S T A T E O F N E W Y O R K

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I N A S S E M B L Y

May 10, 2016

Introduced by M. of A. PAULIN, GOTTFRIED, DINOWITZ, GALEF, HEVESI, STECK, ZEBROWSKI, BLAKE -- Multi-Sponsored by -- M. of A. BRAUNSTEIN, CROUCH, DUPREY, SKARTADOS -- read once and referred to the Committee on Health

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:

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

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

ARTICLE 28-F

MEDICAL AID IN DYING

SECTION 2899-D. DEFINITIONS.
2899-E. WRITTEN REQUEST FOR MEDICATION.
2899-F. REQUEST PROCESS.
2899-G. ATTENDING PHYSICIAN RESPONSIBILITIES.
2899-H. RIGHT TO RESCIND REQUEST; REQUIREMENT TO OFFER OPPORTUNITY TO RESCIND.
2899-I. CONSULTING PHYSICIAN RESPONSIBILITIES.
2899-J. CONFIRMATION OF CAPACITY; REFERRAL.
2899-K. MEDICAL RECORD DOCUMENTATION REQUIREMENTS.
2899-L. FORM OF WRITTEN REQUEST AND WITNESS ATTESTATION.
2899-M. PROTECTION AND IMMUNITIES.
2899-N. PERMISSIBLE REFUSALS AND PROHIBITIONS.
2899-O. RELATION TO OTHER LAWS AND CONTRACTS.
2899-P. SAFE DISPOSAL OF UNUSED MEDICATIONS.
2899-Q. DEATH CERTIFICATE.
2899-R. REPORTING.
2899-S. PENALTIES.
2899-T. SEVERABILITY.

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

1. "ADULT" MEANS AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF AGE OR OLDER.

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

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. "CAPACITY" OR "CAPACITY TO MAKE AN INFORMED DECISION" MEANS THE ABILITY TO UNDERSTAND AND APPRECIATE THE NATURE AND CONSEQUENCES OF HEALTH CARE DECISIONS, INCLUDING THE BENEFITS AND RISKS OF AND ALTERNATIVES TO ANY PROPOSED HEALTH CARE, AND TO REACH AN INFORMED DECISION AND TO COMMUNICATE HEALTH CARE DECISIONS TO A PHYSICIAN, INCLUDING COMMUNICATION THROUGH PERSONS FAMILIAR WITH THE PATIENT'S MANNER OF COMMUNICATING IF THOSE PERSONS ARE AVAILABLE.

4. "CONSULTING PHYSICIAN" MEANS A PHYSICIAN WHO IS QUALIFIED BY SPECIALTY OR EXPERIENCE TO MAKE A PROFESSIONAL DIAGNOSIS AND PROGNOSIS REGARDING A PERSON'S TERMINAL ILLNESS.

5. "HEALTH CARE FACILITY" MEANS A GENERAL HOSPITAL, NURSING HOME, OR RESIDENTIAL HEALTH CARE FACILITY AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED ONE OF THIS CHAPTER.

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

7. "INFORMED DECISION" MEANS A DECISION BY A PATIENT WHO IS SUFFERING FROM A TERMINAL ILLNESS TO REQUEST AND OBTAIN A PRESCRIPTION FOR MEDICATION THAT THE PATIENT MAY SELF-ADMINISTER TO END THE PATIENT'S LIFE THAT IS BASED ON AN UNDERSTANDING AND ACKNOWLEDGMENT OF THE RELEVANT FACTS AND THAT IS MADE AFTER BEING FULLY INFORMED OF:

(A) THE PATIENT'S MEDICAL DIAGNOSIS AND PROGNOSIS;

(B) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE PRESCRIBED;

(C) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED;

(D) THE POSSIBILITY THAT THE PATIENT MAY CHOOSE NOT TO OBTAIN THE MEDICATION, OR MAY OBTAIN THE MEDICATION BUT MAY DECIDE NOT TO SELF-ADMINISTER IT; AND

(E) THE FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING PALLIATIVE CARE AND HOSPICE CARE.

8. "MEDICAL AID IN DYING" MEANS THE MEDICAL PRACTICE OF A PHYSICIAN PRESCRIBING MEDICATION TO A QUALIFIED INDIVIDUAL THAT THE INDIVIDUAL MAY CHOOSE TO SELF-ADMINISTER TO BRING ABOUT DEATH.

9. "MEDICALLY CONFIRMED" MEANS THE MEDICAL OPINION OF THE ATTENDING PHYSICIAN THAT A PATIENT HAS A TERMINAL ILLNESS HAS BEEN CONFIRMED BY A CONSULTING PHYSICIAN WHO HAS EXAMINED THE PATIENT AND THE PATIENT'S RELEVANT MEDICAL RECORDS.

10. "MEDICATION" MEANS MEDICATION PRESCRIBED BY A PHYSICIAN UNDER THIS ARTICLE.

11. "MENTAL HEALTH PROFESSIONAL" MEANS A PHYSICIAN, NURSE PRACTITIONER, PHYSICIAN ASSISTANT OR PSYCHOLOGIST, LICENSED OR CERTIFIED UNDER THE EDUCATION LAW ACTING WITHIN HIS OR HER SCOPE OF PRACTICE AND WHO IS QUALIFIED, BY TRAINING AND EXPERIENCE, CERTIFICATION, OR BOARD CERTIFICATION OR ELIGIBILITY, TO MAKE A DETERMINATION UNDER SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-J OF THIS ARTICLE; PROVIDED THAT IN THE CASE OF A NURSE PRACTITIONER OR PHYSICIAN ASSISTANT, THE PROFESSIONAL SHALL NOT HAVE A COLLABORATIVE AGREEMENT OR COLLABORATIVE RELATIONSHIP WITH OR BE SUPERVISED BY THE ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN.

12. "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.

13. "PATIENT" MEANS A PERSON WHO IS EIGHTEEN YEARS OF AGE OR OLDER UNDER THE CARE OF A PHYSICIAN.

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

15. "QUALIFIED INDIVIDUAL" MEANS A PATIENT WITH A TERMINAL ILLNESS, WHO HAS CAPACITY, HAS MADE AN INFORMED DECISION, AND HAS SATISFIED THE REQUIREMENTS OF THIS ARTICLE IN ORDER TO OBTAIN A PRESCRIPTION FOR MEDICATION.

16. "SELF-ADMINISTER" MEANS A QUALIFIED INDIVIDUAL'S AFFIRMATIVE, CONSCIOUS, AND VOLUNTARY ACT OF USING MEDICATION UNDER THIS ARTICLE.

17. "TERMINAL ILLNESS" MEANS AN ILLNESS THAT WILL, WITHIN REASONABLE MEDICAL JUDGMENT, RESULT IN DEATH WITHIN SIX MONTHS, WHETHER OR NOT TREATMENT IS PROVIDED.

S 2899-E. WRITTEN REQUEST FOR MEDICATION. 1. A PATIENT MAY MAKE A WRITTEN REQUEST FOR AND CONSENT TO SELF-ADMINISTER MEDICATION FOR THE PURPOSE OF ENDING HIS OR HER LIFE IN ACCORDANCE WITH THIS ARTICLE IF THE PATIENT:

(A) HAS BEEN DETERMINED BY THE ATTENDING PHYSICIAN TO HAVE A TERMINAL ILLNESS AND WHICH HAS BEEN MEDICALLY CONFIRMED BY A CONSULTING PHYSICIAN; AND

(B) VOLUNTARILY EXPRESSES THE REQUEST FOR MEDICATION.

2. NO PERSON SHALL QUALIFY FOR MEDICAL AID IN DYING UNDER THIS ARTICLE SOLELY BECAUSE OF AGE OR DISABILITY.

S 2899-F. REQUEST PROCESS. 1. ORAL AND WRITTEN REQUEST. A PATIENT WISHING TO REQUEST MEDICATION UNDER THIS ARTICLE SHALL MAKE AN ORAL REQUEST AND SUBMIT A WRITTEN REQUEST TO THE PATIENT'S ATTENDING PHYSICIAN.

2. WRITTEN REQUEST SIGNED AND WITNESSED. (A) A REQUEST FOR MEDICATION UNDER THIS ARTICLE SHALL BE SIGNED AND DATED BY THE PATIENT AND WITNESSED BY AT LEAST TWO ADULTS WHO, IN THE PRESENCE OF THE PATIENT, ATTEST THAT TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF THE PATIENT HAS CAPACITY, IS ACTING VOLUNTARILY, AND IS NOT BEING COERCED TO SIGN THE REQUEST. THE WRITTEN REQUEST SHALL BE IN SUBSTANTIALLY THE FORM DESCRIBED IN SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-L OF THIS ARTICLE.

(B) ONE OF THE WITNESSES SHALL BE AN ADULT WHO IS NOT:

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

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

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

(C) THE ATTENDING PHYSICIAN, CONSULTING PHYSICIAN AND, IF APPLICABLE, THE MENTAL HEALTH PROFESSIONAL WHO PROVIDES A CAPACITY DETERMINATION OF THE PATIENT UNDER THIS ARTICLE SHALL NOT BE A WITNESS.

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

(A) MAKE THE DETERMINATION OF WHETHER A PATIENT HAS A TERMINAL ILLNESS, HAS CAPACITY, HAS MADE AN INFORMED DECISION AND HAS MADE THE REQUEST VOLUNTARILY AND WITHOUT COERCION;

(B) INFORM THE PATIENT OF THE REQUIREMENT UNDER THIS ARTICLE FOR CONFIRMATION BY A CONSULTING PHYSICIAN, AND REFER THE PATIENT TO A CONSULTING PHYSICIAN UPON THE PATIENT'S REQUEST;

(C) REFER THE PATIENT TO A MENTAL HEALTH PROFESSIONAL PURSUANT TO SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-J OF THIS ARTICLE IF THE

ATTENDING PHYSICIAN BELIEVES THAT THE PATIENT LACKS CAPACITY TO MAKE AN INFORMED DECISION;

(D) PROVIDE INFORMATION AND COUNSELING UNDER SECTION TWENTY-NINE HUNDRED NINETY-SEVEN-C OF THIS CHAPTER;

(E) ENSURE THAT THE PATIENT IS MAKING AN INFORMED DECISION BY DISCUSSING WITH THE PATIENT: (I) THE PATIENT'S MEDICAL DIAGNOSIS AND PROGNOSIS; (II) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE PRESCRIBED; (III) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED; (IV) THE POSSIBILITY THAT THE PATIENT MAY CHOOSE TO OBTAIN THE MEDICATION BUT NOT TAKE IT; AND (V) THE FEASIBLE ALTERNATIVES OR ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING BUT NOT LIMITED TO PALLIATIVE CARE AND HOSPICE CARE;

(F) DISCUSS WITH THE PATIENT THE IMPORTANCE OF:

(I) HAVING ANOTHER PERSON PRESENT WHEN THE PATIENT TAKES THE MEDICATION; AND

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

(G) INFORM THE PATIENT THAT HE OR SHE MAY RESCIND THE REQUEST FOR MEDICATION AT ANY TIME AND IN ANY MANNER;

(H) FULFILL THE MEDICAL RECORD DOCUMENTATION REQUIREMENTS OF SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-K OF THIS ARTICLE; AND

(I) ENSURE THAT ALL APPROPRIATE STEPS ARE CARRIED OUT IN ACCORDANCE WITH THIS ARTICLE BEFORE WRITING A PRESCRIPTION FOR MEDICATION.

2. UPON RECEIVING CONFIRMATION FROM A CONSULTING PHYSICIAN UNDER SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-I OF THIS ARTICLE AND SUBJECT TO SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-J OF THIS ARTICLE, THE ATTENDING PHYSICIAN WHO MAKES THE DETERMINATION THAT THE PATIENT HAS A TERMINAL ILLNESS, HAS CAPACITY AND HAS MADE A REQUEST FOR MEDICATION AS PROVIDED IN THIS ARTICLE, MAY PERSONALLY, OR BY REFERRAL TO ANOTHER PHYSICIAN, PRESCRIBE OR ORDER APPROPRIATE MEDICATION IN ACCORDANCE WITH THE PATIENT'S REQUEST UNDER THIS ARTICLE, AND AT THE PATIENT'S REQUEST, FACILITATE THE FILLING OF THE PRESCRIPTION AND DELIVERY OF THE MEDICATION TO THE PATIENT.

3. IN ACCORDANCE WITH THE DIRECTION OF THE PRESCRIBING OR ORDERING PHYSICIAN AND THE CONSENT OF THE PATIENT, THE PATIENT MAY SELF-ADMINISTER THE MEDICATION TO HIMSELF OR HERSELF. A HEALTH CARE PROFESSIONAL OR OTHER PERSON SHALL NOT ADMINISTER THE MEDICATION TO THE PATIENT.

S 2899-H. RIGHT TO RESCIND REQUEST; REQUIREMENT TO OFFER OPPORTUNITY TO RESCIND. 1. A PATIENT MAY AT ANY TIME RESCIND HIS OR HER REQUEST FOR MEDICATION UNDER THIS ARTICLE WITHOUT REGARD TO THE PATIENT'S CAPACITY.

2. A PRESCRIPTION FOR MEDICATION MAY NOT BE WRITTEN WITHOUT THE ATTENDING PHYSICIAN OFFERING THE QUALIFIED INDIVIDUAL AN OPPORTUNITY TO RESCIND THE REQUEST.

S 2899-I. CONSULTING PHYSICIAN RESPONSIBILITIES. BEFORE A PATIENT WHO IS REQUESTING MEDICATION MAY RECEIVE A PRESCRIPTION FOR MEDICATION UNDER THIS ARTICLE, A CONSULTING PHYSICIAN MUST:

1. EXAMINE THE PATIENT AND HIS OR HER RELEVANT MEDICAL RECORDS;

2. CONFIRM, IN WRITING, TO THE ATTENDING PHYSICIAN: (A) THAT THE PATIENT HAS A TERMINAL ILLNESS; (B) THAT THE PATIENT IS MAKING AN INFORMED DECISION; (C) THAT THE PATIENT HAS CAPACITY, OR PROVIDE DOCUMENTATION THAT THE CONSULTING PHYSICIAN HAS REFERRED THE PATIENT FOR A DETERMINATION UNDER SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-J OF THIS ARTICLE; AND (D) THAT THE PATIENT IS ACTING VOLUNTARILY AND WITHOUT COERCION.

S 2899-J. CONFIRMATION OF CAPACITY; REFERRAL. 1. IF THE ATTENDING PHYSICIAN OR THE CONSULTING PHYSICIAN BELIEVES THAT THE PATIENT MAY LACK CAPACITY, THE ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN SHALL REFER

THE PATIENT TO A MENTAL HEALTH PROFESSIONAL FOR A DETERMINATION OF WHETHER THE PATIENT HAS CAPACITY. THE REFERRING PHYSICIAN SHALL ADVISE THE PATIENT THAT THE REPORT OF THE MENTAL HEALTH PROFESSIONAL WILL BE PROVIDED TO THE ATTENDING PHYSICIAN, AND TO THE CONSULTING PHYSICIAN IF HE OR SHE IS THE PHYSICIAN WHO REQUESTED THE DETERMINATION.

2. A MENTAL HEALTH PROFESSIONAL WHO EVALUATES A PATIENT UNDER THIS SECTION SHALL REPORT, IN WRITING, TO THE PHYSICIAN WHO REQUESTED THE EVALUATION, HIS OR HER CONCLUSIONS ABOUT WHETHER THE PATIENT HAS CAPACITY TO MAKE AN INFORMED DECISION. IF THE WRITTEN REPORT IS PROVIDED TO THE CONSULTING PHYSICIAN, THE CONSULTING PHYSICIAN SHALL PROMPTLY PROVIDE A COPY OF THE REPORT TO THE ATTENDING PHYSICIAN. IF THE MENTAL HEALTH PROFESSIONAL DETERMINES THAT THE PATIENT LACKS CAPACITY TO MAKE AN INFORMED DECISION, THE PATIENT SHALL NOT BE DEEMED A QUALIFIED INDIVIDUAL, AND THE ATTENDING PHYSICIAN SHALL NOT PRESCRIBE MEDICATION TO THE PATIENT.

S 2899-K. MEDICAL RECORD DOCUMENTATION REQUIREMENTS. AN ATTENDING PHYSICIAN SHALL DOCUMENT OR FILE THE FOLLOWING IN THE PATIENT'S MEDICAL RECORD:

1. THE DATES OF ALL ORAL REQUESTS BY THE PATIENT FOR MEDICATION UNDER THIS ARTICLE;

2. THE WRITTEN REQUEST BY THE PATIENT FOR MEDICATION UNDER THIS ARTICLE;

3. THE ATTENDING PHYSICIAN'S DIAGNOSIS AND PROGNOSIS, DETERMINATION OF CAPACITY, AND DETERMINATION THAT THE PATIENT IS ACTING VOLUNTARILY AND WITHOUT COERCION, AND HAS MADE AN INFORMED DECISION;

4. IF APPLICABLE, WRITTEN CONFIRMATION OF CAPACITY UNDER SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-J OF THIS ARTICLE; AND

5. A NOTE BY THE ATTENDING PHYSICIAN INDICATING THAT ALL REQUIREMENTS UNDER THIS ARTICLE HAVE BEEN MET AND INDICATING THE STEPS TAKEN TO CARRY OUT THE REQUEST, INCLUDING A NOTATION OF THE MEDICATION PRESCRIBED OR ORDERED.

S 2899-L. FORM OF WRITTEN REQUEST AND WITNESS ATTESTATION. 1. A REQUEST FOR MEDICATION UNDER THIS ARTICLE SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

REQUEST FOR MEDICATION TO END MY LIFE

I, _____, AM AN ADULT WHO HAS CAPACITY, WHICH MEANS I UNDERSTAND AND APPRECIATE THE NATURE AND CONSEQUENCES OF HEALTH CARE DECISIONS, INCLUDING THE BENEFITS AND RISKS OF AND ALTERNATIVES TO ANY PROPOSED HEALTH CARE, AND TO REACH AN INFORMED DECISION AND TO COMMUNICATE HEALTH CARE DECISIONS TO A PHYSICIAN.

I AM SUFFERING FROM _____, WHICH MY ATTENDING PHYSICIAN HAS DETERMINED IS A TERMINAL ILLNESS, WHICH HAS BEEN MEDICALLY CONFIRMED BY A CONSULTING PHYSICIAN.

I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS AND PROGNOSIS, THE NATURE OF THE MEDICATION TO BE PRESCRIBED AND POTENTIAL ASSOCIATED RISKS, THE EXPECTED RESULT, AND THE FEASIBLE ALTERNATIVES OR TREATMENT OPPORTUNITIES INCLUDING PALLIATIVE CARE AND HOSPICE CARE.

I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE MEDICATION THAT WILL END MY LIFE IF I CHOOSE TO TAKE IT, AND I AUTHORIZE MY ATTENDING PHYSICIAN TO CONTACT ANOTHER PHYSICIAN OR ANY PHARMACIST ABOUT MY REQUEST.

INITIAL ONE:

( ) I HAVE INFORMED OR INTEND TO INFORM MY FAMILY OF MY DECISION.

( ) I HAVE DECIDED NOT TO INFORM MY FAMILY OF MY DECISION.

( ) I HAVE NO FAMILY TO INFORM OF MY DECISION.

I UNDERSTAND THAT I HAVE THE RIGHT TO RESCIND THIS REQUEST OR DECLINE TO USE THE MEDICATION AT ANY TIME.

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

I MAKE THIS REQUEST VOLUNTARILY, AND WITHOUT BEING COERCED, AND I ACCEPT FULL RESPONSIBILITY FOR MY ACTIONS.

SIGNED: _____

DATED: _____

DECLARATION OF WITNESSES

I DECLARE THAT THE PERSON SIGNING THIS "REQUEST FOR MEDICATION TO END MY LIFE":

(A) IS PERSONALLY KNOWN TO ME OR HAS PROVIDED PROOF OF IDENTITY;

(B) VOLUNTARILY SIGNED THE "REQUEST FOR MEDICATION TO END MY LIFE" IN MY PRESENCE OR ACKNOWLEDGED TO ME THAT HE OR SHE SIGNED IT; AND

(C) TO THE BEST OF MY KNOWLEDGE AND BELIEF, HAS CAPACITY AND IS NOT BEING COERCED TO SIGN THE "REQUEST FOR MEDICATION TO END MY LIFE".

I AM NOT THE ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN OF THE PERSON SIGNING THE "REQUEST FOR MEDICATION TO END MY LIFE" OR, IF APPLICABLE, THE MENTAL HEALTH PROFESSIONAL WHO PROVIDES A CAPACITY DETERMINATION OF THE PERSON SIGNING THE "REQUEST FOR MEDICATION TO END MY LIFE" AT THE TIME THE "REQUEST FOR MEDICATION TO END MY LIFE" WAS SIGNED.

_____ WITNESS 1, DATE: _____

_____ WITNESS 2, DATE: _____

NOTE: ONLY ONE OF THE TWO WITNESSES MAY (I) BE A RELATIVE (BY BLOOD, MARRIAGE OR ADOPTION) OF THE PERSON SIGNING THE "REQUEST FOR MEDICATION TO END MY LIFE", (II) BE ENTITLED TO ANY PORTION OF THE PERSON'S ESTATE UPON DEATH UNDER ANY WILL OR BY OPERATION OF LAW, OR (III) OWN, OPERATE, OR BE EMPLOYED AT A HEALTH CARE FACILITY WHERE THE PERSON IS RECEIVING TREATMENT OR IS A RESIDENT.

2. (A) THE "REQUEST FOR MEDICATION TO END MY LIFE" SHALL BE WRITTEN IN THE SAME LANGUAGE AS ANY CONVERSATIONS, CONSULTATIONS, OR INTERPRETED CONVERSATIONS OR CONSULTATIONS BETWEEN A PATIENT AND AT LEAST ONE OF HIS OR HER ATTENDING OR CONSULTING PHYSICIANS.

(B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, THE WRITTEN "REQUEST FOR MEDICATION TO END MY LIFE" MAY BE PREPARED IN ENGLISH EVEN WHEN THE CONVERSATIONS OR CONSULTATIONS OR INTERPRETED CONVERSATIONS OR CONSULTATIONS WERE CONDUCTED IN A LANGUAGE OTHER THAN ENGLISH IF THE ENGLISH LANGUAGE FORM INCLUDES AN ATTACHED DECLARATION BY THE INTERPRETER OF THE CONVERSATION OR CONSULTATION, WHICH SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

INTERPRETER'S DECLARATION

I, _____[INSERT NAME OF INTERPRETER]_____, AM FLUENT IN ENGLISH AND [INSERT TARGET LANGUAGE].

ON [INSERT DATE], AT APPROXIMATELY [INSERT TIME], I READ THE "REQUEST FOR MEDICATION TO END MY LIFE" TO [NAME OF PATIENT] IN [INSERT TARGET LANGUAGE].

[NAME OF PATIENT] AFFIRMED TO ME THAT HE/SHE UNDERSTOOD THE CONTENT OF THE "REQUEST FOR MEDICATION TO END MY LIFE" AND AFFIRMED HIS/HER DESIRE TO SIGN THE "REQUEST FOR MEDICATION TO END MY LIFE" VOLUNTARILY AND WITHOUT COERCION AND THAT THE REQUEST TO SIGN THE "REQUEST FOR MEDICATION TO END MY LIFE" FOLLOWED DISCUSSIONS WITH HIS/HER ATTENDING AND CONSULTING PHYSICIANS.

I DECLARE THAT I AM FLUENT IN ENGLISH AND [INSERT TARGET LANGUAGE] AND FURTHER DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE.

EXECUTED AT [INSERT CITY, COUNTY AND STATE] ON THIS [INSERT DAY OF MONTH] OF [INSERT MONTH], [INSERT YEAR].

_____ [SIGNATURE OF INTERPRETER]

_____ [PRINTED NAME OF INTERPRETER]

_____ [ADDRESS OF INTERPRETER]

_____

(C) AN INTERPRETER WHOSE SERVICES ARE PROVIDED UNDER PARAGRAPH (B) OF THIS SUBDIVISION SHALL NOT (I) BE RELATED TO THE PATIENT WHO SIGNS THE "REQUEST FOR MEDICATION TO END MY LIFE" BY BLOOD, MARRIAGE OR ADOPTION, (II) BE ENTITLED AT THE TIME THE "REQUEST FOR MEDICATION TO END MY LIFE" IS SIGNED BY THE PATIENT TO ANY PORTION OF THE ESTATE OF THE PATIENT UPON DEATH UNDER ANY WILL OR BY OPERATION OF LAW, OR (III) BE AN OWNER, OPERATOR OR EMPLOYEE OF A HEALTH CARE FACILITY WHERE THE PATIENT IS RECEIVING TREATMENT OR IS A RESIDENT.

S 2899-M. PROTECTION AND IMMUNITIES. 1. A PHYSICIAN, PHARMACIST, OTHER HEALTH CARE PROFESSIONAL OR OTHER PERSON SHALL NOT BE SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION BY ANY GOVERNMENT ENTITY FOR TAKING ANY REASONABLE GOOD-FAITH ACTION OR REFUSING TO ACT UNDER THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO: (A) ENGAGING IN DISCUSSIONS WITH A PATIENT RELATING TO THE RISKS AND BENEFITS OF END-OF-LIFE OPTIONS IN THE CIRCUMSTANCES DESCRIBED IN THIS ARTICLE, (B) PROVIDING A PATIENT, UPON REQUEST, WITH A REFERRAL TO ANOTHER HEALTH CARE PROVIDER, (C) BEING PRESENT WHEN A QUALIFIED INDIVIDUAL SELF-ADMINISTERS MEDICATION, (D) REFRAINING FROM ACTING TO PREVENT THE QUALIFIED INDIVIDUAL FROM SELF-ADMINISTERING SUCH MEDICATION, OR (E) REFRAINING FROM ACTING TO RESUSCITATE THE QUALIFIED INDIVIDUAL AFTER HE OR SHE SELF-ADMINISTERS SUCH MEDICATION.

2. NOTHING IN THIS SECTION SHALL LIMIT CIVIL OR CRIMINAL LIABILITY FOR NEGLIGENCE, RECKLESSNESS OR INTENTIONAL MISCONDUCT.

S 2899-N. PERMISSIBLE REFUSALS AND PROHIBITIONS. 1. (A) A PHYSICIAN, NURSE, PHARMACIST, OTHER HEALTH CARE PROVIDER OR OTHER PERSON SHALL NOT BE UNDER ANY DUTY, BY LAW OR CONTRACT, TO PARTICIPATE IN THE PROVISION OF MEDICATION TO A PATIENT UNDER THIS ARTICLE.

(B) IF A HEALTH CARE PROVIDER IS UNABLE OR UNWILLING TO PARTICIPATE IN THE PROVISION OF MEDICATION TO A PATIENT UNDER THIS ARTICLE AND THE PATIENT TRANSFERS CARE TO A NEW HEALTH CARE PROVIDER, THE PRIOR HEALTH CARE PROVIDER SHALL TRANSFER OR ARRANGE FOR THE TRANSFER, UPON REQUEST,

OF A COPY OF THE PATIENT'S RELEVANT MEDICAL RECORDS TO THE NEW HEALTH CARE PROVIDER.

2.(A) A PRIVATE HEALTH CARE FACILITY MAY PROHIBIT THE PRESCRIBING, DISPENSING, ORDERING OR SELF-ADMINISTERING OF MEDICATION UNDER THIS ARTICLE WHILE THE PATIENT IS BEING TREATED IN OR WHILE THE PATIENT IS RESIDING IN THE HEALTH CARE FACILITY IF:

(I) THE PRESCRIBING, DISPENSING, ORDERING OR SELF-ADMINISTERING IS CONTRARY TO A FORMALLY ADOPTED POLICY OF THE FACILITY THAT IS EXPRESSLY BASED ON SINCERELY HELD RELIGIOUS BELIEFS OR MORAL CONVICTIONS CENTRAL TO THE FACILITY'S OPERATING PRINCIPLES; AND

(II) THE FACILITY HAS INFORMED THE PATIENT OF SUCH POLICY PRIOR TO ADMISSION OR AS SOON AS REASONABLY POSSIBLE.

(B) WHERE A FACILITY HAS ADOPTED A PROHIBITION UNDER THIS SUBDIVISION, IF A PATIENT WHO WISHES TO USE MEDICATION UNDER THIS ARTICLE REQUESTS, THE PATIENT SHALL BE TRANSFERRED PROMPTLY TO ANOTHER HEALTH CARE FACILITY THAT IS REASONABLY ACCESSIBLE UNDER THE CIRCUMSTANCES AND WILLING TO PERMIT THE PRESCRIBING, DISPENSING, ORDERING AND SELF-ADMINISTERING OF MEDICATION UNDER THIS ARTICLE WITH RESPECT TO THE PATIENT.

3. WHERE A HEALTH CARE FACILITY HAS ADOPTED A PROHIBITION UNDER THIS SUBDIVISION, ANY HEALTH CARE PROVIDER OR EMPLOYEE OF THE FACILITY WHO VIOLATES THE PROHIBITION MAY BE SUBJECT TO SANCTIONS OTHERWISE AVAILABLE TO THE FACILITY, PROVIDED THE FACILITY HAS PREVIOUSLY NOTIFIED THE HEALTH CARE PROVIDER OR EMPLOYEE OF THE PROHIBITION IN WRITING.

S 2899-O. RELATION TO OTHER LAWS AND CONTRACTS. 1. (A) A PATIENT WHO REQUESTS MEDICATION UNDER THIS ARTICLE SHALL NOT, BECAUSE OF THAT REQUEST, BE CONSIDERED TO BE A PERSON WHO IS SUICIDAL, AND SELF-ADMINISTERING MEDICATION UNDER THIS ARTICLE SHALL NOT BE DEEMED TO BE SUICIDE, FOR ANY PURPOSE.

(B) ACTION TAKEN IN ACCORDANCE WITH THIS ARTICLE SHALL NOT BE CONSTRUED FOR ANY PURPOSE TO CONSTITUTE SUICIDE, ASSISTED SUICIDE, ATTEMPTED SUICIDE, PROMOTING A SUICIDE ATTEMPT, MERCY KILLING, OR HOMICIDE UNDER THE LAW, INCLUDING AS AN ACCOMPLICE OR ACCESSORY OR OTHERWISE.

2. (A) NO PROVISION IN A CONTRACT, WILL OR OTHER AGREEMENT, WHETHER WRITTEN OR ORAL, TO THE EXTENT THE PROVISION WOULD AFFECT WHETHER A PERSON MAY MAKE OR RESCIND A REQUEST FOR MEDICATION OR TAKE ANY OTHER ACTION UNDER THIS ARTICLE, SHALL BE VALID.

(B) NO OBLIGATION OWING UNDER ANY CONTRACT SHALL BE CONDITIONED OR AFFECTED BY THE MAKING OR RESCINDING OF A REQUEST BY A PERSON FOR MEDICATION OR TAKING ANY OTHER ACTION UNDER THIS ARTICLE.

3. (A) A PERSON AND HIS OR HER BENEFICIARIES SHALL NOT BE DENIED BENEFITS UNDER A LIFE INSURANCE POLICY FOR ACTIONS TAKEN IN ACCORDANCE WITH THIS ARTICLE.

(B) THE SALE, PROCUREMENT OR ISSUANCE OF A LIFE OR HEALTH INSURANCE OR ANNUITY POLICY, OR THE RATE CHARGED FOR A POLICY MAY NOT BE CONDITIONED UPON OR AFFECTED BY A PATIENT MAKING OR RESCINDING A REQUEST FOR MEDICATION UNDER THIS ARTICLE.

4. AN INSURER SHALL NOT PROVIDE ANY INFORMATION IN COMMUNICATIONS MADE TO A PATIENT ABOUT THE AVAILABILITY OF MEDICATION UNDER THIS ARTICLE ABSENT A REQUEST BY THE PATIENT OR BY HIS OR HER ATTENDING PHYSICIAN UPON THE REQUEST OF SUCH PATIENT. ANY COMMUNICATION SHALL NOT INCLUDE BOTH THE DENIAL OF COVERAGE FOR TREATMENT AND INFORMATION AS TO THE AVAILABILITY OF MEDICATION UNDER THIS ARTICLE.

5. THE SALE, PROCUREMENT, OR ISSUE OF ANY PROFESSIONAL MALPRACTICE INSURANCE POLICY OR THE RATE CHARGED FOR THE POLICY SHALL NOT BE CONDI-

TIONED UPON OR AFFECTED BY WHETHER THE INSURED DOES OR DOES NOT TAKE OR PARTICIPATE IN ANY ACTION UNDER THIS ARTICLE.

S 2899-P. SAFE DISPOSAL OF UNUSED MEDICATIONS. THE DEPARTMENT SHALL MAKE REGULATIONS PROVIDING FOR THE SAFE DISPOSAL OF UNUSED MEDICATIONS PRESCRIBED, DISPENSED OR ORDERED UNDER THIS ARTICLE.

S 2899-Q. DEATH CERTIFICATE. 1. IF OTHERWISE AUTHORIZED BY LAW, THE ATTENDING PHYSICIAN MAY SIGN THE QUALIFIED INDIVIDUAL'S DEATH CERTIFICATE.

2. THE CAUSE OF DEATH LISTED ON A QUALIFIED INDIVIDUAL'S DEATH CERTIFICATE WHO DIES AFTER SELF-ADMINISTERING MEDICATION UNDER THIS ARTICLE WILL BE THE UNDERLYING TERMINAL ILLNESS.

S 2899-R. REPORTING. 1. THE COMMISSIONER SHALL ANNUALLY REVIEW A SAMPLE OF THE RECORDS MAINTAINED UNDER SECTION TWENTY-EIGHT HUNDRED NINETY-NINE-K OF THIS ARTICLE. THE COMMISSIONER SHALL ADOPT REGULATIONS ESTABLISHING REPORTING REQUIREMENTS FOR PHYSICIANS TAKING ACTION UNDER THIS ARTICLE TO DETERMINE UTILIZATION AND COMPLIANCE WITH THIS ARTICLE. THE INFORMATION COLLECTED UNDER THIS SECTION SHALL NOT CONSTITUTE A PUBLIC RECORD AVAILABLE FOR PUBLIC INSPECTION AND SHALL BE CONFIDENTIAL AND COLLECTED AND MAINTAINED IN A MANNER THAT PROTECTS THE PRIVACY OF THE PATIENT, HIS OR HER FAMILY, AND ANY HEALTH CARE PROVIDER ACTING IN CONNECTION WITH SUCH PATIENT UNDER THIS ARTICLE, EXCEPT THAT SUCH INFORMATION MAY BE DISCLOSED TO A GOVERNMENTAL AGENCY AS AUTHORIZED OR REQUIRED BY LAW RELATING TO PROFESSIONAL DISCIPLINE, PROTECTION OF PUBLIC HEALTH OR LAW ENFORCEMENT.

2. THE COMMISSIONER SHALL PREPARE A REPORT ANNUALLY CONTAINING RELEVANT DATA REGARDING UTILIZATION AND COMPLIANCE WITH THIS ARTICLE AND SHALL POST SUCH REPORT ON THE DEPARTMENT'S WEBSITE.

S 2899-S. PENALTIES. 1. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT PROFESSIONAL DISCIPLINE OR CIVIL LIABILITY RESULTING FROM CONDUCT IN VIOLATION OF THIS ARTICLE, NEGLIGENT CONDUCT, OR INTENTIONAL MISCONDUCT BY ANY PERSON.

2. CONDUCT IN VIOLATION OF THIS ARTICLE SHALL BE SUBJECT TO APPLICABLE CRIMINAL LIABILITY UNDER STATE LAW, INCLUDING, WHERE APPROPRIATE AND WITHOUT LIMITATION, OFFENSES CONSTITUTING HOMICIDE, FORGERY, COERCION, AND RELATED OFFENSES, OR FEDERAL LAW.

S 2899-T. SEVERABILITY. IF ANY PROVISION OF THIS ARTICLE OR ANY APPLICATION OF ANY PROVISION OF THIS ARTICLE, IS HELD TO BE INVALID, OR TO VIOLATE OR BE INCONSISTENT WITH ANY FEDERAL LAW OR REGULATION, THAT SHALL NOT AFFECT THE VALIDITY OR EFFECTIVENESS OF ANY OTHER PROVISION OF THIS ARTICLE, OR OF ANY OTHER APPLICATION OF ANY PROVISION OF THIS ARTICLE, WHICH CAN BE GIVEN EFFECT WITHOUT THAT PROVISION OR APPLICATION; AND TO THAT END, THE PROVISIONS AND APPLICATIONS OF THIS ARTICLE ARE SEVERABLE.

S 3. This act shall take effect immediately.