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SENATE BILL 311

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CF HB 399

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

Introduced and read first time: January 30, 2019

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 and to a licensed mental health
14 professional, under certain
15 circumstances; requiring a consulting physician to fulfill certain duties; ~~requiring an~~
16 attending physician or a consulting physician to refer an individual to a certain
individual for a mental health professional assessment under certain circumstances prohibiting a
certain attending physician, consulting physician, and licensed mental health professional from being in
the same group practice or from having any agreement or system of remuneration; requiring a certain
individual to sign a certain document; requiring a licensed mental health professional to fulfill certain
duties;
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~~

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1 ~~information are not subject to subpoena or discovery and may not be introduced into~~
2 ~~evidence in certain proceedings except for a certain purpose;~~ requiring a certain
3 individual to dispose of certain medication in a lawful manner; providing that the
4 death of a qualified individual by reason of self-administration of certain medication
5 shall be deemed to be a death from certain natural causes, ~~for certain purposes;~~
6 making void a certain provision of certain legal instruments; prohibiting a certain
7 provision of law enacted by this Act from being construed to prohibit a certain cause
8 of action; providing that this Act does not authorize certain individuals to end
9 another individual's life by certain means; providing that actions taken in accordance
10 with this Act do not constitute certain actions; making certain provisions in an
11 insurance policy or certain other agreements issued on or after a certain date invalid;
12 prohibiting certain obligations existing on a certain date from being conditioned on
13 or affected by the making or rescinding of a request for aid in dying; prohibiting a
14 qualified individual's act of self-administering medication for aid in dying from
15 having certain effects under certain insurance policies; ~~prohibiting a person from~~
16 ~~being subject to certain liability or certain action for participating in good faith~~
17 ~~compliance with this Act;~~ prohibiting certain persons or entities from subjecting a
18 person to certain actions for participating or refusing to participate in ~~good faith~~
19 ~~compliance with aid in dying under this Act;~~ providing that an individual's request for aid in
20 dying ~~or~~
21 ~~an attending physician's prescription of medication in good faith compliance with~~
22 ~~this Act does not constitute neglect or~~ does not provide the sole basis for an appointment
23 of a
24 guardian or conservator; authorizing a health care provider to prohibit another
25 health care provider from participating in aid in dying on certain premises under
26 certain circumstances; authorizing a health care provider to subject another health
27 care provider to certain sanctions under certain circumstances; providing that
28 certain authorization does not prohibit a health care provider from participating in
29 aid in dying under certain circumstances or prohibit an individual from contracting
30 with a certain physician for a certain purpose; providing that participation by a
31 health care provider in aid in dying is voluntary; prohibiting a health care facility
32 from requiring certain physicians to participate in aid in dying; requiring an
33 attending physician to provide certain information to an individual and transfer a
34 copy of certain medical records, under certain circumstances; authorizing a health
35 care facility to adopt certain policies; establishing certain penalties for certain
36 violations; providing that certain provisions of this Act do not limit certain liability;
37 providing that certain penalties do not preclude certain penalties applicable under
38 other law for certain conduct; authorizing the Maryland Insurance Commissioner to
39 enforce certain provisions of this Act; establishing that a licensed health care
40 professional does not violate the statutory prohibition on assisted suicide by taking
41 certain actions in accordance with this Act; defining certain terms; and generally
42 relating to aid in dying.

41 BY repealing and reenacting, with amendments,
42 Article - Criminal Law
43 Section 3-103
44 Annotated Code of Maryland
45 (2012 Replacement Volume and 2018 Supplement)

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1 BY adding to
2 Article - Health - General 1
3 Section 5-6A-01 through 5-6A-16 to be under the new subtitle "Subtitle 6A. The
4 Richard E. Israel and Roger "Pip" Moyer End-of-Life Option Act"
5 Annotated Code of Maryland
6 (2015 Replacement Volume and 2018 Supplement)

7 BY adding to
8 Article - Insurance
9 Section 27-208.1
10 Annotated Code of Maryland
11 (2011 Replacement Volume and 2018 Supplement)

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

14 Article - Criminal Law

15 3-103.

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

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

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

26 (2) in accordance with reasonable medical practice.

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

30 [(c)] (D) (1) Unless the family member knowingly administers a procedure or
31 administers or dispenses a medication to cause death, a family member does not violate
32 § 3-102 of this subtitle if the family member:

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

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

3 (2) Paragraph (1) of this subsection applies even if the medication or
4 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
7 OPTION ACT.**

8 5-6A-01.

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

11 (B) "AID IN DYING" MEANS THE MEDICAL PRACTICE OF A PHYSICIAN
12 PRESCRIBING MEDICATION TO A QUALIFIED INDIVIDUAL THAT THE QUALIFIED
13 INDIVIDUAL MAY SELF-ADMINISTER TO BRING ABOUT THE QUALIFIED INDIVIDUAL'S
14 DEATH.

15 (C) "ATTENDING PHYSICIAN" MEANS THE LICENSED PHYSICIAN WHO HAS
16 PRIMARY RESPONSIBILITY FOR THE MEDICAL CARE OF AN INDIVIDUAL.

17 (D) "CAPACITY TO MAKE MEDICAL DECISIONS" MEANS THE ABILITY OF AN
18 INDIVIDUAL TO:

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

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

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

27 (E) "CONSULTING PHYSICIAN" MEANS A LICENSED PHYSICIAN WHO IS
28 QUALIFIED BY SPECIALTY OR EXPERIENCE TO CONFIRM A PROFESSIONAL
29 DIAGNOSIS AND PROGNOSIS REGARDING AN INDIVIDUAL'S TERMINAL ILLNESS.

30 (F) "HEALTH CARE FACILITY" MEANS:

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- (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 CERTIFIED SOCIAL WORKER-CLINICAL" HAS THE MEANING STATED IN § 19-101 OF THE HEALTH OCCUPATIONS ARTICLE.

(J) "LICENSED MENTAL HEALTH PROFESSIONAL" MEANS A LICENSED CERTIFIED SOCIAL WORKER-CLINICAL, A LICENSED PSYCHIATRIST, OR A LICENSED PSYCHOLOGIST.

~~(J)~~ (K) "LICENSED PHYSICIAN" MEANS A PHYSICIAN WHO IS LICENSED TO PRACTICE MEDICINE IN THE STATE.

~~(K)~~ (L) "LICENSED PSYCHIATRIST" MEANS A PSYCHIATRIST WHO IS LICENSED TO PRACTICE MEDICINE IN THE STATE.

~~(L)~~ (M) "LICENSED PSYCHOLOGIST" MEANS A PSYCHOLOGIST WHO IS LICENSED TO PRACTICE PSYCHOLOGY IN THE STATE.

~~(M)~~ (N) "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

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

3 ~~(N)~~ (O) "PALLIATIVE CARE" MEANS HEALTH CARE CENTERED ON A
4 TERMINALLY ILL INDIVIDUAL AND THE INDIVIDUAL'S FAMILY THAT:

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

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

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

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

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

19 ~~(P)~~ (Q) "QUALIFIED INDIVIDUAL" MEANS AN INDIVIDUAL WHO:

20 (1) IS ~~AN ADULT~~ AT LEAST 21 YEARS OLD;

21 (2) HAS THE CAPACITY TO MAKE MEDICAL DECISIONS;

22 (3) IS A RESIDENT OF THE STATE;

23 (4) HAS A TERMINAL ILLNESS; AND

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

25 ~~(O)~~ (R) "RELATIVE" MEANS:

26 (1) A SPOUSE;

27 (2) A CHILD;

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- (3) A GRANDCHILD;
- (4) A SIBLING;
- (5) A PARENT; OR
- (6) A GRANDPARENT.

~~(R)~~ (S) "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) "TERMINAL ILLNESS" MEANS A PROGRESSIVE, IRREVERSIBLE MEDICAL CONDITION THAT:

(1) IS HAVING A SIGNIFICANT IMPACT ON QUALITY OF LIFE; AND

(2) TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, INVOLVES A PROGNOSIS FOR AN INDIVIDUAL, WHERE, DESPITE ALL AVAILABLE TREATMENT OPTIONS RECOGNIZED BY THE MEDICAL COMMUNITY, WILL RESULT IN THE INDIVIDUAL'S DEATH IN 6 MONTHS.

~~(U)~~ (U) "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.

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1 5-6A-03.

2 (A) A WRITTEN REQUEST FOR AID IN DYING REQUIRED UNDER
3 § 5-6A-02(A)(2) OF THIS SUBTITLE SHALL BE:

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

6 (2) SIGNED AND DATED BY THE INDIVIDUAL; AND

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

10 (I) OF SOUND MIND; AND

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

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

15 ~~(*)~~ ~~A~~ A RELATIVE OF THE INDIVIDUAL BY BLOOD, MARRIAGE, OR
16 ADOPTION; ~~OR~~

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

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

(2) A WITNESS UNDER SUBSECTION (A)(3) OF THIS SECTION MAY NOT
BE:

(I) THE INDIVIDUAL'S ATTENDING PHYSICIAN; OR

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

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

23 MARYLAND REQUEST FOR MEDICATION FOR AID IN DYING

24 BY: _____ DATE OF BIRTH: _____

25 (PRINT NAME)

(MONTH/DAY/YEAR)

26 I, _____, AM ~~AN ADULT~~ AT LEAST 21 YEARS OLD AND OF
SOUND MIND.

27 I AM A RESIDENT OF THE STATE OF MARYLAND.

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1 I AM SUFFERING FROM _____, WHICH MY ATTENDING
 2 PHYSICIAN HAS DETERMINED WILL, ~~MORE LIKELY THAN NOT~~ TO A REASONABLE DEGREE OF MEDICAL
CERTAINTY, RESULT IN DEATH
 3 WITHIN 6 MONTHS. I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, MY
 4 PROGNOSIS, THE NATURE OF MEDICATION TO BE PRESCRIBED TO AID ME IN DYING,
 5 THE POTENTIAL ASSOCIATED RISKS, AND THE EXPECTED RESULT, ~~THE FEASIBLE~~
 6 ~~ALTERNATIVES, AND THE ADDITIONAL HEALTH CARE TREATMENT OPTIONS,~~
 7 ~~INCLUDING PALLIATIVE CARE AND HOSPICE~~ . I HAVE ALSO BEEN FULLY INFORMED OF ALL ALTERNATIVES
AND HEALTH CARE TREATMENT OPTIONS RECOGNIZED BY THE MEDICAL COMMUNITY, INCLUDING CLINICAL TRIALS,
PALLIATIVE
CARE, AND HOSPICE, AND OF MY RIGHT TO SEEK INVESTIGATIONAL TREATMENTS UNDER THE FEDERAL TRICKETT
WENDLER,

FRANK MONGIELLO, JORDAN McLINN, AND MATTHEW BELLINA RIGHT TO TRY ACT OF 2017.

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

12 INITIAL ONE:

13 _____ I HAVE INFORMED MY FAMILY OF MY DECISION AND TAKEN THEIR OPINIONS
 14 INTO CONSIDERATION.
 15 _____ I HAVE DECIDED NOT TO INFORM MY FAMILY OF MY DECISION.
 16 _____ I HAVE NO FAMILY TO INFORM OF MY DECISION.

17 I UNDERSTAND THAT I HAVE THE RIGHT TO RESCIND THIS REQUEST AT ANY TIME.
 18 I UNDERSTAND THE FULL IMPORT OF THIS REQUEST AND I EXPECT TO DIE IF AND
 19 WHEN I TAKE THE MEDICATION TO BE PRESCRIBED. I FURTHER UNDERSTAND THAT,
 20 ALTHOUGH MOST DEATHS OCCUR WITHIN 3 HOURS, MY DEATH MAY TAKE LONGER,
 21 AND MY ATTENDING PHYSICIAN HAS COUNSELED ME ABOUT THIS POSSIBILITY. I MAKE THIS REQUEST FREE FROM
ANY FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE.
 22 I MAKE THIS REQUEST VOLUNTARILY AND WITHOUT RESERVATION, AND I ACCEPT
 23 FULL RESPONSIBILITY FOR MY DECISION TO REQUEST AID IN DYING.

24 SIGNED: _____ DATED: _____

25 DECLARATION OF WITNESSES

26 I UNDERSTAND THAT, UNDER MARYLAND LAW, A WITNESS TO A REQUEST FOR
 27 MEDICATION FOR AID IN DYING MAY NOT BE THE INDIVIDUAL'S ATTENDING
 28 PHYSICIAN OR, AT THE TIME THE REQUEST IS SIGNED BY THE INDIVIDUAL, BE ENTITLED TO ANY BENEFIT ON THE
INDIVIDUAL'S DEATH. FURTHER, ONLY ONE OF THE WITNESSES MAY BE

29 ~~1.~~ 1. ~~A~~ A RELATIVE OF THE INDIVIDUAL BY BLOOD, MARRIAGE, OR ADOPTION;
 30 ~~OR~~

31 ~~2.~~ 2. ~~AT THE TIME THE WRITTEN REQUEST IS SIGNED BY THE INDIVIDUAL,~~
 32 ~~ENTITLED TO ANY BENEFIT ON THE INDIVIDUAL'S DEATH.~~

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

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1 THE INDIVIDUAL MAKING AND SIGNING THE ABOVE REQUEST:

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

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

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

7 4. TO THE BEST OF MY KNOWLEDGE, IS REQUESTING AID IN DYING FREE FROM ANY FINANCIAL
CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE;

5. IS NOT AN INDIVIDUAL FOR WHOM I AM THE ATTENDING PHYSICIAN ; AND

6. IS NOT AN INDIVIDUAL FROM WHOM, AT THE
TIME THE WRITTEN REQUEST IS SIGNED BY THE INDIVIDUAL, I AM ENTITLED TO ANY BENEFIT
ON THE INDIVIDUAL'S DEATH.

8 WITNESS 1
9 (CHECK ONE)

10 _____ I AM:

11 _____ I AM NOT:

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

14 ~~2. AT THE TIME THE REQUEST IS SIGNED, ENTITLED TO ANY BENEFIT ON~~
15 ~~THE INDIVIDUAL'S DEATH.~~

16 PRINTED NAME OF WITNESS 1 _____
17 SIGNATURE OF WITNESS 1 _____ DATE _____

18 WITNESS 2
19 (CHECK ONE)

20 _____ I AM:

21 _____ I AM NOT:

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

24 ~~2. AT THE TIME THE REQUEST IS SIGNED, ENTITLED TO ANY BENEFIT ON~~
25 ~~THE INDIVIDUAL'S DEATH.~~

26 PRINTED NAME OF WITNESS 2 _____
27 SIGNATURE OF WITNESS 2 _____ DATE _____

1 **5-6A-04.**

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

- 5 (I) IS A QUALIFIED INDIVIDUAL;
- 6 (II) HAS MADE AN INFORMED DECISION; ~~AND~~
- 7 (III) HAS VOLUNTARILY REQUESTED AID IN DYING ; AND
- (IV) IS REQUESTING AID IN DYING FREE FROM ANY
8 FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE.

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

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

- 13 (1) POSSESSION OF A VALID MARYLAND DRIVER'S LICENSE OR
14 IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION;
- 15 (2) REGISTRATION TO VOTE IN THE STATE;
- 16 (3) EVIDENCE OF OWNING OR LEASING PROPERTY IN THE STATE;
- 17 (4) A COPY OF A MARYLAND RESIDENT TAX RETURN FOR THE MOST
18 RECENT TAX YEAR; OR
- 19 (5) BASED ON THE INDIVIDUAL'S TREATMENT HISTORY AND MEDICAL
20 RECORDS, THE ATTENDING PHYSICIAN'S PERSONAL KNOWLEDGE OF THE
21 INDIVIDUAL'S RESIDENCY IN THE STATE.

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

- 24 (1) THE INDIVIDUAL'S MEDICAL DIAGNOSIS;
- 25 (2) THE INDIVIDUAL'S PROGNOSIS;
- 26 (3) THE POTENTIAL RISKS ASSOCIATED WITH SELF-ADMINISTERING
27 THE MEDICATION TO BE PRESCRIBED FOR AID IN DYING;

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

3 ~~(5) ANY FEASIBLE ALTERNATIVES AND HEALTH CARE TREATMENT~~
4 ~~OPTIONS, INCLUDING PALLIATIVE CARE AND HOSPICE.~~

(5) ALL ALTERNATIVES AND HEALTH CARE TREATMENT OPTIONS
RECOGNIZED BY THE MEDICAL COMMUNITY, INCLUDING CLINICAL TRIALS, PALLIATIVE CARE,
AND HOSPICE, AND THE RIGHT TO SEEK INVESTIGATIONAL TREATMENTS UNDER THE FEDERAL
TRICKETT WENDLER, FRANK MONGIELLO, JORDAN MCLINN, AND MATTHEW BELLINA RIGHT
TO TRY ACT OF 2017.

5 (D) ~~(1) SUBJECT TO § 5-6A-06 OF THIS SUBTITLE, IF~~ IF THE ATTENDING
6 PHYSICIAN DETERMINES THAT AN INDIVIDUAL IS A QUALIFIED INDIVIDUAL, HAS
7 MADE AN INFORMED DECISION, AND HAS VOLUNTARILY REQUESTED AID IN DYING,
8 THE ATTENDING PHYSICIAN SHALL REFER THE INDIVIDUAL TO ~~▲~~ :

(I) A CONSULTING
9 PHYSICIAN TO CARRY OUT THE DUTIES REQUIRED UNDER § 5-6A-05 OF THIS
10 SUBTITLE ; AND

(II) A LICENSED MENTAL HEALTH PROFESSIONAL TO CARRY
OUT THE DUTIES REQUIRED UNDER § 5-6A-06 OF THIS SUBTITLE.

(2) THE ATTENDING PHYSICIAN, THE CONSULTING PHYSICIAN, AND THE
LICENSED MENTAL HEALTH PROFESSIONAL MAY NOT:

(I) BE IN THE SAME GROUP PRACTICE, AS DEFINED IN §
1-301 OF THE HEALTH OCCUPATIONS ARTICLE; OR

(II) HAVE ANY AGREEMENT OR SYSTEM INVOLVING
REMUNERATION.

11 5-6A-05.

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

14 (1) EXAMINE THE INDIVIDUAL AND THE INDIVIDUAL'S RELEVANT
15 MEDICAL RECORDS;

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

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

(3) ADVISE THE INDIVIDUAL IN WRITING OF ALL ALTERNATIVES AND
HEALTH CARE TREATMENT OPTIONS RECOGNIZED BY THE MEDICAL COMMUNITY, INCLUDING
CLINICAL TRIALS, PALLIATIVE CARE, AND HOSPICE, AND OF THE RIGHT TO SEEK
INVESTIGATIONAL TREATMENTS UNDER THE FEDERAL TRICKETT WENDLER, FRANK
MONGIELLO, JORDAN MCLINN, AND MATTHEW BELLINA RIGHT TO TRY ACT OF
2017;

20 (4) VERIFY THAT THE INDIVIDUAL IS A QUALIFIED INDIVIDUAL, HAS
21 MADE AN INFORMED DECISION, ~~AND~~ HAS VOLUNTARILY REQUESTED AID IN DYING , AND IS REQUESTING AID IN
DYING FREE FROM ANY FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE;
22 AND

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

(B) AFTER THE CONSULTING PHYSICIAN HAS ADVISED THE INDIVIDUAL UNDER SUBSECTION (A)(3) OF THIS SECTION, THE INDIVIDUAL SHALL SIGN A WRITTEN DOCUMENT STATING THAT THE INDIVIDUAL IS AWARE OF ALL ALTERNATIVES AND HEALTH CARE TREATMENT OPTIONS RECOGNIZED BY THE MEDICAL COMMUNITY, INCLUDING CLINICAL TRIALS, PALLIATIVE CARE, AND HOSPICE, AND THE RIGHT TO SEEK INVESTIGATIONAL TREATMENTS UNDER THE FEDERAL TRICKETT WENDLER, FRANK MONGIELLO, JORDAN MCLINN, AND MATTHEW BELLINA RIGHT TO TRY ACT OF 2017.

25 5-6A-06.

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

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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.~~

A LICENSED MENTAL HEALTH PROFESSIONAL TO WHOM AN INDIVIDUAL HAS BEEN REFERRED UNDER § 5-6A-04(D) OF THIS SUBTITLE SHALL:

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

(2) DETERMINE WHETHER THE INDIVIDUAL HAS THE CAPACITY TO MAKE MEDICAL DECISIONS AND IS NOT SUFFERING FROM A CONDITION THAT IS CAUSING IMPAIRED JUDGMENT;

(3) DETERMINE WHETHER THE INDIVIDUAL IS REQUESTING AID IN DYING FREE FROM ANY FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE;

(4) COMMUNICATE THE LICENSED MENTAL HEALTH PROFESSIONAL'S DETERMINATIONS TO THE ATTENDING PHYSICIAN AND THE CONSULTING PHYSICIAN IN WRITING; AND

(5) DOCUMENT THE FULFILLMENT OF THE LICENSED MENTAL HEALTH PROFESSIONAL'S DUTIES UNDER THIS SECTION IN WRITING.

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

10 **(A) AFTER THE ATTENDING PHYSICIAN ~~AND~~, THE CONSULTING PHYSICIAN, AND LICENSED**
11 **MENTAL HEALTH PROFESSIONAL**
12 **HAVE FULFILLED THE REQUIREMENTS UNDER §§ 5-6A-04 AND 5-6A-05 THROUGH 5-6A-06 OF THIS**
13 **SUBTITLE, AND AFTER THE QUALIFIED INDIVIDUAL SUBMITS A SECOND ORAL**
14 **REQUEST FOR AID IN DYING, AS REQUIRED UNDER § 5-6A-02 OF THIS SUBTITLE,**
15 **THE ATTENDING PHYSICIAN SHALL:**

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

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

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

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

27 **(I) HAVING ANOTHER INDIVIDUAL PRESENT WHEN THE**
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;

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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) CONFIRM THAT THE QUALIFIED INDIVIDUAL'S REQUEST FOR AID IN DYING IS NOT INFLUENCED BY
ANY FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE;

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

13 ~~(7)~~ (8) VERIFY, IMMEDIATELY BEFORE WRITING THE PRESCRIPTION FOR
14 MEDICATION FOR AID IN DYING, THAT THE QUALIFIED INDIVIDUAL IS MAKING AN
15 INFORMED DECISION;

16 ~~(8)~~ (9) FULFILL THE DOCUMENTATION REQUIREMENTS ESTABLISHED
17 UNDER § 5-6A-08 OF THIS SUBTITLE; AND

18 ~~(9)~~ (10) (i) IF THE ATTENDING PHYSICIAN HOLDS A DISPENSING
19 PERMIT FROM THE STATE BOARD OF PHYSICIANS AND WISHES TO DISPENSE THE
20 MEDICATION, DISPENSE TO THE QUALIFIED INDIVIDUAL:

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

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

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

30 1. CONTACT A PHARMACIST;

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

UNOFFICIAL COPY OF SENATE BILL 311

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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 THE QUALIFIED INDIVIDUAL DOCUMENTS OR CONTAINS:

(1) THE BASIS FOR DETERMINING THAT THE QUALIFIED INDIVIDUAL IS ~~AN ADULT~~ AT LEAST 21 YEARS OLD AND A RESIDENT OF THE STATE;

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

(3) THE ATTENDING PHYSICIAN'S:

(I) DIAGNOSIS OF THE QUALIFIED INDIVIDUAL'S TERMINAL ILLNESS AND PROGNOSIS AND THE BASIS FOR THAT DIAGNOSIS; AND

(II) DETERMINATION THAT THE QUALIFIED INDIVIDUAL HAS ~~THE~~ :

1. THE CAPACITY TO MAKE MEDICAL DECISIONS, ~~HAS MADE~~ ;

2. MADE AN INFORMED DECISION, ~~AND HAS VOLUNTARILY~~ ;

3. MADE A REQUEST FREE FROM ANY FINANCIAL CONSIDERATIONS INCLUDING THE CONTINUED COST OF CARE; AND

4. VOLUNTARILY REQUESTED AID IN DYING;

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

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

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

4 ~~(II) THE MENTAL HEALTH PROFESSIONAL ASSESSMENT WAS~~
5 ~~PROVIDED;~~

(5) DOCUMENTATION THAT THE LICENSED MENTAL HEALTH PROFESSIONAL HAS FULFILLED THE LICENSED MENTAL HEALTH PROFESSIONAL'S DUTIES UNDER § 5-6A-06 OF THIS SUBTITLE;

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

11 (7) A STATEMENT BY THE ATTENDING PHYSICIAN:

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

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

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

20 5-6A-09.

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

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

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

(C) THE REPORT PRODUCED BY THE DEPARTMENT UNDER THIS SECTION SHALL INCLUDE, FOR THE STATE AND DISAGGREGATED BY COUNTY:

(1) THE NUMBER OF PRESCRIPTIONS WRITTEN FOR AID IN DYING MEDICATION;

(2) THE NUMBER OF PHYSICIANS WHO WROTE PRESCRIPTIONS FOR AID IN DYING MEDICATION;

(3) THE NUMBER OF INDIVIDUALS WHO RECEIVED A PRESCRIPTION FOR AID IN DYING;

(4) FOR EACH INDIVIDUAL WHO REQUESTED AID IN DYING;

(I) THE INDIVIDUAL'S AGE AT DEATH;

(II) THE INDIVIDUAL'S EDUCATION LEVEL;

(III) THE INDIVIDUAL'S RACE;

(IV) THE INDIVIDUAL'S SEX; AND

**(V) WHETHER OR NOT THE INDIVIDUAL HAD INSURANCE
AND, IF SO, THE INDIVIDUAL'S TYPE OF INSURANCE;**

**(5) WHETHER OR NOT THE INDIVIDUAL WAS ENROLLED IN HOSPICE
AT THE TIME THE REQUEST WAS MADE;**

**(6) WHETHER OR NOT THE INDIVIDUAL HAD DISABILITY, AS
DEFINED IN 42 U.S.C. § 12102, BEFORE THE INDIVIDUAL WAS DIAGNOSED WITH A TERMINAL
ILLNESS;**

(7) THE INDIVIDUAL'S TERMINAL ILLNESS;

**(8) THE NUMBER OF KNOWN INDIVIDUALS WHO DIED FOLLOWING
THE SELF-ADMINISTRATION OF MEDICATION FOR AID IN DYING; AND**

**(9) THE INDIVIDUAL'S STATED REASON FOR SEEKING AID IN
DYING.**

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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~~ 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 ANY CRIME ~~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.

18 UNOFFICIAL COPY OF SENATE BILL 311

1 (A) A PROVISION IN AN INSURANCE POLICY, AN ANNUITY, A CONTRACT, OR
2 ANY OTHER AGREEMENT, ISSUED OR MADE ON OR AFTER OCTOBER 1, 2019, IS NOT
3 VALID TO THE EXTENT THAT THE PROVISION WOULD ATTACH CONSEQUENCES TO OR
4 OTHERWISE RESTRICT OR INFLUENCE AN INDIVIDUAL'S DECISION TO MAKE OR
5 RESCIND A REQUEST FOR AID IN DYING UNDER THIS SUBTITLE.

6 (B) AN OBLIGATION UNDER A CONTRACT EXISTING ON OCTOBER 1, 2019,
7 MAY NOT BE CONDITIONED ON OR AFFECTED BY THE MAKING OR RESCINDING OF A
8 REQUEST FOR AID IN DYING UNDER THIS SUBTITLE.

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

14 5-6A-13.

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

16 ~~(1) A PERSON MAY NOT BE SUBJECT TO CIVIL OR CRIMINAL LIABILITY~~
17 ~~OR PROFESSIONAL DISCIPLINARY ACTION FOR PARTICIPATING IN GOOD FAITH~~
18 ~~COMPLIANCE WITH THIS SUBTITLE, INCLUDING BEING PRESENT WHEN A QUALIFIED~~
19 ~~INDIVIDUAL SELF-ADMINISTERS MEDICATION PRESCRIBED FOR AID IN DYING; AND~~

20 ~~(2) (A) EXCEPT AS PROVIDED IN § 5-6A-14(C) OF THIS SUBTITLE,~~
21 ~~A PROFESSIONAL ORGANIZATION OR ASSOCIATION, A HEALTH~~
22 ~~CARE PROVIDER, OR A HEALTH OCCUPATION BOARD MAY NOT SUBJECT A PERSON~~
23 ~~TO CENSURE, DISCIPLINE, SUSPENSION, LOSS OF LICENSE, LOSS OF PRIVILEGES,~~
24 ~~LOSS OF MEMBERSHIP, OR ANY OTHER PENALTY SOLELY FOR PARTICIPATING OR REFUSING~~
25 ~~TO PARTICIPATE IN GOOD FAITH COMPLIANCE WITH AID IN DYING UNDER THIS SUBTITLE.~~

26 ~~(B) AN INDIVIDUAL'S REQUEST FOR AID IN DYING OR AN ATTENDING~~
27 ~~PHYSICIAN'S PRESCRIPTION OF MEDICATION MADE IN GOOD FAITH COMPLIANCE~~
28 ~~WITH THIS SUBTITLE DOES NOT;~~

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

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

(B) AN INDIVIDUAL'S REQUEST FOR AID IN DYING MAY NOT PROVIDE
THE SOLE BASIS FOR THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR.

31 5-6A-14.

19 UNOFFICIAL COPY OF SENATE BILL 311

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:

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

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

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

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

20 (1) A HEALTH CARE PROVIDER FROM PARTICIPATING IN AID IN
21 DYING:

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

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

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

33 5-6A-15.

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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~~ A LICENSED HEALTH CARE
4 PROFESSIONAL ON
5 THE MEDICAL STAFF OF THE HEALTH CARE FACILITY TO PARTICIPATE IN AID IN
6 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

22 UNOFFICIAL COPY OF SENATE BILL 311

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

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

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

10 Article - Insurance

11 27-208.1.

12 (A) FOR ALL LEGAL RIGHTS AND OBLIGATIONS AND OTHER PURPOSES
13 GOVERNED BY THIS ARTICLE, THE DEATH OF AN INDIVIDUAL BY REASON OF THE
14 SELF-ADMINISTRATION OF MEDICATION PRESCRIBED UNDER TITLE 5, SUBTITLE
15 6A OF THE HEALTH - GENERAL ARTICLE SHALL BE DEEMED TO BE A DEATH FROM
16 NATURAL CAUSES, SPECIFICALLY AS A RESULT OF THE TERMINAL ILLNESS FROM
17 WHICH THE INDIVIDUAL SUFFERED.

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

21 (C) A PROVISION IN AN INSURANCE POLICY OR CONTRACT OR AN ANNUITY
22 CONTRACT ISSUED OR DELIVERED ON OR AFTER OCTOBER 1, 2019, IS NOT VALID TO
23 THE EXTENT THAT THE PROVISION WOULD ATTACH CONSEQUENCES TO OR
24 OTHERWISE RESTRICT OR INFLUENCE AN INDIVIDUAL'S DECISION TO MAKE OR
25 RESCIND A REQUEST FOR AID IN DYING UNDER TITLE 5, SUBTITLE 6A OF THE
26 HEALTH - GENERAL ARTICLE.

27 (D) AN OBLIGATION UNDER AN INSURANCE POLICY OR CONTRACT OR AN
28 ANNUITY CONTRACT EXISTING ON OCTOBER 1, 2019, MAY NOT BE CONDITIONED ON
29 OR AFFECTED BY THE MAKING OR RESCINDING OF A REQUEST FOR AID IN DYING
30 UNDER TITLE 5, SUBTITLE 6A OF THE HEALTH - GENERAL ARTICLE.

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

of 23

23

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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, 2019.