HOUSE BILL 171

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Deborah A. Armstrong and Bill McCamley
and Elizabeth "Liz" Stefanics

AN ACT
RELATING TO HEALTH CARE; ENACTING THE END OF LIFE OPTIONS ACT;
AMENDING A SECTION OF CHAPTER 30, ARTICLE 2 NMSA 1978 TO
ESTABLISH RIGHTS, PROCEDURES AND PROTECTIONS RELATING TO
MEDICAL AID IN DYING; REMOVING CRIMINAL LIABILITY FOR ATTENDING
HEALTH CARE PROVIDERS WHO PROVIDE ASSISTANCE PURSUANT TO THE
END OF LIFE OPTIONS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 9 of this act may be cited as the "End of Life Options Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the End of Life Options Act:

A. "adult" means an individual eighteen years of age or older;

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B. "attending health care provider" means an individual who:

(1) is licensed:

(a) to practice allopathic medicine pursuant to the Medical Practice Act;

(b) to practice osteopathic medicine pursuant to the Osteopathic Medicine Act;

(c) in advanced practice as a nurse pursuant to the Nursing Practice Act; or

(d) to practice as a physician assistant pursuant to the Physician Assistant Act or the Osteopathic Medicine Act;

(2) has responsibility for a patient's health care; and

(3) provides treatment related to a patient's terminal illness;

C. "capacity" means an individual's ability to understand and appreciate the nature and consequences of proposed health care, including its significant benefits, risks and alternatives to proposed health care and to make and communicate an informed health care decision. A determination of lack of capacity shall be made only according to the provisions of Section 24-7A-11 NMSA 1978;

D. "medical aid in dying" means the medical practice wherein an attending health care provider prescribes
medication to an individual who may self-administer that
medication to bring about the individual's death;

E. "self-administer" means taking an affirmative,
voluntary physical action to give oneself a pharmaceutical
substance; and

F. "terminal illness" means a disease or condition
that is incurable and irreversible and that, in accordance with
reasonable medical judgment, will result in death within a
reasonably foreseeable period of time.

SECTION 3. [NEW MATERIAL] MEDICAL AID IN DYING--ATTENDING
HEALTH CARE PROVIDER DETERMINATION.--An attending health care
provider may provide medical aid in dying to an adult patient
if the attending health care provider:

A. determines that the patient:

   (1) has capacity;

   (2) has a terminal illness;

   (3) has made the request for medical aid in
dying voluntarily; and

   (4) has the ability to self-administer the
medical-aid-in-dying medication;

B. treats the patient in accordance with accepted
medical standards of care;

C. determines that the patient is making an
informed decision by discussing with the patient:

   (1) the patient's medical diagnosis and
prognosis;

(2) the potential risks associated with taking
the medical-aid-in-dying medication that the patient has
requested the attending health care provider to prescribe;

(3) the probable result of taking the medical-
aid-in-dying medication to be prescribed;

(4) the patient's option of choosing to obtain
the medical-aid-in-dying medication and not taking it; and

(5) the feasible alternatives to medical-aid-
in-dying or additional treatment opportunities, including care
focusing on palliating symptoms and reducing suffering; and

D. believes in good faith that the patient's
request does not arise from coercion or undue influence by
another person.

SECTION 4. [NEW MATERIAL] DEATH CERTIFICATE--CAUSE OF
DEATH.--The cause of death listed on an individual's death
certificate who is deceased pursuant to self-administration of
medical-aid-in-dying medication pursuant to the End of Life
Options Act shall be the individual's underlying terminal
illness.

SECTION 5. [NEW MATERIAL] MEDICAL AID IN DYING--REQUEST--
FORM.--A patient seeking medical aid in dying may make a
request to the patient's attending health care provider for
medical aid in dying using substantially the following form:

"REQUEST FOR MEDICATION TO END MY LIFE IN A PEACEFUL MANNER
I, ______________________________________________, am an adult of sound mind.

I am suffering from a terminal illness, which is a disease or condition that is incurable and irreversible and that, according to reasonable medical judgment, will result in death within a reasonably foreseeable period of time. My attending health care provider has determined that the illness is in its terminal phase.

I have been fully informed of my diagnosis and prognosis, the nature of the medical-aid-in-dying medication to be prescribed and potential associated risks, the expected result and the feasible alternatives or additional treatment opportunities, including palliating symptoms and reducing suffering.

I request that my attending health care provider prescribe medication that will end my life in a peaceful manner if I choose to take it, and I authorize my attending health care provider to contact a willing pharmacist about my request.

I understand that I have the right to rescind this request at any time.

I understand the full import of this request and I expect to die if I take the medical-aid-in-dying medication prescribed. I further understand that although most deaths occur within three hours, my death may take longer. My attending health care provider has counseled me about this.
possibility.

I make this request voluntarily and without reservation.
I accept full responsibility for my actions.
Signed: ___________________________________________
Dated: ____________________________________________

SECTION 6. [NEW MATERIAL] MEDICAL AID IN DYING--RIGHT TO
KNOW.--An attending health care provider shall inform
terminally ill patients of all options related to the patients'
care that are legally available to terminally ill patients and
that meet or exceed the medical standards of care for
end-of-life medical care.

SECTION 7. [NEW MATERIAL] MEDICAL AID IN DYING--EFFECT ON
WILLS--CONTRACTS.--

A. A provision in a contract, will or other
agreement, whether written or oral, to the extent the provision
would affect whether a person may make or rescind a request for
medical-aid-in-dying medication, is not valid.

B. An obligation owing under any currently existing
contract may not be conditioned or affected by an individual
making or rescinding a request for medical-aid-in-dying
medication.

SECTION 8. [NEW MATERIAL] IMMUNITIES.--

A. A person that acts in good faith to comply with
the provisions of Section 3 the End of Life Options Act shall
not be subject to civil or criminal liability or professional
disciplinary action for such action. This immunity extends to attending health care providers, a patient's caregivers and any other person that acts to assist the attending health care provider or patient in the good-faith compliance with the provisions of Section 3 of the End of Life Options Act at the request of the attending health care provider or patient.

B. A person that declines for any reason to participate in actions permitted pursuant to Section 3 the End of Life Options Act shall not be subject to civil or criminal liability or professional disciplinary action for such action.

C. A request by a terminally ill individual for or provision by an attending health care provider of medication in good-faith compliance with the provisions of the End of Life Options Act in accordance with medical standards of care does not constitute neglect or adult abuse for any purpose of law, or provide the basis per se for a finding that the requesting terminally ill individual lacks capacity.

D. An attending health care provider may choose whether to participate in providing medical-aid-in-dying medication to an individual pursuant to the End of Life Options Act.

E. If an attending health care provider is unable or unwilling to carry out a patient's request for medical aid in dying pursuant to the End of Life Options Act and the patient transfers care to a new attending health care provider,
the patient's prior attending health care provider shall
transfer, upon the patient's request, a copy of the patient's
relevant medical records to the new attending health care
provider.

F. No person shall subject any attending health
care provider to discipline, suspension, loss of license, loss
of privilege or other penalty for actions taken in good-faith
reliance on the provisions of the End of Life Options Act or
refusals to act under the End of Life Options Act.

SECTION 9. [NEW MATERIAL] SEVERABILITY.--If any part or
application of the End of Life Options Act is held invalid, the
remainder or its application to other situations or persons
shall not be affected.

SECTION 10. Section 30-2-4 NMSA 1978 (being Laws 1963,
Chapter 303, Section 2-5) is amended to read:

"30-2-4. ASSISTING SUICIDE.--

A. Assisting suicide consists of deliberately
aiding another in the taking of [his]
[Whoever], unless the person aiding another in the taking of
the person's own life is an attending health care provider who
provides medical aid in dying, in accordance with the
provisions of the End of Life Options Act, to an adult patient
who has capacity and who has a terminal illness.

B. A person who is not an attending health care
provider providing medical aid in dying in accordance with the
End of Life Options Act and who commits assisting suicide is guilty of a fourth degree felony.

C. As used in this section:

(1) "adult" means an individual eighteen years of age or older;

(2) "attending health care provider" means an individual who:

   (a) is licensed: 1) to practice allopathic medicine pursuant to the Medical Practice Act; 2) to practice osteopathic medicine pursuant to the Osteopathic Medicine Act; 3) in advanced practice as a nurse pursuant to the Nursing Practice Act; or 4) to practice as a physician assistant pursuant to the Physician Assistant Act or the Osteopathic Medicine Act;

   (b) has responsibility for a patient's health care; and

   (c) provides treatment related to a patient's terminal illness;

(3) "capacity" means an individual's ability to understand and appreciate the nature and consequences of proposed health care, including its significant benefits, risks and alternatives to proposed health care, and to make and communicate an informed health care decision. A determination of lack of capacity shall be made only according to the provisions of Section 24-7A-11 NMSA 1978;
(4) "medical aid in dying" means the medical practice wherein an attending health care provider prescribes medication to an individual who may self-administer that medication to bring about the individual's death;

(5) "self-administer" means taking an affirmative, voluntary physical action to give oneself a pharmaceutical substance; and

(6) "terminal illness" means a disease or condition that is incurable and irreversible that, in accordance with reasonable medical judgment, will result in death within a reasonably foreseeable period of time."