

# STATE OF NEW YORK

3947

2019-2020 Regular Sessions

## IN SENATE

February 21, 2019

Introduced by Sens. SAVINO, RIVERA, HOYLMAN, KRUEGER, SEPULVEDA -- 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 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.

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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 2899-r. Penalties.

22 2899-s. Severability.

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

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

LBD00626-02-9

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

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

5 3. "Capacity" means the ability to understand and appreciate the  
6 nature and consequences of health care decisions, including the benefits  
7 and risks of and alternatives to any proposed health care, including  
8 medical aid in dying, and to reach an informed decision.

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

12 5. "Health care facility" means a general hospital, nursing home, or  
13 residential health care facility as defined in section twenty-eight  
14 hundred one of this chapter, or a hospice as defined in section four  
15 thousand two of this chapter; provided that for the purposes of section  
16 twenty eight hundred ninety-nine-m of this article, "hospice" shall  
17 refer only to a facility providing in-patient hospice care or a hospice  
18 residence.

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

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

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

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

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

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

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

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

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

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

47 11. "Mental health professional" means a licensed physician, who is a  
48 diplomate or eligible to be certified by a national board of psychiatry,  
49 psychiatric nurse practitioner, or psychologist, licensed or certified  
50 under the education law acting within his or her scope of practice and  
51 who is qualified, by training and experience, certification, or board  
52 certification or eligibility, to make a determination under section  
53 twenty-eight hundred ninety-nine-i of this article.

54 12. "Palliative care" means health care treatment, including interdis-  
55 ciplinary end-of-life care, and consultation with patients and family  
56 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 or  
8 condition, who has capacity, has made an informed decision, and has  
9 satisfied the requirements of this article in order to obtain a  
10 prescription for medication.

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

16 § 2899-e. Request process. 1. Oral and written request. A patient  
17 wishing to request medication under this article shall make an oral  
18 request and submit a written request to the patient's attending physi-  
19 cian.

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

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

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

29 3. Written request signed and witnessed. (a) A written request for  
30 medication under this article shall be signed and dated by the patient  
31 and witnessed by at least two adults who, in the presence of the  
32 patient, attest that to the best of his or her knowledge and belief the  
33 patient has capacity, is acting voluntarily, is making the request for  
34 medication of his or her own volition 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-k 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, employee or independent contractor of a  
43 health care facility where the patient is receiving treatment or is a  
44 resident.

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

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

50 5. Requests for a medical aid-in-dying prescription must be made by  
51 the qualified individual and may not be made by any other individual,  
52 including the qualified individual's health care agent, or other agent  
53 or surrogate, or via advance healthcare directive.

54 § 2899-f. Attending physician responsibilities. 1. The attending  
55 physician shall examine the patient and his or her relevant medical  
56 records and:

1 (a) make a determination of whether a patient has a terminal illness  
2 or condition, has capacity, has made an informed decision and has made  
3 the request voluntarily of the patient's own volition and without coer-  
4 cion;

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

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

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

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

29 (f) offer to refer the patient for other appropriate treatment  
30 options, including but not limited to palliative care and hospice care;

31 (g) discuss with the patient the importance of:

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

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

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

40 (h) inform the patient that he or she may rescind the request for  
41 medication at any time and in any manner;

42 (i) fulfill the medical record documentation requirements of section  
43 twenty-eight hundred ninety-nine-j of this article; and

44 (j) ensure that all appropriate steps are carried out in accordance  
45 with this article before writing a prescription for medication.

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

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

5 § 2899-g. Right to rescind request; requirement to offer opportunity  
6 to rescind. 1. A patient may at any time rescind his or her request for  
7 medication under this article without regard to the patient's capacity.

8 2. A prescription for medication may not be written without the  
9 attending physician offering the qualified individual an opportunity to  
10 rescind the request.

11 § 2899-h. Consulting physician responsibilities. Before a patient who  
12 is requesting medication may receive a prescription for medication under  
13 this article, a consulting physician must:

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

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

22 § 2899-i. Referral to mental health professional. 1. If the attending  
23 physician or the consulting physician determines that the patient may  
24 lack capacity to make an informed decision due to a condition, includ-  
25 ing, but not limited to, a psychiatric or psychological disorder, or  
26 other condition causing impaired judgement, the attending physician or  
27 consulting physician shall refer the patient to a mental health profes-  
28 sional for a determination of whether the patient has capacity to make  
29 an informed decision. The referring physician shall advise the patient  
30 that the report of the mental health professional will be provided to  
31 the attending physician and the consulting physician.

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

43 3. A determination made pursuant to this section that an adult patient  
44 lacks decision-making capacity shall not be construed as a finding that  
45 the patient lacks capacity for any other purpose.

46 § 2899-j. Medical record documentation requirements. An attending  
47 physician shall document or file the following in the patient's medical  
48 record:

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

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

54 3. the attending physician's diagnosis and prognosis, determination of  
55 capacity, and determination that the patient is acting voluntarily, of

the patient's own volition and without coercion, and has made an informed decision;

4. if applicable, written confirmation of capacity under section twenty-eight hundred ninety-nine-i 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.

§ 2899-k. 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 have been diagnosed with \_\_\_\_\_ (insert diagnosis), which my attending physician has determined is a terminal illness or condition, 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 and treatment options including but not limited to 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 one or more members of my family of my decision.

( ) I have decided not to inform any member of 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, of my own volition 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

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

5 I am not the attending physician or consulting physician of the person  
6 signing the "Request for Medication to End My Life" or, if applicable,  
7 the mental health professional who provides a capacity determination of  
8 the person signing the "Request for Medication to End My Life" at the  
9 time the "Request for Medication to End My Life" was signed.

10 I further declare under penalty of perjury that the statements made  
11 herein are true and correct and false statements made herein are punish-  
12 able.

13 \_\_\_\_\_  
Witness 1, Date:

14 \_\_\_\_\_  
(Printed name)

15 \_\_\_\_\_  
(Address)

16 \_\_\_\_\_  
(Telephone number)

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

24 \_\_\_\_\_  
Witness 2, Date:

25 \_\_\_\_\_  
(Printed name)

26 \_\_\_\_\_  
(Address)

27 \_\_\_\_\_  
(Telephone number)

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

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

38 (b) Notwithstanding paragraph (a) of this subdivision, the written  
39 "Request for Medication to End My Life" may be prepared in English even  
40 when the conversations or consultations or interpreted conversations or  
41 consultations were conducted in a language other than English or with  
42 auxiliary aids or hearing, speech or visual aids, if the English  
43 language form includes an attached declaration by the interpreter of the  
44 conversation or consultation, which shall be in substantially the  
45 following form:

INTERPRETER'S DECLARATION

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

( ) for a patient whose conversations or consultations or interpreted  
conversations or consultations were conducted in a language other than  
English and the "Request for Medication to End My Life" is in English: I  
declare that I am fluent in English and (insert target language). I have  
the requisite language and interpreter skills to be able to interpret  
effectively, accurately and impartially information shared and communi-  
cations between the attending or consulting physician and (name of  
patient).

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

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

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

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

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

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



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

2 \_\_\_\_\_ (Address of Interpreter)

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

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

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

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

32 § 2899-m. Permissible refusals and prohibitions. 1. (a) A physician,  
33 nurse, pharmacist, other health care provider or other person shall not  
34 be under any duty, by law or contract, to participate in the provision  
35 of medication to a patient under this article.

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

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

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

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

52 (b) Where a facility has adopted a prohibition under this subdivision,  
53 if a patient who wishes to use medication under this article requests,

1 the patient shall be transferred promptly to another health care facili-  
2 ty that is reasonably accessible under the circumstances and willing to  
3 permit the prescribing, dispensing, ordering and self-administering of  
4 medication under this article with respect to the patient.

5 3. Where a health care facility has adopted a prohibition under this  
6 subdivision, any health care provider or employee or independent  
7 contractor of the facility who violates the prohibition may be subject  
8 to sanctions otherwise available to the facility, provided the facility  
9 has previously notified the health care provider, employee or independ-  
10 ent contractor of the prohibition in writing.

11 § 2899-n. Relation to other laws and contracts. 1. (a) A patient who  
12 requests medication under this article shall not, because of that  
13 request, be considered to be a person who is suicidal, and self-adminis-  
14 tering medication under this article shall not be deemed to be suicide,  
15 for any purpose.

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

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

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

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

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

36 4. An insurer shall not provide any information in communications made  
37 to a patient about the availability of medication under this article  
38 absent a request by the patient or by his or her attending physician  
39 upon the request of such patient. Any communication shall not include  
40 both the denial of coverage for treatment and information as to the  
41 availability of medication under this article.

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

46 § 2899-o. Safe disposal of unused medications. A person who has  
47 custody or control of any unused medication prescribed under this arti-  
48 cle after the death of the qualified individual shall personally deliver  
49 the unused medication for disposal to the nearest qualified facility  
50 that properly disposes of controlled substances or shall dispose of it  
51 by lawful means in accordance with regulations made by the commissioner,  
52 regulations made by or guidelines of the commissioner of education, or  
53 guidelines of a federal drug enforcement administration approved take-  
54 back program. A qualified facility that properly disposes of controlled  
55 substances shall accept and dispose of any medication delivered to it as  
56 provided hereunder regardless of whether such medication is a controlled

1 substance. The commissioner may make regulations as may be appropriate  
2 for the safe disposal of unused medications prescribed, dispensed or  
3 ordered under this article as provided in this section.

4 § 2899-p. Death certificate. 1. If otherwise authorized by law, the  
5 attending physician may sign the qualified individual's death certifi-  
6 cate.

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

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

24 2. The commissioner shall prepare a report annually containing rele-  
25 vant data regarding utilization and compliance with this article and  
26 shall send such report to the legislature, and post such report on the  
27 department's website.

28 § 2899-r. 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 § 2899-s. 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 § 3. This act shall take effect immediately.