



2899-S. SAFE DISPOSAL OF UNUSED MEDICATIONS.

2899-T. DEATH CERTIFICATE.

2899-U. STATUTORY CONSTRUCTION.

2899-V. SEVERABILITY.

S 2899-D. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "ADULT" MEANS AN INDIVIDUAL WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

2. "ATTENDING PHYSICIAN" MEANS THE PHYSICIAN WHO HAS PRIMARY RESPONSIBILITY FOR THE CARE OF THE PATIENT AND TREATMENT OF THE PATIENT'S TERMINAL DISEASE.

3. "BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP" MEANS A TREATING OR CONSULTING RELATIONSHIP IN THE COURSE OF WHICH A PHYSICIAN HAS COMPLETED A FULL ASSESSMENT OF THE PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION, INCLUDING A PERSONAL PHYSICAL EXAMINATION.

4. "CAPABLE" MEANS THAT A PATIENT HAS THE ABILITY TO UNDERSTAND, MAKE AND COMMUNICATE HEALTH CARE DECISIONS TO A PHYSICIAN, INCLUDING COMMUNICATION THROUGH PERSONS FAMILIAR WITH THE PATIENT'S MANNER OF COMMUNICATING IF THOSE PERSONS ARE AVAILABLE.

5. "COUNSELING" MEANS ONE OR MORE CONSULTATIONS AS NECESSARY BETWEEN A STATE LICENSED PSYCHIATRIST OR PSYCHOLOGIST AND A PATIENT FOR THE PURPOSE OF DETERMINING THAT THE PATIENT IS CAPABLE AND NOT SUFFERING FROM A PSYCHIATRIC OR PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING IMPAIRED JUDGMENT.

6. "HEALTH CARE FACILITY" SHALL INCLUDE HOSPITALS, NURSING HOMES AND RESIDENTIAL HEALTH CARE FACILITIES AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED ONE OF THIS CHAPTER.

7. "HEALTH CARE PROVIDER" MEANS A PERSON, PARTNERSHIP, CORPORATION, FACILITY, OR INSTITUTION, LICENSED OR CERTIFIED OR AUTHORIZED BY LAW TO ADMINISTER HEALTH CARE OR DISPENSE MEDICATION IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.

8. "IMPAIRED JUDGMENT" MEANS THAT A PERSON DOES NOT SUFFICIENTLY UNDERSTAND OR APPRECIATE THE RELEVANT FACTS NECESSARY TO MAKE AN INFORMED DECISION.

9. "PALLIATIVE CARE" MEANS HEALTH CARE TREATMENT, INCLUDING INTERDISCIPLINARY END-OF-LIFE CARE, AND CONSULTATION WITH PATIENTS AND FAMILY MEMBERS, TO PREVENT OR RELIEVE PAIN AND SUFFERING AND TO ENHANCE THE PATIENT'S QUALITY OF LIFE, INCLUDING HOSPICE CARE UNDER ARTICLE FORTY OF THIS CHAPTER.

10. "PATIENT" MEANS A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER, A RESIDENT OF NEW YORK STATE, AND UNDER THE CARE OF A PHYSICIAN.

11. "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED TO PRACTICE MEDICINE IN NEW YORK STATE.

12. "TERMINAL ILLNESS OR CONDITION" MEANS AN ILLNESS OR CONDITION WHICH CAN REASONABLY BE EXPECTED TO CAUSE DEATH WITHIN SIX MONTHS, WHETHER OR NOT TREATMENT IS PROVIDED.

S 2899-E. WRITTEN REQUEST FOR MEDICATION. 1. AN ADULT WHO IS CAPABLE, IS A RESIDENT OF THIS STATE AND HAS BEEN DETERMINED BY THE ATTENDING PHYSICIAN AND CONSULTING PHYSICIAN TO BE SUFFERING FROM A TERMINAL ILLNESS OR CONDITION, AND WHO HAS VOLUNTARILY EXPRESSED HIS OR HER WISH TO DIE, MAY MAKE A WRITTEN REQUEST FOR MEDICATION FOR THE PURPOSE OF ENDING HIS OR HER LIFE IN A HUMANE AND DIGNIFIED MANNER IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

2. NO PERSON SHALL QUALIFY UNDER THE PROVISIONS OF THIS ARTICLE SOLELY BECAUSE OF AGE OR DISABILITY.

S 2899-F. WRITTEN REQUEST SIGNED AND WITNESSED. 1. A VALID REQUEST FOR MEDICATION UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE IN SUCH FORM AS

1 PRESCRIBED BY THE DEPARTMENT, SIGNED AND DATED BY THE PATIENT AND  
2 WITNESSED BY AT LEAST TWO INDIVIDUALS WHO, IN THE PRESENCE OF THE  
3 PATIENT, ATTEST THAT TO THE BEST OF THEIR KNOWLEDGE AND BELIEF THE  
4 PATIENT IS CAPABLE, ACTING VOLUNTARILY, AND IS NOT BEING COERCED TO SIGN  
5 THE REQUEST.

6 2. ONE OF THE WITNESSES SHALL BE A PERSON WHO IS NOT:

7 (A) A RELATIVE OF THE PATIENT BY BLOOD, MARRIAGE OR ADOPTION;

8 (B) A PERSON WHO AT THE TIME THE REQUEST IS SIGNED WOULD BE ENTITLED  
9 TO ANY PORTION OF THE ESTATE OF THE PATIENT UPON DEATH UNDER ANY WILL OR  
10 BY OPERATION OF LAW; OR

11 (C) AN OWNER, OPERATOR OR EMPLOYEE OF A HEALTH CARE FACILITY WHERE THE  
12 PATIENT IS RECEIVING MEDICAL TREATMENT OR IS A RESIDENT.

13 3. THE PATIENT'S ATTENDING PHYSICIAN AT THE TIME THE REQUEST IS SIGNED  
14 SHALL NOT BE A WITNESS.

15 S 2899-G. ATTENDING PHYSICIAN RESPONSIBILITIES. 1. THE ATTENDING  
16 PHYSICIAN SHALL:

17 (A) MAKE THE DETERMINATION OF WHETHER A PATIENT HAS A TERMINAL ILLNESS  
18 OR CONDITION, IS CAPABLE, AND HAS MADE THE REQUEST VOLUNTARILY;

19 (B) REQUEST THAT THE PATIENT DEMONSTRATE NEW YORK STATE RESIDENCY;

20 (C) REFER THE PATIENT FOR COUNSELING, IF APPROPRIATE, PURSUANT TO  
21 SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-H OF THIS ARTICLE; AND

22 (D) FULFILL THE MEDICAL RECORD DOCUMENTATION REQUIREMENTS OF SECTION  
23 TWENTY-EIGHT HUNDRED NINETY-NINE-I OF THIS ARTICLE.

24 2. SUBJECT TO SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-H OF THIS ARTI-  
25 CLE, AN ATTENDING PHYSICIAN WHO MAKES THE DETERMINATION THAT THE PATIENT  
26 HAS A TERMINAL ILLNESS OR CONDITION, IS CAPABLE AND HAS MADE A REQUEST  
27 FOR MEDICATION AS PROVIDED IN SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-E  
28 OF THIS ARTICLE, THE ATTENDING PHYSICIAN SHALL EITHER:

29 (A) DISPENSE THE MEDICATION DIRECTLY, INCLUDING ANCILLARY MEDICATION  
30 INTENDED TO FACILITATE THE DESIRED EFFECT TO MINIMIZE THE PATIENT'S  
31 DISCOMFORT, PROVIDED THE ATTENDING PHYSICIAN HAS A CURRENT DRUG ENFORCE-  
32 MENT ADMINISTRATION CERTIFICATE AND COMPLIES WITH ANY APPLICABLE RULE OR  
33 REGULATION; OR

34 (B) WITH THE PATIENT'S WRITTEN CONSENT:

35 (I) CONTACT A PHARMACIST AND INFORM THE PHARMACIST OF THE  
36 PRESCRIPTION; AND

37 (II) DELIVER THE WRITTEN PRESCRIPTION PERSONALLY OR BY MAIL TO THE  
38 PHARMACIST, WHO WILL DISPENSE THE MEDICATIONS TO EITHER THE PATIENT, THE  
39 ATTENDING PHYSICIAN OR AN EXPRESSLY IDENTIFIED AGENT OF THE PATIENT.

40 S 2899-H. COUNSELING REFERRAL. IF IN THE OPINION OF THE ATTENDING  
41 PHYSICIAN A PATIENT MAY BE SUFFERING FROM A PSYCHIATRIC OR PSYCHOLOGICAL  
42 DISORDER OR DEPRESSION CAUSING IMPAIRED JUDGMENT, SUCH PHYSICIAN SHALL  
43 REFER THE PATIENT FOR COUNSELING. NO MEDICATION TO END A PATIENT'S LIFE  
44 IN A HUMANE AND DIGNIFIED MANNER SHALL BE PRESCRIBED UNTIL THE PERSON  
45 PERFORMING THE COUNSELING DETERMINES THAT THE PATIENT IS NOT SUFFERING  
46 FROM A PSYCHIATRIC OR PSYCHOLOGICAL DISORDER OR DEPRESSION CAUSING  
47 IMPAIRED JUDGMENT AND IS CAPABLE.

48 S 2899-I. MEDICAL RECORD DOCUMENTATION REQUIREMENTS. THE FOLLOWING  
49 SHALL BE DOCUMENTED OR FILED IN THE PATIENT'S MEDICAL RECORD:

50 1. ALL ORAL REQUESTS BY A PATIENT FOR MEDICATION TO END HIS OR HER  
51 LIFE IN A HUMANE AND DIGNIFIED MANNER;

52 2. ALL WRITTEN REQUESTS BY A PATIENT FOR MEDICATION TO END HIS OR HER  
53 LIFE IN A HUMANE AND DIGNIFIED MANNER;

54 3. THE ATTENDING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS, DETERMINATION  
55 THAT THE PATIENT IS CAPABLE AND ACTING VOLUNTARILY;

1 4. A REPORT OF THE OUTCOME AND DETERMINATIONS MADE DURING COUNSELING,  
2 IF PERFORMED; AND

3 5. A NOTE BY THE ATTENDING PHYSICIAN INDICATING THAT ALL REQUIREMENTS  
4 UNDER THE PROVISIONS OF THIS ARTICLE HAVE BEEN MET AND INDICATING THE  
5 STEPS TAKEN TO CARRY OUT THE REQUEST, INCLUDING A NOTATION OF THE MEDI-  
6 CATION PRESCRIBED.

7 S 2899-J. RESIDENCY REQUIREMENT. ONLY REQUESTS MADE BY NEW YORK STATE  
8 RESIDENTS UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE GRANTED. FACTORS  
9 DEMONSTRATING NEW YORK STATE RESIDENCY SHALL INCLUDE BUT SHALL NOT BE  
10 LIMITED TO:

11 1. POSSESSION OF A NEW YORK STATE DRIVER'S LICENSE;

12 2. REGISTRATION TO VOTE IN NEW YORK STATE;

13 3. EVIDENCE THAT THE PERSON OWNS OR LEASES PROPERTY IN NEW YORK STATE;  
14 OR

15 4. FILING OF A NEW YORK STATE TAX RETURN FOR THE MOST RECENT TAX YEAR.

16 S 2899-K. RIGHT TO INFORMATION. A PHYSICIAN WHO ENGAGES IN DISCUSSIONS  
17 WITH A PATIENT UNDER SECTION TWENTY-NINE HUNDRED NINETY-SEVEN-C OF THIS  
18 CHAPTER RELATED TO THE RISKS AND BENEFITS OF PALLIATIVE CARE AND  
19 END-OF-LIFE OPTIONS IN THE CIRCUMSTANCES DESCRIBED IN THIS ARTICLE SHALL  
20 NOT BE CONSTRUED TO BE ASSISTING IN OR CONTRIBUTING TO A PATIENT'S INDE-  
21 PENDENT DECISION TO SELF-ADMINISTER A LETHAL DOSE OF MEDICATION, AND  
22 SUCH DISCUSSIONS SHALL NOT BE USED TO ESTABLISH CIVIL OR CRIMINAL  
23 LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION.

24 S 2899-L. IMMUNITY. (A) A PHYSICIAN SHALL NOT BE SUBJECT TO ANY CIVIL  
25 OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION IF THE PHYSI-  
26 CIAN PRESCRIBES TO A PATIENT WITH A TERMINAL ILLNESS OR CONDITION MEDI-  
27 CATION TO BE SELF-ADMINISTERED FOR THE PURPOSE OF HASTENING THE  
28 PATIENT'S DEATH OR FOR ANY OTHER ACTIONS PERFORMED IN GOOD FAITH COMPLI-  
29 ANCE WITH THE PROVISIONS OF THIS ARTICLE.

30 (B) A PHARMACIST SHALL NOT BE SUBJECT TO ANY CIVIL OR CRIMINAL LIABIL-  
31 ITY OR PROFESSIONAL DISCIPLINARY ACTION IF THE PHARMACIST DISPENSES SUCH  
32 MEDICATION.

33 S 2899-M. NOT SUICIDE; NO DUTY TO AID. (A) A PATIENT WITH A TERMINAL  
34 ILLNESS OR CONDITION WHO SELF-ADMINISTERS A LETHAL DOSE OF MEDICATION  
35 PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL NOT BE CONSIDERED TO BE  
36 A PERSON WHO IS SUICIDAL.

37 (B) (1) NO PERSON SHALL BE SUBJECT TO CIVIL OR CRIMINAL LIABILITY  
38 SOLELY FOR BEING PRESENT WHEN SUCH PATIENT WITH A TERMINAL ILLNESS OR  
39 CONDITION SELF-ADMINISTERS A LETHAL DOSE OF MEDICATION OR FOR NOT ACTING  
40 TO PREVENT THE PATIENT FROM SELF-ADMINISTERING A LETHAL DOSE OF MEDICA-  
41 TION.

42 (2) NO PERSON, WHETHER OR NOT OTHERWISE OBLIGATED BY LAW OR PROFES-  
43 SIONAL PRACTICE TO DO SO, SHALL BE UNDER ANY DUTY TO RENDER ASSISTANCE  
44 TO SUCH PATIENT OR TO OTHERWISE ACT TO RESUSCITATE SUCH PATIENT AFTER HE  
45 OR SHE SELF-ADMINISTERS A LETHAL DOSE OF MEDICATION.

46 S 2899-N. LIMITATIONS ON ACTIONS. 1. A PHYSICIAN, NURSE, PHARMACIST,  
47 OR OTHER PERSON SHALL NOT BE UNDER ANY DUTY, BY LAW OR CONTRACT, TO  
48 PARTICIPATE IN THE PROVISION OF A LETHAL DOSE OF MEDICATION TO A  
49 PATIENT, PROVIDED THAT REASONABLE EFFORTS SHALL BE MADE TO REFER THE  
50 PATIENT TO A PHYSICIAN, NURSE OR PHARMACIST WHO MAY PARTICIPATE IN THE  
51 PROVISION OF A LETHAL DOSE OF MEDICATION TO A PATIENT.

52 2. A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER SHALL NOT SUBJECT A  
53 PHYSICIAN, NURSE, PHARMACIST, OR OTHER PERSON TO DISCIPLINE, SUSPENSION,  
54 LOSS OF LICENSE, LOSS OF PRIVILEGES, OR OTHER PENALTY FOR ACTIONS TAKEN  
55 IN GOOD FAITH RELIANCE ON THE PROVISIONS OF THIS ARTICLE OR REFUSALS TO  
56 ACT UNDER THIS ARTICLE.

1 3. EXCEPT AS OTHERWISE PROVIDED HEREIN, NOTHING IN THIS ARTICLE SHALL  
2 BE CONSTRUED TO LIMIT LIABILITY FOR CIVIL DAMAGES RESULTING FROM NEGLI-  
3 GENT CONDUCT OR INTENTIONAL MISCONDUCT BY ANY PERSON.

4 S 2899-O. HEALTH CARE FACILITY EXCEPTIONS. A HEALTH CARE FACILITY MAY  
5 PROHIBIT A PHYSICIAN FROM WRITING A PRESCRIPTION FOR A DOSE OF MEDICA-  
6 TION INTENDED TO BE LETHAL FOR A PATIENT WHO IS A RESIDENT IN ITS FACIL-  
7 ITY AND INTENDS TO USE THE MEDICATION ON THE FACILITY'S PREMISES,  
8 PROVIDED THE FACILITY HAS NOTIFIED THE PHYSICIAN IN WRITING OF ITS POLI-  
9 CY WITH REGARD TO THE PRESCRIPTIONS. NOTWITHSTANDING SECTION  
10 TWENTY-EIGHT HUNDRED NINETY-NINE-L OF THIS ARTICLE, ANY PHYSICIAN WHO  
11 VIOLATES A POLICY ESTABLISHED BY A HEALTH CARE FACILITY UNDER THIS  
12 SECTION MAY BE SUBJECT TO SANCTIONS OTHERWISE ALLOWABLE UNDER LAW OR  
13 CONTRACT.

14 S 2899-P. EFFECT ON CONSTRUCTION OF WILLS, CONTRACTS AND STATUTES. 1.  
15 NO PROVISION IN A CONTRACT, WILL OR OTHER AGREEMENT, WHETHER WRITTEN OR  
16 ORAL, TO THE EXTENT THE PROVISION WOULD AFFECT WHETHER A PERSON MAY MAKE  
17 OR RESCIND A REQUEST FOR MEDICATION TO END HIS OR HER LIFE IN A HUMANE  
18 AND DIGNIFIED MANNER, SHALL BE VALID.

19 2. NO OBLIGATION OWING UNDER ANY CURRENTLY EXISTING CONTRACT SHALL BE  
20 CONDITIONED OR AFFECTED BY THE MAKING OR RESCINDING OF A REQUEST BY A  
21 PERSON FOR MEDICATION TO END HIS OR HER LIFE IN A HUMANE AND DIGNIFIED  
22 MANNER.

23 S 2899-Q. INSURANCE POLICIES; PROHIBITIONS. 1. A PERSON AND HIS OR HER  
24 BENEFICIARIES SHALL NOT BE DENIED BENEFITS UNDER A LIFE INSURANCE POLICY  
25 FOR ACTIONS TAKEN IN ACCORDANCE WITH THIS ARTICLE.

26 2. THE SALE, PROCUREMENT, OR ISSUE OF ANY MEDICAL MALPRACTICE INSUR-  
27 ANCE POLICY OR THE RATE CHARGED FOR THE POLICY SHALL NOT BE CONDITIONED  
28 UPON OR AFFECTED BY WHETHER THE PHYSICIAN IS WILLING OR UNWILLING TO  
29 PARTICIPATE IN THE PROVISIONS OF THIS ARTICLE.

30 S 2899-R. PROTECTION OF PATIENT CHOICE AT END OF LIFE. A PHYSICIAN  
31 WITH A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP WITH A PATIENT WITH A  
32 TERMINAL ILLNESS OR CONDITION SHALL NOT BE CONSIDERED TO HAVE ENGAGED IN  
33 UNPROFESSIONAL CONDUCT AND SHALL NOT BE THE SUBJECT OF DISCIPLINE IF:

34 1. THE PHYSICIAN DETERMINES THAT THE PATIENT IS CAPABLE AND DOES NOT  
35 HAVE IMPAIRED JUDGMENT;

36 2. THE PHYSICIAN INFORMS THE PATIENT OF PALLIATIVE CARE AND  
37 END-OF-LIFE OPTIONS PURSUANT TO SUBDIVISION TWO OF SECTION TWENTY-NINE  
38 HUNDRED NINETY-SEVEN-C OF THIS CHAPTER AND THE PHYSICIAN PRESCRIBES A  
39 DOSE OF MEDICATION THAT MAY BE LETHAL TO THE PATIENT;

40 3. THE PHYSICIAN ADVISES THE PATIENT OF ALL FORESEEABLE RISKS RELATED  
41 TO THE PRESCRIPTION;

42 4. THE PHYSICIAN ADVISES THE PATIENT OF ALL ALTERNATIVES TO AID IN  
43 DYING; AND

44 5. THE PATIENT MAKES AN INDEPENDENT DECISION TO SELF-ADMINISTER A  
45 LETHAL DOSE OF THE MEDICATION.

46 S 2899-S. SAFE DISPOSAL OF UNUSED MEDICATIONS. THE DEPARTMENT SHALL  
47 ADOPT RULES AND REGULATIONS PROVIDING FOR THE SAFE DISPOSAL OF UNUSED  
48 MEDICATIONS PRESCRIBED UNDER THIS ARTICLE.

49 S 2899-T. DEATH CERTIFICATE. IN THE EVENT THAT A PATIENT SELF-ADMIN-  
50 ISTERS A LETHAL DOSE OF MEDICATION IN ACCORDANCE WITH THE PROVISIONS OF  
51 THIS ARTICLE, THE DEATH CERTIFICATE SHALL INDICATE THAT THE CAUSE OF  
52 DEATH WAS THE UNDERLYING TERMINAL ILLNESS OR CONDITION OF THE PATIENT.

53 S 2899-U. STATUTORY CONSTRUCTION. NOTHING IN THIS ARTICLE SHALL BE  
54 CONSTRUED TO AUTHORIZE A PHYSICIAN OR ANY OTHER PERSON TO END A  
55 PATIENT'S LIFE BY LETHAL INJECTION, MERCY KILLING, OR ACTIVE EUTHANASIA.  
56 ACTION TAKEN IN ACCORDANCE WITH THIS ARTICLE SHALL NOT BE CONSTRUED FOR

1 ANY PURPOSE TO CONSTITUTE SUICIDE, ASSISTED SUICIDE, ATTEMPTED SUICIDE,  
2 PROMOTING A SUICIDE ATTEMPT, MERCY KILLING, OR HOMICIDE UNDER THE LAW,  
3 INCLUDING AS AN ACCOMPLICE OR ACCESSORY OR OTHERWISE.  
4 S 2899-V. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR  
5 PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURIS-  
6 DICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALI-  
7 DATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO  
8 THE CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART THEREOF, DIRECTLY  
9 INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN  
10 RENDERED.  
11 S 2. This act shall take effect immediately.