

# DRAFT FOR CONSULTATION

## End of Life Choice Amendment Bill

Member's Bill

### Explanatory note

#### General policy statement

The objective of the End of Life Choice Amendment Bill (the **Bill**) is to amend the End of Life Choice Act 2019 (the **Act**) to improve the operation of the Act. Section 30 of the Act requires the Ministry of Health (the **Ministry**) to review the operation of the Act within 3 years of it coming into force and every 5 years after that. As part of its review, the Ministry is required to consider whether any amendments are necessary or desirable, and report on its findings to the Minister. The report on the Ministry's first Review of the End of Life Choice Act 2019 was published in November 2024 and made 25 substantial recommendations and various minor recommended changes to improve the operation of the Act. These recommendations are organised into 5 areas:

- supporting access and safety:
- improving the process to receive assisted dying:
- aligning the Act with the wider health system:
- ensuring a capable and effective workforce for assisted dying:
- clarifying organisational roles and responsibilities in the Act.

Government parties agreed that any changes to the Act will be proposed through members' bills. This Bill amends the Act to give effect to all of the recommendations made by the Ministry.

The Bill also makes additional amendments to the Act to reflect Australian and Canadian law, given the close alignment between Australian, Canadian, and New Zealand legal and medical frameworks, and new evidence that has emerged since the Act was enacted in 2019.

In 2024, the Australian Capital Territory Parliament passed the Voluntary Assisted Dying Act 2024, which does not include a temporal requirement. The Canadian med-

ical assistance in dying law, which was enacted in 2016, also does not include a temporal requirement in recognition that "some medical conditions may cause individuals to decline irreversibly and suffer for a long period of time before dying".

Additionally, in 2021, the Canadian Government amended its medical assistance in dying law to allow for a person who has met eligibility criteria to waive final consent if they lose capacity in the period between choosing a date and time for administration of medication and the date of administration. This change was informed by evidence from over five years of experience with medical assistance in dying in Canada, feedback from over 300,000 public submissions, and the testimony of over 120 expert witnesses.

In New Zealand, an April 2024 survey by Horizon Research found that over 50 percent of New Zealanders are in favour of removing the temporal requirement and allowing a waiver of final consent, with the next greatest proportion being neutral or unsure.

Based on this evidence, the Bill proposes, in addition to the Ministry's recommendations—

- replacing the requirement for a person to suffer from "a terminal illness that is likely to end the person's life within 6 months" with the equivalent requirement in the Australian Capital Territory legislation for a person to have "been diagnosed with a condition that, either on its own or in combination with 1 or more other diagnosed conditions, is advanced, progressive and expected to cause death". Other existing criteria in the Act will still be required to be met, including being aged 18 years or older, being in an advanced state of irreversible decline in physical capability, experiencing unbearable suffering that cannot be tolerably relieved, and being competent to make an informed decision about assisted dying; and
- introducing a limited waiver of final consent provision that will be available if a person has capacity when making a request for assisted dying, being examined and found eligible by medical practitioners, and choosing the date and time for the assisted death, but loses capacity before the day of the assisted death.

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause and provides for the Bill to come into force on the day after Royal assent.

*Clause 3* states that the Bill amends the End of Life Choice Act 2019.

## Part 1

### Amendments to principal Act

*Clause 4* amends section 4 to include new definitions of Assisted Dying Expert Advisory Group, assisted dying service, authorised medical practitioner, and care facility. It also amends definitions of independent medical practitioner, medical practitioner, and nurse practitioner. The definitions of SCENZ and SCENZ Group are repealed. The definition of attending medical practitioner is replaced with a definition of attending practitioner, which includes both a medical practitioner and a nurse practitioner on equal terms. The separate definition of attending nurse practitioner is repealed. These changes are required to give effect to various recommendations arising from the review of the Act completed by the Ministry of Health (the **review**), particularly recommendations 17 and 20. Recommendation 20 relates to allowing nurse practitioners to fulfil all of the responsibilities that are currently undertaken by an attending medical practitioner.

*Clause 5* amends section 5 to replace the requirement for a person to suffer from a terminal illness that is likely to end the person's life within 6 months with a requirement for a person to have been diagnosed with a condition that, either on its own or in combination with 1 or more other diagnosed conditions, is advanced, progressive, and expected to cause death. All other eligibility criteria remain unchanged.

*Clause 6* repeals sections 8 and 9, which relate to conscientious objection. Conscientious objection is now dealt with in *new Part 2A*, which is inserted by *clause 29*.

*Clause 7* inserts *new section 9A* to give effect to recommendation 5 of the review, to set out more clearly in the Act the core duties that practitioners must fulfil to ensure that the person accessing assisted dying is eligible, actively seeking and consenting to it, is competent to consent to it, and that this consent is provided free from pressure from others, and to more clearly define ongoing procedural requirements on practitioners that may constitute steps towards the practitioner's core duties.

*Clause 8* amends section 10 to give effect to recommendation 1 of the review, to provide that health practitioners cannot raise assisted dying except as part of discussions about a person's treatment and end-of-life care options. This clause also gives effect to recommendation 2, to provide that nothing in section 10 prevents the Ministry or Health New Zealand from publishing or providing information to the public about assisted dying or the assisted dying service.

*Clause 9* inserts *new section 10A* to require that, in response to a request for information about assisted dying, all health practitioners must provide the person with the contact details of the assisted dying service, and a health practitioner who holds relevant health information about a person must, upon request from a practitioner carrying out functions under the Act, provide that information as soon as practicable. This clause gives effect to recommendation 14.

*Clauses 10, 13, 17, and 26* insert new cross-headings to aid readability of Part 2 of the Act by clearly highlighting the different stages of the assisted dying process.

*Clause 11* amends section 11 to give effect to recommendation 13 to clarify what practitioners must do in response to a request for assisted dying. It also gives effect to recommendation 3 to specify that a practitioner must take reasonable steps to ensure that a person is expressing their wish to receive assisted dying free from pressure.

*Clause 12* amends section 12 to require that, where the form requesting an assisted death is signed and dated by another person, that person's contact information must be recorded.

*Clause 14* amends section 13 to require the attending practitioner to examine a person before forming an opinion on whether they are eligible.

*Clause 15* amends section 14 to specify that an independent medical practitioner must not confer with the attending practitioner when they are assessing a person's eligibility for assisted dying.

*Clause 16* amends section 15 to give effect to recommendation 19 of the review, to allow authorised medical practitioners in addition to psychiatrists to provide the third opinion (to determine competence). *Clause 36* provides for the authorisation of these medical practitioners by the Director-General.

*Clauses 18 and 19* contain consequential amendments.

*Clause 20* inserts *sections 17A to 17C*, which provide for matters related to competence. *New section 17A* gives effect to recommendation 4 of the review, which recommended specifying factors that by themselves are insufficient to find that a person is not competent to make an informed decision. *New section 17B* clarifies the key points in the assisted dying process when a person must be competent to make an informed decision, as recommended in recommendation 4. This section also provides that a person who has met eligibility criteria may waive the requirement to be competent at the point the medication is administered in certain circumstances. *New section 17C* specifies that a person who has been found not to be an eligible person, or who has been determined to an eligible person but who rescinds their request for assisted dying, must submit a new request if they wish to reapply at a later date (recommendation 8).

*Clause 21* repeals sections 18 and 19 to give effect to recommendations 10, 11, and 12 of the review.

*Clause 22* inserts *sections 19A and 19B*. *New section 19A* gives effect to recommendation 22 of the review and requires the Registrar to authorise the provision of assisted dying after assessing a request for compliance with the Act's requirements relating to the information provided by practitioners. Assisted dying cannot be carried out without the Registrar's authorisation. This new section also provides the Registrar with powers to seek additional information, to pause the process until sufficient information has been provided, and to refuse authorisation if the process has not been complied with. *New section 19B* provides that the Registrar's authorisation lasts 6 months, within which period a person is able to set a date and receive assisted dying. It also provides that the Registrar may grant an additional 6-month extension of this period if, at the end of the initial 6-month period, the attending practitioner is of the

opinion that the person continues to be eligible for assisted dying and the Registrar is satisfied that the attending practitioner has provided sufficient information demonstrating continued compliance with the requirements of the Act.

*Clauses 23, 24, and 27* contain consequential amendments.

*Clause 25* repeals section 22 to give effect to recommendation 12 of the review to remove provisions involving the way prescriptions are managed. These will instead be covered by regulations made under the Act.

*Clause 28* amends section 24 to give effect to recommendation 3 of the review by specifying that an attending practitioner must not provide or support an assisted death if they know that the person has been incited, counselled, or procured to access assisted dying by another person.

*Clause 29* inserts *sections 24A and 24B* and *new Parts 2A and 2B*. *Sections 24A and 24B* specify additional requirements relating to health practitioners operating under the Act, in particular specifying training requirements and providing for the transfer of functions between attending practitioners. *New Part 2A* relates to conscientious objection, it replaces what were sections 8 and 9 of the Act. It also gives effect to recommendation 14, and sets out more clearly what practitioners are able to conscientiously object to, that conscientious objection does not override a practitioner's duty to act in accordance with the Code of Health and Disability Services Consumers' Rights, and the specific actions that health practitioners must take to facilitate continuity of care. *New Part 2B* places specific obligations on care facility operators to facilitate requests for assisted dying made by their residents.

*Clause 30* replaces section 25 of the Act to give effect to recommendation 21 by changing the name of the SCENZ Group to the Assisted Dying Expert Advisory Group and updating its functions to providing specialist advice and support for practitioners, the Ministry, and Health New Zealand on the processes under the Act, including on—

- workforce skills and competence requirements; and
- specific areas of clinical practice, and the administration of medications; and
- training and support provided to practitioners.

This clause also inserts *new section 25A* to give effect to recommendation 25 by setting out the role of Health New Zealand in respect of assisted dying in the Act. This provides that Health New Zealand must provide an assisted dying service that provides a point of contact for people seeking to receive an assisted death or wanting more information about assisted dying, provides contact details for an attending practitioner, identifies and assigns an independent medical practitioner, identifies and assigns a psychiatrist or other authorised practitioner to provide an opinion on competence, if required, and provides training for practitioners.

*Clause 31* amends section 26 to give effect to recommendation 23 of the review to clarify that the purposes of the Review Committee are to consider all assisted dying documentation, determine whether the information recorded shows satisfactory compliance with the requirements of the Act, and make recommendations to Health New

Zealand, the Assisted Dying Expert Advisory Group, the Registrar, and the Ministry on quality or practice improvements. It also provides that the Review Committee can refer matters for formal investigation to the Health and Disability Commissioner, the Medical Council of New Zealand or Nursing Council of New Zealand, or the New Zealand Police. It also gives effect to other of the review's recommendations, to allow more than three members to be appointed to the Review Committee by the Minister if needed, and to require the Review Committee to provide an annual report of its activities to the Minister.

*Clause 32* amends section 27 of the Act to update the functions of the Registrar to reflect other changes made by the Bill.

*Clause 33* inserts *new Part 3A* to provide for offences. This new Part gives effect to recommendation 6 by providing different enforcement pathways for breaches of the Act's requirements based on the harm caused. Intentional breaches of the Act are linked to a new offence in the Crimes Act 1961 (see *clause 46*). It also clarifies that professional misconduct or where a practitioner has not complied with the requirements of the Code of Health and Disability Services Consumers' Rights (where those actions are not linked to a practitioner intentionally not fulfilling their core duties under the Act) could still be dealt with by other bodies such as the Health and Disability Commissioner or the practitioner's responsible authority.

*Clause 34* replaces section 31 to give effect to recommendation 12 of the review. It expands the regulation-making power in the Act to state that regulations must be made to specify what a practitioner is required to do when they examine a person as part of the assessment process, the methods for administration of the medication, and requirements for the management of prescriptions made under the Act.

*Clause 35* inserts *new section 31A* to give effect to recommendation 19 to enable the Director-General of Health to authorise particular medical practitioners to provide the third opinion required by the Act. The Director-General must be satisfied that the relevant medical practitioners are appropriately qualified and have undergone training in, and is competent in, competence assessments.

*Clause 36* replaces section 34 to include that an attorney acting under an Enduring Power of Attorney for personal care and welfare may also not make decisions about assisted dying for another person. This is additional to the current restriction on welfare guardians.

*Clause 37* amends section 35 to refer to deeds and other financial instruments in addition to contracts.

*Clause 38* amends section 36 to give effect to recommendation 7, to be more specific about what details about an assisted death cannot be published, including the name of assisted dying medications, the identity of the person who received an assisted death or any details that could reasonably be expected to identify the person, the name of the person who administered the medication to the deceased, and the name of the facility where the person received an assisted death.

*Clause 39* repeals sections 37 and 38 to give effect to recommendation 6 to remove the current immunity provisions in the Act.

*Clause 40* inserts *new sections 38A and 38B*. *New section 38A* gives effect to recommendation 25 by setting out specific immunities for the Registrar and the Review Committee and specifying that judicial review remains as an accountability pathway. *New section 38B* gives effect to recommendation 16 to more clearly articulate that a practitioner should not be treated any more or less favourably than any other similarly qualified health provider by an employer, regardless of whether they do or do not provide assisted dying services. This new section replaces what was section 8(3) to (5).

*Clause 41* repeals section 39, as offences are now provided for in *new Part 3A*.

*Clause 42* and the *Schedule* make consequential amendments to the Act to carry through the new definition of attending practitioner, which gives effect to recommendation 20, which is to allow nurse practitioners to fulfil all of the responsibilities that are currently undertaken by an attending practitioner.

## **Part 2**

### **Amendments to Crimes Act 1961**

*Clause 43* states that this Part amends the Crimes Act 1961.

*Clauses 44, 45, and 48* make consequential amendments to reflect the repeal of section 37 by *clause 39*.

*Clause 47* inserts *new section 178A* into the Crimes Act 1961 to provide for a new offence of unauthorised administration of assisted dying medication, which is punishable by up to 14 years' imprisonment.





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Member's Bill

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## Schedule

### Consequential amendments to principal Act relating to nurse practitioners

## The Parliament of New Zealand enacts as follows:

### 1 Title

This Act is the End of Life Choice Amendment Act **2025**.

### 2 Commencement

This Act comes into force on the day after Royal assent.

### 3 Principal Act

This Act amends the End of Life Choice Act 2019.

## Part 1

### Amendments to principal Act

### 4 Section 4 amended (Interpretation)

- (1) In section 4, definition of **assisted dying**, paragraph (a), replace “an attending medical practitioner or an attending nurse practitioner” with “an attending practitioner”.
- (2) In section 4, replace the definition of **attending medical practitioner** with:

- attending practitioner**, in relation to a person, means the person’s—
- (a) medical practitioner; or
  - (b) nurse practitioner
- (3) In section 4, repeal the definition of **attending nurse practitioner**.
- (4) In section 4, definition of **independent medical practitioner**, paragraph (a), replace—
- (a) “attending medical practitioner” with “attending practitioner”; and
  - (b) “replacement medical practitioner” with “replacement practitioner”.
- (5) In section 4, definition of **medical practitioner**, after paragraph (b), insert:
- (c) has held a practising certificate for a minimum period of 5 years following general registration (whether or not those years were consecutive)
- (6) In section 4, definition of **nurse practitioner**, after paragraph (b), insert:
- (c) has held a practising certificate and practised as a nurse practitioner for a minimum period of 5 years (whether or not those years were consecutive)
- (7) In section 4, repeal the definitions of **SCENZ** and **SCENZ Group**.
- (8) In section 4, insert in their appropriate alphabetical order:
- Assisted Dying Expert Advisory Group** means the body established under **section 25**
- assisted dying service** means the service provided by Health New Zealand under **section 25A**
- authorised medical practitioner** means a medical practitioner who has been authorised under **section 31A** to provide a third opinion for the purposes of section 15
- Health New Zealand** has the meaning given in section 4 of the Pae Ora (Healthy Futures) Act 2022
- 5 Section 5 amended (Meaning of person who is eligible for assisted dying or eligible person)**
- Replace section 5(1)(c) with:
- (c) has been diagnosed with a condition that is advanced, progressive, and, either on its own or in combination with 1 or more other diagnosed conditions, is expected to cause death; and
- 6 Sections 8 and 9 repealed**
- Repeal sections 8 and 9.
- 7 New section 9A and cross-heading inserted**
- After section 9, insert:

*Duties of health practitioners***9A Duties of health practitioners in relation to assisted dying**

- (1) This section applies to a health practitioner providing assisted dying under this Act.
- (2) A health practitioner must not initiate assisted dying with a person except in accordance with section 10.
- (3) A health practitioner must provide the information required in accordance with **section 10A**.
- (4) A health practitioner must not provide assisted dying unless they are satisfied that the person—
  - (a) is an eligible person under section 5, after complying with sections 11 to **17B**; and
  - (b) is competent to make an informed decision about assisted dying; and
  - (c) has provided informed consent free from pressure from any other person.
- (5) A health practitioner must not administer assisted dying medication without an authorisation from the Registrar under **section 19A**.
- (6) A health practitioner must comply with section 23 or section 24, if relevant.
- (7) A health practitioner must comply with training requirements in accordance with **section 24A**.
- (8) A health practitioner must comply with any obligations prescribed in regulations made under section 31, including obligations regarding—
  - (a) what a practitioner is required to do when they examine a person for the purposes of this Act;
  - (b) the methods for administration of the medication;
  - (c) the management of prescriptions made under the Act.
- (9) A health practitioner must not—
  - (a) knowingly provide the Registrar with false or misleading information;
  - (b) knowingly make a false or misleading statement in relation to assisted dying under this Act;
  - (c) falsify any document required by this Act.
- (10) See **Part 3A** for how these duties may be enforced..

**8 Section 10 amended (Assisted dying must not be initiated by health practitioner)**

- (1) In section 10(1), replace “in the course of providing that service to the person”, with “except as part of discussions about a person’s treatment and end-of-life care options”.

- (2) After section 10(4), insert:
- (5) Nothing in this section prevents the Ministry or Health New Zealand from providing information to the public about assisted dying or the assisted dying service.

**9 Section 10A inserted (Health practitioners must provide information)**

After section 10, insert:

**10A Health practitioners must provide information about assisted dying**

- (1) A health practitioner must, in response to a request for information about assisted dying, provide the person with the contact details of the assisted dying service as soon as practicable.
- (2) A health practitioner who holds relevant health information about a person who has made a request for assisted dying under section 11 must, upon request from an attending practitioner, independent medical practitioner, psychiatrist or authorised medical practitioner acting in accordance with this Act, provide that information as soon as practicable.

**10 New cross-heading inserted above section 11**

Above section 11, insert:

*Request for assisted dying*

**11 Section 11 amended (Request made)**

- (1) Replace section 11(1) with:
- (1) If a person informs a health practitioner that they wish to exercise the option of receiving assisted dying, the health practitioner (whether or not they conscientiously object) must—
  - (a) provide the person with the contact details for the assisted dying service; or
  - (b) contact or arrange for another person to contact the service on the person's behalf.
- (2) In section 11(2)(h), replace “do their best” with “take reasonable steps”.

**12 Section 12 amended (Request confirmed)**

- (1) After section 12(4)(d), insert:
  - (e) B records their contact information on the form.
- (2) In section 12(5)(c), replace “send the completed form” with “ensure that the required information is provided”.

**13 New cross-heading inserted above section 13**

Above section 13, insert:

*Assessment of eligibility for assisted dying***14 Section 13 amended (First opinion to be given by attending medical practitioner)**

- (1) Replace section 13(2) with:
- (2) The attending practitioner must—
  - (a) examine the person; and
  - (b) reach the opinion that—
    - (i) the person requesting the option of receiving assisted dying is a person who is eligible for assisted dying; or
    - (ii) the person requesting the option of receiving assisted dying is not a person who is eligible for assisted dying; or
    - (iii) the person requesting the option of receiving assisted dying would be a person who is eligible for assisted dying if it were established under section 15 that the person was competent to make an informed decision about assisted dying.
- (2) In section 13(3)(b), replace “send the completed form” with “ensure that the required information is provided”.

**15 Section 14 amended (Second opinion to be given by independent medical practitioner)**

- (1) In section 14(1), replace “section 13(2)(a) or (c)” with “**section 13(2)(b)(i) or (iii)**”.
- (2) In section 14(2)(a), replace “the SCENZ Group” with “Health New Zealand”.
- (3) After section 14(3), insert:
- (3A) The independent medical practitioner must not confer with the attending practitioner when they are carrying out functions under subsection (3).
- (4) In section 14(4)(b), replace “send the completed form” with “ensure that the required information is provided”.
- (5) Replace section 14(4)(c) with:
  - (c) ensure that the required information is provided to the attending practitioner.

**16 Section 15 amended (Third opinion to be given by psychiatrist if competence not established to satisfaction of 1 or both medical practitioners)**

- (1) Replace the heading to section 15 with “**Third opinion to be given by psychiatrist or authorised medical practitioner if competence not established to satisfaction of attending practitioner, independent medical practitioner, or both**”.



- (2) In section 15(1)(a)(i), replace “section 13(2)(a)” with “**section 13(2)(b)(i)**”.
- (3) In section 15(1)(b)(i) and (c)(i), replace “section 13(2)(c)” with “**section 13(2)(b)(iii)**”.
- (4) In section 15(2)(a), replace “the SCENZ Group” with “Health New Zealand”.
- (5) In section 15(2)(a) and (b), (3), and (4), after “psychiatrist”, insert “or authorised medical practitioner”.
- (6) In section 15(4)(b), replace “send the completed form” with “ensure that the required information is provided”.
- (7) In section 15(4)(c), replace “send a copy of the completed form” with “ensure that a copy of the required information is provided”.

#### **17 New cross-heading inserted above section 16**

Above section 16, insert:

#### *Determination of eligibility for assisted dying*

#### **18 Section 16 amended (Opinion reached that person is not eligible for assisted dying)**

- (1) In section 16(1), replace “section 13(2)(b)” with “**section 13(2)(b)(ii)**”.
- (2) In section 16(3)(b)(i) and (ii), and (4), after “psychiatrist”, insert “or authorised medical practitioner”.
- (3) In section 16(5)(b), replace “send the completed form” with “ensure that the required information is provided”.

#### **19 Section 17 amended (Opinion reached that person is eligible for assisted dying)**

- (1) In section 17(1)(a), replace “section 13(2)(a)” with “**section 13(2)(b)(i)**”.
- (2) In section 17(1)(b), after “psychiatrist”, insert “or authorised medical practitioner” in each place.
- (3) Replace section 17(2)(d) with:
  - (d) give the person an approved form for the person to complete confirming that they wish to receive assisted dying; and
- (4) Replace section 17(2)(e)(ii) with:
  - (ii) to receive the medication within the 6-month time period specified in **section 18B**.
- (5) In section 17(3)(b), replace “send the completed form” with “ensure that the required information is provided”.

#### **20 New sections 17A to 17C and cross-headings inserted**

After section 17 insert:

*Competency to make an informed decision about assisted dying***17A Factors not relevant to assessment of competency when taken alone**

A person who is required to reach an opinion as to whether a person is eligible for assisted dying under sections 13, 14, or 15 must not determine that a person is not competent to make an informed decision about assisted dying based solely on 1 or more of the following factors:

- (a) the person's age;
- (b) the person's appearance;
- (c) any aspect of the person's behaviour or manner;
- (d) whether the person is disabled;
- (e) the person's method of communication;
- (f) the person's cultural and linguistic circumstances.

**17B When person must be competent to make an informed decision about assisted dying**

- (1) A person must be competent to make an informed decision about assisted dying at all of the following times:
  - (a) when making a request under section 11;
  - (b) when signing and dating the form under section 12;
  - (c) when examined by an attending practitioner under section 13;
  - (d) when examined by an independent medical practitioner under section 14;
  - (e) when examined by a psychiatrist or authorised medical practitioner under section 15, if relevant;
  - (f) when agreeing an appropriate method for administration of the medication with an attending practitioner under **section 18B(2)(a)**;
  - (g) when the medication is provided or administered under section 20.
- (2) Despite **subsection (1)(g)**, a person does not need be competent to make an informed decision about assisted dying at the time of administration of medication under section 20 if—
  - (a) the person is competent to make an informed decision about assisted dying at the times set out in **subsection (1)(a) to (f)**; and
  - (b) while competent to make an informed decision about assisted dying, the person—
    - (i) is informed by the attending practitioner of the risk of losing competence within the 6-month period specified in **section 18B(1)**, due to the need for the person to take stronger medication for symptom relief, or progression of disease, or both; and

- (ii) specifies a date on which they wish to have the medication administered to them; and
  - (iii) consents in writing to the administration of the medication if they lose their competence to make an informed decision about assisted dying prior to that date.
- (3) Despite anything to the contrary in this Act, an attending practitioner may administer medication to a person under section 20 who is not competent to make a decision about assisted dying, if **subsection (2)** applies and—
  - (a) the attending practitioner and an independent medical practitioner both—
    - (i) examine the person; and
    - (ii) reach the opinion that the person is no longer competent to make an informed decision about assisted dying; and
  - (b) the person does not demonstrate, by words, sounds, or gestures, refusal to have the medication administered or resistance to its administration; and
  - (c) the medication is administered to the person in accordance with the terms of the consent provided under **subsection (2)(b)(iii)**.

*Person may make further request for assisted dying*

**17C Person may make further request for assisted dying**

- (1) This section applies to the following persons:
  - (a) a person who is determined not to be an eligible person under section 16;
  - (b) an eligible person who rescinds their request to exercise the option of assisted dying under section 23.
- (2) A person to whom this section applies may submit a new request under section 11 if they wish to reapply for assisted dying at a later date.

**21 Sections 18 and 19 repealed**

Repeal sections 18 and 19.

**22 New sections 19A and 19B and cross-heading inserted**

After section 19, insert:

*Provision of assisted dying*

**19A Registrar to authorise provision of assisted dying**

- (1) As soon as practicable after an attending practitioner has complied with section 17(3)(b) in respect of an eligible person, the Registrar must determine whether to authorise the provision of assisted dying to the eligible person in accordance with this section.

- (2) The Registrar must authorise the provision of assisted dying to the eligible person if the Registrar is reasonably satisfied that the information provided them under this Act is sufficient to demonstrate that all of the requirements of this Act have been complied with.
- (3) In particular, the Registrar must consider whether—
  - (a) all of the information that is required to be provided to the Registrar has been provided; and
  - (b) the information provided contains sufficient evidence that non-clinical eligibility criteria have been met; and
  - (c) the information provided that has informed the opinion of an attending practitioner, independent medical practitioner, psychiatrist or authorised medical practitioner (as the case may be) is logical and supports the relevant practitioner’s opinion; and
  - (d) the relevant practitioner’s opinion is documented adequately.
- (4) The Registrar may request further information from any person before determining whether to authorise assisted dying.
- (5) After requesting information under **subsection (5)**, the Registrar may defer taking any further action until the information has been provided.
- (6) The Registrar must, as soon as practicable after receiving relevant information, notify an attending practitioner that either—
  - (a) they have authorised provision of assisted dying under **subsection (2)**; or
  - (b) they are not satisfied that the information provided them under this Act is sufficient to demonstrate that all of the requirements of this Act have been complied with, and they have not authorised provision of assisted dying under **subsection (2)**.
- (7) No person may provide assisted dying to an eligible person unless the Registrar has authorised the provision of assisted dying in accordance with this section.

#### **19B Assisted dying to be provided within 6 months of authorisation**

- (1) An authorisation under **section 19A** remains in force for 6 months from the date that the Registrar gives notice under **section 19A(6)(a)** (the **6-month period**).
- (2) Within the 6-month period, an eligible person and attending practitioner must—
  - (a) agree an appropriate method for administration of the medication; and
  - (b) proceed to administration of the medication.
- (3) If administration of the medication does not occur in the 6-month period, an additional 6-month period may be granted by the Registrar if,—

- (a) the attending practitioner is of the opinion that the person remains eligible for assisted dying; and
- (b) the Registrar is satisfied that the attending practitioner has provided sufficient information demonstrating continued compliance with the requirements of this Act.

### **23 Section 20 amended (Administration of medication)**

- (1) In section 20(1), replace “section 19(5)” with “**section 19A(6)(a)**”.
- (2) In section 20(2)(b) replace “a time on a later date that is not more than 6 months after the date initially chosen for the administration of the medication” with “another time within the 6-month period specified in **section 19B**”.
- (3) In section 20(3)(c), replace “send the completed form” with “ensure that the required information is provided”
- (4) Replace section 20(4) with:
- (4) If the eligible person chooses to receive the medication, the attending practitioner must provide or administer the medication to the person in accordance with the method for administration agreed with the eligible person.

### **24 Section 21 amended (Death to be reported)**

- (1) In section 21(1), delete “in the approved form”.
- (2) Repeal section 21(2)(e).

### **25 Section 22 repealed (Destruction of prescription if no longer required)**

Repeal section 22.

### **26 New cross-heading inserted above section 23**

Above section 23, insert:

*No further action to be taken in certain circumstances*

### **27 Section 23 amended (No further action to be taken if person rescinds request to exercise option of receiving assisted dying)**

- (1) In section 23(2)(b), replace “send the completed form” with “ensure that the required information is provided”.
- (2) In section 23(2)(c), delete “(other than under section 22, if applicable)”.

### **28 Section 24 amended (No further action to be taken if pressure suspected)**

- (1) In section 24, after “pressure from any other person”, insert “including where they know that another person has incited, counselled, or procured the person to access assisted dying,”.
- (2) In section 24(d), replace “send the form completed under paragraph (c)”, with “ensure that the information required under paragraph (c) is provided”.

**29 New sections 24A and 24B and cross-heading and new Parts 2A and 2B inserted**

After section 24, insert:

*Provisions relating to attending practitioners*

**24A Training requirements for health practitioners providing assisted dying services**

Before providing assisted dying services under this Act, a health practitioner must complete any training (including any refresher training) specified by Health New Zealand on the advice of the Assisted Dying Expert Advisory Group.

**24B Responsibilities of attending practitioner may be transferred**

- (1) The functions and duties of an attending practitioner may be transferred to another attending practitioner, provided that the new attending practitioner agrees.
- (2) The new attending practitioner must notify the Registrar as soon as practicable after they have agreed to the transfer.
- (3) An attending practitioner may not transfer their functions, responsibilities, and duties to a person who has acted as the independent medical practitioner under this section.

**Part 2A  
Conscientious objection**

**24C Conscientious objection**

- (1) A health practitioner who conscientiously objects to assisted dying, or who is not able or willing to provide assisted dying, is not required to—
  - (a) perform any of the functions or duties of an attending practitioner, an independent medical practitioner, psychiatrist or an authorised medical practitioner under this Act; or
  - (b) supply, prescribe, or administer an assisted dying medication; or
  - (c) be present at the time of administration.
- (2) A conscientious objection does not override the obligations of a health practitioner to—
  - (a) act in accordance with the Code of Health and Disability Services Consumers' Rights; and
  - (b) provide information under **section 10A**.

## Part 2B

### Duties of care facility operators

#### 24D Interpretation

In this Part, —

**disability support services** has the meaning given in section 4 of the Pae Ora (Healthy Futures) Act 2022

**care facility** means a place (other than an individual's private residence) where a health service or a personal care service is provided to a resident of the facility, including—

- (a) a hospital; or
- (b) a hospice; or
- (c) a residential aged care facility; or
- (d) a disability residential care facility; or
- (e) a nursing home, rest home, hostel, respite facility, or other facility where a health service or personal care service is provided to an individual who, because of infirmity, illness, disease, incapacity, or disability, has a need for those services

**facility operator** means the person that is responsible for the management of a care facility

**health service** means—

- (a) personal health services; or
- (b) disability support services

**personal care service** means assistance or support of a personal nature that is provided to an individual under a contract, agreement, or other arrangement, and includes any of the following:

- (a) assistance with bathing, showering, personal hygiene, toileting, dressing, undressing, or meals:
- (b) assistance with mobility problems:
- (c) assistance or supervision in administering medicine:
- (d) the provision of substantial emotional support

**personal health services** has the meaning given in section 4 of the Pae Ora (Healthy Futures) Act 2022

**relevant person** means—

- (a) in respect of a request for information about assisted dying, any person who can provide the information; and
- (b) in respect of a request to access assisted dying, a person who is necessary for the exercise of a function under Part 2

**resident**, in relation to a facility, means an individual who resides at the facility on a temporary or permanent basis to receive health services or personal care services.

**24E Facility operator must allow access to information about assisted dying**

- (1) This section applies if a resident of a care facility notifies the facility operator that they wish to receive information about assisted dying.
- (2) A facility operator must—
  - (a) provide the contact details of the assisted dying service; or
  - (b) allow a relevant person to have reasonable access to the resident at the facility at a time that is acceptable to the resident in order that the relevant person may supply the information in accordance with this Act.

**24F Facility operator must allow access to assisted dying**

- (1) This section applies if a resident of a care facility notifies the facility operator that they wish to make a request for assisted dying under section 11.
- (2) A facility operator must—
  - (a) arrange for the provision of assisted dying to the resident in accordance with this Act; or
  - (b) allow a relevant person to have reasonable access to the resident at the care facility at a time that is acceptable to the resident in order that the relevant person may—
    - (i) undertake an action for the purposes of section 13, 14, or 15; and
    - (ii) provide assisted dying in accordance with this Act.
- (3) This section is subject to **section 24G**.

**24G Facility operator may facilitate transfer of resident instead of complying with section 24F**

- (1) Instead of complying with **section 24F**, a facility operator may ask the resident if they wish to be transferred to another place to access assisted dying.
- (2) If the resident consents to the transfer, the facility operator must, as soon as reasonably practicable, facilitate the transfer of the resident.
- (3) However, if the resident's attending practitioner certifies that the transfer would be likely to cause serious harm to the resident, undue delay, or prolonged suffering, the facility operator must comply with **section 24F**.
- (4) For the purposes of certification under **subsection (3)**, the attending practitioner must not consider the impact of assisted dying being provided to the resident.



**24H Facility operator must not withdraw or refuse to provide service**

A facility operator must not withdraw a health service or personal care service from a resident, or refuse to provide a health service or personal care service to a resident or potential resident, only because the operator knows that—

- (a) the resident has asked, or is likely to ask, for information about assisted dying; or
- (b) the resident has made, or is likely to make, a request to access assisted dying.

**30 Section 25 replaced (SCENZ Group)**

Replace section 25 with:

**25 Assisted Dying Expert Advisory Group**

- (1) The Director-General must establish the Assisted Dying Expert Advisory Group by appointing to it the number of members that the Director-General considers appropriate.
- (2) The Director-General must appoint members who the Director-General considers have, collectively, knowledge and understanding of the matters relevant to the functions of the Assisted Dying Expert Advisory Group.
- (3) The functions of the Assisted Dying Expert Advisory Group are to provide independent expert advice to practitioners, the Ministry, and Health New Zealand on—
  - (a) workforce skills and competence requirements; and
  - (b) guidance on specific areas of clinical practice and the administration of medications; and
  - (c) training and support to be provided to practitioners relevant to their duties under this Act.

**25A Health New Zealand to operate an assisted dying service**

- (1) Health New Zealand must provide an assisted dying service that does all of the following:
  - (a) provides a point of contact for people seeking to receive assisted dying, or wanting more information about assisted dying;
  - (b) provides contact details for an attending practitioner;
  - (c) identifies and assigns an independent medical practitioner;
  - (d) identifies and assigns a psychiatrist or an authorised medical practitioner to provide an opinion on competence, if required;
  - (e) specifies training requirements for health practitioners who wish to provide assisted dying;
  - (f) provides training for health practitioners.

- (2) Health New Zealand may, as part of the assisted dying service, provide information to the public related to assisted dying.

**31 Section 26 replaced (Review committee)**

Replace section 26 with:

**26 Review Committee**

*Membership of committee*

- (1) The Minister must appoint an end-of-life Review Committee consisting of—
- (a) a medical ethicist; and
  - (b) at least 2 health practitioners, one of whom must be a medical practitioner who practises in the area of end-of-life care.

*Functions of committee*

- (2) The Review Committee may—
- (a) review information provided to the Registrar, or held by an attending practitioner or other health practitioner under this Act, in relation to an individual's request for, or receipt of, assisted dying; and
  - (b) determine whether the information is sufficient to establish that the requirements of this Act have been complied with; and
  - (c) make recommendations to any of the entities specified in **subsection (3)** regarding—
    - (i) actions that could be taken to improve the delivery of assisted dying under this Act; or
    - (ii) the adequacy of the information to demonstrate compliance with the requirements of this Act.
- (3) The entities referred to in **subsection (2)(c)** are:
- (a) Health New Zealand;
  - (b) the Assisted Dying Advisory Group;
  - (c) the Registrar;
  - (d) the Ministry.

*Committee may refer matters for investigation*

- (4) If the Review Committee considers that a matter identified in relation to assisted dying may warrant formal investigation, it may refer the matter to an appropriate body for that purpose, including any of the following bodies:
- (a) New Zealand Police;
  - (b) the Health and Disability Commissioner;
  - (c) Medical Council of New Zealand;
  - (d) Nursing Council of New Zealand.

*Annual report*

- (5) As soon as practicable after the end of each year ending with 30 June, the Review Committee must prepare and present to the Minister of Health a report on its activities during that year.

**32 Section 27 amended (Registrar (assisted dying))**

- (1) Replace section 27(2)(a) :
- (a) the information provided to the Registrar in accordance with this Act; and
  - (ab) authorisations granted or refused under **section 19A**; and
- (2) Repeal section 27(2)(b).
- (3) Repeal section 27(6).
- (4) In section 27(7)(b), replace “through each of the methods described in section 19(2)(a)” with “using each method for the administration of medication”

**33 New Part 3A inserted**

After section 30, insert:

### Part 3A Offences

**30A Offence of failing to comply with requirement that exposes individual to risk of death or serious injury**

- (1) A person who is a medical practitioner, nurse practitioner, or psychiatrist commits an offence if—
- (a) they wilfully fail to comply with any requirement of this Act; and
  - (b) that failure exposes any individual to a risk of death or serious injury.
- (2) A person who commits an offence under this section is liable on conviction to either or both of the following:
- (a) imprisonment for a term not exceeding 6 months;
  - (b) a fine not exceeding \$20,000.
- (3) *See also* **section 178A** of the Crimes Act 1961.

**30B Offence of failing to comply with requirement**

- (1) A person who is a medical practitioner, nurse practitioner, or psychiatrist commits an offence if they wilfully fail to comply with any requirement of this Act.
- (2) A person who commits an offence under this section is liable on conviction to either or both of the following:
- (a) imprisonment for a term not exceeding 3 months;

- (b) a fine not exceeding \$10,000.

### **30C Offence of providing false or misleading information**

- (1) A health practitioner who, in contravention of **section 9A(9)**, does any of the following actions, commits an offence:
  - (a) knowingly provides the Registrar with false or misleading information;
  - (b) makes any statement required under this Act, knowing that the statement is false or misleading;
  - (c) falsifies any document required to be provided under this Act.
- (2) A person who commits an offence against **subsection (1)** is liable on conviction to a fine not exceeding \$10,000.

### **30D Other methods of enforcement not limited**

Nothing in this Part affects the right of any person to—

- (a) bring disciplinary proceedings against a health practitioner under the Health Practitioners Competence Assurance Act 2003; or
- (b) bring proceedings under section 50 or 51 of the Health and Disability Commissioner Act 1994

## **34 Section 31 replaced (Regulations)**

Replace section 31 with:

### **31 Regulations**

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
  - (a) providing for anything this Act says may or must be provided for by regulations;
  - (b) prescribing requirements in respect of examinations conducted to determine if a person is a person who is eligible for assisted dying;
  - (c) prescribing acceptable methods for administration of medication under this Act;
  - (d) prescribing requirements for the management of prescriptions written for the purposes of this Act.
  - (e) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.
- (2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

## **35 New section 31A inserted (Director-General may specify authorised medical practitioners)**

After section 31, insert:

**31A Director-General may authorise medical practitioners to provide third opinion under section 15**

- (1) The Director-General may, by notice in the *Gazette*, authorise a medical practitioner or class of medical practitioner to carry out the functions of an authorised medical practitioner under section 15.
- (2) The Director-General may only designate a medical practitioner or class of medical practitioner if they are satisfied the medical practitioner or class of medical practitioner—
  - (a) is suitably qualified or trained to perform or exercise the functions and duties of an authorised medical practitioner; and
  - (b) has undergone specific training in, and is competent in, undertaking competence assessments.

**36 Section 34 replaced (Welfare guardians have no power to make decisions or take actions under this Act)**

Replace section 34 with:

**34 Attorneys and welfare guardians have no power to make decision or take action under this Act**

- (1) The holder of an enduring power of attorney (given in accordance with Part 9 of the Protection of Personal and Property Rights Act 1988) who acts in relation to a person's personal care and welfare does not, in that capacity, have the power to make any decision, or take any action, under this Act for that person.
- (2) A welfare guardian appointed under the Protection of Personal and Property Rights Act 1988 for a person does not, in that capacity, have the power to make any decision, or take any action, under this Act for that person.

**37 Section 35 amended (Effect on contracts of death under this Act)**

- (1) In section 35, after “or any other contract,” insert “deed, or other financial instrument,”.
- (2) In section 35(b), replace “terminal illness” with “condition”.

**38 Section 36 amended (Publication of details about assisted dying)**

Replace section 36(2) with:

- (2) No person may make public in respect of any death to which this section applies—
  - (a) the name of any medication that was provided or administered to the deceased;
  - (b) the identity of the deceased or any details that could reasonably be expected to identify the deceased in connection with information that their death was, or appears to be, the result of assisted dying under this

Act, unless the deceased's personal representative or next of kin has explicitly authorised the publication of the information:

- (c) the name of the person who administered the medication to the deceased, or the name of that person's employer;
- (d) the name of the facility where the person received assisted dying.

### 39 Sections 37 and 38 repealed

Repeal sections 37 and 38.

### 40 New sections 38A and 38B inserted

After section 38 insert:

#### 38A Immunity for Review Committee and Registrar

- (1) Members of the Review Committee and the Registrar are immune from liability in civil or criminal proceedings for good-faith actions or omissions if they are—
  - (a) carrying out or intending to carry out their responsibilities; or
  - (b) performing or exercising or intending to perform or exercise their functions, duties, or powers.
- (2) Nothing in this section limits or affects the Judicial Review Procedure Act 2016.

#### 38B Employer must not retaliate against employee for assisted dying reason

- (1) An employer must not, for an assisted dying reason,—
  - (a) retaliate or threaten to retaliate against an employee; or
  - (b) provide or grant, or offer to provide or grant to an employee any employment, accommodation, goods, service, right, title, privilege, advantage, or benefit; or
  - (c) otherwise treat an employee more or less favourably than any other employee of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances.
- (2) A person who suffers any loss by reason of any breach of **subsection (1)** is entitled to recover damages from the person responsible for that breach.
- (3) For the purposes of this section,—
 

**assisted dying reason** means—

  - (a) that an employee conscientiously objects to assisted dying, or is otherwise not able or willing to provide assisted dying; or
  - (b) that an employee provides, has provided, or proposes to provide assisted dying

**employee** includes a prospective employee

**retaliate** means doing or organising to do any of the following:

- (a) dismissing the employee:
- (b) denying to an employee any employment, accommodation, goods, service, right, title, privilege, or benefit as are made available to other employees of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances:
- (c) subjecting the employee to any detriment or disadvantage (including any detrimental or disadvantageous effect on the employee's employment, job performance, or job satisfaction) in circumstances in which other employees employed by the employer in work of that description are not or would not be subjected to such detriment or disadvantage:
- (d) retiring the employee, or requiring or causing the employee to retire or resign.

**41 Section 39 repealed (Offences)**

Repeal section 39.

**42 Consequential amendments to principal Act**

Amend the principal Act as set out in the **Schedule**.

## **Part 2**

### **Amendments to Crimes Act 1961**

**43 Principal Act**

This Part amends the Crimes Act 1961.

**44 Section 41 amended (Prevention of suicide or certain offences)**

Repeal section 41(2).

**45 Section 48 amended (Self-defence and defence of another)**

Repeal section 48(2).

**46 New section 178A inserted (Unauthorised administration of assisted dying medication)**

After section 178, insert:

**178A Unauthorised administration of assisted dying medication**

- (1) Every person is liable to imprisonment for a term not exceeding 14 years who—
  - (a) provides or administers a medication to a person for the purposes of assisted dying; and

- (b) knows the person is not, or is reckless as to whether, the person—
    - (i) is a person who is eligible for assisted dying; or
    - (ii) has freely consented to receive the medication.
- (2) In this section, **medication** and **person who is eligible for assisted dying** have the meanings given in section 4 of the End of Life Choice Act 2019.

**47 Section 179 amended (Aiding and abetting suicide)**

Repeal section 179(4).



## Schedule

### Consequential amendments to principal Act relating to nurse practitioners

**s 43****Section 11**

In section 11, replace “attending medical practitioner” with “attending practitioner” in each place.

**Section 12**

In section 12, replace “attending medical practitioner” with “attending practitioner” in each place.

**Section 13**

In the heading to section 13, replace “attending medical practitioner” with “attending practitioner”.

In section 13, replace “attending medical practitioner” with “attending practitioner” in each place.

**Section 14**

In section 14, replace “attending medical practitioner” with “attending practitioner” in each place.

**Section 15**

In section 15, replace “attending medical practitioner” with “attending practitioner” in act place.

In section 15(2), replace “medical practitioners” with “attending practitioner and independent medical practitioner”.

**Section 16**

In section 16, replace “attending medical practitioner” with “attending practitioner” in each place.

**Section 17**

In section 17, replace “attending medical practitioner” with “attending practitioner” in each place.

**Section 20**

In section 20(1), replace “attending medical practitioner” with “attending practitioner”.

In section 20(2) and (3), replace “attending medical practitioner, or an attending nurse practitioner,” with “attending practitioner”.

**Section 20**—*continued*

In section 20(5), replace “attending medical practitioner, or the attending nurse practitioner,” with “attending practitioner”.

In section 20(5)(b), replace “attending nurse practitioner” with “nurse practitioner”.

In section 20(6), replace “the attending medical practitioner or attending nurse practitioner is **available to the eligible person** if the medical practitioner or attending nurse practitioner” with “the medical practitioner or nurse practitioner is **available to the eligible person** if the medical practitioner or nurse practitioner”.

**Section 21**

In section 21, replace “attending medical practitioner, or the attending nurse practitioner who provided or administered the medication on the instruction of the attending medical practitioner, ” with “attending practitioner” in each place.

In section 21(2)(a), replace “attending medical practitioner or attending nurse practitioner,” with “attending practitioner”.

**Section 23**

In section 23(2), replace “attending medical practitioner or attending nurse practitioner” with “attending practitioner”.

**Section 24**

In section 24,—

- (a) replace “attending medical practitioner or attending nurse practitioner” with “attending practitioner”; and
- (b) replace “the medical practitioner or nurse practitioner” with “the attending practitioner”.

**Section 33**

In section 33(2), replace “attending medical practitioner or the attending nurse practitioner” with “attending practitioner”.