

HOUSE BILL NO. HB0119

Death with dignity.

Sponsored by: Representative(s) Zwonitzer, Dn. and Connolly

A BILL

for

1 AN ACT relating to public health; providing that a capable
2 patient with a terminal disease may request prescription of
3 self-administered medication for the purpose of hastening
4 death; providing that patients have a right to information
5 as specified; specifying duties and responsibilities of
6 physicians as specified; specifying waiting periods and
7 residency requirements; specifying the effect of the act on
8 insurance policies; providing immunities for participation
9 in the act; specifying limitations; providing definitions;
10 granting rulemaking authority; and providing for an
11 effective date.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

15 **Section 1.** W.S. 35-22-501 through 35-22-510 are
16 created to read:

1

2

ARTICLE 5

3

DEATH WITH DIGNITY

4

5

35-22-501. Definitions.

6

7

(a) As used in this article:

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(i) "Bona fide physician-patient relationship" means a treating or consulting relationship in the course of which a physician has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

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(iii) "Health care facility" means as defined in W.S. 35-2-901(a)(x);

23

1 (iv) "Health care provider" means a person,
2 partnership, corporation, facility or institution, licensed
3 or certified or authorized by law to administer health care
4 or dispense medication in the ordinary course of business
5 or practice of a profession;

6

7 (v) "Impaired judgment" means that a person does
8 not sufficiently understand or appreciate the relevant
9 facts necessary to make an informed decision;

10

11 (vi) "Interested person" means:

12

13 (A) The patient's physician;

14

15 (B) A person who knows that the patient is
16 the person's relative by blood, civil marriage, civil union
17 or adoption;

18

19 (C) A person who knows that, upon the
20 patient's death, the person would be entitled to any
21 portion of the estate or assets of the patient under any
22 will or trust, by operation of law or by contract; or

23

1 (D) An owner, operator or employee of a
2 health care facility, nursing home or residential care
3 facility where the patient is receiving medical treatment
4 or is a resident.

5

6 (vii) "Palliative care" means health care that
7 is intended to relieve symptoms, pain, physical stress and
8 mental stress of a serious illness without intending to
9 cure the illness;

10

11 (viii) "Patient" means a person who is eighteen
12 (18) years of age or older, a resident of Wyoming and under
13 the care of a physician;

14

15 (ix) "Physician" means an individual licensed to
16 practice medicine under W.S. 33-26-101 et seq.;

17

18 (x) "Terminal condition" means an incurable and
19 irreversible disease which would, within reasonable medical
20 judgment, result in death within six (6) months.

21

22 **35-22-502. Right to information.**

23

1 A patient, regardless of the purpose of the inquiry or the
2 nature of the information, has the right to be informed of
3 all available options related to terminal care and to
4 receive answers to any specific question about the
5 foreseeable risks and benefits of medication without the
6 physician's withholding any requested information. A
7 physician who engages in discussions with a patient related
8 to risks and benefits in the circumstances described in
9 this article shall not be construed to be assisting in or
10 contributing to a patient's independent decision to self-
11 administer a lethal dose of medication and the discussions
12 shall not be used to establish civil or criminal liability
13 or professional disciplinary action.

14

15 **35-22-503. Requirements for prescription and**
16 **documentation; immunity.**

17

18 (a) A physician shall not be subject to any civil or
19 criminal liability or professional disciplinary action if
20 the physician prescribes to a patient with a terminal
21 condition medication to be self-administered for the
22 purpose of hastening the patient's death and the physician
23 affirms by documenting in the patient's medical record that

1 all of the following occurred:

2

3 (i) The patient made an oral request to the
4 physician in the physician's physical presence for
5 medication to be self-administered for the purpose of
6 hastening the patient's death;

7

8 (ii) No fewer than fifteen (15) days after the
9 first oral request, the patient made a second oral request
10 to the physician in the physician's physical presence for
11 medication to be self-administered for the purpose of
12 hastening the patient's death;

13

14 (iii) At the time of the second oral request,
15 the physician offered the patient an opportunity to rescind
16 the request;

17

18 (iv) The patient made a written request for
19 medication to be self-administered for the purpose of
20 hastening the patient's death that was signed by the
21 patient in the presence of two (2) or more witnesses who
22 were not interested persons, who were at least eighteen
23 (18) years of age and who signed and affirmed that the

1 patient appeared to understand the nature of the document
2 and to be free from duress or undue influence at the time
3 the request was signed;

4

5 (v) The physician determined that the patient:

6

7 (A) Was suffering a terminal condition,
8 based on the physician's physical examination of the
9 patient and review of the patient's relevant medical
10 records;

11

12 (B) Was capable;

13

14 (C) Was making an informed decision;

15

16 (D) Had made a voluntary request for
17 medication to hasten the patient's death; and

18

19 (E) Was a Wyoming resident for at least one
20 (1) year.

21

22 (vi) The physician informed the patient in
23 person, both verbally and in writing, of all the following:

1

2 (A) The patient's medical diagnosis;

3

4 (B) The patient's prognosis, including an
5 acknowledgement that the physician's prediction of the
6 patient's life expectancy was an estimate based on the
7 physician's best medical judgment and was not a guarantee
8 of the actual time remaining in the patient's life and that
9 the patient could live longer than the time predicted;

10

11 (C) The range of treatment options
12 appropriate for the patient and the patient's diagnosis;

13

14 (D) If the patient was not enrolled in
15 hospice care, all feasible end-of-life services, including
16 palliative care, comfort care, hospice care and pain
17 control;

18

19 (E) The range of possible results,
20 including potential risks associated with taking the
21 medication to be prescribed; and

22

23 (F) The probable result of taking the

1 medication to be prescribed.

2

3 (vii) The physician referred the patient to a
4 second physician for medical confirmation of the diagnosis,
5 prognosis and a determination that the patient was capable,
6 was acting voluntarily and had made an informed decision;

7

8 (viii) The physician either verified that the
9 patient did not have impaired judgment or referred the
10 patient for an evaluation by a psychiatrist, psychologist
11 or clinical social worker licensed in Wyoming for
12 confirmation that the patient was capable and did not have
13 impaired judgment;

14

15 (ix) If applicable, the physician consulted with
16 the patient's primary care physician with the patient's
17 consent;

18

19 (x) The physician informed the patient that the
20 patient may rescind the request at any time and in any
21 manner and offered the patient an opportunity to rescind
22 after the patient's second oral request;

23

1 (xi) The physician ensured that all required
2 steps were carried out in accordance with this section and
3 confirmed, immediately prior to writing the prescription
4 for medication, that the patient was making an informed
5 decision;

6

7 (xii) The physician wrote the prescription at
8 least forty-eight (48) hours after the last to occur of the
9 following events:

10

11 (A) The patient's written request for
12 medication to hasten the patient's death;

13

14 (B) The patient's second oral request;

15

16 (C) The physician's offering the patient an
17 opportunity to rescind the request.

18

19 (xiii) The physician either:

20

21 (A) Dispensed the medication directly,
22 provided that the physician was licensed to dispense
23 medication in Wyoming, had a current drug enforcement

1 administration certificate and complied with any applicable
2 administrative rules; or

3

4 (B) With the patient's written consent:

5

6 (I) Contacted a pharmacist and
7 informed the pharmacist of the prescription; and

8

9 (II) Delivered the written
10 prescription personally or by mail or facsimile to the
11 pharmacist, who dispensed the medication to the patient,
12 the physician or an expressly identified agent of the
13 patient.

14

15 (xiv) The physician recorded and filed the
16 following in the patient's medical record:

17

18 (A) The date, time and wording of all oral
19 requests of the patient for medication to hasten the
20 patient's death;

21

22 (B) All written requests by the patient for
23 medication to hasten the patient's death;

1

2 (C) The physician's diagnosis, prognosis
3 and basis for the determination that the patient was
4 capable, was acting voluntarily and had made an informed
5 decision;

6

7 (D) The second physician's diagnosis,
8 prognosis and verification that the patient was capable,
9 was acting voluntarily and had made an informed decision;

10

11 (E) The physician's attestation that the
12 patient was enrolled in hospice care at the time of the
13 patient's oral and written requests for medication to
14 hasten the patient's death or that the physician informed
15 the patient of all feasible end-of-life services;

16

17 (F) The physician's verification that the
18 patient either did not have impaired judgment or that the
19 physician referred the patient for an evaluation and the
20 person conducting the evaluation has determined that the
21 patient did not have impaired judgment;

22

23 (G) A report of the outcome and

1 determinations made during any evaluation which the patient
2 may have received;

3

4 (H) The date, time and wording of the
5 physician's offer to the patient to rescind the request for
6 medication at the time of the patient's second oral
7 request; and

8

9 (J) A note by the physician indicating that
10 all requirements under this section were satisfied and
11 describing all of the steps taken to carry out the request,
12 including a notation of the medication prescribed.

13

14 (xv) After writing the prescription, the
15 physician promptly filed a report with the department of
16 health documenting completion of all of the requirements
17 under this section.

18

19 (b) This section shall not be construed to limit
20 civil or criminal liability for gross negligence,
21 recklessness or intentional misconduct.

22

23 **35-22-504. Limitation on actions.**

1

2 (a) A physician, nurse, pharmacist or other person
3 shall not be under any duty, by law or contract, to
4 participate in the provision of a lethal dose of medication
5 to a patient.

6

7 (b) A health care facility or health care provider
8 shall not subject a physician, nurse, pharmacist or other
9 person to discipline, suspension, loss of license, loss of
10 privileges or other penalty for actions taken in good faith
11 reliance on the provisions of this article or refusals to
12 act under this article.

13

14 (c) Except as specifically provided in this article,
15 nothing in this article shall be construed to limit
16 liability for civil damages resulting from negligent
17 conduct or intentional misconduct by any person.

18

19 **35-22-505. Health care facility exception.**

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21 A health care facility may prohibit a physician from
22 writing a prescription for a dose of medication intended to
23 be lethal for a patient who is a resident in its facility

1 and intends to use the medication on the facility's
2 premises, provided the facility has notified the physician
3 in writing of its policy with regard to the prescriptions.
4 Notwithstanding W.S. 35-22-504(b), any physician who
5 violates a policy established by a health care facility
6 under this section may be subject to sanctions otherwise
7 allowable under law or contract.

8

9 **35-22-506. Insurance policies; prohibitions.**

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11 (a) A person and a person's beneficiaries shall not
12 be denied benefits under a life insurance policy, as
13 defined in W.S. 26-5-102, for actions taken in accordance
14 with this article.

15

16 (b) The sale, procurement or issue of any medical
17 malpractice insurance policy or the rate charged for the
18 policy shall not be conditioned upon or affected by whether
19 the physician is willing or unwilling to participate in the
20 provisions of this article.

21

22 **35-22-507. No effect on palliative sedation.**

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1 This article shall not limit or otherwise affect the
2 provision, administration or receipt of palliative sedation
3 consistent with accepted medical standards.

4

5 **35-22-508. Protection of patient choice at end of**
6 **life; immunity.**

7

8 (a) A physician with a bona fide physician-patient
9 relationship with a patient with a terminal condition shall
10 not be considered to have engaged in unprofessional conduct
11 under W.S. 33-26-402 if:

12

13 (i) The physician determines that the patient is
14 capable and does not have impaired judgment;

15

16 (ii) The physician informs the patient of all
17 feasible end-of-life services, including palliative care,
18 comfort care, hospice care and pain control;

19

20 (iii) The physician prescribes a dose of
21 medication that may be lethal to the patient;

22

23 (iv) The physician advises the patient of all

1 foreseeable risks related to the prescription; and

2

3 (v) The patient makes an independent decision to
4 self-administer a lethal dose of the medication.

5

6 (b) A physician shall be immune from any civil or
7 criminal liability or professional disciplinary action for
8 actions performed in good faith compliance with the
9 provisions of this article.

10

11 **35-22-509. Safe disposal of medications.**

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13 The department of health shall adopt rules providing for
14 the safe disposal of unused medications prescribed under
15 this article.

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17 **35-22-510. Construction of article.**

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19 Nothing in this article shall be construed to authorize a
20 physician or any other person to end a patient's life by
21 lethal injection, mercy killing or active euthanasia.
22 Action taken in accordance with this article shall not be
23 construed for any purpose to constitute suicide, assisted

1 suicide, mercy killing or homicide under the law. This
2 section shall not be construed to conflict with section
3 1553 of the Patient Protection and Affordable Care Act,
4 Public Law No. 111-148, as amended by the Health Care and
5 Education Reconciliation Act of 2010, Public Law No.
6 111-152.

7

8 **Section 2.** This act is effective July 1, 2015.

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(END)