§ 2899-f. Attending physician responsibilities. 1. 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, 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 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 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.