
By: Delegates Dembrow, Genn, D. Hughes, Redmer, Kagan, and Montague

Introduced and read first time: January 31, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Terminal Illness - Physician Aid in Dying**

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

16 BY adding to

17 Article - Health - General
18 Section 5-701 through 5-714 to be under the new subtitle "Subtitle 7. Terminal
19 Illness - Physician Aid in Dying"
20 Annotated Code of Maryland
21 (1994 Replacement Volume and 1995 Supplement)

22 BY adding to

23 Article - Health Occupations
24 Section 14-404(c)
25 Annotated Code of Maryland
26 (1994 Replacement Volume and 1995 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Health - General**

2 SUBTITLE 7. TERMINAL ILLNESS - PHYSICIAN AID IN DYING.

3 5-701.

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

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

10 (C) "AID IN DYING REQUEST" MEANS A REVOCABLE WRITTEN DOCUMENT
11 VOLUNTARILY EXECUTED BY THE DECLARANT IN ACCORDANCE WITH §§ 5-702 AND
12 5-703 OF THIS SUBTITLE.

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

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

16 (2) HAS BEEN THE PATIENT'S PRIMARY CARE PROVIDER FOR AT LEAST
17 1 YEAR BEFORE THE QUALIFIED PATIENT MAKES AN AID IN DYING REQUEST.

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

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

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

26 (1) IS AN INCURABLE OR IRREVERSIBLE CONDITION; AND

27 (2) WILL RESULT IN DEATH WITHIN 6 MONTHS.

28 (H) "HEALTH CARE PROVIDER" MEANS:

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

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

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

35 (J) "QUALIFIED PATIENT" MEANS A MENTALLY COMPETENT ADULT PATIENT
36 WHO HAS:

3

1 (1) RESIDED IN THE STATE FOR AT LEAST 12 MONTHS;

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

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

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

9 5-702.

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

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

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

20 5-703.

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

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

25 I, _____, AM AN ADULT OF SOUND MIND.

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

29 I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS, PROGNOSIS, THE NATURE
30 OF THE MEDICATION TO BE PRESCRIBED AND POTENTIAL ASSOCIATED RISKS, THE
31 EXPECTED RESULT, AND THE FEASIBLE ALTERNATIVES, INCLUDING COMFORT
32 CARE, HOSPICE CARE, AND PAIN CONTROL.

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

35 INITIAL ONE:

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

38 _____ I HAVE DECIDED NOT TO INFORM MY FAMILY OF MY DECISION.

4

1 _____ I HAVE NO FAMILY TO INFORM OF MY DECISION.

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

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

6 SIGNED: _____

7 DATED: _____

8 DECLARATION OF WITNESSES

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

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

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

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

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

19 _____ WITNESS 1/DATE

20 _____ WITNESS 2/DATE

21 5-704.

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

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

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

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

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

33 (C) A PHYSICIAN WHO DOES NOT HAVE ACTUAL KNOWLEDGE OF THE
34 REVOCATION OF AN AID IN DYING REQUEST MAY NOT BE HELD CIVILLY OR

5

1 CRIMINALLY LIABLE, OR BE SUBJECT TO ADMINISTRATIVE SANCTIONS FOR
2 PRESCRIBING AID IN DYING IN ACCORDANCE WITH AN OTHERWISE VALID AID IN
3 DYING REQUEST.

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

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

8 5-705.

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

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

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

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

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

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

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

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

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

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

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

38 (C) UPON A DETERMINATION BY THE ATTENDING PHYSICIAN THAT THE
39 PROVISIONS OF SUBSECTION (B) OF THIS SECTION HAVE BEEN SATISFIED, THE

6
1 ATTENDING PHYSICIAN MAY PRESUME THAT THE AID IN DYING REQUEST COMPLIES
2 WITH THIS SUBTITLE AND IS VALID.

3 5-706.

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

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

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

13 5-707.

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

18 5-708.

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

22 5-709.

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

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

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

29 (B) AN INDIVIDUAL MAY NOT BE:

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

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

35 (C) ANY PERSON THAT REQUIRES OR PROHIBITS THE EXECUTION OF AN AID
36 IN DYING REQUEST AS A CONDITION OF BEING INSURED FOR OR RECEIVING
37 HEALTH CARE SERVICES IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
38 SUBJECT TO A FINE NOT EXCEEDING \$1,000.

7

1 (D) AN INSURER THAT ISSUES A POLICY OF LIFE INSURANCE MAY NOT
2 REFUSE TO PAY A BENEFIT ASSOCIATED WITH THE POLICY UPON THE DEATH OF
3 THE INSURED WHOSE DEATH WAS ASSISTED IN ACCORDANCE WITH THIS SUBTITLE.

4 5-710.

5 (A) AN INDIVIDUAL MAY NOT BE INDUCED INTO MAKING A DECISION TO
6 EXECUTE AN AID IN DYING REQUEST BECAUSE THE INDIVIDUAL IS A FINANCIAL,
7 EMOTIONAL, OR OTHER BURDEN TO THE PATIENT'S FAMILY, OTHER PERSONS, OR
8 THE STATE.

9 (B) ANY PERSON WHO COERCES, PRESSURES, OR FRAUDULENTLY INDUCES
10 ANOTHER TO EXECUTE AN AID IN DYING REQUEST IS GUILTY OF A MISDEMEANOR
11 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

12 5-711.

13 (A) ANY PERSON WHO WILLFULLY CONCEALS, CANCELS, DEFACTES,
14 OBLITERATES, OR DAMAGES AN AID IN DYING REQUEST OF A DECLARANT
15 WITHOUT THE DECLARANT'S CONSENT IS GUILTY OF A MISDEMEANOR AND ON
16 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

17 (B) ANY PERSON WHO WILLFULLY CONCEALS, WITHHOLDS, OR CAUSES TO
18 BE WITHHELD KNOWLEDGE OF A REVOCATION OF AN AID IN DYING REQUEST WITH
19 THE INTENT TO CAUSE THE ADMINISTRATION OF AID IN DYING CONTRARY TO THE
20 DESIRES OF A DECLARANT, AND AS A RESULT CAUSES AID IN DYING TO BE
21 ADMINISTERED, SHALL BE GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
22 SUBJECT TO A FINE NOT EXCEEDING \$1,000.

23 5-712.

24 THIS SUBTITLE MAY NOT IMPAIR OR SUPERSEDE ANY UNREVOKED RIGHT OR
25 LEGAL RESPONSIBILITY THAT A PERSON MAY HAVE REGARDING THE
26 WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES AS PROVIDED
27 IN SUBTITLE 6 OF THIS TITLE.

28 5-713.

29 NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO CONDONE, AUTHORIZE,
30 OR APPROVE THE DELIBERATE ENDING OF AN INDIVIDUAL'S LIFE WITHOUT THE
31 INDIVIDUAL'S DOCUMENTED AND WITNESSED AID IN DYING REQUEST.

32 5-714.

33 AN AID IN DYING REQUEST EXECUTED IN ANOTHER STATE SHALL BE:

34 (1) DEEMED TO BE VALIDLY EXECUTED FOR THE PURPOSES OF THIS
35 SUBTITLE IF EXECUTED IN COMPLIANCE WITH THE LAWS OF THIS STATE OR THE
36 LAWS OF THE STATE WHERE THE AID IN DYING REQUEST WAS EXECUTED; AND

37 (2) CONSTRUED TO GIVE EFFECT TO THE PATIENT'S WISHES TO THE
38 EXTENT PERMITTED BY THE LAWS OF THIS STATE.

8

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.