This document contains all the Supplementary Order Papers (SOPs) that were proposed to amend the End of Life Choice Bill.

Key:

- Plain black text: The version that came back from the Justice Committee

- Black text underlined or struck through: Changes made by SOP 259 (David Seymour) – all approved by Parliament

- Red text: Changes made by SOPs 287 and 361 (Referendum clauses by Jenny Marcroft) – all approved by Parliament

- Blue text: Changes proposed by other SOPs - all rejected by Parliament
Proposed amendments to End of Life Choice Bill

Explanatory note

This Supplementary Order Paper sets out amendments to the End of Life Choice Bill. The following substantive amendments are made to the Bill:

• a purpose clause is inserted (new clause 2A):

• definitions of approved form, attending nurse practitioner, conscientious objection, medication, and nurse practitioner are inserted (clause 3):

• the definition of independent medical practitioner is amended to require the medical practitioner to have held a practising certificate for at least the previous 5 years, to ensure that an experienced medical practitioner gives the second opinion as to whether a person is eligible for assisted dying (clause 3):

• the definition of person who is eligible for assisted dying is amended so that a person who has a grievous and irremediable medical condition that is not a terminal illness likely to end the person’s life within 6 months will not be eligible for assisted dying (clause 4(1)(c) replaced):

• the competence of a person who wishes to exercise the option of receiving assisted dying must be assessed having regard to more detailed criteria (clause 4(1)(f) replaced and new clause 4A inserted):

• a new provision is inserted to expressly provide that a person is not eligible for assisted dying by reason only that the person is suffering from any form of mental disorder or mental illness, has a disability of any kind, or is of advanced age (new clause 4(2)):

• a broader conscientious objection provision is inserted that applies to all health practitioners and explicitly states that an employer cannot discriminate on the grounds of an employee’s conscientious objection (new clause 5A):

• a new provision is inserted prohibiting a health practitioner from initiating with a person to whom they are providing health services any discussion about assisted dying, or from making any suggestion to the person that the person exercise the option of receiving assisted dying (new clause 7):

• the requirements for signing the form requesting assisted dying are redrafted to make them clearer (clause 9):

• a third opinion on whether a person is competent to make an informed decision about assisted dying can be given only by a psychiatrist, not by a psychologist. The definition of specialist is consequentially deleted (clause 12 and clause 3):

• a person who is eligible to receive assisted dying must complete a form choosing a date and time for the administration of the medication and must be advised by the attending medical practitioner that they may subsequently decide to defer the procedure for a period of up to 6 months (as an additional option to deciding not to receive the medication at all) (new clauses 14(2)(e) and 14A inserted, and clause 15(3)(d) amended):
• an attending nurse practitioner (a nurse practitioner acting under the instruction of an attending medical practitioner) may prescribe and administer medication (clauses 3, 15(4), and 16(4));

• the clear choices that must be given to an eligible person at the time chosen by that person for the administration of the medication are specified (clause 16(2));

• a new provision is inserted to confirm that no further action may be taken in respect of an eligible person’s request to exercise the option of receiving assisted dying if the person rescinds their request, and if subsequently the person wishes to pursue this option a new request under clause 8 would need to be made (new clause 18A);

• clause 22A, which provides that an attending medical practitioner or attending nurse practitioner must take no further action under this Bill if the medical practitioner or nurse practitioner suspects on reasonable grounds that a person who has expressed the wish to exercise the option of receiving assisted dying has not expressed their wish free from pressure, is moved to Part 2 of the Bill (new clause 18B);

• the Director-General of Health may appoint as members of the SCENZ Group any persons who the Director-General considers collectively have knowledge and understanding of the matters relevant to the Group’s functions (clause 19(1) amended and new clause 19(1A) inserted);

• the Minister must, as soon as practicable after receiving a report on the operation of the Act, present the report to the House of Representatives (new clause 22(2) inserted);

• a new provision is inserted to provide that a person wishing to request to exercise the option of receiving assisted dying must sign and date the relevant form and that wish cannot be expressed by the person in an advance directive, will, contract, or other document. A wish to rescind a request to exercise the option of receiving assisted dying must be communicated to the attending medical practitioner, or an attending nurse practitioner, orally, in writing, or by gesture and cannot be otherwise expressed, including in an advance directive (new clause 24A);

• a new provision is inserted to provide that a welfare guardian appointed under the Protection of Personal and Property Rights Act 1988 for any person does not, in their capacity as a welfare guardian, have any power to make a decision, or take any action, under this Bill for that person (new clause 24B);

• a new provision is inserted to prohibit the publication of details relating to assisted dying deaths (new clause 25A);

• the criminal immunity provision is redrafted to expressly address immunity from the provisions of the Crimes Act 1961, particularly sections 41, 48, 63, and 179 of that Act (clause 26);
• the Director-General of Health is authorised to approve and issue forms for the purposes of this Bill (new clause 27A):

• the Health and Disability Commissioner Act 1994 is amended to include services provided to a person who has requested assisted dying as a health service under that Act. This ensures that persons providing assisted dying services who are not health practitioners are also subject to the duties in the Code of Health and Disability Services Consumers’ Rights (Schedule, Part 1):

• the definition of services in the New Zealand Public Health and Disability Act 2000 is amended to include services provided to a person who has requested assisted dying to enable public funding of these services (Schedule, Part 1):

• as a result of the amendment to the definition of services in the New Zealand Public Health and Disability Act 2000, the amendments to the definition of that term in the Health Act 1956 and the Health (Retention of Health Information) Regulations 1996 are no longer required and are deleted (Schedule, Parts 1 and 2):

• the Health and Disability Commissioner (Code of Health and Disability Services Consumers’ Rights) Regulations 1996 are amended to include a new clause in the Code of Health and Disability Services Consumers’ Rights to set out how the Code operates with this Bill (Schedule, Part 2).

Minor technical amendments are also made to the Bill.

David Seymour, in Committee, to propose the amendments shown in the following document.
# End of Life Choice Bill

Member’s Bill

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### Proposed amendments to End of Life Choice Bill

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The Parliament of New Zealand enacts as follows:

1 Title
This Act is the End of Life Choice Act 2017.

**SOP 396 (Hon Tim Macindoe)**

*Clause 1*
In *clause 1*, replace “End of Life Choice Act 2017” (page 2, line 3) with “Euthanasia and Assisted Suicide Act 2019”.

*Explanatory note SOP 396*

This Supplementary Order Paper amends the End of Life Choice Bill to provide a new name for the Bill that more accurately reflects the practices that the legal provisions would establish. This will more effectively allow the public to understand what practices are made legal by the passing of the Bill. The Bill allows both euthanasia (an act where a doctor causes the death of a person by administering a lethal dose of medication) and assisted suicide (an act where a medical professional provides a prescription to a person whereby they may procure and take the lethal dose of drugs themselves with the purpose of ending their own life).

2 Commencement
This Act comes into force 12 months after the date on which it receives the Royal assent.

**SOP 264 (Chris Penk)**

*Clause 2*
In *clause 2*, replace “12 months” (page 2, line 5) with “3 years”.

*Explanatory note SOP 264*

This Supplementary Order Paper amends the End of Life Choice Bill to provide a sufficiently lengthy period of time between the passage of the Act and its effective date to enable various entities to prepare themselves. In particular:

- organisations currently involved in providing actual health care (as distinct from assisted suicide and/or euthanasia) will require time to obtain legal advice regarding their obligations under this legislation; and
medical professionals unwilling to remain in a profession whose mandate will include the intentional causing of death will have a reasonable opportunity to train in another field and make that employment transition.

SOP 287 (Jenny Marcroft)

Clause 2
Replace “This Act comes into force 12 months after the date on which it receives the Royal assent.” (page 2, lines 5 and 6) with:

1. If a majority of electors voting in a referendum agree that this Act should come into force, this Act comes into force 12 months after the date on which the official result of that referendum is declared.
2. If this Act does not come into force under subsection (1) within 5 years after the date on which it receives the Royal assent, this Act is repealed.
3. In this section, referendum—
   a. means a referendum providing electors with an opportunity to decide whether this Act should come into force; and
   b. includes any fresh referendum required to be held if the High Court, on a petition, declares the referendum under paragraph (a) to be void.

Explanatory note SOP 287
This Supplementary Order Paper amends clause 2 of the End of Life Choice Bill to make the commencement of the Bill contingent on the outcome of a referendum.

If the majority of electors voting at a referendum agree the Bill should come into force, the Bill comes into force 12 months after the official result of the referendum is declared.

If the majority of electors voting at a referendum do not agree that the Bill should come into force, this Bill is repealed.

If no referendum is held within 5 years after the date on which this Bill receives the Royal assent, this Bill is repealed.

SOP 361 (Jenny Marcroft) Amendment to SOP 287

Clause 2
Replace new clause 2(1) with:

1. If a majority of electors voting in a referendum respond to the question in subsection (1A) supporting this Act coming into force, this Act comes into
force 12 months after the date on which the official result of that referendum is declared.

(1A) The wording of the question to be put to electors in a referendum for the purposes of subsection (1) of this section is—
“Do you support the End of Life Choice Act 2017 coming into force?”

(1B) The wording of the 2 options for which electors may vote in response to the question is—
“Yes, I support the End of Life Choice Act 2017 coming into force.”
“No, I do not support the End of Life Choice Act 2017 coming into force.”

(1C) This section overrides any other enactment to the extent that the enactment specifies any wording of the question or the options for the referendum that is different from the wording in subsections (1A) and (1B).

Explanatory note SOP 361
This Supplementary Order Paper sets out a proposed amendment to Supplementary Order Paper No 287 (which amends clause 2 of the End of Life Choice Bill).
The effect of the proposed amendment is to specify the wording of the question to be put to electors in a referendum held for the purposes of the Bill and the wording of the options for which electors may vote in response to the question.

Part 1
Preliminary provisions

2A Purpose of Act
The purpose of this Act is—
(a) to give persons who have a terminal illness and who meet certain criteria the option of lawfully requesting medical assistance to end their lives; and
(b) to establish a lawful process for assisting eligible persons who exercise that option.

3 Interpretation
In this Act, unless the context otherwise requires another meaning,—
approved form means a form approved and issued under section 27A
assisted dying, in relation to a person, means—
(a) the administration by an attending medical practitioner or an attending nurse practitioner of a lethal dose of medication to the person to relieve the person’s suffering by hastening death; or
(b) the self-administration by the person of a lethal dose of medication to relieve their suffering by hastening death
SOP 208 (Chris Penk)

Clause 3
In clause 3, replace the definition of assisted dying (page 3, lines 1 to 7) with:

assisted dying, in relation to a person, means—
(a) the administration by a medical practitioner of a lethal dose of medication to the person to cause that person’s death; or
(b) the self-administration by the person of a lethal dose of medication to cause that person’s death

Explanatory note SOP 208
The original definition does not effectively differentiate between the “double effect” of the hastening of death that can occur when providing medication in the course of quality palliative care treatment and the purposeful deaths that would occur by administering lethal medication to someone who had requested assistance to die.

attending medical practitioner means, in relation to a person, means the person’s medical practitioner

SOP 269 (Melissa Lee)

Clause 3
In clause 3, replace the definition of attending medical practitioner (page 3, line 8) with:

attending medical practitioner means a medical practitioner who has personally attended the person, in a professional capacity, either—
(a) for a period of not less than 6 months; or
(b) on at least three occasions, provided that such attendances must have taken place at intervals of not less than one month between each attendance

Explanatory note SOP 269
This Supplementary Order Paper amends the End of Life Choice Bill to require that the medical practitioner (as defined elsewhere in clause 3) who is attending has at least some level of familiarity with the person. Without such familiarity, it will be impossible for the attending medical practitioner to hold any meaningful view that the person has not been subject to coercion in making decisions under this proposed legislation.

attending nurse practitioner means a nurse practitioner who is acting under the
instruction of an attending medical practitioner (or replacement medical practitioner)

authority has the meaning given to it by section 5(1) of the Health Practitioners Competence Assurance Act 2003

Code of Health and Disability Services Consumers’ Rights means the Code of Health and Disability Services Consumers’ Rights prescribed by regulations made under section 74(1) of the Health and Disability Commissioner Act 1994

competent means having the ability described in section 4(f)

competent to make an informed decision about assisted dying has the meaning given to it in section 4A

SOP 262 (Maggie Barry)

Clause 3
In clause 3, after the definition of competent (page 3, line 11), insert:

decision-making capacity has the meaning given in section 4A

(Also see Clause 4)

conscientious objection means an objection on the ground of conscience

Director-General means the Director-General of Health

eligible person has the meaning given to it in section 4

health practitioner has the meaning given to it by section 5(1) of the Health Practitioners Competence Assurance Act 2003

independent medical practitioner means a medical practitioner who is independent of an attending medical practitioner and the person a medical practitioner who—

(a) in relation to a person who has requested to exercise the option of receiving assisted dying, is independent of the person and of the person’s attending medical practitioner (and any replacement medical practitioner); and

(b) has held, for at least the previous 5 years, a practising certificate, or the equivalent certification from an overseas authority responsible for the registration or licensing of medical practitioners

SOP 265 (Agnes Loheni)

Clause 3
In clause 3, replace the definition of *independent medical practitioner* (page 3, lines 17 and 18) with:

**independent medical practitioner** means a medical practitioner who is independent of an attending medical practitioner and the person, being a medical practitioner who is not associated with either the attending medical practitioner or the person—

(a) in a financial manner;
(b) in a closely shared professional manner, for example practising medicine (including, for the avoidance of doubt, doing any thing authorised or required under this Act) within the same medical practice or sharing premises; or
(c) in any personal capacity.

**Explanatory note SOP 265**

*This Supplementary Order Paper amends the End of Life Choice Bill to provide a bare minimum level of clarity about the meaning of “independent” in the context of an independent medical practitioner not being associated with the attending medical practitioner or the person.*

**medical practitioner** means a health practitioner who—

(a) is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine; and

(b) holds a current practising certificate

**SOP 266 (Paulo Garcia)**

*Clause 3*

In clause 3, definition of *medical practitioner*, after paragraph (a) (page 3, after line 23), insert:

(ab) has not been the subject of a written complaint to any relevant professional body (including, for the avoidance of doubt, the Health and Disability Commissioner) in relation to any thing done or failed to have been done in accordance with, or nominally in accordance with, this Act; and

**Explanatory note SOP 266**
This Supplementary Order Paper amends the End of Life Choice Bill to ensure that a medical practitioner executing authority provided under this legislation cannot be one who is questionable in relation to ethical or professional practices.

SOP 267 (Kanwaljit Singh Bakshi)

Clause 3
In clause 3, definition of medical practitioner, in paragraph (a), after “profession of medicine” (page 3, after line 23), insert

“...and has been registered for a period of at least 5 years”

In clause 3, definition of medical practitioner, in paragraph (b), after “practising certificate” (page 3, after line 24), insert

“...and has held a practising certificate continuously in New Zealand for a period of at least 5 years and has never had their practising certificate cancelled”

Explanatory note SOP 267
This Supplementary Order Paper amends the End of Life Choice Bill to provide a minimum level of qualification for a medical practitioner in relation to registration and length of practice of medicine. A medical practitioner who does not have at least some minimal level of experience practising medicine must be regarded as being even less safe to provide euthanasia and/or assisted suicide services than one who has a greater level of experience.

medication, in relation to assisted dying, means a lethal dose of the medication

Minister means the Minister of the Crown who is responsible for the administration of this Act—

(a) under the authority of a warrant; or

(b) under the authority of the Prime Minister

SOP 268 (Chris Penk)

Clause 3
In clause 3, replace the definition of minister (page 3, lines 25 to 28), with:

minister—
(a) means the Minister of the Crown who is responsible for the administration of this Act—
   (i) under the authority of a warrant; or
   (ii) under the authority of the Prime Minister; but
(b) does not include an Associate Minister, a Minister outside Cabinet, or any person to whom responsibility for this Act has been delegated on a temporary basis.

**Explanatory note SOP 268**

This Supplementary Order Paper amends the End of Life Choice Bill to clarify that responsibility for exercising the powers and duties of the “minister” in the legislation must rest with a member of the executive with full ministerial responsibility and, given the qualification regarding Cabinet membership, bound by collective responsibility of the ministry.

**Ministry** means the Ministry of Health

**nurse practitioner** means a health practitioner who—

(a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice permits the performance of nurse practitioner functions; and

(b) holds a current practising certificate

**person who is eligible for assisted dying** has the meaning given to it in section 4

**pharmacist** means a health practitioner who—

(a) is, or is deemed to be, registered with the Pharmacy Council established by section 114(5) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of pharmacy; and

(b) holds a current practising certificate

**SOP 270 (Chris Penk)**

**Clause 3**

In clause 3, definition of **pharmacist**, in paragraph (b), after “certificate” (page 3, line 37), insert

“; and”.

In clause 3, definition of **pharmacist**, after paragraph (b) (page 3, after line 37), insert:
is not associated with either the attending medical practitioner or the independent medical practitioner in any of the following ways:

(i) in a financial manner:
(ii) in a closely shared professional manner, for example practising within the same medical practice or sharing premises:
(iii) in any personal capacity.

Explanatory note SOP 270

This Supplementary Order Paper amends the End of Life Choice Bill to provide a bare minimum level of protection regarding the possibility of conflicts of interests that may exist between the various health professionals involved in executing a person’s decision making under this legislation.

SOP 271 (Agnes Loheni)

Clause 3
In clause 3, definition of pharmacist, after paragraph (a) (page 3, line 36), insert:

(ab) has not been the subject of a written complaint to any relevant professional body (including, for the avoidance of doubt, the Health and Disability Commissioner) in relation to any thing done or failed to have been done in accordance with, or nominally in accordance with, this Act; and

Explanatory note SOP 271

This Supplementary Order Paper amends the End of Life Choice Bill to ensure that a pharmacist executing authority provided under this legislation cannot be one who is questionable in relation to ethical or professional practices.

SOP 272 (Kanwaljit Singh Bakshi)

Clause 3
In clause 3, definition of pharmacist, in paragraph (a), after “profession of pharmacy” (page 3, after line 36), insert

“, and has been registered for a period of at least 5 years”
In clause 3, definition of pharmacist, in paragraph (b), after “practising certificate” (page 3, after line 37), insert

“and has held a practising certificate continuously in New Zealand for a period of at least 5 years and has never had their practising certificate cancelled”

Explanatory note SOP 272
This Supplementary Order Paper amends the End of Life Choice Bill to provide a minimum level of qualification for a pharmacist (as defined) in relation to registration and length of practice. A pharmacist who does not have at least some minimal level of experience practising medicine must be regarded as being even less safe to provide euthanasia and/or assisted suicide services than one who has a greater level of experience.

psychiatrist means a medical practitioner whose scope of practice includes psychiatry

SOP 273 (Melissa Lee)
Clause 3
In clause 3, replace the definition of psychiatrist (page 4, lines 1 and 2), with:

psychiatrist means a medical practitioner—

(a) whose scope of practice includes psychiatry; and
(b) who is not associated with either the attending medical practitioner or the independent medical practitioner in any of the following ways:

(i) in a financial manner:
(ii) in a closely shared professional manner, for example practising within the same medical practice or sharing premises:
(iii) in any personal capacity.

Explanatory note SOP 273
This Supplementary Order Paper amends the End of Life Choice Bill to provide a bare minimum level of protection regarding the possibility of conflicts of interests that may exist between the various health professionals involved in executing a person’s decision making under this legislation.
SOP 274 (Kanwaljit Singh Bakshi)

Clause 3
In clause 3, replace the definition of psychiatrist (page 4, lines 1 and 2), with:

*psychiatrist* means a medical practitioner—
(a) whose scope of practice includes psychiatry; and
(b) who has not been the subject of a written complaint to any relevant professional body (including, for the avoidance of doubt, the Health and Disability Commissioner) in relation to any thing done or failed to have been done in accordance with, or nominally in accordance with, this Act

Explanatory note SOP 274

*This Supplementary Order Paper amends the End of Life Choice Bill to ensure that a psychiatrist executing authority provided under this legislation cannot be one who is questionable in relation to ethical or professional practices.*

SOP 275 (Agnes Loheni)

Clause 3
In clause 3, definition of psychiatrist, after “psychiatry” (page 4, line 2), insert

“, and has done for a period of at least 5 years”

Explanatory note SOP 275

*This Supplementary Order Paper amends the End of Life Choice Bill to provide a minimum level of experience for a psychiatrist (as defined) as a medical practitioner who has practised in the field of psychiatry specifically – rather than in medicine more generally – for at least the period of time specified. If the expertise of a psychiatrist is to be relied upon in relation to decision making regarding euthanasia and assisted suicide then the legislation should state clearly that such expertise of a practitioner must be in the particular field of psychiatry.*
psychologist means a health practitioner who—
(a) is, or is deemed to be, registered with the Psychologists Board continued by section 114(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of psychology; and
(b) holds a current practising certificate
Registrar means the Registrar (assisted dying) nominated under section 21
Review Committee means the committee established appointed under section 20
SCENZ means Support and Consultation for End of Life in New Zealand
SCENZ Group means the body established under section 19.

specialist means a psychiatrist or a psychologist.

Meaning of person who is eligible for assisted dying or eligible person

(1) In this Act, person who is eligible for assisted dying or eligible person means a person who—
(a) is aged 18 years or over; and

SOP 283 (Simeon Brown)

Clause 4
In clause 4, replace “18 years” (page 4, line 16) with “25 years”.

Explanatory note SOP 283

This Supplementary Order Paper amends the minimum age of eligibility for assisted dying under the Act. The age of 25 is more appropriate as it reflects the age at which someone is considered an adult according to the United Nations. Those between the age of 15 and 24 are considered ‘youth’ according to the United Nations, with mental maturity and cognitive capacity that is considerably less than those of their older counterparts. Due to the importance and irrevocable nature of the choice to pursue physician assisted suicide, mental maturity is an indisputable precondition. This is consistent with the mental health wellbeing criteria that is also listed in this Bill, requiring that individuals be in a state of mind consistent with the capacity to make such a dramatic decision. Mental maturity should be considered part of this overall mental wellbeing criteria and elevated to 25 years of age. As it stands, clause (4)(1)(a) is inconsistent with clause (4)(f)(i) and (4)(f)(ii), as under 25 year olds, as a group, do not have adequate cognitive maturity.

(b) is—
(i) a person who has New Zealand citizenship as provided in the Citi-
zenship Act 1977; or
(ii) a permanent resident as defined in section 4 of the Immigration Act 2009; and
(c) suffers from—
(i) a terminal illness that is likely to end the person’s life within 6 months; or
(ii) a grievous and irremediable medical condition; and
(c) suffers from a terminal illness that is likely to end the person’s life within 6 months; and

SOP 276 (Chris Penk)

Clause 4
In clause 4(c)(i) (page 4, lines 23 to 24), after “that is likely”, insert

“, on the balance of probabilities.”.

Explanatory note SOP 276

This Supplementary Order Paper amends the End of Life Choice Bill to clarify that the burden of proof for determining eligibility, under the “terminal illness” criterion, is the balance of probabilities, being a common standard employed in civil litigation.

SOP 277 (Simon O’Connor)

Clause 4
In clause 4(c)(i) (page 4, lines 23 to 24), after “that is likely”, insert

“, beyond reasonable doubt.”.

Explanatory note SOP 277

This Supplementary Order Paper amends the End of Life Choice Bill to clarify that the burden of proof for determining eligibility, under the “terminal illness” criterion, is beyond reasonable doubt, being the standard employed to determine criminal guilt (for example, culpable homicide under the Crimes Act 1961).
SOP 280 (Simon O’Connor)

Clause 4
In clause 4(c)(i), after “6 months” (page 4, line 24), insert “, except where such a prognosis is partly or wholly based upon an understanding that the person intends to refuse medical treatment”.

Explanatory note SOP 280
This Supplementary Order Paper amends the End of Life Choice Bill to provide that a qualifying “terminal illness” is one that would be considered likely to end the person’s life despite treatment that might (otherwise) ordinarily be expected to be provided to the person.

SOP 281 (Paulo Garcia)

Clause 4
In clause 4(c)(i), after “6 months” (page 4, line 24), insert “in the opinion of every medical practitioner who is involved in a process connected to the operation of this Act in relation to the person”.

Explanatory note SOP 281
This Supplementary Order Paper amends the End of Life Choice Bill to clarify that all relevant medical practitioners need to hold an opinion that the terminal illness criterion is met. This amendment is designed to avoid confusion in a situation where, for example, one medical practitioner is of the opinion that a person’s terminal illness is not likely to end that person’s life within 6 months and other medical practitioner is of a different opinion.

SOP 282 (Simeon Brown)

Clause 4
In clause 4, replace “6 months” (page 4, line 24) with “1 month”.

Explanatory note SOP 282
This Supplementary Order Paper amends the Bill to ensure that those who are eligible for assisted dying are those who have an imminently short amount of time left to live, rather than those who have up to 6 months. This provides greater certainty that those who are eligible will be those with only a very short period of time left to live. Evidence from palliative care experts has made it clear that predicting whether a life limiting condition in the terminal stage will
render someone with 6 months or less to live can be very difficult to prove, with many instances of the wrong diagnosis being given. This Supplementary Order Paper limits this risk substantially. The symptoms that present for those who may likely die within 6 months are far more difficult to accurately assess than the symptoms that present for those who may likely die within 1 month.

**SOP 284 (Simeon Brown)**

**Clause 4**

In clause 4, replace “terminal illness” (page 4, line 23) with “life-limiting condition in the terminal stage”.

**Explanatory note SOP 284**

This Supplementary Order Paper ensures that the language which is used in this Bill regarding the eligibility of people who are requesting assisted dying is consistent with the language used in the palliative care sector. Nascent terminal illnesses may be identified years, even decades, prior to depriving the individual in question of wellbeing or causing them to die. While these conditions or diseases progressively undermine the wellbeing of the individual, simply listing ‘terminal illness’ places this clause at odds with other criteria of this legislation. ‘Life-limiting condition in the terminal stage’ ensures consistency with clause (4)(c)(i).

(d) is in an advanced state of irreversible decline in physical capability; and

**SOP 285 (Simeon Brown)**

**Clause 4**

In clause 4, replace “irreversible decline in capability” (page 4, line 26) with “increasing disability”.

**Explanatory note SOP 285**

This Supplementary Order Paper amends clause 4(d) to ensure the language accurately reflects the state in which someone is in when they are dying, becoming more disabled. Many people spend extensive periods of their lives with various degrees of fluctuating capability, yet with overall wellbeing. The point in question concerning physician assisted suicide is disability, limiting wellbeing of the individual in question, rather than the capability of the individual, speaking to functions they may perform.

(e) experiences unbearable suffering that cannot be relieved in a manner that the person considers tolerable; and
**SOP 286 (Simeon Brown)**

Clause 4
In clause 4, replace “relieved in a manner that the person considers tolerable” (page 4, lines 27 to 28) with

“alleviated by palliative care, after being treated by palliative care”.

**Explanatory note SOP 286**
This Supplementary Order Paper amends clause 4(e) to ensure that those who request assisted dying are those who have no other option, as they have already sought support from palliative care experts and been in a palliative care facility. The New Zealand medical profession is based on the presumption that it is there to care for people. Due to the severity and irrevocability of physician assisted suicide, the option for those who request such care should only be available for those where there is no other option to manage their pain and suffering. It is necessary that this Bill explicitly list this condition, in order to ensure that alternatives which may have managed their pain and suffering have been fully exhausted.

**SOP 261 (Hon Dr Nick Smith)**

Clause 4
In clause 4, replace paragraph (e) (page 4, lines 27 and 28) with:

(e) experiences pain the attending medical practitioner considers unmanageable; and

**Explanatory note SOP 261**
The Bill as written considers only individually defined tolerance for suffering, leaving the person open to greater likelihood of coercion. Requiring that the attending medical practitioner consider the pain to be unmanageable would limit this potential by restricting assisted dying to those whom a doctor considers will still experience pain, even with attempts to manage it.

(f) has the ability to understand—

(i) the nature of assisted dying; and
(ii) the consequences for them of assisted dying.

(f) is competent to make an informed decision about assisted dying.

(2) A person is not a person who is eligible for assisted dying or an eligible person by reason only that the person—
(a) is suffering from any form of mental disorder or mental illness; or
(b) has a disability of any kind; or
(c) is of advanced age.

4A **Meaning of competent to make an informed decision about assisted dying**

In this Act, a person is **competent to make an informed decision about assisted dying** if the person is able to—

(a) understand information about the nature of assisted dying that is relevant to the decision; and
(b) retain that information to the extent necessary to make the decision; and
(c) use or weigh that information as part of the process of making the decision; and
(d) communicate the decision in some way.

**SOP 262 (Maggie Barry)**

**Clause 3**

In clause 3, after the definition of **competent** (page 3, line 11), insert:

*decision-making capacity* has the meaning given in section 4A

**Clause 4**

In clause 4, replace paragraph (f) (page 4, lines 29 to 31) with:

(f) has decision-making capacity.

**New clause 4A**

After clause 4 (page 4, after line 31), insert:

4A **Meaning of decision-making capacity**

(1) A person has decision-making capacity in relation to assisted dying if the person is able to—

(a) understand the information relevant to the decision relating to access to assisted dying and the effect of the decision; and
(b) retain that information to the extent necessary to make the decision; and
(c) use or weigh that information as part of the process of making the decision; and
(d) communicate the decision and the person’s views and needs as to the decision in some way, including by speech, gestures or other means.

(2) For the purposes of *subsection (1)(a)*, a person is taken to understand information relevant to the decision if the person understands an
explanation of the information given to the person in a way that is appropriate to the person’s circumstances, whether by using modified language, visual aids, or any other means.

(3) In determining whether or not a person has decision-making capacity, regard must be had to the following:

(a) a person may have decision-making capacity to make some decisions and not others:

(b) if a person does not have decision-making capacity to make a particular decision, it may be temporary and not permanent:

(c) it should not be assumed that a person does not have decision-making capacity—
   (i) on the basis of the person’s appearance; or
   (ii) because the person makes a decision that is, in the opinion of others, unwise:

(d) a person has decision-making capacity to make a decision if it is possible for the person to make a decision with practicable and appropriate support.

(4) A person is presumed to have decision-making capacity unless there is evidence to the contrary.

(5) A person who is assessing whether a person has decision-making capacity for the purposes of this Act must take reasonable steps to conduct the assessment at a time and in an environment in which the person’s decision-making capacity can be most accurately assessed.

(6) In this section, **practicable and appropriate support** includes the following:

(a) using information or formats tailored to the particular needs of a person:

(b) communicating or assisting a person to communicate the person’s decision:

(c) giving a person additional time and discussing the matter with the person:

(d) using technology that alleviates the effects of a person’s disability.

**Explanatory note SOP 262**

*This Supplementary Order Paper inserts the provision defining decision-making capacity set out in section 4 of the Voluntary Assisted Dying Act of Victoria, Australia, edited for the definitions of the End of Life Choice Bill and with a consequential change to the bar-2 version of the bill’s ‘understanding’ subclause regarding eligibility.*

The bill currently makes only limited requirements for ascertaining the competence or decision making capacity of the person seeking assisted dying. In the bar-2 version of the bill, the person only needs the ability to understand “the nature of assisted dying” and “the consequences of them dying”.
New clause 4A sets out a fuller test for decision-making capacity in subclause (1) and several consequential considerations in subsequent subclauses concerning presumption of capacity, communication appropriate to circumstances, regard to the nature of capacity, and reasonable steps to accurately assess capacity.

**SOP 263 (Maggie Barry)**

New clause 4A

After clause 4 (page 4, after line 31), insert:

4A Principles

A person exercising a power or performing a function or duty under this Act must have regard to the following principles:

(a) every human life has equal value:

(b) a person’s autonomy should be respected:

(c) a person has the right to be supported in making informed decisions about their medical treatment, and should be given, in a manner the person understands, information about medical treatment options including comfort and palliative care:

(d) every person approaching the end of their life should be provided with quality care to minimise their suffering and maximise their quality of life:

(e) a therapeutic relationship between a person and the person’s health practitioner should, wherever possible, be supported and maintained:

(f) individuals should be encouraged to openly discuss death and dying and an individual’s preferences and values should be encouraged and promoted:

(g) individuals should be supported in conversations with the individual’s health practitioners, family and carers, and community about treatment and care preferences:

(h) individuals are entitled to genuine choices regarding their treatment and care:

(i) there is a need to protect individuals who may be subject to abuse:

(j) all persons, including health practitioners, have the right to be shown respect for their culture, beliefs, values, and personal characteristics.

Explanatory note SOP 263

This Supplementary Order Paper adds the principles set out in section 5 of the Voluntary Assisted Dying Act of Victoria, Australia. In order to guide any review of decisions made under the End of Life Choice Act, the principles under which those decisions should be made must be set out.
5 Act binds the Crown
This Act binds the Crown.

Part 2 Assisted dying

5A Conscientious objection
(1) A health practitioner is not under any obligation to assist any person who wishes to exercise the option of receiving assisted dying under this Act if the health practitioner has a conscientious objection to providing that assistance to the person.

(2) **Subsection (1)**—
   (a) applies despite any legal obligation to which the health practitioner is subject, regardless of how the legal obligation arises; but
   (b) does not apply to the obligation in **section 6(2).**

(3) An employer must not—
   (a) deny to an employee any employment, accommodation, goods, service, right, title, privilege, or benefit merely because the employee objects on the grounds of conscience to providing any assistance referred to in **subsection (1);** or
   (b) provide or grant to an employee any employment, accommodation, goods, service, right, title, privilege, or benefit conditional upon the employee providing or agreeing to provide any assistance referred to in **subsection (1).**

(4) A person who suffers any loss by reason of any breach of **subsection (3)** is entitled to recover damages from the person responsible for that breach.

(5) In **subsection (3),** **employee** includes a prospective employee.

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**SOP 299 (Chris Penk) Proposed amendment to SOP 259**

**Clause 5A**
Replace **new clause 5A** (pages 6 and 7) with:

**5A Conscientious objection by person**

(1) No person is under any obligation to do anything under this Act, if the person objects on the ground of conscience.

(2) **Subsection (1)** applies despite any legal obligation to which a health practitioner or any other person is subject, regardless of how the legal obligation arises.

(3) No person may be—
(a) denied any employment, accommodation, good, service, right, title, privilege, or benefit of any kind merely because they object on the grounds of conscience as referred to in subsection (1); or

(b) provided or granted any employment, accommodation, good, service, right, title, privilege, or benefit of any kind conditional upon them doing a thing under this Act.

(4) No agency or entity of the Crown, including district health boards, the Accident Compensation Corporation, or other public sector entity responsible for funding, commissioning, purchasing, or procuring services on behalf of the New Zealand taxpayer may—

(a) make a funding decision against any person on the basis that such person has a conscientious objection to providing assisted dying services; or

(b) make conditional on the provision of assisted dying services any agreement for service or other funding.

(5) A person exercising their right of conscientious objection under this section may, but is not obliged to, do any or all of the following things:

(a) promote, publish, or otherwise publicly communicate that they have a conscientious objection to providing assisted dying services:

(b) include in conditions of admission, residence, care, or other service that they are a person who has a conscientious objection to providing assisted dying services:

(c) include as a term of employment offered to a prospective employee or contractor that the person to whom this section applies has a conscientious objection to providing assisted dying services and that the prospective employees or contractors will be bound by the prohibition on providing assisted dying services:

(d) include in their contractual arrangements with employees and other agents a provision that the employees or other agents will not provide assisted dying services.

(6) A person who suffers any loss by reason of any breach of subsection (3) is entitled to recover damages from the person responsible for that breach.

Explanatory note SOP 299

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill to replace clause 5A, in order to protect the freedom of conscience of the persons within the New Zealand medical profession.
This fundamental freedom should not be restricted in a manner that relates only to certain aspects of the process detailed in the legislation.

It should also not be restricted in its application only to certain members of the medical profession, hence the amendment uses the phrase “a person” or “any person” rather than limiting enjoyment of the freedom to a practitioner acting as an attending medical practitioner (as that term is defined).

SOP 295 (Hon Michael Woodhouse)

New clause 5B
After new clause 5A (page 7), insert:

5B Conscientious objection by organisation

(1) An organisation is not under any obligation to assist any person who wishes to exercise the option of receiving assisted dying under this Act if the organisation has a conscientious objection to providing that assistance to the person.

(2) Subsection 1—

(a) applies to any company, trust, incorporated society, or other legal entity not owned by the Crown that has as part or all of its service the provision of—

(i) health and disability services:
(ii) aged residential care services:
(iii) long term hospital care:
(iv) dementia care:
(v) services for persons with physical or intellectual disabilities:
(vi) palliative care:
(vii) hospice care:
(viii) any other service that might bring the organisation into contact with a person who wishes to exercise the option of receiving assisted dying; and

(b) applies regardless of whether the organisation receives any funding for services unrelated to assisted dying from the Crown.

(3) An organisation described in subsection (1) may—
(a) promote, publish, or otherwise publicly communicate that it is an organisation that has a conscientious objection to providing assisted dying:

(b) include in its conditions of admission, residence, care, or other service that it is an organisation that has a conscientious objection to providing assisted dying:

(c) include as a term of employment offered to a prospective employee that—

(i) it is an organisation that has a conscientious objection to providing assisted dying:

(ii) the prospective employees are bound by a prohibition on providing assisted dying

(d) on or after the day after the Act comes into force, amend the employment agreements of staff by adding a clause stating that the employee will not provide assisted dying:

(e) include as a term of access or admitting rights offered to a health professional who is not an employee that—

(i) it is an organisation that has a conscientious objection to providing assisted dying:

(ii) those health professionals are bound by a prohibition on providing assisted dying

(f) on or after the day after the Act comes into force, amend access or admitting rights agreements (or similar) between the organisation and any health professional who is not an employee by adding a clause stating that the health professional will not provide assisted dying:

(g) include as a term of any volunteer access agreement (or similar) to a volunteer or prospective volunteer that—

(i) it is an organisation that has a conscientious objection to providing assisted dying:

(ii) volunteers or prospective volunteers are bound by a prohibition on providing assisted dying:
(h) on or after the day the Act comes into force, amend volunteer access agreements (or similar) between the organisation and any volunteer by adding a clause stating that the volunteer will not provide assisted dying.

(4) No department, Crown entity (including the Accident Compensation Corporation or any District Health Board), or other public sector entity responsible for funding, commissioning, purchasing, or procuring services on behalf of the New Zealand taxpayer may—

(a) make a funding decision against any organisation on the basis that it has a conscientious objection to providing assisted dying services:

(b) offer an agreement for service or other funding arrangement to an organisation on the condition that it provide assisted dying services.

Explanatory note SOP 295

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill to insert new clause 5B. The amendment extends the protection the Bill offers to employees and attending medical practitioners with a conscientious objection to include those organisations that, on grounds of conscience, do not wish to offer assisted dying services.

Many organisations involved in medical, aged, and palliative care services have a mission to promote healthy living and a death that is not hastened by assisted dying services. They may be faith-based and object on religious grounds, or otherwise have a mission and ethos that is at odds with the purpose of the End of Life Choice Bill.

The underlying principle of the Bill is to allow a person to seek assisted dying if that is their will, but it also gives individuals the choice not to provide assisted dying services. Non-Government organisations should also be free to exercise that choice without negative consequences for the services they provide. This amendment achieves that goal while ensuring that end of life choices remain an option in organisations that are prepared to offer them.

6 Effect of conscientious objection by attending medical practitioner

(1) This section applies if—

(a) a person informs the attending medical practitioner under section 8(1) that they wish to exercise the option of receiving assisted dying; and
(b) the attending medical practitioner has a conscientious objection to providing that option to the person.

(2) The attending medical practitioner must tell the person—

(a) of their conscientious objection; and

(b) of the person’s right to ask the SCENZ Group for the name and contact details of a replacement medical practitioner.

SOP 209 (Simon O’Connor)

Clause 6

In clause 6, replace subsection (2) (page 5, lines 28 to 31) with:

(2) The attending medical practitioner must tell the person of their conscientious objection.

Explanatory note SOP 209

This Supplementary Order Paper amends the End of Life Choice Bill. The purpose of this amendment is to ensure that medical practitioners who have a conscientious objection to assisted dying are not required to provide information that contravenes their objections.

(3) If the person chooses to have a replacement medical practitioner, all subsequent references in this Act to the attending medical practitioner (except in section 8(1)) are to the person’s replacement medical practitioner.

7 Assisted dying must not be initiated by health practitioner

(1) A health practitioner who provides any health service to a person must not, in the course of providing that service to the person,—

(a) initiate any discussion with the person that, in substance, is about assisted dying under this Act; or

(b) make any suggestion to the person that, in substance, is a suggestion that the person exercise the option of receiving assisted dying under this Act.

(2) Subsection (1) does not prevent a health practitioner from—

(a) discussing with a person, at that person’s request, assisted dying under this Act; or

(b) providing information to a person, at that person’s request, about assisted dying under this Act.

(3) A health practitioner who contravenes subsection (1)—
(a) is not to be treated as having committed an offence under section 27(1); but

(b) may under the Health and Disability Commissioner Act 1994 be found by the Health and Disability Commissioner or held by the Human Rights Review Tribunal to have acted in breach of the Code of Health and Disability Services Consumers’ Rights by providing services that do not comply with relevant legal standards; and

(c) may be the subject of disciplinary proceedings for professional misconduct under the Health Practitioners Competence Assurance Act 2003.

(4) In this section, health service has the meaning given to it by section 5(1) of the Health Practitioners Competence Assurance Act 2003.

8 Request made

(1) A person who wishes to have exercise the option of receiving assisted dying must inform the attending medical practitioner of their wish.

SOP 307 (Chris Penk) Proposed amendment to SOP 259

Clause 8

In clause 8, replace subclause (1) (page 8) with:

(1) A person who wishes to exercise the option of receiving assisted dying may, but is not obliged to, inform the attending medical practitioner of their wish.

Explanatory note SOP 307

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill to amend clause 8 of. It would remove an element of compulsion currently in the legislation—as indicated by the word “must”—in relation to a person who wishes to die by euthanasia or assisted suicide.

It is utterly intolerable that a person be compelled by law to inform another person of any wish that they have to die under this Act, particularly given that a person may change their mind after having that particular wish.

One can only assume that the member in charge of the Bill intended to state that “receiving assisted dying” is not available unless a person expresses such a wish. As drafted, however, the legislation requires disclosure (on the face of it, immediately upon the person having that wish). This is disappointingly poor drafting, given the vulnerability of the persons involved and the potentially significant consequences of such ambiguity.

SOP 308 (Hon Maggie Barry)
Clause 8
In clause 8, after subclause (1) (page 6, after line 3), insert:

(1A) The person referred to in subsection (1) must also, on a second occasion not less than 1 week after meeting the requirement of subsection (1), again inform the attending medical practitioner of such wish.

Explanatory note SOP 308
This Supplementary Order Paper amends clause 8 of the End of Life Choice Bill to provide for a second expression of the person’s wish for assisted dying. This represents a modest “cooling off” period, recognising that a period of a week may see a material change in a person’s physical, mental, and emotional state, such that they do not wish to receive assisted dying as they would have when expressing their wish initially.

It is important that the law reflect the medical reality regarding the common phenomenon of depression resulting, often merely temporarily, from a diagnosis of terminal illness.

Without the law requiring that a person’s wish be re-expressed a week after initially having been expressed, they may make an irrevocable decision at a time that they are temporarily depressed specifically as a result of not having come to terms with a diagnosis, whether accurate or not, of terminal illness.

(2) The attending medical practitioner must—
   a. give the person the following information:
      i. the prognosis for the person’s terminal illness or grievous and irreparable medical condition; and
      ii. the irreversible nature of assisted dying; and
      iii. the anticipated impacts of assisted dying; and
   b. personally communicate by any means (for example, by telephone or using electronic communication) with the person about the person’s wish at intervals determined by the progress of the person’s terminal illness or medical condition; and
   c. ensure that the person understands their other options for end-of-life care; and

SOP 313 (Paulo Garcia)
Clause 8
In clause 8(2), replace paragraph (c) (page 6, lines 14 and 15) with:
(c) ensure that the person understands their options for the range of health services available to meet their needs, including all aspects of available palliative care; and

(ca) procure and fully examine all the person’s medical records in order to advise the person of the range of health services available to meet their needs under paragraph (c); and

Explanatory note SOP 313
This Supplementary Order Paper amends clause 8 of the End of Life Choice Bill. It would require that every person who has expressed their wish to be euthanised be provided greater detail about their available care options, ensuring that they are well and truly fully informed about them. It further requires the medical practitioner to exert all efforts to fully understand the extent of the care needs of the person, and ensure the information provided to the person is not only appropriate but sensitive to the person’s total health needs.

SOP 314 (Paulo Garcia)

Clause 8
In clause 8(2), replace paragraph (c) (page 6, lines 14 and 15) with:

(c) ensure that the person understands their other options for end-of-life care, including the following in particular as valid legal alternatives to assisted dying under this Act:

(i) palliative care:

(ii) receiving pain relief that may have the incidental effect of shortening life:

(iii) the person’s right to refuse medical treatment to sustain or prolong their life; and

Explanatory note SOP 314
This Supplementary Order Paper amends clause 8 of the End of Life Choice Bill to ensure that a person who is contemplating euthanasia or assisted suicide is informed of various other options available to them under the law (namely those existing prior to, and separate from, the Bill). The amended clause 8(2)(c) will detail some of those options that are commonly misunderstood to be included within the meaning of “assisted dying”, namely:

• palliative care
• receiving pain relief that may have the incidental effect of shortening life
• a person’s right to refuse medical treatment to sustain or prolong their life.
d. ensure that the person knows that they can change their mind decide at any time before the administration of the medication not to receive the medication; and

e. encourage the person to discuss their wish with others such as family, friends, and counsellors; and

**SOP 260 (Hon Dr Nick Smith)**

*Clause 8*

In clause 8(2), after paragraph (d) (page 6, after line 17) insert:

(da) ensure the person discusses their wish with their immediate family (their partner, parents or children); and

In clause 8(2)(e), replace “family, friends, and” (page 6, lines 18 and 19) with “friends or”.

**Explanatory note SOP 260**

The current Bill does not require a person requesting euthanasia to discuss this with their family. This means somebody’s partner, parents or children will not find out until after the person is dead. This amendment ensures the person discusses their wish with their immediate family, defined as their partner, parents or children. The requirement to discuss does not prevent the person making a decision independently of their immediate family, and ensures family are involved prior to a person’s life being terminated.

f. ensure that the person knows that they are not obliged to discuss their wish with anyone; and

g. ensure that the person has had the opportunity to discuss their wish with those whom they choose; and

h. do their best to ensure that the person expresses their wish free from pressure from any other person by—

i. conferring with other health practitioners who are in regular contact with the person; and

ii. conferring with members of the person’s family approved by the person; and

i. complete the first part of the prescribed form requesting the option of assisted dying by recording the actions the attending medical practitioner took to comply with paragraphs (a) to (h),

i. record the actions they have taken to comply with paragraphs (a) to (h) in the first part of the approved form that requests the option of receiving
assisted dying.

SOP 315 (Hon Maggie Barry) Proposed amendment to SOP 259

Clause 8
In clause 8(2)(i), after “receiving assisted dying” (page 9), insert

“, appending to the approved form all relevant documents relied upon by the attending medical practitioner in making their determination that paragraphs (a) to (h) have been complied with fully, including but not limited to the person having expressed their wish free from pressure from any other person”.

Explanatory note
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill to amend clause 8 to require that documentation be provided in support of an attending medical practitioner’s decision that the procedural requirements of clause 8 have been met. This is an important safeguard to ensure a measure of accountability, given that the decision may have been based on documentary evidence, such as written records by other health professionals about interactions of the person with family members prior to the involvement of the attending medical practitioner.

SOP 300 (Simeon Brown)

Clause 8
Replace clause 8(2) (page 6, lines 4 to 32) with:

(2) The attending medical practitioner must—

(a) give the person the following information:

(i) an accurate prognosis for the terminal illness; and
(ii) the irreversible nature of assisted dying; and
(iii) the anticipated impacts of assisted dying on whānau; and

(b) talk face to face with the person about their wish at intervals determined by the progress of their terminal illness; and

(c) ensure that the person has exhausted all options for end-of-life care; and

(d) require the person to talk about their wish with at least two others such as family, friends, and counsellors; and
(e) verify that the person has talked about their wish with at least two other people other than the attending medical practitioners; and
(f) certify beyond all reasonable doubt that the person expresses their wish free from undue influence or pressure from any other person by—

   (i) talking with other health practitioners who are in regular contact with the person; and
   (ii) talking with members of the person’s family; and
   (iii) talking to any other person that the health practitioner may determine as necessary to ensure the absence of coercion; and
   (iv) talking to any other person the health practitioner may determine as necessary to ensure the absence of abuse;

(g) complete the first part of the prescribed form requesting the option of assisted dying by recording the actions the attending medical practitioner took to comply with paragraphs (a) to (f).

**Explanatory note SOP 300**

This Supplementary Order Paper amends clause 8 of the End of Life Choice Bill by increasing the specificity of the requirements related to the process that must be undertaken when a request is made for physician-assisted suicide. These amendments will provide further safeguards against this decision being taken without a full appreciation of the consequences, and against coercion or other untoward influences. Specifying requirements such as a face-to-face meeting occurring between practitioner and patient, stipulating that the full effects of the death are considered with relation to whānau, and ensuring that alternative options for end-of-life care means more comprehensive support and exploration of the consequences of physician-assisted suicide are provided.

**SOP 301 (Simeon Brown)**

**Clause 8**
Replace clause 8(2) (page 6, lines 4 to 32) with:

(2) The attending medical practitioner must—

   (a) give the person the following information:

   (i) an accurate prognosis for the terminal illness; and
   (ii) the irreversible nature of assisted dying; and
(iii) the anticipated impacts of assisted dying on whānau; and
(iv) confirm the presence of a translation service provider where the patient is unable, uncomfortable, or unwilling to engage in discussion in English, Māori, or New Zealand Sign Language; and
(v) ensure that a translation service provider is present where the attending medical practitioner is unable to comprehend the patient’s preferred language; and

(b) ensure that an audio or audio-visual recording is made of the conversation under **paragraph (a)** immediately after the medical practitioner becomes aware of the patient’s wish, and that the recording is held on file for review if requested by counsellors, any other attending medical practitioners, or persons with legal authority to do so; and

(c) talk face to face with the person about their wish at intervals determined by the progress of their terminal illness; and

(d) ensure that the person has exhausted all options for end-of-life care; and

(e) ensure that the person knows that they can change their mind at any time before the administration of the medication; and

(f) require the person to talk about their wish with at least two others such as family, friends, and counsellors in separate audio- or audio-visual-recorded meetings or conversations; and

(g) verify that the person has talked about their wish with at least two other people other than the attending medical practitioners or fellow patients; and

(h) certify beyond all reasonable doubt that the person expresses their wish free from undue influence or pressure from any other person by—

(i) talking with other health practitioners who are in regular contact with the person; and

(ii) talking with members of the person’s family; and

(iii) talking to any other person that the health practitioner may determine as necessary to ensure the absence of coercion; and

(iv) talking to any other person the health practitioner may determine as necessary to ensure the absence of abuse; and

(v) complete the first part of the prescribed form requesting the option of assisted dying by recording the actions the attending medical practitioner took to comply with **paragraphs (a) to (h)**.
Explanatory note SOP 301
This Supplementary Order Paper amends clause 8 of the End of Life Choice Bill to ensure that an attending medical practitioner, upon receiving a request, gives their patient the ability to request a translator before any further steps regarding the request are undertaken, and that the patient has been able to consult with family and other individuals they trust so there is clarity of the patient’s request beyond reasonable doubt, with key steps of the discussions being recorded for review.

9 Request confirmed
(1) This section applies after the attending medical practitioner complies with section 8 is complied with.
(2) If the person requesting to exercise the option of receiving assisted dying (A) wishes to proceed, the attending medical practitioner must give the person A the prescribed approved form requesting the option of assisted dying referred to in section 8(2)(i).

SOP 317 (Agnes Loheni)

Clause 9
In clause 9(2), replace “wishes to proceed,” (page 6, line 35) with

“still appears to wish to proceed, and has done nothing to indicate that they may have changed their mind after previously expressing a wish for assisted dying under section 8.”.

Explanatory note
This Supplementary Order Paper amends clause 9 of the End of Life Choice Bill by clarifying that a person’s apparent wish to proceed to receive assisted dying services cannot be in spite of indications to the contrary.

It is possible in any given situation, based on overseas experience and advice from health professionals in New Zealand, that a person may express a wish to receive assisted dying and then revoke such a wish. It is important that an indication of a person’s wish being revoked not be disregarded merely because it occurs after the formal process detailed in clause 8.
SOP 304 (Simon O’Connor)

Clause 9

In clause 9(3), replace “A must” (page 9) with “A may”.

Explanatory note SOP 304

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by removing an element of compulsion currently in the legislation – as indicated by the word “must” – in relation to a person who wishes to die by euthanasia or assisted suicide. It is utterly intolerable that a person be required by law to sign and date the second part of the relevant form – which is the apparent meaning of subclause 3(a) as drafted in clause 9 (including as proposed to be amended by SOP 259) – merely because they have previously expressed a wish to receive assisted dying. This drafting anomaly should be rectified to make it clear that a person is not required to proceed with this stage of the assisted dying process if they have changed their mind.

(a) sign and date the second part of the form; or
(b) be present when the second part of the form is signed and dated as described in subsection (4).

SOP 305 (Simeon Brown)

Clause 9

Replace clause 9(3)(b) (page 7, lines 1 and 2) with:
(b) be physically present and competent in all respects, other than the fact that subsection (4)(a) applies, to sign and date the second part of the form.

Explanatory note
This Supplementary Order Paper amends the End of Life Choice Bill by providing some more protection in a situation where a person has expressed a wish to receive assisted dying and someone else is to sign the form on their behalf. According to this proposed amendment, the person must be physically present at the time of the form being signed (so that they have an opportunity to understand what is happening) and not incompetent (so that they have an opportunity to express that their wish has been revoked).

(4) The second part of the form may be signed and dated by a person other than the person to whom it relates another person (B) if—

(a) the person to whom it relates A cannot write for any reason; and

(b) the person to whom it relates A requests the other person B to sign and date it; and

(c) the person who signs and dates the part B notes on it the form that they did so signed the second part of the form in the presence of the person to whom the form relates A; and

(d) the person who signs and dates the part B confirms on the form that B is not—

(i) a health practitioner caring for the person to whom the part relates A; or

(ii) a person who reasonably believes that they are likely to benefit from the death of the person to whom the part relates A; or

SOP 306 (Melissa Lee) Proposed amendment to SOP 259
Clause 9
Replace clause 9(4)(d)(ii) (page 9) with:

(ii) a person who reasonably believes that they are likely to benefit from the death of A, including by having considered whether B may inherit property from the estate of A; or

Explanatory note
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by requiring that a form consenting to assisted dying cannot be signed
on behalf of a person by someone who is reasonably likely to receive some kind of inheritance following the person’s death.

The implications of such a conflict of interest are obvious. This Supplementary Order Paper provides a greater degree of protection as it requires the possible beneficiary to have turned their mind to the possibility of inheriting from the person who is likely shortly to be dead following the application of euthanasia or assisted suicide.

(iii) a person aged under 18 years; or
(iv) a person with a mental incapacity.

(5) The attending medical practitioner must—
(a) be present when—
(i) subsection (3)(a) is complied with; or
(ii) subsections (3)(b) and (4) are complied with; and
(b) collect the form; and
(c) send the completed form to the Registrar.

10 **First opinion reached to be given by attending medical practitioner**

(1) This section applies after section 9 is complied with the attending medical practitioner complies with section 9(5)(c).

(2) The attending medical practitioner must reach the opinion that—
(a) the person requesting the option of receiving assisted dying is a person who is eligible for assisted dying; or
(b) the person requesting the option of receiving assisted dying is not a person who is eligible for assisted dying; or
(c) the person requesting the option of receiving assisted dying would be a person who is eligible for assisted dying if the person’s competence were established as described in under section 12 that the person was competent to make an informed decision about assisted dying.

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**SOP 318 (Paulo Garcia)**

Clause 10

In clause 10(2), replace paragraph (c) (page 10) with:
(c) the person requesting the option to receiving assisted dying—

(i) would be a person who is eligible for assisted dying if it were established under section 12 that the person is able to be confirmed as competent, by a medically approved testing method, to make an informed decision about assisted dying; and

(ii) has afterwards confirmed that decision to the attending medical practitioner.

Explanatory note SOP 318
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill to amend clause 10. It seeks to require a medically approved testing method to confirm the person’s competency, as the bill is silent on any such method—the absence of which opens the door to subjective and even emotional assessments by attending medical practitioners that may not stand scrutiny should queries arise. It is also required that the person confirm their wish afterwards.

(3) The attending medical practitioner must—

(a) complete a prescribed an approved form recording their opinion; and

SOP 297 (Simeon Brown)

Clause 10
In clause 10(3), after paragraph (a) (page 7, after line 31), insert:

(aa) certify that their decision is not as a result of influence, or in any way influenced, by—

(i) the patient; or

(ii) the patient’s whānau or significant others; or

(iii) professional colleagues; and

Explanatory note SOP 297
This Supplementary Order Paper amends clause 10 of the End of Life Choice Bill. It would ensure that, before a medical practitioner administers or advances the administration of any lethal chemicals or other materials that would cause death in a patient, the medical practitioner
certifies that their decision is not being influenced in any way by the patient, family, friends, or other parties that could have an ulterior motive to do so.

(b) send the completed form to the Registrar.

11 Second opinion reached to be given by independent medical practitioner

(1) This section applies if the attending medical practitioner reaches the opinion described in section 10(2)(a) or (c).

(2) The attending medical practitioner must—

(a) ask the SCENZ Group for the name and contact details of an independent medical practitioner; and

(b) ask the independent medical practitioner for their opinion on whether the person requesting the option of receiving assisted dying is a person who is eligible for assisted dying.

(3) The independent medical practitioner must—

(a) read the person’s medical files; and

(b) examine the person; and

(c) reach the opinion that—

(i) the person is a person who is eligible for assisted dying; or

(ii) the person is not a person who is eligible for assisted dying; or

(iii) the person would be a person who is eligible for assisted dying if the person’s competence it were established as described in under section 12 that the person was competent to make an informed decision about assisted dying.

(4) The independent medical practitioner must—

(a) complete a prescribed form recording their opinion; and

SOP 298 (Simeon Brown)

Clause 11

In clause 11(4), after paragraph (a) (page 8, after line 15), insert:
(aa) certify that their decision is not a result of undue pressure or coercion from—

(i) the patient; or

(ii) the patient’s whānau or significant others; or

(iii) professional colleagues; or

(iv) the first attending medical practitioner; and

Explanatory note SOP 298

This Supplementary Order Paper amends clause 11 of the End of Life Choice Bill to certify that the independent medical practitioner ensure that their decision is not the result of undue pressure from those surrounding that individual, particularly the whānau and significant others, professional colleagues, first attending practitioner, or the patient. This ensures that the independent medical practitioner is protected from being coerced into a decision, and empowers and requires them to consider and ensure they have not been coerced in any way, and prevent any further progress if they have reason to believe that is the case.

(b) send the completed form to the Registrar; and

(c) send a copy of the completed form to the attending medical practitioner.

12 Third opinion reached, if necessary to be given by psychiatrist if competence not established to satisfaction of 1 or both medical practitioners

(1) This section applies if—

(a) the following situation exists:

(i) the attending medical practitioner reaches the opinion described in section 10(2)(a); and

(ii) the independent medical practitioner reaches the opinion described in section 11(3)(c)(iii); or

(b) the following situation exists:

(i) the attending medical practitioner reaches the opinion described in section 10(2)(c); and

(ii) the independent medical practitioner reaches the opinion described in section 11(3)(c)(i); or

(c) the following situation exists:

(i) the attending medical practitioner reaches the opinion described in section 10(2)(c); and
(ii) the independent medical practitioner reaches the opinion described in section 11(3)(c)(iii).

(2) The medical practitioners must jointly—
(a) ask the SCENZ Group for the name and contact details of a specialist psychiatrist; and
(b) ask the specialist psychiatrist for their opinion on whether the person requesting the option of receiving assisted dying is competent to make an informed decision about assisted dying.

(3) The specialist psychiatrist must—
(a) read the person’s medical files; and
(b) examine the person; and
(c) reach the opinion that—
(i) the person is competent to make an informed decision about assisted dying; or
(ii) the person is not competent to make an informed decision about assisted dying.

(4) The specialist psychiatrist must—
(a) complete a prescribed form recording their opinion; and
(b) send the completed form to the Registrar; and
(c) send a copy of the completed form to—
(i) the attending medical practitioner; and
(ii) the independent medical practitioner.

13 Negative decision made on request—Opinion reached that person is not eligible for assisted dying

(1) Subsection (2) applies if the attending medical practitioner reaches the opinion described in section 10(2)(b).

(2) The attending medical practitioner must explain the reasons for their opinion to the person requesting the option of receiving assisted dying.

(3) Subsection (4) applies if—
(a) the independent medical practitioner reaches the opinion described in section 11(3)(c)(ii); or
(b) the following situation exists:
(i) a specialist psychiatrist is asked for their opinion under section 12(2)(b); and
(ii) the specialist psychiatrist reaches the opinion described in section 12(3)(c)(ii).

(4) The independent medical practitioner or the specialist psychiatrist, as appropriate, must meet the person with the attending medical practitioner must explain their reasons for their opinion to the person requesting the option of receiving assisted dying.
assisted dying to explain the reasons for their opinion to the person, and the attending medical practitioner.

(5) The attending medical practitioner must—
(a) complete a prescribed an approved form recording the actions taken to comply with subsection (2) or (4); and
(b) send the completed form to the Registrar.

14 Positive decision made on request Opinion reached that person is eligible for assisted dying

(1) This section applies if—
(a) the following situation exists:
   (i) the attending medical practitioner reaches the opinion described in section 10(2)(a); and
   (ii) the independent medical practitioner reaches the opinion described in section 11(3)(c)(i); or
(b) the following situation exists:
   (i) a specialist psychiatrist is asked for their opinion under section 12(2)(b); and
   (ii) the specialist psychiatrist reaches the opinion described in section 12(3)(c)(i).

(2) The attending medical practitioner must—
(a) advise the person requesting the option of receiving assisted dying that the person is a person who is eligible for assisted dying; and
(b) discuss with the person the progress of the person’s terminal illness or grievous and irremediable medical condition; and
(c) discuss with the person the likely timing of the assisted dying for the administration of the medication; and
(d) make provisional arrangements to be available to administer the medication at the time indicated.
(d) give the person an approved form for the person to complete by choosing the date and time for the administration of the medication; and
(e) advise the person that at any time after completing the approved form referred to in paragraph (d) the person may decide—
   (i) not to receive the medication; or
   (ii) to receive the medication at a time on a later date that is not more than 6 months after the date initially chosen for the administration of the medication.

(3) The attending medical practitioner must—
(a) complete a prescribed an approved form recording the actions taken to comply with subsection (2); and
Eligible person to choose date and time for administration of medication

(1) If an eligible person wishes to receive assisted dying, the person must—
   (a) complete the approved form referred to in section 14(2)(d); and
   (b) return the completed form to the attending medical practitioner.

(2) After receiving the completed form, the attending medical practitioner must send the form to the Registrar.

(3) Each time (if any) that an eligible person decides under section 14 or 16 to receive the medication on a date later than the date initially chosen and specified in the approved form referred to in section 14(2)(d)—
   (a) the eligible person must complete a new approved form to replace the form initially or most recently completed under section 14(2)(d) (a replacement form); and
   (b) references in sections 15 and 16 to the date chosen or chosen time are references to the date and time chosen in the replacement form.

Lethal dose of medication chosen Provisional arrangements for administration of medication

(1) This section applies after section 14 is complied with the attending medical practitioner complies with section 14A(2).

(2) When the person wishes to exercise the option of receiving assisted dying, they must inform the attending medical practitioner.

(3) Before the date chosen by an eligible person for the administration of the medication, the attending medical practitioner must—
   (a) advise the person about the following methods for the administration of a lethal dose of the medication:
      (i) ingestion, triggered by the person:
      (ii) intravenous delivery, triggered by the person:
      (iii) ingestion through a tube, triggered by the attending medical practitioner or an attending nurse practitioner:
      (iv) injection administered by the attending medical practitioner or an attending nurse practitioner; and

SOP 210 (Simeon Brown)

Clause 15
In clause 15(3), after paragraph (a) (page 10, after line 34), insert:
(aa) inform the person of the effect of the medication and potential hazards and complications that can be associated with the provision of such treatment, including information related to the failure of the medication to achieve the intended aim; and

Explanatory note SOP 210

This Supplementary Order Paper amends the End of Life Choice Bill. It requires the attending medical practitioner, when the person is choosing the lethal dose of medication, to inform the person of the effects of the medication, including how the medication may fail.

(b) ask the person to choose one of the methods; and

(c) ask the person to choose the time for the administration of the medication; and

(d) ensure that the person knows that they can change their mind at any time before the administration of the medication, decide, at any time before the administration of the medication, not to receive the medication or to receive the medication at a time on a later date that is not more than 6 months after the date initially chosen for the administration of the medication; and

(e) make provisional arrangements for the administration of the medication on the chosen day and time.

(4) At least 48 hours before the chosen time of for the administration of the medication, the attending medical practitioner, or an attending nurse practitioner, must—

(a) write the appropriate prescription for the eligible person; and

(b) advise the Registrar of the method and of the date and time chosen for the administration of the medication.

(5) The Registrar must check that the process in sections 8 to 14A has been complied with.

(6) If the Registrar is satisfied that the process in sections 8 to 14A has been complied with, the Registrar must notify the attending medical practitioner accordingly.

16 Lethal dose Administration of medication administered

(1) This section applies after section 15 is complied with.

(2) At the chosen time of administration for the administration of the medication, the attending medical practitioner, or an attending nurse practitioner, must ask the eligible person if they choose to receive the medication, choose—

(a) to receive the medication at that time; or
(b) not to receive the medication at that time, but to receive the medication at a time on a later date that is not more than 6 months after the date initially chosen for the administration of the medication; or
(c) not to receive the medication at that time, and to rescind their request to exercise the option of assisted dying.

(3) If the eligible person chooses not to receive the medication at the chosen time, the attending medical practitioner, or an attending nurse practitioner, must—
(a) immediately remove take the medication away from the room eligible person; and
(c) complete a prescribed approved form recording the action taken to comply with paragraph (a); and
(d) send the completed form to the Registrar.

(4) If the eligible person chooses to receive the medication, the attending medical practitioner, or the attending nurse practitioner, must—
(a) provide the medication to the person, for administration by either of the methods described in section 15(3)(a)(i) and (ii); or
(b) administer the medication by either of the methods described in section 15(3)(a)(iii) and (iv).

(5) The attending medical practitioner, or the attending nurse practitioner, must—
(a) be available to the eligible person until the person dies; or
(b) arrange for another medical practitioner or attending nurse practitioner to be available to the person until the eligible person dies.

(6) For the purposes of subsection (5), the attending medical practitioner or attending nurse practitioner is available to the eligible person if the medical practitioner or attending nurse practitioner—
(a) is in the same room or area as the person; or
(b) is not in same room or area as the person but is in close proximity to the person.

SOP 211 (Simeon Brown)

Clause 16

In clause 16, after subclause (6) (page 12, line 2), insert:

(7) A legal witness, independent of both the patient and the attending medical practitioner, must be present at the point of the administration of medication, and must—
(a) make their own record of proceedings of decisions made under this section; and
(b) within 14 working days of the person’s death, send the registrar a copy of the record made under paragraph (a).

Explanatory note SOP 211

This Supplementary Order Paper amends the End of Life Choice Bill. It creates a requirement for an independent legal witness to be present at the administering of medication, who must make their own record of proceedings and send this record to the registrar.

The registrar is already intended to receive a report from the attending medical practitioner under clause 17. This further record of proceedings would assist in creating a more rigorous standard of record-keeping and somewhat reduce the probability of undue deaths.

17 Death to be reported

(1) Within 14 working days of a person’s death as a result of the administration of medication under section 16, the attending medical practitioner, or the attending nurse practitioner who provided or administered the medication on the instruction of the attending medical practitioner, must send the Registrar a report in the prescribed approved form containing the information described in subsection (2).

SOP 309 (Kanwaljit Singh Bakshi)

Clause 17

In clause 17(1) (page 12, line 4), replace “Within 14 working days of a person’s death” with “As soon as practicable, but in any case no later than 5 working days after a person’s death”.

Explanatory note SOP 309

This Supplementary Order Paper amends the End of Life Choice Bill by providing that the death reporting requirements are met as soon as practicable. The reporting of life-and-death decisions should not be treated as merely routine administration for which there is no particular urgency.
Precise information is most likely to be provided shortly after an event takes place, rather than some weeks afterwards. To the extent that the proposed law contains accountability mechanisms, these should be taken seriously.

The extent of the time allowed should not be 14 working days as that could equate to nearly a calendar month at certain times of the year (and is nearly three weeks in any case). One working week is the time proposed in this Supplementary Order Paper, which should provide easily sufficient opportunity for compliance with the reporting requirements.

(2) The information is—
(a) the name of the attending medical practitioner or attending nurse practitioner; and
(b) the person’s name; and
(c) the person’s last known address; and
(d) the fact that the person has died; and
(f) which of the methods described in section 15(3)(a) was used; and
(g) a description of the administration of the medication; and
(h) whether any problem arose in the administration of the medication and, if so, how it was dealt with; and
(i) the place where the person died; and
(j) the date and time when the person died; and
(k) the name of the medical practitioner or nurse practitioner who was available to the person until the person died; and
(l) the names of any other health practitioners who were present when the person died.

(3) The Registrar must send the report to the Review Committee.

SOP 319 (Hon Maggie Barry)

Clause 17
After clause 17(3) (page 12, after line 25), insert:

(4) If any of the reporting requirements of this section are not complied with fully by an attending medical practitioner or attending nurse practitioner then the Registrar must recommend in writing to SCENZ that the non-complying medical practitioner or nurse practitioner not remain qualified to perform assisted dying services under this Act.
Explanatory note SOP 319

This Supplementary Order Paper amends the End of Life Choice Bill by providing a consequence for non-compliance with the death reporting requirements of this section.

18 Destruction of prescription if no longer required

(1) **Subsection (2)** applies if—

(a) an attending medical practitioner, or an attending nurse practitioner, holds a prescription written under **section 15(4)(a)**; and

(b) the medication is no longer required.

(2) The attending medical practitioner, or the attending nurse practitioner, must—

(a) immediately destroy the prescription; and

(b) complete a prescribed **approved** form recording the action taken to comply with paragraph (a); and

(c) send the completed form to the Registrar.

18A No further action to be taken if person rescinds request to exercise option of receiving assisted dying

(1) This section applies if, at any time, an eligible person rescinds their request to exercise the option of receiving assisted dying.

(2) The attending medical practitioner or attending nurse practitioner must—

(a) complete an approved form recording that the person has rescinded their request; and

(b) send the completed form to the Registrar; and

(c) take no further action in respect of the person’s request (other than under **section 18**, if applicable)

(3) If at any subsequent time the person wishes to exercise the option of receiving assisted dying, the person may make a new request under **section 8**.

18B No further action to be taken if pressure suspected

If, at any time, the attending medical practitioner or attending nurse practitioner suspects on reasonable grounds that a person who has expressed the wish to exercise the option of receiving assisted dying is not expressing their wish free from pressure from any other person, the medical practitioner or nurse practitioner must—

(a) take no further action under this Act to assist the person in exercising the option of receiving assisted dying; and

(b) tell the person that they are taking no further action under this Act to
assist the person in exercising the option of receiving assisted dying; and

(c) complete an approved form recording—

(i) that they are taking no further action under this Act to assist the person in exercising the option of receiving assisted dying; and

(ii) the actions taken to comply with paragraph (b); and

(d) send the form completed under paragraph (c) to the Registrar.

SOP 320 (Hon Maggie Barry)  Proposed amendment to SOP 259

New clause 18C
After clause 18B (page 17), insert:

18C Register of cases of elder abuse in relation to assisted dying

(1) The Minister of Justice must establish a Register of Cases of Elder Abuse in Relation to Assisted Dying (the Register), which is to be administered by the Ministry of Justice.

(2) The Register is a record of all cases where—

(a) a request has been made under section 8; and

(b) the attending medical practitioner or independent medical practitioner has found the individual requesting assisted dying to be a victim of coercion or other form of elder abuse.

(3) The Register is to be established and maintained by a Registrar, and must record the following:

(a) the details of any individual who—

(i) requested assisted dying; and

(ii) has been found by the attending medical practitioner or independent medical practitioner to be a victim of coercion or other form of elder abuse; and

(b) the location in which the request made under section 8 occurred; and

(c) the ethnicity, sex, and age of the individual who requested assisted dying; and

(d) if it occurred, the location of their death, where that death was as a result of assisted dying under section 16.

Explanatory note SOP 320
This Supplementary Order Paper amends the End of Life Choice Bill to establish a register for cases of assisted dying or requested assisted dying, where coercion or elder abuse has been found to be a factor.

This register would ensure the Ministry of Justice has current and comprehensive data regarding cases of elder abuse, specifically with regard to the age, sex, and ethnicity of the individual, as well as geographic location of both the location of request and, if it occurred, the death by assisted suicide as prescribed by this Bill. The New Zealand Longitudinal Study of Ageing found that elder abuse was prevalent for at least 1 in 10 participants aged 65 years and over, and concluded that “Elder abuse is pervasive in New Zealand”. Without proper protections, there will be cases of elder abuse to those covered by this Bill, and they will potentially be coerced into a decision regarding requesting assisted suicide, or otherwise seek assisted suicide as a result of abuse they have suffered.

This registry ensures that information is available on these cases, and can outline trends in the data that can highlight areas of concern for the Minister.

1Measuring Elder Abuse in New Zealand: Findings from the New Zealand Longitudinal Study of Ageing (NZLSA). “The study demonstrated that elder abuse, as measured by VASS, was prevalent for at least 1 in 10 participants aged 65 years and over on each of the four sub-scales. Items concerning psychological abuse were more frequent than those associated with coercion and physical abuse.”

**SOP 321 (Hon Maggie Barry)** Proposed amendment to SOP 259

New clause 18C

After clause 18B (page 17), insert:

**18C Support person to assist vulnerable elderly person**

(1) This section applies where a person who is eligible for assisted dying is aged 65 years or over.

(2) A person who is described in **subsection (1)** is a **vulnerable elderly person** for the purposes of this section.

(3) In addition to other requirements of this Part, a vulnerable elderly person must be offered the assistance of an independent support person, who—
(a) possesses in-depth knowledge of the cultures and practices within the community the vulnerable elderly person is from; and

(b) possesses an understanding of how older people from that particular community are regarded and treated in that community and within family groups; and

(c) is able to translate for the vulnerable elderly person in the language they are most comfortable with.

(4) The offer referred to in subsection (3) must—

(a) be in writing; and

(b) be provided by the attending medical practitioner as soon as practicable in the circumstances after a request has been made under section 8; and

(c) be provided free of charge to the vulnerable elderly person, funded by the Ministry of Health.

Explanatory note SOP 321

This Supplementary Order Paper amends the End of Life Choice Bill by adding potential for additional protection in the case of vulnerable elderly persons.

This category of New Zealander is particularly vulnerable to neglect and abuse and hence a combination of coercion, undue influence, and general desire to have life ended due to loneliness, feeling a burden, or other adverse societal factors. The New Zealand Longitudinal Study of Ageing found that elder abuse was prevalent for at least 1 in 10 participants aged 65 years and over, and concluded that “Elder abuse is pervasive in New Zealand”. Additionally, the 2018 data summary on the Oregon Death with Dignity Act found that 54.2% of individuals cited “Burden on family, friends/caregivers” as a reason for seeking assisted suicide. It is demonstrably clear that elder abuse is high, and furthermore that loneliness and feelings of burden are also high, and without proper protections the Bill would lead to vulnerable individuals seeking assisted suicide as a direct result of coercion or feelings of burden.

This amendment ensures that those individuals are explicitly offered a culturally and ethnically appropriate support person by the attending medical practitioner, affirming and extending the rights afforded and available by the Code of Health and Disability Services Consumers’ Rights. This individual will possess relevant knowledge on the cultural community the individual resides in, particularly towards the role of older people in that community, and shall be available to assist in translation when needed, so the individual requesting assisted dying is fully comfortable and understanding of the process as outlined in this Bill. This support person shall also be offered free of charge to the individual so that there is no cost barrier for vulnerable individuals in need of a support person.
SOP 302 (Chris Penk)  Proposed amendment to SOP 259

New clauses 18C to 18H

After clause 18B (page 17), insert:

18C  Independent Panel of Practitioners to determine whether pressure present

(1) The Minister of Justice must establish the Independent Panel of Practitioners (the Panel), to be administered by the Ministry of Justice.

(2) The Panel is an independent specialist body of an inquisitorial nature, established for the purpose of ensuring that requests for assisted dying are not made as a result of coercion or other forms of pressure.

(3) The Panel must comprise no less than 12 members, being—

(a) a chairperson, who must be a District Court Judge;
(b) expert medical practitioners (including experts in geriatric care, psychology, and adolescent mental health);
(c) expert legal practitioners;
(d) expert social workers;
(e) elder abuse experts;
(f) other experts that the Minister considers appropriate.

(4) For the purposes of subsection (3), an expert must be a person who has gained at least 15 years of experience practising in their field.

(5) The chair of the Panel is to be appointed by the Governor-General on the advice of the Attorney-General, given after consultation with the Minister of Justice, the Minister of Health, and the Minister for Seniors.

(6) The members of the Panel are to be appointed by the Governor-General on the recommendation of the Minister of Justice made in consultation with the Minister of Health and the Minister for Seniors, and may hold office for such period not exceeding 5 years as is fixed in each member’s warrant of appointment.
(7) The chairperson or any member of the Panel may be reappointed.

(8) None of the following persons may be appointed as a member of the Panel:
(a) any member of the SCENZ Group;
(b) any member of the Review Committee.

18D Functions of Panel

(1) The functions of the Panel are to—
(a) consider, in committees comprising no less than four members, requests to receive assisted dying that have been made by persons under this Act; and
(b) determine whether a request to receive assisted dying has or may have been partly or wholly influenced by pressure from any person or circumstance; and
(c) complete a written Report (the Report) recording its determination; and
(d) send the Report to—
   (i) the attending medical practitioner; and
   (ii) the independent medical practitioner; and
   (iii) the Registrar; and
(e) report annually to the Minister of Justice, the Minister of Health, and the Minister for Seniors, as set out in section 18I.

(2) The Panel may make findings of fact and a final determination to further its functions under subsection (1)(a) to (c).

18E Procedure of Panel

(1) The Panel may regulate its procedures as it sees fit, subject to the following provisions of this Act and to any regulations made under this Act.

(2) Each committee of the Panel must consist of—
(a) at least 1 expert medical practitioner and 1 expert legal practitioner:
(b) in cases involving a determination in respect of a person aged over 60 years, at least 1 expert medical practitioner, 1 expert legal practitioner, and 1 elder abuse expert:
(c) in cases involving a determination in respect of a person aged under 20 years, at least 1 expert legal practitioner and 1 expert medical practitioner with a speciality in adolescent mental health.

18F Role of Panel chairperson
The chairperson of the Panel is responsible for—

(a) making such arrangements as are practicable to ensure that the members of the Panel discharge their functions in an orderly and expeditious manner; and
(b) directing the education, training, and professional development of members of the Panel; and
(c) dealing with any complaints made about members of the Panel; and
(d) issuing practice notes (not inconsistent with this Act or any regulations made under it) for the purposes of regulating the practice and procedure of the Panel; and
(e) developing a code of conduct for members of the Panel; and
(f) requiring particular members of the Panel to determine particular requests, subject to subsection (2).

18G Procedure for determining pressure
(1) The Registrar must send a copy of any completed request form sent under section 9(5)(c) and any completed first opinion form sent under section 10(3)(b) to the chairperson of the Panel immediately following their receipt of those forms from an attending medical practitioner.
(2) Before making a determination under section 18D(1)(b), the Panel must, in respect of a request by any person to receive assisted dying under this Act, do all of the following:
(a) review the person’s completed request form and the attending medical practitioner’s first opinion form; and
(b) review such records from the person’s medical history that the Panel reasonably requests the person to authorise the disclosure of; and
(c) review the person’s current home or place of residence; and
(d) review the person’s living will (if in existence); and
(e) review the person’s financial and property affairs; and
(f) refer the person to an independent psychiatrist for a written evaluation of their current mental state, and consider that evaluation; and
(g) meet and interview the person; and
(h) meet and interview those members of the person’s family and any friends or relatives of the person whom it reasonably considers necessary to assist it for the purpose of making a determination; and
(i) interview other medical practitioners who are treating or who have treated the person, including the attending medical practitioner; and
(j) interview (if applicable) the person’s usual lawyer and usual accountant; and
(k) make and retain a recording of all interviews.

(3) In making a determination under section 18D(1)(b), the Panel must consider whether any person or organisation may stand to gain financially or otherwise by the person receiving assisted dying, and whether the person is or may be exercising their wish as a result of any one or any combination of factors including, but not limited to,—

(a) familial coercion or other familial pressure:
(b) medical or institutional coercion or other medical or institutional pressure:
(c) familial neglect:
(d) medical or institutional neglect:
(e) societal neglect:
(f) any failure or failures of care or treatment by the New Zealand health system in respect of the person:
(g) any adverse mental health condition:
(h) any other form of pressure.

(4) The Panel must complete and send its Report to the recipients listed in section 18D(1)(d) with all reasonable diligence and speed.
18H Procedure to be followed once Report compiled

(1) The independent medical practitioner must not reach an opinion as to the eligibility of a person for assisted dying under section 11(3) until that practitioner has received a Report from the Panel in respect of the person.

(2) If the Report from the Panel determines that a person requesting assisted dying has or may have been partly or wholly influenced by pressure from any person or circumstance, the attending medical practitioner or independent medical practitioner must—

(a) take no further action under this Act to assist the person in exercising the option of receiving assisted dying; and

(b) tell the person that they are taking no further action under this Act to assist the person in exercising the option of receiving assisted dying; and

(c) provide a copy of the Report to the person; and

(d) complete an approved form recording—

(i) that they have received the Report and provided a copy of the Report to the person; and

(ii) that they are taking no further action under this Act to assist the person in exercising the option of receiving assisted dying; and

(iii) the actions they have taken to comply with paragraph (b); and

(e) send the form completed under paragraph (d) to the Registrar.

(3) Nothing in this section limits or overrides the obligation on an attending medical practitioner or nurse practitioner to take no further action in the circumstances set out in section 18B of this Act.

18I Annual report on performance of Panel's functions

(1) The chairperson of the Panel must, in each year, provide a report to the Minister of Justice, the Minister of Health, and the Minister for Seniors on the performance of the Panel's functions under this Act in respect of the preceding year.

(2) The report must include the following details:
(a) the number of determinations made by the Panel in the period to which the report relates; and

(b) the nature of the determinations made by the Panel in the same period, in particular—

(i) how many requests for assisted dying it determined had been or may have been partly or wholly influenced by pressure from by any person or circumstance; and

(ii) if any such determinations were made, which types of pressure listed in section 18G(3)(a) to (h) the Panel detected; and

(c) any features or characteristics of the requests it determined during the same period that give the Panel any cause for concern; and

(d) any recommendations the Panel may see fit to make to the Ministers.

Explanatory note SOP 302

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill. It seeks to strike a better balance between choice and coercion in the Bill, ensuring that those who are truly exercising a voluntary choice to request assisted dying are not impeded in that endeavour, while vulnerable New Zealanders, whose choice may have been impacted by pressure, are given the protection they need. However, even with this amendment, absolute certainty of the absence of coercion in a case of assisted dying is not possible. Still, this amendment offers a far greater degree of protection to vulnerable New Zealanders than the coercion test in new clause 18B of SOP 259.

The explanatory note to the Bill states that the proposed law is targeted to only a small group of New Zealanders who are “not vulnerable” and who wish to die without unbearable suffering and pain, and asserts that the Bill contains “a comprehensive set of provisions to ensure this is a free choice, made without coercion”. However, the coercion safeguards that the Bill provides in its current form, as well as in the amended form proposed by SOP 259, are entirely inadequate in affording that protection and are deficient in multiple respects. Both documents place the entire burden of detecting coercion on a single doctor, who may not even know the patient or have ever met them before, who is merely required to “do their best” to assess whether the patient is being pressured, and who is significantly impeded in that endeavour by the fact that they can only speak to members of the patient’s family whom the person approves. Even those legal standards protecting New Zealanders from the loss of their chattels or property through coercion set the bar higher than this test.

In its report to the Justice Committee, the Royal New Zealand College of General Practitioners labelled the Bill’s coercion safeguard as problematic, stating that “Coercion of patients will be
impossible to discern in every request for assisted death,” and that vulnerable people would die wrongfull deaths if this was to be the Bill’s only test for coercion. Similarly, in her submission to the select committee the Disability Rights Commissioner described the Bill as inadequate and unsafe, stating that it undermines the position of vulnerable New Zealanders and poses significant risks to them, as individuals and as a group, and that the proposed safeguards in the Bill “are deficient, both procedurally and substantively, for both terminal and non-terminal conditions”. Courts in the United Kingdom have also recently found that not even a lengthy court-based inquiry, relying on legal precedent and extensive powers of enquiry, evidence, and cross examination, can accurately detect coercion or provide a complete safeguard against it. In its present form, the Bill will require one doctor to achieve in a relatively short space of time what an entire judicial system may not be able to accomplish across weeks or months.

Coercion and pressure amongst New Zealand’s vulnerable communities is a serious and growing problem, and can manifest itself in numerous forms:

- Elder abuse is endemic in New Zealand. A major study in 2015 found that 10% of elderly New Zealanders (nearly 70,000) have suffered some form of abuse, either physically, sexually, psychologically, financially, or through neglect. Another study has found that 79% of elder abusers are the family/whānau members of the victim, that their children are the most common category of abuser (48%), that elder abuse victims are often very old people in poor health, especially women, and that financial and psychological abuse are the most common forms of elder abuse and neglect. In addition, of those elder abuse cases involving older people living in residential care, 67% of abusers were family/whānau members while 20% of abusers were staff of the facility. In another recent report, the Office for Seniors found that older Māori, women, and New Zealanders who are separated, divorced, or widowed face higher rates of elder abuse, and has projected that the number of older New Zealanders experiencing elder abuse and neglect will increase significantly in the next 20 years.

- New Zealand’s health system is under considerable pressure and this in turn is impacting vulnerable New Zealanders who are accessing healthcare. Across the board, New Zealand’s healthcare system is already at near breaking point as a result of underfunding and population growth. Elderly New Zealanders currently consume 42% ($983 million) of the health services budget of the Ministry of Health, the same government department that would bear responsibility for overseeing and administering assisted dying under the End of Life Choice Bill. As New Zealand’s population is ageing rapidly, the Ministry of Health reports that “[p]opulation ageing without health improvement will cause this [42%] share to increase”. Māori constitute a significant proportion of New Zealand’s burgeoning older population who are poor and sick, and the absolute number of this older Māori population has been projected to almost treble between 2001–2021. Māori are disproportionately represented in New Zealand’s terminal illness rates and there are significant disparities between Māori and non-Māori across a number of serious health conditions including cardiovascular disease and heart failure, rheumatic heart disease, and cervical, lung, and liver
In December 2018 the overall state of Māori health prompted the Waitangi Tribunal to commence an investigation into more than 200 claims that the Crown is operating a “sick, racist system that fails Māori”, leading to Māori dying earlier and suffering the worst health outcomes. According to the Waitangi Tribunal, "Many of these illnesses and problems are practically at epidemic levels”.

There is a reputable body of experienced opinion that has documented the harms that have resulted to vulnerable people, by way of coercion and abuse, in those few overseas jurisdictions that have legalised assisted dying. This includes judgments from the United Kingdom Supreme Court, Court of Appeal and High Court, the Irish Supreme Court and High Court, and the European Court of Human Rights. Many of these courts have rejected the conclusion of the trial Judge, Justice Lynne Smith, in the 2012 judgment of *Carter v Canada* to the effect that the evidence from other jurisdictions shows that the risks inherent in assisted dying have not materialised. Widespread abuses have been documented in the Netherlands and Belgium. Abuses have been documented in Oregon and also in Canada, where euthanasia has only been legal for several years. Recently both the United Nations Special Rapporteur on the Rights of Persons with Disabilities and Canadian media have reported attempts by Canadian medical professionals to pressure sick, disabled, or terminally ill patients into requesting assisted dying. Disparities in healthcare services in Canada are also placing pressure on the terminally ill. In May 2018 the Quebec College of Physicians warned the Health Minister that a shortage of palliative care services in parts of Quebec could be forcing patients to choose euthanasia as a way to end their lives. The college specifically warned the Minister that patients requesting medical aid in dying were getting priority access to available resources, "to the detriment of other patients" at the end of their lives. The letter stated, "Palliative care cannot be limited to access to medical aid in dying".

In Oregon, 63.3% to 66.9% of all assisted suicides during the past five years were of people on low incomes who were accessing State health care insurance through the Oregon Health Plan. The same Oregon Health Plan has denied coverage to terminally ill citizens for their chemotherapy or drug treatments, instead offering to pay for the drugs enabling them to commit suicide under the Death with Dignity Act. The Oregon Public Health Division’s annual reports on assisted suicide also show that psychological concerns far outweigh any concerns related to physical pain amongst those patients who are assisted in their suicides. According to the most recent report, during 2018 one of the four most frequently reported end-of-life concerns and reasons expressed amongst those who were assisted in their suicides was being a “burden on family, friends or caregivers” (54.2%).

Against this domestic and international background, this amendment recognises that coercion of terminally ill New Zealanders may take a variety of forms, such as:

- elder abuse, whether physical, psychological or financial:
- overt or subtle pressure exerted by family members or friends:
• overt or subtle pressure exerted by medical practitioners or other persons involved in a person’s care:
• pressures on a person arising from a failure by the New Zealand health system to adequately meet their needs (particularly prevalent amongst Māori and elderly New Zealanders):
• internalised pressures experienced by the person themselves such as feelings of abandonment, of being an unwanted burden on family, friends or caregivers, financial pressure, or depression.

A single doctor cannot tolerably be expected to discharge the all-important burden of assessing coercion in any patient. The following substantive amendments are therefore made to the Bill:

• An independent specialist body, the Independent Panel of Practitioners (the **Panel**), is to be established for the sole purpose of ensuring that requests for assisted dying are not made as a result of coercion or other forms of pressure (**new clause 18C(1)**):

• Members of the Panel are to be appointed by the Minister of Justice and the Ministry of Justice is to be responsible for servicing the Panel (**new clause 18C**):

• The Panel is to be chaired by a District Court Judge and to be comprised of highly experienced practitioners in medicine, law, social work and elder abuse, who are better equipped by their expertise and experience to detect hidden forms of coercion and who can collectively pool that expertise through the creation of committees (**new clause 18C(3)**):

• The sub-panels are to contain at least 1 expert medical practitioner and 1 expert legal practitioner and – for assisted dying cases involving elderly persons or persons under 20 years of age – an elder abuse expert or an adolescent mental health expert (**new clause 18F(2)**):

• The Panel must consider each request for assisted dying, make findings of fact, and issue a final determination regarding coercion in the form of a Report which it must send to the relevant medical practitioners and to the Registrar (Assisted Dying) (**new clause 18D**):

• The assisted dying process is suspended during the first and second opinion processes of the attending medical practitioner and the independent (SCENZ) medical practitioner, so as to allow the Panel to conduct its determination and to complete and send its Report. However, the Panel must proceed with all reasonable diligence and speed (**new clause 18G(4); new clause 18H(1)**):

• The Panel must consider whether persons requesting assisted dying may be exercising their wish as a result of any one or any combination of coercive factors. It is equipped for this purpose with a range of information-gathering mechanisms and methods of interview (**new clause 18G(2) to (3)**):

• If the Panel determines that coercion is or may be present in a person’s request, the attending medical practitioner or independent medical practitioner must take no further action to assist that person in exercising the option of receiving assisted dying (**new clause 18H(2) to (3)**):

• The Panel must provide annual reports on its progress to the Minister of Justice, the Minister of Health, and the Minister for Seniors, who must then present the Report to the House of Representatives. Each report must document the number of instances of coercion which the
Panel has detected in requests for assisted dying during the preceding year, and any particular concerns it may have or recommendations it wishes to make (new clause 18I).

1 *R (Conway) v Secretary of State for Justice* [2017] EWHC 2447, [2018] 2 All ER 250 at [100]–[104], in a decision that was upheld by the UK Court of Appeal (27 June 2018) and the UK Supreme Court (27 November 2018).

2 Charles Waldegrave *Measuring Elder Abuse in New Zealand: Findings from the New Zealand Longitudinal Study of Ageing (NZLSA)* (Family Centre Social Policy Research Unit, 2015) at 12.


4 Office for Senior Citizens *Towards gaining a greater understanding of Elder Abuse and Neglect in New Zealand* (June 2015) at 5.


6 Cherie Sivignon “Elder abuse often linked to loneliness and isolation: Age Concern Nelson Tasman” *Stuff* (online ed, New Zealand, 13 June 2018).

7 Audrey Young “Huge demand for services in Auckland stretches health system to the limit say bosses” *The New Zealand Herald* (online ed, New Zealand, 22 February 2018); and 1 News “‘The system is so overstretched’ – Andrew Little says health system underfunded by $2.3 billion” 1 News Now (online ed, New Zealand, 7 June 2017).

8 Ministry of Health “DHB spending on services for older people” (13 July 2016), www.health.govt.nz

9 Ibid.


11 Ibid.

12 Carmen Parahi "Waitangi Tribunal investigates sick, racist health system that 'fails Māori'” *Stuff* (online ed, New Zealand, 15 October 2018).

13 *R (Nicklinson) v Minister of Justice*, per Lord Neuberger at 121; Lord Mance at 183 and Lord Sumption at 224, 225, 229. See also *R (Conway) v Secretary of State for Justice* [2017] EWHC 2447, [2018] 2 All ER 250 at [100]–[104], a decision that was recently upheld by both the UK Court of Appeal (27 June 2018) and the UK Supreme Court (27 November 2018).


17 Oregon Public Health Division, Oregon Death With Dignity Act: Data Summary 2018, 6: “The proportions of patients who had private insurance (32.4%) and Medicare or Medicaid insurance (66.9%) in 2018 were similar to those reported during the past five years (35.8% and 63.3%, respectively)”. Medicaid Insurance is a federal program managed by the State of Oregon through the Oregon Health Plan which provides health insurance for low-income individuals.

18 Bradford Richardson “Insurance companies denied treatment to patients, offered to pay for assisted suicide, doctor claims” The Washington Times (online ed, United States, 31 May 2017).

19 Oregon Public Health Division Oregon Death with Dignity Act: 2018 Data Summary, at 12.

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Part 3
Accountability

19 SCENZ Group
The Director-General must establish the SCENZ Group by appointing to it the number of medical practitioners members that the Director-General considers appropriate.

**SOP 327 (Chris Penk) Amendment to SOP 259**

*Clause 19*

In *clause 19*, replace *subclause (1)* (page 17) with:

(1) The Director-General must establish the SCENZ Group by appointing to it the number of members that the Director-General, in consultation with the Solicitor-General or such other person appointed by the Minister of Justice, considers appropriate.

**Explanatory note SOP 327**

*This Supplementary Order Paper amends the End of Life Choice Bill to afford a modest degree of oversight (indirectly, through the appointment of the SCENZ Group) to a legal officer, in the person of the Solicitor-General or other delegate of the Minister of Justice.*

*This proposal reflects that issues relating to euthanasia and assisted suicide are properly characterised as those of justice rather than health care.*

*This proposal is also consistent with Parliament’s procedural pathway for the Bill, which was considered by the Justice Committee and not the Health Committee, and the fact that the Bill includes amendments to the Crimes Act 1961.*

*This proposal is also consistent with the approach of other jurisdictions overseas, to the extent that:*

- in Canada, the somewhat equivalent legislation is reviewed by the Canadian equivalents of both the Ministry of Health and the Ministry of Justice; and
- in Belgium, the costs of implementing euthanasia law are shared equally between the budgets of the Minister of Health and the Minister of Justice.

**SOP 328 (Simon O’Connor) Amendment to SOP 259**

*Clause 19*

In *clause 19*, replace *subclause (1)* (page 17) with:

(1) The Director-General must—
(a) establish the SCENZ Group by appointing to it the number of members that the Director-General considers appropriate; and
(b) maintain the SCENZ Group by making additional appointments as needed from time to time.

Explanatory note SOP 328
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill. It would ensure that the responsibility of the Director-General in relation to the SCENZ Group is ongoing by giving the Director-General a continued mandate to make appointments to the SCENZ Group rather than, as in the wording of the Bill, merely an initial power to “establish” it.

SOP 329 (Kanwaljit Singh Bakshi) Amendment to SOP 259

Clause 19
In clause 19(1) (page 17), after “the number of members that the Director-General considers appropriate”, insert

“, but in any case no fewer than 7 and no more than 13 members”.

Explanatory note SOP 329
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by proposing an appropriate range for the number of members of the SCENZ Group.

It is relatively unusual for the number of members of a statutory body to be left unspecified.

It is also undesirable that no guidance in the matter be given. A statutory body that is too small in number would risk disproportionate influence being accorded to any given individual member. Conversely, a statutory body that is too large in number risks the dilution of the specific expert influence that will be afforded by the appointment of particular members, as mandated by the proposed legislation.

SOP 330 (Paulo Garcia) Amendment to SOP 259

Clause 19
In clause 19, replace subclause (1A) (page 17) with:
(1A) The Director-General must appoint members who the Director-General considers have, collectively, knowledge and understanding of matters relevant to the functions of the SCENZ Group, including, but not limited to, at least 1 member in each of the following categories:

(a) a person who, in the opinion of the Minister, has obtained relevant qualifications and experience in the field of medical ethics; and

(b) a person who, in the opinion of the Minister, has obtained relevant qualifications and experience in the disability sector; and

(c) a medical practitioner whose practice specialises in the area of geriatric care; and

(d) a medical practitioner whose practice specialises in the area of palliative care; and

(e) a person who is legally qualified by virtue of having held a practising certificate as a barrister or as a barrister and solicitor for no less than 7 years.

Explanatory note SOP 330

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by proposing various key areas of expertise that must reside within the SCENZ Group.

It is important that the SCENZ Group, if it is to perform the proposed statutory function in a credible and meaningful manner, include in its membership those who have relevant qualifications and experience.

The areas of qualification and experience most relevant to assisted dying (i.e., euthanasia and assisted suicide) are medical ethics, disability issues, geriatric care, palliative care, and legal issues.

SOP 331 (Agnes Loheni) Amendment to SOP 259

Clause 19
In clause 19, after subclause (1A) (page 17), insert:

(1B) The following persons are ineligible for appointment to the SCENZ Group:

(a) the current or any former Health and Disability Commissioner:

(b) the current or any former Registrar (assisted dying):

(c) any current or former member of the Review Committee.

Explanatory note SOP 331
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill. It would ensure that people who have already held (or still hold) certain key roles are not also members of this body.

It would be inappropriate for any given person to hold multiple roles in this field, given the importance of the various roles.

The more important the roles, the greater the potential for significant conflicts of interest in relation to the review of policy and practice of euthanasia and assisted suicide under the proposed legislation.

(1A) The Director-General must appoint members who the Director-General considers have, collectively, knowledge and understanding of matters relevant to the functions of the SCENZ Group.

SOP 212 (Chris Penk)

Clause 19
In clause 19, after subclause (1) (page 13, after line 20), insert:

(1A) The term of each appointment to the SCENZ Group is limited to 2 years, and members may serve a maximum of 2 terms of appointment.

(1B) The Director-General must ensure that the membership of the SCENZ Group—

(a) is diverse in terms of—

(i) gender; and
(ii) culture; and
(iii) ethnicity; and
(iv) views on assisted dying; and
(b) includes medical practitioners with experience in palliative care.

Explanatory note SOP 212
This Supplementary Order Paper amends the End of Life Choice Bill. It creates requirements for the membership of the SCENZ Group established in clause 19. Clause 19(1) already requires the SCENZ Group to be made up of medical practitioners, and new subclauses (1A) and (1B) put in place a maximum tenure of 2 terms of 2 years per member and require that the group’s membership meets conditions of diversity and experience in palliative care.
(2) The functions of the SCENZ Group are—

(a) to make and maintain a list of medical practitioners who are willing to act for the purposes of this Act as—
   (i) replacement medical practitioners;
   (ii) independent medical practitioners;

(b) to provide a name and contact details from the list maintained under paragraph (a), when this Act requires the use of a replacement medical practitioner or independent medical practitioner, in such a way as to ensure that the attending medical practitioner does not choose the replacement medical practitioner or independent medical practitioner:

(c) to make and maintain a list of health practitioners who are willing to act for the purposes of this Act as specialists psychiatrists:

(d) to provide a name and contact details from the list maintained under paragraph (c), when this Act requires the use of a specialist psychiatrist, in such a way as to ensure that neither the attending medical practitioner nor the independent medical practitioner chooses the specialist psychiatrist:

(e) to make and maintain a list of pharmacists who are willing to dispense medication for the purposes of section 16:

(f) to provide a name and contact details from the list maintained under paragraph (e) when section 16 is to be applied:

SOP 213 (Simon O’Connor)

Clause 19
In clause 19(2), after paragraph (f) (page 14, after line 4), insert:

(fa) to establish and maintain an educational programme that medical practitioners must complete before administering assisted dying, including formal training in—
   (i) palliative care; and
   (ii) counselling; and
   (iii) specialised drug administration; and
   (iv) emergency procedures in the event of unanticipated outcomes:

Explanatory note SOP 213
This Supplementary Order Paper amends clause 19(2) of the End of Life Choice Bill. The purpose of this new paragraph is to ensure that medical practitioners administering assisted dying are appropriately trained in relevant specialities and emergency procedures.
To accomplish this, it requires that the SCENZ Group establish and maintain an educational programme that medical practitioners must complete before administering assisted dying. This
programme would be required to include training in palliative care, counselling, specialised drug administration, and emergency procedures in the event of unanticipated outcomes.

(g) in relation to the administration of medication under section 16,—

(i) to prepare standards of care; and
(ii) to advise on the required medical and legal procedures; and
(iii) to provide practical assistance if assistance is requested.

(3) The Ministry must service the SCENZ Group.

**SOP 332 (Melissa Lee)**

*Clause 19*

After clause 19(3) (page 14, after line 9), insert:

(4) No person may be appointed as a member, or remain as a member, of the SCENZ Group if they have been the subject of a written complaint to any relevant professional body (including, for the avoidance of doubt, the Health and Disability Commissioner) in relation to any thing done or failed to have been done in accordance with, or nominally in accordance with, this Act.

**Explanatory note SOP 332**

This Supplementary Order Paper amends the End of Life Choice Bill. It proposes that being the subject of a written complaint should disqualify a person from appointment to the SCENZ Group.

Given the overarching importance of the role accorded to this body, it cannot afford to be tainted by a lack of credibility in relation to the conduct of particular members.

**SOP 333 (Joanne Hayes)**

*Clause 19*

After clause 19(3) (page 14, after line 9), insert:

(4) The Director-General must publish, in a manner readily accessible to the public, an up-to-date list of the members of the SCENZ Group, including at minimum a brief description of the relevant qualifications and experience of each member.

**Explanatory note SOP 333**
This Supplementary Order Paper amends the End of Life Choice Bill. It proposes a measure of transparency and accountability in relation to the members of the SCENZ Group.

The proposed legislation accords huge significance to this body, and it would be highly undesirable for its members to be unknown or unknowable. The qualifications and experience of the members are important details that should be publicly available if New Zealanders are to be confident that those appointed to these roles are well suited to fulfil them.

**SOP 334 (Melissa Lee)**

Clause 19
After clause 19(3) (page 14, after line 9), insert:

(4) A member of the SCENZ Group who becomes aware that they have a close association (whether financial, personal, or professional) with a person whose actions or inactions are being considered by the SCENZ Group in accordance with its functions detailed in subsection (2) must recuse themselves from such consideration.

**Explanatory note SOP 334**

This Supplementary Order Paper amends the End of Life Choice Bill. It would provide some basic protection against the possibility of unmanaged conflicts of interest.

The relatively close-knit nature of the medical community and New Zealand professional life more generally—combined with the review and overview functions of the statutory body, as detailed in this clause—requires that the proposed legislation contemplates how the inevitable conflicts of interest are to be managed.

Such clarity is important if the body is to be considered credible, as well as for the protection of individual New Zealanders.

**SOP 335 (Agnes Loheni)**

Clause 19
After clause 19(3) (page 14, after line 9), insert:

(4) The SCENZ Group must—
(a) keep written records of its operations; and
(b) keep these records in a secure manner; and
(c) retain these records for at least 7 years.

Explanatory note SOP 335

This Supplementary Order Paper amends the End of Life Choice Bill. It would require basic record-keeping on the part of the SCENZ Group. The operations of this proposed statutory body can scarcely be considered to be less important than various other activities (for example, transfers of real property) where the law specifies that records must be kept for at least 7 years.

SOP 336 (Paulo Garcia)

Clause 19
After clause 19(3) (page 14, after line 9), insert:

(4) Subject to this Act, the SCENZ Group must—
   (a) regulate its own procedures for performing its functions and duties (including, without limitation, its procedures for handling any complaints about its actions, processes, or procedures); and
   (b) make its procedures publicly available, in the manner it considers appropriate.

Explanatory note SOP 336

This Supplementary Order Paper (SOP) amends the End of Life Choice Bill. It would provide authority for the SCENZ Group to set its own procedures. In the absence of such a provision, it is unclear what set of procedural rules might apply to this statutory body.

This SOP would allow the SCENZ Group to set its own procedures and would require it to publicise these procedures, so that affected persons (or potentially affected persons) within the system have a measure of comfort regarding the way in which the body will be operating.

20 Review Committee
(1) The Minister must appoint an end-of-life review committee consisting
SOP 337 (Kanwaljit Singh Bakshi)  Amendment to SOP 259

Clause 20
In clause 20(1), replace “The Minister must appoint an end-of-life Review Committee consisting of” (page 18) with

“The Minister must appoint an end-of-life Review Committee with an appropriate number of members to fulfil its functions under subsection (2), but in any case with no fewer than 7 members and no more than 13 members at any given time, consisting of at least”

Explanatory note SOP 337
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by proposing an appropriate range for the number of members of the Review Committee.

It is relatively unusual for the number of members of a statutory body to be left unspecified.

It is also undesirable that no guidance in the matter be given. A statutory body that is too small in number would risk disproportionate influence being accorded to any given individual member. Conversely, a statutory body that is too large in number risks the dilution of the specific expert influence that will be afforded by the appointment of particular members as mandated by the proposed legislation.

(a) a medical ethicist; and

SOP 340 (Chris Penk)

Clause 20
In clause 20(1), replace paragraph (a) (page 18) with:

(a) a person who, in the opinion of the Minister, has obtained relevant qualifications and experience in the field of medical ethics; and

Explanatory note SOP 340
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by clarifying what is required in relation to a “medical ethicist” (as that term is used in the proposed legislation).
If a medical ethicist is so important as a member of the Review Committee that the position is being specifically required, then the legislation should contain a degree of clarity about the basis on which such an appointment is to be made.

Given that there is no particular qualification that would necessarily include and exclude persons from the meaning of “medical ethicist”, it seems appropriate to accord the determination to the Minister of Health.

SOP 341 (Simon O’Connor) Amendment to SOP 259

Clause 20
In clause 20(1), after paragraph (a) (page 18), insert:

(aa) a person who is legally qualified by virtue of having held a practising certificate as a barrister or as a barrister and solicitor for at least 7 years; and

Explanatory note SOP 341

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by adding a particular membership qualification requirement in relation to the Review Committee.

It is important that the Review Committee include at least 1 person with some knowledge of the operation of the law, so that legal issues arising in the performance of the Review Committee’s functions can be the subject of well-informed internal advice.

Examples of legal issues that might arise for the Review Committee include the consideration of assisted death reports under clause 20(2)(a), or statutory interpretation as needed in relation to the question of compliance under clause 20(2)(b) and (c).

SOP 342 (Chris Penk) Amendment to SOP 259

Clause 20
In clause 20(1), after paragraph (a) (page 18), insert:

(aa) a person who, in the opinion of the Minister, has obtained relevant qualifications and experience in the disability sector; and

Explanatory note SOP 342
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by adding a particular membership qualification requirement in relation to the Review Committee.

It is important that the Review Committee include at least 1 person with some knowledge of disability issues so that issues arising in the performance of the Review Committee’s functions in relation to that particular community can be the subject of well-informed internal advice.

(b) a medical practitioner who practises in the area of end-of-life care; and
(c) another medical practitioner.

(b) 2 health practitioners, one of whom must be a medical practitioner who practises in the area of end-of-life care.

SOP 343 (Kanwaljit Singh Bakshi) Amendment to SOP 259

Clause 20
In clause 20(1), replace paragraph (b) (page 18) with:

(b) 3 health practitioners,—
   (i) at least 1 of whom must be a medical practitioner whose practice specialises in the area of geriatric care; and
   (ii) at least 1 of whom must be a medical practitioner whose practice specialises in the area of palliative care.

Explanatory note SOP 343
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by adding 2 particular membership qualification requirements in relation to the Review Committee.

It is important that the Review Committee include, among its health practitioner members, at least 1 who specialises in geriatric care, given the predominance of older New Zealanders likely to be affected by the proposed law.

Similarly, it is important that the health practitioner members of the Review Committee also include at least 1 who specialises in palliative care, given the knowledge that such a person, or persons, inevitably has regarding the provision of real care at the end of life.
SOP 338 (Chris Penk)

Clause 20
In clause 20, after subclause (1) (page 14, after line 14), insert:

(1A) The following persons are ineligible for appointment to the Review Committee:
(a) the current or any former Health and Disability Commissioner:
(b) the current or any former Registrar (assisted dying):
(c) any current or former member of the SCENZ Group.

Explanatory note SOP 338
This Supplementary Order Paper amends the End of Life Choice Bill. It would ensure that people who have already held (or still hold) certain key roles are not also members of this body. It would be inappropriate for any given person to hold multiple roles in this field, given the importance of the various roles.
The more important the roles, the greater the potential for significant conflicts of interest in relation to the review of policy and practice of euthanasia and assisted suicide under the proposed legislation.

SOP 339 (Simon O’Connor)

Clause 20
After clause 20(1) (page 14, after line 14), insert:

(1A) The term of each appointment to the Review Committee is limited to 2 years, and members may serve a maximum of 2 terms of appointment.

Explanatory note SOP 339
This Supplementary Order Paper amends the End of Life Choice Bill by limiting the time period for which a member of the Review Committee can serve.
It would be unhealthy for any given individual to remain appointed to this statutory body indefinitely or for an excessive period of time. Institutions should not be subject to the threat of capture by a small number of individual persons.
These points are particularly applicable given that the legislation specifies no manner in which members of the Review Committee can be removed in a situation such as unsuitable conduct, personal ill health, or other diminished capacity.

(2) The Review Committee has the following functions:

(a) to consider reports sent to it under section 17(3) (attending medical practitioner assisted death reports); and

(b) to report to the Registrar whether it considers that the information contained in an attending medical practitioner assisted death report shows satisfactory compliance with the requirements of this Act; and

(c) to direct the Registrar to follow up on any information contained in a medical practitioner an assisted death report that the Review Committee considered did not show satisfactory compliance with the requirements of this Act.

SOP 344 (Paulo Garcia)

Clause 20
After clause 20(2) (page 14, after line 25), insert:

(3) No person may be appointed as a member, or remain as a member, of the Review Committee if they have been the subject of a written complaint to any relevant professional body (including, for the avoidance of doubt, the Health and Disability Commissioner) in relation to any thing done or failed to have been done in accordance with, or nominally in accordance with, this Act.

Explanatory note SOP 344

This Supplementary Order Paper amends the End of Life Choice Bill. It proposes that being the subject of a written complaint disqualify a person from appointment to the Review Committee. Given the overarching importance of the role accorded to this body, it cannot afford to be tainted by a lack of credibility in relation to the conduct of particular members.
SOP 345 (Agnes Loheni)

Clause 20
After clause 20(2) (page 14, after line 25), insert:

(3) The Minister must publish, in a manner readily accessible to the public, an up-to-date list of the members of the Review Committee, including at minimum a brief description of the relevant qualifications and experience of each member.

Explanatory note SOP 345
This Supplementary Order Paper amends the End of Life Choice Bill. It proposes a measure of transparency and accountability in relation to the members of the Review Committee. The proposed legislation accords huge significance to this body and it would be highly undesirable for its members to be unknown or unknowable. The qualifications and experience of the members are important details that should be publicly available if New Zealanders are to be confident that those appointed to these roles are well suited to fulfil them.

SOP 346 (Melissa Lee)

Clause 20
After clause 20(2) (page 14, after line 25), insert:

(3) A member of the Review Committee who becomes aware that they have a close association (whether financial, personal, or professional) with a person whose actions or inactions are being considered by the Review Committee in accordance with its functions detailed in subsection (2) must recuse themselves from such consideration.

Explanatory note SOP 346
This Supplementary Order Paper amends the End of Life Choice Bill by providing some basic protection against the possibility of unmanaged conflicts of interest. The relatively close-knit nature of the medical community and New Zealand professional life more generally—combined with the review and overview functions of the statutory body, as detailed in this clause—requires that the proposed legislation contemplates how the inevitable conflicts of interest are to be managed.
Such clarity is important if the body is to be considered credible, as well as for the protection of individual New Zealanders.

**SOP 347 (Joanne Hayes)**

*Clause 20*

After *clause 20*(2) (page 14, after line 25), insert:

(3) The Review Committee must—

(a) keep written records of its operations; and

(b) keep these records in a secure manner; and

(c) retain these records for at least 7 years.

**Explanatory note SOP 347**

This Supplementary Order Paper amends the End of Life Choice Bill by requiring basic record-keeping on the part of the Review Committee.

The operations of this proposed statutory body can scarcely be considered to be less important than various other activities (for example, transfers of real property) where the law specifies that records must be kept for at least 7 years.

**SOP 348 (Melissa Lee)**

After *clause 20*(2) (page 14, after line 25), insert:

(3) Subject to this Act, the Review Committee must—

(a) regulate its own procedures for performing its functions and duties (including, without limitation, its procedures for handling any complaints about its actions, processes, or procedures); and

(b) make its procedures publicly available, in the manner it considers appropriate.

**Explanatory note SOP 348**

This Supplementary Order Paper (SOP) amends the End of Life Choice Bill. It would provide authority for the Review Committee to set its own procedures.
In the absence of such a provision, it is unclear what set of procedural rules might apply to this statutory body.

This SOP allows the Review Committee to set its own procedures and would require it to publicise these procedures, so that affected persons (or potentially affected persons) within the system have a measure of comfort regarding the way in which the body will be operating.

21 Registrar (assisted dying)

(1) The Director-General must nominate an employee of the Ministry as the Registrar (assisted dying).

SOP 349 (Agnes Loheni) Amendment to SOP 259

Clause 21
In clause 21(1), after “The Director-General must nominate an employee of the Ministry as the Registrar (assisted dying)” (page 19), insert

“, who can have no other duties as an employee (or other agent) of the Ministry, including, in particular, in relation to assisted dying”.

Explanatory note SOP 349

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by clarifying that the person holding the position as the Registrar is not to have any other duties.

The reasons for this proposal include that:

• the position of Registrar is sufficiently important that it should not be a less-than-fulltime role; and

• the possibility of conflicts of interest—as between different professional roles held by the same person—should be reduced as far as reasonably possible

(2) The Registrar must establish and maintain a register recording the following:

(a) prescribed approved forms held by the Registrar; and

(b) the Review Committee’s reports to the Registrar; and

(c) the Registrar’s reports to the Minister.

SOP 350 (Hon Maggie Barry) Amendment to SOP 259
Clause 21
In clause 21(2), after “The Registrar must establish and maintain a register” (page 19), insert

“, which must be kept up to date and published consistently in a manner readily accessible to the public,.”.

Explanatory note SOP 350

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by highlighting the need for this register to be accessible to New Zealanders.
Without any requirement that the register be published, there will be a lack of transparency about the number of those prepared to execute the functions of euthanasia and assisted suicide, among other things.

(3) The Registrar must consult the Privacy Commissioner—
(a) before establishing the register; and
(b) at regular intervals while maintaining the register.

SOP 358 (Anahila Kanongata’a-Suisuiki) Amendment to SOP 259

Clause 21
Replace clause 21(3) (page 19) with:

(3) The Registrar must—
(a) consult the Privacy Commissioner—
(i) before establishing the register; and
(ii) at regular intervals, no less frequently than once in each 12-month period, while maintaining the register; and
(b) act upon any recommendations relating to privacy made by the Privacy Commissioner.

Explanatory note SOP 351
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by providing some guidance about the consultation required by the Registrar of the Privacy Commissioner.

The information held on the register will be crucially important to the lives—and deaths—of many New Zealanders and the privacy implications can hardly be understated. Matters of policy and practice in relation to protecting privacy should be reviewed frequently. It is not enough to require simply that consultation take place at “regular intervals”, as regularity is not the same as frequency. For example, a consultation exercise once every 10 years is regular but it is not nearly frequent enough for the purposes of clause 21(3).

If the Registrar receives a complaint about the appropriateness of the conduct of any person under this Act that the Registrar considers relates to a matter more properly within the jurisdiction of any of the following persons, the Registrar must refer the complaint to that person:

SOP 352 (Hon Maggie Barry) Amendment to SOP 259

Clause 21
In clause 21(4), replace “If the Registrar receives a complaint about the appropriateness of the conduct of any health practitioner” (page 19) with

“If the Registrar receives a complaint from any person about the appropriateness, including the legality, of the conduct of any health practitioner or other person”.

Explanatory note SOP 352

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by including the question of legality—beyond what may be considered merely “appropriate” or “inappropriate”—in the jurisdiction of the Registrar.

(a) to the Health and Disability Commissioner, if it appears that the complaint relates to a alleges that the conduct of the health practitioner is, or appears to be, in breach of the Code of Health and Disability Services Consumers’ Rights; or

SOP 359 (Anahila Kanongata’a-Suisuiki)

Clause 21
After clause 21(4A) (page 15, after line 15), insert:
(4AA) The notification required under subsection (4A) must be—
(a) in writing; and
(b) given within 10 working days of the complaint having been made.

Explanatory note SOP 353

This Supplementary Order Paper amends the End of Life Choice Bill by requiring that written reasons be provided for a non-referral of a complaint within a reasonable period of time, as specified.

(b) to the appropriate authority, if it appears that the complaint relates to a health practitioner’s competence, fitness to practise, or conduct; or
(c) to the New Zealand Police.

(4A) If the Registrar does not refer a complaint under subsection (4), the Registrar must notify the complainant of that fact and of the reason why a referral was not made.

(4B) The Registrar must take any action directed by the Review Committee under section 20(2)(c).

(5) The Registrar must report to the Minister by the end of 30 June each year on the following matters for the year:
(a) the total number of deaths occurring under section 16:
(b) the total broken down into number of deaths occurring through each of the methods described in section 15(3)(a):
(c) the number of complaints received about breaches of this Act:

**SOP 354 (Hon Maggie Barry)**

*Clause 21*
Replace clause 21(5)(c) (page 15, line 23) with:

(c) the number and nature of complaints received about alleged breaches of this Act:

**Explanatory note SOP 354**

*This Supplementary Order Paper amends the End of Life Choice Bill by ensuring that the reporting requirement does not apply only to complaints that resulted in a “breach” finding. The number of complaints that did not result in the Registrar determining that a breach occurred is at least as significant a detail, to the extent that it may reflect public understanding (or otherwise) of the regime and also the Registrar’s decision making patterns.*

(d) how those complaints were dealt with:

**SOP 356 (Hon Maggie Barry) Amendment to SOP 259**

*Clause 21*
Replace clause 21(5)(d) (page 20) with:

(d) how those complaints were dealt with, including, at a minimum, in each case—

(i) whether the complaint was upheld; and

(ii) if the complaint was upheld, what action was taken as a result:

**Explanatory note SOP 356**

*This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by requiring that the Registrar note the result of the complaint, rather than whatever is meant by “how those complaints were dealt with”. The manner of dealing with complaints could be more procedural than substantive, and if the Registrar takes that approach to reporting then much valuable insight will be unavailable.*
SOP 357 (Hon Maggie Barry)

Clause 21
After clause 21(5)(d) (page 15, after line 24), insert:

(da) any matter on which the Minister directs them to report from time to time:

Explanatory note SOP 357
This Supplementary Order Paper amends the End of Life Choice Bill by effectively allowing the Minister of Health to create reporting categories.

Monitoring of the regime by the Minister, on behalf of the elected Government, is crucial if any degree of confidence in the system is to be enjoyed by New Zealanders.

(e) any other matter relating to the operation of this Act that the Registrar thinks appropriate.

(6) The Registrar must perform any other functions that this Act requires the Registrar to perform.

21A Persons to provide information to Registrar

(1) This section applies to—
(a) the Health and Disability Commissioner; and
(b) an authority; and
(c) the New Zealand Police.

(2) A person to whom this section applies must provide to the Registrar each year any information that the Registrar may require to enable the Registrar to report to the Minister on the matters referred to in section 21(5)(c) and (d).

(3) The information must be provided within the time and in the manner (which must be reasonable in the circumstances) specified by the Registrar (which must be reasonable in the circumstances).

21B Minister must present to House of Representatives copy of report under section 21

As soon as practicable after receiving a report under section 21(5), the Minister must present a copy of the report to the House of Representatives.

22 Review of operation of Act
(1) The Minister must, within 3 years after the commencement of this Act and then at subsequent intervals of not more than 5 years,—
   (a) review the operation of this Act; and
   (b) consider whether any amendments to this Act or any other enactment are necessary or desirable; and
   (c) report on its findings to the Minister.

(2) As soon as practicable after receiving a report under subsection (1)(c), the Minister must present a copy of the report to the House of Representatives.

SOP 214 (Simon O’Connor)

New clause 21C
After clause 21B (page 16, after line 4), insert:

21C Ministry reporting
The ministry must publish a report annually that includes, but is not limited to, information on—
(a) the number of applications that have been made in the relevant year for assisted dying, listed by—
   (i) age; and
   (ii) gender; and
   (iii) ethnicity; and
   (iv) medical condition; and
   (v) projected lifespan; and
   (vi) relational status; and
   (vii) educational attainment; and
   (viii) region; and

(b) the number of applications that have been granted in the relevant year for assisted dying, listed by—
   (i) age; and
   (ii) gender; and
   (iii) ethnicity; and
   (iv) medical condition; and
   (v) projected lifespan; and
   (vi) relational status; and
   (vii) educational attainment; and
   (viii) region; and

(c) the number of applications that have been declined in the relevant year for assisted dying, listed by—
   (i) age; and
   (ii) gender; and
   (iii) ethnicity; and
   (iv) medical condition; and
   (v) projected lifespan; and
   (vi) relational status; and
   (vii) educational attainment; and
   (viii) region; and

(d) the number of medical practitioners participating in assessing eligibility to access assisted dying; and

(e) the estimated financial cost of the provision of assisted dying within New Zealand in that year.

**Explanatory note SOP 214**

This Supplementary Order Paper amends the End of Life Choice Bill. It establishes a minimum annual reporting requirement for the Ministry of Health on the status of assisted dying in New Zealand. This report must include, but is not limited to, the number of applications made, granted, and declined, the number of medical practitioners participating, and the estimated annual cost of assisted dying.
New clause 21C
After clause 21B (page 16, after line 4), insert:

21C PHARMAC report

(1) PHARMAC must publish a report annually that includes information on—
   (a) the quantities of medications funded for use under this Act in the relevant year; and
   (b) the total cost of the medications identified in paragraph (a); and
   (c) other medications that would have been funded by PHARMAC if not for the funding of medication for the purposes of this Act.

(2) In this section, PHARMAC means the Pharmaceutical Management Agency.

Explanatory note SOP 215

This Supplementary Order Paper amends the End of Life Choice Bill. It establishes a reporting requirement for PHARMAC to publish an annual report on the funding of medication for the purposes of the Bill.

22A Attending medical practitioner to take no further action if coercion suspected

If at any time the attending medical practitioner has reasonable grounds to suspect that a person who has expressed the wish to exercise the option of assisted dying is not expressing their wish free from pressure from any other person, the medical practitioner must—
(a) take no further action under this Act to assist the person in exercising that option; and

(b) tell the person that they are taking no further action under this Act to provide assisted dying services to the person; and

(c) complete a prescribed form recording—

(i) that they are taking no further action under this Act to assist the person in exercising the option of assisted dying; and

(ii) the actions taken to comply with paragraph (b); and

(d) send the form completed under paragraph (c) to the registrar.

Part 4
Related matters

23 Regulations prescribing forms

The Governor-General may, by Order in Council, make regulations prescribing forms for the purposes of this Act, providing for any matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

SOP 368 (Paulo Garcia) Amendment to SOP 259

Clause 23

In clause 23, replace “providing for any matters contemplated by this Act, necessary for its administration,” (page 21) with “necessary for this Act’s administration”.

Explanatory note SOP 368

This Supplementary Order Paper (SOP) amends SOP No 259 amending the End of Life Choice Bill by removing what might be described as a legislative blank cheque from the executive branch of government.

The formulation of regulation-making powers in SOP No 259 is far too broad, enabling regulations to be made beyond the scope of what is “necessary for [the] administration” of the legislation or to give it “full effect”.

There are many “matters contemplated by this Act” that should not be able to be the subject of regulations made, effectively by a single Minister, with the relatively low level of scrutiny that such power would entail.

It is worth noting that the Bill, without the amendment in SOP No 259, is much more modest in its ambitions for clause 23. As drafted and introduced to the House, it merely provides a regulation-making power in relation to “prescribing forms for the purposes of this Act” and not “any matters contemplated”, as SOP No 259 would enable.
24 Other rights and duties not affected

(1) Nothing in this Act affects a person’s rights to—

(a) refuse to receive nutrition:

(b) refuse to receive hydration:

(c) refuse to receive life-sustaining medical treatment.

SOP 369 (Simon O’Connor)

Clause 24

In clause 24(1), replace paragraphs (a) to (c) (page 17, lines 8 to 10) with:

(a) receive, or refuse to receive, nutrition:

(b) receive, or refuse to receive, hydration;

(c) receive, or refuse to receive, life-sustaining medical treatment.

Explanatory note SOP 369

This Supplementary Order Paper (SOP) amends the End of Life Choice Bill. It affirms that a person’s rights to receive nutrition, hydration, and life-sustaining medical treatment are unaffected by the proposed legislation.

It is a surprising omission from the Bill currently that no such affirmation is provided.

Affirming some rights that are unaffected by the Bill but not others (that could reasonably be thought to be affected, at least potentially) has an unfortunate implication.

Aside from the rules of statutory interpretation, the context is particularly worrying in relation to the experience of overseas jurisdictions that have legalised euthanasia or assisted suicide. Persons with adverse medical prospects have been actively offered euthanasia or assisted suicide (as the case may be) as an alternative to treatment that would otherwise have included options to receive life-sustaining medical treatment.

This SOP is vital to ensuring that the proposed law does not represent a duty to die (at a particular time, in a particular way), as distinct to a right to die (at a particular time, in a particular way).
SOP 364 (Melissa Lee)

Clause 24
In clause 24(1)(c) (page 17, line 10), replace “.” with “:”.
After clause 24(1)(c) (page 17, after line 10), insert:

(d) freedom of religion or belief, or to manifest their religion or belief, as set out in sections 13 and 15 of the New Zealand Bill of Rights Act 1990.

Explanatory note SOP 364
This Supplementary Order Paper amends clause 24 of the End of Life Choice Bill to ensure that the religious, cultural, and faith-based customs of persons will not be affected by the implementation of this Bill.

(2) Nothing in this Act affects a medical practitioner’s duty to alleviate suffering in accordance with standard medical practice.

24A Advance directive, etc, may not provide for assisted dying
(1) A person who wishes to request to exercise the option of receiving assisted dying under this Act must sign and date the approved form referred to in section 9(3) (the request form), and to the extent that any provision expressing such a wish is included by the person in an advance written or oral directive, will, contract, or other document that provision is invalid.
(2) A person who, after signing and dating the request form, wishes to rescind a request to exercise the option of receiving assisted dying under this Act must communicate that wish to the attending medical practitioner or the attending nurse practitioner orally, in writing (a rescind document), or by gesture and to the extent that any provision expressing such a wish is included by the person in an advance written or oral directive, will, contract, or other document (not being a rescind document) that provision is invalid.
(3) No particular form of words is required to rescind orally or in writing a request to exercise the option of receiving assisted dying under this Act.
SOP 372 (Agnes Loheni) Amendment to SOP 259

Clause 24A
In clause 24A(3), after “No particular form of” (page 21), insert “gesture or”.
In clause 24A(3), replace “orally or in writing” (page 21) with “orally, in writing, or by gesture”.

Explanatory note SOP 372
This Supplementary Order Paper (SOP) amends SOP No 259 amending the End of Life Choice Bill by providing that no particular form of gesture is needed to rescind a request to receive euthanasia or assisted suicide.

SOP No 259 is seemingly intended to assure that no particular form of words is needed for a person to rescind a request to receive assisted dying. (Incidentally, it is only “seemingly” the case because of an inconsistency between clause 24A(3), which allows any form of written rescindment, and clause 24A(2), which precludes rescindment by advanced directive, etc.)

The key point regarding this SOP, however, is that it recognises that—because clause 24A(2) enables rescindment by “gesture”—there should be no particular type of gesture required. The equivalent assurance is provided in relation to words that rescind a request, after all.

On a related note, it is a significant defect that no guidance is provided in a situation where it is unclear whether or not a person is rescinding a request for euthanasia or assisted suicide. Inevitably this situation will arise at the bedside of a person who is nominally marked to die in accordance with the proposed legislation.

SOP 370 (Chris Penk) Amendment to SOP 259

Clause 24A
In clause 24A(1), delete “will,” (page 21).
In clause 24A(2), delete “will,” (page 21).

Explanatory note SOP 370
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by removing the reference to a person’s will.
By definition, a will is a document that provides instructions in the event that a person’s death has already taken place. As such, its inclusion in an “assisted dying” regime is nonsensical.

**SOP 371 (Simeon Brown) Amendment to SOP 259**

*Clause 24A*

In *clause 24A(2)*, delete “and to the extent that any provision expressing such a wish is included by the person in an advance written or oral directive, will, contract, or other document (not being a rescind document) that provision is invalid” (page 21).

**Explanatory note SOP 371**

*This Supplementary Order Paper (SOP) amends SOP No 259 amending the End of Life Choice Bill by removing an arbitrary restriction on the manner that a person can rescind a decision to receive euthanasia or assisted suicide. The possibility of coercion is heightened by SOP No 259 seeking to restrict a person’s right to rescind a decision to seek euthanasia or assisted suicide. There is no good reason that a person’s clearly expressed desire in relation to euthanasia or assisted suicide should be accorded no legal weight whatsoever, as SOP No 259 would seek to ensure through clause 24A(2).*
24B Welfare guardians have no power to make decisions or take actions under this Act

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.

SOP 373 (Kanwaljit Singh Bakshi) Amendment to SOP 259

Clause 24B
In the heading to clause 24B, after “Welfare guardians” (page 22), insert “and attorneys”.
In clause 24B, after “for a person” (page 22), insert “, or an attorney of a person under an enduring power of attorney for personal care and welfare,”

Explanatory note SOP 373

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by filling in a gap in the legislation, clarifying the status of an attorney under an enduring power of attorney.
It cannot be said that the status of an attorney is covered elsewhere—for example, in clause 24A(1), which refers to advance directives and various other types of document—because enduring powers of attorney cannot be expected to contain directions regarding assisted dying.

25 Effect on contracts of death under this Act

A person who dies as a result of the provision of assisted dying is, for the purposes of any life insurance contract, or any other contract,—
(a) taken to have died as if assisted dying had not been provided; and
(b) taken to have died from—
   (i) the terminal illness referred to in section 4(c)(i) from which they suffered, or
   (ii) the grievous and irremediable medical condition referred to in section 4(c)(ii) from which they suffered,
(b) taken to have died from the terminal illness referred to in section 4(c) from which they suffered.

SOP 365 (Melissa Lee)
Proposed amendments to
End of Life Choice Bill

Part 4 cl 26A

Clause 25
Delete clause 25 (page 17, lines 13 to 15).

Explanatory note SOP 365
This Supplementary Order Paper amends the End of Life Choice Bill to delete clause 25. That clause, if implemented, creates an unreasonable burden on New Zealand insurers, particularly those in the life insurance community where the policies may have been written a number of years in advance of this law’s proposal. Such a law change has the potential to affect premiums in the insurance market.

SOP 374 (Hon Maggie Barry) Amendment to SOP 259

Clause 25
Replace clause 25 (page 22) with:

25 Effect on contracts of death under this Act
A person who dies as a result of assisted dying is, for the purposes of any life insurance contract, or any other contract, taken to have died as a result of the administration of medication as detailed in section 16, if that was the actual cause of the person’s death.

Explanatory note SOP 374
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by clarifying that no one is to be compelled to misreport or misrepresent the cause of a person’s death. Compelling speech is particularly oppressive where the information required to be recorded is factually incorrect, as distinct from merely a matter of taste or preference. Clause 25 appears to assume that, if this Bill becomes law, contracts for life insurance are going to be provided on the same basis as they are currently. A related point is that it is unclear from the Bill whether insurers will be able to contract out of clause 25. It seems inevitable that insurance policies will take into account the possibility of insured persons ending their lives earlier than would otherwise have been the case.

25A Restrictions on making public details of assisted dying deaths
(1) This section applies in respect of a death that was, or appears to be, the result of assisted dying under this Act.
Proposed amendments to
End of Life Choice Bill

Part 4 cl 26

(2) No person may make public in respect of any death to which this section applies—
(a) the method by which the medication was administered to the deceased;
(b) the place where the medication was administered to the deceased;
(c) the name of the person who administered the medication to the deceased, or the name of that person’s employer.

(3) A person who contravenes this section commits an offence and is liable on conviction—
(a) to a fine not exceeding $20,000, in the case of a body corporate;
(b) to a fine not exceeding $5,000, in any other case.

(4) Nothing in this section applies in respect of court or tribunal proceedings or to reports or publications of those proceedings.

(5) In this section, make public means publish by means of—
(a) broadcasting (within the meaning of the Broadcasting Act 1989); or
(b) a newspaper (within the meaning of the Defamation Act 1992); or
(c) a book, journal, magazine, newsletter, or other similar document; or
(d) an audio or a visual recording; or
(e) an Internet site that is generally accessible to the public, or some other similar electronic means.

SOP 375 (Chris Penk) Amendment to SOP 259

Clause 25A
Delete clause 25A (pages 22 and 23).

Explanatory note SOP 375
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by deleting clause 25A (Restrictions on making public details of assisted dying deaths). That clause would seek to conceal the details of certain practices associated with euthanasia and assisted suicide under the assisted dying regime.

Philosophical objections to this attempted concealment can be summarised by the phrase “sunlight is the best disinfectant”, given that possible cases of malpractice may be suppressed by this mechanism.

Practical objections to this attempted concealment include the artificiality of the distinction that is being drawn between some types of publication and others. For example, a person’s place of death could be noted at a eulogy but a recording made of the funeral, without this detail being removed by editing, would breach the law.
Proposed amendments to
End of Life Choice Bill

Finally, it seems absurd that in clause 25A the maximum fine applying to a body corporation for mere publication (up to $20,000) is twice that which applies to a person who “wilfully fails to comply” with the remainder of the legislation (up to $10,000).

26 Immunity from criminal liability

(1) A person (A) is immune from criminal liability if A, in good faith and believing on reasonable grounds that another person (B) wishes to exercise the option of assisted dying,—

(a) takes any action that assists or facilitates the dying of B in accordance with the requirements of this Act; or

(b) fails to take any action and that failure assists or facilitates the dying of B in accordance with the requirements of this Act.

(2) Subsection (1) applies even if that the doing of that thing, or the failure to do that thing, would constitute an offence under any other enactment.

(1) A health practitioner who does all or any of the following is immune from criminal liability under section 179 of the Crimes Act 1961 or any other enactment:

(a) discusses with a person, at that person’s request and in accordance with sections 7 and 8 of this Act, assisted dying under this Act:

(b) provides to a person, at that person’s request and in accordance with sections 7 and 8 of this Act, information about assisted dying under this Act:

(c) gives a person the approved form referred to in section 8(2)(i) of this Act in accordance with section 9(2) of this Act and complies with section 9(5) of this Act:

(d) takes any other action that this Act authorises or requires them to take in respect of a person who requests to discuss, requests information about, or wishes or requests to exercise the option of receiving, assisted dying under this Act, and who has not yet been advised in accordance with this Act whether the person is a person who is eligible for assisted dying.

(2) The rest of this section applies if a person (A) is eligible to exercise the option of receiving assisted dying under this Act and wishes or requests to exercise that option.

(3) A has the right to request to exercise the option of assisted dying under this Act and does not commit an offence under any enactment by exercising that option.

SOP 377 (Alfred Ngaro) Amendment to SOP 259
Clause 26
In clause 26, delete subclause (3) (page 23).

Explanatory note SOP 377
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by removing clause 26(3), as it is redundant. It is unnecessary to state that an offence isn’t committed by a person who seeks assisted dying. The reason is simple: it is not an offence anywhere in New Zealand law to request one’s own death nor to attempt suicide, so there is no good reason to believe that seeking “assisted dying” could be an offence either.

(4) If another person (B) knows, or has reasonable grounds for believing, that A has requested to exercise the option of assisted dying under this Act, B is not justified—
(a) in using any force, under section 41 of the Crimes Act 1961, to prevent A from exercising that option; or
(b) in using any force, under section 48 of the Crimes Act 1961, to defend A from an action being taken in respect of A and that this Act authorises or requires to be taken in respect of A.

(5) B, or any other person, is immune from criminal liability if B or that person, in good faith and believing on reasonable grounds that A wishes to exercise the option of assisted dying under this Act,—

(a) takes any action that causes, assists, or facilitates the death of A in accordance with the requirements of this Act (for example, an attending medical practitioner who, under section 16(4)(a), administers medication to A in accordance with the requirements of this Act is immune from liability under the Crimes Act 1961 for the death of A); or

(b) fails to take any action and that failure causes, assists, or facilitates the death of A in accordance with the requirements of this Act (for example, an attending nurse practitioner who, under section 16(5)(a), is available to A, and takes no action to revive A, is immune from liability under the Crimes Act 1961 for the death of A).

(6) Subsection (5) applies—

(a) even if taking that action, or failing to take that action, would, but for subsection (5), constitute an offence under any enactment; and

(b) notwithstanding section 63 of the Crimes Act 1961.

SOP 376 (Simeon Brown) Amendment to SOP 259

Clause 26
In clause 26, delete subclauses (5) and (6) (page 24).

Explanatory note SOP 376
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill. It would remove the proposed immunity from criminal liability for a person who takes (or fails to take) “any action that causes, assists, or facilitates the death of [another]” in accordance with the requirements of the legislation.

The requirement to be granted immunity for causing such wrongful death is merely one of “good faith”—a phrase that is typically regarded by the courts as a low threshold—and “believing on reasonable grounds that [the person killed] wished[d] to exercise the option of assisted dying” under the legislation.

This cover could well extend to the very abusers most likely to try to pressure or coerce (even if subtly) family members into requesting euthanasia or assisted suicide. It is
worth noting in this context that thousands of New Zealanders fall victim to elder abuse each year, as noted at http://superseniors.msd.govt.nz/elder-abuse/.

Abusers of vulnerable, terminally ill Kiwis will be able to use a variety of coercive techniques and later claim, if ever investigated, that they were merely acting reasonably and in “good faith” towards a person who surely wanted euthanasia or assisted suicide.

Put simply, the immunity provisions create a place of refuge for abusers that has not previously existed in New Zealand law. The abusers might be coercive doctors, who will very quickly learn how to navigate their way through the prohibitive provisions in the legislation and make full use of its immunity provisions (again, if ever investigated), or abusive family members as noted above.

While the intention may be simply to enable the well-intentioned to assist the capable to end their lives easily, the effect of the Bill’s immunity provisions is actually to remove safeguards that (under current New Zealand law) work to prevent the malevolent from harming the vulnerable.

26A Immunity from civil liability

(1) A person (A) is immune from civil liability if A, in good faith and believing on reasonable grounds that another person (B) wishes to exercise the option of assisted dying,—

(a) takes any action that assists or facilitates the dying death of B in accordance with the requirements of this Act; or

(b) fails to take any action and that failure assists or facilitates the dying death of B in accordance with the requirements of this Act.

(2) Nothing in this section 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; or

(c) apply for judicial review.

SOP 366 (Melissa Lee)

Clauses 26 and 26A

Replace clauses 26 and 26A (page 17, line 29 to page 18, line 18) with:

26 No immunity from criminal and civil proceedings

Nothing in this Act gives immunity to any form of criminal or civil liability as a result of an action undertaken under this Act to terminate the life of a person.
Proposed amendments to
End of Life Choice Bill

This Supplementary Order Paper amends the End of Life Choice Bill to replace clauses 26 and 26A. These clauses provide an unreasonable level of protection to those ending the life of a person where there can be cause for legal liability to be examined.

27 Offences
(1) A person who is a medical practitioner, nurse practitioner, or specialist psychiatrist commits an offence if the medical practitioner, nurse practitioner, or specialist psychiatrist wilfully fails to comply with any requirement of this Act.

SOP 378 (Simon O’Connor) Amendment to SOP 259

Clause 27
In clause 27(1), replace “A person who is a medical practitioner, nurse practitioner, or psychiatrist” (page 24) with “Any person”.
In clause 27(1), replace “the medical practitioner, nurse practitioner, or psychiatrist” (page 24) with “the person”.

Explanatory note SOP 378
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by ensuring that wilfully failing to comply with any requirement of the legislation isn’t an offence that applies only to certain categories of persons.
First, it should be noted that there is no good reason to exempt pharmacists who are wilfully non-compliant. That anomaly is likely the result of poor drafting rather than deliberate omission.
The second and more fundamental point, however, is that any person who is wilfully non-compliant should be regarded as having committed an offence. Consider the case of a doctor who performs assisted dying services but does not hold a current practising certificate (as is required by the legislation). That doctor would not have committed an offence under clause 27(1), precisely because they do not meet the definition of “medical practitioner”, which is surely an unintended consequence of the drafting of this clause.

(2) A person commits an offence if the person, without lawful excuse,—
Proposed amendments to
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(a) completes or partially completes a prescribed approved form for any other person without that other person’s consent; or
(b) alters or destroys a completed or partially completed prescribed approved form without the consent of the person who completed or partially completed the form.

SOP 379 (Agnes Loheni) Amendment to SOP 259

Clause 27
In clause 27(2), delete “, without lawful excuse,” (page 24).

Explanatory note SOP 379
This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by clarifying that legislators do not contemplate that there could be any “lawful excuse” for—
- completing an approved form for another person without their consent; or
- altering or destroying an approved form for another person without their consent.

SOP 367 (Melissa Lee)

Clause 27
In clause 27(2)(b), replace “.” (page 25) with “; or”.
In clause 27(2), after paragraph (b) (page 25), insert:
- (c) undertakes an act to end the life of a person without their consent; or
- (d) conspires to end the life of a person without their consent; or
- (e) initiates a conversation with a person regarding their choice to end their life in a way that directs them to decide to end their life; or
- (f) undertakes any other activity that unduly influences the decision of a person to end their life.

Replace clause 27(3) (page 25) with:

(3) 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 14 years:
- (b) a fine not exceeding $250,000.

Explanatory note SOP 367
Proposed amendments to
End of Life Choice Bill

Schedule

This Supplementary Order Paper amends the End of Life Choice Bill. It amends clause 27 to make it clear that an offence is committed, in addition to those under the Crimes Act 1961 and other laws, where a medical practitioner ends the life of a terminally ill person without the consent of the individual, and substantially increases the level of punishment in such a situation where the medical practitioner egregiously acts to the detriment of the patient or the values of the wider medical profession.

(3) 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.

27A Director-General may approve forms
The Director-General may approve and issue forms for the purposes of this Act.

SOP 216 (Chris Penk)

New clauses 27A and 27B
After clause 27 (page 19, after line 4), insert:

27A Restrictions on making public details of deaths under this Act

(1) This section applies in respect of a death that occurs as a result of the administration of medication under this Act.
(2) No person, unless they have been granted an exemption under section 27B, may make public—
(a) any information on the method or any suspected method of the death; or
(b) any detail (for example, the place of death) that suggests the method or any suspected method of the death.
(3) Despite subsection (2), a person may make public that the death occurred in accordance with this Act or is suspected to have occurred in accordance with this Act.
(4) Subsection (2) does not apply to—
Proposed amendments to
End of Life Choice Bill

Part 4 cl 28

(a) the provision of information required by this Act, including section 17, 20, 21, 21A, 21B, or 22; or

(b) the making public by a person of a particular of the death contained in any such provision of information required by this Act.

27B Registrar may grant exemption from restrictions in section 27A

(1) A person may apply to the registrar for an exemption from the restrictions in section 27A(2).

(2) On receiving an application under subsection (1), the registrar—

(a) must, so far as practicable, give priority to the consideration of the application; and

(b) may request advice from the SCENZ Group established under section 19 and the review committee established under section 20; and

(c) may request further information from the applicant.

(3) The registrar may grant an applicant an exemption from all or any of the restrictions in section 27A(2) only if the registrar is satisfied that—

(a) granting the exemption does not present an undue risk that other people will attempt to copy the behaviour of the dead person concerned; and

(b) any risk that people will attempt to copy the actions of the dead person concerned is outweighed by other considerations that make it desirable, in the public interest, to allow publication of the details, including allegations of errors, abuses, or failures to comply with the provisions of this Act.

(4) To ensure an application is dealt with promptly, the registrar may carry out any communications necessary for processing the application in person or by way of remote access (such as by telephone, video, or Internet link).

(5) The registrar must keep a written record of—

(a) every application received under subsection (1); and

(b) whether the registrar granted an exemption to the applicant under subsection (3); and

(c) the reasons in each case for granting, or declining to grant, the exemption.
Proposed amendments to End of Life Choice Bill

Schedule

Explanatory note SOP 216

This Supplementary Order Paper amends the End of Life Choice Bill. It seeks to prevent detailed and inappropriate publicity and coverage of individual assisted deaths. As with restrictions on reporting on deaths by suicide, it is important not to report widely the details and methods of assisted deaths or encourage inappropriate ideation in the minds of those people who may wish to end their own lives but do not qualify for assisted dying.

To accomplish this, this amendment introduces a restriction on publication of the method of a death in accordance with this Bill, as well as any detail that would make obvious the method, unless it is necessary for the purposes of the required information gathering and reporting mandated under the Bill. A process for exemption from this restriction is also introduced through the registrar (assisted dying) established by clause 21, where the registrar may give an exemption where they are satisfied that there is not an undue risk of suicide imitation or that public interest outweighs that risk.

Evidence from the United States finds “the introduction of [Physician Assisted Suicide] seemingly induces more self-inflicted deaths than it inhibits. Furthermore, although a significant proportion of nonassisted suicides involve chronic or terminal illness, especially in those older than age 65, the available evidence does not support the conjecture that legalising assisted suicide would lead to a reduction in nonassisted suicides. This suggests either that [Physician Assisted Suicide] does not inhibit (nor acts as an alternative to) nonassisted suicide or that it acts in this way in some individuals but is associated with an increased inclination to suicide in others.”


SOP 217 (Simon O’Connor)

New clauses 27A and 27B

After clause 27 (page 19, after line 4), insert:

27A Advertising prohibition

(1) No person, unless authorised by section 27B, may publish in New Zealand, or arrange for any other person to publish in New Zealand, an assisted dying advertisement.

(2) A notice or sign must be treated as an assisted dying advertisement if the notice or sign—
(a) communicates information that includes assisted dying health information or warnings, assisted dying eligibility information or warnings, or both; and

(b) is displayed inside of or immediately outside the premises of a health practitioner; and

(c) is not required or permitted by this Act, regulations under this Act, or both.

(3) In this section and section 27B, assisted dying advertisement—

(a) means any words, whether written, printed, or spoken, including on film, video recording, or other medium, broadcast or telecast, and any pictorial representation, design, or device used to encourage the use or to notify the availability of assisted dying, and includes—

(i) any trade circular, any label, and any advertisement in any trade journal; and

(ii) any depiction, in a film, video recording, telecast, or other visual medium, of assisted dying, where in return for that depiction a sum of money is paid or any valuable thing is given, whether to the maker or producer of that film, video recording, telecast, or visual medium, or to any other person; and

(b) does not include—

(i) the editorial content of—

(A) a periodical:

(B) a radio or television programme:

(C) a publication on a news media Internet site:

(ii) any publication on the Internet, or other electronic medium, of personal views by an individual who does not make or receive a payment in respect of the publication.

27B Exceptions to advertising prohibition

(1) A retailer of medication used for the purpose of assisted dying may do all or any of the following things:
Proposed amendments to
End of Life Choice Bill

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(a) provide, inside that retailer’s place of business, and on a request from a health practitioner (however expressed), any information (in any medium, but only in the form of printed, written, or spoken words) that—

(i) does no more than identify the medications that are available for purchase in that place and indicate their price; and

(ii) complies with any relevant regulations:

(b) display the retailer’s name or trade name at the outside of the retailer’s place of business so long as the name is not and does not include any reference to assisted dying.

(2) A health practitioner may give a person such information as is necessary to—

(a) determine that person’s eligibility for assisted dying in accordance with section 4:

(b) provide that person with the information required by sections 8(2), 9, 13(2) and (4), 14(2), or 15(3):

(c) obtain the information required by sections 10(2), 11(3), and 12(3).

(3) A health practitioner may communicate with other health practitioners for the purposes of this Act.

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Explanatory note SOP 217

This Supplementary Order Paper amends the End of Life Choice Bill. Its provisions are intended to protect potentially vulnerable people by restricting the promotion of assisted dying services or products to a public audience, including for commercial gain.

In creating a legal form of assisted dying, the law would in effect create a new service that can be offered by certain medical professionals under certain conditions, and create a (restricted) market for the legal sale of products used in the commission of assisted dying.

In order to achieve the Bill’s own objectives, it is important that assisted dying remain a strictly limited option for those in extreme circumstances who are already firmly decided upon such a course of action. It should not become a service or product that organisations can advertise publicly in such a way as to promote or suggest the idea of assisted dying to vulnerable people.

This SOP creates similar restrictions to those that apply to the advertising of other harmful products like cigarettes and alcohol.

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SOP 382 (Alfred Ngaro)

Clause 27B
Proposed amendments to
End of Life Choice Bill

Part 4 cl 28

After clause 27A (page 25), insert:

27B Cultural considerations to be recognised

(1) Any person or organisation accorded a duty or responsibility under this Act must perform those duties or responsibilities in a manner that recognises, in relation to a person requesting assisted dying services,—

(a) the person’s ethnic background:

(b) the social attitudes or customs of a person and others within the person’s community, including proper recognition of—

(i) the importance and significance to the person of their ties with their family, whānau, hapū, iwi, and family group:

(ii) the contribution those ties make to the person’s wellbeing:

(iii) the person’s cultural and ethnic identity, language, and religious or ethical beliefs:

(c) the person’s spiritual beliefs, which may include a lack of spiritual beliefs.

(2) A provider of assisted dying services must ensure that the services of a competent interpreter are provided for a person who requests assisted dying services, if—

(a) the first or preferred language of the person is a language other than English, including the Māori language and New Zealand Sign Language:

(b) the person is unable, because of disability, to understand or communicate in English.

Explanatory note SOP 382

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by inserting a new clause 27B to require that persons and organisations with duties or responsibilities under the Bill recognise the cultural considerations relevant to the person requesting assisted dying services and also ensure interpretation services are available.

Subclause (1) is primarily derived from the Coroners (Access to Body of Dead Person) Amendment Act 2018 and establishes a requirement that duties and responsibilities under the Act must be exercised recognising the ethnic background, social attitudes, and spiritual beliefs of the person. Social attitudes or customs, set out in paragraph (1)(b), include the person’s ties with their family, whānau, hapū, iwi, and family group; the contribution of those ties to the person’s wellbeing; and the person’s cultural and ethnic identity, language, and religious or ethical beliefs.

Subclause (2) is primarily derived from section 6 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 and establishes a requirement that competent interpretation services must be provided to any person requesting assisted dying services whose first or preferred language is not English or who is unable to understand or communicate in English because of disability.
New clause 27B
After clause 27A (page 25), insert:

27B Duties in relation to Treaty of Waitangi (te Tiriti o Waitangi)

(1) Any organisation that is accorded a duty or responsibility under this Act (a responsible organisation) must perform those duties or responsibilities in a manner that recognises and provides a practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi).

(2) The performance of duties or responsibilities in accordance with subsection (1) includes that a responsible organisation must ensure that—

(a) the wellbeing of a person requesting assisted dying services (tangata tūroro) must be at the centre of decision making that affects that person requesting assisted dying, and, in particular,—

(i) the person’s wellbeing, he mana tangata tūroro, should be protected by recognising their whakapapa and the whanaungatanga responsibilities of their family, whānau, hapū, iwi, and family group:

(ii) decisions should be made and implemented appropriate to tikanga Māori or the ethnic origins, social attitudes, or customs or spiritual beliefs of the tangata tūroro whilst accounting for the recognition of their whakapapa—family, whānau, hapū, iwi, and family group:

(iii) a holistic approach should be taken that sees the person requesting assisted dying as a whole person, which includes, but is not limited to, the person’s—

(A) whakapapa; and

(B) cultural identity; and

(C) gender identity; and

(D) disability (if any); and

(E) age:

(iv) endeavours should be made to obtain the support of that person requesting assisted dying for the exercise or proposed exercise, in relation to that person requesting assisted dying, of any duty or responsibility under this Act:
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Part 4 cl 28

(v) decisions about a person with a disability requesting assisted dying—
   
   (A) should be made having particular regard to the person's experience of disability and any difficulties or discrimination that may be encountered by the person requesting assisted dying because of that disability; and

   (B) should support the person's full and effective participation in society:

(b) the person's place within their family, whānau, hapū, iwi, and family group should be recognised, and, in particular, it should be recognised that—

(i) the primary responsibility for caring for and nurturing the well-being of the person requesting assisted dying lies with their family, whānau, hapū, iwi, and family group:

(ii) the effect of any decision on the person's relationship with their family, whānau, hapū, iwi, and family group and their links to whakapapa should be considered:

(iii) the sense of belonging, whakapapa, and the whanaungatanga responsibilities of the family, whānau, hapū, iwi, and family group of the person requesting assisted dying should be recognised and respected:

(iv) wherever possible, the relationship between the person requesting assisted dying and their family, whānau, hapū, iwi, and family group should be maintained and strengthened:

(v) wherever possible, a person's family, whānau, hapū, iwi, and family group should participate in decisions, and regard should be had to their views:

(vi) endeavours should be made to obtain the support of the kaitiaki, caregivers, welfare guardians, or other persons having the care of the person requesting assisted dying for the exercise or proposed exercise, in relation to that person requesting assisted dying, of any duties or responsibilities under this Act:

(c) the place of the person requesting assisted dying within their community should be recognised, and, in particular,—

(i) how a decision affects the stability of that person requesting assisted dying (including the stability of their connections to community and other contacts), and the impact of disruption on this stability should be considered:

(ii) networks of, and supports for, that person requesting assisted dying and their family, whānau, hapū, iwi, and family group that are in place before the power is to be exercised should be acknowledged and, where practicable, utilised.

(3) In addition to the requirements of subsection (2), every responsible organisation must also—
(a) adopt and deliver policies and practices that have the objective of reducing disparities by setting measurable outcomes for Māori who seek services under this Act:

(b) adopt and deliver policies, practices, and services that have regard to tikanga Māori and the values and responsibilities of whānau, hapū, and iwi:

(c) develop strategic partnerships with iwi and Māori organisations, including iwi authorities, in order to—

(i) provide opportunities to, and invite innovative proposals from, those organisations to improve outcomes for Māori who seek services under this Act:

(ii) set expectations and targets to improve outcomes for Māori who come to the attention of the responsible organisation:

(iii) enable the robust, regular, and genuine exchange of information between the responsible organisation and Māori:

(iv) provide, and regularly review, guidance to persons discharging functions under this Act to support cultural competency as a best-practice feature of the responsible organisation.

(4) One or more iwi or Māori organisations may invite the responsible organisation to enter into a strategic partnership under subsection (3)(c).

(5) The responsible organisation must report to the public at least once a year on the measures taken in performing its duties and responsibilities in relation to improving outcomes for Māori under this Act.

(6) A copy of each report under subsection (5) must be published on an Internet site maintained by the responsible organisation.

Explanatory note SOP 383

This Supplementary Order Paper (SOP) amends SOP No 259 amending the End of Life Choice Bill. It requires that organisations directly and indirectly involved in the provision of assisted dying services do so in a manner consistent with the Treaty of Waitangi (te Tiriti o Waitangi).

Relevant context includes that adverse health outcomes already suffered by Māori are deeply troubling, both in the context of the status of tangata whenua as a partner to the Treaty of Waitangi (te Tiriti o Waitangi) and because of overrepresentation that would be troubling in relation to any ethnic group.

Statistics in relation to various different health outcomes affecting Māori—for example, the incidence of cancer and other terminal illnesses—suggest strongly that Māori will be disproportionately affected by the availability of a regime of euthanasia and assisted suicide. Accordingly, the pressure that may be imposed on any person to seek assisted dying will be disproportionately higher for Māori. The Bill currently makes no recognition of such factors.
Proposed amendments to
End of Life Choice Bill
Part 4 cl 28

This SOP draws upon provisions in other pieces of legislation, including the Oranga Tamariki Act 1989 and the Mental Health (Compulsory Assessment and Treatment) Act 1992. The intention of all these provisions is to attempt to ensure the safety, protection, and inclusion of the vulnerable person with appropriate precautions and safeguards.

More particularly, this SOP:

• highlights the need for practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi) (at subclause (1)):
• provides guidance about what it means for a responsible organisation to ensure that a person’s well-being is at the centre of decision making, for example by recognising whakapapa and whanaungatanga responsibilities (at subclause (2)):
• stipulates that responsible organisations must also adopt and deliver certain policies and practices, along with developing strategic partnerships with various Māori organisations that have the objective of reducing disparities by setting measurable outcomes for Māori who seek services under this Act (at subclause (3)):
• affirms the right of Māori organisations to invite responsible organisations to enter into strategic partnerships (at subclause (4)):
• establishes reporting requirements in relation to improving outcomes for Māori under this legislation (at subclauses (5) and (6)).

SOP 384  Amendment to SOP 259

Clause 27B
After clause 27A (page 25), insert:

27B  Duties in relation to Treaty of Waitangi (te Tiriti o Waitangi)
(1) Any organisation that is accorded a duty or responsibility under this Act (a responsible organisation) must perform those duties or responsibilities in a manner that recognises and provides a practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi).
(2) The performance of duties or responsibilities in accordance with subsection (1) includes that a responsible organisation must—
Proposed amendments to
End of Life Choice Bill

Schedule 46

(a) adopt and deliver policies and practices that have the objective of reducing disparities by setting measurable outcomes for Māori who seek services under this Act:

(b) adopt and deliver policies, practices, and services that have regard to tikanga Māori and the values and responsibilities of whānau, hapū, and iwi:

(c) develop strategic partnerships with iwi and Māori organisations, including iwi authorities, in order to—

(i) provide opportunities to, and invite innovative proposals from, those organisations to improve outcomes for Māori who seek services under this Act:

(ii) set expectations and targets to improve outcomes for Māori who come to the attention of the responsible organisation:

(iii) enable the robust, regular, and genuine exchange of information between the responsible organisation and Māori:

(iv) provide, and regularly review, guidance to persons discharging functions under this Act to support cultural competency as a best-practice feature of the responsible organisation.

(3) One or more iwi or Māori organisations may invite the responsible organisation to enter into a strategic partnership under subsection (2)(c).

(4) The responsible organisation must report to the public at least once a year on the measures taken in performing its duties and responsibilities in relation to improving outcomes for Māori under this Act.

(5) A copy of each report under subsection (4) must be published on an Internet site maintained by the responsible organisation.

Explanatory note SOP 384

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill. It requires that organisations directly and indirectly involved in the provision of assisted dying services do so in a manner consistent with the Treaty of Waitangi (te Tiriti o Waitangi).

The adverse health outcomes already suffered by Māori are deeply troubling, both in the context of the status of tangata whenua as a partner to the Treaty of Waitangi (te Tiriti o Waitangi) and because of overrepresentation that would be troubling in relation to any ethnic group.

Statistics in relation to various different health outcomes affecting Māori—for example, the incidence of cancer and other terminal illnesses—suggest strongly that Māori will be disproportionately affected by the availability of a regime of euthanasia and assisted suicide. Accordingly, the pressure that may be imposed on any person to seek assisted dying will be disproportionately higher for Māori.

The Bill currently makes no recognition of such factors.
Proposed amendments to
End of Life Choice Bill

Amendments to other enactments

Amend the enactments specified in the Schedule as set out in that schedule.

SOP 218  (Simon O’Connor)

Clause 29
After clause 28 (page 19, after line 26), insert:

29  Expiry

This Act and the amendments made by this Act expire 3 years after the commencement of this Act.

Explanatory note SOP 218

This Supplementary Order Paper amends the End of Life Choice Bill. It recognises that there is a very significant body of evidence raising concerns about the practices of euthanasia and assisted suicide. International experience suggests that these practices tend to expand over time and to pose particular risks to vulnerable populations such as the elderly, those who are lonely and socially isolated, and people with disabilities. It guards against these risks by inserting a sunset clause providing for the expiry of the Act 3 years after its commencement.
Schedule

Amendments to other enactments

Part 1

Amendments to Acts

Burial and Cremation Act 1964 (1964 No 75)
In section 2(1), definition of certificate of cause of death, replace “or 46C” with “, 46C, or 46CA”.

After section 46C, insert:

46CA Certificate of cause of death in relation to assisted dying

(1) This section applies if a person dies as a result of the provision of assisted dying under the End of Life Choice Act 2017.

(2) The medical practitioner or nurse practitioner who was available to the person until the person died must, immediately after the person’s death, give a certificate of cause of death.

(3) However, a certificate of cause of death must not be given under this section if the coroner has decided to open an inquiry into the death under Part 3 of the Coroners Act 2006.

In section 46D, replace “or 46C” with “46C, or 46CA”.

Coroners Act 2006 (2006 No 38)
After section 13(2), insert:

(2A) However, subsections (1) and (2) do not apply in any case in which the death was a result of the provision of assisted dying under the End of Life Choice Act 2017.

In section 60(1)(a), after “self-inflicted”, insert “(other than as a result of the provision of assisted dying under the End of Life Choice Act 2017)”.

After section 71(1)(b), insert:

(d) the death was a result of the provision of assisted dying under the End of Life Choice Act 2017.

After section 71(3), insert:

(4) In this section, self-inflicted, in relation to a death, does not include a death that was the result of assisted dying under the End of Life Choice Act 2017 (see section 25A of that Act, which restricts making public details of assisted dying deaths).
Crimes Act 1961 (1961 No 43)

In section 41, insert as subsection (2):

(2) However, a person who knows or has reasonable grounds for believing that a person has requested the option of assisted dying under the End of Life Choice Act 2017 is not justified under subsection (1) in using any force to prevent the person from exercising that option.

(2) This section is subject to section 26 of the End of Life Choice Act 2017.

In section 48, insert as subsection (2):

(2) However, a person is not justified under subsection (1) in using any force to defend any other person who is taking any action that they are required or authorised to take under the End of Life Choice Act 2017.

(2) This section is subject to section 26 of the End of Life Choice Act 2017.

After section 179(3), insert:

(4) This section is subject to section 26 of the End of Life Choice Act 2017.

SOP 380 (Kanwaljit Singh Bakshi) Amendment to SOP 259

Schedule

In the Schedule, Part 1, delete the item relating to section 179 of the Crimes Act 1961 (page 27).

Explanatory note SOP 380

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill. It would remove the proposal that “aiding and abetting suicide” (as detailed in section 179 of the Crimes Act 1961) should be subject to the End of Life Choice legislation.

The argument has been that the assisted dying regime is entirely distinct in nature from suicide, as that term is currently understood in New Zealand, so there can be no justification for removing the current protection in the Crimes Act 1961 against the aiding and abetting of suicide.
Proposed amendments to
End of Life Choice Bill
Schedule

Health Act 1956 (1956 No 65)
In section 22B, replace the definition of services with:

services has the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000, and includes assisted dying services provided under the End of Life Choice Act 2017.

In section 112B, replace the definition of health information with:

health information has the meaning set out in paragraphs (a) and (c) of the definition of that term in section 22B, but does not include information about assisted dying services provided under the End of Life Choice Act 2017.

Health and Disability Commissioner Act 1994 (1994 No 88)
In section 2(1), replace the definition of health consumer with:

health consumer includes—

(a) any person on or in respect of whom any health care procedure is carried out; and

(b) any person who, under the End of Life Choice Act 2017, requests to receive assisted dying.

After section 30(b)(i), insert:

(ia) health consumers who, under the End of Life Choice Act 2017, request to receive assisted dying; and

In section 2(1), definition of health services, replace paragraph (a)(vii) with:

(vii) diagnostic services;

(viii) services provided to a person who has requested assisted dying under the End of Life Choice Act 2017; and
New Zealand Public Health and Disability Act 2000 (2000 No 91)
In section 6(1), replace the definition of services with:

services means—
(a) health services; and
(b) disability support services; and
(c) services provided to a person who has requested assisted dying under the End of Life Choice Act 2017.

Protection of Personal and Property Rights Act 1988 (1988 No 4)
After section 18(1)(f), insert:

(g) to request, on behalf of the person, the option of receiving assisted dying under the End of Life Choice Act 2017.

Part 2
Amendments to legislative instruments

Births, Deaths, Marriages, and Relationships Registration (Prescribed Information) Regulations 1995 (SR 1995/183)
Replace regulation 7(1)(a)(xiii) with:

(xiii) the cause or causes of the person’s death, subject to subparagraph (xiiiia):

(xiiiia) in respect of a person who died as a result of the provision of assisted dying under the End of Life Choice Act 2017 the terminal illness or medical condition that gave rise to the person’s eligibility for assisted dying:

(xiiiib) in respect of a person who died as a result of the provision of assisted dying under the End of Life Choice Act 2017 the fact that the person died as a result of the provision of assisted dying under that Act:

(xiiiic) the interval between the onset of the cause of death and the death, in respect of each cause of death, subject to subparagraph (xiiiid):

(xiiiid) in respect of a person who died as a result of the provision of assisted dying under the End of Life Choice Act 2017 the interval between the onset of the terminal illness or medical condition that gave rise to the person’s eligibility for assisted dying and the person’s death by assisted dying:

Cremation Regulations 1973 (SR 1973/154)
In regulation 7(1)(a), replace “or 46C(1)” with “, 46C, or 46CA”.
Cremation Regulations 1973 (SR 1973/154)—continued

In Schedule 1, form B, replace “or 46C(1)” with “, 46C, or 46CA”.

In Schedule 1, form B, replace items 6 and 7 with:

6 Did you attend the deceased before the deceased’s death?
If so, for how long? [State how many weeks, months, or years.]

7 If you attended the deceased before the deceased’s death, when did you last see the deceased alive? [State how many hours or days before death.]

In Schedule 1, form B, item 8, delete “Period elapsing between onset of each condition and death (years, months, or days).”

In Schedule 1, form B, replace item 9(a) with:

(a) immediate cause—the disease, injury, or complication that caused the death, or assisted dying? [specify]

In Schedule 1, form B, replace item 10 with:

10 What was the mode of death if other than by assisted dying? [specify]

In Schedule 1, form B, replace item 14 with:

14 In view of your knowledge of the deceased’s habits and constitution, do you feel any doubt whatever as to the cause of the deceased’s death? [specify]

In Schedule 1, form B, replace the paragraph immediately following item 17 with:

I certify that the answers given above are true and accurate to the best of my knowledge and belief, and that there is no circumstance known to me that can give rise to any suspicion that the death was due wholly or in part to any other cause than that stated that makes it desirable that the body should not be cremated.

Health and Disability Commissioner (Code of Health and Disability Services Consumers’ Rights) Regulations 1996 (SR 1996/78)

In the Schedule, clause 4, replace the definition of services with:

services—

(a) means—

(i) health services; and

(ii) disability services; and

(iii) the provision of assisted dying under the End of Life Choice Act 2017; and

(b) includes health care procedures.

In the Schedule, after clause 5, insert:

5A End of Life Choice Act 2017

(1) This clause sets out how this Code operates with the End of Life Choice Act 2017 (the EOLC Act).
Health and Disability Commissioner (Code of Health and Disability Services Consumers’ Rights) Regulations 1996 (SR 1996/78)—continued

Schedule

In the Schedule, Part 2, in the item relating to new clause 5A of the Schedule of the Health and Disability Commissioner (Code of Health and Disability Services Consumers’ Rights) Regulations 1996 (SR 1996/78), after subclause (5) (page 30), insert:

(6) Despite anything else contained in this Code, a consumer has the right to request and receive services only from a provider who does not provide services authorised by the End of Life Choice Act 2017.

SOP 381 (Chris Penk) Amendment to SOP 259

Schedule

In the Schedule, Part 2, in the item relating to new clause 5A of the Schedule of the Health and Disability Commissioner (Code of Health and Disability Services Consumers’ Rights) Regulations 1996 (SR 1996/78), after subclause (5) (page 30), insert:

(6) Despite anything else contained in this Code, a consumer has the right to request and receive services only from a provider who does not provide services authorised by the End of Life Choice Act 2017.

Explanatory note SOP 381

This Supplementary Order Paper amends Supplementary Order Paper No 259 amending the End of Life Choice Bill by allowing disabled and other vulnerable New Zealanders an explicit choice to receive health services only from doctors and nurses who do not engage in assisted dying. This choice will be meaningful for Kiwis who might otherwise fear diagnosis and prognosis from “providers” (to use the language of the Code of Patient Rights) whose practice includes ending the lives of patients.
Health (Retention of Health Information) Regulations 1996 (SR 1996/343)
In regulation 2, replace the definition of services with:

services has the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000, and includes assisted dying services provided under the End of Life Choice Act 2017.

SOP 235 (Louisa Wall)

House of Representatives
Supplementary Order Paper
Tuesday, 21 May 2019
End of Life Choice Bill
Proposed amendments

Louisa Wall, in Committee, to move the following amendments:

Clause 1 amended
In clause 1 (page 2, line 3) replace “the End of Life Choice Act 2017” with “the Court Consent to Physician Assisted Dying Act 2019”.

Clause 3 replaced
Replace clause 3 (page 2, line 9 to page 4, line 13) with:

3 Interpretation

In this Act, unless the context requires another meaning,—
assisted dying, in relation to a person, means—
the administration by a medical practitioner of a lethal dose of medication to the person to relieve the person’s suffering by hastening death; or

(b) with the support of a medical practitioner, the self-administration by the person of a lethal dose of medication to relieve their suffering by hastening death.

**medical practitioner** means a health practitioner who—

(a) is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine; and

(b) holds a current practising certificate

**minister** means the Minister of the Crown who is responsible for the administration of this Act—

(a) under the authority of a warrant; or

(b) under the authority of the Prime Minister

**ministry** means the Ministry of Justice

**palliative care** means health services delivered to a person with a terminal illness that aims to optimise a person’s quality of life until death

**psychiatrist** means a medical practitioner whose scope of practice includes psychiatry

**psychologist** means a health practitioner who is, or is deemed to be, registered with the Psychologists Board continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of psychology

**specialist** means—

(a) medical practitioner:

(b) psychiatrist:

(c) psychologist

**terminal illness** means a progressive condition that is reasonably expected to cause the death of a person within 12 months.

*Clause 4 deleted*

Delete *clause 4* (page 4, lines 14 to 31).

*Clauses 6 to 28 replaced*

Replace *clauses 6 to 28* (pages 5 to 19) with:

**Part 2 Assisted Dying**

6 **Application to the Family Court**

A person (the applicant) and a medical practitioner may jointly apply to the Family Court for an order consenting to assisted dying.

7 **Hearing of application**

(1) Where an application is made under section 6, a Family Court Judge must hear and determine the application as soon as practicable and in no case
later than 21 days after the application is filed in the court, on the condition that a Judge may extend that 21 day period in appropriate circumstances.

(2) Despite section 9 of the Family Court Act 1980, the hearing may be conducted—
(a) at the applicant’s place of residence, a hospital, or a hospice; or
(b) at any other place the Judge thinks fit.

8 Attendance at hearings

(1) The only persons who may attend a hearing of the application made under section 6 are as follows:
(a) officers of the court:
(b) the applicant and the medical practitioner:
(c) any spouse or partner of the applicant:
(d) any child of the applicant of or over the age of 18 years unless the Court determines that a younger child may be present:
(e) persons whom the Family Court Judge permits to be present as support persons for a party on a request by that party:
(f) any specialist appointed under section 10:
(g) any lawyer appointed under section 12:
(h) any other person whom the judge permits to be present.

(2) The Family Court Judge must agree to a request under subsection (1)(e) unless the Judge considers there is a good reason why the named support persons should not be permitted to be present.

(3) No support persons may help a party conduct his or her case.

(4) If, during a hearing, the Family Court Judge requests a support person whom the Family Court Judge permitted to be present under subsection (1)(e) to leave the courtroom, the person must do so.

(5) Nothing in this section limits any other power of the Court—
(a) to hear proceedings in private; or
(b) to permit a McKenzie friend to be present; or
(c) to exclude any person from the court.

9 Orders of the Family Court

(1) The Family Court may, on an application made under section 6, make an order consenting to assisted dying.

(2) The court may only make an order under subsection (1) if it is satisfied that—
(a) the applicant is aged 18 years or over; and
(b) the applicant is—
   (i) a person who has New Zealand citizenship as provided in
       the Citizenship Act 1977; or
   (ii) a permanent resident as defined in section 4 of the
       Immigration Act 2009; and
(c) the applicant has a terminal illness; and
(d) the applicant is receiving palliative care; and
(e) all reasonable treatment options to cure the terminal illness have
    been exhausted; and
(f) the applicant understands—
   (i) the nature of assisted dying; and
   (ii) the consequences for them of assisted dying.

10 Appointment of a specialist to assist court
(1) In any proceedings under this Act, the Family Court may—
   (a) appoint a specialist to provide a medical opinion on an applicant’s
       eligibility for an order under section 9(2)(c) to (e); or
   (b) direct the Registrar of the court to appoint a specialist to provide a
       medical opinion on an applicant’s eligibility for an order under section
       9(2)(c) to (e).
(2) The fees and expenses of the specialist appointed must—
   (a) be determined in accordance with regulations made under section
       11 or, if no such regulations are made, by a Registrar of the court; and
   (b) be paid in accordance with that determination out of public money
       appropriated by Parliament for the purpose.

11 Regulations relating to payments to specialists
(1) The Governor-General may, from time to time, by Order in Council, make
    regulations determining—
    (a) the fees payable to a specialist for doing either or both of the
        following:
        (i) providing a medical opinion:
        (ii) attending as a witness in the proceedings for which the
            specialist provided a medical opinion:
    (b) the expenses payable to a specialist for doing either or both of the
        following:
        (i) providing a medical opinion:
        (ii) attending as a witness in the proceedings for which the
            specialist provided a medical opinion.
(2) Regulations under subsection (1)(a) may—
(a) prescribe the maximum hourly rate or rates for the fee payable, and different rates may be prescribed depending on—
   (i) the complexity of the proceedings;
   (ii) the number of proceedings in which the specialist is engaged during a specified period;

(b) prescribe the maximum number of hours for which the fee is payable, and different numbers of hours may be prescribed depending on—
   (i) the complexity of the proceedings;
   (ii) the number of proceedings in which the specialist is engaged during a specified period;

(c) provide that any rate prescribed under paragraph (a), or any number of hours prescribed under paragraph (b), or both, may be increased by the court in a particular proceeding if the court is satisfied that the increase is justified because of exceptional circumstances.

(3) Regulations under subsection (1)(b) may prescribe the following:
   (a) the types of expenses for which a specialist may claim reimbursement;
   (b) the rate of reimbursement of those expenses;
   (c) the circumstances in which expenses may be reimbursed.

(4) In this section, specialist means a person who is appointed under section 10 to provide a medical opinion on an applicant’s eligibility for an order under section 9 of that Act.

12 Appointment of lawyer to assist court

(1) In any proceedings under this Act, the Family Court may appoint a lawyer to assist the court in accordance with section 9C of the Family Court Act 1980.

(2) So far as may be practicable, it is the duty of the lawyer appointed under subsection (1) to—
   (a) contact the applicant and explain the reason for his or her appointment; and
   (b) satisfy themselves whether the applicant is making the application of their own free will.

(3) The lawyer appointed under subsection (1) must report to the Court—
   (a) on the application with any recommendations; and
   (b) advise the Court whether any further enquiries into the application should be made.

(4) The fees and expenses of the lawyer appointed must—
(a) be determined in accordance with regulations made under section 16D of the Family Court Act 1980 or, if no such regulations are made, by a Registrar of the court; and

(b) be paid in accordance with that determination out of public money appropriated by Parliament for the purpose.

13 Appeals to the High Court

(1) A person listed in subsection (2) may appeal to the High Court against the decision of the Family Court in relation to the proceedings under this Act.

(2) The persons who may appeal are as follows:

(a) the applicant;
(b) a spouse or partner of the applicant;
(c) a child of the applicant aged 18 years or over.

(3) However, an appeal under subsection (1) may only be on a question of law.

(4) An appeal under subsection (1) must be made in accordance with the High Court Rules 2016, except to the extent that those rules are inconsistent with sections 7 to 11.

Part 3 Related matters

14 Effect on contracts of death under this Act

A person who has been granted a court order under section 9 for assisted dying and dies as a result of the provision of assisted dying is, for the purposes of any life insurance contract, or any other contract,—

(a) taken to have died as if assisted dying had not been provided; and
(b) taken to have died from the terminal illness referred to in section 9(2)(c) from which they suffered.

15 Immunity from criminal and civil liability

(1) A medical practitioner who, together with a person (person A), is granted an order under section 9, is immune from civil or criminal liability for any action or inaction done in good faith for the purpose of assisting the death of person A.

(2) Nothing in this section 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; or
(c) apply for judicial review.

**16 Annual report on operation of Act**

(1) The ministry must report to the minister by the end of June each year on the following matters for the year:
   (a) the total number of applications made under section 6;
   (b) the total number of orders made under section 9;
   (c) the total number of deaths recorded as resulting from the provision of assisted dying;
   (d) any other matter relating to the operation of this Act that the ministry thinks appropriate.

(2) As soon as practicable after receiving a report under subsection (1), the minister must present a copy of the report to the House of Representatives.

**17 Review of operation of Act**

(1) The minister must, not later than 3 years after commencement of this Act, refer to the Law Commission for consideration the following matters:
   (a) review the operation of this Act; and
   (b) whether any amendments to this Act or any other enactment are necessary or desirable; and
   (c) report on its findings to the minister within 1 year of the date on which the reference occurs.

(2) The ministry must, not more than 3 years after the Law Commission report on the matters in subsection (1) and then at intervals of not more than 5 years,—
   (a) review the operation of this Act; and
   (b) consider whether any amendments to this Act or any other enactment are necessary or desirable; and
   (c) report on its findings to the minister within 1 year of the date of beginning the review.

(3) The minister must present a copy of a report provided under this section to the House of Representatives as soon as practicable after receiving it.

**18 Amendments to other enactments**

Amend the enactments specified in the Schedule as set out in that Schedule.

*Schedule amended*

Replace the Schedule (page 20 to 23) with:
Schedule
Amendments to other enactments

Part 1 Amendments to Acts

Burial and Cremation Act 1964 (1964 No 75)
In section 2(1), definition of certificate of cause of death, replace “or 46C” with “, 46C, or 46CA”.

After section 46C, insert:

46CA Certificate of cause of death in relation to assisted dying

(1) This section applies if a person dies as a result of the provision of assisted dying under the Court Consent to Physician Assisted Dying Act 2019 and an order was granted under that Act by the Family Court to that person.

(2) The medical practitioner who was available to the person until the person died must, immediately after the person’s death, give a certificate of cause of death.

(3) However, a certificate of cause of death must not be given under this section if the coroner has decided to open an inquiry into the death.

Coroners Act 2006 (2006 No 38)
After section 13(2), insert:

(2A) However, subsections (1) and (2) do not apply in any case in which the death was a result of the provision of assisted dying under the Court Consent to Physician Assisted Dying Act 2019 and an order was granted under that Act by the Family Court to that person.

In section 60(1)(a), after “self-inflicted”, insert “(other than as a result of the provision of assisted dying under the Court Consent to Physician Assisted Dying Act 2019)”.

Replace section 71(1) with:

(1) This section applies in respect of a death if the death occurred in New Zealand or on or from an aircraft or a ship specified in section 14(1) and either—

(a) the death was self-inflicted or there is reasonable cause to suspect that the death was self-inflicted; or

(b) the death was a result of the provision of physical assisted dying under the Court Consent to Physical Assisted Dying Act 2019 and an order was granted under that Act by the Family Court to that person.

Crimes Act 1961 (1961 No 43)
In section 41, insert as subsection (2):

(2) However, a person who knows or has reasonable grounds for believing that a person has an order for assisted dying under the Court Consent to Physician Assisted Dying Act 2019 is not justified under subsection (1) in using any force to prevent the person from exercising that option.

In section 48, insert as subsection (2):
However, a person is not justified under subsection (1) in using any force to defend any health practitioner who is taking any action that they are required or authorised to take under the Court Consent to Physician Assisted Dying Act 2019.

Family Court Act 1980 (1980 No 61)

After section 11(1)(gd), insert:

(ge) the Court Consent to Physician Assisted Dying Act 2019.

After section 11D(h), insert:

(ha) an applicant or a medical practitioner under section 6 of the Court Consent to Physician Assisted Dying Act 2019:

After section 12A(2)(j), insert:

(k) Court Consent to Physician Assisted Dying Act 2019.

After section 16A(4)(b), insert:

(ba) the Court Consent to Physician Assisted Dying Act 2019.

After section 16D(1)(b)(viii), insert:

(ix) section 12 of the Court Consent to Physician Assisted Dying Act 2019.

Part 2 Amendments to legislative instruments

Births, Deaths, Marriages, and Relationships Registration (Prescribed Information) Regulations 1995 (SR 1995/183)

Replace regulation 7(1)(a)(xiii) with:

(xiii) the cause or causes of the person’s death, subject to subparagraph (xiiiia):

(xiiiia) in respect of a person who died as a result of the provision of assisted dying under the Court Consent to Physician Assisted Dying Act 2019, the terminal illness that gave rise to the person’s eligibility for assisted dying:

(xiiiib) in respect of a person who died as a result of the provision of assisted dying under the Court Consent to Physician Assisted Dying Act 2019, the fact that the person died as a result of the provision of assisted dying under that Act:

(xiiiic) the interval between onset of the cause of death and death, in respect of each cause of death, subject to subparagraph (xiiiid):

(xiiiid) in respect of a person who died as a result of the provision of assisted dying under the Court Consent to Physician Assisted Dying Act 2019, the interval between onset of the terminal illness that gave rise to the person’s eligibility for assisted dying and death by assisted dying:

Cremation Regulations 1973 (SR 1973/154)

In regulation 7(1)(a), replace “or 46C(1)” with “, 46C, or 46CA”.

In Schedule 1, form B, replace “or 46C(1)” with “, 46C, or 46CA”.

In Schedule 1, form B, replace items 6 and 7 with:
6 Did you attend the deceased before the deceased's death?
   If so, for how long?

7 If you attended the deceased before the deceased's death, when did you last see the deceased alive?

In Schedule 1, form B, item 8, delete “Period elapsing between onset of each condition and death (years, months, or days).”

In Schedule 1, form B, replace item 9(a) with:
   (a) immediate cause—the disease, injury, or complication that caused the death, or assisted dying? [specify]

In Schedule 1, form B, replace item 10 with:

10 What was the mode of death if other than by assisted dying?

In Schedule 1, form B, replace item 14 with:

14 In view of your knowledge of the deceased's habits and constitution, do you feel any doubt whatever as to the cause of the deceased's death?

In Schedule 1, form B, replace the paragraph immediately following item 17 with:

I certify that the answers given above are true and accurate to the best of my knowledge and belief, and that there is no circumstance known to me that can give rise to any suspicion that the death was due wholly or in part to any other cause than that stated that makes it desirable that the body should not be cremated.

Explanatory note SOP 235

This Supplementary Order Paper (SOP) amends the eligibility criteria for assisted dying and the process for the administration of assisted dying currently in the End of Life Choice Bill.

This SOP gives people with a terminal illness, who are receiving palliative care and have exhausted all possible treatment options, the option, with their medical practitioner, of applying to the Family Court for consent to physician assisted dying. The foundation of this SOP is the judgment of Justice Collins that the law did not permit Lecretia Seales’ doctor to assist her to die of a terminal illness at the time of her choosing.

Lecretia Seales applied to the High Court to allow her doctor to assist her to die if her suffering became intolerable. Justice Collins did not grant the application on the basis that such a law change should be a matter for Parliament.

This SOP allows people who are supported by their medical practitioner and who are eligible under new clause 9 of the bill, to end their lives in peace and dignity at a time of their choosing.

This SOP reinforces modern concepts of patient-centred care identified by research as eight dimensions:
• respect for patients’ preferences and values;
• emotional support;
• physical comfort;
• information, communication and education;
• continuity and transition;
• coordination of care;
• the involvement of family and friends; and
• access to care.

This SOP amends the End of Life Choice Bill by including a mechanism of consent through the Family Court as advocated by Sir Geoffrey Palmer QC and retired Judge, Paul von Dadelszen, QSO who served as a District Court Judge specialising in the Family Court for 23 years.

This SOP is a collaboration between Louisa Wall MP for Manurewa and Lawrence Yule MP for Tukituki.

1 “Through the Patient’s Eyes: Understanding and Promoting Patient-Centered Care” (1993) Picker Institute, in conjunction with Harvard School of Medicine