STATE OF NEW YORK

8835

IN SENATE

January 8, 2026

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public health law and the education law, in relation to requirements for the provision of medication for medical aid in dying; and to amend a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, in relation to the effectiveness thereof

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

Section 1. Subdivisions 4, 5, 11, 13, 17 and 18 of section 2899-d of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, are amended to read as follows:

4. "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a [~~person's~~] patient'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~~].

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

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

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an individual (a) licensed to practice medicine in New York state who is a diplomate of the American board of psychiatry and neurology or is eligible to be certified by that board or is certified by the American osteopathic board of neurology and psychiatry or is eligible to be certified by that board; or (b) licensed to practice psychology under title eight of the education law.

13. "Patient" means a [~~person~~] resident of New York state who is eighteen years of age or older under the care of a physician.

17. "Terminal illness or condition" means an incurable and irreversible illness or condition that has been medically confirmed and will, within reasonable medical judgment, produce death within six months whether or not treatment is provided.

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

§ 2. Subdivisions 1, 2 and 3 of section 2899-e of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, are amended to read as follows:

1. Oral and written request. A patient wishing to request medication under this article shall make an oral request and submit a written request to the patient's attending physician. If a patient is not physically capable of making an oral request, such request can be made using an alternative method of communication familiar to the patient. Oral requests made under this subdivision must be recorded by an audio or video device and permanently stored in the patient's medical record.

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

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

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

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

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

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

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

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

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

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

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

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

§ 3. Section 2899-f of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, is amended to read as follows:

§ 2899-f. Attending physician responsibilities. 1. [~~The~~] **Upon a patient's request for a medical aid-in-dying prescription, the** attending physician shall examine the patient **in person** and the patient's relevant medical records [~~and~~]**, provided, however, that the attending physician may waive the in-person examination requirement and conduct the examination via telehealth if the physician determines, within reasonable medical judgment, and documents in the patient's medical record that requiring an in-person visit would result in extraordinary hardship to the patient. For purposes of this subdivision, the term "extraordinary hardship" shall mean circumstances in which an in-person examination would cause the patient undue pain or suffering, or would necessitate extraordinary expense or logistical burden for medically-necessary transportation. In such cases, the examination may be conducted via telehealth once the attending physician affirms that all other requirements of this article have been fulfilled. The attending physician shall also**:

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

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

(c) **inform the patient of the requirement under this article for confirmation by a mental health professional, and** refer the patient to a mental health professional [~~pursuant to section twenty-eight hundred ninety-nine-i of this article if the attending physician believes that the patient may lack decision-making capacity to make an informed decision~~] **upon the patient's request**;

(d) provide information and counseling under section twenty-nine hundred ninety-seven-c of this chapter**, provided, however, that if the attending physician is not willing or does not feel qualified to provide the patient with information and counseling under this paragraph, the attending physician may arrange for another physician to do so, or shall refer or transfer the patient to another physician willing to do so**;

(e) ensure that the patient is making an informed decision by discussing with the patient: (i) the patient's medical diagnosis and prognosis;

(ii) the potential risks associated with taking the medication to be prescribed; (iii) the probable result of taking the medication to be prescribed; (iv) the possibility that the patient may choose to obtain the medication but not take it; (v) the feasible alternatives and appropriate treatment options, including but not limited to (1) information and counseling regarding palliative and hospice care and end-of-life options appropriate to the patient, including but not limited to: the range of options appropriate to the patient; the prognosis, risks and benefits of the various options; and the patient's legal rights to comprehensive pain and symptom management at the end of life; and (2) information regarding treatment options appropriate to the patient, including the prognosis, risks and benefits of the various treatment options;

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

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

(h) discuss with the patient the importance of:

(i) having another person present when the patient takes the medication and the restriction that no person other than the patient may administer the medication;

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

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

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

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

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

2. Upon receiving confirmation from a consulting physician **and mental health professional** under section twenty-eight hundred ninety-nine-h of this article and [~~**subject to**~~] section twenty-eight hundred ninety-nine-i of this article, **respectively,** the attending physician who determines that the patient has a terminal illness or condition, has decision-making capacity and has made a voluntary request for medication as provided in this article, may personally, or by referral to another physician, prescribe or order appropriate medication in accordance with the patient's request under this article, and at the patient's request, facilitate the filling of the prescription and delivery of the medication to the patient.

3. **A prescription for medication shall not be filled until five days after the prescription has been written, unless the patient's attending physician has medically confirmed that the qualified individual may, within reasonable medical judgment, die before the expiration of the waiting period identified herein, in which case, the prescription may be filled once the attending physician affirms that all other requirements pursuant to this article have been fulfilled. Such prescription must**

indicate the date and time that the prescription for medication was written and indicate the first allowable date and time when it may be filled.

4. In accordance with the direction of the prescribing or ordering physician and the consent of the patient, the patient may self-administer the medication to themselves. A health care professional or other person shall not administer the medication to the patient.

§ 4. Subdivision 2 of section 2899-h of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, is amended to read as follows:

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

§ 5. Section 2899-i of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, is amended to read as follows:

§ 2899-i. [~~Referral to mental~~] Mental health professional responsibilities. 1. [~~If the attending physician or the consulting physician determines that the patient may lack decision-making capacity to make an informed decision due to a condition, including, but not limited to, a psychiatric or psychological disorder, or other condition causing impaired judgement, the attending physician or consulting physician shall refer the patient to a mental health professional for a determination of whether the patient has decision-making capacity to make an informed decision. The referring physician shall advise the patient that the report of the mental health professional will be provided to the attending physician and the consulting physician.~~

~~2. A mental health professional who evaluates a~~] Before a patient who is requesting medication may receive a prescription for medication under this article, a mental health professional must evaluate the patient [~~under this section shall~~] and report, in writing, to the attending physician and the consulting physician, the mental health professional's independent conclusions about whether the patient has decision-making capacity to make an informed decision, provided that if, at the time of the report, the patient has not yet been referred to a consulting physician, then upon referral the attending physician shall provide the consulting physician with a copy of the mental health professional's report. If the mental health professional determines that the patient lacks decision-making capacity to make an informed decision, the patient shall not be deemed a qualified individual, and the attending physician shall not prescribe medication to the patient.

[~~3.~~] 2. A determination made pursuant to this section that an adult patient lacks decision-making capacity shall not be construed as a finding that the patient lacks decision-making capacity for any other purpose.

§ 6. Subdivision 4 of section 2899-j of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication

for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, is amended to read as follows:

4. [~~if applicable,~~] written [~~confirmation~~] **determination** of decision-making capacity under section twenty-eight hundred ninety-nine-i of this article; and

§ 7. Section 2899-k of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, is amended to read as follows:

§ 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 decision-making 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 **and mental health professional and will, in the judgment of the physicians and mental health professional, produce death within six months whether or not treatment is provided**.

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.

I further declare that I am not (i) related to the above-named patient by blood, marriage or adoption[~~,~~]**;** (ii) entitled at the time the patient signed the "Request for Medication to End My Life" to any portion of the estate of the patient upon such patient's death under any will or by operation of law, or **otherwise in a position to benefit financially from the patient's death;** (iii) an owner, operator, employee or independent contractor of a health care facility where the patient is receiving treatment or is a resident**; (iv) a domestic partner of the patient, as defined in subdivision seven of section twenty-nine hundred ninety-four-a of the public health law; (v) an agent, as defined in subdivision five of section twenty-nine hundred eighty of the public health law, under the patient's health care proxy; or (vi) an agent, as defined in section 5-1501 of the general obligations law, acting under a power of attorney for the patient**.

Witness 1, Date:

(Printed name)

(Address)

(Telephone number)

Witness 2, Date:

(Printed name)

(Address)

(Telephone number)

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

(b) Notwithstanding paragraph (a) of this subdivision, the written "Request for Medication to End My Life" may be prepared in English even when the conversations or consultations or interpreted conversations or

consultations were conducted in a language other than English or with auxiliary aids or hearing, speech or visual aids, if the English language form includes an attached declaration by the interpreter of the conversation or consultation, which shall be in substantially the following form:

INTERPRETER'S DECLARATION

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

( ) 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 communications 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 such patient's 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 accurately 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 such patient's 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 such patient's death under any will or by operation of law, or **otherwise in a position to benefit financially from the patient's death;** (C) an owner, operator, employee or independent contractor of a health care facility where (name of patient) is receiving treatment or is a resident, except that if I am an employee or independent 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 such patient for the purposes stated in this Declaration; **(D) a domestic partner of the patient, as defined in subdivision seven of section twenty-nine hundred ninety-four-a of the public health law;**

(E) an agent, as defined in subdivision five of section twenty-nine hundred eighty of the public health law, under the patient's health care proxy; or (F) an agent, as defined in section 5-1501 of the general obligations law, acting under a power of attorney for the patient; 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)

(ID # or Agency Name)

(Address of Interpreter)

(Language Spoken by Interpreter)

(c) An interpreter whose services are provided under paragraph (b) of this subdivision shall not (i) be related to the patient who signs the "Request for Medication to End My Life" by blood, marriage or adoption[~~.~~]; (ii) be entitled at the time the "Request for Medication to End My Life" is signed by the patient to any portion of the estate of the patient upon death under any will or by operation of law, or otherwise in a position to benefit financially from the patient's death; (iii) be an owner, operator, employee or independent contractor of a health care facility where the patient is receiving treatment or is a resident; provided that an employee or independent contractor whose job description at the health care facility includes interpreter services or who is trained to provide interpreter services and who has been requested by the patient to serve as an interpreter under this article shall not be prohibited from serving as an interpreter under this article; (iv) be a domestic partner of the patient, as defined in subdivision seven of section twenty-nine hundred ninety-four-a of this chapter; (v) be an agent, as defined in subdivision five of section twenty-nine hundred eighty of this chapter, under the patient's health care proxy; or (vi) be an agent, as defined in section 5-1501 of the general obligations law, acting under a power of attorney for the patient.

§ 8. Subdivision 2 of section 2899-m of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, is amended and a new subdivision 3 is added to read as follows:

2. (a) A private health care facility may prohibit the prescribing, dispensing, ordering or self-administering of medication under this article while the patient is being treated in the health care facility or in an affiliated facility that is majority-owned, operated, or controlled by the same corporate entity as the health care facility, or while the patient is residing in the health care facility if:

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

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

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

(b-1) A health care facility or an affiliated facility that is majority-owned, operated, or controlled by the same corporate entity as the health care facility that has adopted a prohibition under this subdivision may restrict any employee from participating in the provision of medication under this article.

(c) Where a health care facility has adopted a prohibition under this subdivision, any health care provider or employee or independent contractor of the **health care** facility **or any facility that is majority-owned, operated, or controlled by the same corporate entity as the health care facility** who violates the prohibition may be subject to sanctions otherwise available to the **health care** facility, provided the **health care** facility has previously notified the health care provider, employee or independent contractor of the prohibition in writing.

3. Nothing in this section shall be construed to restrict a patient at home from accessing care under this article.

§ 9. Subdivision 4 of section 2899-n of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, is amended to read as follows:

4. An insurer or third-party health care payer shall not provide any information in communications made to a patient about the availability of medication under this article absent a request by the patient or by such patient's attending physician upon the request of such patient. [~~Any communication shall not include both the denial of coverage for treatment and information as to the availability of medication under this article.~~] **Any communication from an insurer or third-party health care payer indicating a denial of coverage for treatment shall not also include any information as to the availability of medication prescribed under this article.** This subdivision does not bar the inclusion of information as to the coverage of medication and professional services under this article in information generally stating what is covered by a third-party health care payer or provided in response to a request by the patient or by such patient's attending physician upon the request of the patient.

§ 10. Section 6530 of the education law is amended by adding a new subdivision 51 to read as follows:

51. A violation of article twenty-eight-F of the public health law and/or regulations promulgated thereunder.

§ 11. Section 3 of a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, is amended to read as follows:

§ 3. This act shall take effect [~~immediately~~] **on the one hundred eightieth day after it shall have become a law**. **Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are**

authorized to be made and completed on or before such effective date. Notwithstanding any provisions to the contrary in the state administrative procedure act, such rules or regulations may be adopted on an emergency basis.

§ 12. This act shall take effect immediately; provided, however, that the provisions of sections one, two, three, four, five, six, seven, eight, nine and ten of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2025 amending the public health law relating to a terminally ill patient's request for and use of medication for medical aid in dying, as proposed in legislative bills numbers S. 138 and A. 136, takes effect.