the person because, at the time of supply, the person was intending to self-administer the substance, but has been returned to the AHP because the person has subsequently ceased to intend to self-administer the substance; or
 - (ii) that was supplied to the AHP for administration to the person but is no longer to be administered to the person by the AHP because the person has subsequently obtained a private self-administration certificate and the

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VAD substance is not suitable for self-administration; or

- (e) is supplied with a VAD substance under section 91(3) or (4).
- (3) As soon as reasonably practicable, but in any case within 7 days, after the relevant circumstances begin to apply, in relation to a VAD substance, to a current or former AHP of a person, the current or former AHP must –
- (a) ensure that any amount of the VAD substance that is in the possession of the current or former AHP is returned to the person’s PMP or is destroyed; and
 - (b) notify the Commissioner that the remaining VAD substance has been returned to the person’s PMP or destroyed, as the case may be.

75. Duties of PMP in relation to VAD substance when VAD substance no longer required

- (1) In this section –

current or former PMP means a person who is or was a person’s PMP.

- (2) In this section, the relevant circumstances apply, in relation to a VAD substance, to a person’s current or former PMP if the person’s current or former PMP –
- (a) has ceased to be the person’s PMP; or

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- (b) is informed under section 15(1) by the person that the person no longer wishes to access voluntary assisted dying, or is notified under section 15(5)(b) by the person's AHP that the person no longer wishes to access voluntary assisted dying; or
 - (c) is in possession of a VAD substance returned by the AHP to the current or former PMP; or
 - (d) is in possession of a VAD substance and becomes aware that a different VAD substance is required because there is a private self-administration certificate in relation to the person or because the person no longer intends to self-administer the VAD substance that is in the possession of the PMP.
- (3) As soon as reasonably practicable, but in any case within 7 days, after the relevant circumstances begin to apply, in relation to a VAD substance, to a person's current or former PMP, the person's current or former PMP must –
- (a) ensure that so much of the VAD substance as is in the possession of the current or former PMP is destroyed; and
 - (b) notify the Commissioner of the destruction of the VAD substance.

**PART 13 – FINAL ADMINISTRATIVE
REQUIREMENTS**

*Division 1 – Decision-making capacity and voluntariness to
be determined*

**76. Final determination by AHP of decision-making
capacity and voluntariness**

A person's AHP must, within 48 hours before the AHP receives a final permission from the person, determine whether the person has decision-making capacity and is acting voluntarily.

77. AHP may refer person to another person, &c.

A person's AHP may, for the purpose of enabling the AHP to determine for the purposes of section 76 the decision-making capacity of the person or whether the person is acting voluntarily, do any one or more of the following:

- (a) refer the person to another medical practitioner for examination;
- (b) request the person to provide to the AHP all information that the AHP reasonably requires in order to make the determination;
- (c) request a medical practitioner to provide to the AHP copies of the medical records of the person that are in the possession of the medical practitioner and that the AHP

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reasonably requires in order for the AHP to make the determination;

- (d) request a psychiatrist, psychologist, registered health practitioner, or any other person who the AHP thinks fit, to provide to the AHP the information that the AHP reasonably requires in order to make the determination.

78. Notice where AHP determines person does not have decision-making capacity or is not acting voluntarily

If a person's AHP determines under section 76 that the person does not have decision-making capacity or is not acting voluntarily, the AHP must, as soon as reasonably practicable, but in any case within 24 hours –

- (a) notify the person, a guardian of the person or another person who cares for or who has responsibility for the person, of the determination; and
- (b) notify the Commissioner of the determination; and
- (c) if the AHP is not the person's PMP, notify the person's PMP of the determination.

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79. Advice to be given to person where AHP determines person has decision-making capacity and is acting voluntarily

If a person's AHP determines under section 76 that the person has decision-making capacity and is acting voluntarily, the AHP must, as soon as reasonably practicable but in any case within 24 hours, advise the person –

- (a) that the person is entitled to receive assistance to die; and
- (b) of the manner in which the VAD substance that is to be administered, or self-administered, to the person is to be so administered and the consequence of administration of the substance to the person; and
- (c) that if the person wishes to receive assistance to die the person must give to the AHP a final permission under section 80(1); and
- (d) that the person is not required to give to the AHP a final permission under section 80(1) and may at any time before that final permission is given, advise the AHP that the person does not wish to receive assistance to die; and
- (e) that, once the final permission is given, the person will immediately be supplied with a VAD substance, or a VAD substance will immediately be

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administered to the person by the AHP,
in accordance with the final permission.

Division 2 – Final permission to be given

80. Person may give final permission

- (1) A person who has received advice under section 79 that the person is entitled to receive assistance to die, may give to the person's AHP an instrument in writing in the approved form (a ***final permission***) that is –
 - (a) completed, and signed, by the person; or
 - (b) if the person is unable to complete or sign the instrument – completed and signed by an adult who is designated by the person to complete or sign, or to complete and sign, the instrument on the person's behalf.
- (2) A person may not designate under subsection (1)(b) the PMP, the CMP, or the AHP, in relation to the person to complete or sign, or complete and sign, a final permission on the person's behalf.
- (3) A final permission by a person is to include –
 - (a) a statement that the person has received the advice referred to in section 79; and
 - (b) a statement that the person wishes to access voluntary assisted dying and understands that as soon as practicable after that permission is given –

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- (i) the person will be, in accordance with the wishes of the person set out in the final permission, supplied with the VAD substance to self-administer; or
 - (ii) the person's AHP will administer to the person the VAD substance, in accordance with the wishes of the person set out in the final permission; and
- (c) a statement as to whether the person wishes –
- (i) to self-administer a VAD substance; or
 - (ii) to be assisted by the AHP to self-administer a VAD substance; or
 - (iii) to have the person's AHP administer a VAD substance to the person; and
- (d) a statement as to whether, if unexpected complications of a medical kind arise from the administration of a VAD substance to the person and the person does not intend to self-administer a VAD substance under section 90, the person wishes the person's AHP to –
- (i) administer to the person a substance (which may be a VAD substance) that will enable the person to die more quickly and

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painlessly than would otherwise
be the case; or

- (ii) take action that it is reasonable for the person's AHP to take to preserve the person's life.

Division 3 – Private self-administration certificates

81. Private self-administration request

- (1) A person may give to the person's AHP a private self-administration request if the person's PMP has determined a final request by the person by determining that the person is eligible to access voluntary assisted dying.
- (2) A private self-administration request is an instrument in writing, in the approved form, that –
 - (a) contains a request for permission to self-administer a VAD substance in accordance with section 90 and to do so without the person's AHP being required to comply with sections 86 and 87; and
 - (b) is –
 - (i) completed, and signed, by the person; or
 - (ii) if the person is unable to complete or sign the instrument – completed and signed by an adult who is designated by the person to complete or sign, or to

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complete and sign, the instrument on the person's behalf.

- (3) A person may not designate under subsection (2)(b)(ii) the person's PMP, CMP or AHP to complete or sign, or complete and sign, a private self-administration request on the person's behalf.

82. Private self-administration certificate

(1) If –

- (a) a person gives to the person's AHP a private self-administration request; and
- (b) the person's AHP is satisfied that –
- (i) the person is likely on the balance of probabilities, to die within 6 months from a disease, illness or medical condition; or
- (ii) where the person has a disease, illness or medical condition that is neurodegenerative – the person is likely, on the balance of probabilities, to die within 12 months from a disease, illness or medical condition (whether or not it is neurodegenerative); and
- (c) the person's AHP is satisfied that the person will be able to self-administer a VAD substance –

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the person's AHP must complete and sign a private self-administration certificate.

- (2) A person's AHP must not complete and sign a private self-administration certificate unless subsection (1) applies.
- (3) For the purposes of this Act, a private self-administration certificate is an instrument, in the approved form, certifying that the person is entitled to self-administer a VAD substance in accordance with section 90 and without the person's AHP being required to comply with sections 86 and 87.
- (4) A person's AHP must, as soon as reasonably practicable, but in any case within 48 hours, after completing and signing under subsection (1) a private self-administration certificate in relation to the person, provide a copy of the certificate to –
 - (a) the person; and
 - (b) if the person's AHP is not the person's PMP, the person's PMP; and
 - (c) the Commissioner.

83. Referral for determination as to life expectancy

- (1) If a person's CMP, PMP or AHP is unable to determine the matter referred to in section 82(1)(b), the person's CMP, PMP, or AHP, respectively, must refer the person to a medical practitioner who has the skills and

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training that are appropriate to make a determination as to whether –

- (a) the person is likely on the balance of probabilities, to die within 6 months from a disease, illness or medical condition; or
 - (b) where the person has a disease, illness or medical condition that is neurodegenerative – the person is likely, on the balance of probabilities, to die within 12 months from a disease, illness or medical condition (whether or not it is neurodegenerative).
- (2) If a person’s CMP, PMP or AHP refers the person under subsection (1) to a medical practitioner, the CMP, PMP or AHP may adopt the determination of the medical practitioner as to the matter referred to in section 82(1)(b).

84. Appointment of contact person

- (1) If there is a private self-administration certificate in relation to a person, the person must appoint a person who is an adult to be the contact person in relation to the person.
- (2) An appointment of a person to be the contact person in relation to a person under subsection (1) is to –
 - (a) be made by an instrument in the approved form; and

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- (b) be signed by the person to whom the self-administration certificate relates, or, if the person is unable to complete or sign the instrument, by an adult designated by the person to complete or sign, or to complete and sign, the instrument on the person's behalf; and
 - (c) be signed by the person being appointed to be the contact person.
- (3) A person may not be appointed to be the contact person in relation to a person under subsection (1) unless the person so appointed accepts the appointment.
- (4) As soon as reasonably practicable, but in any case within 7 days, after a person is appointed to be the contact person in relation to a person, the contact person must notify –
 - (a) the person's AHP; and
 - (b) the Commissioner.

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***Division 1 – Supply and administration of VAD substance
where no private self-administration certificate***

85. AHP may supply, &c., VAD substance to person

- (1) A person's AHP may, if authorised to do so under subsection (2) –
 - (a) supply to the person a VAD substance for self-administration while the AHP is in close proximity to the person in accordance with sections 86 and 87; or
 - (b) supply to the person, and assist the person to self-administer, a VAD substance; or
 - (c) administer a VAD substance to the person.
- (2) A person's AHP is authorised to carry out an action for the purposes of subsection (1) if –
 - (a) the AHP has been supplied, as the person's PMP, the VAD substance under section 69(1) or was supplied the substance under section 72 by the person's PMP; and
 - (b) to do so is in accordance with the statement of the person included in the person's final permission in accordance with section 80(3)(c) or (d); and

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- (c) subsection (3) does not apply in relation to the AHP.
- (3) A person's AHP is not authorised to carry out an action for the purposes of subsection (1) if –
 - (a) the person has informed the AHP under section 15(1) that the person no longer wishes to access voluntary assisted dying; or
 - (b) the AHP has been notified under section 15(4)(b) by the person's PMP that the person no longer wishes to access voluntary assisted dying.

86. Duties of AHP if VAD substance not to be privately self-administered

- (1) A person's AHP must, while a VAD substance is being administered to, or self-administered by, the person in accordance with section 85, be in –
 - (a) the same room or place as the person; or
 - (b) a room or place in which any noise made by the person may be heard during and after the person has been administered the VAD substance.
- (2) A person's AHP must, after a VAD substance is administered to, or self-administered by, the person in accordance with section 85, remain in –
 - (a) the same room or place as the person; or

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- (b) a room or place in which any noise made by the person may be heard during and after the person has been administered the VAD substance –

until the person has died or is removed from the room or the place to receive medical treatment, as the case may be.

- (3) A person's AHP is to consider the wishes of the person in determining which room or place to be in, or remain in, in accordance with this section.

87. Duties where unexpected complications arise and person not privately self-administering

If unexpected complications of a medical kind arise after a VAD substance has, in accordance with section 85, been administered to, or self-administered by, the person, the person's AHP must, in accordance with the wishes of the person set out in the person's final permission –

- (a) administer to the person a substance (which may be a VAD substance) that will enable the person to die more quickly and painlessly than would otherwise be the case; or
- (b) take action that it is reasonable for the AHP to take to preserve the person's life.

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Division 2 – Self-administration in private

88. AHP may supply VAD substance to person

- (1) If there is a private self-administration certificate in relation to a person, the person's AHP may, if the AHP is authorised to do so under subsection (2), supply to the person the VAD substance.
- (2) A person's AHP is authorised to supply to a person a VAD substance, if –
 - (a) the AHP has, as the person's PMP, been supplied the substance under section 69(1) or was supplied the substance under section 72 by the person's PMP; and
 - (b) to do so is in accordance with the statement of the person included in the person's final permission in accordance with section 80(3)(c) or (d); and
 - (c) subsection (3) does not apply in relation to the AHP.
- (3) A person's AHP is not authorised to supply a VAD substance to the person if –
 - (a) the person has informed the AHP under section 15(1) that the person no longer wishes to access voluntary assisted dying; or
 - (b) the AHP has been notified under section 15(4)(b) by the person's PMP

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that the person no longer wishes to access voluntary assisted dying.

- (4) The VAD substance to be supplied, under this section, to the person is to be a VAD substance that is supplied to the person's AHP for self-administration by the person.

89. AHP to show self-administering person how to administer VAD substance

A person's AHP who has provided to the person a copy of a private self-administration certificate is to show the person how to self-administer the VAD substance that is to be supplied to the person for self-administration.

90. Private self-administration of VAD substance

- (1) If there is a private self-administration certificate in relation to a person –
- (a) the person is authorised to possess and store a VAD substance that has been supplied to the person under section 88; and
 - (b) the person is authorised to transport the substance –
 - (i) to the person's residence; or
 - (ii) to a place where the person is to self-administer the substance; or
 - (iii) to the person's AHP; and

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- (c) the person is authorised to supply the substance to the person's AHP or to supply the substance to the person's contact person for return to the person's AHP.
- (2) If there is a private self-administration certificate in relation to a person and the person has been supplied under section 88 with a VAD substance by the person's AHP, the person must ensure that the VAD substance is kept in its original packaging and in a locked receptacle, that is not readily accessible by any other person, until the person self-administers the substance, returns the substance to the AHP or supplies the substance to the person's contact person for return to the AHP.
- (3) If there is a private self-administration certificate in relation to a person and not more than 6 months (or, if the person has a neurodegenerative disease, not more than 12 months) has expired since the certificate was issued, the person may self-administer a VAD substance supplied to the person by the person's AHP, without sections 86 and 87 applying in relation to the self-administration.
- (4) If there is a private self-administration certificate in relation to a person but the person chooses to not self-administer the VAD substance supplied to the person, the person must return the substance to the person's AHP or give the substance to the person's contact person to return the substance to the person's AHP.

91. Duties of contact person where VAD substance to be, or is, privately self-administered

(1) If –

- (a) there is a private self-administration certificate in relation to a person; and
- (b) the person has died after self-administering a VAD substance in accordance with section 90(3) –

the contact person in relation to the person is authorised for 14 days to possess and store the unused or remaining VAD substance that has been supplied to the person under section 88, if the substance is kept in a locked receptacle that is not readily accessible by any other person.

(2) As soon as reasonably practicable, but in any case within 24 hours, after becoming aware of the death of a person who has self-administered to the person a VAD substance in accordance with section 90(3), the contact person in relation to the person must notify the person's AHP of the death of the person.

(3) If –

- (a) there is a private self-administration certificate in relation to a person; and
- (b) the person has died after self-administering a VAD substance in accordance with section 90(3) –

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the contact person in relation to the person, as soon as reasonably practicable but in any case within 14 days after the person's death, must return to the person's AHP any unused or remaining VAD substance that has been supplied to the person under section 88.

- (4) If there is a private self-administration certificate in relation to a person, the contact person in relation to the person is, if requested by the person to do so, authorised to, and may –
- (a) possess the substance for the purpose of transporting it to the person's AHP; and
 - (b) transport the substance to the person's AHP; and
 - (c) supply the substance to the AHP.

Division 3 – Duties of AHP after VAD substance administered or voluntary assisted dying process ends

92. Duty to notify Coroner

- (1) A person's AHP must, if a VAD substance has been administered to the person under section 85 and the person has died or if the person's AHP is notified under section 91(2) of the death of the person –
- (a) notify the Coroner, under the *Coroners Act 1995*, of the death of the person; and
 - (b) notify the Commissioner of the death of the person.

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- (2) Despite any other provision of the *Coroners Act 1995*, if a notice is given to the Coroner under subsection (1) in relation to a person, the Coroner –
- (a) is not required to conduct an investigation under that Act in relation to the death of the person; and
 - (b) if the Coroner has no cause to believe the death occurred otherwise than in accordance with this Act, is to record under that Act the cause of death as being a voluntary death in accordance with this Act and to record the relevant medical condition in relation to the person.

PART 15 – REVIEW OF DECISIONS

Division 1 – Preliminary

93. Interpretation of Part 15

In this Part –

application means an application under section 94;

eligible applicant means –

- (a) a person who is the subject of a decision referred to in section 94(1); and
- (b) an agent of a person who is the subject of a decision referred to in section 94(1); and
- (c) any other person who the Commissioner is satisfied has a special interest in the medical treatment and care of a person who is the subject of a decision referred to in section 94(1);

party to proceedings means a person who is a party to proceedings under section 96(1);

relevant decision, in relation to an application, means a decision, referred to in section 94(1), to which the application relates;

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review means a review under this Part of a relevant decision specified in an application.

Division 2 – Application for review

94. Application for review of decision

- (1) An eligible applicant may apply to the Commissioner for a review of a decision, by a person's PMP, CMP or AHP, that the person –
 - (a) meets, or does not meet, the residency requirements; or
 - (b) has, or does not have, decision-making capacity; or
 - (c) is, or is not, acting voluntarily.
- (2) An application under subsection (1) –
 - (a) is to specify the decision, referred to in that subsection, to which the application relates; and
 - (b) is to be made in the approved form.
- (3) The Commissioner must give notice of an application in relation to a relevant decision to –
 - (a) the person who is the subject of the decision; and
 - (b) the person who made the decision; and
 - (c) the PMP in relation to the person who is the subject of the decision.

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95. No further action to be taken until application determined

If an application is made in relation to a relevant decision, no further action that forms part of the voluntary assisted dying process may be taken by, or in relation to, the person who is the subject of the decision, until the application is determined under section 102 or is withdrawn or dismissed.

96. Parties to review and representation

- (1) The parties to proceedings under this Part in relation to an application are –
 - (a) the person who made the application; and
 - (b) the person who is the subject of the relevant decision; and
 - (c) the person who made the relevant decision; and
 - (d) the PMP in relation to the person who is the subject of the relevant decision.
- (2) A party to proceedings is entitled to be represented in those proceedings by an Australian legal practitioner or any other person.

97. Withdrawal and dismissal of application

- (1) A person who has made an application may, by notice to the Commissioner, withdraw the application.

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- (2) The Commissioner is to give notice to the following persons of the withdrawal of an application under subsection (1) in relation to a relevant decision:
- (a) the person who is the subject of the relevant decision;
 - (b) the person who made the relevant decision;
 - (c) the PMP in relation to the person who is the subject of the relevant decision.
- (3) If the person who is the subject of a relevant decision to which an application relates dies, the application is taken to be withdrawn.
- (4) The Commissioner may at any time dismiss an application if, in the opinion of the Commissioner, the application is frivolous, vexatious, misconceived or lacking in substance or otherwise an abuse of process.

Division 3 – Conduct of review

98. Purpose of review, &c.

- (1) The purpose of a review of a decision specified in an application is –
- (a) if the decision is a decision referred to in section 94(1)(a) – for the Commissioner to reach the correct and proper decision as to whether the person meets, or does not meet, the residency requirements; or

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- (b) if the decision is a decision referred to in section 94(1)(b) – for the Commissioner to reach the correct and proper decision as to whether the person has, or does not have, decision-making capacity; or
 - (c) if the decision is a decision referred to in section 94(1)(c) – for the Commissioner to reach the correct and proper decision as to whether the person is, or is not, acting voluntarily.
- (2) For the purposes of a review of a decision to which an application relates, the Commissioner is to conduct a hearing, or to obtain evidence, or both, so as to be able to make a fresh decision, on the evidence before the Commissioner, in substitution for the relevant decision.

99. Procedure

- (1) The Commissioner may do all things necessary or convenient to be done for the purposes of carrying out a review.
- (2) The Commissioner is to determine the procedures to be followed in proceedings in relation to an application.
- (3) The Commissioner –
 - (a) is to conduct proceedings with as little formality, and as quickly, as a proper consideration of the matter before the Commissioner permits; and

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- (b) is not bound by the rules of evidence but may inform himself or herself on any matter in the way that the Commissioner thinks fit; and
 - (c) must observe the rules of procedural fairness.
- (4) The Commissioner may, but is not required to, conduct a hearing in relation to an application.
 - (5) Hearings in relation to an application must be held in private.
 - (6) The Commissioner may give directions as to the persons who may be present at a hearing in relation to an application.

100. Evidence

- (1) If the Commissioner considers that there are documents that –
 - (a) are in the possession of a party to proceedings; and
 - (b) may be relevant to the proceedings –the Commissioner may, by notice to a party, require the party to lodge a copy of each document with the Commissioner within the time specified in the notice.
- (2) Subsection (1) applies despite the *Personal Information Protection Act 2004* and any rule of law relating to privilege or the public interest in relation to the production of documents.

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- (3) The Commissioner may issue a notice requiring a person to attend before the Commissioner to give evidence and produce documents, if any, that are referred to in the notice, if the Commissioner considers that it is necessary or desirable to do so for the purposes of assisting the Commissioner to make a determination in relation to an application.
- (4) The Commissioner must allow a party to proceedings a reasonable opportunity –
 - (a) to call or give evidence in any hearings that may be held; and
 - (b) to examine, cross-examine or re-examine witnesses in any hearings that may be held; and
 - (c) to make submissions to the Commissioner, which may be, at the discretion of the Commissioner, oral or in writing.
- (5) Despite subsection (4), the Commissioner may refuse to allow a party to proceedings to call evidence on a matter if the Commissioner considers that there is already sufficient evidence of that matter before the Commissioner.
- (6) Evidence in proceedings may be given orally or in writing and, if the Commissioner requires, must be given on oath or by affidavit.
- (7) The Commissioner may administer or cause to be administered an oath, or take or cause to be

taken an affirmation, for the purpose of taking and receiving evidence during proceedings.

- (8) The Commissioner may call in the assistance of an expert to advise the Commissioner in respect of any matter arising in a proceeding.

101. Self-incrimination

- (1) A person is not excused from answering a question or producing a document in proceedings, or pursuant to a notice given to the person under this Part, on the ground that the answer or document might tend to incriminate the person.
- (2) If a person claims, before answering a question or producing a document, that the answer or document might tend to incriminate the person, the answer or document is not admissible in evidence in any criminal proceedings in relation to an offence alleged to have been committed by the person, other than in proceedings in respect of the falsity of the answer or the document.

102. Determination of application

- (1) The Commissioner may determine an application made under section 94(1) in relation to a relevant decision by determining that the person who is the subject of the decision –
- (a) meets, or does not meet, the residency requirements; or

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- (b) has or does not have decision-making capacity; or
 - (c) is, or is not, acting voluntarily.
- (2) The Commissioner must notify of a determination under subsection (1) in relation to a relevant decision –
 - (a) the person who is the subject of the decision; and
 - (b) the applicant for the review of the decision; and
 - (c) the person who made the decision; and
 - (d) the PMP in relation to the person who is the subject of the decision.
- (3) If the Commissioner determines under subsection (1) that a person –
 - (a) does not meet the residency requirements; or
 - (b) does not have decision-making capacity; or
 - (c) is not acting voluntarily –

the voluntary assisted dying process ends and no further action that forms part of the voluntary assisted dying process may be taken in relation to the person.
- (4) Nothing in subsection (3) is to be taken to prevent a person from commencing the

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voluntary assisted dying process again by making a new first request.

- (5) Despite subsection (4), a person may not, except with the written approval of the Commissioner and subject to the conditions included in the approval, commence the voluntary assisted dying process again by making a new first request if the Commissioner determined under subsection (1) that the person is not acting voluntarily.
- (6) If the Commissioner determines under subsection (1) an application, contrary to the decision of the person's PMP, CMP or AHP (the *relevant person*) to which the application relates, by determining that the person has decision-making capacity or is acting voluntarily –
 - (a) the relevant person may, but is not required to, adopt the Commissioner's decision as the decision made by the relevant person; and
 - (b) if the relevant person so adopts the Commissioner's decision, the relevant person's decision is to be taken to be the decision so made and, accordingly, despite any other provision of this Act, the voluntary assisted dying process does not end.

103. Reasons for decision

- (1) The Commissioner must give to each of the parties to proceedings in relation to an

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application written reasons for the determination of the application under section 102(1).

- (2) A written transcript of the part of the proceedings in which the Commissioner gives the Commissioner's reasons for a determination of an application under section 102(1) is sufficient to constitute written reasons for the purposes of this section.

104. Supreme Court

- (1) The Commissioner may state in the form of a special case for decision by the Supreme Court any question of law that may arise in the hearing of, or determination of, an application.
- (2) A party to proceedings who is aggrieved by a determination of the Commissioner under section 102 may, within 14 days, appeal to the Supreme Court against the decision.
- (3) An appeal may be brought –
 - (a) on a question of law, as of right; or
 - (b) on a question of fact, only with the leave of the Supreme Court.
- (4) The Supreme Court may, on an appeal under this section –
 - (a) confirm the decision of the Commissioner; or

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- (b) set aside the decision of the Commissioner and substitute its own decision; or
 - (c) remit the matter back to the Commissioner for redetermination, with or without directions.
- (5) The Supreme Court may make any other order it thinks just in the circumstances.

PART 16 – PMPS, CMPS AND AHPS GENERALLY

105. When PMP ceases to be PMP

- (1) A person (the *relevant person*) ceases to be a person's PMP if –
- (a) the relevant person dies; or
 - (b) the relevant person ceases to be able to carry out the functions of a PMP by reason of loss of mental or physical capacity; or
 - (c) the relevant person ceases to be an authorised medical practitioner in relation to the person; or
 - (d) the relevant person notifies the Commissioner under subsection (2); or
 - (e) the voluntary assisted dying process ends in relation to the person under section 49 and the relevant person has complied with section 48(2); or
 - (f) the voluntary assisted dying process ceases in relation to the person under section 102(3); or
 - (g) the person dies and the relevant person has carried out all actions, if any, that the person's PMP is required to carry out under this Act after the death of the person; or

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- (h) the person informs the relevant person under section 15(1) that the person no longer wishes to access voluntary assisted dying, and the relevant person has given all notices as required under this Act to be given by the person's PMP after receiving such a notice; or
- (i) the relevant person –
 - (i) has been notified under section 15(5)(b) that the person no longer wishes to access voluntary assisted dying; and
 - (ii) the relevant person has given all notices that a PMP is required under this Act to give after receiving such a notice; and
 - (iii) the relevant person has, under this Act, destroyed under this Act all VAD substances in relation to the person that are in the possession of the relevant person.
- (2) A person's PMP may, in writing, notify –
 - (a) the person; and
 - (b) the person's CMP, or AHP, if any; and
 - (c) the Commissioner –that the PMP is to cease to be the person's PMP.
- (3) A person who is or was a person's PMP –

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- (a) must, after ceasing to be an authorised medical practitioner in relation to the person, issue all the notices referred to in subsection (2) as soon as reasonably practicable, but in any case within 7 days; and
- (b) may issue notices under subsection (2) for any other reason.

106. Former PMP may apply to Commissioner to become PMP again

(1) In this section –

relevant day, in relation to a person’s PMP, means the day on which section 49 begins to apply in relation to the person.

- (2) A medical practitioner who ceases under section 105(1)(f) to be the person’s PMP may apply to the Commissioner to be authorised to accept another first request from the person within 12 months after the relevant day.
- (3) The Commissioner may, after receiving under subsection (2) an application from a medical practitioner who was a person’s PMP –
 - (a) authorise the medical practitioner to accept another first request from the person within 12 months after the relevant day; or
 - (b) refuse to authorise the medical practitioner to accept another first request

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from the person within 12 months after the relevant day.

- (4) The Commissioner, in determining under subsection (2) an application received from a medical practitioner who was a person's PMP, is to take into account –
- (a) the ability of the person to make a first request to another medical practitioner; and
 - (b) whether the health or circumstances of the person have significantly altered since the relevant day; and
 - (c) the likelihood of the health or circumstances of the person deteriorating so rapidly within the 12-month period after the application is made that it is in the best interests of the person that the Commissioner authorise the medical practitioner to accept another first request from the person within 12 months after the relevant day.

107. When CMP ceases to be CMP

- (1) A person (the *relevant person*) ceases to be a person's CMP if –
- (a) the relevant person dies; or
 - (b) the relevant person ceases to be able to carry out the functions of a CMP by

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- reason of loss of mental or physical capacity; or
- (c) the relevant person ceases to be an authorised medical practitioner in relation to the person; or
 - (d) the relevant person notifies the Commissioner under subsection (2); or
 - (e) the voluntary assisted dying process ends in relation to the person under section 49 and the relevant person has complied with section 48(1); or
 - (f) the voluntary assisted dying process ends in relation to the person under section 102(3); or
 - (g) the person in relation to whom the person is a CMP dies; or
 - (h) the relevant person is notified by the PMP under section 15(4)(c) or section 15(6)(b) that the person no longer wishes to access voluntary assisted dying.
- (2) A person's CMP may, at any time before the CMP makes a determination under section 45 in relation to the person, notify, in writing –
- (a) the person's PMP, if any; and
 - (b) the Commissioner –
- that the medical practitioner is to cease to be the person's CMP.

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- (3) A person's PMP may, in writing, advise a medical practitioner who is the person's CMP that the medical practitioner has ceased to be the person's CMP in relation to the person.
- (4) A person's PMP must not advise a medical practitioner under subsection (3) that the medical practitioner has ceased to be the person's CMP unless the person's CMP has not made a determination under section 45 in relation to a person within the later of the following periods:
- (a) 14 days after the request was received;
 - (b) 14 days after any information that the CMP requested the PMP under section 42 to give was given to the CMP –

unless, in the opinion of the PMP, the person is likely to die within 7 days or is likely to cease to have decision-making capacity within 48 hours.

- (5) A person's CMP –
- (a) must, after ceasing to be an authorised medical practitioner in relation to the person, issue all the notices referred to in subsection (2) as soon as reasonably practicable, but in any case within 7 days; and
 - (b) may, for any other reason, issue all the notices required to be issued under subsection (2).

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- (6) The person's PMP must, within 7 days of giving advice under subsection (3) to a medical practitioner who is the person's CMP, notify the Commissioner in writing that the medical practitioner has ceased to be the person's CMP.

108. When AHP ceases to be AHP

A person (the *relevant person*) ceases to be a person's AHP if –

- (a) the relevant person dies; or
- (b) the relevant person ceases to be able to carry out the functions of an AHP by reason of loss of mental or physical capacity; or
- (c) the relevant person ceases to be an authorised medical practitioner in relation to the person; or
- (d) the relevant person ceases to be a registered nurse or becomes aware that that he or she is likely to, either directly or indirectly, receive a financial benefit as a result of the death of the person; or
- (e) the person informs the relevant person under section 15(1) that the person no longer wishes to access voluntary assisted dying and the relevant person has given all notices as required under this Act to be given by the person's AHP after receiving such a notice; or

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- (f) the voluntary assisted dying process ends in relation to the person under section 102(3); or
- (g) the person in relation to whom the person is the AHP dies; or
- (h) the relevant person is notified under section 15(4)(b) by the person's PMP that the person no longer wishes to access voluntary assisted dying.

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**PART 17 – COMMISSIONER OF VOLUNTARY
ASSISTED DYING**

Division 1 – Appointments

109. Appointment of Commissioner of Voluntary Assisted Dying

- (1) The Minister is to appoint a person to be the Commissioner of Voluntary Assisted Dying.
- (2) The Minister may only appoint to be the Commissioner of Voluntary Assisted Dying a person who the Minister considers has relevant qualifications or experience.
- (3) A person appointed under this section –
 - (a) is appointed subject to and in accordance with the *State Service Act 2000*; and
 - (b) may hold the office in conjunction with State Service employment.

110. Deputy Commissioner of Voluntary Assisted Dying

- (1) The Minister must appoint a person to be the Deputy Commissioner of Voluntary Assisted Dying.
- (2) The Minister may only appoint to be the Deputy Commissioner of Voluntary Assisted Dying a person who the Minister considers has relevant qualifications or experience.

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- (3) Any function performed, or power exercised, by the Deputy Commissioner has the same force and effect as if it were performed or exercised by the Commissioner.
- (4) A person appointed under this section –
 - (a) is appointed subject to and in accordance with the *State Service Act 2000*; and
 - (b) may hold the office in conjunction with State Service employment.

111. Officers of Commissioner

- (1) The Minister may appoint such officers as the Minister considers to be necessary to assist the Commissioner in the performance of his or her functions.
- (2) A person appointed under this section –
 - (a) is appointed subject to and in accordance with the *State Service Act 2000*; and
 - (b) may hold the office in conjunction with State Service employment.

Division 2 – Functions and powers

112. Functions and powers of Commissioner

- (1) In addition to any other functions conferred on the Commissioner under this or any other Act, the functions of the Commissioner are –
 - (a) to monitor the operation of this Act; and

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- (b) to establish and maintain a list of medical practitioners and registered nurses who have completed approved voluntary assisted dying training; and
 - (c) to establish and maintain a list of medical practitioners who are willing to be PMPs, CMPs or AHPs; and
 - (d) to establish and maintain a list of registered nurses who are willing to be AHPs; and
 - (e) to establish and maintain a list of pharmacists who are willing to dispense VAD substances; and
 - (f) to collect statistical information in relation to the operation of this Act; and
 - (g) to distribute information relating to –
 - (i) the functions of the Commissioner; and
 - (ii) the operation of this Act; and
 - (h) any other functions that may be prescribed.
- (2) The Commissioner may –
- (a) for the purpose of monitoring compliance with this Act, review the performance and exercise by persons of functions and powers under this Act in relation to a death that has occurred as a result of the administration of a VAD

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substance under, or purportedly under, this Act; and

- (b) investigate, report and make recommendations to the Minister on any matter that the Commissioner thinks fit relating to the operation or administration of this Act; and
 - (c) communicate to appropriate persons or authorities any concerns that the Commissioner has about compliance or non-compliance with this Act.
- (3) The Commissioner may, with the permission of a medical practitioner or registered nurse, provide to a person the name and contact details of the medical practitioner or registered nurse.
- (4) The Commissioner has the power to do all things necessary or convenient to be done in connection with, or incidental to or related to, the performance or exercise of his or her functions or powers under this Act.

113. Delegation by Commissioner

The Commissioner may delegate any of his or her functions or powers under this Act, other than this power of delegation.

114. Commissioner to determine VAD substances

- (1) The Commissioner is to determine to be VAD substances one or more substances, each of which, when the substance is administered to, or

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self-administered by, a person in accordance with the instructions of an AHP, is likely to cause the death of the person.

- (2) A determination under subsection (1) is an instrument of an administrative character and is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

115. Commissioner to approve voluntary assisted dying training courses

- (1) The Commissioner may approve for the purposes of this Act a course of voluntary assisted dying training, which may be training provided by means of a computer.
- (2) A course of voluntary assisted dying training approved under subsection (1) must consist of training in relation to –
- (a) the functions of, and requirements under this Act in relation to, CMPs, PMPs and AHPs; and
 - (b) assessing whether or not a person is eligible to access voluntary assisted dying; and
 - (c) identifying and assessing whether a person may be subject to abuse or coercion in making a decision under this Act.

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(3) The Commissioner may only approve a course of voluntary assisted dying training under subsection (1) if he or she has consulted with –

(a) a body which represents medical practitioners; and

(b) a body which represents registered nurses; and

(c) a person nominated by the Public Guardian within the meaning of the *Guardianship and Administration Act 1995*; and

(d) a person nominated by the Chief Civil Psychiatrist within the meaning of the *Mental Health Act 2013*; and

(e) a psychiatrist or psychologist –

as to the suitability of the course of voluntary assisted dying training for the purposes of this Act.

116. Commissioner may request authorisation of nurse practitioners to possess and supply VAD substances

(1) In this section –

nurse practitioner has the same meaning as in section 3 of the *Poisons Act 1971*;

Secretary has the same meaning as in section 3 of the *Poisons Act 1971*.

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(2) The Commissioner may request the Secretary to authorise, under section 25B of the *Poisons Act 1971* –

(a) a nurse practitioner who is a registered nurse and who is specified in the request; or

(b) each member, of a class, of nurse practitioners who are registered nurses, that is specified in the request –

to possess and supply a VAD substance for the purposes of use under this Act, if the nurse practitioner or member of the class of nurse practitioners who are registered nurses is supplied with the VAD substance as the AHP in relation to a person.

(3) The Secretary must not, without reasonable excuse, refuse a request made under subsection (2).

Division 3 – Records and reports

117. General record requirements

(1) The Commissioner is to keep records of any notices, requests, or other documents, provided to the Commissioner by PMPs, CMPs, AHPs and other persons under this Act.

(2) The Minister may notify the Commissioner of –

(a) any records, or other documents, that the Minister requires to be kept by the

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- Commissioner for the purposes of this Act; and
- (b) the form and content of such records or documents; and
 - (c) the manner in which such records or documents are to be kept by the Commissioner.
- (3) The Commissioner is to keep records and documents, for the purposes of this Act, in accordance with the requirements of the Minister under subsection (2).
 - (4) Unless otherwise notified by the Minister, the Commissioner may keep any records or documents electronically.
 - (5) The Minister, by notice to the Commissioner, may require the Commissioner to give to the Minister the records or information, in the possession of the Commissioner, that the Minister specifies in the notice.
 - (6) The Commissioner must, as soon as reasonably practicable after receiving a notice under subsection (5), give to the Minister the records or information, in the possession of the Commissioner, that the Minister specifies in the notice.

118. Annual report

- (1) The Commissioner must, on or before 31 October in each year, give to the Minister a

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report setting out details of the administration and operation of this Act during the financial year ending on 30 June of the year.

- (2) Subsection (1) does not apply in relation to the first financial year after the commencement of this section, if Part 5 of this Act has not commenced before the end of 30 June of that financial year.
- (3) The Minister must cause a copy of a report to be tabled in each House of Parliament within 5 sitting-days after the report is given to the Minister under subsection (1).

Division 4 – Regulatory functions

119. Person who suspects contravention of Act may notify Commissioner

- (1) A person who suspects that a contravention of this Act is occurring, or has occurred, may notify the Commissioner of the suspected contravention.
- (2) If the Commissioner is notified under subsection (1) of a suspected contravention of this Act, the Commissioner –
 - (a) must record the details of the notice; and
 - (b) may (but is not required to) investigate the matter to which the suspected contravention relates; and

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- (c) may refer the matter to which the suspected contravention relates to such persons as he or she thinks fit.

120. Commissioner may require information from persons

- (1) The Commissioner may issue a notice requiring a person to attend before the Commissioner –
 - (a) to answer questions; or
 - (b) to produce any documents that are referred to in the notice –

if the Commissioner considers that it is necessary or desirable to do so for the purposes of investigating whether this Act is being complied with.

- (2) The Commissioner may, by notice to a person, require the person to give to the Commissioner, within a period specified in the notice, any document or information specified in the notice that is relevant to the performance or exercise of any of the functions or powers of the Commissioner under this Act.
- (3) A person to whom a notice is given under this section must, within the period specified in the notice, comply with a requirement of the notice.

Penalty: Fine not exceeding 100 penalty units.

- (4) A person is not excused from answering a question or producing a document in proceedings, or pursuant to a notice given to the

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person under this section, on the ground that the answer or document might tend to incriminate the person.

- (5) If a person claims, before answering a question or producing a document, that the answer or document might tend to incriminate the person, the answer or document is not admissible in evidence in any criminal proceedings in relation to an offence alleged to have been committed by the person, other than in proceedings in respect of the falsity of the answer or the document.

121. Requirement in relation to Commissioner where suspected contravention of Act

If the Commissioner suspects that a provision of this Act has been contravened, the Commissioner –

- (a) may (but is not required to) investigate the matter to which the suspected contravention relates; and
- (b) may refer the matter to which the suspected contravention relates to such persons as he or she thinks fit.

PART 18 – OFFENCES

122. Inducements and dishonest or undue influence

A person must not –

- (a) offer to another person an inducement for the other person to make a request under this Act, to give a final permission or to inform a PMP or AHP under section 15; or
- (b) exercise dishonest or undue influence on a person in order to induce the person to make a request under this Act, to give a final permission or to inform a PMP or AHP under section 15.

Penalty: Imprisonment for a term of 5 years or a fine not exceeding 200 penalty units, or both.

123. False representation of being authorised to communicate on behalf of person

A person must not falsely or in bad faith purport to be a person –

- (a) whom another person wishes to make relevant communications on behalf of the other person under section 14; or
- (b) who is designated to sign on behalf of another person a second request, a final request, a private self-administration request or a final permission.

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Penalty: Imprisonment for a term of 5 years or a fine not exceeding 200 penalty units, or both.

124. Person’s communicator must communicate faithfully

A person whom another person (the *VAD person*) wishes to make relevant communications on behalf of the VAD person under section 14 must not knowingly make, to the VAD person’s PMP, CMP or AHP, a communication for the purposes of this Act on behalf, or purportedly on behalf, of the VAD person, that is false or misleading.

Penalty: Imprisonment for a term of 2 years or a fine not exceeding 200 penalty units, or both.

125. Falsification of record, &c.

A person must not falsify a request, form, document, certificate, notice, record, VAD substance authorisation, or VAD substance prescription, that is made, or is to be made, under or for the purposes of this Act.

Penalty: Imprisonment for a term of 2 years or a fine not exceeding 200 penalty units, or both.

126. False statements

A person must not knowingly make a false statement in a request, form, document, certificate, notice, record, VAD substance authorisation, or VAD substance prescription, that is made, or is to be made, under or for the purposes of this Act.

Penalty: Imprisonment for a term of 2 years or a fine not exceeding 200 penalty units, or both.

127. Dishonest inducement to use VAD substance

A person must not, by dishonest or undue influence, induce another person to self-administer a VAD substance.

Penalty: Imprisonment for a term of 5 years or a fine not exceeding 200 penalty units, or both.

128. Offence to fail to provide notice to Commissioner when required

A person who is required in accordance with this Act to give a notice to the Commissioner must give the notice to the Commissioner in accordance with this Act.

Penalty: Fine not exceeding 50 penalty units.

129. Offences by contact person

A contact person in relation to a person must, within 14 days after the person dies after self-administering a VAD substance, return to the person's AHP any unused or remaining VAD substance that has been supplied to the person under section 88.

Penalty: Fine not exceeding 100 penalty units.

130. Offences in relation to review

A person must not, without reasonable excuse, proof of which is on the person, fail to comply with a requirement imposed on the person by a notice under Part 15.

Penalty: Fine not exceeding 50 penalty units.

PART 19 – PROTECTION FROM LIABILITY

131. Protection for persons assisting access to voluntary assisted dying process

A person does not incur any criminal liability –

- (a) by, in good faith, assisting another person to make a request, give a final permission, make a private self-administration request or to otherwise participate in the voluntary assisted dying process; or
- (b) by being present when another person self-administers, or is administered, a VAD substance in accordance with, or purportedly in accordance with, this Act.

132. Technical error does not invalidate

A minor or technical error in a request, notice, form or document given or relied on by a person under this Act does not invalidate the request, notice, form or document or affect any part of the voluntary assisted dying process.

133. Protection for persons acting in good faith

- (1) A person who, in good faith, takes an action, or fails to take an action, which action or failure –
 - (a) assists another person whom the person believes on reasonable grounds to be seeking to access, or is accessing,

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voluntary assisted dying under this Act;
and

- (b) apart from this section, would constitute
an offence under a law or an Act –

does not commit an offence under the law or
Act.

- (2) A person who, in good faith and without negligence, takes, or fails to take, an action under this Act or purportedly under this Act, believing on reasonable grounds that the action or failure is in accordance with this Act, is not, in respect of that action or failure –

(a) liable for unprofessional conduct or
professional misconduct; or

(b) liable in any civil proceeding; or

(c) liable for contravention of any code of
conduct or professional standards –

and does not incur any criminal liability, under
this or any other Act or law, for the taking of the
action or the failure to take the action.

- (3) If this section applies in relation to a person in relation to the taking of an action or a failure to take an action, the taking of the action or the failure is not to be regarded as –

(a) a breach of professional ethics or
standards or any principles of conduct
applicable to the person's employment;
or

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-
- (b) professional misconduct or unprofessional conduct –

and the person may not be sanctioned, censured, or otherwise penalised, by a person or body whose function is to regulate the professional conduct of a registered health practitioner or a registered nurse.

- (4) A registered health practitioner, registered nurse, or an officer of the Ambulance Service, who –

- (a) in good faith, does not administer life-saving or life-sustaining medical treatment to a person who has not requested it; and

- (b) believes on reasonable grounds that the person is dying after being administered, or administering to himself or herself, a VAD substance in accordance with this Act –

is not, by reason of not administering that treatment –

- (c) guilty of an offence under a law or an Act; or

- (d) liable for unprofessional conduct or professional misconduct; or

- (e) liable in any civil proceeding; or

- (f) liable for contravention of any code of conduct.

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134. Contravention of Act by practitioners

- (1) If a registered medical practitioner or registered nurse –
 - (a) in bad faith, takes an action, or fails to take an action, under this Act or purportedly under this Act; or
 - (b) without reasonable care and skill, takes an action or fails to take an action, under this Act or purportedly under this Act –

the taking of the action, or failure to take the action, is capable of constituting professional misconduct, or unprofessional conduct, for the purposes of the Health Practitioner Regulation National Law (Tasmania).

- (2) Subsection (1) applies whether or not the contravention constitutes an offence under this Act.

135. Authority for medical practitioner to refer person or seek information without being punished

- (1) A person's PMP –
 - (a) may, despite any other law, refer the person, or make a request in relation to the person, to another person under this Act; and
 - (b) is not liable to any punishment under a law by virtue of having made a referral or request referred to in paragraph (a); and

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- (c) may not be sanctioned, censured, or otherwise penalised, by a person, or body of persons, whose function is to regulate the professional conduct of such a person, by reason only of having made a referral or request referred to in paragraph (a).
- (2) A person to whom a referral, or request, referred to in subsection (1)(a), in relation to a person is made by the person's PMP –
- (a) may, despite any other law, examine the person to whom the referral relates, or give to the PMP a copy of the medical records, or the information, to which the request relates; and
 - (b) is not liable to any punishment under a law by virtue of having examined the person or having given to the PMP a copy of the medical records or the information; and
 - (c) may not be sanctioned, censured, or otherwise penalised, by a person, or body of persons, whose function is to regulate the professional conduct of such a person, by reason only of having examined the person or given to the PMP a copy of the medical records or the information.

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136. Electronic communications

Nothing in this Act is to be taken to authorise the use of a method of communication if, or to the extent that, the use is contrary to or inconsistent with a law of the Commonwealth.

PART 20 – MISCELLANEOUS

137. Deaths not suicide for purposes of law of State

For the purposes of the law of this State, a person who dies as the result of the administration to the person, in accordance with this Act, of a VAD substance or a substance under section 87, or the self-administration by the person, in accordance with this Act, of a VAD substance, does not die by suicide.

138. Conflict of Acts

If there is an inconsistency between a provision of this Act and a provision of the *Poisons Act 1971* or the *Misuse of Drugs Act 2001*, the provision of this Act prevails to the extent of the inconsistency.

139. Giving of notices

A notice under this Act that is required to be given to another person in writing may be –

- (a) in writing on a paper document given to the other person; or
- (b) with the approval of the other person, in writing in an electronic document sent to the other person electronically.

140. Jurisdiction of Supreme Court

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

141. Report on initial operation of Act

- (1) The Commissioner is, within 10 months after the day on which this section commences, to provide to the Minister a report on the operation of this Act in the first 6-month period after that day.
- (2) A report under subsection (1) is to include the prescribed information and any other information that the Commissioner thinks fit.

142. Review of Act

- (1) The Governor is to appoint a panel of persons, nominated by the Minister, to conduct a review of –
 - (a) the operation of this Act; and
 - (b) matters, related to the operation of this Act, the scope of this Act, and the potential scope of this Act, that are prescribed.
- (2) The review under subsection (1) is to commence as soon as practicable after the third anniversary of the day on which this section commenced.
- (3) The Governor is to appoint a panel of persons, nominated by the Minister, to conduct a review to obtain information in relation to whether

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persons under the age of 18 years in other States or Territories, or other countries, are able to access processes similar to the voluntary assisted dying process under this Act.

- (4) The review under subsection (3) is to commence as soon as practicable after the second anniversary of the day on which this section commenced.
- (5) The Governor is to appoint a panel of persons, nominated by the Minister, to conduct a review as to whether persons suffering from a disease, illness, injury, or medical condition, that is not expected to cause the death of the person but that –
 - (a) is advanced, incurable and irreversible; and
 - (b) causes the person suffering from pain that is, in the opinion of the person, intolerable –

ought to have access to the voluntary assisted dying process under this Act.

- (6) The review under subsection (5) is to commence as soon as practicable after the third anniversary of the day on which this section commenced.
- (7) The Governor is, after the end of the first 5-year period that commences on the day on which this section commences, and at the end of each subsequent 5-year period beginning on the day on which such a previous 5-year period ends, to appoint a panel of persons, nominated by the

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Minister, to conduct a review of the operation of this Act in relation to the relevant 5-year period.

- (8) A review conducted under subsection (7) is to include a review of matters, related to the operation of this Act, the scope of this Act, and the potential scope of this Act, that are prescribed.
- (9) As soon as practicable after a review under this section commences, the Minister is to ensure that a notice is published in a newspaper –
 - (a) setting out the matters to which the review relates; and
 - (b) inviting members of the public to give to the panel conducting the review their opinions in relation to the matters to which the review relates.
- (10) The panel of persons conducting a review under this section is to complete the review within 12 months after the review commences and to give to the Minister a report in writing in relation to the review as soon as practicable after the review is concluded.
- (11) The Minister is to cause a copy of the report to be tabled in each House of Parliament within 5 sitting-days after it is given to the Minister.

143. Regulations

- (1) The Governor may make regulations for the purposes of this Act.

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- (2) Without limiting the generality of subsection (1), the regulations may require any document that is required to be given to any person, for the purposes of the regulations, to be verified by statutory declaration.
- (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (4) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Commissioner or the Minister.
- (5) The regulations may –
 - (a) provide that any contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units.

144. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Health; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Health.