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2023-2024 Regular Sessions

IN SENATE

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Introduced by Sens. HOYLMAN-SIGAL, SCARCELLA-SPANTON, BRESLIN, BRISPORT, BROUK, COMRIE, COONEY, FERNANDEZ, GIANARIS, GONZALEZ, HARCKHAM, JACKSON, KENNEDY, KRUEGER, MYRIE, RAMOS, RIVERA, RYAN, SALAZAR, SANDERS, SEPULVEDA, SERRANO, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

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

ARTICLE 28-F

MEDICAL AID IN DYING

Section 2899-d. Definitions.

8 2899-e. Request process.

9 2899-f. Attending physician responsibilities.

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

11 2899-h. Consulting physician responsibilities.

12 2899-i. Referral to mental health professional.

13 2899-j. Medical record documentation requirements.

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

15 2899-l. Protection and immunities.

16
EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD02188-09-4

1 2899-m. Permissible refusals and prohibitions.

2 2899-n. Relation to other laws and contracts.

3 2899-o. Safe disposal of unused medications.

4 2899-p. Death certificate.

5 2899-q. Reporting.

6 2899-r. Penalties.

7 2899-s. Severability.

8 § 2899-d. Definitions. As used in this article:

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

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

13 3. "Decision-making capacity" means the ability to understand and
14 appreciate the nature and consequences of health care decisions, includ-
15 ing the benefits and risks of and alternatives to any proposed health
16 care, including medical aid in dying, and to reach an informed decision.

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

20 5. "Health care facility" means a general hospital, nursing home, or
21 residential health care facility as defined in section twenty-eight
22 hundred one of this chapter, or a hospice as defined in section four
23 thousand two of this chapter; provided that for the purposes of section
24 twenty eight hundred ninety-nine-m of this article, "hospice" shall
25 refer only to a facility providing in-patient hospice care or a hospice
26 residence.

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

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

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

37 (b) the potential risks associated with taking the medication to be
38 prescribed;

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

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

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

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

48 9. "Medically confirmed" means the medical opinion of the attending
49 physician that a patient has a terminal illness or condition and has
50 made an informed decision which has been confirmed by a consulting
51 physician who has examined the patient and the patient's relevant
52 medical records.

53 10. "Medication" means medication prescribed by a physician under this
54 article.

55 11. "Mental health professional" means a licensed physician, who is a
56 diplomate or eligible to be certified by a national board of psychiatry,

1 psychiatric nurse practitioner, or psychologist, licensed or certified
2 under the education law acting within such mental health professional's
3 scope of practice and who is qualified, by training and experience,
4 certification, or board certification or eligibility, to make a determi-
5 nation under section twenty-eight hundred ninety-nine-i of this article.

6 12. "Palliative care" means health care treatment, including interdis-
7 ciplinary end-of-life care, and consultation with patients and family
8 members, to prevent or relieve pain and suffering and to enhance the
9 patient's quality of life, including hospice care under article forty of
10 this chapter.

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

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

15 15. "Qualified individual" means a patient with a terminal illness or
16 condition, who has decision-making capacity, has made an informed deci-
17 sion, and has satisfied the requirements of this article in order to
18 obtain a prescription for medication.

19 16. "Self-administer" means a qualified individual's affirmative,
20 conscious, and voluntary act to ingest medication under this article.
21 Self-administration does not include lethal injection or lethal
22 infusion.

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

26 18. "Third-party health care payer" has its ordinary meaning and
27 includes, but is not limited to, an insurer, organization or corporation
28 licensed or certified under article thirty-two, forty-three or forty-
29 seven of the insurance law, or article forty-four of the public health
30 law; or an entity such as a pharmacy benefits manager, fiscal adminis-
31 trator, or administrative services provider that participates in the
32 administration of a third-party health care payer system.

33 § 2899-e. Request process. 1. Oral and written request. A patient
34 wishing to request medication under this article shall make an oral
35 request and submit a written request to the patient's attending physi-
36 cian.

37 2. Making a written request. A patient may make a written request for
38 and consent to self-administer medication for the purpose of ending such
39 patient's life in accordance with this article if the patient:

40 (a) has been determined by the attending physician to have a terminal
41 illness or condition and which has been medically confirmed by a
42 consulting physician; and

43 (b) based on an informed decision, expresses voluntarily, of the
44 patient's own volition and without coercion the request for medication
45 to end such patient's life.

46 3. Written request signed and witnessed. (a) A written request for
47 medication under this article shall be signed and dated by the patient
48 and witnessed by at least two adults who, in the presence of the
49 patient, attest that to the best of the persons knowledge and belief the
50 patient has decision-making capacity, is acting voluntarily, is making
51 the request for medication of the patient's own volition and is not
52 being coerced to sign the request. The written request shall be in
53 substantially the form described in section twenty-eight hundred nine-
54 ty-nine-k of this article.

55 (b) Both witnesses shall be adults who are not:

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

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

4 (iii) an owner, operator, employee or independent contractor of a
5 health care facility where the patient is receiving treatment or is a
6 resident;

7 (iv) a domestic partner of the patient, as defined in subdivision
8 seven of section twenty-nine hundred ninety-four-a of this chapter;

9 (v) an agent under the patient's health care proxy as defined in
10 subdivision five of section twenty-nine hundred eighty of this chapter;
11 or

12 (vi) an agent acting under a power of attorney for the patient as
13 defined in section 5-1501 of the general obligations law.

14 (c) The attending physician, consulting physician and, if applicable,
15 the mental health professional who provides a decision-making capacity
16 determination of the patient under this article shall not be a witness.

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

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

23 § 2899-f. Attending physician responsibilities. 1. The attending
24 physician shall examine the patient and the patient's relevant medical
25 records and:

26 (a) make a determination of whether a patient has a terminal illness
27 or condition, has decision-making capacity, has made an informed deci-
28 sion and has made the request voluntarily of the patient's own volition
29 and without coercion;

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

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

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

39 (e) ensure that the patient is making an informed decision by discuss-
40 ing with the patient: (i) the patient's medical diagnosis and prognosis;
41 (ii) the potential risks associated with taking the medication to be
42 prescribed; (iii) the probable result of taking the medication to be
43 prescribed; (iv) the possibility that the patient may choose to obtain
44 the medication but not take it; (v) the feasible alternatives and appro-
45 priate treatment options, including but not limited to (1) information
46 and counseling regarding palliative and hospice care and end-of-life
47 options appropriate to the patient, including but not limited to: the
48 range of options appropriate to the patient; the prognosis, risks and
49 benefits of the various options; and the patient's legal rights to
50 comprehensive pain and symptom management at the end of life; and (2)
51 information regarding treatment options appropriate to the patient,
52 including the prognosis, risks and benefits of the various treatment
53 options;

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

1 (g) provide health literate and culturally appropriate educational
2 material regarding hospice and palliative care that has been prepared by
3 the department in consultation with representatives of hospice and
4 palliative care providers from all regions of New York state, and that
5 is available on the department's website for access and download,
6 provided, however, an otherwise eligible patient cannot be denied care
7 under this article if these materials are not developed by the effective
8 date of this article;

9 (h) discuss with the patient the importance of:

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

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

14 (iii) informing the patient's family of the patient's decision to
15 request and take medication that will end the patient's life; a patient
16 who declines or is unable to notify family shall not have such patient's
17 request for medication denied for that reason;

18 (i) inform the patient that such patient may rescind the request for
19 medication at any time and in any manner;

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

22 (k) ensure that all appropriate steps are carried out in accordance
23 with this article before writing a prescription for medication.

24 2. Upon receiving confirmation from a consulting physician under
25 section twenty-eight hundred ninety-nine-h of this article and subject
26 to section twenty-eight hundred ninety-nine-i of this article, the
27 attending physician who determines that the patient has a terminal
28 illness or condition, has decision-making capacity and has made a volun-
29 tary request for medication as provided in this article, may personally,
30 or by referral to another physician, prescribe or order appropriate
31 medication in accordance with the patient's request under this article,
32 and at the patient's request, facilitate the filling of the prescription
33 and delivery of the medication to the patient.

34 3. In accordance with the direction of the prescribing or ordering
35 physician and the consent of the patient, the patient may self-adminis-
36 ter the medication to themselves. A health care professional or other
37 person shall not administer the medication to the patient.

38 § 2899-g. Right to rescind request; requirement to offer opportunity
39 to rescind. 1. A patient may at any time rescind the request for medi-
40 cation under this article without regard to the patient's decision-mak-
41 ing capacity.

42 2. A prescription for medication may not be written without the
43 attending physician offering the qualified individual an opportunity to
44 rescind the request.

45 § 2899-h. Consulting physician responsibilities. Before a patient who
46 is requesting medication may receive a prescription for medication under
47 this article, a consulting physician must:

48 1. examine the patient and such patient's relevant medical records;

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

1 § 2899-i. Referral to mental health professional. 1. If the attending
 2 physician or the consulting physician determines that the patient may
 3 lack decision-making capacity to make an informed decision due to a
 4 condition, including, but not limited to, a psychiatric or psychological
 5 disorder, or other condition causing impaired judgement, the attending
 6 physician or consulting physician shall refer the patient to a mental
 7 health professional for a determination of whether the patient has deci-
 8 sion-making capacity to make an informed decision. The referring physi-
 9 cian shall advise the patient that the report of the mental health
 10 professional will be provided to the attending physician and the
 11 consulting physician.

12 2. A mental health professional who evaluates a patient under this
 13 section shall report, in writing, to the attending physician and the
 14 consulting physician, the mental health professional's independent
 15 conclusions about whether the patient has decision-making capacity to
 16 make an informed decision, provided that if, at the time of the report,
 17 the patient has not yet been referred to a consulting physician, then
 18 upon referral the attending physician shall provide the consulting
 19 physician with a copy of the mental health professional's report. If the
 20 mental health professional determines that the patient lacks decision-
 21 making capacity to make an informed decision, the patient shall not be
 22 deemed a qualified individual, and the attending physician shall not
 23 prescribe medication to the patient.

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

27 § 2899-j. Medical record documentation requirements. An attending
 28 physician shall document or file the following in the patient's medical
 29 record:

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

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

35 3. the attending physician's diagnosis and prognosis, determination of
 36 decision-making capacity, and determination that the patient is acting
 37 voluntarily, of the patient's own volition and without coercion, and has
 38 made an informed decision;

39 4. if applicable, written confirmation of decision-making capacity
 40 under section twenty-eight hundred ninety-nine-i of this article; and

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

45 § 2899-k. Form of written request and witness attestation. 1. A
 46 request for medication under this article shall be in substantially the
 47 following form:

48 REQUEST FOR MEDICATION TO END MY LIFE

49 I, _____, am an adult who has decision-
 50 making capacity, which means I understand and appreciate the nature and
 51 consequences of health care decisions, including the benefits and risks
 52 of and alternatives to any proposed health care, and to reach an
 53 informed decision and to communicate health care decisions to a physi-
 54 cian.

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 the person signed it; and

(c) to the best of my knowledge and belief, has decision-making capacity and is making the "Request for Medication to End My Life" voluntarily, of the person's own volition 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 decision-making 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.

I further declare under penalty of perjury that the statements made herein are true and correct and false statements made herein are punishable.

Witness 1, Date:

(Printed name)

(Address)

1 (Telephone number)

2 I further declare that I am not (i) related to the above-named patient
3 by blood, marriage or adoption, (ii) entitled at the time the patient
4 signed the "Request for Medication to End My Life" to any portion of the
5 estate of the patient upon such patient's death under any will or by
6 operation of law, or (iii) an owner, operator, employee or independent
7 contractor of a health care facility where the patient is receiving
8 treatment or is a resident.

9 Witness 2, Date:

10 (Printed name)

11 (Address)

12 (Telephone number)

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

20 2. (a) The "Request for Medication to End My Life" shall be written in
21 the same language as any conversations, consultations, or interpreted
22 conversations or consultations between a patient and at least one of the
23 patient's attending or consulting physicians.

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

32 INTERPRETER'S DECLARATION

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

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

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

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

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

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

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

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

35 (Signature of Interpreter)

36 (Printed name of Interpreter)

37 (ID # or Agency Name)

38 (Address of Interpreter)

39 (Language Spoken by Interpreter)

40 (c) An interpreter whose services are provided under paragraph (b) of
41 this subdivision shall not (i) be related to the patient who signs the
42 "Request for Medication to End My Life" by blood, marriage or adoption,
43 (ii) be entitled at the time the "Request for Medication to End My Life"
44 is signed by the patient to any portion of the estate of the patient
45 upon death under any will or by operation of law, or (iii) be an owner,
46 operator, employee or independent contractor of a health care facility
47 where the patient is receiving treatment or is a resident; provided that
48 an employee or independent contractor whose job description at the
49 health care facility includes interpreter services or who is trained to

1 provide interpreter services and who has been requested by the patient
2 to serve as an interpreter under this article shall not be prohibited
3 from serving as an interpreter under this article.

4 § 2899-l. Protection and immunities. 1. A physician, pharmacist, other
5 health care provider or other person shall not be subject to civil,
6 administrative, or criminal liability or penalty or professional disci-
7 plinary action by any government entity for taking any reasonable good-
8 faith action or refusing to act under this article, including, but not
9 limited to: (a) engaging in discussions with a patient relating to the
10 risks and benefits of end-of-life options in the circumstances described
11 in this article, (b) providing a patient, upon request, with a referral
12 to another health care provider, (c) being present when a qualified
13 individual self-administers medication, (d) refraining from acting to
14 prevent the qualified individual from self-administering such medica-
15 tion, or (e) refraining from acting to resuscitate the qualified indi-
16 vidual after the qualified individual self-administers such medication.

17 2. A health care provider or other person shall not be subject to
18 employment, credentialing, or contractual liability or penalty for any
19 reasonable good-faith action or refusing to act under this article,
20 including, but not limited to:

21 (a) engaging in discussions with a patient relating to the risks and
22 benefits of end-of-life options in the circumstances described in this
23 article;

24 (b) providing a patient, upon request, with a referral to another
25 health care provider;

26 (c) being present when a qualified individual self-administers medica-
27 tion;

28 (d) refraining from acting to prevent the qualified individual from
29 self-administering such medication; or

30 (e) refraining from acting to resuscitate the qualified individual
31 after the qualified individual self-administers such medication. Howev-
32 er, this subdivision does not bar a health care facility from acting
33 under paragraph (c) of subdivision two of section twenty-eight hundred
34 ninety-nine-m of this article.

35 3. Nothing in this section shall limit civil, administrative, or crim-
36 inal liability or penalty or any professional disciplinary action, or
37 employment, credentialing, or contractual liability or penalty for
38 negligence, recklessness or intentional misconduct.

39 § 2899-m. Permissible refusals and prohibitions. 1. (a) A physician,
40 nurse, pharmacist, other health care provider or other person shall not
41 be under any duty, by law or contract, to participate in the provision
42 of medication to a patient under this article.

43 (b) If a health care provider is unable or unwilling to participate in
44 the provision of medication to a patient under this article and the
45 patient transfers care to a new health care provider, the prior health
46 care provider shall transfer or arrange for the transfer, upon request,
47 of a copy of the patient's relevant medical records to the new health
48 care provider.

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

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

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

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

9 (c) Where a health care facility has adopted a prohibition under this
10 subdivision, any health care provider or employee or independent
11 contractor of the facility who violates the prohibition may be subject
12 to sanctions otherwise available to the facility, provided the facility
13 has previously notified the health care provider, employee or independ-
14 ent contractor of the prohibition in writing.

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

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

25 2. (a) No provision in a contract, other agreement or testamentary
26 instrument, whether written or oral, to the extent the provision would
27 affect whether a person may make or rescind a request for medication or
28 take any other action under this article, shall be valid.

29 (b) No obligation owing under any contract, other agreement or testa-
30 mentary instrument shall be conditioned or affected by the making or
31 rescinding of a request by a person for medication or taking any other
32 action under this article.

33 3. (a) A person and such person's beneficiaries shall not be denied
34 benefits under a life insurance policy for actions taken in accordance
35 with this article.

36 (b) The sale, procurement or issuance of a life insurance or annuity
37 policy or third-party health care payer policy or coverage, or the rate
38 charged for a policy or coverage, shall not be conditioned upon or
39 affected by a patient making or rescinding a request for medication
40 under this article.

41 (c) This article shall not limit the effect of a life insurance policy
42 provision concerning incontestability pursuant to article thirty-two of
43 the insurance law or any rights or obligations concerning a material
44 misrepresentation in accordance with article thirty-one of the insurance
45 law.

46 (d) No third-party health care payer may deny coverage for any service
47 or item that would otherwise be covered by the policy because the
48 patient has or has not chosen to request or use medication under this
49 article.

50 4. An insurer or third-party health care payer shall not provide any
51 information in communications made to a patient about the availability
52 of medication under this article absent a request by the patient or by
53 such patient's attending physician upon the request of such patient. Any
54 communication shall not include both the denial of coverage for treat-
55 ment and information as to the availability of medication under this
56 article. This subdivision does not bar the inclusion of information as

1 to the coverage of medication and professional services under this arti-
2 cle in information generally stating what is covered by a third-party
3 health care payer or provided in response to a request by the patient or
4 by such patient's attending physician upon the request of the patient.

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

9 § 2899-o. Safe disposal of unused medications. A person who has
10 custody or control of any unused medication prescribed under this arti-
11 cle after the death of the qualified individual shall personally deliver
12 the unused medication for disposal to the nearest qualified facility
13 that properly disposes of controlled substances or shall dispose of it
14 by lawful means in accordance with regulations made by the commissioner,
15 regulations made by or guidelines of the commissioner of education, or
16 guidelines of a federal drug enforcement administration approved take-
17 back program. A qualified facility that properly disposes of controlled
18 substances shall accept and dispose of any medication delivered to it as
19 provided hereunder regardless of whether such medication is a controlled
20 substance. The commissioner may make regulations as may be appropriate
21 for the safe disposal of unused medications prescribed, dispensed or
22 ordered under this article as provided in this section.

23 § 2899-p. Death certificate. 1. If otherwise authorized by law, the
24 attending physician may sign the qualified individual's death certifi-
25 cate.

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

29 § 2899-q. Reporting. 1. The commissioner shall annually review a
30 sample of the records maintained under sections twenty-eight hundred
31 ninety-nine-j and twenty-eight hundred ninety-nine-p of this article.
32 The commissioner shall adopt regulations establishing reporting require-
33 ments for physicians taking action under this article to determine
34 utilization and compliance with this article. The information collected
35 under this subdivision shall not constitute a public record available
36 for public inspection and shall be confidential and collected and main-
37 tained in a manner that protects the privacy of the patient, the
38 patient's family, and any health care provider acting in connection with
39 such patient under this article, except that such information may be
40 disclosed to a governmental agency as authorized or required by law
41 relating to professional discipline, protection of public health or law
42 enforcement.

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

47 § 2899-r. Penalties. 1. Nothing in this article shall be construed to
48 limit professional discipline or civil liability resulting from conduct
49 in violation of this article, negligent conduct, or intentional miscon-
50 duct by any person.

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

55 § 2899-s. Severability. If any provision of this article or any appli-
56 cation of any provision of this article, is held to be invalid, or to

1 violate or be inconsistent with any federal law or regulation, that
2 shall not affect the validity or effectiveness of any other provision of
3 this article, or of any other application of any provision of this arti-
4 cle, which can be given effect without that provision or application;
5 and to that end, the provisions and applications of this article are
6 severable.

7 § 3. This act shall take effect immediately.