A BILL ENTITLED

AN ACT concerning

Terminal Illness - Physician Aid in Dying

FOR the purpose of allowing certain individuals to request and administer a certain aid in dying subject to certain requirements and qualifications; providing for the revocation of an aid in dying request; prescribing the form and procedure for carrying out an aid in dying request; allowing a physician or hospital to refuse to carry out an aid in dying request under certain circumstances; prohibiting the Board of Physician Quality Assurance from taking certain disciplinary action under certain circumstances; permitting certain examinations to be administered under certain conditions; prohibiting an aid in dying request from affecting life or health insurance; prohibiting a person from being coerced into executing an aid in dying request under certain circumstances; providing certain penalties for participating in certain activities; providing that aid in dying requests executed in other states are valid under certain circumstances; defining certain terms; and generally relating to aid in dying.

BY adding to Article - Health - General Section 5-701 through 5-714 to be under the new subtitle "Subtitle 7. Terminal Illness - Physician Aid in Dying" Annotated Code of Maryland (1994 Replacement Volume and 1995 Supplement)

BY adding to Article - Health Occupations Section 14-404(c) Annotated Code of Maryland (1994 Replacement Volume and 1995 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
Article - Health - General

SUBTITLE 7. TERMINAL ILLNESS - PHYSICIAN AID IN DYING.

5-701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "AID IN DYING" MEANS A LETHAL DOSAGE OF A DRUG AT THE DIRECTION OF A QUALIFIED PATIENT THAT IS SELF-ADMINISTERED BY THE QUALIFIED PATIENT AND THAT WILL HASTEN THE DEATH OF THE QUALIFIED PATIENT IN A PAINLESS, HUMANE, AND DIGNIFIED MANNER.

(C) "AID IN DYING REQUEST" MEANS A REVOCABLE WRITTEN DOCUMENT VOLUNTARILY EXECUTED BY THE DECLARANT IN ACCORDANCE WITH §§ 5-702 AND 5-703 OF THIS SUBTITLE.

(D) "ATTENDING PHYSICIAN" MEANS THE PHYSICIAN WHO:

(1) HAS PRIMARY RESPONSIBILITY FOR THE CARE AND TREATMENT OF THE QUALIFIED PATIENT; AND

(2) HAS BEEN THE PATIENT'S PRIMARY CARE PROVIDER FOR AT LEAST 1 YEAR BEFORE THE QUALIFIED PATIENT MAKES AN AID IN DYING REQUEST.

(E) "DECLARANT" MEANS A PERSON WHO EXECUTES AN AID IN DYING REQUEST IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

(F) "ENDURING REQUEST" MEANS A REQUEST FOR AN AID IN DYING WHICH IS EXPRESSED ON AT LEAST THREE OCCASIONS, AT LEAST ONE OF WHICH IS AN AID IN DYING REQUEST, WITH A WAITING PERIOD OF AT LEAST 2 WEEKS BETWEEN THE FIRST AND FINAL REQUEST.

(G) "PAINFUL FATAL CONDITION" MEANS A DISEASE OR ILLNESS THAT CAUSES SUBSTANTIAL PHYSICAL PAIN AND SUFFERING AND THAT:

(1) IS AN INCURABLE OR IRREVERSIBLE CONDITION; AND

(2) WILL RESULT IN DEATH WITHIN 6 MONTHS.

(H) "HEALTH CARE PROVIDER" MEANS:

(1) AN INDIVIDUAL LICENSED OR CERTIFIED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE; OR

(2) THE ADMINISTRATOR OF A HOSPITAL OR A PERSON DESIGNATED BY THE ADMINISTRATOR IN ACCORDANCE WITH HOSPITAL POLICY.

(I) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED TO PRACTICE MEDICINE IN THE STATE.

(J) "QUALIFIED PATIENT" MEANS A MENTALLY COMPETENT ADULT PATIENT WHO HAS:
(1) RESIDED IN THE STATE FOR AT LEAST 12 MONTHS;

(2) VOLUNTARILY EXECUTED A CURRENTLY VALID AID IN DYING REQUEST;

(3) BEEN DIAGNOSED AS HAVING A PAINFUL FATAL CONDITION AS CERTIFIED IN WRITING BY TWO PHYSICIANS, ONE OF WHOM IS THE ATTENDING PHYSICIAN, WHO HAVE PERSONALLY EXAMINED THE PATIENT AND MADE THEIR DIAGNOSES WITHIN A REASONABLE DEGREE OF MEDICAL CERTAINTY; AND

(4) EXPRESSED AN ENDURING REQUEST FOR AID IN DYING.

5-702.

(A) ANY MENTALLY COMPETENT ADULT INDIVIDUAL MAY VOLUNTARILY AT ANY TIME AT OR AFTER THE PAINFUL FATAL CONDITION IS DIAGNOSED EXECUTE AN AID IN DYING REQUEST REGARDING THE ADMINISTRATION OF AID IN DYING.

(B) THE AID IN DYING REQUEST SHALL BE EXECUTED IN ACCORDANCE WITH THE REQUIREMENT SPECIFIED IN § 4-102 OF THE ESTATES AND TRUSTS ARTICLE AND ON THE FORM SPECIFIED IN § 5-703 OF THIS SUBTITLE.

(C) A COPY OF THE AID IN DYING REQUEST, OR ANY REVOCATION OF THE AID IN DYING REQUEST, SHALL BE MADE PART OF A DECLARANT'S MEDICAL RECORD IN EACH HEALTH CARE FACILITY INVOLVED IN THE DECLARANT'S MEDICAL CARE.

5-703.

AN AID IN DYING REQUEST AS AUTHORIZED UNDER THIS SUBTITLE SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

REQUEST FOR MEDICATION TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

I, _____ , AM AN ADULT OF SOUND MIND.

I AM SUFFERING FROM _____ , WHICH MY ATTENDING PHYSICIAN HAS DESCRIBED AS A PAINFUL FATAL CONDITION AND WHICH HAS BEEN MEDICALLY CONFIRMED BY A CONSULTING PHYSICIAN.


I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE MEDICATION THAT WILL END MY LIFE IN A HUMANE AND DIGNIFIED MANNER.

INITIAL ONE:

I HAVE INFORMED MY FAMILY OF MY DECISION AND TAKEN THEIR OPINIONS INTO CONSIDERATION.

I HAVE DECIDED NOT TO INFORM MY FAMILY OF MY DECISION.
I HAVE NO FAMILY TO INFORM OF MY DECISION.

I UNDERSTAND THE FULL IMPORT OF THIS REQUEST AND I EXPECT TO DIE WHEN I TAKE THE MEDICATION TO BE PRESCRIBED.

I MAKE THIS REQUEST VOLUNTARILY AND WITHOUT RESERVATION, AND I ACCEPT FULL MORAL RESPONSIBILITY FOR MY ACTIONS.

SIGNED: ____

DATED: ____

DECLARATION OF WITNESSES

WE DECLARE THAT THE PERSON SIGNING THIS REQUEST (OR EXPRESSLY DIRECTING THAT WE SIGN THIS REQUEST IN THE PERSON'S NAME):

(A) IS PERSONALLY KNOWN TO US OR HAS PROVIDED PROOF OF IDENTITY;

(B) SIGNED (OR DIRECTED THAT WE SIGN) THIS REQUEST IN OUR PRESENCE;

(C) APPEARS TO BE OF SOUND MIND AND NOT UNDER DURESS, FRAUD, OR UNDUE INFLUENCE; AND

(D) IS NOT A PATIENT FOR WHOM EITHER OF US IS ATTENDING PHYSICIAN.

____ WITNESS 1/DATE

____ WITNESS 2/DATE

5-704.

(A) AN AID IN DYING REQUEST MAY BE REVOKED AT ANY TIME BY THE DECLARANT WITHOUT REGARD TO THE DECLARANT'S MENTAL STATE OR CAPACITY.

(B) AN AID IN DYING REQUEST MAY BE REVOKED BY:

(1) THE PHYSICAL CANCELLATION OR DESTRUCTION OF THE AID IN DYING REQUEST BY ANY METHOD BY OR AT THE REQUEST OF THE DECLARANT;

(2) A WRITTEN DOCUMENT THAT EXPRESSES THE DECLARANT'S INTENT TO REVOKE THE AID IN DYING REQUEST; OR

(3) A VERBAL STATEMENT BY THE DECLARANT TO THE ATTENDING PHYSICIAN OR HEALTH CARE PROVIDER THAT EXPRESSES THE DECLARANT'S INTENT TO REVOKE THE AID IN DYING REQUEST.

(C) A PHYSICIAN WHO DOES NOT HAVE ACTUAL KNOWLEDGE OF THE REVOCATION OF AN AID IN DYING REQUEST MAY NOT BE HELD CIVILLY OR
CRIMINALLY LIABLE, OR BE SUBJECT TO ADMINISTRATIVE SANCTIONS FOR
PRESCRIBING AID IN DYING IN ACCORDANCE WITH AN OTHERWISE VALID AID IN
DYING REQUEST.

(D) AN AID IN DYING REQUEST SHALL BE EFFECTIVE UNTIL REVOKED IN THE
MANNER PRESCRIBED BY THE PROVISIONS OF THIS SECTION.

(E) A DECLARANT MAY REEXECUTE AN AID IN DYING REQUEST AT ANY
TIME.

5-705.

(A) (1) UPON A DETERMINATION BY A QUALIFIED PATIENT TO IMPLEMENT
AN AID IN DYING REQUEST, AND IF THE QUALIFIED PATIENT HAS MADE AN
ENDURING REQUEST, THE QUALIFIED PATIENT MAY COMMUNICATE THAT
DETERMINATION DIRECTLY TO THE ATTENDING PHYSICIAN.

(2) ON RECEIPT OF THE QUALIFIED PATIENT'S DETERMINATION, THE
ATTENDING PHYSICIAN, WHETHER OR NOT THE QUALIFIED PATIENT IS IN A
HOSPITAL OR A RELATED INSTITUTION MAY SEEK THE APPROVAL OF A SECOND
PHYSICIAN.

(B) BEFORE PRESCRIBING THE AID IN DYING TO A QUALIFIED PATIENT, THE
ATTENDING PHYSICIAN SHALL TAKE REASONABLE STEPS TO DETERMINE THAT:

(1) THE AID IN DYING REQUEST HAS BEEN PROPERLY SIGNED AND
WITNESSED;

(2) ALL OF THE STEPS IN THE AID IN DYING REQUEST ARE IN ACCORD
WITH THE DESIRES EXPRESSED BY THE QUALIFIED PATIENT IN THE AID IN DYING
REQUEST AND DISCUSSIONS WITH THE QUALIFIED PATIENT;

(3) ALL OF THE REQUIREMENTS APPLICABLE TO THE AID IN DYING
REQUEST UNDER THIS SUBTITLE ARE MET;

(4) THE PATIENT'S AID IN DYING REQUEST WAS NOT A RESULT OF
CLINICAL DEPRESSION;

(5) A REASONABLE PERSON IN THE PATIENT'S CONDITION MIGHT SEEK
RELIEF FROM A FATAL CONDITION THROUGH AN AID IN DYING;

(6) THE PATIENT'S AID IN DYING REQUEST WAS CLEAR, UNEQUIVOCAL,
AND UNLIKELY TO BE CHANGED IF THE AID IN DYING REQUEST WAS NOT CARRIED
OUT;

(7) THE PASSIVE WITHHOLDING OF LIFE-SUSTAINING MEDICAL
SUPPORT MECHANISMS IS UNLIKELY TO ALLEVIATE THE PATIENT'S SUFFERING;

(8) THE WITHHOLDING OF NUTRITION AND HYDRATION IS UNLIKELY
TO ALLEVIATE THE PATIENT'S SUFFERING.

(C) UPON A DETERMINATION BY THE ATTENDING PHYSICIAN THAT THE
PROVISIONS OF SUBSECTION (B) OF THIS SECTION HAVE BEEN SATISFIED, THE
ATTENDING PHYSICIAN MAY PRESUME THAT THE AID IN DYING REQUEST COMPLIES WITH THIS SUBTITLE AND IS VALID.

5-706.

(A) A PHYSICIAN MAY NOT BE REQUIRED TO TAKE ANY ACTION THAT IS CONTRARY TO REASONABLE MEDICAL STANDARDS IN COUNSELING OR PRESCRIBING AID IN DYING.

(B) A PHYSICIAN MAY REFUSE TO PARTICIPATE IN THE COUNSELING OR PRESCRIBING OF AN AID IN DYING IF THE PHYSICIAN IS RELIGIOUSLY, MORALLY, ETHICALLY, OR OTHERWISE OPPOSED TO DOING SO.

(C) A PRIVATELY OWNED HOSPITAL MAY REFUSE TO PERMIT THE ADMINISTRATION OF AID IN DYING IN ITS FACILITIES IF THE HOSPITAL IS RELIGIOUSLY, MORALLY, ETHICALLY, OR OTHERWISE OPPOSED TO AID IN DYING.

5-707.

EXCEPT FOR PHYSICIANS WHO ARE MEMBERS OF THE SAME HEALTH MAINTENANCE ORGANIZATION, PHYSICIANS WHO CERTIFY THAT AN INDIVIDUAL HAS A PAINFUL FATAL CONDITION UNDER THIS SUBTITLE MAY NOT BE PARTNERS OR SHAREHOLDERS IN THE SAME MEDICAL PRACTICE.

5-708.

WITH THE CONSENT OF A QUALIFIED PATIENT, AN ATTENDING PHYSICIAN WHO IS ASKED TO COUNSEL OR PRESCRIBE AID IN DYING MAY REQUEST A PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION OF THE QUALIFIED PATIENT.

5-709.

(A) THE EXECUTION OF AN AID IN DYING REQUEST UNDER THIS SUBTITLE MAY NOT:

(1) AFFECT THE SALE, PROCUREMENT, ISSUANCE, OR RENEWAL OF ANY POLICY OF LIFE INSURANCE; OR

(2) BE DEEMED TO MODIFY THE TERMS OR PREMIUM OF AN EXISTING LIFE INSURANCE POLICY.

(B) AN INDIVIDUAL MAY NOT BE:

(1) REQUIRED TO EXECUTE OR PROHIBITED FROM EXECUTING AN AID IN DYING REQUEST AS A CONDITION FOR OBTAINING INSURANCE OR RECEIVING HEALTH CARE SERVICES; OR

(2) REFUSED HEALTH CARE SERVICES BECAUSE OF THE EXECUTION, EXISTENCE, OR REVOCATION OF AN AID IN DYING REQUEST.

(C) ANY PERSON THAT REQUIRES OR PROHIBITS THE EXECUTION OF AN AID IN DYING REQUEST AS A CONDITION OF BEING INSURED FOR OR RECEIVING HEALTH CARE SERVICES IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000.
(D) An insurer that issues a policy of life insurance may not refuse to pay a benefit associated with the policy upon the death of the insured whose death was assisted in accordance with this subtitle.

5-710.

(A) An individual may not be induced into making a decision to execute an aid in dying request because the individual is a financial, emotional, or other burden to the patient’s family, other persons, or the state.

(B) Any person who coerces, pressures, or fraudulently induces another to execute an aid in dying request is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

5-711.

(A) Any person who willfully conceals, cancels, defaces, obliterates, or damages an aid in dying request of a declarant without the declarant’s consent is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

(B) Any person who willfully conceals, withholds, or causes to be withheld knowledge of a revocation of an aid in dying request with the intent to cause the administration of aid in dying contrary to the desires of a declarant, and as a result causes aid in dying to be administered, shall be guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

5-712.

This subtitle may not impair or supersede any unrevoked right or legal responsibility that a person may have regarding the withholding or withdrawal of life-sustaining procedures as provided in subtitle 6 of this title.

5-713.

Nothing in this subtitle may be construed to condone, authorize, or approve the deliberate ending of an individual’s life without the individual’s documented and witnessed aid in dying request.

5-714.

An aid in dying request executed in another state shall be:

(1) deemed to be validly executed for the purposes of this subtitle if executed in compliance with the laws of this state or the laws of the state where the aid in dying request was executed; and

(2) construed to give effect to the patient’s wishes to the extent permitted by the laws of this state.
HOUSE BILL 474

1 Article - Health Occupations

2 14-404.

3 (C) THE BOARD MAY NOT REPRIMAND ANY LICENSEE, PLACE ANY LICENSEE
4 ON PROBATION, OR SUSPEND OR REVOKE A LICENSE IF THE LICENSEE PRESCRIBES
5 OR ADMINISTERS AN AID IN DYING IN ACCORDANCE WITH AN AID IN DYING
6 REQUEST EXECUTED UNDER TITLE 5, SUBTITLE 7 OF THE HEALTH - GENERAL
7 ARTICLE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 1996.