

# STATE OF NEW YORK

995--C

2023-2024 Regular Sessions

## IN ASSEMBLY

January 12, 2023

Introduced by M. of A. PAULIN, L. ROSENTHAL, DINOWITZ, HEVESI, STECK, LAVINE, LUPARDO, RIVERA, THIELE, EPSTEIN, SEAWRIGHT, WOERNER, REYES, DARLING, CRUZ, SAYEGH, AUBRY, DAVILA, DICKENS, STERN, BURDICK, GALLAGHER, KELLES, GONZALEZ-ROJAS, MITAYNES, MAMDANI, CLARK, BURKE, ANDERSON, JEAN-PIERRE, SILLITTI, JACKSON, PRETLOW, SEPTIMO, GLICK, GIBBS, TAPIA, LUNSFORD, CUNNINGHAM, LEVENBERG, SIMONE, BORES, FORREST, SHRESTHA, SHIMSKY, RAGA, RAJKUMAR, KIM, HUNTER, STIRPE, CHANDLER-WATERMAN, ARDILA, LEE, TAYLOR, MEEKS, OTIS, ALVAREZ -- Multi-Sponsored by -- M. of A. BRAUNSTEIN, BRONSON, BURGOS, HYNDMAN, RAMOS, ZINERMAN -- read once and referred 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 Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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.

##### 2899-e. Request process.

##### 2899-f. Attending physician responsibilities.

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

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

LBD02188-08-4

2899-h. Consulting physician responsibilities.  
2899-i. Referral to mental health professional.  
2899-j. Medical record documentation requirements.  
2899-k. Form of written request and witness attestation.  
2899-l. Protection and immunities.  
2899-m. Permissible refusals and prohibitions.  
2899-n. Relation to other laws and contracts.  
2899-o. Safe disposal of unused medications.  
2899-p. Death certificate.  
2899-q. Reporting.  
2899-r. Penalties.  
2899-s. Severability.

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

1. "Adult" means an individual who is eighteen years of age or older.
2. "Attending physician" means the physician who has primary responsibility for the care of the patient and treatment of the patient's terminal illness or condition.
3. "Decision-making capacity" means the ability to understand and appreciate the nature and consequences of health care decisions, including the benefits and risks of and alternatives to any proposed health care, including medical aid in dying, and to reach an informed decision.
4. "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a person's terminal illness or condition.
5. "Health care facility" means a general hospital, nursing home, or residential health care facility as defined in section twenty-eight hundred one of this chapter, or a hospice as defined in section four thousand two of this chapter; provided that for the purposes of section twenty eight hundred ninety-nine-m of this article, "hospice" shall refer only to a facility providing in-patient hospice care or a hospice residence.
6. "Health care provider" means a person licensed, certified, or authorized by law to administer health care or dispense medication in the ordinary course of business or practice of a profession.
7. "Informed decision" means a decision by a patient who is suffering from a terminal illness or condition to request and obtain a prescription for medication that the patient may self-administer to end the patient's life that is based on an understanding and acknowledgment of the relevant facts and that is made voluntarily, of the patient's own volition and without coercion, after being fully informed of:
  - (a) the patient's medical diagnosis and prognosis;
  - (b) the potential risks associated with taking the medication to be prescribed;
  - (c) the probable result of taking the medication to be prescribed;
  - (d) the possibility that the patient may choose not to obtain the medication, or may obtain the medication but may decide not to self-administer it; and
  - (e) the feasible alternatives and appropriate treatment options, including but not limited to palliative care and hospice care.
8. "Medical aid in dying" means the medical practice of a physician prescribing medication to a qualified individual that the individual may choose to self-administer to bring about death.
9. "Medically confirmed" means the medical opinion of the attending physician that a patient has a terminal illness or condition and has made an informed decision which has been confirmed by a consulting

1 physician who has examined the patient and the patient's relevant  
2 medical records.

3 10. "Medication" means medication prescribed by a physician under this  
4 article.

5 11. "Mental health professional" means a licensed physician, who is a  
6 diplomate or eligible to be certified by a national board of psychiatry,  
7 psychiatric nurse practitioner, or psychologist, licensed or certified  
8 under the education law acting within such mental health professional's  
9 scope of practice and who is qualified, by training and experience,  
10 certification, or board certification or eligibility, to make a determi-  
11 nation under section twenty-eight hundred ninety-nine-i of this article.

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

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

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

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

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

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

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

39 § 2899-e. Request process. 1. Oral and written request. A patient  
40 wishing to request medication under this article shall make an oral  
41 request and submit a written request to the patient's attending physi-  
42 cian.

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

46 (a) has been determined by the attending physician to have a terminal  
47 illness or condition and which has been medically confirmed by a  
48 consulting physician; and

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

52 3. Written request signed and witnessed. (a) A written request for  
53 medication under this article shall be signed and dated by the patient  
54 and witnessed by at least two adults who, in the presence of the  
55 patient, attest that to the best of the persons knowledge and belief the  
56 patient has decision-making capacity, is acting voluntarily, is making

1 the request for medication of the patient's own volition and is not  
2 being coerced to sign the request. The written request shall be in  
3 substantially the form described in section twenty-eight hundred nine-  
4 ty-nine-k of this article.

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

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

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

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

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

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

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

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

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

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

29 § 2899-f. Attending physician responsibilities. 1. The attending  
30 physician shall examine the patient and the patient's relevant medical  
31 records and:

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

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

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

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

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

1 information regarding treatment options appropriate to the patient,  
2 including the prognosis, risks and benefits of the various treatment  
3 options;

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

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

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

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

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

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

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

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

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

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

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

43 § 2899-g. Right to rescind request; requirement to offer opportunity  
44 to rescind. 1. A patient may at any time rescind the request for medi-  
45 cation under this article without regard to the patient's decision-mak-  
46 ing capacity.

47 2. A prescription for medication may not be written without the  
48 attending physician offering the qualified individual an opportunity to  
49 rescind the request.

50 § 2899-h. Consulting physician responsibilities. Before a patient who  
51 is requesting medication may receive a prescription for medication under  
52 this article, a consulting physician must:

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

54 2. confirm, in writing, to the attending physician and the patient,  
55 whether: (a) the patient has a terminal illness or condition; (b) the  
56 patient is making an informed decision; (c) the patient has decision-

1 making capacity, or provide documentation that the consulting physician  
2 has referred the patient for a determination under section twenty-eight  
3 hundred ninety-nine-i of this article; and (d) the patient is acting  
4 voluntarily, of the patient's own volition and without coercion.

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

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

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

31 § 2899-j. Medical record documentation requirements. An attending  
32 physician shall document or file the following in the patient's medical  
33 record:

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

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

39 3. the attending physician's diagnosis and prognosis, determination of  
40 decision-making capacity, and determination that the patient is acting  
41 voluntarily, of the patient's own volition and without coercion, and has  
42 made an informed decision;

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

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

49 § 2899-k. Form of written request and witness attestation. 1. A  
50 request for medication under this article shall be in substantially the  
51 following form:

52 REQUEST FOR MEDICATION TO END MY LIFE

53 I, \_\_\_\_\_, am an adult who has decision-  
54 making capacity, which means I understand and appreciate the nature and  
55 consequences of health care decisions, including the benefits and risks

1 of and alternatives to any proposed health care, and to reach an  
2 informed decision and to communicate health care decisions to a physi-  
3 cian.

4 I have been diagnosed with (insert diagnosis), which my attending  
5 physician has determined is a terminal illness or condition, which has  
6 been medically confirmed by a consulting physician.

7 I have been fully informed of my diagnosis and prognosis, the nature  
8 of the medication to be prescribed and potential associated risks, the  
9 expected result, and the feasible alternatives and treatment options  
10 including but not limited to palliative care and hospice care.

11 I request that my attending physician prescribe medication that will  
12 end my life if I choose to take it, and I authorize my attending physi-  
13 cian to contact another physician or any pharmacist about my request.

14 INITIAL ONE:

15 ( ) I have informed or intend to inform one or more members of my  
16 family of my decision.

17 ( ) I have decided not to inform any member of my family of my deci-  
18 sion.

19 ( ) I have no family to inform of my decision.

20 I understand that I have the right to rescind this request or decline  
21 to use the medication at any time.

22 I understand the importance of this request, and I expect to die if I  
23 take the medication to be prescribed. I further understand that although  
24 most deaths occur within three hours, my death may take longer, and my  
25 attending physician has counseled me about this possibility.

26 I make this request voluntarily, of my own volition and without being  
27 coerced, and I accept full responsibility for my actions.

28 Signed: \_\_\_\_\_

29 Dated: \_\_\_\_\_

30 DECLARATION OF WITNESSES

31 I declare that the person signing this "Request for Medication to End  
32 My Life":

33 (a) is personally known to me or has provided proof of identity;

34 (b) voluntarily signed the "Request for Medication to End My Life" in  
35 my presence or acknowledged to me that the person signed it; and

36 (c) to the best of my knowledge and belief, has decision-making capac-  
37 ity and is making the "Request for Medication to End My Life" voluntar-  
38 ily, of the person's own volition and is not being coerced to sign the  
39 "Request for Medication to End My Life".

40 I am not the attending physician or consulting physician of the person  
41 signing the "Request for Medication to End My Life" or, if applicable,  
42 the mental health professional who provides a decision-making capacity  
43 determination of the person signing the "Request for Medication to End  
44 My Life" at the time the "Request for Medication to End My Life" was  
45 signed.

46 I further declare under penalty of perjury that the statements made  
47 herein are true and correct and false statements made herein are punish-  
48 able.

49 Witness 1, Date: \_\_\_\_\_

1 (Printed name)

2 (Address)

3 (Telephone number)

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

11 Witness 2, Date:

12 (Printed name)

13 (Address)

14 (Telephone number)

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

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

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

34 INTERPRETER'S DECLARATION

35 I, (insert name of interpreter), (mark as applicable):

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

44 I certify that on (insert date), at approximately (insert time), I  
45 interpreted the communications and information conveyed between the  
46 physician and (name of patient) as accurately and completely to the best

1 of my knowledge and ability and read the "Request for Medication to End  
2 My Life" to (name of patient) in (insert target language).

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

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

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

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

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

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

37 (Signature of Interpreter)

38 (Printed name of Interpreter)

39 (ID # or Agency Name)

40 (Address of Interpreter)

41 (Language Spoken by Interpreter)

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

1 an employee or independent contractor whose job description at the  
2 health care facility includes interpreter services or who is trained to  
3 provide interpreter services and who has been requested by the patient  
4 to serve as an interpreter under this article shall not be prohibited  
5 from serving as an interpreter under this article.

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

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

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

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

28 (c) being present when a qualified individual self-administers medica-  
29 tion;

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

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

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

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

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

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

55 (i) the prescribing, dispensing, ordering or self-administering is  
56 contrary to a formally adopted policy of the facility that is expressly

1 based on sincerely held religious beliefs or moral convictions central  
2 to the facility's operating principles; and

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

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

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

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

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

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

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

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

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

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

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

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

1 ment and information as to the availability of medication under this  
2 article. This subdivision does not bar the inclusion of information as  
3 to the coverage of medication and professional services under this arti-  
4 cle in information generally stating what is covered by a third-party  
5 health care payer or provided in response to a request by the patient or  
6 by such patient's attending physician upon the request of the patient.

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

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

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

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

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

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

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

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

1     § 2899-s. Severability. If any provision of this article or any appli-  
2 cation of any provision of this article, is held to be invalid, or to  
3 violate or be inconsistent with any federal law or regulation, that  
4 shall not affect the validity or effectiveness of any other provision of  
5 this article, or of any other application of any provision of this arti-  
6 cle, which can be given effect without that provision or application;  
7 and to that end, the provisions and applications of this article are  
8 severable.

9     § 3. This act shall take effect immediately.