

HOUSE BILL 370

J1, J2, E1
HB 404/16 – HGO & JUD

7lr1382
CF SB 354

By: **Delegates Pendergrass, Anderson, Angel, Atterbeary, B. Barnes, Barve, Bromwell, Carr, Cullison, Dumais, Ebersole, Fraser-Hidalgo, Frick, Frush, Gilchrist, Gutierrez, Hettleman, Hill, Hixson, Kaiser, Kelly, Korman, Kramer, Lafferty, Lam, Lewis, Luedtke, McIntosh, A. Miller, Moon, Morales, Oaks, Pena-Melnyk, Platt, Proctor, Reznik, Robinson, Rosenberg, Tarlau, Waldstreicher, M. Washington, West, and K. Young**

Introduced and read first time: January 25, 2017

Assigned to: Health and Government Operations and Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of authorizing an individual to request aid in dying by making certain
4 requests; prohibiting another individual from requesting aid in dying on behalf of an
5 individual; requiring a written request for aid in dying to meet certain requirements;
6 establishing certain requirements for witnesses to a written request for aid in dying;
7 requiring a written request for aid in dying to be in a certain form; requiring an
8 attending physician who receives a written request for aid in dying to make a certain
9 determination and to accept certain documents or certain knowledge as proof of
10 certain residency; requiring an attending physician to provide certain information to
11 an individual for a certain purpose and to refer an individual to a consulting
12 physician, under certain circumstances; requiring a consulting physician to fulfill
13 certain duties; requiring an attending physician or a consulting physician to refer an
14 individual to a certain individual for a mental health professional assessment under
15 certain circumstances; prohibiting an attending physician from providing an
16 individual with medication for aid in dying until a certain individual providing the
17 mental health professional assessment makes a certain determination and
18 communicates the determination to certain individuals in a certain manner;
19 requiring an attending physician to take certain actions under certain
20 circumstances; authorizing a pharmacist to dispense medication for aid in dying only
21 to certain individuals under certain circumstances; authorizing an attending
22 physician to sign a qualified individual's death certificate under certain
23 circumstances; requiring an attending physician to ensure that the medical record
24 of a qualified individual documents or contains certain information; requiring an
25 attending physician to submit certain information to the Department of Health and
26 Mental Hygiene; requiring the Department to adopt regulations to facilitate the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



collection of certain information and to produce and make available to the public a certain report of the information collected; providing that certain records or information are not subject to subpoena or discovery and may not be introduced into 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 certain penalties do not preclude certain penalties applicable under other law for certain conduct; 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 2016 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

(2015 Replacement Volume and 2016 Supplement)

BY adding to

Article – Insurance

Section 27–208.1

Annotated Code of Maryland

(2011 Replacement Volume and 2016 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;

1 (3) A GRANDCHILD;

2 (4) A SIBLING;

3 (5) A PARENT; OR

4 (6) A GRANDPARENT.

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

7 (S) “TERMINAL ILLNESS” MEANS A MEDICAL CONDITION THAT, WITHIN
8 REASONABLE MEDICAL JUDGMENT, INVOLVES A PROGNOSIS FOR AN INDIVIDUAL
9 THAT LIKELY WILL RESULT IN THE INDIVIDUAL’S DEATH WITHIN 6 MONTHS.

10 (T) “WRITTEN REQUEST” MEANS A WRITTEN REQUEST FOR AID IN DYING.

11 5-6A-02.

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

13 (1) MAKING AN INITIAL ORAL REQUEST TO THE INDIVIDUAL’S
14 ATTENDING PHYSICIAN;

15 (2) AFTER MAKING AN INITIAL ORAL REQUEST, MAKING A WRITTEN
16 REQUEST TO THE INDIVIDUAL’S ATTENDING PHYSICIAN, IN ACCORDANCE WITH
17 § 5-6A-03 OF THIS SUBTITLE; AND

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

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

21 (II) 48 HOURS AFTER MAKING THE WRITTEN REQUEST.

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

26 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,

1 THE POTENTIAL ASSOCIATED RISKS, THE EXPECTED RESULT, THE FEASIBLE
2 ALTERNATIVES, AND THE ADDITIONAL HEALTH CARE TREATMENT OPTIONS,
3 INCLUDING PALLIATIVE CARE AND HOSPICE.

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

8 **INITIAL ONE:**

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

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

12 _____ I HAVE NO FAMILY TO INFORM OF MY DECISION.

13 I UNDERSTAND THAT I HAVE THE RIGHT TO RESCIND THIS REQUEST AT ANY TIME.
14 I UNDERSTAND THE FULL IMPORT OF THIS REQUEST AND I EXPECT TO DIE IF AND
15 WHEN I TAKE THE MEDICATION TO BE PRESCRIBED. I FURTHER UNDERSTAND THAT,
16 ALTHOUGH MOST DEATHS OCCUR WITHIN 3 HOURS, MY DEATH MAY TAKE LONGER,
17 AND MY ATTENDING PHYSICIAN HAS COUNSELED ME ABOUT THIS POSSIBILITY.
18 I MAKE THIS REQUEST VOLUNTARILY AND WITHOUT RESERVATION, AND I ACCEPT
19 FULL RESPONSIBILITY FOR MY DECISION TO REQUEST AID IN DYING.

20 SIGNED: _____ DATED: _____

21 **DECLARATION OF WITNESSES**

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

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

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

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

31 THE INDIVIDUAL MAKING AND SIGNING THE ABOVE REQUEST:

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

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

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

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

6 **WITNESS 1**
7 **(CHECK ONE)**

8 _____ **I AM:**

9 _____ **I AM NOT:**

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

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

14 **PRINTED NAME OF WITNESS 1** _____
15 **SIGNATURE OF WITNESS 1** _____ **DATE** _____

16 **WITNESS 2**
17 **(CHECK ONE)**

18 _____ **I AM:**

19 _____ **I AM NOT:**

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

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

24 **PRINTED NAME OF WITNESS 2** _____
25 **SIGNATURE OF WITNESS 2** _____ **DATE** _____

26 **5-6A-04.**

1 (A) (1) WHEN AN ATTENDING PHYSICIAN IS PRESENTED WITH AN
2 INDIVIDUAL'S WRITTEN REQUEST, THE ATTENDING PHYSICIAN SHALL DETERMINE
3 WHETHER THE INDIVIDUAL:

4 (I) IS A QUALIFIED INDIVIDUAL;

5 (II) HAS MADE AN INFORMED DECISION; AND

6 (III) HAS VOLUNTARILY REQUESTED AID IN DYING.

7 (2) AN INDIVIDUAL IS NOT A QUALIFIED INDIVIDUAL SOLELY DUE TO
8 AGE, DISABILITY, OR A SPECIFIC ILLNESS.

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

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

14 (2) REGISTRATION TO VOTE IN THE STATE;

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

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

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

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

23 (1) THE INDIVIDUAL'S MEDICAL DIAGNOSIS;

24 (2) THE INDIVIDUAL'S PROGNOSIS;

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

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

1 **(5) ANY FEASIBLE ALTERNATIVES AND HEALTH CARE TREATMENT**
2 **OPTIONS, INCLUDING PALLIATIVE CARE AND HOSPICE.**

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

9 **5-6A-05.**

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

12 **(1) EXAMINE THE INDIVIDUAL AND THE INDIVIDUAL'S RELEVANT**
13 **MEDICAL RECORDS;**

14 **(2) CONFIRM THE ATTENDING PHYSICIAN'S DIAGNOSIS THAT THE**
15 **INDIVIDUAL HAS A TERMINAL ILLNESS;**

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

18 **(4) VERIFY THAT THE INDIVIDUAL IS A QUALIFIED INDIVIDUAL, HAS**
19 **MADE AN INFORMED DECISION, AND HAS VOLUNTARILY REQUESTED AID IN DYING;**
20 **AND**

21 **(5) DOCUMENT THE FULFILLMENT OF THE CONSULTING PHYSICIAN'S**
22 **DUTIES UNDER THIS SECTION IN WRITING.**

23 **5-6A-06.**

24 **(A) IF, IN THE MEDICAL OPINION OF THE ATTENDING PHYSICIAN OR THE**
25 **CONSULTING PHYSICIAN, AN INDIVIDUAL MAY BE SUFFERING FROM A CONDITION**
26 **THAT IS CAUSING IMPAIRED JUDGMENT OR OTHERWISE DOES NOT HAVE THE**
27 **CAPACITY TO MAKE MEDICAL DECISIONS, THE ATTENDING PHYSICIAN OR THE**
28 **CONSULTING PHYSICIAN SHALL REFER THE INDIVIDUAL TO A LICENSED MENTAL**
29 **HEALTH PROFESSIONAL FOR A MENTAL HEALTH PROFESSIONAL ASSESSMENT.**

1 **(B) AN ATTENDING PHYSICIAN MAY NOT PROVIDE THE INDIVIDUAL**
2 **MEDICATION FOR AID IN DYING UNTIL THE LICENSED MENTAL HEALTH**
3 **PROFESSIONAL PROVIDING THE MENTAL HEALTH PROFESSIONAL ASSESSMENT:**

4 **(1) DETERMINES THAT THE INDIVIDUAL HAS THE CAPACITY TO MAKE**
5 **MEDICAL DECISIONS AND IS NOT SUFFERING FROM A CONDITION THAT IS CAUSING**
6 **IMPAIRED JUDGMENT; AND**

7 **(2) COMMUNICATES THIS DETERMINATION TO THE ATTENDING**
8 **PHYSICIAN AND THE CONSULTING PHYSICIAN IN WRITING.**

9 **5-6A-07.**

10 **(A) AFTER THE ATTENDING PHYSICIAN AND THE CONSULTING PHYSICIAN**
11 **HAVE FULFILLED THE REQUIREMENTS UNDER §§ 5-6A-04 AND 5-6A-05 OF THIS**
12 **SUBTITLE, AND AFTER THE QUALIFIED INDIVIDUAL SUBMITS A SECOND ORAL**
13 **REQUEST FOR AID IN DYING, AS REQUIRED UNDER § 5-6A-02 OF THIS SUBTITLE,**
14 **THE ATTENDING PHYSICIAN SHALL:**

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

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

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

24 **(3) COUNSEL THE QUALIFIED INDIVIDUAL CONCERNING THE**
25 **IMPORTANCE OF:**

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

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

30 **(III) PARTICIPATING IN A HOSPICE PROGRAM;**

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

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

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

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

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

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

20 1. THE PRESCRIBED MEDICATION FOR AID IN DYING;
21 AND

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

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

29 1. CONTACT A PHARMACIST;

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

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

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

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

13 **5-6A-08.**

14 **(A) WITH RESPECT TO A REQUEST BY A QUALIFIED INDIVIDUAL FOR AID IN**
15 **DYING, THE ATTENDING PHYSICIAN SHALL ENSURE THAT THE MEDICAL RECORD OF**
16 **THE QUALIFIED INDIVIDUAL DOCUMENTS OR CONTAINS:**

17 **(1) THE BASIS FOR DETERMINING THAT THE QUALIFIED INDIVIDUAL**
18 **IS AN ADULT AND A RESIDENT OF THE STATE;**

19 **(2) ALL ORAL AND WRITTEN REQUESTS BY THE QUALIFIED**
20 **INDIVIDUAL FOR MEDICATION FOR AID IN DYING;**

21 **(3) THE ATTENDING PHYSICIAN'S:**

22 **(I) DIAGNOSIS OF THE QUALIFIED INDIVIDUAL'S TERMINAL**
23 **ILLNESS AND PROGNOSIS; AND**

24 **(II) DETERMINATION THAT THE QUALIFIED INDIVIDUAL HAS**
25 **THE CAPACITY TO MAKE MEDICAL DECISIONS, HAS MADE AN INFORMED DECISION,**
26 **AND HAS VOLUNTARILY REQUESTED AID IN DYING;**

27 **(4) DOCUMENTATION THAT THE CONSULTING PHYSICIAN HAS**
28 **FULFILLED THE CONSULTING PHYSICIAN'S DUTIES UNDER § 5-6A-05 OF THIS**
29 **SUBTITLE;**

30 **(5) A REPORT OF THE OUTCOME OF AND DETERMINATIONS MADE**
31 **DURING THE MENTAL HEALTH PROFESSIONAL ASSESSMENT IF:**

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

(II) THE MENTAL HEALTH PROFESSIONAL ASSESSMENT WAS PROVIDED;

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

(7) A STATEMENT BY THE ATTENDING PHYSICIAN:

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

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

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

5-6A-09.

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

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

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

5-6A-10.

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

4 5-6A-11.

5 (A) FOR ALL LEGAL RIGHTS AND OBLIGATIONS, RECORD-KEEPING
6 PURPOSES, AND OTHER PURPOSES GOVERNED BY THE LAWS OF THE STATE,
7 WHETHER CONTRACTUAL, CIVIL, CRIMINAL, OR OTHERWISE, THE DEATH OF A
8 QUALIFIED INDIVIDUAL BY REASON OF THE SELF-ADMINISTRATION OF MEDICATION
9 PRESCRIBED UNDER THIS SUBTITLE SHALL BE DEEMED TO BE A DEATH FROM
10 NATURAL CAUSES, SPECIFICALLY AS A RESULT OF THE TERMINAL ILLNESS FROM
11 WHICH THE QUALIFIED INDIVIDUAL SUFFERED.

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

14 (C) SUBSECTION (A) OF THIS SECTION MAY NOT BE CONSTRUED TO
15 PROHIBIT THE PROSECUTION OF A PERSON FOR MURDER OR ATTEMPTED MURDER
16 IF THE PERSON, WITH THE INTENT OR EFFECT OF CAUSING THE INDIVIDUAL'S
17 DEATH:

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

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

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

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

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

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

31 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, 2017, 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, 2017, 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 COMPLIANCE WITH THIS SUBTITLE, INCLUDING BEING PRESENT WHEN A QUALIFIED INDIVIDUAL SELF-ADMINISTERS MEDICATION PRESCRIBED FOR AID IN DYING; AND

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

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

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

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

5-6A-14.

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

3 (2) “NOTIFY” MEANS TO PROVIDE A SEPARATE STATEMENT IN
4 WRITING TO A HEALTH CARE PROVIDER SPECIFICALLY INFORMING THE HEALTH
5 CARE PROVIDER, BEFORE THE HEALTH CARE PROVIDER’S PARTICIPATION IN AID IN
6 DYING, OF ANOTHER HEALTH CARE PROVIDER’S POLICY ABOUT PARTICIPATION IN
7 AID IN DYING.

8 (3) (I) “PARTICIPATE IN AID IN DYING” MEANS TO PERFORM THE
9 DUTIES OF AN ATTENDING PHYSICIAN, A CONSULTING PHYSICIAN, OR A LICENSED
10 MENTAL HEALTH PROFESSIONAL UNDER THIS SUBTITLE.

11 (II) “PARTICIPATE IN AID IN DYING” DOES NOT INCLUDE:

12 1. MAKING AN INITIAL DETERMINATION THAT AN
13 INDIVIDUAL HAS A TERMINAL DISEASE AND INFORMING THE INDIVIDUAL OF THE
14 MEDICAL PROGNOSIS;

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

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

19 (B) (1) A HEALTH CARE PROVIDER MAY PROHIBIT ANOTHER HEALTH
20 CARE PROVIDER FROM PARTICIPATING IN AID IN DYING UNDER THIS SUBTITLE ON
21 THE PREMISES OF THE PROHIBITING HEALTH CARE PROVIDER IF THE PROHIBITING
22 HEALTH CARE PROVIDER HAS NOTIFIED ALL HEALTH CARE PROVIDERS WITH
23 PRIVILEGES TO PRACTICE ON THE PREMISES OF THE PROHIBITING HEALTH CARE
24 PROVIDER’S POLICY REGARDING PARTICIPATING IN AID IN DYING.

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

28 (C) A HEALTH CARE PROVIDER MAY SUBJECT ANOTHER HEALTH CARE
29 PROVIDER TO THE FOLLOWING SANCTIONS IF THE SANCTIONING HEALTH CARE
30 PROVIDER HAS NOTIFIED THE SANCTIONED HEALTH CARE PROVIDER, BEFORE THE
31 SANCTIONED HEALTH CARE PROVIDER PARTICIPATES IN AID IN DYING, THAT THE
32 SANCTIONING HEALTH CARE PROVIDER PROHIBITS PARTICIPATION IN AID IN
33 DYING:

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

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

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

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

(1) A HEALTH CARE PROVIDER FROM PARTICIPATING IN AID IN 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.

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

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

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

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

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

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

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

19 (D) A HEALTH CARE FACILITY MAY ADOPT WRITTEN POLICIES PROHIBITING
20 A LICENSED PHYSICIAN ASSOCIATED WITH THE HEALTH CARE FACILITY FROM
21 PARTICIPATING IN AID IN DYING, IN ACCORDANCE WITH § 5-6A-14 OF THIS
22 SUBTITLE.

23 5-6A-16.

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

31 (B) AN INDIVIDUAL WHO COERCES OR EXERTS UNDUE INFLUENCE ON AN
32 INDIVIDUAL TO MAKE A WRITTEN REQUEST UNDER §§ 5-6A-02 AND 5-6A-03 OF
33 THIS SUBTITLE FOR THE PURPOSE OF ENDING THE INDIVIDUAL'S LIFE OR TO

DESTROY A RESCISSION OF A WRITTEN REQUEST IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

(C) THE PENALTIES PROVIDED IN THIS SECTION DO NOT PRECLUDE CRIMINAL PENALTIES APPLICABLE UNDER ANY OTHER LAW FOR CONDUCT THAT IS INCONSISTENT WITH THE PROVISIONS OF THIS SUBTITLE.

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

Article – Insurance

27–208.1.

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

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

(C) A PROVISION IN AN INSURANCE POLICY OR CONTRACT OR AN ANNUITY CONTRACT ISSUED OR DELIVERED ON OR AFTER OCTOBER 1, 2017, 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 TITLE 5, SUBTITLE 6A OF THE HEALTH – GENERAL ARTICLE.

(D) AN OBLIGATION UNDER AN INSURANCE POLICY OR CONTRACT OR AN ANNUITY CONTRACT EXISTING ON OCTOBER 1, 2017, MAY NOT BE CONDITIONED ON OR AFFECTED BY THE MAKING OR RESCINDING OF A REQUEST FOR AID IN DYING UNDER TITLE 5, SUBTITLE 6A OF THE HEALTH – GENERAL ARTICLE.

(E) THE ACT BY AN INSURED OF SELF-ADMINISTERING MEDICATION FOR AID IN DYING UNDER TITLE 5, SUBTITLE 6A OF THE HEALTH – GENERAL ARTICLE MAY NOT HAVE AN EFFECT UNDER A LIFE INSURANCE POLICY, A HEALTH INSURANCE POLICY OR CONTRACT, OR AN ANNUITY CONTRACT THAT DIFFERS FROM THE

1 EFFECT UNDER THE POLICY OR CONTRACT OF THE INSURED'S OR ANNUITANT'S
2 DEATH FROM NATURAL CAUSES.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2017.