

7579

I N S E N A T E

May 10, 2016

Introduced by Sens. SAVINO, HOYLMAN -- read twice and ordered printed,
and when printed to be committed 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 ASSEM-
BLY, 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 S 2. The public health law is amended by adding a new article 28-F to
4 read as follows:

5 ARTICLE 28-F
6 MEDICAL AID IN DYING

7 SECTION 2899-D. DEFINITIONS.

8 2899-E. WRITTEN REQUEST FOR MEDICATION.

9 2899-F. REQUEST PROCESS.

10 2899-G. ATTENDING PHYSICIAN RESPONSIBILITIES.

11 2899-H. RIGHT TO RESCIND REQUEST; REQUIREMENT TO OFFER OPPORTU-
12 NITY TO RESCIND.

13 2899-I. CONSULTING PHYSICIAN RESPONSIBILITIES.

14 2899-J. CONFIRMATION OF CAPACITY; REFERRAL.

15 2899-K. MEDICAL RECORD DOCUMENTATION REQUIREMENTS.

16 2899-L. FORM OF WRITTEN REQUEST AND WITNESS ATTESTATION.

17 2899-M. PROTECTION AND IMMUNITIES.

18 2899-N. PERMISSIBLE REFUSALS AND PROHIBITIONS.

19 2899-O. RELATION TO OTHER LAWS AND CONTRACTS.

20 2899-P. SAFE DISPOSAL OF UNUSED MEDICATIONS.

21 2899-Q. DEATH CERTIFICATE.

22 2899-R. REPORTING.

23 2899-S. PENALTIES.

24 2899-T. SEVERABILITY.

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

26 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.

LBD07446-31-6

1 2. "ATTENDING PHYSICIAN" MEANS THE PHYSICIAN WHO HAS PRIMARY RESPONSI-
2 BILITY FOR THE CARE OF THE PATIENT AND TREATMENT OF THE PATIENT'S TERMI-
3 NAL DISEASE.

4 3. "CAPACITY" OR "CAPACITY TO MAKE AN INFORMED DECISION" MEANS THE
5 ABILITY TO UNDERSTAND AND APPRECIATE THE NATURE AND CONSEQUENCES OF
6 HEALTH CARE DECISIONS, INCLUDING THE BENEFITS AND RISKS OF AND ALTERNA-
7 TIVES TO ANY PROPOSED HEALTH CARE, AND TO REACH AN INFORMED DECISION AND
8 TO COMMUNICATE HEALTH CARE DECISIONS TO A PHYSICIAN, INCLUDING COMMUNI-
9 CATION THROUGH PERSONS FAMILIAR WITH THE PATIENT'S MANNER OF COMMUNICAT-
10 ING IF THOSE PERSONS ARE AVAILABLE.

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

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

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

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

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

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

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

29 (D) THE POSSIBILITY THAT THE PATIENT MAY CHOOSE NOT TO OBTAIN THE
30 MEDICATION, OR MAY OBTAIN THE MEDICATION BUT MAY DECIDE NOT TO SELF-AD-
31 MINISTER IT; AND

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

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

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

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

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

53 12. "PALLIATIVE CARE" MEANS HEALTH CARE TREATMENT, INCLUDING INTERDIS-
54 CIPLINARY END-OF-LIFE CARE, AND CONSULTATION WITH PATIENTS AND FAMILY
55 MEMBERS, TO PREVENT OR RELIEVE PAIN AND SUFFERING AND TO ENHANCE THE

1 PATIENT'S QUALITY OF LIFE, INCLUDING HOSPICE CARE UNDER ARTICLE FORTY OF
2 THIS CHAPTER.

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

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

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

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

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

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

20 (A) HAS BEEN DETERMINED BY THE ATTENDING PHYSICIAN TO HAVE A TERMINAL
21 ILLNESS AND WHICH HAS BEEN MEDICALLY CONFIRMED BY A CONSULTING PHYSI-
22 CIAN; AND

23 (B) VOLUNTARILY EXPRESSES THE REQUEST FOR MEDICATION.

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

26 S 2899-F. REQUEST PROCESS. 1. ORAL AND WRITTEN REQUEST. A PATIENT
27 WISHING TO REQUEST MEDICATION UNDER THIS ARTICLE SHALL MAKE AN ORAL
28 REQUEST AND SUBMIT A WRITTEN REQUEST TO THE PATIENT'S ATTENDING PHYSI-
29 CIAN.

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

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

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

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

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

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

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

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

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

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

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

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

5 (E) ENSURE THAT THE PATIENT IS MAKING AN INFORMED DECISION BY DISCUSS-
6 ING WITH THE PATIENT: (I) THE PATIENT'S MEDICAL DIAGNOSIS AND PROGNOSIS;
7 (II) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE
8 PRESCRIBED; (III) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE
9 PRESCRIBED; (IV) THE POSSIBILITY THAT THE PATIENT MAY CHOOSE TO OBTAIN
10 THE MEDICATION BUT NOT TAKE IT; AND (V) THE FEASIBLE ALTERNATIVES OR
11 ADDITIONAL TREATMENT OPPORTUNITIES, INCLUDING BUT NOT LIMITED TO PALLIA-
12 TIVE CARE AND HOSPICE CARE;

13 (F) DISCUSS WITH THE PATIENT THE IMPORTANCE OF:

14 (I) HAVING ANOTHER PERSON PRESENT WHEN THE PATIENT TAKES THE MEDICA-
15 TION; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

6 2. A MENTAL HEALTH PROFESSIONAL WHO EVALUATES A PATIENT UNDER THIS
7 SECTION SHALL REPORT, IN WRITING, TO THE PHYSICIAN WHO REQUESTED THE
8 EVALUATION, HIS OR HER CONCLUSIONS ABOUT WHETHER THE PATIENT HAS CAPACI-
9 TY TO MAKE AN INFORMED DECISION. IF THE WRITTEN REPORT IS PROVIDED TO
10 THE CONSULTING PHYSICIAN, THE CONSULTING PHYSICIAN SHALL PROMPTLY
11 PROVIDE A COPY OF THE REPORT TO THE ATTENDING PHYSICIAN. IF THE MENTAL
12 HEALTH PROFESSIONAL DETERMINES THAT THE PATIENT LACKS CAPACITY TO MAKE
13 AN INFORMED DECISION, THE PATIENT SHALL NOT BE DEEMED A QUALIFIED INDI-
14 VIDUAL, AND THE ATTENDING PHYSICIAN SHALL NOT PRESCRIBE MEDICATION TO
15 THE PATIENT.

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

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

21 2. THE WRITTEN REQUEST BY THE PATIENT FOR MEDICATION UNDER THIS ARTI-
22 CLE;

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

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

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

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

35 REQUEST FOR MEDICATION TO END MY LIFE

36 I, _____, AM AN ADULT WHO HAS CAPACITY,
37 WHICH MEANS I UNDERSTAND AND APPRECIATE THE NATURE AND CONSEQUENCES OF
38 HEALTH CARE DECISIONS, INCLUDING THE BENEFITS AND RISKS OF AND ALTERNA-
39 TIVES TO ANY PROPOSED HEALTH CARE, AND TO REACH AN INFORMED DECISION AND
40 TO COMMUNICATE HEALTH CARE DECISIONS TO A PHYSICIAN.

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

44 I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS AND PROGNOSIS, THE NATURE
45 OF THE MEDICATION TO BE PRESCRIBED AND POTENTIAL ASSOCIATED RISKS, THE
46 EXPECTED RESULT, AND THE FEASIBLE ALTERNATIVES OR TREATMENT OPPORTU-
47 NITIES INCLUDING PALLIATIVE CARE AND HOSPICE CARE.

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

51 INITIAL ONE:

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

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

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

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

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

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

9 SIGNED: _____

10 DATED: _____

11 DECLARATION OF WITNESSES

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

- 14 (A) IS PERSONALLY KNOWN TO ME OR HAS PROVIDED PROOF OF IDENTITY;
- 15 (B) VOLUNTARILY SIGNED THE "REQUEST FOR MEDICATION TO END MY LIFE" IN
16 MY PRESENCE OR ACKNOWLEDGED TO ME THAT HE OR SHE SIGNED IT; AND
- 17 (C) TO THE BEST OF MY KNOWLEDGE AND BELIEF, HAS CAPACITY AND IS NOT
18 BEING COERCED TO SIGN THE "REQUEST FOR MEDICATION TO END MY LIFE".

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

24 _____ WITNESS 1, DATE: _____

25 _____ WITNESS 2, DATE: _____

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

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

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

43 INTERPRETER'S DECLARATION

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

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

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

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

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

15 _____ [SIGNATURE OF INTERPRETER]

16 _____ [PRINTED NAME OF INTERPRETER]

17 _____ [ADDRESS OF INTERPRETER]

18 _____

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

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

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

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

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

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

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

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

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

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

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

24 S 2899-0. RELATION TO OTHER LAWS AND CONTRACTS. 1. (A) A PATIENT WHO
25 REQUESTS MEDICATION UNDER THIS ARTICLE SHALL NOT, BECAUSE OF THAT
26 REQUEST, BE CONSIDERED TO BE A PERSON WHO IS SUICIDAL, AND SELF-ADMINIS-
27 TERING MEDICATION UNDER THIS ARTICLE SHALL NOT BE DEEMED TO BE SUICIDE,
28 FOR ANY PURPOSE.

29 (B) ACTION TAKEN IN ACCORDANCE WITH THIS ARTICLE SHALL NOT BE
30 CONSTRUED FOR ANY PURPOSE TO CONSTITUTE SUICIDE, ASSISTED SUICIDE,
31 ATTEMPTED SUICIDE, PROMOTING A SUICIDE ATTEMPT, MERCY KILLING, OR HOMI-
32 CIDE UNDER THE LAW, INCLUDING AS AN ACCOMPLICE OR ACCESSORY OR OTHER-
33 WISE.

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

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

41 3. (A) A PERSON AND HIS OR HER BENEFICIARIES SHALL NOT BE DENIED BENE-
42 FITS UNDER A LIFE INSURANCE POLICY FOR ACTIONS TAKEN IN ACCORDANCE WITH
43 THIS ARTICLE.

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

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

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

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

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

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

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

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

25 2. THE COMMISSIONER SHALL PREPARE A REPORT ANNUALLY CONTAINING RELE-
26 VANT DATA REGARDING UTILIZATION AND COMPLIANCE WITH THIS ARTICLE AND
27 SHALL POST SUCH REPORT ON THE DEPARTMENT'S WEBSITE.

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

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

36 S 2899-T. SEVERABILITY. IF ANY PROVISION OF THIS ARTICLE OR ANY APPLI-
37 CATION OF ANY PROVISION OF THIS ARTICLE, IS HELD TO BE INVALID, OR TO
38 VIOLATE OR BE INCONSISTENT WITH ANY FEDERAL LAW OR REGULATION, THAT
39 SHALL NOT AFFECT THE VALIDITY OR EFFECTIVENESS OF ANY OTHER PROVISION OF
40 THIS ARTICLE, OR OF ANY OTHER APPLICATION OF ANY PROVISION OF THIS ARTI-
41 CLE, WHICH CAN BE GIVEN EFFECT WITHOUT THAT PROVISION OR APPLICATION;
42 AND TO THAT END, THE PROVISIONS AND APPLICATIONS OF THIS ARTICLE ARE
43 SEVERABLE.

44 S 3. This act shall take effect immediately.