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**West's Arkansas Code Annotated**

A.C.A. § 20-10-1010

**West's Arkansas Code Annotated**

Title 20. Public Health and Welfare

Subtitle 2. Health and Safety (Chapters 6 to 44)

Chapter 10. Long-Term Care Facilities and Services (Refs & Annos)

Subchapter 10. Omnibus Long-Term Care Reform Act

**§ 20-10-1010. End-of-life treatment of long-term care residents**

(a) For residents suffering from a terminal condition as defined in § 20-17-201, facilities may withhold nutrition or hydration, or both, only pursuant to:

- (1) The directive or with the consent of the resident;
- (2) A validly executed declaration as defined in § 20-17-201; or
- (3) The instructions of a person authorized to execute a written request for

another under § 20-17-214 if:

(A) The resident did not execute a declaration; and

(B) In the opinion of the attending physician, the resident is no longer able to make health care decisions for himself or herself; or

(4) The directions of an attorney-in-fact appointed under a validly executed durable power of attorney for health care as defined in § 20-13-104.

(b) For residents who are permanently unconscious as defined in § 20-17-201, facilities may withhold nutrition or hydration, or both, only pursuant to:

- (1) A validly executed declaration as defined in § 20-17-201; or
- (2) The instructions of a person authorized to execute a written request for

another pursuant to § 20-17-214 if:

(A) The resident did not execute a declaration; and

(B) In the opinion of the attending physician, the resident is no longer able to make health care decisions for himself or herself; or

(3) The directions of an attorney-in-fact appointed under a validly executed durable power of attorney for health care as defined in § 20-13-104.

(c) (1) Notwithstanding subsections (a) and (b) of this section, the wishes of a resident who requests nutrition or hydration, or both, shall be honored.

(2) Unless the use of artificial means is specifically requested, a patient's request for nutrition or hydration, or both, shall not be honored by use of artificial means if doing so would require the insertion of any apparatus into the patient's body.

(d) The attending physician or other health care provider may not substitute his or her judgment relating to nutrition or hydration and make a decision that is contrary to the known wishes of the resident.

CREDIT(S)

Acts of 2003, Act 1322, § 7, eff. July 16, 2003.

A.C.A. § 20-17-201

**West's Arkansas Code Annotated**

Title 20. Public Health and Welfare

Subtitle 2. Health and Safety (Chapters 6 to 44)

Chapter 17. Death and Disposition of the Dead (Refs & Annos)

Subchapter 2. Arkansas Rights of the Terminally Ill or Permanently Unconscious Act (Refs & Annos)

**§ 20-17-201. Definitions**

As used in this subchapter, unless the context otherwise requires:

(1) “Attending physician” means the physician who has primary responsibility for the treatment and care of the patient;

(2) “Declaration” means a writing executed in accordance with the requirements of § 20-17-202(a);

(3) “Health care proxy” is a person eighteen (18) years old or older appointed by the patient as attorney-in-fact to make health care decisions including the withholding or withdrawal of life-sustaining treatment if a qualified patient, in the opinion of the attending physician, is permanently unconscious, incompetent, or otherwise mentally or physically incapable of communication;

(4) “Health care provider” means a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession;

(5) “Life-sustaining treatment” means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the process of dying or to maintain the patient in a condition of permanent unconsciousness;

(6) “Permanently unconscious” means a lasting condition, indefinitely without change in which thought, feeling, sensations, and awareness of self and environment are absent;

(7) “Person” means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity;

(8) “Physician” means an individual licensed to practice medicine in this state;

(9) “Qualified patient” means a patient eighteen (18) or more years of age who has executed a declaration or appointed a health care proxy and who has been determined to be in a terminal condition or in a permanently unconscious state by the attending physician and another qualified physician who has examined the patient;

(10) “State” means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; and

(11) “Terminal condition” means an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of the attending physician, result in death within a relatively short time.

#### CREDIT(S)

Acts of 1987, Act 713, § 1; Acts of 1999, Act 1536, § 1, eff. July 30, 1999.

A.C.A. § 20-17-202

**West's Arkansas Code Annotated**

Title 20. Public Health and Welfare

Subtitle 2. Health and Safety (Chapters 6 to 44)

Chapter 17. Death and Disposition of the Dead (Refs & Annos)

Subchapter 2. Arkansas Rights of the Terminally Ill or Permanently Unconscious Act (Refs & Annos)

**§ 20-17-202. Life-sustaining procedures--Implementation--Declaration**

(a) An individual of sound mind and eighteen (18) or more years of age may execute at any time a declaration governing the withholding or withdrawal of life-sustaining treatment. The declaration must be signed by the declarant, or another at the declarant's direction, and witnessed by two (2) individuals.

(b) A declaration may be, but need not be, in the following form in the case where the patient has a terminal condition:

**“DECLARATION**

“If I should have an incurable or irreversible condition that will cause my death within a relatively short time, and I am no longer able to make decisions regarding my medical treatment, I direct my attending physician, pursuant to the Arkansas Rights of the Terminally Ill or Permanently Unconscious Act, to [withhold or withdraw treatment that only prolongs the process of dying and is not necessary to my comfort or to alleviate pain] [follow the instructions of ..... whom I appoint as my Health Care Proxy to decide whether life-sustaining treatment should be withheld or withdrawn].

“It is my specific directive that nutrition may be withheld after consultation with my attending physician.

“It is my specific directive that hydration may be withheld after consultation with my attending physician.

“It is my specific directive that nutrition may not be withheld.

“It is my specific directive that hydration may not be withheld.

“Signed this ..... day of ....., .....

“Signature .....

“Address .....

“The declarant voluntarily signed this writing in my presence.

“Witness .....

“Address .....

“Witness .....

“Address .....”

(c) A declaration may be, but need not be, in the following form in the case where the patient is permanently unconscious:

#### “DECLARATION

“If I should become permanently unconscious, I direct my attending physician, pursuant to the Arkansas Rights of the Terminally Ill or Permanently Unconscious Act, to [withhold or withdraw life-sustaining treatments that are no longer necessary to my comfort or to alleviate pain] [follow the instructions of ..... whom I appoint as my health care proxy to decide whether life-sustaining treatment should be withheld or withdrawn].

“It is my specific directive that nutrition may be withheld after consultation with my attending physician.

“It is my specific directive that hydration may be withheld after consultation with my attending physician.

“It is my specific directive that nutrition may not be withheld.

“It is my specific directive that hydration may not be withheld.

“Signed this ..... day of ....., 20 .....

“Signature .....

“Address .....

“The declarant voluntarily signed this writing in my presence.

“Witness .....

“Address .....



“Witness .....

“Address .....”

(d) A physician or other health care provider who is furnished a copy of the declaration shall make it a part of the declarant's medical record and, if unwilling to comply with the declaration, promptly so advise the declarant.

(e) In the case of a qualified patient, the patient's health care proxy, in consultation with the attending physician, shall have the authority to make treatment decisions for the patient including the withholding or withdrawal of life-sustaining procedures.

(f) A declaration executed by a qualified individual shall be clear and convincing evidence of his or her wishes, but clear and convincing evidence of an individual's wishes is not limited to the declarations under this section.

(g) (1) The directives concerning nutrition and hydration contained in subsections (b) and (c) of this section shall apply only to declarations executed on and after July 16, 2003.

(2) All declarations executed before that date shall remain in full force and effect, and the provisions of subsections (b) and (c) of this section pertaining to hydration and nutrition shall not be applied in the interpretation or construction of any such declaration, nor shall they be applied to in any way invalidate any such declaration or to otherwise limit the directives, powers, and authority granted under any such declaration.

CREDIT(S)

Acts of 1987, Act 713, § 2; Acts of 1999, Act 1536, § 2, eff. July 30, 1999; Acts of 2003, Act 1322, §§ 3, 4, eff. July 16, 2003.

A.C.A. § 20-17-214

**West's Arkansas Code Annotated**

Title 20. Public Health and Welfare

Subtitle 2. Health and Safety (Chapters 6 to 44)

Chapter 17. Death and Disposition of the Dead (Refs & Annos)

Subchapter 2. Arkansas Rights of the Terminally Ill or Permanently Unconscious Act (Refs & Annos)

**§ 20-17-214. Who may execute written request for another**

(a) If any person is a minor or an adult where a valid declaration does not exist and a health care proxy has not been designated and who, in the opinion of the attending physician, is no longer able to make health care decisions, then the declaration may be executed in the same form on his or her behalf by the first of the following individuals or category of individuals who exist and are reasonably available for consultation:

- (1) A legal guardian of the patient, if one has been appointed;
- (2) In the case of an unmarried patient under the age of eighteen (18), the parents of the patient;
- (3) The patient's spouse;
- (4) The patient's adult child or, if there is more than one (1), then a majority of the patient's adult children participating in the decision;
- (5) The parents of a patient over the age of eighteen (18);
- (6) The patient's adult sibling or, if there is more than one (1), then a majority of the patient's adult siblings participating in the decision;
- (7) Persons standing in loco parentis to the patient; or
- (8) A majority of the patient's adult heirs at law who participate in the decision.

(b) (1) Even if an advance directive that includes a directive to withhold nutrition or hydration, or both, is signed by a person under this section, if the terminally ill patient requests nutrition or hydration, his or her wishes shall be honored.

(2) Unless the use of artificial means is specifically requested, a patient's request for nutrition or hydration, or both, shall not be honored by use of artificial means if doing so would require the insertion of any apparatus into the patient's body.

CREDIT(S)

Acts of 1987, Act 713, § 14; Acts of 2003, Act 1322, § 9, eff. July 16, 2003.

**ภาคผนวก ข**

**Termination of Life on Request and Assisted Suicide  
(Review Procedures) Act**

## **Termination of Life on Request and Assisted Suicide (Review Procedures) Act**

- This Act entered into force on April 1, 2002 -

### **Review procedures of termination of life on request and assisted suicide and amendment to the Penal Code (Wetboek van Strafrecht) and the Burial and Cremation Act (Wet op de lijkbezorging)**

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Oranje-Nassau, etc., etc. etc.

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that it is desired to include a ground for exemption from criminal liability for the physician who with due observance of the requirements of due care to be laid down by law terminates a life on request or assists in a suicide of another person, and to provide a statutory notification and review procedure;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

## **Chapter I. Definitions of Terms**

### **Article 1**

#### **For the purposes of this Act:**

- a. Our Ministers mean the Ministers of Justice and of Health, Welfare and Sports;
- b. assisted suicide means intentionally assisting in a suicide of another person or procuring for that other person the means referred to in Article 294 second paragraph, second sentence of the Penal code;
- c. the physician means the physician who according to the notification has terminated a life on request or assisted in a suicide;
- d. the consultant means the physician who has been consulted with respect to the intention by the physician to terminate a life on request or to assist in a suicide;
- e. the providers of care mean the providers of care referred to in Article 446 first paragraph of Book 7 of the Civil Code (Burgerlijk Wetboek);
- f. the committee means a regional review committee referred to in Article 3;

g. the regional inspector means the regional inspector of the Health Care Inspectorate of the Public Health Supervisory Service.

## **Chapter II. Requirements of Due Care**

### **Article 2**

1. The requirements of due care, referred to in Article 293 second paragraph Penal Code mean that the physician:

- a. holds the conviction that the request by the patient was voluntary and well-considered,
- b. holds the conviction that the patient's suffering was lasting and unbearable,
- c. has informed the patient about the situation he was in and about his prospects,
- d. and the patient hold the conviction that there was no other reasonable solution for the situation he was in,
- e. has consulted at least one other, independent physician who has seen the patient and has given his written opinion on the requirements of due care, referred to in parts a - d, and
- f. has terminated a life or assisted in a suicide with due care.

2. If the patient aged sixteen years or older is no longer capable of expressing his will, but prior to reaching this condition was deemed to have a reasonable understanding of his interests and has made a written statement containing a request for termination of life, the physician may cant' out this request. The requirements of due care, referred to in the first paragraph, apply mutatis mutandis.

3. If the minor patient has attained an age between sixteen and eighteen years and may be deemed to have a reasonable understanding of his interests, the physician may cant' out the patient's request for termination of life or assisted suicide, after the parent or the parents exercising parental authority and/or his guardian have been involved in the decision process.

4. If the minor patient is aged between twelve and sixteen years and may be deemed to have a reasonable understanding of his interests, the physician may cant' out the patient's request, provided always that the parent or the parents exercising parental authority and/or his guardian agree with the termination of life or the assisted suicide. The second paragraph applies mutatis mutandis.

### **Chapter III. The Regional Review Committees for Termination of Life on Request and Assisted Suicide.**

#### **Paragraph 1: Establishment, composition and appointment**

##### **Article 3**

1. There are regional committees for the review of notifications of cases of termination of life on request and assistance in a suicide as referred to in Article 293 second paragraph or 294 second paragraph second sentence, respectively, of the Penal Code.

2. A committee is composed of an uneven number of members, including at any rate one legal specialist, also chairman, one physician and one expert on ethical or philosophical issues'. The committee also contains deputy members of each of the, categories listed in the first sentence.

##### **Article 4**

1. The chairman and the members, as well as the deputy members are appointed by Our Ministers for a period of six years. They may be re-appointed one time for another period of six years. 'philosophical issues' -- in the original text the Dutch word 'zingevingsvraagstukken' is used to describe the discussion on the prerequisites for a meaningful life.

2. A committee has a secretary and one or more deputy secretaries, all legal specialists, appointed by Our Ministers. The secretary has an advisory role in the committee meetings.

3. The secretary may solely be held accountable by the committee for his activities for the committee.

#### **Paragraph 2: Dismissal**

##### **Article 5**

Our Ministers may at any time dismiss the chairman and the members, as well as the deputy members at their own request.

##### **Article 6**

Our Ministers may dismiss the chairman and the members, as well as the deputy members for reasons of unsuitability or incompetence or for other important reasons.

#### **Paragraph 3: Remuneration**

## **Article 7**

The chairman and the members, as well as the deputy members receive a holiday allowance as well as a reimbursement of the travel and accommodation expenses according to the existing government scheme insofar as these expenses are not otherwise reimbursed from the State Funds.

Paragraph 4: Duties and powers

## **Article 8**

1. The committee assesses on the basis of the report referred to in Article 7 second paragraph of the Burial and Cremation Act whether the physician who has terminated a life on request or assisted in a suicide has acted in accordance with the requirements of due care, referred to in Article 2.

2. The committee may request the physician to supplement his report in writing or verbally, where this is necessary for a proper assessment of the physician's actions.

3. The committee may make enquiries at the municipal autopsist, the consultant or the providers of care involved where this is necessary for a proper assessment of the physician's actions.

## **Article 9**

1. The committee informs the physician within six weeks of the receipt of the report referred to in Article 8 first paragraph in writing of its motivated opinion.

2. The committee informs the Board of Procurators General and the regional health care inspector of its opinion:

a. if the committee is of the opinion that the physician has failed to act in accordance with the requirements of due care, referred to in Article 2; or

b. if a situation occurs as referred to in Article 12, final sentence of the Burial and Cremation Act.

The committee shall inform the physician of this.

3. The term referred to in the first paragraph may be extended one time by a maximum period of six weeks. The committee shall inform the physician of this.

4. The committee may provide a further, verbal explanation on its opinion to the physician.



This verbal explanation may take place at the request of the committee or at the request of the physician.

#### **Article 10**

The committee is obliged to provide all information to the public prosecutor, at his request, which he may need:

1. for the benefit of the assessment of the physician's actions in the case referred to in Article 9 second paragraph; or
2. for the benefit of a criminal investigation.

The committee shall inform the physician of any provision of information to the public prosecutor.

Paragraph 6: Working method

#### **Article 11**

The committee shall ensure the registration of the cases of termination of life or assisted suicide reported for assessment. Further rules on this may be laid down by a ministerial regulation by Our Ministers.

#### **Article 12**

1. An opinion is adopted by a simple majority of votes.
2. An opinion may only be adopted by the committee provided all committee members have participated in the vote.

#### **Article 13**

At least twice a year, the chairmen of the regional review committees conduct consultations with one another with respect to the working method and the performance of the committees. A representative of the Board of Procurators General and a representative of the Health Care Inspectorate of the Public Health Supervisory Service are invited to attend these consultations.

Paragraph 7: Secrecy and Exemption

#### **Article 14**

The members and deputy members of the committee are under an obligation of secrecy to keep confidential any information acquired in the performance of their duties, except

where any statutory regulation obliges them to divulge this information or where the necessity to divulge information ensues from their duties.

#### **Article 15**

A member of the committee that serves on the committee in the treatment of a case exempts himself and may be challenged if there are facts or circumstances that may affect the impartiality of his opinion.

#### **Article 16**

A member, a deputy member and the secretary of the committee refrain from rendering an opinion on the intention by a physician to terminate a life on request or to assist in a suicide.

Paragraph 8: Report

#### **Article 17**

1. Not later than 1 April, the committees issue a joint annual report to Our Ministers on the activities of the past calendar year. Our Ministers shall lay down a model for this by means of a ministerial regulation.

2. The report on the activities referred to in the first paragraph shall at any rate include the following:

- a. the number of reported cases of termination of life on request and assisted suicide on which the committee has rendered an opinion;
- b. the nature of these cases;
- c. the opinions and the considerations involved.

#### **Article 18**

Annually, at the occasion of the submission of the budget to the States General, Our Ministers shall issue a report with respect to the performance of the committees further to the report on the activities as referred to in Article 17 first paragraph.

#### **Article 19**

1. On the recommendation of Our Ministers, rules shall be laid down by order in council regarding the committees with respect to

- a. their number and their territorial jurisdiction;
- b. their domicile.

2. Our Ministers may lay down further rules by or pursuant to an order in council regarding the committees with respect to

- a. their size and composition;
- b. their working method and reports.

#### **Chapter IV. Amendments to other Acts**

##### **Article 20**

The Penal Code shall be amended as follows:

A

Article 293 shall read:

##### **Article 293**

1. Any person who terminates another person's life at that person's express and earnest request shall be liable to a term of imprisonment not exceeding twelve years or a fifth category fine.

2. The act referred to in the first paragraph shall not be an offence if it committed by a physician who fulfils the due care criteria set out in Article 2 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act, and if the physician notifies the municipal pathologist of this act in accordance with the provisions of Article 7, paragraph 2 of the Burial and Cremation Act.

B

Article 294 shall read:

##### **Article 294**

1. Any person who intentionally incites another to commit suicide shall, if suicide follows, be liable to a term of imprisonment not exceeding three years or a fine of the fourth-category fine.

2. Any person who intentionally assist another to commit suicide or provides him with the means to do shall, if suicide follows, be liable to a term of imprisonment not exceeding three years or a fourth-category fine. Article 293, paragraph 2 shall apply *mutatis mutandis*.

C

In Article 295, the following is inserted after '293': first paragraph.

D

In Article 422, the following is inserted after '293': first paragraph.

**Article 21**

The Burial and Cremation Act shall be amended as follows:

A

Article 7 shall read:

**Article 7**

1. A person who has performed a postmortem shall issue a death certificate if he is convinced that death has occurred as a result of a natural cause.

2. If the death was the result of the application of termination of life on request or assisted suicide as referred to in Article 293 second paragraph or Article 294 second paragraph second sentence, respectively, of the Penal Code, the attending physician shall not issue a death certificate and shall promptly notify the municipal autopsist or one of the municipal autopsists of the cause of death by completing a form. The physician shall supplement this form with a reasoned report with respect to the due observance of the requirements of due care referred to in Article 2 of the Termination of Life on Request and Assisted Suicide (Review Procedures) act.

3. If the attending physician in other cases than referred to in the second paragraph believes that he may not issue a death certificate, he must promptly notify the municipal autopsist or one of the municipal autopsists of this by completing a form.

B

Article 9 shall read:

**Article 9**

1. The form and the set-up of the models of the death certificate to be issued by the attending physician and by the municipal autopsist shall be laid down by order in council.

2. The form and the set-up of the models of the notification and the report referred to in Article 7 second paragraph, of the notification referred to in Article 7 third paragraph and of the forms referred to in Article 10 first and second paragraph shall be laid down by order in council on the recommendation of Our Minister of Justice and Our Minister of Health, Welfare and Sports.

C

Article 10 shall read:

#### **Article 10**

1. If the municipal autopsist is of the opinion that he cannot issue a death certificate, he shall promptly report this to the public prosecutor by completing a form and he shall promptly notify the registrar of births, deaths and marriages.

2. In the event of a notification as referred to in Article 7 second paragraph and without prejudice to the first paragraph, the municipal autopsist shall promptly report to the regional review committee referred to in Article 3 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act by completing a form. He shall enclose a reasoned report as referred to in Article 7 second paragraph.

D

The following sentence shall be added to Article 12, reading: If the public prosecutor, in the cases referred to in Article 7 second paragraph, is of the opinion that he cannot issue a certificate of no objection against the burial or cremation, he shall promptly inform the municipal autopsist and the regional review committee referred to in Article 3 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act of this.

E

In Article 81, first part, '7, first paragraph' shall be replaced by '7, first and second paragraph'.

#### **Article 22**

The General Administrative Law Act (Algemene wet bestuursrecht) shall be amended as follows:

At the end of part d of Article 1:6, the full stop shall be replaced by a semicolon and the following shall be added to the fifth part, reading:

e. decisions and actions in the implementation of the Termination of Life and Assisted Suicide (Review Procedures) Act.

### **Chapter V. Final Provisions**

#### **Article 23**

This Act shall take effect as of a date to be determined by Royal Decree.

**Article 24**

This Act may be cited as: Termination of Life on Request and Assisted Suicide (Review Procedures) Act.

We hereby order and command that this Act shall be published in the Bulletin of Acts and Decrees and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Done

The Minister of Justice,

The Minister of Health, Welfare and Sports.

Upper House, parliamentary year 2000-2001, 26 691, no 137

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**The Oregon Death with Dignity Act**

**THE OREGON DEATH WITH DIGNITY ACT**  
**OREGON REVISED STATUTES**

(General Provisions)

(Section 1)

**Note:** The division headings, subdivision headings and leadlines for 127.800 to 127.890, 127.895 and 127.897 were enacted as part of Ballot Measure 16 (1994) and were not provided by Legislative Counsel.

**127.800 §1.01. Definitions.**

The following words and phrases, whenever used in ORS 127.800 to 127.897, have the following meanings:

- (1) "Adult" means an individual who is 18 years of age or older.
- (2) "Attending physician" means the physician who has primary responsibility for the care of the patient and treatment of the patient's terminal disease.
- (3) "Capable" means that in the opinion of a court or in the opinion of the patient's attending physician or consulting physician, psychiatrist or psychologist, a patient has the ability to make and communicate health care decisions to health care providers, including communication through persons familiar with the patient's manner of communicating if those persons are available.
- (4) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease.
- (5) "Counseling" means one or more consultations as necessary between a state licensed psychiatrist or psychologist and a patient for the purpose of determining that the patient is capable and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.
- (6) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the law of this state to administer health care or dispense medication in the ordinary course of business or practice of a profession, and includes a health care facility.
- (7) "Informed decision" means a decision by a qualified patient, to request and obtain a prescription to end his or her life in a humane and dignified manner, that is based on an appreciation of the relevant facts and after being fully informed by the attending physician of:



- (a) His or her medical diagnosis;
- (b) His or her prognosis;
- (c) The potential risks associated with taking the medication to be prescribed;
- (d) The probable result of taking the medication to be prescribed; and
- (e) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain control.

(8) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient's relevant medical records.

(9) "Patient" means a person who is under the care of a physician.

(10) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine by the Board of Medical Examiners for the State of Oregon.

(11) "Qualified patient" means a capable adult who is a resident of Oregon and has satisfied the requirements of ORS 127.800 to 127.897 in order to obtain a prescription for medication to end his or her life in a humane and dignified manner.

(12) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months. [1995 c.3 §1.01; 1999 c.423 §1]

(Written Request for Medication to End One's Life in a Humane and Dignified Manner)

(Section 2)

**127.805 §2.01. Who may initiate a written request for medication.**

(1) An adult who is capable, is a resident of Oregon, and has been determined by the attending physician and consulting physician to be suffering from a terminal disease, and who has voluntarily expressed his or her wish to die, may make a written request for medication for the purpose of ending his or her life in a humane and dignified manner in accordance with ORS 127.800 to 127.897.

(2) No person shall qualify under the provisions of ORS 127.800 to 127.897 solely because of age or disability. [1995 c.3 §2.01; 1999 c.423 §2]

**127.810 §2.02. Form of the written request.**

(1) A valid request for medication under ORS 127.800 to 127.897 shall be in substantially the form described in ORS 127.897, signed and dated by the patient and witnessed by at least two individuals who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is capable, acting voluntarily, and is not being coerced to sign the request.

(2) One of the witnesses shall be a person who is not:

(a) A relative of the patient by blood, marriage or adoption;

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

(c) An owner, operator or employee of a health care facility where the qualified patient is receiving medical treatment or is a resident.

(3) The patient's attending physician at the time the request is signed shall not be a witness.

(4) If the patient is a patient in a long term care facility at the time the written request is made, one of the witnesses shall be an individual designated by the facility and having the qualifications specified by the Department of Human Services by rule. [1995 c.3 §2.02]

(Safeguards)

(Section 3)

**127.815 §3.01. Attending physician responsibilities.**

(1) The attending physician shall:

(a) Make the initial determination of whether a patient has a terminal disease, is capable, and has made the request voluntarily;

(b) Request that the patient demonstrate Oregon residency pursuant to ORS 127.860;

(c) To ensure that the patient is making an informed decision, inform the patient of:

(A) His or her medical diagnosis;

(B) His or her prognosis;

(C) The potential risks associated with taking the medication to be

prescribed;

(D) The probable result of taking the medication to be prescribed; and

(E) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain control;

(d) Refer the patient to a consulting physician for medical confirmation of the diagnosis, and for a determination that the patient is capable and acting voluntarily;

(e) Refer the patient for counseling if appropriate pursuant to ORS 127.825;

(f) Recommend that the patient notify next of kin;

(g) Counsel the patient about the importance of having another person present when the patient takes the medication prescribed pursuant to ORS 127.800 to 127.897 and of not taking the medication in a public place;

(h) Inform the patient that he or she has an opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind at the end of the 15 day waiting period pursuant to ORS 127.840;

(i) Verify, immediately prior to writing the prescription for medication under ORS 127.800 to 127.897, that the patient is making an informed decision;

(j) Fulfill the medical record documentation requirements of ORS 127.855;

(k) Ensure that all appropriate steps are carried out in accordance with ORS 127.800 to 127.897 prior to writing a prescription for medication to enable a qualified patient to end his or her life in a humane and dignified manner; and

(l) (A) Dispense medications directly, including ancillary medications intended to facilitate the desired effect to minimize the patient's discomfort, provided the attending physician is registered as a dispensing physician with the Board of Medical Examiners, has a current Drug Enforcement Administration certificate and complies with any applicable administrative rule; or

(B) With the patient's written consent:

(i) Contact a pharmacist and inform the pharmacist of the prescription;

and

(ii) Deliver the written prescription personally or by mail to the pharmacist, who will dispense the medications to either the patient, the attending physician or an expressly identified agent of the patient.

(2) Notwithstanding any other provision of law, the attending physician may sign the patient's death certificate. [1995 c.3 §3.01; 1999 c.423 §3]

**127.820 §3.02. Consulting physician confirmation.**

Before a patient is qualified under ORS 127.800 to 127.897, a consulting physician shall examine the patient and his or her relevant medical records and confirm, in writing, the attending physician's diagnosis that the patient is suffering from a terminal disease, and verify that the patient is capable, is acting voluntarily and has made an informed decision. [1995 c.3 §3.02]

**127.825 §3.03. Counseling referral.**

If in the opinion of the attending physician or the consulting physician a patient may be suffering from a psychiatric or psychological disorder or depression causing impaired judgment, either physician shall refer the patient for counseling. No medication to end a patient's life in a humane and dignified manner shall be prescribed until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment. [1995 c.3 §3.03; 1999 c.423 §4]

**127.830 §3.04. Informed decision.**

No person shall receive a prescription for medication to end his or her life in a humane and dignified manner unless he or she has made an informed decision as defined in ORS 127.800 (7). Immediately prior to writing a prescription for medication under ORS 127.800 to 127.897, the attending physician shall verify that the patient is making an informed decision. [1995 c.3 §3.04]

**127.835 §3.05. Family notification.**

The attending physician shall recommend that the patient notify the next of kin of his or her request for medication pursuant to ORS 127.800 to 127.897. A patient who declines or is unable to notify next of kin shall not have his or her request denied for that reason. [1995 c.3 §3.05; 1999 c.423 §6]

**127.840 §3.06. Written and oral requests.**

In order to receive a prescription for medication to end his or her life in a humane and dignified manner, a qualified patient shall have made an oral request and a written request, and reiterate the oral request to his or her attending physician no less than fifteen (15) days after making the initial oral request. At the time the qualified patient makes his or her second oral request, the attending physician shall offer the patient an opportunity to rescind the request. [1995 c.3 §3.06]

**127.845 §3.07. Right to rescind request.**

A patient may rescind his or her request at any time and in any manner without regard to his or her mental state. No prescription for medication under ORS 127.800 to 127.897 may be written without the attending physician offering the qualified patient an opportunity to rescind the request. [1995 c.3 §3.07]

**127.850 §3.08. Waiting periods.**

No less than fifteen (15) days shall elapse between the patient's initial oral request and the writing of a prescription under ORS 127.800 to 127.897. No less than 48 hours shall elapse between the patient's written request and the writing of a prescription under ORS 127.800 to 127.897. [1995 c.3 §3.08]

**127.855 §3.09. Medical record documentation requirements.**

The following shall be documented or filed in the patient's medical record:

- (1) All oral requests by a patient for medication to end his or her life in a humane and dignified manner;
- (2) All written requests by a patient for medication to end his or her life in a humane and dignified manner;
- (3) The attending physician's diagnosis and prognosis, determination that the patient is capable, acting voluntarily and has made an informed decision;
- (4) The consulting physician's diagnosis and prognosis, and verification that the patient is capable, acting voluntarily and has made an informed decision;
- (5) A report of the outcome and determinations made during counseling, if performed;

(6) The attending physician's offer to the patient to rescind his or her request at the time of the patient's second oral request pursuant to ORS 127.840; and

(7) A note by the attending physician indicating that all requirements under ORS 127.800 to 127.897 have been met and indicating the steps taken to carry out the request, including a notation of the medication prescribed. [1995 c.3 §3.09]

**127.860 §3.10. Residency requirement.**

Only requests made by Oregon residents under ORS 127.800 to 127.897 shall be granted. Factors demonstrating Oregon residency include but are not limited to:

- (1) Possession of an Oregon driver license;
- (2) Registration to vote in Oregon;
- (3) Evidence that the person owns or leases property in Oregon; or
- (4) Filing of an Oregon tax return for the most recent tax year. [1995 c.3 §3.10; 1999 c.423 §8]

**127.865 §3.11. Reporting requirements.**

(1) (a) The Department of Human Services shall annually review a sample of records maintained pursuant to ORS 127.800 to 127.897.

(b) The department shall require any health care provider upon dispensing medication pursuant to ORS 127.800 to 127.897 to file a copy of the dispensing record with the department.

(2) The department shall make rules to facilitate the collection of information regarding compliance with ORS 127.800 to 127.897. Except as otherwise required by law, the information collected shall not be a public record and may not be made available for inspection by the public.

(3) The department shall generate and make available to the public an annual statistical report of information collected under subsection (2) of this section. [1995 c.3 §3.11; 1999 c.423 §9; 2001 c.104 §40]

**127.870 §3.12. Effect on construction of wills, contracts and statutes.**

(1) No 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 medication to end his or her life in a humane and dignified manner, shall be valid.

(2) No obligation owing under any currently existing contract shall be conditioned or affected by the making or rescinding of a request, by a person, for medication to end his or her life in a humane and dignified manner. [1995 c.3 §3.12]

**127.875 §3.13. Insurance or annuity policies.**

The sale, procurement, or issuance of any life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the making or rescinding of a request, by a person, for medication to end his or her life in a humane and dignified manner. Neither shall a qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner have an effect upon a life, health, or accident insurance or annuity policy. [1995 c.3 §3.13]

**127.880 §3.14. Construction of Act.**

Nothing in ORS 127.800 to 127.897 shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing or active euthanasia. Actions taken in accordance with ORS 127.800 to 127.897 shall not, for any purpose, constitute suicide, assisted suicide, mercy killing or homicide, under the law. [1995 c.3 §3.14]

(Immunities and Liabilities)

(Section 4)

**127.885 §4.01. Immunities; basis for prohibiting health care provider from participation; notification; permissible sanctions.**

Except as provided in ORS 127.890:

(1) No person shall be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with ORS 127.800 to 127.897. This includes being present when a qualified patient takes the prescribed medication to end his or her life in a humane and dignified manner.

(2) No professional organization or association, or health care provider, may subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership or other penalty for participating or refusing to participate in good faith compliance with ORS 127.800 to 127.897.

(3) No request by a patient for or provision by an attending physician of medication in good faith compliance with the provisions of ORS 127.800 to 127.897 shall constitute neglect for any purpose of law or provide the sole basis for the appointment of a guardian or conservator.

(4) No health care provider shall be under any duty, whether by contract, by statute or by any other legal requirement to participate in the provision to a qualified patient of medication to end his or her life in a humane and dignified manner. If a health care provider is unable or unwilling to carry out a patient's request under ORS 127.800 to 127.897, and the patient transfers his or her care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the patient's relevant medical records to the new health care provider.

(5) (a) Notwithstanding any other provision of law, a health care provider may prohibit another health care provider from participating in ORS 127.800 to 127.897 on the premises of the prohibiting provider if the prohibiting provider has notified the health care provider of the prohibiting provider's policy regarding participating in ORS 127.800 to 127.897. Nothing in this paragraph prevents a health care provider from providing health care services to a patient that do not constitute participation in ORS 127.800 to 127.897.

(b) Notwithstanding the provisions of subsections (1) to (4) of this section, a health care provider may subject another health care provider to the sanctions stated in this paragraph if the sanctioning health care provider has notified the sanctioned provider prior to participation in ORS 127.800 to 127.897 that it prohibits participation in ORS 127.800 to 127.897:

(A) Loss of privileges, loss of membership or other sanction provided pursuant to the medical staff bylaws, policies and procedures of the sanctioning health care provider if the sanctioned provider is a member of the sanctioning provider's medical staff and participates in ORS 127.800 to 127.897 while on the health care facility premises, as defined in ORS 442.015, of the sanctioning health care provider, but not including the private medical office of a physician or other provider;

(B) Termination of lease or other property contract or other nonmonetary remedies provided by lease contract, not including loss or restriction of medical staff privileges or exclusion from a provider panel, if the sanctioned provider participates in ORS 127.800 to



127.897 while on the premises of the sanctioning health care provider or on property that is owned by or under the direct control of the sanctioning health care provider; or

(C) Termination of contract or other nonmonetary remedies provided by contract if the sanctioned provider participates in ORS 127.800 to 127.897 while acting in the course and scope of the sanctioned provider's capacity as an employee or independent contractor of the sanctioning health care provider. Nothing in this subparagraph shall be construed to prevent:

(i) A health care provider from participating in ORS 127.800 to 127.897 while acting outside the course and scope of the provider's capacity as an employee or independent contractor; or

(ii) A patient from contracting with his or her attending physician and consulting physician to act outside the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(c) A health care provider that imposes sanctions pursuant to paragraph (b) of this subsection must follow all due process and other procedures the sanctioning health care provider may have that are related to the imposition of sanctions on another health care provider.

(d) For purposes of this subsection:

(A) "Notify" means a separate statement in writing to the health care provider specifically informing the health care provider prior to the provider's participation in ORS 127.800 to 127.897 of the sanctioning health care provider's policy about participation in activities covered by ORS 127.800 to 127.897.

(B) "Participate in ORS 127.800 to 127.897" means to perform the duties of an attending physician pursuant to ORS 127.815, the consulting physician function pursuant to ORS 127.820 or the counseling function pursuant to ORS 127.825. "Participate in ORS 127.800 to 127.897" does not include:

(i) Making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis;

(ii) Providing information about the Oregon Death with Dignity Act to a patient upon the request of the patient;

(iii) Providing a patient, upon the request of the patient, with a referral

to another physician; or

(iv) A patient contracting with his or her attending physician and consulting physician to act outside of the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(6) Suspension or termination of staff membership or privileges under subsection (5) of this section is not reportable under ORS 441.820. Action taken pursuant to ORS 127.810, 127.815, 127.820 or 127.825 shall not be the sole basis for a report of unprofessional or dishonorable conduct under ORS 677.415 (2) or (3).

(7) No provision of ORS 127.800 to 127.897 shall be construed to allow a lower standard of care for patients in the community where the patient is treated or a similar community. [1995 c.3 §4.01; 1999 c.423 §10]

**Note:** As originally enacted by the people, the leadline to section 4.01 read "Immunities." The remainder of the leadline was added by editorial action.

**127.890 §4.02. Liabilities.**

(1) A person who without authorization of the patient willfully alters or forges a request for medication or conceals or destroys a rescission of that request with the intent or effect of causing the patient's death shall be guilty of a Class A felony.

(2) A person who coerces or exerts undue influence on a patient to request medication for the purpose of ending the patient's life, or to destroy a rescission of such a request, shall be guilty of a Class A felony.

(3) Nothing in ORS 127.800 to 127.897 limits further liability for civil damages resulting from other negligent conduct or intentional misconduct by any person.

(4) The penalties in ORS 127.800 to 127.897 do not preclude criminal penalties applicable under other law for conduct which is inconsistent with the provisions of ORS 127.800 to 127.897. [1995 c.3 §4.02]

**127.892 Claims by governmental entity for costs incurred.**

Any governmental entity that incurs costs resulting from a person terminating his or her life pursuant to the provisions of ORS 127.800 to 127.897 in a public place shall have a claim against the estate of the person to recover such costs and reasonable attorney fees related to enforcing the claim. [1999 c.423 §5a]

(Severability)

(Section 5)

**127.895 §5.01. Severability.**

Any section of ORS 127.800 to 127.897 being held invalid as to any person or circumstance shall not affect the application of any other section of ORS 127.800 to 127.897 which can be given full effect without the invalid section or application. [1995 c.3 §5.01]

(Form of the Request)

(Section 6)

**127.897 §6.01. Form of the request.**

A request for a medication as authorized by ORS 127.800 to 127.897 shall be in substantially the following form:

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REQUEST FOR MEDICATION TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

I, \_\_\_\_\_, am an adult of sound mind.

I am suffering from \_\_\_\_\_, which my attending physician has determined is a terminal disease and which has been medically confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible alternatives, including comfort care, hospice care and pain control.

I request that my attending physician prescribe medication that will end my life in a humane and dignified manner.

INITIAL ONE:

\_\_\_\_\_ I have informed my family of my decision and taken their opinions into consideration.

\_\_\_\_\_ I have decided not to inform my family of my decision.

\_\_\_\_\_ I have no family to inform of my decision.

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 when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

#### DECLARATION OF WITNESSES

We declare that the person signing this request:

- (a) Is personally known to us or has provided proof of identity;
- (b) Signed this request in our presence;
- (c) Appears to be of sound mind and not under duress, fraud or undue influence;
- (d) Is not a patient for whom either of us is attending physician.

\_\_\_\_\_ Witness 1/Date

\_\_\_\_\_ Witness 2/Date

NOTE: One witness shall not be a relative (by blood, marriage or adoption) of the person signing this request, shall not be entitled to any portion of the person's estate upon death and shall not own, operate or be employed at a health care facility where the person is a patient or resident. If the patient is an inpatient at a health care facility, one of the witnesses shall be an individual designated by the facility.

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[1995 c.3 §6.01; 1999 c.423 §11]

#### PENALTIES

**127.990:** [Formerly part of 97.990; repealed by 1993 c.767 §29]

#### **127.995 Penalties.**

(1) It shall be a Class A felony for a person without authorization of the principal to willfully alter, forge, conceal or destroy an instrument, the reinstatement or revocation of an instrument or any other evidence or document reflecting the principal's desires and interests, with the intent and effect of causing a withholding or withdrawal of life-sustaining procedures or of artificially administered nutrition and hydration which hastens the death of the principal.

(2) Except as provided in subsection (1) of this section, it shall be a Class A misdemeanor for a person without authorization of the principal to willfully alter, forge, conceal or destroy an instrument, the reinstatement or revocation of an instrument, or any other evidence

or document reflecting the principal's desires and interests with the intent or effect of affecting a health care decision. [Formerly 127.585]