



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 7, 2023

The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 845 – End-of-Life Option Act (The Honorable Elijah E. Cummings and the Honorable Shane E. Pendergrass Act) – Letter of Information

Dear Chair Smith and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of information for Senate Bill (SB) 845 – End-of-Life Option Act (The Honorable Elijah E. Cummings and the Honorable Shane E. Pendergrass Act). This bill seeks to authorize an individual to request aid in dying and establishes the related requirements and prohibitions.

For the bill to be implemented in a comprehensive manner, MDH notes that there are impacts to the Vital Statistics Administration (VSA) and the Office of the Chief Medical Examiner (OCME) that should be considered, with amendments made within the statutes governing these two offices.

Currently, MDH does not possess the function to collect and report on medically-assisted deaths and would need to develop and implement an addendum to the death certificate system to be used by the attending physician to meet the reporting parameters of this bill. This process would require significant modifications to the electronic death registration system which are noted in the fiscal impact submitted.

In addition, according to the National Association of Medical Examiners, the manner of death is not considered to be “natural” when injury (e.g., ingestion of medication) hastened the death of an individual with a life-threatening disease. According to national standards for completing death records, the manner of death in these situations would be “suicide” and the cause of death fields would include the immediate cause (narcotic intoxication) followed by any other diseases or conditions that directly caused the death (e.g., lung cancer). As the bill is currently written, there are situations in which medically-assisted deaths could be added to the currently mandated cases to be investigated by OCME in Health-General § 5-6A-01 et seq. In the event that a case is erroneously referred for investigation or a rejected death certificate is referred from MDH, an investigation would be triggered and referred to OCME. Because the bill prescribes these cases to be ruled as a natural cause of death, this would result in the medical examiner needing to choose between violating the national accreditation standards for medical examiners and violating the contents of this bill when reporting on the cause of death.

To rectify these issues, MDH respectfully suggests the following amendments:

- Modify the effective date of the bill to provide VSA time to update their current electronic death registration system to capture the information required for the annual statistical report.

- Include language mandating the attending physician who collects the information required for reporting be the same physician who certifies the death.
- Include language that physicians are required to report aid in dying deaths to VSA at the time the death is entered into VSA's electronic death registration system.
- Modify Health General §4-212(b) to include the information required to be documented on the death certificate.
- Include language stating that medically-assisted deaths are not to be referred to the OCME for investigation. This could be accomplished with an addition to Health General § 5-309 (the statute requiring certain deaths, including suicides, be investigated by a medical examiner) clarifying that deaths which occur under Health Gen. § 5-6A-01 et seq. are not to be referred for investigation. The OCME recommends that a similar provision be included in the proposed language of Health Gen. § 5-6A-01 et seq. If a rejected death certificate is referred to OCME, and records indicate that the deceased chose a medically-assisted death, that case would be declined by the OCME.

If you would like to discuss this further, please do not hesitate to contact Megan Peters, Acting Director of Governmental Affairs at megan.peters@maryland.gov or (410) 260-3190.

Sincerely,

Laura Herrera Scott, MD, MPH
Secretary