### Patient (Assisted Dying) Bill [HL]

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Schedule – Form of declaration under the Patient (Assisted Dying) Act 2003

HL Bill 37 53/2

# BILL

TO

Enable a competent adult who is suffering unbearably as a result of a terminal or a serious and progressive physical illness to receive medical help to die at his own considered and persistent request; and to make provision for a person suffering from such a condition to receive pain relief medication.

E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: –

#### 1 Authorisation of assisted dying

- Subject to the provisions of this Act, it shall be lawful for a physician to assist a patient who is a qualifying patient, and who has made a declaration in accordance with this Act that is for the time being in force, to die.
- For the purposes of this Act –

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- "assisted dying" means the attending physician, at the patient's request, either providing the patient with the means to end his life or ending the patient's life;
- "attending physician" means the physician who has primary responsibility for the care of the patient and the treatment of the patient's illness;

- "competent" means having the capacity to make an informed decision, and "competence" shall be construed accordingly;
- "consulting physician" means a consultant physician who is qualified by speciality to make a professional diagnosis and prognosis regarding the patient's illness;

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- "declaration" means a witnessed declaration in writing made by the qualifying patient in the form set out in the Schedule to this Act, as amended from time to time by regulations;
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- "informed decision" means a decision by a qualifying patient to request medical assistance to die, which is based on an appreciation of the relevant facts and after being fully informed by the attending physician of—
  - (a) his medical diagnosis;

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- (b) his prognosis;
- (c) the process and probable consequences of being assisted to die;
- (d) the alternatives, including, but not limited to, palliative care, care in a hospice and the control of pain;

"irremediable condition" means a terminal or a serious physical illness;

"medical care team" means a person or persons assisting the attending physician in the provision of medical care to a patient, and includes but without limitation a nurse, pharmacist or other registered medical practitioner;

"monitoring commission" means a commission set up by the Secretary of State to monitor the workings of this Act in a country or region forming a part of Great Britain;

"patient" means a person who is under the care of a physician;

"physician" means a registered medical practitioner;

"qualifying conditions" means those conditions set out in sections 2, 3 and 4;

"qualifying patient" means a patient who has reached the age of majority, who has been resident in Great Britain for not less than twelve months as at the date of the declaration and in respect of whom all the qualifying conditions under sections 2, 3 and 4 are met;

"serious physical illness" means a serious incurable and progressive physical illness;

"terminal illness" means an incurable and physical illness which the consulting physician has determined as being likely to result in the patient's death within six months of the date when he confirmed the prognosis of the attending physician;

"unbearable suffering" means unbearable suffering whether by reason of pain or otherwise as a result of an irremediable condition, the ending of which suffering would be a humane act for that particular patient; and "suffering unbearably" shall be construed accordingly;

"waiting period" means the period of time after the date when the declaration is made which must elapse before the declaration comes into force and in the case of a patient with a terminal illness the waiting period shall be 7 days and in the case of a patient with a serious physical illness the waiting period shall be 30 days.

#### 2 Qualifying conditions

- (1) Before the attending physician can assist a qualifying patient to die the conditions specified in sections 2, 3 and 4 must be satisfied.
- (2) The attending physician shall have—
  - (a) been informed by the patient that he wishes to be helped to die and be satisfied that his request has been made voluntarily and that it is not the result of external pressure;
  - (b) examined the patient and satisfied himself that the patient is competent;
  - (c) made a determination that the patient has an irremediable condition;
  - (d) concluded that the patient is suffering unbearably as a result of that irremediable condition;
  - (e) informed the patient of
    - (i) his medical diagnosis;

		<ul> <li>(ii) his prognosis;</li> <li>(iii) the process and probable consequences of being assisted to die;</li> <li>(iv) the alternatives, including, but not limited to, palliative care, care in a hospice and the control of pain; and</li> <li>(f) referred the patient to a consulting physician.</li> </ul>	5
	(3)	The consulting physician shall have—	
		(a) examined the patient and the patient's medical records and satisfied himself that the patient is competent;	
		<ul> <li>(b) confirmed the diagnosis and prognosis of the attending physician;</li> <li>(c) satisfied himself that the patient is suffering unbearably as a result of the irremediable condition;</li> </ul>	10
		(d) informed the patient of the alternatives including, but not limited to, palliative care, care in a hospice and the control of pain;	
		(e) if the patient persists with his request to be helped to die, satisfied himself that the request is made voluntarily and that it is not the result of external pressure and that the patient has made an informed decision; and	15
		(f) advised the patient that prior to such help the patient will be required to complete a declaration which he can revoke at any time.	
	(4)	Only once the requirements under subsections (2) and (3) have ben satisfied may the patient make the declaration in the form set out in the Schedule.	20
3		Declaration made in advance	
	(1)	The declaration must be witnessed by two individuals one of whom shall be a solicitor who holds a current practising certificate.	
	(2)	The solicitor may only witness the declaration if he is satisfied that the patient understands the full force and effect of the declaration.	25
	(3)	The patient and witnesses shall sign and witness the declaration respectively at the same time and in each other's presence.	
	(4)	The attending or consulting physician, psychiatrist or a relative or partner (by blood, marriage or adoption) of the qualifying patient signing this request may not be a witness.	30
	(5)	No witness shall be entitled to any portion of the person's estate upon death.	
	(6)	No person who owns, operates or is employed at a health care establishment where the person is a patient or resident may be a witness.	
	(7)	The declaration shall come into force after the requisite waiting period has elapsed and shall remain in force (unless revoked) for six months.	35
	(8)	A patient may re-execute a declaration made under this section, and such a declaration, if validly made and not revoked, shall remain in force for a period of six months from the date of re-execution.	
4		Further duties of attending physician	40
		Before taking any step to help the patient to die the attending physician shall have—	
		(a) satisfied himself that the patient has made an informed decision;	

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- (b) informed the patient of his right to revoke the declaration at any time;
- (c) verified immediately before assisting the patient to die that the declaration is in force and that it has not been revoked by the patient; and
- (d) asked the patient immediately before assisting him to die whether he wishes to revoke the declaration.

#### 5 Revocation of declaration

- (1) A patient may revoke his declaration at any time whether orally or in any other manner without regard to his physical or mental state.
- (2) In the event of a declaration being revoked, the attending physician shall ensure that a note recording its revocation is made on the patient's file and that the declaration is removed from the patient's medical file and destroyed.

#### 6 Duties of physicians, and conscientious objection

- (1) No person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any diagnosis, treatment or other action authorised by this Act to which he has a conscientious objection.
- (2) If an attending physician whose patient makes a request to be assisted to die in accordance with this Act or to receive pain relief under section 14 has a conscientious objection as provided in subsection (1), he shall refer the patient without delay to an attending physician who does not have such a conscientious objection.
- (3) If a consulting physician to whom a patient has been referred in accordance with section 2(2)(f) has a conscientious objection as provided in subsection (1), he shall refer the patient without delay to a consulting physician who does not have such a conscientious objection.

#### 7 Psychiatric referral

- (1) If in the opinion of either the attending or the consulting physician a patient who wishes to make or has made a declaration may not be competent, the attending physician shall refer the patient to a psychiatrist for a psychiatric opinion.
- (2) No assistance to end that patient's life may be given unless the psychiatrist has determined that the patient is not suffering from a psychiatric or psychological disorder causing impaired judgement, and that the patient is competent.

#### 8 Notification of next of kin

The attending physician shall recommend to the patient that he notifies his next of kin of his request for assistance to die.

#### 9 Protection for physicians, and other medical personnel

(1) A physician, acting in good faith, who assists a qualifying patient to die, or attempts to do so, in accordance with the requirements of this Act, shall not be guilty of an offence.

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- (2) A member of a medical care team, acting in good faith, who helps a physician to assist a qualifying patient to die, or to attempt to do so, in accordance with what he reasonably believes to be the requirements of this Act, shall not be guilty of an offence.
- (3) A physician to whom subsection (1) applies or, as the case may be, a member of a medical care team to whom subsection (2) applies, shall be deemed not to be in breach of any professional oath or affirmation.
- (4) No physician, psychiatrist or member of a medical care team may take any part whatsoever in assisting a qualifying patient to die, or in giving an opinion in respect of such a patient, nor may any person act as a witness, if he has grounds for believing that he will benefit financially or in any other way as the result of the death of that patient.

#### 10 Offences

- (1) It shall be an offence punishable on indictment by a sentence of a maximum of life imprisonment wilfully to falsify or forge a declaration with the intent or effect of causing the patient's death.
- (2) A person signing a declaration by way of attestation who wilfully puts his signature to a statement he knows to be false shall have committed an offence punishable by a maximum of five years' imprisonment.
- (3) A person who wilfully conceals or destroys a declaration shall be guilty of an offence punishable by a maximum of five years' imprisonment.
- (4) A physician, psychiatrist, member of a medical care team or witness who contravenes the requirements of section 9(4) shall have committed an offence punishable by a maximum of five years' imprisonment.
- (5) No provision of this Act shall be taken to affect a person's liability on conviction to criminal penalties for conduct which is inconsistent with the provisions of this Act.

#### 11 Insurance

No policy of insurance which has been in force for 12 months as at the date of the patient's death shall be invalidated by reason of a doctor having assisted a qualifying patient to die in accordance with this Act.

#### 12 Requirements as to documentation in medical records

- (1) The attending physician shall ensure that the following are documented and filed in the patient's medical records—
  - (a) all evidence, data and records which demonstrate that the qualifying conditions required under sections 2, 3 and 4 have been met;
  - (b) any oral or written requests by the patient for assistance to end his life;
  - (c) the declaration; and
  - (d) a note by the attending physician stating that he was satisfied, at the date and time of his having assisted the patient to die, that all requirements under this Act had been met and indicating the steps taken to carry out the declaration including the description and quantity of the medication prescribed.

(2) The attending physician shall send a full copy of the file to the monitoring commission for the country or region concerned within 7 days of the qualifying patient having been assisted to die whether or not such assistance led to the patient's death.

#### 13 Monitoring commission and reporting requirements

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- (1) There shall be established such number of monitoring commissions covering countries or regions forming part of Great Britain as the Secretary of State may determine, to review the operation of this Act and to hold and monitor records maintained pursuant to this Act.
- (2) A monitoring commission shall consist of 3 members appointed by the Secretary of State, of whom
  - (a) one shall be a registered medical practitioner;
  - (b) one shall be a legal practitioner; and
  - (c) one shall be a lay person having first hand knowledge or experience in caring for a person with an irremediable condition.
- 3) If, in relation to a file sent to a monitoring commission in accordance with section 12(2), two of its members consider that the qualifying conditions have not been met, they shall refer the matter to the district coroner or in Scotland to the procurator fiscal for further investigation.
- (4) A monitoring commission to which a file has been sent in accordance with section 12(2) shall confirm to the attending physician concerned whether the qualifying conditions have been met within six weeks of the date of receiving such notification of the patient having been assisted to die whether or not such assistance led to the patient's death.
- (5) The Secretary of State shall publish an annual statistical report of information 25 collected under this section.

#### 14 Administration of drugs to patients suffering severe distress

A patient suffering from an irremediable condition shall be entitled to request and receive such medication as may be necessary to keep him free as far as possible from pain and distress.

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#### 15 Power to make regulations

- (1) The Secretary of State may make regulations under this Act
  - (a) to ensure the intent of this Act is carried out;
  - (b) determining classes of persons who may or may not sign a declaration by way of attestation;
  - (c) regulating the custody of records and the collection of information regarding the operation of this Act; and
  - (d) making provision about appointments to and the operation of the monitoring commissions.
- (2) No statutory instrument may be made under this Act unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

### 16 Short title and extent

- (1) This Act may be cited as the Patient (Assisted Dying) Act 2003.
- (2) This Act does not extend to Northern Ireland.

#### SCHEDILLE

Section 1

S CITED C L L	
FORM OF DECLARATION UNDER THE PATIENT (ASSISTED DYING) ACT 2003	
Declaration made20	
[and re-executed 20]	
by []	5
of []	
I,, am an adult of sound mind who has been resident in Great Britain for at least twelve months as at the date of this declaration.	
I am suffering from, which my attending physician has determined is an irremediable condition and which has been confirmed by a consulting physician.	10
I have been fully informed of my diagnosis, prognosis, the process and probable outcome of being helped to die, and the alternatives, including palliative care, care in a hospice and the control of pain.	
I request that my attending physician assist me to die.	15
I make this request voluntarily and without reservation.	
Please delete as appropriate:	
I have decided to inform / not to inform my family of my decision.	
I understand that I have the right to revoke the declaration at any time.	
Signed:	20
Date:	
DECLARATION OF WITNESSES	
I declare that I am a solicitor with a current practising certificate and that the patient signing this request:	
<ul><li>(a) is personally known to me or has provided proof of his identity;</li><li>(b) signed or made his mark confirming that this was his request in my presence;</li></ul>	25
(c) appears to be of sound mind and has made the declaration voluntarily; and	
(d) understands the full force and effect of the declaration.	30

Witness 1

Date

I	declare	that t	the	person	sign	ning	this	rea	uest:
-	acciaic	CI LCL C		PCICCII	2-5-		CILIO	109	acc.

- (a) is personally known to me or has provided proof of his identity;
- (b) signed or made his mark confirming that this was his request in my presence; and
- (c) appears to be of sound mind and has made the declaration voluntarily.

voluntarily.

Witness 2

Date

#### Notes

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- 1. One of the witnesses must be a solicitor with a current practising certificate who has satisfied himself that the patient understands the full force and effect of the declaration.
- 2. The patient and witnesses shall sign and witness the declaration respectively at the same time and in each other's presence.

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- 3. The attending or consulting physician, psychiatrist, or a relative or partner (by blood, marriage or adoption) of the qualifying patient signing this request may not be a witness.
- 4. No witness shall be entitled to any portion of the person's estate upon death.

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5. No person who owns, operates or is employed at a health care establishment where the person is a patient or resident may be a witness

## Patient (Assisted Dying) Bill [HL]

# BILL

To enable a competent adult who is suffering unbearably as a result of a terminal or a serious and progressive physical illness to receive medical help to die at his own considered and persistent request; and to make provision for a person suffering from such a condition to receive pain relief medication.

The Lord Joffe

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