The *Rights of the Terminally Ill Act 1995* has no force or effect as a law of the Territory; *see* Schedule 1 of the *Euthanasia Laws Act 1997* (Cth) (No. 17, 1997)

NORTHERN TERRITORY OF AUSTRALIA

RIGHTS OF THE TERMINALLY ILL ACT

As in force at 10 December 1997

Table of provisions

Part 1 Preliminary

1 Short title 1
2 Commencement 1
3 Interpretation 1

Part 2 Request for and giving of assistance

4 Request for assistance to voluntarily terminate life 2
5 Response of medical practitioner 2
6 Response of medical practitioner, &c., not to be influenced by extraneous considerations 3
7 Conditions under which medical practitioner may assist 3
8 Palliative care 6
9 Patient who is unable to sign certificate of request 6
10 Right to rescind request 7
11 Improper conduct 7

Part 3 Records and reporting of death

12 Medical records to be kept 7
13 Certification as to death 8
14 Medical record to be sent to Coroner 8
15 Coroner may report on operation of Act 9

Part 4 Miscellaneous

16 Construction of Act 9
17 Certificate of request is evidence 9
18 Effect on construction of wills, contracts and statutes 9
19 Insurance or annuity policies 10
20 Immunities 10
21 Regulations 11

Schedule

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 10 December 1997. Any amendments that commence after that date are not included.

RIGHTS OF THE TERMINALLY ILL ACT

An Act to confirm the right of a terminally ill person to request assistance from a medically qualified person to voluntarily terminate his or her life in a humane manner; to allow for such assistance to be given in certain circumstances without legal impediment to the person rendering the assistance; to provide procedural protection against the possibility of abuse of the rights recognised by this Act; and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Rights of the Terminally Ill Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

In this Act, unless the contrary intention appears:

assist, in relation to the death or proposed death of a patient, includes the prescribing of a substance, the preparation of a substance and the giving of a substance to the patient for self administration, and the administration of a substance to the patient.

certificate of request means a certificate in or to the effect of the form in the Schedule that has been completed, signed and witnessed in accordance with this Act.

health care provider, in relation to a patient, includes a hospital, nursing home or other institution (including those responsible for its management) in which the patient is located for care or attention and any nurse or other person whose duties include or directly or indirectly relate to the care or medical treatment of the patient.

illness includes injury or degeneration of mental or physical faculties.

medical practitioner means a medical practitioner who has been entitled to practise as a medical practitioner (however described) in a State or a Territory of the Commonwealth for a continuous period of not less than 5 years and who is resident in, and entitled under the *Medical Act* to practise medicine in, the Territory.

qualified psychiatrist means:

(a) a person entitled under a law of a State or Territory of the Commonwealth to practise as a specialist in the medical specialty of psychiatry;

(b) a specialist whose qualifications are recognised by the Royal Australian and New Zealand College of Psychiatrists as entitling the person to fellowship of that College; or

(c) a person employed by the Commonwealth or a State or Territory of the Commonwealth, or an Agency or authority of the Commonwealth or a State or Territory, as a specialist or consultant in the medical specialty of psychiatry.

terminal illness, in relation to a patient, means an illness which, in reasonable medical judgment will, in the normal course, without the application of extraordinary measures or of treatment unacceptable to the patient, result in the death of the patient.

Part 2 Request for and giving of assistance

4 Request for assistance to voluntarily terminate life

A patient who, in the course of a terminal illness, is experiencing pain, suffering and/or distress to an extent unacceptable to the patient, may request the patient's medical practitioner to assist the patient to terminate the patient's life.

5 Response of medical practitioner

A medical practitioner who receives a request referred to in section 4, if satisfied that the conditions of section 7 have been met, but subject to section 8, may assist the patient to terminate the patient's life in accordance with this Act or, for any reason and at any time, refuse to give that assistance.

6 Response of medical practitioner, &c., not to be influenced by extraneous considerations

(1) A person shall not give or promise any reward or advantage (other than a reasonable payment for medical services), or by any means cause or threaten to cause any disadvantage, to a medical practitioner or other person for refusing to assist, or for the purpose of compelling or persuading the medical practitioner or other person to assist or refuse to assist, in the termination of a patient's life under this Act.

Penalty: $10,000.

(2) A person to whom a reward or advantage is promised or given, as referred to in subsection (1), does not have the legal right or capacity to receive or retain the reward or accept or exercise the advantage, whether or not, at the relevant time, he or she was aware of the promise or the intention to give the reward or advantage.

7 Conditions under which medical practitioner may assist

(1) A medical practitioner may assist a patient to end his or her life only if all of the following conditions are met:

(a) the patient has attained the age of 18 years;

(b) the medical practitioner is satisfied, on reasonable grounds, that:

(i) the patient is suffering from an illness that will, in the normal course and without the application of extraordinary measures, result in the death of the patient;

(ii) in reasonable medical judgment, there is no medical measure acceptable to the patient that can reasonably be undertaken in the hope of effecting a cure; and

(iii) any medical treatment reasonably available to the patient is confined to the relief of pain, suffering and/or distress with the object of allowing the patient to die a comfortable death;

(c) two other persons, neither of whom is a relative or employee of, or a member of the same medical practice as, the first medical practitioner or each other:

(i) one of whom is a medical practitioner who holds prescribed qualifications, or has prescribed experience, in the treatment of the terminal illness from which the patient is suffering; and

(ii) the other who is a qualified psychiatrist,

have examined the patient and have:

(iii) in the case of the medical practitioner referred to in subparagraph (i), confirmed:

(A) the first medical practitioner's opinion as to the existence and seriousness of the illness;

(B) that the patient is likely to die as a result of the illness; and

(C) the first medical practitioner's prognosis; and

(iv) in the case of the qualified psychiatrist referred to in subparagraph (ii), confirmed that the patient is not suffering from a treatable clinical depression in respect of the illness;

(d) the illness is causing the patient severe pain or suffering;

(e) the medical practitioner has informed the patient of the nature of the illness and its likely course, and the medical treatment, including palliative care, counselling and psychiatric support and extraordinary measures for keeping the patient alive, that might be available to the patient;

(f) after being informed as referred to in paragraph (e), the patient indicates to the medical practitioner that the patient has decided to end his or her life;

(g) the medical practitioner is satisfied that the patient has considered the possible implications of the patient's decision to his or her family;

(h) the medical practitioner is satisfied, on reasonable grounds, that the patient is of sound mind and that the patient's decision to end his or her life has been made freely, voluntarily and after due consideration;

(i) the patient, or a person acting on the patient's behalf in accordance with section 9, has, not earlier than 7 days after the patient has indicated to his or her medical practitioner as referred to in paragraph (f), signed that part of the certificate of request required to be completed by or on behalf of the patient;

(j) the medical practitioner has witnessed the patient's signature on the certificate of request or that of the person who signed on behalf of the patient, and has completed and signed the relevant declaration on the certificate;

(k) the certificate of request has been signed in the presence of the patient and the first medical practitioner by another medical practitioner (who may be the medical practitioner referred to in paragraph (c)(i) or any other medical practitioner) after that medical practitioner has discussed the case with the first medical practitioner and the patient and is satisfied, on reasonable grounds, that the certificate is in order, that the patient is of sound mind and the patient's decision to end his or her life has been made freely, voluntarily and after due consideration, and that the above conditions have been complied with;

(l) where, in accordance with subsection (4), an interpreter is required to be present at the signing of the certificate of request, the certificate of request has been signed by the interpreter confirming the patient's understanding of the request for assistance;

(m) the medical practitioner has no reason to believe that he or she, the countersigning medical practitioner or a close relative or associate of either of them, will gain a financial or other advantage (other than a reasonable payment for medical services) directly or indirectly as a result of the death of the patient;

(n) not less than 48 hours has elapsed since the signing of the completed certificate of request;

(o) at no time before assisting the patient to end his or her life had the patient given to the medical practitioner an indication that it was no longer the patient's wish to end his or her life;

(p) the medical practitioner himself or herself provides the assistance and/or is and remains present while the assistance is given and until the death of the patient.

(2) In assisting a patient under this Act a medical practitioner shall be guided by appropriate medical standards and such guidelines, if any, as are prescribed, and shall consider the appropriate pharmaceutical information about any substance reasonably available for use in the circumstances.

(3) Where a patient's medical practitioner has no special qualifications in the field of palliative care, the information to be provided to the patient on the availability of palliative care shall be given by a medical practitioner (who may be the medical practitioner referred to in subsection (1)(c)(i) or any other medical practitioner) who has such special qualifications in the field of palliative care as are prescribed.

(4) A medical practitioner shall not assist a patient under this Act where the medical practitioner or any other medical practitioner or qualified psychiatrist who is required under subsection (1) or (3) to communicate with the patient does not share the same first language as the patient, unless there is present at the time of that communication and at the time the certificate of request is signed by or on behalf of the patient, an interpreter who holds a prescribed professional qualification for interpreters in the first language of the patient.

8 Palliative care

(1) A medical practitioner shall not assist a patient under this Act if, in his or her opinion and after considering the advice of the medical practitioner referred to in section 7(1)(c)(i), there are palliative care options reasonably available to the patient to alleviate the patient's pain and suffering to levels acceptable to the patient.

(2) Where a patient has requested assistance under this Act and has subsequently been provided with palliative care that brings about the remission of the patient's pain or suffering, the medical practitioner shall not, in pursuance of the patient's original request for assistance, assist the patient under this Act. If subsequently the palliative care ceases to alleviate the patient's pain and suffering to levels acceptable to the patient, the medical practitioner may continue to assist the patient under this Act only if the patient indicates to the medical practitioner the patient's wish to proceed in pursuance of the request.

9 Patient who is unable to sign certificate of request

(1) If a patient who has requested his or her medical practitioner to assist the patient to end the patient's life is physically unable to sign the certificate of request, any person who has attained the age of 18 years, other than the medical practitioner or a medical

practitioner or qualified psychiatrist referred to in section 7(1)(c), or a person who is likely to receive a financial benefit directly or indirectly as a result of the death of the patient, may, at the patient's request and in the presence of the patient and both the medical practitioner witnesses (and where, in accordance with section 7(4) an interpreter has been used, also in the presence of the interpreter), sign the certificate on behalf of the patient.

(2) A person who signs a certificate of request on behalf of a patient forfeits any financial or other benefit the person would otherwise obtain, directly or indirectly, as a result of the death of the patient.

10 Right to rescind request

(1) Notwithstanding anything in this Act, a patient may rescind a request for assistance under this Act at any time and in any manner.

(2) Where a patient rescinds a request, the patient's medical practitioner shall, as soon as practicable, destroy the certificate of request and note that fact on the patient's medical record.

11 Improper conduct

(1) A person shall not, by deception or improper influence, procure the signing or witnessing of a certificate of request.

Penalty: $20,000 or imprisonment for 4 years.

(2) A person found guilty of an offence against subsection (1) forfeits any financial or other benefit the person would otherwise obtain, directly or indirectly, as a result of the death of the patient, whether or not the death results from assistance given under this Act.

Part 3 Records and reporting of death

12 Medical records to be kept

A medical practitioner who, under this Act, assists a patient to terminate the patient's life shall file and, subject to this Act, keep the following as part of the medical record of the patient:

(a) a note of any oral request of the patient for such assistance;

(b) the certificate of request;

(c) a record of the opinion of the patient's medical practitioner as to the patient's state of mind at the time of signing the certificate of request and certification of the medical practitioner's opinion that the patient's decision to end his or her life was made freely, voluntarily and after due consideration;

(d) the reports of the medical practitioner and qualified psychiatrist referred to in section 7(1)(c);

(e) a note by the patient's medical practitioner:

(i) certifying as to the independence of the medical practitioner and qualified psychiatrist referred to in section 7(1)(c) and the residential and period of practice qualifications of the patient's medical practitioner;

(ii) indicating that all requirements under this Act have been met;

(iii) indicating the steps taken to carry out the request for assistance; and

(iv) including a notation of the substance prescribed,

and such other information, if any, as is prescribed.

Penalty: $10,000 or imprisonment for 2 years.

13 Certification as to death

(1) A medical practitioner who, under this Act, assists a patient to end the patient's life shall be taken, for the purposes of section 34 of the *Births, Deaths and Marriages Registration Act*, to have been responsible for the patient's medical care immediately before death.

(2) A death as the result of assistance given under this Act shall not, for that reason only, be taken to be unexpected, unnatural or violent for the purposes of the definition of "reportable death" in the application of Part 4 of the *Coroner's Act*, or be a reportable death by reason only of having occurred during an anaesthetic.

14 Medical record to be sent to Coroner

(1) As soon as practicable after the death of a patient as the result of assistance given under this Act, the medical practitioner who gave the assistance shall report the death to a Coroner by sending to the Coroner a copy of the notice given to the Registrar under section 34 of the *Births, Deaths and Marriages Registration Act* and so much of the medical record of the patient (including that required by

section 12 to be kept) as relates to the terminal illness and death of the patient.

(2) As soon as practicable after the end of each financial year the Coroner shall advise the Attorney-General of the number of patients who died as a result of assistance given under this Act and the Attorney-General, in such manner or report as he or she thinks appropriate, shall report the number to the Legislative Assembly.

15 Coroner may report on operation of Act

The Coroner may, at any time and in his or her absolute discretion, report to the Attorney-General on the operation, or any matter affecting the operation, of this Act and the Attorney-General shall, within 3 sitting days of the Legislative Assembly after receiving the report, table a copy of the report in the Assembly.

Part 4 Miscellaneous

16 Construction of Act

(1) Notwithstanding section 26(3) of the Criminal Code, an action taken in accordance with this Act by a medical practitioner or by a health care provider on the instructions of a medical practitioner does not constitute an offence against Part VI of the Criminal Code or an attempt to commit such an offence, a conspiracy to commit such an offence, or an offence of aiding, abetting, counselling or procuring the commission of such an offence.

(2) Assistance given in accordance with this Act by a medical practitioner or by a health care provider on the instructions of a medical practitioner is taken to be medical treatment for the purposes of the law.

17 Certificate of request is evidence

A document purporting to be a certificate of request is, in any proceedings before a court, admissible in evidence and is prima facie evidence of the request by the person who purported to sign it or on whose behalf it is purported to have been signed, for assistance under this Act.

18 Effect on construction of wills, contracts and statutes

(1) Any will, contract or other agreement, whether or not in writing or executed or made before or after the commencement of this Act, to the extent that it affects whether a person may make or rescind a request for assistance under this Act, or the giving of such assistance, is not valid.

(2) An obligation owing under a contract, whether made before or after the commencement of this Act, shall not be conditioned or affected by the making or rescinding of a request for assistance under this Act or the giving of that assistance.

19 Insurance or annuity policies

The sale, procurement or issuing of any life, health or accident insurance or annuity policy or the rate charged for such a policy shall not be conditioned on or affected by the making or rescinding of a request for assistance under this Act or the giving of that assistance.

20 Immunities

(1) A person shall not be subject to civil or criminal action or professional disciplinary action for anything done in good faith and without negligence in compliance with this Act, including being present when a patient takes a substance prescribed for or supplied to the patient as the result of assistance under this Act to end the patient's life.

(2) A professional organisation or association or health care provider shall not subject a person to censure, discipline, suspension, loss of licence, certificate or other authority to practise, loss of privilege, loss of membership or other penalty for anything that, in good faith and without negligence, was done or refused to be done by the person and which may under this Act lawfully be done or refused to be done.

(3) A request by a patient for assistance under this Act, or giving of such assistance in good faith by a medical practitioner in compliance with this Act, shall not constitute neglect for any purpose of law or alone constitute or indicate a disability for the purposes of an application under section 8 of the *Adult Guardianship Act*.

(4) A health care provider is not under any duty, whether by contract, statute or other legal requirement, to participate in the provision to a patient of assistance under this Act, and if a health care provider is unable or unwilling to carry out a direction of a medical practitioner for the purpose of the medical practitioner assisting a patient under this Act and the patient transfers his or her care to another health care provider, the former health care provider shall, on request, transfer a copy of the patient’s relevant medical records to the new health care provider.

21 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule

section 7

REQUEST FOR ASSISTANCE TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

I, have been advised by my medical practitioner that I am suffering from an illness which will ultimately result in my death and this has been confirmed by a second medical practitioner.

I have been fully informed of the nature of my illness and its likely course and the medical treatment, including palliative care, counselling and psychiatric support and extraordinary measures that may keep me alive, that is available to me and I am satisfied that there is no medical treatment reasonably available that is acceptable to me in my circumstances.

I request my medical practitioner to assist me to terminate my life in a humane and dignified manner.

I understand that I have the right to rescind this request at any time.

Signed:

Dated:

DECLARATION OF WITNESSES

I declare that:

(a) the person signing this request is personally known to me;

(b) he/she is a patient under my care;

(c) he/she signed the request in my presence and in the presence of the second witness to this request;

(d) I am satisfied that he/she is of sound mind and that his/her decision to end his/her life has been made freely, voluntarily and after due consideration.

Signed: Patient's Medical Practitioner

I declare that:

(a) the person signing this request is known to me;

(b) I have discussed his/her case with him/her and his/her medical practitioner;

(c) he/she signed the request in my presence and in the presence of his/her medical practitioner;

(d) I am satisfied that he/she is of sound mind and that his/her decision to end his/her life has been made freely, voluntarily and after due consideration;

(e) I am satisfied that the conditions of section 7 of the Act have been or will be complied with.

Signed: Second Medical Practitioner

[Where under section 7(4) an interpreter is required to be present]

DECLARATION OF INTERPRETER

I declare that:

(a) the person signing this request or on whose behalf it is signed is known to me;

(b) I am an interpreter qualified to interpret in the first language of the patient as required by section 7(4);

(c) I have interpreted for the patient in connection with the completion and signing of this certificate;

(d) in my opinion, the patient understands the meaning and nature of this certificate.

Signed: Qualified Interpreter.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = *Gazette*
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Rights of the Terminally Ill Act 1995 (Act No. 12, 1995)

Assent date	16 June 1995
Commenced	1 July 1996 (*Gaz* S15, 13 June 1996)

Rights of the Terminally Ill Amendment Act 1996 (Act No. 5, 1996)

Assent date	20 March 1996
Commenced	20 March 1996

Births, Deaths and Marriages Registration (Consequential Amendments) Act 1996 (Act No. 27, 1996)

Assent date	28 June 1996
Commenced	1 January 1997 (s 2, s 2 *Births, Deaths and Marriages Registration Act 1996* (Act No. 26, 1996) and *Gaz* G49, 4 December 1996, p 5)

Statute Law Revision Act 1996 (Act No. 42, 1996)

Assent date	17 September 1996
Commenced	17 September 1996

Statute Law Revision Act 1997 (Act No. 17, 1997)

Assent date	11 April 1997
Commenced	s 16: 10 December 1997; rem: 1 May 1997 (*Gaz* G17, 30 April 1997, p 2)

3 LIST OF AMENDMENTS

s 3	amd No. 5, 1996, s 3; No. 42, 1996, s 6
s 7	amd No. 5, 1996, s 4; No. 17, 1997, s 15
s 8	amd No. 5, 1996, s 5
s 9	amd No. 5, 1996, s 6
s 12	amd No. 5, 1996, s 7
ss 13 – 14	amd No. 27, 1996, s 5