Death with dignity.

Sponsored by: Representative(s) Zwonitzer and Pelkey

A BILL

for

AN ACT relating to public health and safety; allowing an attending health care provider to prescribe medication that will end a terminally ill patient's life; providing qualifications; providing requirements to health care providers; providing a procedure to request medication; providing reporting requirements; authorizing rulemaking; providing immunity for persons in compliance with the act as specified; providing penalties; specifying applicability; providing definitions; and providing for an effective date.

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

Section 1. W.S. 35-22-601 through 35-22-611 are created to read:
CHAPTER 22

END OF LIVE DECISIONS

ARTICLE 6

AID IN DYING


(a) As used in this act:

(i) "Attending health care provider" means a person who has primary responsibility for the care of a patient and treatment of the patient's terminal condition and is licensed under Wyoming law and practicing within the scope of that license as a physician;

(ii) "Competent" means an individual's ability to understand the significant benefits, risks and alternatives to proposed health care and to make and communicate a health care decision;

(iii) "Consulting health care provider" means a person who is not responsible for care of the patient or
treated the patient's illness prior to the consultation and is licensed under Wyoming law and practicing within the scope of that license as a physician;

(iv) "Counseling" means one (1) or more consultations as necessary between a mental health care provider and a patient for the purpose of determining that the patient's judgment is not impaired by a psychiatric or psychological condition;

(v) "Department" means the Wyoming department of health;

(vi) "Health care institution" means an institution authorized by Wyoming law to provide health care in the ordinary course of business;

(vii) "Medication" means a medically appropriate prescription to end a patient's life;

(viii) "Mental health care provider" means any person licensed under Wyoming law practicing within the scope of that license as a psychiatrist or psychologist;
(ix) "Patient" means a person who is under the care of an attending health care provider;

(x) "Resident" means a person physically present in Wyoming for sixty (60) or more days;

(xi) "Terminal condition" means a condition that will, within a reasonable degree of medical certainty, produce death within six (6) months;

(xii) "Voluntarily" means free of undue physical or mental coercion;

(xiii) "This act" means W.S. 35-22-601 through 35-22-611.

35-22-602. Right to be informed.

A patient has the right to be informed by the patient's attending health care provider of all available options for the management or treatment of the patient's terminal
condition, including the option to request medication pursuant to this act.

35-22-603. Qualification; requirements.

(a) Any patient who qualifies under this act may receive a prescription for medication to end the patient's life.

(b) A patient is qualified to receive a prescription for medication from the patient's attending health care provider if all of the following requirements are met:

(i) The patient is an adult Wyoming resident;

(ii) The patient has a terminal condition;

(iii) The patient is competent and acting voluntarily;

(iv) The patient has been provided all required information about their terminal condition, the medication
and any feasible alternatives pursuant to W.S. 35-22-604(a)(ii);

(v) The patient has been informed of the option to rescind the request for medication at any time and in any manner pursuant to W.S. 35-22-604(a)(v);

(vi) If the patient is recommended for counseling pursuant to W.S. 35-22-606, a mental health care provider has determined the patient's judgment is not impaired by a psychiatric or psychological condition;

(vii) A consulting health care provider has confirmed paragraphs (i) through (v) of this subsection;

(viii) The request for medication complied with the procedure set forth in W.S. 35-22-605; and

(ix) The attending health care provider has verified all requirements of this subsection have been completed.
(c) No patient shall qualify for medication under this act on the sole basis of age, disability, or any condition which is not a terminal condition.

35-22-604. Attending health care provider responsibilities.

(a) If a patient makes a request for medication pursuant to W.S. 35-22-605, the attending health care provider shall:

(i) Make a determination of whether a patient is an adult Wyoming resident, has a terminal condition, is competent and acting voluntarily;

(ii) Inform the patient of:

(A) The patient's medical diagnosis and prognosis;

(B) The risks and probable result of taking medication prescribed under this act; and
(C) Any feasible alternatives, including treatment, comfort care, hospice care and palliative care.

(iii) Refer the patient to a consulting health care provider for an independent assessment of whether the patient has a terminal condition, has made an informed decision, is competent and is acting voluntarily regarding the request of medication;

(iv) Refer the patient for counseling if appropriate pursuant to W.S. 35-22-606;

(v) Inform the patient of the option to rescind the request for medication at any time and in any manner;

(vi) Comply with the medical record documentation requirements pursuant to W.S. 35-22-607; and

(vii) Ensure that all requirements of this act are met prior to writing a prescription for medication.

35-22-605. Request procedure.
(a) To receive medication under this act a patient shall make to the attending health care provider:

(i) An initial request for medication;

(ii) A second request for medication in writing which shall be substantially in the form described in W.S. 35-22-611, signed and dated by the patient and witnessed by two (2) persons who, in the presence of the patient, attest that to the best of their knowledge the patient is competent and acting voluntarily and at least one (1) of which complies with the requirements of subsection (b) of this section;

(iii) A third request for medication in writing which shall be made not less than fifteen (15) days after the date of the initial request.

(b) At least one (1) of the witnesses signing the form required by paragraph (a)(ii) of this section shall not be:
(i) A relative of the patient by blood, marriage or adoption;

(ii) A person who would be entitled to any portion of the patient's estate upon the death of the patient under any will or by any other operation of law at the time the written request is signed; or

(iii) An owner, operator or employee of any health care institution where the patient is receiving medical treatment.

(c) If the patient is physically unable to make a written request, he or she may direct a competent adult in the patient's presence and the presence of the attending health care provider who is not a witness to fill out the written request on the patient's behalf.

(d) The patient's attending health care provider shall not be a witness and shall not provide the patient with any assistance in completing the written request.

If in the opinion of the attending health care provider or consulting health care provider a patient's judgment may be impaired by a psychiatric or psychological condition, the attending health care provider shall refer the patient to a mental health care provider for counseling. No medication shall be prescribed until the mental health care provider determines the patient's judgment is not impaired by a psychiatric or psychological condition.

35-22-607. Medical record documentation requirements.

(a) The following shall be documented in writing and filed in the patient's medical record:

(i) Any requests made by a patient for medication pursuant to this act;

(ii) The attending health care provider's diagnosis, prognosis, and determination that the patient is competent, acting voluntarily and has made an informed decision;
(iii) The consulting health care provider's diagnosis, prognosis, and determination that the patient is competent, acting voluntarily and has made an informed decision;

(iv) Verification that the patient has been informed of all information required by W.S. 35-22-604(a)(ii) and (v);

(v) If the patient was referred for counseling pursuant to W.S. 35-22-606, a report from the mental health care provider who performed the counseling stating the outcome and any determinations made during counseling by the mental health care provider on whether the patient's judgment is impaired;

(vi) Verification by the attending health care provider that all requirements of this act have been met and indicating the steps taken to carry out the patient's request; and

(vii) Whether the patient has rescinded a request for medication.
35-22-608. Reporting requirements; rulemaking.

(a) The department shall require any health care provider upon prescribing medication under this act to file a copy of the record required by W.S. 35-22-607 with the department. Except as otherwise provided by law, information collected by the department shall not be a public record and shall not be made available for inspection by the public.

(b) The department shall promulgate rules and regulations to:

(i) Annually review a sample of the records maintained pursuant to this act to ensure compliance with this act; and

(ii) Collect information to assist with the preparation of an annual statistical report pursuant to subsection (c) of this section.
(c) The department may generate and make available to the public an annual statistical report of information collected pursuant to this section. The report shall not include any information which would tend to disclose the identity of any individual who has been prescribed medication pursuant to this act or the identity of any attending health care provider who prescribed medication pursuant to this act.

35-22-609. Immunities; health care provider participation; liabilities.

(a) No person shall be subject to civil or criminal liability or professional disciplinary action for participating in any activity authorized in compliance with this act.

(b) No professional organization or association or health care institution may subject a person to any penalty for participating or refusing to participate in any activity authorized under this act.
(c) Actions taken or information received in accordance with this act does not impose a duty to report under W.S. 35-20-103 or any other similar requirement.

(d) No health care provider shall be under any duty to participate in providing a patient with medication in accordance with this act. An attending health care provider who is unable or unwilling to carry out a patient's request shall:

(i) Promptly inform the patient;

(ii) Provide continuing care to the patient until a transfer of care can be effected; and

(iii) Immediately make all reasonable efforts to assist in the transfer of care of the patient to another attending health care provider who is willing and able to carry out the patient's request.

(e) Notwithstanding subsections (a) and (b) of this section, any person who violates a policy established by a
health care institution may be subject to sanctions otherwise allowable under law or contract.

(f) Any person who willfully alters or forges a request for medication or willfully conceals or destroys a rescission of a request for medication with the intent of causing the patient's death shall be guilty of a felony punishable by imprisonment for a term not less than twenty (20) years.

(g) Any person who willfully coerces or exerts undue influence on a patient to request medication for the purpose of ending the patient's life with the intent of causing the patient's death shall be guilty of a felony punishable by imprisonment for a term not less than twenty (20) years.

(h) Any person who willfully alters, forges, conceals or destroys an instrument or any other evidence reflecting a patient's desires and interests with the intent or effect of affecting any decision under this act, but does not act with the intent of causing the patient's death, shall be guilty of a misdemeanor punishable by imprisonment for a
term not more than one (1) year, a fine of not more than two thousand dollars ($2,000.00) or both.

(j) Nothing in this act shall be construed to limit further criminal or civil liability or professional misconduct resulting from other intentional or negligent conduct by any person.


(a) Nothing in this act shall be construed to authorize any person to contribute to ending a patient's life or provide any assistance to a patient in ending his own life beyond prescribing the medication authorized pursuant to this act.

(b) Death caused by medication prescribed in accordance with this act shall not constitute suicide for any purpose under Wyoming law.

35-22-611. Form.
A written request for medication pursuant to W.S. 35-22-605(a)(ii) shall be in substantially the following form:

REQUEST FOR MEDICATION

I, the undersigned, am of a sound mind and a resident of the state of Wyoming.

I am suffering from ...., (condition), which my attending health care provider has determined is in its terminal phase and which has been confirmed by a consulting health care provider.

I have been fully informed of my diagnosis, prognosis, the risks and probable result of taking the prescribed medication and feasible alternatives, including treatments, comfort care, hospice care and palliative care.

I request that my attending health care provider prescribe medication that will end my life should I choose to take it.
I understand that I have a right to rescind this request at any time.

I understand the full import of this request and I expect to die when I take the medication prescribed.

I make this request voluntarily and without reservation.

Signature of Candidate

Dated: ....

DECLARATION OF WITNESSES

We declare that the person signing this request:

Is personally known to us or has provided proof of identity;

Signed this request in our presence;
Appears to be of sound mind and not under duress, fraud or undue influence; and

Is not a patient for whom either of us is an attending health care provider.

Signature of Witness 1

Dated ....

Signature of Witness 2

Dated ....

Section 2. This act is effective July 1, 2017.