

SELECTED LEGISLATION AND JURISPRUDENCE

BELGIUM

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 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 ensure himself about 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.