



*The Belgian Act on Euthanasia of May, 28th 2002**

Albert II, King of the Belgians,
To all those present now and in the future, greetings.
The Chambers have approved and We sanction what follows:

Section 1

This law governs a matter provided in article 78 of the Constitution

Chapter I: General provisions

Section 2

For the purposes of this Act, euthanasia is defined as intentionally terminating life by someone other than the person concerned, at the latter's request.

Chapter II: Conditions and procedure

Section 3

§1. The physician who performs euthanasia commits no criminal offence when he/she ensures that:

- the patient has attained the age of majority or is an emancipated minor, and is legally competent and conscious at the moment of making the request;
- the request is voluntary, well-considered and repeated, and is not the result of any external pressure;

- the patient is in a medically futile condition of constant and unbearable physical or mental suffering that can not be alleviated, resulting from a serious and incurable disorder caused by illness or accident;

and when he/she has respected the conditions and procedures as provided in this Act.

§2. Without prejudice to any additional conditions imposed by the physician on his/her own action, before carrying out euthanasia he/she must in each case:

- 1) inform the patient about his/her health condition and life expectancy, discuss with the patient his/her request for euthanasia and the possible therapeutic and palliative courses of action and their consequences. Together with the patient, the physician must come to the belief that there is no reasonable alternative to the patient's situation and that the patient's request is completely voluntary;
- 2) be certain of the patient's constant physical or mental suffering and of the durable nature of his/her request. To this end, the physician has several conversations with the patient spread out over a reasonable period of time, taking into account the progress of the patient's condition;
- 3) consult another physician about the serious and incurable character of the disorder and inform him/her about the reasons for this consultation. The physician consulted

* This unofficial translation was provided by Dale Kidd under the supervision of Prof. Herman Nys, Centre for Biomedical Ethics and Law, Catholic University of Leuven (Belgium).



reviews the medical record, examines the patient and must be certain of the patient's constant and unbearable physical or mental suffering that cannot be alleviated. The physician consulted reports on his/her findings.

The physician consulted must be independent of the patient as well as of the attending physician and must be competent to give an opinion about the disorder in question. The attending physician informs the patient about the results of this consultation;

- 4) if there is a nursing team that has regular contact with the patient, discuss the request of the patient with the nursing team or its members,
- 5) if the patient so desires, discuss his/her request with relatives appointed by the patient;
- 6) be certain that the patient has had the opportunity to discuss his/her request with the persons that he/she wanted to meet.

§3. If the physician believes the patient is clearly not expected to die in the near future, he/she must also:

- 1) consult a second physician, who is a psychiatrist or a specialist in the disorder in question, and inform him/her of the reasons for such a consultation. The physician consulted reviews the medical record, examines the patient and must be certain of the constant and unbearable physical or mental suffering that cannot be alleviated, and of the voluntary, well-considered and repeated character of the euthanasia request. The physician consulted reports on his/her findings. The physician consulted must be independent of the patient as well as of the physician initially consulted. The physician informs the patient about the results of this consultation;

- 2) allow at least one month between the patient's written request and the act of euthanasia.

§4. The patient's request must be in writing. The document is drawn up, dated and signed by the patient himself/herself. If the patient is not capable of doing this, the document is drawn up by a person designated by the patient. This person must have attained the age of majority and must not have any material interest in the death of the patient.

This person indicates that the patient is incapable of formulating his/her request in writing and the reasons why. In such a case the request is drafted in the presence of the physician whose name is mentioned on the document. This document must be annexed to the medical record.

The patient may revoke his/her request at any time, in which case the document is removed from the medical record and returned to the patient.

§5. All the requests formulated by the patient, as well as any actions by the attending physician and their results, including the report(s) of the consulted physician(s), are regularly noted in the patient's medical record.

Chapter III: The advance directive

Section 4

§1. In cases where one is no longer able to express one's will, every legally competent person of age, or emancipated minor, can draw up an advance directive instructing a physician to perform euthanasia if the physician ensures that:

- the patient suffers from a serious and incurable disorder, caused by illness or accident;



- the patient is no longer conscious;
- this condition is irreversible given the current state of medical science.

In the advance directive, one or more person(s) taken in confidence can be designated in order of preference, who inform(s) the attending physician about the patient's will. Each person taken in confidence replaces his or her predecessor as mentioned in the advance directive, in the case of refusal, hindrance, incompetence or death. The patient's attending physician, the physician consulted and the members of the nursing team may not act as persons taken in confidence.

The advance directive may be drafted at any moment. It must be composed in writing in the presence of two witnesses, at least one of whom has no material interest in the death of the patient and it must be dated and signed by the drafter, the witnesses and by the person(s) taken in confidence, if applicable.

If a person who wishes to draft an advance directive is permanently physically incapable of writing and signing an advance directive, he/she may designate a person who is of age, and who has no material interest in the death of the person in question, to draft the request in writing, in the presence of two witnesses who have attained the age of majority and at least one of whom has no material interest in the patient's death. The advance directive indicates that the person in question is incapable of signing and why. The advance directive must be dated and signed by the drafter, by the witnesses and by the person(s) taken in confidence, if applicable.

A medical certificate must be annexed to the advance directive proving that the person in question is permanently physically incapable of drafting and signing the advance directive.

An advance directive is only valid if it is drafted or confirmed no more than five years prior to the person's loss of the ability to express his/her wishes.

The advance directive may be amended or revoked at any time.

The King determines the manner in which the advance directive is drafted, registered and confirmed or revoked, and the manner in which it is communicated to the physicians involved via the offices of the National Register.

§2. The physician who performs euthanasia, in consequence of an advance directive as referred to in §1, commits no criminal offence when he ensures that:

- the patient suffers from a serious and incurable disorder, caused by illness or accident;
- the patient is unconscious;
- and this condition is irreversible given the current state of medical science;

and when he/she has respected the conditions and procedures as provided in this Act.

Without prejudice to any additional conditions imposed by the physician on his/her own action, before carrying out euthanasia he/she must:

- 1) consult another physician about the irreversibility of the patient's medical condition and inform him/her about the reasons for this consultation. The physician consulted consults the medical record and examines the patient. He/she reports on his/her findings.

When the advance directive names a person taken in confidence, the latter will be informed about the results of this consultation by the attending physician.

The physician consulted must be independent of the patient as well as of the attending physician and must be competent to give an opinion about the disorder in question;

- 2) if there is a nursing team that has regular contact with the patient, discuss the content of the advance directive with that team or its members;
- 3) if a person taken in confidence is designated in the advance directive, discuss the request with that person;



- 4) if a person taken in confidence is designated in the advance directive, discuss the content of the advance directive with the relatives of the patient designated by the person taken in confidence.

The advance directive, as well as all actions by the attending physician and their results, including the report of the consulted physician, are regularly noted in the patient's medical record.

Chapter IV: Notification

Section 5

Any physician who has performed euthanasia is required to fill in a registration form, drawn up by the Federal Control and Evaluation Commission established by section 6 of this Act, and to deliver this document to the Commission within four working days.

Chapter V: The Federal Control and Evaluation Commission

Section 6

- §1 For the implementation of this Act, a Federal Control and Evaluation Commission is established, hereafter referred to as "the commission".
- §2. The commission is composed of sixteen members, appointed on the basis of their knowledge and experience in the issues belonging to the commission's jurisdiction. Eight members are doctors of medicine, of whom at least four are professors at a university in Belgium. Four members are professors of law at a university in Belgium, or practising lawyers. Four members are drawn from groups that deal with the problem of incurably ill patients. Membership in the commission cannot be combined with a post in one of the legislative bodies or with a post as a member

of the federal government or one of the regional or community governments.

While respecting language parity — where each linguistic group has at least three candidates of each sex — and ensuring pluralistic representation, the members of the commission are appointed by royal decree enacted after deliberation in the Council of Ministers for a four-year term, which may be extended, from a double list of candidates put forward by the Senate. A member's mandate is terminated *de jure* if the member loses the capacity on the basis of which he/she is appointed. The candidates not appointed as sitting members are appointed as substitutes, in the order determined by a list. The commission is chaired by a Dutch-speaking and a French-speaking member. These chairpersons are elected by the commission members of the respective linguistic group.

The commission's decisions are only valid if there is a quorum present of two thirds of the members.

- §3. The commission establishes its own internal regulations.

Section 7

The commission drafts a registration form that must be filled in by the physician whenever he/she performs euthanasia. This document consists of two parts. The first part must be placed under seal by the physician. It includes the following information:

- 1) the patient's full name and address;
- 2) the full name, address and health insurance institute registration number of the attending physician;
- 3) the full name, address and health insurance institute registration number of the physician(s) consulted about the euthanasia request;
- 4) the full name, address and capacity of all persons consulted by the attending physician, and the date of these consultations;



- 5) if there exists an advance directive in which one or more persons taken in confidence are designated, the full name of such person(s).

The document's first part is confidential, and is supplied to the commission by the physician. It can only be consulted following a decision by the commission. Under no circumstances the commission may use this document for its evaluation.

The second part is also confidential. It includes the following information:

- 1) the patient's sex, date of birth and place of birth;
- 2) the date, time and place of death;
- 3) the nature of the serious and incurable condition, caused by accident or illness, from which the patient suffered;
- 4) the nature of the constant and unbearable suffering;
- 5) the reasons why this suffering could not be alleviated;
- 6) the elements underlying the assurance that the request is voluntary, well-considered and repeated, and not the result of any external pressure;
- 7) whether one can expect that the patient would die within the foreseeable future;
- 8) whether an advance directive has been drafted;
- 9) the procedure followed by the physician;
- 10) the capacity of the physician(s) consulted, the recommendations and the information from these consultations;
- 11) the capacity of the persons consulted by the physician, and the date of these consultations;
- 12) the manner in which euthanasia was performed and the pharmaceuticals used.

Section 8

The commission studies the completed registration form submitted to it by the attending physician. On the basis of the second part of the registration form, the commission determines whether the euthanasia was performed in accordance with the conditions and the procedure stipulated in this

Act. In cases of doubt, the commission may decide by simple majority to revoke anonymity and examine the first part of the registration form. The commission may request the attending physician to provide any information from the medical record having to do with the euthanasia.

The commission hands down a verdict within two months.

If, in a decision taken with a two-thirds majority, the commission is of the opinion that the conditions laid down in this Act have not been fulfilled, then it turns the case over to the public prosecutor of the jurisdiction in which the patient died.

If, after anonymity has been revoked, facts or circumstances come to light which would compromise the independence or impartiality of one of the commission members, this member will have an opportunity to explain or to be challenged during the discussion of this matter in the commission.

Section 9

For the benefit of the legislative chambers, the commission will draft the following reports, the first time within two years of this Act's coming into force and every two years thereafter:

- a) a statistical report processing the information from the second part of the completed registration forms submitted by physicians pursuant to section 8;
- b) a report in which the implementation of the law is indicated and evaluated;
- c) if required, recommendations that could lead to new legislation or other measures concerning the execution of this Act.

For the purpose of carrying out this task, the commission may seek additional information from the various public services and institutions. The information thus gathered is confidential. None of these documents may reveal the identities of any persons named in the dossiers submitted to the commission for the purposes of the review as determined in section 8.



The commission can decide to supply statistical and purely technical data, purged of any personal information, to university research teams that submit a reasoned request for such data.

The commission can grant hearings to experts.

Section 10

The King places an administration at the commission's disposal in order to carry out its legal functions. The composition and language framework of the administrative personnel are established by royal decree, following consultation in the Council of Ministers, on the recommendation of the Minister of Health and the Minister of Justice.

Section 11

The commission's operating costs and personnel costs, including remuneration for its members, are divided equally between the budget of the Minister of Health and the budget of the Minister of Justice.

Section 12

Any person who is involved, in whatever capacity, in implementing this Act is required to maintain confidentiality regarding the information provided to him/her in the exercise of his/her function. He/she is subject to section 458 of the Penal Code.

Section 13

Within six months of submitting the first report and the commission's recommendations referred to in section 9, if any, a debate is to be held in the Chambers of Parliament. The six-month period is suspended during the time that Parliament is dissolved and/or during the time there is no government having the confidence of Parliament.

Chapter VI: Special Provisions

Section 14

The request and the advance directive referred to in sections 3 and 4 of this Act are not compulsory in nature.

No physician may be compelled to perform euthanasia.

No other person may be compelled to assist in performing euthanasia.

Should the physician consulted refuse to perform euthanasia, then he/she must inform the patient and the persons taken in confidence, if any, of this fact in a timely manner, and explain his/her reasons for such refusal. If the refusal is based on medical reasons, then these reasons are noted in the patient's medical record.

At the request of the patient or the person taken in confidence, the physician who refuses to perform euthanasia must communicate the patient's medical record to the physician designated by the patient or person taken in confidence.

Section 15

Any person who dies as a result of euthanasia performed in accordance with the conditions established by this Act is deemed to have died of natural causes for the purposes of contracts he/she had entered into, in particular insurance contracts.

The provisions of section 909 of the Civil Code apply to the members of the nursing team referred to in section 3 of this Act.

Section 16

This Act comes into force no later than three months following publication in the *Official Belgian Gazette*.

Promulgate the present Act, order that it be sealed with the seal of the State and published in the *Official Belgian Gazette*.



Issued at Brussels, 28th May 2002.

Albert

for the King:
the Minister of Justice,

M. Verwilghen
sealed with the seal of the State:
the Minister of Justice,
M. Verwilghen