

# STATE OF NEW YORK

3151--A

2017-2018 Regular Sessions

## IN SENATE

January 20, 2017

Introduced by Sens. SAVINO, ALCANTARA, DILAN, HAMILTON, HOYLMAN, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to a terminally ill patient's request for and use of medication for medical aid in dying

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "medical  
2 aid in dying act".

3 § 2. The public health law is amended by adding a new article 28-F to  
4 read as follows:

### ARTICLE 28-F

#### MEDICAL AID IN DYING

##### Section 2899-d. Definitions.

8 2899-e. Request process.

9 2899-f. Attending physician responsibilities.

10 2899-g. Right to rescind request; requirement to offer opportunity to rescind.

11 2899-h. Consulting physician responsibilities.

12 2899-i. Referral to mental health professional.

13 2899-j. Medical record documentation requirements.

14 2899-k. Form of written request and witness attestation.

15 2899-l. Protection and immunities.

16 2899-m. Permissible refusals and prohibitions.

17 2899-n. Relation to other laws and contracts.

18 2899-o. Safe disposal of unused medications.

19 2899-p. Death certificate.

20 2899-q. Reporting.

21  
EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD01103-13-8

1           2899-r. Penalties.

2           2899-s. Severability.

3       § 2899-d. Definitions. As used in this article:

4       1. "Adult" means an individual who is eighteen years of age or older.

5       2. "Attending physician" means the physician who has primary responsi-  
6 bility for the care of the patient and treatment of the patient's termi-  
7 nal illness or condition.

8       3. "Capacity" means the ability to understand and appreciate the  
9 nature and consequences of health care decisions, including the benefits  
10 and risks of and alternatives to any proposed health care, and to reach  
11 an informed decision.

12       4. "Consulting physician" means a physician who is qualified by  
13 specialty or experience to make a professional diagnosis and prognosis  
14 regarding a person's terminal illness or condition.

15       5. "Health care facility" means a general hospital, nursing home, or  
16 residential health care facility as defined in section twenty-eight  
17 hundred one of this chapter.

18       6. "Health care provider" means a person licensed, certified, or  
19 authorized by law to administer health care or dispense medication in  
20 the ordinary course of business or practice of a profession.

21       7. "Informed decision" means a decision by a patient who is suffering  
22 from a terminal illness or condition to request and obtain a  
23 prescription for medication that the patient may self-administer to end  
24 the patient's life that is based on an understanding and acknowledgment  
25 of the relevant facts and that is made voluntarily, of the patient's own  
26 volition and without coercion, after being fully informed of:

27       (a) the patient's medical diagnosis and prognosis;

28       (b) the potential risks associated with taking the medication to be  
29 prescribed;

30       (c) the probable result of taking the medication to be prescribed;

31       (d) the possibility that the patient may choose not to obtain the  
32 medication, or may obtain the medication but may decide not to self-ad-  
33 minister it; and

34       (e) the feasible alternatives and appropriate treatment options,  
35 including but not limited to palliative care and hospice care.

36       8. "Medical aid in dying" means the medical practice of a physician  
37 prescribing medication to a qualified individual that the individual may  
38 choose to self-administer to bring about death.

39       9. "Medically confirmed" means the medical opinion of the attending  
40 physician that a patient has a terminal illness or condition and has  
41 made an informed decision which has been confirmed by a consulting  
42 physician who has examined the patient and the patient's relevant  
43 medical records.

44       10. "Medication" means medication prescribed by a physician under this  
45 article.

46       11. "Mental health professional" means a physician, nurse practition-  
47 er, physician assistant or psychologist, licensed or certified under the  
48 education law acting within his or her scope of practice and who is  
49 qualified, by training and experience, certification, or board certif-  
50 ication or eligibility, to make a determination under section twenty-  
51 eight hundred ninety-nine-i of this article; provided that in the case  
52 of a nurse practitioner or physician assistant, the professional shall  
53 not have a collaborative agreement or collaborative relationship with or  
54 be supervised by the attending physician or consulting physician.

55       12. "Palliative care" means health care treatment, including interdis-  
56 ciplinary end-of-life care, and consultation with patients and family

1 members, to prevent or relieve pain and suffering and to enhance the  
2 patient's quality of life, including hospice care under article forty of  
3 this chapter.

4 13. "Patient" means a person who is eighteen years of age or older  
5 under the care of a physician.

6 14. "Physician" means an individual licensed to practice medicine in  
7 New York state.

8 15. "Qualified individual" means a patient with a terminal illness or  
9 condition, who has capacity, has made an informed decision, and has  
10 satisfied the requirements of this article in order to obtain a  
11 prescription for medication.

12 16. "Self-administer" means a qualified individual's affirmative,  
13 conscious, and voluntary act of using medication under this article.

14 17. "Terminal illness or condition" means an incurable and irrevers-  
15 ible illness or condition that has been medically confirmed and will,  
16 within reasonable medical judgment, produce death within six months.

17 § 2899-e. Request process. 1. Oral and written request. A patient  
18 wishing to request medication under this article shall make an oral  
19 request and submit a written request to the patient's attending physi-  
20 cian.

21 2. Making a written request. A patient may make a written request for  
22 and consent to self-administer medication for the purpose of ending his  
23 or her life in accordance with this article if the patient:

24 (a) has been determined by the attending physician to have a terminal  
25 illness or condition and which has been medically confirmed by a  
26 consulting physician; and

27 (b) based on an informed decision, expresses voluntarily, of the  
28 patient's own volition and without coercion the request for medication  
29 to end his or her life.

30 3. Written request signed and witnessed. (a) A written request for  
31 medication under this article shall be signed and dated by the patient  
32 and witnessed by at least two adults who, in the presence of the  
33 patient, attest that to the best of his or her knowledge and belief the  
34 patient has capacity, is acting voluntarily, is making the request for  
35 medication of his or her own volition and is not being coerced to sign  
36 the request. The written request shall be in substantially the form  
37 described in section twenty-eight hundred ninety-nine-k of this article.

38 (b) One of the witnesses shall be an adult who is not:

39 (i) a relative of the patient by blood, marriage or adoption;

40 (ii) a person who at the time the request is signed would be entitled  
41 to any portion of the estate of the patient upon death under any will or  
42 by operation of law; or

43 (iii) an owner, operator, employee or independent contractor of a  
44 health care facility where the patient is receiving treatment or is a  
45 resident.

46 (c) The attending physician, consulting physician and, if applicable,  
47 the mental health professional who provides a capacity determination of  
48 the patient under this article shall not be a witness.

49 4. No person shall qualify for medical aid in dying under this article  
50 solely because of age or disability.

51 § 2899-f. Attending physician responsibilities. 1. The attending  
52 physician shall examine the patient and his or her relevant medical  
53 records and:

54 (a) make a determination of whether a patient has a terminal illness  
55 or condition, has capacity, has made an informed decision and has made

1 the request voluntarily of the patient's own volition and without coer-  
2 cion;

3 (b) inform the patient of the requirement under this article for  
4 confirmation by a consulting physician, and refer the patient to a  
5 consulting physician upon the patient's request;

6 (c) refer the patient to a mental health professional pursuant to  
7 section twenty-eight hundred ninety-nine-i of this article if the  
8 attending physician believes that the patient may lack capacity to make  
9 an informed decision;

10 (d) provide information and counseling under section twenty-nine  
11 hundred ninety-seven-c of this chapter;

12 (e) ensure that the patient is making an informed decision by discuss-  
13 ing with the patient: (i) the patient's medical diagnosis and prognosis;  
14 (ii) the potential risks associated with taking the medication to be  
15 prescribed; (iii) the probable result of taking the medication to be  
16 prescribed; (iv) the possibility that the patient may choose to obtain  
17 the medication but not take it; and (v) the feasible alternatives and  
18 appropriate treatment options, including but not limited to (1) informa-  
19 tion and counseling regarding palliative and hospice care and end-of-  
20 life options appropriate to the patient, including but not limited to:  
21 the range of options appropriate to the patient; the prognosis, risks  
22 and benefits of the various options; and the patient's legal rights to  
23 comprehensive pain and symptom management at the end of life; and (2)  
24 information regarding treatment options appropriate to the patient,  
25 including the prognosis, risks and benefits of the various treatment  
26 options;

27 (f) discuss with the patient the importance of:

28 (i) having another person present when the patient takes the medica-  
29 tion and the restriction that no person other than the patient may  
30 administer the medication;

31 (ii) not taking the medication in a public place; and

32 (iii) informing the patient's family of the patient's decision to  
33 request and take medication that will end the patient's life; a patient  
34 who declines or is unable to notify family shall not have his or her  
35 request for medication denied for that reason;

36 (g) inform the patient that he or she may rescind the request for  
37 medication at any time and in any manner;

38 (h) fulfill the medical record documentation requirements of section  
39 twenty-eight hundred ninety-nine-j of this article; and

40 (i) ensure that all appropriate steps are carried out in accordance  
41 with this article before writing a prescription for medication.

42 2. Upon receiving confirmation from a consulting physician under  
43 section twenty-eight hundred ninety-nine-h of this article and subject  
44 to section twenty-eight hundred ninety-nine-i of this article, the  
45 attending physician who determines that the patient has a terminal  
46 illness or condition, has capacity and has made a voluntary request for  
47 medication as provided in this article, may personally, or by referral  
48 to another physician, prescribe or order appropriate medication in  
49 accordance with the patient's request under this article, and at the  
50 patient's request, facilitate the filling of the prescription and deliv-  
51 ery of the medication to the patient.

52 3. In accordance with the direction of the prescribing or ordering  
53 physician and the consent of the patient, the patient may self-adminis-  
54 ter the medication to himself or herself. A health care professional or  
55 other person shall not administer the medication to the patient.

1 § 2899-g. Right to rescind request; requirement to offer opportunity  
2 to rescind. 1. A patient may at any time rescind his or her request for  
3 medication under this article without regard to the patient's capacity.

4 2. A prescription for medication may not be written without the  
5 attending physician offering the qualified individual an opportunity to  
6 rescind the request.

7 § 2899-h. Consulting physician responsibilities. Before a patient who  
8 is requesting medication may receive a prescription for medication under  
9 this article, a consulting physician must:

10 1. examine the patient and his or her relevant medical records;

11 2. confirm, in writing, to the attending physician and the patient,  
12 whether: (a) the patient has a terminal illness or condition; (b) the  
13 patient is making an informed decision; (c) the patient has capacity, or  
14 provide documentation that the consulting physician has referred the  
15 patient for a determination under section twenty-eight hundred ninety-  
16 nine-i of this article; and (d) the patient is acting voluntarily, of  
17 the patient's own volition and without coercion.

18 § 2899-i. Referral to mental health professional. 1. If the attending  
19 physician or the consulting physician believes that the patient may lack  
20 capacity, the attending physician or consulting physician shall refer  
21 the patient to a mental health professional for a determination of  
22 whether the patient has capacity to make an informed decision. The  
23 referring physician shall advise the patient that the report of the  
24 mental health professional will be provided to the attending physician  
25 and the consulting physician.

26 2. A mental health professional who evaluates a patient under this  
27 section shall report, in writing, to the attending physician and the  
28 consulting physician, his or her independent conclusions about whether  
29 the patient has capacity to make an informed decision, provided that if,  
30 at the time of the report, the patient has not yet been referred to a  
31 consulting physician, then upon referral the attending physician shall  
32 provide the consulting physician with a copy of the mental health  
33 professional's report. If the mental health professional determines that  
34 the patient lacks capacity to make an informed decision, the patient  
35 shall not be deemed a qualified individual, and the attending physician  
36 shall not prescribe medication to the patient.

37 § 2899-j. Medical record documentation requirements. An attending  
38 physician shall document or file the following in the patient's medical  
39 record:

40 1. the dates of all oral requests by the patient for medication under  
41 this article;

42 2. the written request by the patient for medication under this arti-  
43 cle, including the declaration of witnesses and interpreter's declara-  
44 tion, if applicable;

45 3. the attending physician's diagnosis and prognosis, determination of  
46 capacity, and determination that the patient is acting voluntarily, of  
47 the patient's own volition and without coercion, and has made an  
48 informed decision;

49 4. if applicable, written confirmation of capacity under section twen-  
50 ty-eight hundred ninety-nine-i of this article; and

51 5. a note by the attending physician indicating that all requirements  
52 under this article have been met and indicating the steps taken to carry  
53 out the request, including a notation of the medication prescribed or  
54 ordered.

1 § 2899-k. Form of written request and witness attestation. 1. A  
2 request for medication under this article shall be in substantially the  
3 following form:

4 REQUEST FOR MEDICATION TO END MY LIFE

5 I, \_\_\_\_\_, am an adult who has capacity,  
6 which means I understand and appreciate the nature and consequences of  
7 health care decisions, including the benefits and risks of and alterna-  
8 tives to any proposed health care, and to reach an informed decision and  
9 to communicate health care decisions to a physician.

10 I have been diagnosed with \_\_\_\_\_ (insert diagnosis), which my  
11 attending physician has determined is a terminal illness or condition,  
12 which has been medically confirmed by a consulting physician.

13 I have been fully informed of my diagnosis and prognosis, the nature  
14 of the medication to be prescribed and potential associated risks, the  
15 expected result, and the feasible alternatives and treatment options  
16 including but not limited to palliative care and hospice care.

17 I request that my attending physician prescribe medication that will  
18 end my life if I choose to take it, and I authorize my attending physi-  
19 cian to contact another physician or any pharmacist about my request.

20 INITIAL ONE:

21 ( ) I have informed or intend to inform one or more members of my  
22 family of my decision.

23 ( ) I have decided not to inform any member of my family of my deci-  
24 sion.

25 ( ) I have no family to inform of my decision.

26 I understand that I have the right to rescind this request or decline  
27 to use the medication at any time.

28 I understand the importance of this request, and I expect to die if I  
29 take the medication to be prescribed. I further understand that although  
30 most deaths occur within three hours, my death may take longer, and my  
31 attending physician has counseled me about this possibility.

32 I make this request voluntarily, of my own volition and without being  
33 coerced, and I accept full responsibility for my actions.

34 Signed: \_\_\_\_\_

35 Dated: \_\_\_\_\_

36 DECLARATION OF WITNESSES

37 I declare that the person signing this "Request for Medication to End  
38 My Life":

39 (a) is personally known to me or has provided proof of identity;

40 (b) voluntarily signed the "Request for Medication to End My Life" in  
41 my presence or acknowledged to me that he or she signed it; and

42 (c) to the best of my knowledge and belief, has capacity and is making  
43 the "Request for Medication to End My Life" voluntarily, of his or her  
44 own volition and is not being coerced to sign the "Request for Medica-  
45 tion to End My Life".

46 I am not the attending physician or consulting physician of the person  
47 signing the "Request for Medication to End My Life" or, if applicable,  
48 the mental health professional who provides a capacity determination of  
49 the person signing the "Request for Medication to End My Life" at the  
50 time the "Request for Medication to End My Life" was signed.

1 I further declare under penalty of perjury that the statements made  
2 herein are true and correct and false statements made herein are punish-  
3 able.

4 \_\_\_\_\_ Witness 1, Date:

5 \_\_\_\_\_ (Printed name)

6 \_\_\_\_\_ (Address)

7 \_\_\_\_\_ (Telephone number)

8 I further declare that I am not (i) related to the above-named patient  
9 by blood, marriage or adoption, (ii) entitled at the time the patient  
10 signed the "Request for Medication to End My Life" to any portion of the  
11 estate of the patient upon his/her death under any will or by operation  
12 of law, or (iii) an owner, operator, employee or independent contractor  
13 of a health care facility where the patient is receiving treatment or is  
14 a resident.

15 \_\_\_\_\_ Witness 2, Date:

16 \_\_\_\_\_ (Printed name)

17 \_\_\_\_\_ (Address)

18 \_\_\_\_\_ (Telephone number)

19 NOTE: Only one of the two witnesses may (i) be a relative (by blood,  
20 marriage or adoption) of the person signing the "Request for Medication  
21 to End My Life", (ii) be entitled to any portion of the person's estate  
22 upon death under any will or by operation of law, or (iii) own, operate,  
23 be employed or be an independent contractor at a health care facility  
24 where the person is receiving treatment or is a resident.

25 2. (a) The "Request for Medication to End My Life" shall be written in  
26 the same language as any conversations, consultations, or interpreted  
27 conversations or consultations between a patient and at least one of his  
28 or her attending or consulting physicians.

29 (b) Notwithstanding paragraph (a) of this subdivision, the written  
30 "Request for Medication to End My Life" may be prepared in English even  
31 when the conversations or consultations or interpreted conversations or  
32 consultations were conducted in a language other than English or with  
33 auxiliary aids or hearing, speech or visual aids, if the English  
34 language form includes an attached declaration by the interpreter of the  
35 conversation or consultation, which shall be in substantially the  
36 following form:

37 INTERPRETER'S DECLARATION

38 I, \_\_\_\_\_ (insert name of interpreter) \_\_\_\_\_, (mark as applica-  
39 ble):

40 ( ) for a patient whose conversations or consultations or interpreted  
41 conversations or consultations were conducted in a language other than  
42 English and the "Request for Medication to End My Life" is in English: I  
43 declare that I am fluent in English and (insert target language). I have  
44 the requisite language and interpreter skills to be able to interpret

1 effectively, accurately and impartially information shared and communi-  
2 cations between the attending or consulting physician and (name of  
3 patient).

4 I certify that on (insert date), at approximately (insert time), I  
5 interpreted the communications and information conveyed between the  
6 physician and (name of patient) as accurately and completely to the best  
7 of my knowledge and ability and read the "Request for Medication to End  
8 My Life" to (name of patient) in (insert target language).

9 (Name of patient) affirmed to me his/her desire to sign the "Request  
10 for Medication to End My Life" voluntarily, of (name of patient)'s own  
11 volition and without coercion.

12 ( ) for a patient with a speech, hearing or vision disability: I  
13 declare that I have the requisite language, reading and/or interpreter  
14 skills to communicate with the patient and to be able to read and/or  
15 interpret effectively, accurately and impartially information shared and  
16 communications that occurred on (insert date) between the attending or  
17 consulting physician and (name of patient).

18 I certify that on (insert date), at approximately (insert time), I  
19 read and/or interpreted the communications and information conveyed  
20 between the physician and (name of patient) impartially and as accurate-  
21 ly and completely to the best of my knowledge and ability and, where  
22 needed for effective communication, read or interpreted the "Request for  
23 Medication to End my Life" to (name of patient).

24 (Name of patient) affirmed to me his/her desire to sign the "Request  
25 for Medication to End My Life" voluntarily, of (name of patient)'s own  
26 volition and without coercion.

27 I further declare under penalty of perjury that (i) the foregoing is  
28 true and correct; (ii) I am not (A) related to (name of patient) by  
29 blood, marriage or adoption, (B) entitled at the time (name of patient)  
30 signed the "Request for Medication to End My Life" to any portion of the  
31 estate of (name of patient) upon his/her death under any will or by  
32 operation of law, or (C) an owner, operator, employee or independent  
33 contractor of a health care facility where (name of patient) is receiv-  
34 ing treatment or is a resident, except that if I am an employee or inde-  
35 pendent contractor at such health care facility, providing interpreter  
36 services is part of my job description at such health care facility or I  
37 have been trained to provide interpreter services and (name of patient)  
38 requested that I provide interpreter services to him/her for the  
39 purposes stated in this Declaration; and (iii) false statements made  
40 herein are punishable.

41 Executed at (insert city, county and state) on this (insert day of  
42 month) of (insert month), (insert year).

43 \_\_\_\_\_ (Signature of Interpreter)

44 \_\_\_\_\_ (Printed name of Interpreter)

45 \_\_\_\_\_ (ID # or Agency Name)

46 \_\_\_\_\_ (Address of Interpreter)

47 \_\_\_\_\_ (Language Spoken by Interpreter)

48 (c) An interpreter whose services are provided under paragraph (b) of  
49 this subdivision shall not (i) be related to the patient who signs the

1 "Request for Medication to End My Life" by blood, marriage or adoption,  
2 (ii) be entitled at the time the "Request for Medication to End My Life"  
3 is signed by the patient to any portion of the estate of the patient  
4 upon death under any will or by operation of law, or (iii) be an owner,  
5 operator, employee or independent contractor of a health care facility  
6 where the patient is receiving treatment or is a resident; provided that  
7 an employee or independent contractor whose job description at the  
8 health care facility includes interpreter services or who is trained to  
9 provide interpreter services and who has been requested by the patient  
10 to serve as an interpreter under this article shall not be prohibited  
11 from serving as a witness under this article.

12 § 2899-l. Protection and immunities. 1. A physician, pharmacist, other  
13 health care professional or other person shall not be subject to civil  
14 or criminal liability or professional disciplinary action by any govern-  
15 ment entity for taking any reasonable good-faith action or refusing to  
16 act under this article, including, but not limited to: (a) engaging in  
17 discussions with a patient relating to the risks and benefits of end-of-  
18 life options in the circumstances described in this article, (b) provid-  
19 ing a patient, upon request, with a referral to another health care  
20 provider, (c) being present when a qualified individual self-administers  
21 medication, (d) refraining from acting to prevent the qualified individ-  
22 ual from self-administering such medication, or (e) refraining from  
23 acting to resuscitate the qualified individual after he or she self-ad-  
24 ministers such medication.

25 2. Nothing in this section shall limit civil or criminal liability for  
26 negligence, recklessness or intentional misconduct.

27 § 2899-m. Permissible refusals and prohibitions. 1. (a) A physician,  
28 nurse, pharmacist, other health care provider or other person shall not  
29 be under any duty, by law or contract, to participate in the provision  
30 of medication to a patient under this article.

31 (b) If a health care provider is unable or unwilling to participate in  
32 the provision of medication to a patient under this article and the  
33 patient transfers care to a new health care provider, the prior health  
34 care provider shall transfer or arrange for the transfer, upon request,  
35 of a copy of the patient's relevant medical records to the new health  
36 care provider.

37 2. (a) A private health care facility may prohibit the prescribing,  
38 dispensing, ordering or self-administering of medication under this  
39 article while the patient is being treated in or while the patient is  
40 residing in the health care facility if:

41 (i) the prescribing, dispensing, ordering or self-administering is  
42 contrary to a formally adopted policy of the facility that is expressly  
43 based on sincerely held religious beliefs or moral convictions central  
44 to the facility's operating principles; and

45 (ii) the facility has informed the patient of such policy prior to  
46 admission or as soon as reasonably possible.

47 (b) Where a facility has adopted a prohibition under this subdivision,  
48 if a patient who wishes to use medication under this article requests,  
49 the patient shall be transferred promptly to another health care facili-  
50 ty that is reasonably accessible under the circumstances and willing to  
51 permit the prescribing, dispensing, ordering and self-administering of  
52 medication under this article with respect to the patient.

53 3. Where a health care facility has adopted a prohibition under this  
54 subdivision, any health care provider or employee or independent  
55 contractor of the facility who violates the prohibition may be subject  
56 to sanctions otherwise available to the facility, provided the facility

1 has previously notified the health care provider, employee or independ-  
2 ent contractor of the prohibition in writing.

3 § 2899-n. Relation to other laws and contracts. 1. (a) A patient who  
4 requests medication under this article shall not, because of that  
5 request, be considered to be a person who is suicidal, and self-adminis-  
6 tering medication under this article shall not be deemed to be suicide,  
7 for any purpose.

8 (b) Action taken in accordance with this article shall not be  
9 construed for any purpose to constitute suicide, assisted suicide,  
10 attempted suicide, promoting a suicide attempt, euthanasia, mercy kill-  
11 ing, or homicide under the law, including as an accomplice or accessory  
12 or otherwise.

13 2. (a) No provision in a contract, will or other agreement, whether  
14 written or oral, to the extent the provision would affect whether a  
15 person may make or rescind a request for medication or take any other  
16 action under this article, shall be valid.

17 (b) No obligation owing under any contract shall be conditioned or  
18 affected by the making or rescinding of a request by a person for medi-  
19 cation or taking any other action under this article.

20 3. (a) A person and his or her beneficiaries shall not be denied bene-  
21 fits under a life insurance policy for actions taken in accordance with  
22 this article.

23 (b) Notwithstanding the provisions of any law or contract, the sale,  
24 procurement or issuance of a life or health insurance or annuity policy,  
25 or the rate charged for a policy, shall not be conditioned upon or  
26 affected by a patient making or rescinding a request for medication  
27 under this article.

28 4. An insurer shall not provide any information in communications made  
29 to a patient about the availability of medication under this article  
30 absent a request by the patient or by his or her attending physician  
31 upon the request of such patient. Any communication shall not include  
32 both the denial of coverage for treatment and information as to the  
33 availability of medication under this article.

34 5. The sale, procurement, or issue of any professional malpractice  
35 insurance policy or the rate charged for the policy shall not be condi-  
36 tioned upon or affected by whether the insured does or does not take or  
37 participate in any action under this article.

38 § 2899-o. Safe disposal of unused medications. A person who has  
39 custody or control of any unused medication prescribed under this arti-  
40 cle after the death of the qualified individual shall personally deliver  
41 the unused medication for disposal to the nearest qualified facility  
42 that properly disposes of controlled substances or shall dispose of it  
43 by lawful means in accordance with regulations made by the commissioner,  
44 regulations made by or guidelines of the commissioner of education, or  
45 guidelines of a federal drug enforcement administration approved take-  
46 back program. A qualified facility that properly disposes of controlled  
47 substances shall accept and dispose of any medication delivered to it as  
48 provided hereunder regardless of whether such medication is a controlled  
49 substance. The commissioner may make regulations as may be appropriate  
50 for the safe disposal of unused medications prescribed, dispensed or  
51 ordered under this article as provided in this section.

52 § 2899-p. Death certificate. 1. If otherwise authorized by law, the  
53 attending physician may sign the qualified individual's death certifi-  
54 cate.

1 2. The cause of death listed on a qualified individual's death certifi-  
2 cate who dies after self-administering medication under this article  
3 will be the underlying terminal illness or condition.

4 § 2899-q. Reporting. 1. The commissioner shall annually review a  
5 sample of the records maintained under sections twenty-eight hundred  
6 ninety-nine-j and twenty-eight hundred ninety-nine-p of this article.  
7 The commissioner shall adopt regulations establishing reporting require-  
8 ments for physicians taking action under this article to determine  
9 utilization and compliance with this article. The information collected  
10 under this subdivision shall not constitute a public record available  
11 for public inspection and shall be confidential and collected and main-  
12 tained in a manner that protects the privacy of the patient, his or her  
13 family, and any health care provider acting in connection with such  
14 patient under this article, except that such information may be  
15 disclosed to a governmental agency as authorized or required by law  
16 relating to professional discipline, protection of public health or law  
17 enforcement.

18 2. The commissioner shall prepare a report annually containing rele-  
19 vant data regarding utilization and compliance with this article and  
20 shall post such report on the department's website.

21 § 2899-r. Penalties. 1. Nothing in this article shall be construed to  
22 limit professional discipline or civil liability resulting from conduct  
23 in violation of this article, negligent conduct, or intentional miscon-  
24 duct by any person.

25 2. Conduct in violation of this article shall be subject to applicable  
26 criminal liability under state law, including, where appropriate and  
27 without limitation, offenses constituting homicide, forgery, coercion,  
28 and related offenses, or federal law.

29 § 2899-s. Severability. If any provision of this article or any appli-  
30 cation of any provision of this article, is held to be invalid, or to  
31 violate or be inconsistent with any federal law or regulation, that  
32 shall not affect the validity or effectiveness of any other provision of  
33 this article, or of any other application of any provision of this arti-  
34 cle, which can be given effect without that provision or application;  
35 and to that end, the provisions and applications of this article are  
36 severable.

37 § 3. This act shall take effect immediately.