

SENATE BILL 701

J1
SB 311/19 – JPR

0lr3004
CF HB 643

By: **Senators Waldstreicher, Smith, Carter, Elfreth, Feldman, Guzzone, Kagan, Kelley, King, Kramer, Lam, Lee, Pinsky, West, Young, and Zucker**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **End-of-Life Option Act**
3 **(Richard E. Israel and Roger “Pip” Moyer Act)**

4 FOR the purpose of authorizing an individual to request aid in dying by making certain
5 requests; prohibiting another individual from requesting aid in dying on behalf of an
6 individual; requiring a certain request to be made in a certain manner; requiring a
7 written request for aid in dying to meet certain requirements; establishing certain
8 requirements for witnesses to a written request for aid in dying; requiring a written
9 request for aid in dying to be in a certain form; requiring an attending physician who
10 receives a written request for aid in dying to make a certain determination and to
11 accept certain documents or certain knowledge as proof of certain residency;
12 requiring an attending physician to provide certain information to an individual for
13 a certain purpose and to refer an individual to a consulting physician under certain
14 circumstances; requiring a consulting physician to fulfill certain duties; requiring an
15 attending physician or a consulting physician to refer an individual to a certain
16 individual for a mental health professional assessment under certain circumstances;
17 prohibiting an attending physician from providing an individual with medication for
18 aid in dying until a certain individual providing the mental health professional
19 assessment makes a certain determination and communicates the determination to
20 certain individuals in a certain manner; requiring an attending physician to take
21 certain actions under certain circumstances; authorizing a pharmacist to dispense
22 medication for aid in dying only to certain individuals under certain circumstances;
23 authorizing an attending physician to sign a qualified individual’s death certificate
24 under certain circumstances; requiring an attending physician to ensure that the
25 medical record of a qualified individual documents or contains certain information;
26 requiring an attending physician to submit certain information to the Maryland
27 Department of Health; requiring the Department to adopt regulations to facilitate
28 the collection of certain information and to produce and make available to the public
29 a certain report of the information collected; providing that certain records or
30 information are not subject to subpoena or discovery and may not be introduced into

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



evidence in certain proceedings except for a certain purpose; requiring a certain individual to dispose of certain medication in a lawful manner; providing that the death of a qualified individual by reason of self-administration of certain medication shall be deemed to be a death from certain natural causes for certain purposes; making void a certain provision of certain legal instruments; prohibiting a certain provision of law enacted by this Act from being construed to prohibit a certain cause of action; providing that this Act does not authorize certain individuals to end another individual's life by certain means; providing that actions taken in accordance with this Act do not constitute certain actions; making certain provisions in an insurance policy or certain other agreements issued on or after a certain date invalid; prohibiting certain obligations existing on a certain date from being conditioned on or affected by the making or rescinding of a request for aid in dying; prohibiting a qualified individual's act of self-administering medication for aid in dying from having certain effects under certain insurance policies; prohibiting a person from being subject to certain liability or certain action for participating in good-faith compliance with this Act; prohibiting certain persons or entities from subjecting a person to certain actions for participating or refusing to participate in good-faith compliance with this Act; providing that an individual's request for aid in dying or an attending physician's prescription of medication in good-faith compliance with this Act does not constitute neglect or provide the sole basis for an appointment of a guardian or conservator; authorizing a health care provider to prohibit another health care provider from participating in aid in dying on certain premises under certain circumstances; authorizing a health care provider to subject another health care provider to certain sanctions under certain circumstances; providing that certain authorization does not prohibit a health care provider from participating in aid in dying under certain circumstances or prohibit an individual from contracting with a certain physician for a certain purpose; providing that participation by a health care provider in aid in dying is voluntary; prohibiting a health care facility from requiring certain physicians to participate in aid in dying; requiring an attending physician to provide certain information to an individual and transfer a copy of certain medical records under certain circumstances; authorizing a health care facility to adopt certain policies; establishing certain penalties for certain violations; providing that certain provisions of this Act do not limit certain liability; providing that a certain sentence may be imposed separate from and consecutive to or concurrent with a certain other sentence; authorizing the Maryland Insurance Commissioner to enforce certain provisions of this Act; establishing that a licensed health care professional does not violate the statutory prohibition on assisted suicide by taking certain actions in accordance with this Act; defining certain terms; and generally relating to aid in dying.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–103
Annotated Code of Maryland
(2012 Replacement Volume and 2019 Supplement)

BY adding to

Article – Health – General

Section 5–6A–01 through 5–6A–16 to be under the new subtitle “Subtitle 6A. The Richard E. Israel and Roger “Pip” Moyer End-of-Life Option Act”

Annotated Code of Maryland
(2019 Replacement Volume)

BY adding to

Article – Insurance
Section 27–208.1

Annotated Code of Maryland
(2017 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Law

3–103.

(a) A licensed health care professional does not violate § 3–102 of this subtitle by administering or prescribing a procedure or administering, prescribing, or dispensing a medication to relieve pain, even if the medication or procedure may hasten death or increase the risk of death, unless the licensed health care professional knowingly administers or prescribes the procedure or administers, prescribes, or dispenses the medication to cause death.

(b) A licensed health care professional does not violate § 3–102 of this subtitle by withholding or withdrawing a medically administered life–sustaining procedure:

(1) in compliance with Title 5, Subtitle 6 of the Health – General Article;
or

(2) in accordance with reasonable medical practice.

(C) A LICENSED HEALTH CARE PROFESSIONAL DOES NOT VIOLATE § 3–102 OF THIS SUBTITLE BY TAKING ANY ACTION IN ACCORDANCE WITH TITLE 5, SUBTITLE 6A OF THE HEALTH – GENERAL ARTICLE.

[(c)] (D) (1) Unless the family member knowingly administers a procedure or administers or dispenses a medication to cause death, a family member does not violate § 3–102 of this subtitle if the family member:

(i) is a caregiver for a patient enrolled in a licensed hospice program;
and

(ii) administers the procedure or administers or dispenses the medication to relieve pain under the supervision of a health care professional.

(2) Paragraph (1) of this subsection applies even if the medication or procedure hastens death or increases the risk of death.

Article – Health – General

**SUBTITLE 6A. THE RICHARD E. ISRAEL AND ROGER “PIP” MOYER END-OF-LIFE
OPTION ACT.**

5–6A–01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “AID IN DYING” MEANS THE MEDICAL PRACTICE OF A PHYSICIAN PRESCRIBING MEDICATION TO A QUALIFIED INDIVIDUAL THAT THE QUALIFIED INDIVIDUAL MAY SELF-ADMINISTER TO BRING ABOUT THE QUALIFIED INDIVIDUAL’S DEATH.

(C) “ATTENDING PHYSICIAN” MEANS THE LICENSED PHYSICIAN WHO HAS PRIMARY RESPONSIBILITY FOR THE MEDICAL CARE OF AN INDIVIDUAL.

(D) “CAPACITY TO MAKE MEDICAL DECISIONS” MEANS THE ABILITY OF AN INDIVIDUAL TO:

(1) UNDERSTAND THE NATURE AND CONSEQUENCES OF A HEALTH CARE DECISION;

(2) UNDERSTAND THE SIGNIFICANT BENEFITS, RISKS, AND ALTERNATIVES OF A HEALTH CARE DECISION; AND

(3) MAKE AND COMMUNICATE AN INFORMED DECISION TO HEALTH CARE PROVIDERS, INCLUDING COMMUNICATION THROUGH ANOTHER INDIVIDUAL FAMILIAR WITH THE INDIVIDUAL’S MANNER OF COMMUNICATING, IF THE OTHER INDIVIDUAL IS AVAILABLE.

(E) “CONSULTING PHYSICIAN” MEANS A LICENSED PHYSICIAN WHO IS QUALIFIED BY SPECIALTY OR EXPERIENCE TO CONFIRM A PROFESSIONAL DIAGNOSIS AND PROGNOSIS REGARDING AN INDIVIDUAL’S TERMINAL ILLNESS.

(F) “HEALTH CARE FACILITY” MEANS:

(1) A HOSPITAL, AS DEFINED IN § 19–301 OF THIS ARTICLE;

(2) A HOSPICE FACILITY, AS DEFINED IN § 19–901 OF THIS ARTICLE;

(3) AN ASSISTED LIVING PROGRAM, AS DEFINED IN § 19–1801 OF THIS ARTICLE; OR

(4) A NURSING HOME, AS DEFINED IN § 19–1401 OF THIS ARTICLE.

(G) “HEALTH CARE PROVIDER” MEANS:

(1) AN INDIVIDUAL LICENSED OR CERTIFIED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION; OR

(2) A HEALTH CARE FACILITY.

(H) “INFORMED DECISION” MEANS A DECISION BY AN INDIVIDUAL THAT IS:

(1) BASED ON AN UNDERSTANDING AND ACKNOWLEDGMENT OF THE RELEVANT FACTS; AND

(2) MADE AFTER RECEIVING THE INFORMATION REQUIRED UNDER § 5–6A–04(C) OF THIS SUBTITLE.

(I) “LICENSED MENTAL HEALTH PROFESSIONAL” MEANS A LICENSED PSYCHIATRIST OR A LICENSED PSYCHOLOGIST.

(J) “LICENSED PHYSICIAN” MEANS A PHYSICIAN WHO IS LICENSED TO PRACTICE MEDICINE IN THE STATE.

(K) “LICENSED PSYCHIATRIST” MEANS A PSYCHIATRIST WHO IS LICENSED TO PRACTICE MEDICINE IN THE STATE.

(L) “LICENSED PSYCHOLOGIST” MEANS A PSYCHOLOGIST WHO IS LICENSED TO PRACTICE PSYCHOLOGY IN THE STATE.

(M) “MENTAL HEALTH PROFESSIONAL ASSESSMENT” MEANS ONE OR MORE CONSULTATIONS BETWEEN AN INDIVIDUAL AND A LICENSED MENTAL HEALTH PROFESSIONAL FOR THE PURPOSE OF DETERMINING THAT THE INDIVIDUAL:

(1) HAS THE CAPACITY TO MAKE MEDICAL DECISIONS; AND

(2) IS NOT SUFFERING FROM IMPAIRED JUDGMENT DUE TO A MENTAL DISORDER.

(N) “PALLIATIVE CARE” MEANS HEALTH CARE CENTERED ON A TERMINALLY ILL INDIVIDUAL AND THE INDIVIDUAL’S FAMILY THAT:

(1) OPTIMIZES THE INDIVIDUAL'S QUALITY OF LIFE BY ANTICIPATING, PREVENTING, AND TREATING THE INDIVIDUAL'S SUFFERING THROUGHOUT THE CONTINUUM OF THE INDIVIDUAL'S TERMINAL ILLNESS;

(2) ADDRESSES THE PHYSICAL, EMOTIONAL, SOCIAL, AND SPIRITUAL NEEDS OF THE INDIVIDUAL;

(3) FACILITATES INDIVIDUAL AUTONOMY, THE INDIVIDUAL'S ACCESS TO INFORMATION, AND INDIVIDUAL CHOICE; AND

(4) INCLUDES DISCUSSIONS BETWEEN THE INDIVIDUAL AND A HEALTH CARE PROVIDER CONCERNING THE INDIVIDUAL'S GOALS FOR TREATMENT AND APPROPRIATE TREATMENT OPTIONS AVAILABLE TO THE INDIVIDUAL, INCLUDING HOSPICE CARE AND COMPREHENSIVE PAIN AND SYMPTOM MANAGEMENT.

(O) "PHARMACIST" MEANS A PHARMACIST WHO IS LICENSED TO PRACTICE PHARMACY IN THE STATE.

(P) "QUALIFIED INDIVIDUAL" MEANS AN INDIVIDUAL WHO:

(1) IS AN ADULT;

(2) HAS THE CAPACITY TO MAKE MEDICAL DECISIONS;

(3) IS A RESIDENT OF THE STATE;

(4) HAS A TERMINAL ILLNESS; AND

(5) HAS THE ABILITY TO SELF-ADMINISTER MEDICATION.

(Q) "RELATIVE" MEANS:

(1) A SPOUSE;

(2) A CHILD;

(3) A GRANDCHILD;

(4) A SIBLING;

(5) A PARENT; OR

(6) A GRANDPARENT.

(R) "SELF-ADMINISTER" MEANS A QUALIFIED INDIVIDUAL'S ACT OF TAKING MEDICATION PRESCRIBED UNDER § 5-6A-07(A) OF THIS SUBTITLE.

(S) "TERMINAL ILLNESS" MEANS A MEDICAL CONDITION THAT, WITHIN REASONABLE MEDICAL JUDGMENT, INVOLVES A PROGNOSIS FOR AN INDIVIDUAL THAT LIKELY WILL RESULT IN THE INDIVIDUAL'S DEATH WITHIN 6 MONTHS.

(T) "WRITTEN REQUEST" MEANS A WRITTEN REQUEST FOR AID IN DYING.

5-6A-02.

(A) AN INDIVIDUAL MAY REQUEST AID IN DYING BY:

(1) MAKING AN INITIAL ORAL REQUEST TO THE INDIVIDUAL'S ATTENDING PHYSICIAN;

(2) AFTER MAKING AN INITIAL ORAL REQUEST, MAKING A WRITTEN REQUEST TO THE INDIVIDUAL'S ATTENDING PHYSICIAN, IN ACCORDANCE WITH § 5-6A-03 OF THIS SUBTITLE; AND

(3) MAKING A SECOND ORAL REQUEST TO THE INDIVIDUAL'S ATTENDING PHYSICIAN AT LEAST:

(I) 15 DAYS AFTER MAKING THE INITIAL ORAL REQUEST; AND

(II) 48 HOURS AFTER MAKING THE WRITTEN REQUEST.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO OTHER INDIVIDUAL, INCLUDING AN AGENT UNDER AN ADVANCE DIRECTIVE, AN ATTORNEY-IN-FACT UNDER A DURABLE POWER OF ATTORNEY, A GUARDIAN, OR A CONSERVATOR, MAY REQUEST AID IN DYING ON BEHALF OF AN INDIVIDUAL.

(C) AT LEAST ONE OF THE ORAL REQUESTS MADE UNDER SUBSECTION (A) OF THIS SECTION SHALL BE MADE WHILE THE INDIVIDUAL IS ALONE WITH THE ATTENDING PHYSICIAN.

5-6A-03.

(A) A WRITTEN REQUEST FOR AID IN DYING REQUIRED UNDER § 5-6A-02(A)(2) OF THIS SUBTITLE SHALL BE:

(1) IN SUBSTANTIALLY THE SAME FORM SET FORTH IN SUBSECTION (C) OF THIS SECTION;

(2) SIGNED AND DATED BY THE INDIVIDUAL; AND

(3) WITNESSED BY AT LEAST TWO OTHER INDIVIDUALS WHO, IN THE PRESENCE OF THE INDIVIDUAL, ATTEST THAT TO THE BEST OF THEIR KNOWLEDGE AND BELIEF THE INDIVIDUAL IS:

(I) OF SOUND MIND; AND

(II) ACTING VOLUNTARILY AND NOT BEING COERCED TO SIGN THE WRITTEN REQUEST.

(B) (1) ONLY ONE OF THE WITNESSES UNDER SUBSECTION (A)(3) OF THIS SECTION MAY BE:

(I) A RELATIVE OF THE INDIVIDUAL BY BLOOD, MARRIAGE, OR ADOPTION; OR

(II) AT THE TIME THE WRITTEN REQUEST IS SIGNED BY THE INDIVIDUAL, ENTITLED TO ANY BENEFIT ON THE INDIVIDUAL'S DEATH.

(2) THE INDIVIDUAL'S ATTENDING PHYSICIAN MAY NOT BE A WITNESS.

(C) A WRITTEN REQUEST UNDER THIS SECTION SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

MARYLAND REQUEST FOR MEDICATION FOR AID IN DYING

BY: _____ DATE OF BIRTH: _____
(PRINT NAME) (MONTH/DAY/YEAR)

I, _____, AM AN ADULT OF SOUND MIND.

I AM A RESIDENT OF THE STATE OF MARYLAND.

I AM SUFFERING FROM _____, WHICH MY ATTENDING PHYSICIAN HAS DETERMINED WILL, MORE LIKELY THAN NOT, RESULT IN DEATH WITHIN 6 MONTHS. I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, MY PROGNOSIS, THE NATURE OF MEDICATION TO BE PRESCRIBED TO AID ME IN DYING, THE POTENTIAL ASSOCIATED RISKS, THE EXPECTED RESULT, THE FEASIBLE ALTERNATIVES, AND THE ADDITIONAL HEALTH CARE TREATMENT OPTIONS, INCLUDING PALLIATIVE CARE AND HOSPICE.

I HAVE ORALLY REQUESTED THAT MY ATTENDING PHYSICIAN PRESCRIBE MEDICATION THAT I MAY SELF-ADMINISTER FOR AID IN DYING, AND I NOW CONFIRM THIS REQUEST. I AUTHORIZE MY ATTENDING PHYSICIAN TO CONTACT A PHARMACIST TO FILL THE PRESCRIPTION FOR THE MEDICATION ON MY REQUEST.

INITIAL ONE:

_____ I HAVE INFORMED MY FAMILY OF MY DECISION AND TAKEN THEIR OPINIONS INTO CONSIDERATION.

_____ I HAVE DECIDED NOT TO INFORM MY FAMILY OF MY DECISION.

_____ I HAVE NO FAMILY TO INFORM OF MY DECISION.

I UNDERSTAND THAT I HAVE THE RIGHT TO RESCIND THIS REQUEST AT ANY TIME.

I UNDERSTAND THE FULL IMPORT OF THIS REQUEST AND I EXPECT TO DIE IF AND WHEN I TAKE THE MEDICATION TO BE PRESCRIBED. I FURTHER UNDERSTAND THAT, ALTHOUGH MOST DEATHS OCCUR WITHIN 3 HOURS, MY DEATH MAY TAKE LONGER, AND MY ATTENDING PHYSICIAN HAS COUNSELED ME ABOUT THIS POSSIBILITY.

I MAKE THIS REQUEST VOLUNTARILY AND WITHOUT RESERVATION, AND I ACCEPT FULL RESPONSIBILITY FOR MY DECISION TO REQUEST AID IN DYING.

SIGNED: _____ DATED: _____

DECLARATION OF WITNESSES

I UNDERSTAND THAT, UNDER MARYLAND LAW, A WITNESS TO A REQUEST FOR MEDICATION FOR AID IN DYING MAY NOT BE THE INDIVIDUAL'S ATTENDING PHYSICIAN. FURTHER, ONLY ONE OF THE WITNESSES MAY BE:

1. A RELATIVE OF THE INDIVIDUAL BY BLOOD, MARRIAGE, OR ADOPTION;
OR

2. AT THE TIME THE WRITTEN REQUEST IS SIGNED BY THE INDIVIDUAL, ENTITLED TO ANY BENEFIT ON THE INDIVIDUAL'S DEATH.

BY SIGNING BELOW ON THE DATE THE INDIVIDUAL NAMED ABOVE SIGNS, I DECLARE THAT:

THE INDIVIDUAL MAKING AND SIGNING THE ABOVE REQUEST:

1. IS PERSONALLY KNOWN TO ME OR HAS PROVIDED PROOF OF IDENTITY;

2. SIGNED THIS REQUEST IN MY PRESENCE ON THE DATE OF THE INDIVIDUAL'S SIGNATURE;

3. APPEARS TO BE OF SOUND MIND AND NOT UNDER DURESS, FRAUD, OR UNDUE INFLUENCE; AND

4. IS NOT AN INDIVIDUAL FOR WHOM I AM THE ATTENDING PHYSICIAN.

1 **WITNESS 1**

2 **(CHECK ONE)**

3 _____ **I AM:**

4 _____ **I AM NOT:**

5 **1. A RELATIVE OF THE INDIVIDUAL BY BLOOD, MARRIAGE, OR ADOPTION;**

6 **OR**

7 **2. AT THE TIME THE REQUEST IS SIGNED, ENTITLED TO ANY BENEFIT ON**
8 **THE INDIVIDUAL'S DEATH.**

9 **PRINTED NAME OF WITNESS 1** _____

10 **SIGNATURE OF WITNESS 1** _____ **DATE** _____

11 **WITNESS 2**

12 **(CHECK ONE)**

13 _____ **I AM:**

14 _____ **I AM NOT:**

15 **1. A RELATIVE OF THE INDIVIDUAL BY BLOOD, MARRIAGE, OR ADOPTION;**

16 **OR**

17 **2. AT THE TIME THE REQUEST IS SIGNED, ENTITLED TO ANY BENEFIT ON**
18 **THE INDIVIDUAL'S DEATH.**

19 **PRINTED NAME OF WITNESS 2** _____

20 **SIGNATURE OF WITNESS 2** _____ **DATE** _____

21 **5-6A-04.**

22 **(A) (1) WHEN AN ATTENDING PHYSICIAN IS PRESENTED WITH AN**
23 **INDIVIDUAL'S WRITTEN REQUEST, THE ATTENDING PHYSICIAN SHALL DETERMINE**
24 **WHETHER THE INDIVIDUAL:**

25 **(I) IS A QUALIFIED INDIVIDUAL;**

26 **(II) HAS MADE AN INFORMED DECISION; AND**

27 **(III) HAS VOLUNTARILY REQUESTED AID IN DYING.**

28 **(2) AN INDIVIDUAL IS NOT A QUALIFIED INDIVIDUAL SOLELY DUE TO**

1 AGE, DISABILITY, OR A SPECIFIC ILLNESS.

2 (B) FOR PURPOSES OF DETERMINING THAT AN INDIVIDUAL IS A QUALIFIED
3 INDIVIDUAL, AN ATTENDING PHYSICIAN SHALL ACCEPT AS PROOF OF THE
4 INDIVIDUAL'S RESIDENCY IN THE STATE:

5 (1) POSSESSION OF A VALID MARYLAND DRIVER'S LICENSE OR
6 IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION;

7 (2) REGISTRATION TO VOTE IN THE STATE;

8 (3) EVIDENCE OF OWNING OR LEASING PROPERTY IN THE STATE;

9 (4) A COPY OF A MARYLAND RESIDENT TAX RETURN FOR THE MOST
10 RECENT TAX YEAR; OR

11 (5) BASED ON THE INDIVIDUAL'S TREATMENT HISTORY AND MEDICAL
12 RECORDS, THE ATTENDING PHYSICIAN'S PERSONAL KNOWLEDGE OF THE
13 INDIVIDUAL'S RESIDENCY IN THE STATE.

14 (C) AN ATTENDING PHYSICIAN SHALL ENSURE THAT AN INDIVIDUAL MAKES
15 AN INFORMED DECISION BY INFORMING THE INDIVIDUAL OF:

16 (1) THE INDIVIDUAL'S MEDICAL DIAGNOSIS;

17 (2) THE INDIVIDUAL'S PROGNOSIS;

18 (3) THE POTENTIAL RISKS ASSOCIATED WITH SELF-ADMINISTERING
19 THE MEDICATION TO BE PRESCRIBED FOR AID IN DYING;

20 (4) THE PROBABLE RESULT OF SELF-ADMINISTERING THE
21 MEDICATION TO BE PRESCRIBED FOR AID IN DYING; AND

22 (5) ANY FEASIBLE ALTERNATIVES AND HEALTH CARE TREATMENT
23 OPTIONS, INCLUDING PALLIATIVE CARE AND HOSPICE.

24 (D) SUBJECT TO § 5-6A-06 OF THIS SUBTITLE, IF THE ATTENDING
25 PHYSICIAN DETERMINES THAT AN INDIVIDUAL IS A QUALIFIED INDIVIDUAL, HAS
26 MADE AN INFORMED DECISION, AND HAS VOLUNTARILY REQUESTED AID IN DYING,
27 THE ATTENDING PHYSICIAN SHALL REFER THE INDIVIDUAL TO A CONSULTING
28 PHYSICIAN TO CARRY OUT THE DUTIES REQUIRED UNDER § 5-6A-05 OF THIS
29 SUBTITLE.

30 5-6A-05.

1 A CONSULTING PHYSICIAN TO WHOM AN INDIVIDUAL HAS BEEN REFERRED
2 UNDER § 5-6A-04(D) OF THIS SUBTITLE SHALL:

3 (1) EXAMINE THE INDIVIDUAL AND THE INDIVIDUAL'S RELEVANT
4 MEDICAL RECORDS;

5 (2) CONFIRM THE ATTENDING PHYSICIAN'S DIAGNOSIS THAT THE
6 INDIVIDUAL HAS A TERMINAL ILLNESS;

7 (3) IF REQUIRED UNDER § 5-6A-06 OF THIS SUBTITLE, REFER THE
8 INDIVIDUAL FOR A MENTAL HEALTH PROFESSIONAL ASSESSMENT;

9 (4) VERIFY THAT THE INDIVIDUAL IS A QUALIFIED INDIVIDUAL, HAS
10 MADE AN INFORMED DECISION, AND HAS VOLUNTARILY REQUESTED AID IN DYING;
11 AND

12 (5) DOCUMENT THE FULFILLMENT OF THE CONSULTING PHYSICIAN'S
13 DUTIES UNDER THIS SECTION IN WRITING.

14 **5-6A-06.**

15 (A) IF, IN THE MEDICAL OPINION OF THE ATTENDING PHYSICIAN OR THE
16 CONSULTING PHYSICIAN, AN INDIVIDUAL MAY BE SUFFERING FROM A CONDITION
17 THAT IS CAUSING IMPAIRED JUDGMENT OR OTHERWISE DOES NOT HAVE THE
18 CAPACITY TO MAKE MEDICAL DECISIONS, THE ATTENDING PHYSICIAN OR THE
19 CONSULTING PHYSICIAN SHALL REFER THE INDIVIDUAL TO A LICENSED MENTAL
20 HEALTH PROFESSIONAL FOR A MENTAL HEALTH PROFESSIONAL ASSESSMENT.

21 (B) AN ATTENDING PHYSICIAN MAY NOT PROVIDE THE INDIVIDUAL
22 MEDICATION FOR AID IN DYING UNTIL THE LICENSED MENTAL HEALTH
23 PROFESSIONAL PROVIDING THE MENTAL HEALTH PROFESSIONAL ASSESSMENT:

24 (1) DETERMINES THAT THE INDIVIDUAL HAS THE CAPACITY TO MAKE
25 MEDICAL DECISIONS AND IS NOT SUFFERING FROM A CONDITION THAT IS CAUSING
26 IMPAIRED JUDGMENT; AND

27 (2) COMMUNICATES THIS DETERMINATION TO THE ATTENDING
28 PHYSICIAN AND THE CONSULTING PHYSICIAN IN WRITING.

29 **5-6A-07.**

30 (A) AFTER THE ATTENDING PHYSICIAN AND THE CONSULTING PHYSICIAN
31 HAVE FULFILLED THE REQUIREMENTS UNDER §§ 5-6A-04 AND 5-6A-05 OF THIS

SUBTITLE, AND AFTER THE QUALIFIED INDIVIDUAL SUBMITS A SECOND ORAL REQUEST FOR AID IN DYING, AS REQUIRED UNDER § 5-6A-02 OF THIS SUBTITLE, THE ATTENDING PHYSICIAN SHALL:

(1) INFORM THE QUALIFIED INDIVIDUAL THAT IT IS THE DECISION OF THE QUALIFIED INDIVIDUAL AS TO WHETHER AND WHEN TO SELF-ADMINISTER THE MEDICATION PRESCRIBED FOR AID IN DYING;

(2) (I) INFORM THE QUALIFIED INDIVIDUAL THAT THE QUALIFIED INDIVIDUAL MAY WISH TO NOTIFY NEXT OF KIN OF THE REQUEST FOR AID IN DYING; AND

(II) INFORM THE QUALIFIED INDIVIDUAL THAT A FAILURE TO NOTIFY NEXT OF KIN IS NOT A BASIS FOR DENIAL OF THE REQUEST FOR AID IN DYING;

(3) COUNSEL THE QUALIFIED INDIVIDUAL CONCERNING THE IMPORTANCE OF:

(I) HAVING ANOTHER INDIVIDUAL PRESENT WHEN THE QUALIFIED INDIVIDUAL SELF-ADMINISTERS THE MEDICATION PRESCRIBED FOR AID IN DYING;

(II) NOT TAKING THE MEDICATION IN A PUBLIC PLACE; AND

(III) PARTICIPATING IN A HOSPICE PROGRAM;

(4) ENCOURAGE THE QUALIFIED INDIVIDUAL TO PREPARE AN ADVANCE DIRECTIVE;

(5) CONFIRM THAT THE QUALIFIED INDIVIDUAL'S REQUEST DOES NOT ARISE FROM COERCION OR UNDUE INFLUENCE BY ANOTHER INDIVIDUAL BY DISCUSSING WITH THE QUALIFIED INDIVIDUAL, OUTSIDE THE PRESENCE OF ANY OTHER INDIVIDUAL EXCEPT FOR AN INTERPRETER, WHETHER OR NOT THE QUALIFIED INDIVIDUAL IS FEELING COERCED OR UNDULY INFLUENCED BY ANOTHER INDIVIDUAL;

(6) INFORM THE QUALIFIED INDIVIDUAL THAT THE QUALIFIED INDIVIDUAL MAY RESCIND THE REQUEST FOR AID IN DYING AT ANY TIME AND IN ANY MANNER;

(7) VERIFY, IMMEDIATELY BEFORE WRITING THE PRESCRIPTION FOR MEDICATION FOR AID IN DYING, THAT THE QUALIFIED INDIVIDUAL IS MAKING AN INFORMED DECISION;

(8) FULFILL THE DOCUMENTATION REQUIREMENTS ESTABLISHED UNDER § 5-6A-08 OF THIS SUBTITLE; AND

(9) (I) IF THE ATTENDING PHYSICIAN HOLDS A DISPENSING PERMIT FROM THE STATE BOARD OF PHYSICIANS AND WISHES TO DISPENSE THE MEDICATION, DISPENSE TO THE QUALIFIED INDIVIDUAL:

1. THE PRESCRIBED MEDICATION FOR AID IN DYING;
AND

2. ANY ANCILLARY MEDICATIONS NEEDED TO MINIMIZE THE QUALIFIED INDIVIDUAL'S DISCOMFORT; OR

(II) IF THE ATTENDING PHYSICIAN DOES NOT HOLD A DISPENSING PERMIT OR DOES NOT WISH TO DISPENSE THE MEDICATION FOR AID IN DYING, AND THE QUALIFIED INDIVIDUAL REQUESTS AND PROVIDES WRITTEN CONSENT FOR THE MEDICATION FOR AID IN DYING TO BE DISPENSED BY A PHARMACIST:

1. CONTACT A PHARMACIST;

2. INFORM THE PHARMACIST OF THE PRESCRIPTION FOR MEDICATION FOR AID IN DYING; AND

3. SUBMIT THE PRESCRIPTION FOR MEDICATION FOR AID IN DYING TO THE PHARMACIST BY ANY MEANS AUTHORIZED BY LAW.

(B) A PHARMACIST WHO HAS BEEN CONTACTED AND INFORMED BY AN ATTENDING PHYSICIAN AND TO WHOM AN ATTENDING PHYSICIAN HAS SUBMITTED A PRESCRIPTION FOR MEDICATION FOR AID IN DYING IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION MAY DISPENSE THE MEDICATION FOR AID IN DYING AND ANY ANCILLARY MEDICATION ONLY TO THE QUALIFIED INDIVIDUAL, THE ATTENDING PHYSICIAN, OR AN EXPRESSLY IDENTIFIED AGENT OF THE QUALIFIED INDIVIDUAL.

(C) IF A QUALIFIED INDIVIDUAL SELF-ADMINISTERS MEDICATION FOR AID IN DYING AND DIES, THE ATTENDING PHYSICIAN MAY SIGN THE QUALIFIED INDIVIDUAL'S DEATH CERTIFICATE.

5-6A-08.

(A) WITH RESPECT TO A REQUEST BY A QUALIFIED INDIVIDUAL FOR AID IN DYING, THE ATTENDING PHYSICIAN SHALL ENSURE THAT THE MEDICAL RECORD OF

1 THE QUALIFIED INDIVIDUAL DOCUMENTS OR CONTAINS:

2 (1) THE BASIS FOR DETERMINING THAT THE QUALIFIED INDIVIDUAL
3 IS AN ADULT AND A RESIDENT OF THE STATE;

4 (2) ALL ORAL AND WRITTEN REQUESTS BY THE QUALIFIED
5 INDIVIDUAL FOR MEDICATION FOR AID IN DYING;

6 (3) THE ATTENDING PHYSICIAN'S:

7 (I) DIAGNOSIS OF THE QUALIFIED INDIVIDUAL'S TERMINAL
8 ILLNESS AND PROGNOSIS; AND

9 (II) DETERMINATION THAT THE QUALIFIED INDIVIDUAL HAS
10 THE CAPACITY TO MAKE MEDICAL DECISIONS, HAS MADE AN INFORMED DECISION,
11 AND HAS VOLUNTARILY REQUESTED AID IN DYING;

12 (4) DOCUMENTATION THAT THE CONSULTING PHYSICIAN HAS
13 FULFILLED THE CONSULTING PHYSICIAN'S DUTIES UNDER § 5-6A-05 OF THIS
14 SUBTITLE;

15 (5) A REPORT OF THE OUTCOME OF AND DETERMINATIONS MADE
16 DURING THE MENTAL HEALTH PROFESSIONAL ASSESSMENT IF:

17 (I) THE QUALIFIED INDIVIDUAL WAS REFERRED FOR A MENTAL
18 HEALTH PROFESSIONAL ASSESSMENT IN ACCORDANCE WITH § 5-6A-06 OF THIS
19 SUBTITLE; AND

20 (II) THE MENTAL HEALTH PROFESSIONAL ASSESSMENT WAS
21 PROVIDED;

22 (6) DOCUMENTATION OF THE ATTENDING PHYSICIAN'S OFFER TO
23 THE QUALIFIED INDIVIDUAL TO RESCIND THE QUALIFIED INDIVIDUAL'S REQUEST
24 FOR MEDICATION FOR AID IN DYING AT THE TIME THE ATTENDING PHYSICIAN
25 WROTE THE PRESCRIPTION FOR THE MEDICATION FOR THE QUALIFIED INDIVIDUAL;
26 AND

27 (7) A STATEMENT BY THE ATTENDING PHYSICIAN:

28 (I) INDICATING THAT ALL REQUIREMENTS FOR AID IN DYING
29 UNDER THIS SUBTITLE HAVE BEEN MET; AND

30 (II) SPECIFYING THE STEPS TAKEN TO CARRY OUT THE
31 QUALIFIED INDIVIDUAL'S REQUEST FOR AID IN DYING, INCLUDING THE MEDICATION

1 **PRESCRIBED FOR AID IN DYING.**

2 **(B) THE ATTENDING PHYSICIAN SHALL SUBMIT TO THE DEPARTMENT ANY**
3 **INFORMATION REGARDING IMPLEMENTATION OF THIS SUBTITLE REQUIRED BY**
4 **REGULATIONS ADOPTED UNDER § 5-6A-09(A) OF THIS SUBTITLE.**

5 **5-6A-09.**

6 **(A) THE DEPARTMENT SHALL ADOPT REGULATIONS TO FACILITATE THE**
7 **COLLECTION OF INFORMATION UNDER § 5-6A-08(B) OF THIS SUBTITLE.**

8 **(B) THE DEPARTMENT SHALL PRODUCE AND MAKE AVAILABLE TO THE**
9 **PUBLIC AN ANNUAL STATISTICAL REPORT OF INFORMATION COLLECTED UNDER**
10 **SUBSECTION (A) OF THIS SECTION.**

11 **(C) RECORDS OR INFORMATION COLLECTED OR MAINTAINED UNDER THIS**
12 **SUBTITLE ARE NOT SUBJECT TO SUBPOENA OR DISCOVERY AND MAY NOT BE**
13 **INTRODUCED INTO EVIDENCE IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING,**
14 **EXCEPT TO RESOLVE MATTERS CONCERNING COMPLIANCE WITH THIS SUBTITLE OR**
15 **AS OTHERWISE SPECIFICALLY PROVIDED BY LAW.**

16 **5-6A-10.**

17 **A PERSON THAT, AFTER A QUALIFIED INDIVIDUAL'S DEATH, IS IN POSSESSION**
18 **OF MEDICATION PRESCRIBED FOR AID IN DYING THAT HAS NOT BEEN**
19 **SELF-ADMINISTERED SHALL DISPOSE OF THE MEDICATION IN A LAWFUL MANNER.**

20 **5-6A-11.**

21 **(A) FOR ALL LEGAL RIGHTS AND OBLIGATIONS, RECORD-KEEPING**
22 **PURPOSES, AND OTHER PURPOSES GOVERNED BY THE LAWS OF THE STATE,**
23 **WHETHER CONTRACTUAL, CIVIL, CRIMINAL, OR OTHERWISE, THE DEATH OF A**
24 **QUALIFIED INDIVIDUAL BY REASON OF THE SELF-ADMINISTRATION OF MEDICATION**
25 **PRESCRIBED UNDER THIS SUBTITLE SHALL BE DEEMED TO BE A DEATH FROM**
26 **NATURAL CAUSES, SPECIFICALLY AS A RESULT OF THE TERMINAL ILLNESS FROM**
27 **WHICH THE QUALIFIED INDIVIDUAL SUFFERED.**

28 **(B) A PROVISION IN A CONTRACT OR ANY OTHER LEGAL INSTRUMENT THAT**
29 **IS CONTRARY TO SUBSECTION (A) OF THIS SECTION IS VOID.**

30 **(C) SUBSECTION (A) OF THIS SECTION MAY NOT BE CONSTRUED TO**
31 **PROHIBIT THE PROSECUTION OF A PERSON FOR MURDER OR ATTEMPTED MURDER**
32 **IF THE PERSON, WITH THE INTENT OR EFFECT OF CAUSING THE INDIVIDUAL'S**
33 **DEATH:**

(1) WILLFULLY ALTERS OR FORGES A REQUEST FOR AID IN DYING;

(2) CONCEALS OR DESTROYS A RESCISSION OF A REQUEST FOR AID IN DYING;

(3) COERCES OR EXERTS UNDUE INFLUENCE ON AN INDIVIDUAL TO COMPLETE A REQUEST FOR AID IN DYING; OR

(4) COERCES OR EXERTS UNDUE INFLUENCE ON AN INDIVIDUAL TO DESTROY A RESCISSION OF A REQUEST FOR AID IN DYING.

(D) (1) THIS SUBTITLE DOES NOT AUTHORIZE A LICENSED PHYSICIAN OR ANY OTHER PERSON TO END AN INDIVIDUAL'S LIFE BY LETHAL INJECTION, MERCY KILLING, OR ACTIVE EUTHANASIA.

(2) ACTIONS TAKEN IN ACCORDANCE WITH THIS SUBTITLE DO NOT, FOR ANY PURPOSE, CONSTITUTE SUICIDE, ASSISTED SUICIDE, MERCY KILLING, OR HOMICIDE.

5-6A-12.

(A) A PROVISION IN AN INSURANCE POLICY, AN ANNUITY, A CONTRACT, OR ANY OTHER AGREEMENT, ISSUED OR MADE ON OR AFTER OCTOBER 1, 2020, IS NOT VALID TO THE EXTENT THAT THE PROVISION WOULD ATTACH CONSEQUENCES TO OR OTHERWISE RESTRICT OR INFLUENCE AN INDIVIDUAL'S DECISION TO MAKE OR RESCIND A REQUEST FOR AID IN DYING UNDER THIS SUBTITLE.

(B) AN OBLIGATION UNDER A CONTRACT EXISTING ON OCTOBER 1, 2020, MAY NOT BE CONDITIONED ON OR AFFECTED BY THE MAKING OR RESCINDING OF A REQUEST FOR AID IN DYING UNDER THIS SUBTITLE.

(C) A QUALIFIED INDIVIDUAL'S ACT OF SELF-ADMINISTERING MEDICATION FOR AID IN DYING MAY NOT HAVE AN EFFECT UNDER A LIFE INSURANCE POLICY, A HEALTH INSURANCE POLICY OR CONTRACT, OR AN ANNUITY CONTRACT THAT DIFFERS FROM THE EFFECT UNDER THE POLICY OR CONTRACT OF THE QUALIFIED INDIVIDUAL'S DEATH FROM NATURAL CAUSES.

5-6A-13.

(A) EXCEPT AS PROVIDED IN § 5-6A-14(C) OF THIS SUBTITLE:

(1) A PERSON MAY NOT BE SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION FOR PARTICIPATING IN GOOD-FAITH

1 COMPLIANCE WITH THIS SUBTITLE, INCLUDING BEING PRESENT WHEN A QUALIFIED
2 INDIVIDUAL SELF-ADMINISTERS MEDICATION PRESCRIBED FOR AID IN DYING; AND

3 (2) A PROFESSIONAL ORGANIZATION OR ASSOCIATION, A HEALTH
4 CARE PROVIDER, OR A HEALTH OCCUPATION BOARD MAY NOT SUBJECT A PERSON
5 TO CENSURE, DISCIPLINE, SUSPENSION, LOSS OF LICENSE, LOSS OF PRIVILEGES,
6 LOSS OF MEMBERSHIP, OR ANY OTHER PENALTY FOR PARTICIPATING OR REFUSING
7 TO PARTICIPATE IN GOOD-FAITH COMPLIANCE WITH THIS SUBTITLE.

8 (B) AN INDIVIDUAL'S REQUEST FOR AID IN DYING OR AN ATTENDING
9 PHYSICIAN'S PRESCRIPTION OF MEDICATION MADE IN GOOD-FAITH COMPLIANCE
10 WITH THIS SUBTITLE DOES NOT:

11 (1) CONSTITUTE NEGLIGENCE FOR ANY PURPOSE OF LAW; OR

12 (2) PROVIDE THE SOLE BASIS FOR THE APPOINTMENT OF A
13 GUARDIAN OR CONSERVATOR.

14 5-6A-14.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) "NOTIFY" MEANS TO PROVIDE A SEPARATE STATEMENT IN
18 WRITING TO A HEALTH CARE PROVIDER SPECIFICALLY INFORMING THE HEALTH
19 CARE PROVIDER, BEFORE THE HEALTH CARE PROVIDER'S PARTICIPATION IN AID IN
20 DYING, OF ANOTHER HEALTH CARE PROVIDER'S POLICY ABOUT PARTICIPATION IN
21 AID IN DYING.

22 (3) (I) "PARTICIPATE IN AID IN DYING" MEANS TO PERFORM THE
23 DUTIES OF AN ATTENDING PHYSICIAN, A CONSULTING PHYSICIAN, OR A LICENSED
24 MENTAL HEALTH PROFESSIONAL UNDER THIS SUBTITLE.

25 (II) "PARTICIPATE IN AID IN DYING" DOES NOT INCLUDE:

26 1. MAKING AN INITIAL DETERMINATION THAT AN
27 INDIVIDUAL HAS A TERMINAL ILLNESS AND INFORMING THE INDIVIDUAL OF THE
28 MEDICAL PROGNOSIS;

29 2. PROVIDING INFORMATION ABOUT THIS SUBTITLE TO
30 AN INDIVIDUAL, ON THE REQUEST OF THE INDIVIDUAL; OR

31 3. PROVIDING AN INDIVIDUAL, ON REQUEST OF THE
32 INDIVIDUAL, WITH A REFERRAL TO ANOTHER PHYSICIAN.

1 **(B) (1) A HEALTH CARE PROVIDER MAY PROHIBIT ANOTHER HEALTH**
2 **CARE PROVIDER FROM PARTICIPATING IN AID IN DYING UNDER THIS SUBTITLE ON**
3 **THE PREMISES OF THE PROHIBITING HEALTH CARE PROVIDER IF THE PROHIBITING**
4 **HEALTH CARE PROVIDER HAS NOTIFIED ALL HEALTH CARE PROVIDERS WITH**
5 **PRIVILEGES TO PRACTICE ON THE PREMISES OF THE PROHIBITING HEALTH CARE**
6 **PROVIDER'S POLICY REGARDING PARTICIPATING IN AID IN DYING.**

7 **(2) THIS SUBSECTION DOES NOT PROHIBIT A HEALTH CARE**
8 **PROVIDER FROM PROVIDING HEALTH CARE SERVICES THAT DO NOT CONSTITUTE**
9 **PARTICIPATING IN AID IN DYING UNDER THIS SUBTITLE TO AN INDIVIDUAL.**

10 **(C) A HEALTH CARE PROVIDER MAY SUBJECT ANOTHER HEALTH CARE**
11 **PROVIDER TO THE FOLLOWING SANCTIONS IF THE SANCTIONING HEALTH CARE**
12 **PROVIDER HAS NOTIFIED THE SANCTIONED HEALTH CARE PROVIDER, BEFORE THE**
13 **SANCTIONED HEALTH CARE PROVIDER PARTICIPATES IN AID IN DYING, THAT THE**
14 **SANCTIONING HEALTH CARE PROVIDER PROHIBITS PARTICIPATION IN AID IN**
15 **DYING:**

16 **(1) LOSS OF PRIVILEGES, LOSS OF MEMBERSHIP, OR OTHER**
17 **SANCTIONS PROVIDED UNDER THE MEDICAL STAFF BYLAWS, POLICIES, AND**
18 **PROCEDURES OF THE SANCTIONING HEALTH CARE PROVIDER IF THE SANCTIONED**
19 **HEALTH CARE PROVIDER IS A MEMBER OF THE SANCTIONING HEALTH CARE**
20 **PROVIDER'S MEDICAL STAFF AND PARTICIPATES IN AID IN DYING WHILE ON THE**
21 **PREMISES OF THE SANCTIONING HEALTH CARE PROVIDER;**

22 **(2) TERMINATION OF A LEASE OR ANY OTHER PROPERTY CONTRACT**
23 **OR OTHER NONMONETARY REMEDIES PROVIDED BY A LEASE OR OTHER PROPERTY**
24 **CONTRACT, NOT INCLUDING LOSS OR RESTRICTION OF MEDICAL STAFF PRIVILEGES**
25 **OR EXCLUSION FROM A PROVIDER PANEL, IF THE SANCTIONED HEALTH CARE**
26 **PROVIDER PARTICIPATES IN AID IN DYING WHILE ON THE PREMISES OF THE**
27 **SANCTIONING HEALTH CARE PROVIDER OR ON PROPERTY THAT IS OWNED BY OR**
28 **UNDER THE DIRECT CONTROL OF THE SANCTIONING HEALTH CARE PROVIDER; OR**

29 **(3) TERMINATION OF A CONTRACT OR OTHER NONMONETARY**
30 **REMEDIES PROVIDED BY A CONTRACT IF THE SANCTIONED HEALTH CARE PROVIDER**
31 **PARTICIPATES IN AID IN DYING WHILE ACTING IN THE COURSE AND SCOPE OF THE**
32 **SANCTIONED HEALTH CARE PROVIDER'S CAPACITY AS AN EMPLOYEE OR**
33 **INDEPENDENT CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER.**

34 **(D) SUBSECTION (B) OF THIS SECTION DOES NOT PROHIBIT:**

35 **(1) A HEALTH CARE PROVIDER FROM PARTICIPATING IN AID IN**
36 **DYING:**

(I) WHILE ACTING OUTSIDE THE COURSE AND SCOPE OF THE HEALTH CARE PROVIDER'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER; OR

(II) OFF THE PREMISES OF THE SANCTIONING HEALTH CARE PROVIDER OR OFF ANY PROPERTY THAT IS OWNED BY OR UNDER THE DIRECT CONTROL OF THE SANCTIONING HEALTH CARE PROVIDER; OR

(2) AN INDIVIDUAL FROM CONTRACTING WITH THE INDIVIDUAL'S ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN TO ACT OUTSIDE THE COURSE AND SCOPE OF THE ATTENDING PHYSICIAN'S OR CONSULTING PHYSICIAN'S CAPACITY AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE SANCTIONING HEALTH CARE PROVIDER.

5-6A-15.

(A) (1) PARTICIPATION BY A HEALTH CARE PROVIDER IN AID IN DYING UNDER THIS SUBTITLE IS VOLUNTARY.

(2) A HEALTH CARE FACILITY MAY NOT REQUIRE THE PHYSICIANS ON THE MEDICAL STAFF OF THE HEALTH CARE FACILITY TO PARTICIPATE IN AID IN DYING.

(B) IF AN INDIVIDUAL REQUESTS OR INDICATES AN INTEREST IN AID IN DYING, AND THE ATTENDING PHYSICIAN OF THE INDIVIDUAL DOES NOT WISH TO PARTICIPATE IN AID IN DYING, THE ATTENDING PHYSICIAN SHALL INFORM THE INDIVIDUAL THAT THE ATTENDING PHYSICIAN DOES NOT WISH TO PARTICIPATE.

(C) ON REQUEST, AN ATTENDING PHYSICIAN EXPEDITIOUSLY SHALL TRANSFER A COPY OF AN INDIVIDUAL'S RELEVANT MEDICAL RECORDS TO ANOTHER ATTENDING PHYSICIAN IF:

(1) THE INDIVIDUAL REQUESTS OR INDICATES AN INTEREST IN AID IN DYING;

(2) THE ORIGINAL ATTENDING PHYSICIAN IS UNABLE OR UNWILLING TO PARTICIPATE IN AID IN DYING FOR THE INDIVIDUAL; AND

(3) THE INDIVIDUAL TRANSFERS THE INDIVIDUAL'S CARE TO ANOTHER ATTENDING PHYSICIAN.

(D) A HEALTH CARE FACILITY MAY ADOPT WRITTEN POLICIES PROHIBITING A LICENSED PHYSICIAN ASSOCIATED WITH THE HEALTH CARE FACILITY FROM

1 PARTICIPATING IN AID IN DYING, IN ACCORDANCE WITH § 5-6A-14 OF THIS
2 SUBTITLE.

3 5-6A-16.

4 (A) AN INDIVIDUAL WHO WILLFULLY ALTERS OR FORGES A WRITTEN
5 REQUEST MADE UNDER §§ 5-6A-02 AND 5-6A-03 OF THIS SUBTITLE OR CONCEALS
6 OR DESTROYS A RESCISSION OF AN INDIVIDUAL'S WRITTEN REQUEST WITHOUT THE
7 AUTHORIZATION OF THE INDIVIDUAL AND WITH THE INTENT OR EFFECT OF CAUSING
8 THE INDIVIDUAL'S DEATH IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT
9 TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000
10 OR BOTH.

11 (B) AN INDIVIDUAL WHO COERCES OR EXERTS UNDUE INFLUENCE ON AN
12 INDIVIDUAL TO MAKE A WRITTEN REQUEST UNDER §§ 5-6A-02 AND 5-6A-03 OF
13 THIS SUBTITLE FOR THE PURPOSE OF ENDING THE INDIVIDUAL'S LIFE OR TO
14 DESTROY A RESCISSION OF A WRITTEN REQUEST IS GUILTY OF A FELONY AND ON
15 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE
16 NOT EXCEEDING \$10,000 OR BOTH.

17 (C) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE IMPOSED
18 SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR
19 ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

20 (D) THIS SUBTITLE DOES NOT LIMIT ANY LIABILITY FOR CIVIL DAMAGES
21 RESULTING FROM ANY OTHER NEGLIGENT CONDUCT OR INTENTIONAL MISCONDUCT
22 BY ANY PERSON.

23 Article – Insurance

24 27-208.1.

25 (A) FOR ALL LEGAL RIGHTS AND OBLIGATIONS AND OTHER PURPOSES
26 GOVERNED BY THIS ARTICLE, THE DEATH OF AN INDIVIDUAL BY REASON OF THE
27 SELF-ADMINISTRATION OF MEDICATION PRESCRIBED UNDER TITLE 5, SUBTITLE
28 6A OF THE HEALTH – GENERAL ARTICLE SHALL BE DEEMED TO BE A DEATH FROM
29 NATURAL CAUSES, SPECIFICALLY AS A RESULT OF THE TERMINAL ILLNESS FROM
30 WHICH THE INDIVIDUAL SUFFERED.

31 (B) ACTIONS TAKEN IN ACCORDANCE WITH TITLE 5, SUBTITLE 6A OF THE
32 HEALTH – GENERAL ARTICLE DO NOT, FOR ANY PURPOSE, CONSTITUTE SUICIDE,
33 ASSISTED SUICIDE, MERCY KILLING, OR HOMICIDE.

34 (C) A PROVISION IN AN INSURANCE POLICY OR CONTRACT OR AN ANNUITY

1 CONTRACT ISSUED OR DELIVERED ON OR AFTER OCTOBER 1, 2020, IS NOT VALID TO
2 THE EXTENT THAT THE PROVISION WOULD ATTACH CONSEQUENCES TO OR
3 OTHERWISE RESTRICT OR INFLUENCE AN INDIVIDUAL'S DECISION TO MAKE OR
4 RESCIND A REQUEST FOR AID IN DYING UNDER TITLE 5, SUBTITLE 6A OF THE
5 HEALTH – GENERAL ARTICLE.

6 (D) AN OBLIGATION UNDER AN INSURANCE POLICY OR CONTRACT OR AN
7 ANNUITY CONTRACT EXISTING ON OCTOBER 1, 2020, MAY NOT BE CONDITIONED ON
8 OR AFFECTED BY THE MAKING OR RESCINDING OF A REQUEST FOR AID IN DYING
9 UNDER TITLE 5, SUBTITLE 6A OF THE HEALTH – GENERAL ARTICLE.

10 (E) THE ACT BY AN INSURED OF SELF-ADMINISTERING MEDICATION FOR
11 AID IN DYING UNDER TITLE 5, SUBTITLE 6A OF THE HEALTH – GENERAL ARTICLE
12 MAY NOT HAVE AN EFFECT UNDER A LIFE INSURANCE POLICY, A HEALTH INSURANCE
13 POLICY OR CONTRACT, OR AN ANNUITY CONTRACT THAT DIFFERS FROM THE
14 EFFECT UNDER THE POLICY OR CONTRACT OF THE INSURED'S OR ANNUITANT'S
15 DEATH FROM NATURAL CAUSES.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2020.