

1 HOUSE BILL 171

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Deborah A. Armstrong and Bill McCamley

5 and Elizabeth "Liz" Stefanics

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10 AN ACT

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

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

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

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1 B. "attending health care provider" means an
2 individual who:
3 (1) is licensed:
4 (a) to practice allopathic medicine
5 pursuant to the Medical Practice Act;
6 (b) to practice osteopathic medicine
7 pursuant to the Osteopathic Medicine Act;
8 (c) in advanced practice as a nurse
9 pursuant to the Nursing Practice Act; or
10 (d) to practice as a physician assistant
11 pursuant to the Physician Assistant Act or the Osteopathic
12 Medicine Act;
13 (2) has responsibility for a patient's health
14 care; and
15 (3) provides treatment related to a patient's
16 terminal illness;
17 C. "capacity" means an individual's ability to
18 understand and appreciate the nature and consequences of
19 proposed health care, including its significant benefits, risks
20 and alternatives to proposed health care and to make and
21 communicate an informed health care decision. A determination
22 of lack of capacity shall be made only according to the
23 provisions of Section 24-7A-11 NMSA 1978;
24 D. "medical aid in dying" means the medical
25 practice wherein an attending health care provider prescribes

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1 medication to an individual who may self-administer that
2 medication to bring about the individual's death;

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

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

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

14 A. determines that the patient:

15 (1) has capacity;

16 (2) has a terminal illness;

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

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

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

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

25 (1) the patient's medical diagnosis and

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1 prognosis;

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

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

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

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

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

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

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

25 "REQUEST FOR MEDICATION TO END MY LIFE IN A PEACEFUL MANNER

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1 I, _____, am an
2 adult of sound mind.

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

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

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

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

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

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1 possibility.

2 I make this request voluntarily and without reservation.

3 I accept full responsibility for my actions.

4 Signed: _____

5 Dated: _____".

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

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

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

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

22 SECTION 8. [NEW MATERIAL] IMMUNITIES.--

23 A. A person that acts in good faith to comply with
24 the provisions of Section 3 the End of Life Options Act shall
25 not be subject to civil or criminal liability or professional

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1 disciplinary action for such action. This immunity extends to
2 attending health care providers, a patient's caregivers and any
3 other person that acts to assist the attending health care
4 provider or patient in the good-faith compliance with the
5 provisions of Section 3 of the End of Life Options Act at the
6 request of the attending health care provider or patient.

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

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

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

22 E. If an attending health care provider is unable
23 or unwilling to carry out a patient's request for medical aid
24 in dying pursuant to the End of Life Options Act and the
25 patient transfers care to a new attending health care provider,

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1 the patient's prior attending health care provider shall
2 transfer, upon the patient's request, a copy of the patient's
3 relevant medical records to the new attending health care
4 provider.

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

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

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

16 "30-2-4. ASSISTING SUICIDE.--

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

24 B. A person who is not an attending health care
25 provider providing medical aid in dying in accordance with the

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1 End of Life Options Act and who commits assisting suicide is
2 guilty of a fourth degree felony.

3 C. As used in this section:

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

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

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

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

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

19 (3) "capacity" means an individual's ability
20 to understand and appreciate the nature and consequences of
21 proposed health care, including its significant benefits, risks
22 and alternatives to proposed health care, and to make and
23 communicate an informed health care decision. A determination
24 of lack of capacity shall be made only according to the
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4 medication to bring about the individual's death;

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6 affirmative, voluntary physical action to give oneself a
7 pharmaceutical substance; and

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