

SB0311/468672/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 311
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Ellis,”; in line 13, after “physician” insert “and to a licensed mental health professional”; and strike beginning with the second “requiring” in line 14 down through “circumstances” in line 16 and substitute “prohibiting a certain attending physician, consulting physician, and licensed mental health professional from being in the same group practice or from having any agreement or system of remuneration; requiring a certain individual to sign a certain document; requiring a licensed mental health professional to fulfill certain duties”.

On pages 1 and 2, strike beginning with “providing” in line 29 on page 1 down through “purpose;” in line 2 on page 2.

On page 2, in line 5, strike “, for certain purposes”; strike beginning with “prohibiting” in line 15 down through “Act;” in line 17; in lines 18 and 19, strike “good-faith compliance with” and substitute “aid in dying under”; and strike beginning with “or” in line 19 down through “or” in line 21 and substitute “does not”.

AMENDMENT NO. 2

On page 5, in line 16, after “(I)” insert ““LICENSED CERTIFIED SOCIAL WORKER–CLINICAL” HAS THE MEANING STATED IN § 19-101 OF THE HEALTH OCCUPATIONS ARTICLE.

(J);

in the same line, after “A” insert “LICENSED CERTIFIED SOCIAL WORKER–CLINICAL, **A**”; in line 17, after “PSYCHIATRIST” insert a comma; and in lines 18, 20, 22, and 24,

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strike “(J)”, “(K)”, “(L)”, and “(M)”, respectively, and substitute “(K)”, “(L)”, “(M)”, and “(N)”, respectively.

On page 6, in lines 3, 17, 19, and 25, strike “(N)”, “(O)”, “(P)”, and “(Q)”, respectively, and substitute “(O)”, “(P)”, “(Q)”, and “(R)”, respectively; and in line 20, strike “AN ADULT” and substitute “AT LEAST 21 YEARS OLD”.

On page 7, in lines 5 and 10, strike “(R)” and “(T)”, respectively, and substitute “(S)” and “(U)”, respectively; and strike in their entirety lines 7 through 9, inclusive, and substitute:

“(T) “TERMINAL ILLNESS” MEANS A PROGRESSIVE, IRREVERSIBLE MEDICAL CONDITION THAT:

(1) IS HAVING A SIGNIFICANT IMPACT ON QUALITY OF LIFE; AND

(2) TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, INVOLVES A PROGNOSIS FOR AN INDIVIDUAL, WHERE, DESPITE ALL AVAILABLE TREATMENT OPTIONS RECOGNIZED BY THE MEDICAL COMMUNITY, WILL RESULT IN THE INDIVIDUAL’S DEATH IN 6 MONTHS.”.

On page 8, in line 26, strike “AN ADULT” and substitute “AT LEAST 21 YEARS OLD AND”.

On page 15, in line 18, strike “AN ADULT” and substitute “AT LEAST 21 YEARS OLD”.

On page 21, in line 3, strike “THE PHYSICIANS” and substitute “A LICENSED HEALTH CARE PROFESSIONAL”.

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AMENDMENT NO. 3

On page 8, in lines 14 and 15, strike “: (I) A” and substitute “A”; strike beginning with the semicolon in line 16 down through “WITNESS” in line 20; and after line 20, insert:

“(2) A WITNESS UNDER SUBSECTION (A)(3) OF THIS SECTION MAY NOT BE:

(I) THE INDIVIDUAL’S ATTENDING PHYSICIAN; OR

(II) AT THE TIME THE WRITTEN REQUEST IS SIGNED BY THE INDIVIDUAL, ENTITLED TO ANY BENEFIT ON THE INDIVIDUAL’S DEATH.”

On page 9, in line 28, after “PHYSICIAN” insert “OR, AT THE TIME THE REQUEST IS SIGNED BY THE INDIVIDUAL, BE ENTITLED TO ANY BENEFIT ON THE INDIVIDUAL’S DEATH”; in lines 28 and 29, strike “: 1. A” and substitute “A”; and strike beginning with the semicolon in line 29 down through “DEATH” in line 32.

On page 10, in line 2, strike “OR HAS PROVIDED PROOF OF IDENTITY”; in line 7, after “PHYSICIAN” insert “; AND

6. IS NOT AN INDIVIDUAL FROM WHOM, AT THE TIME THE WRITTEN REQUEST IS SIGNED BY THE INDIVIDUAL, I AM ENTITLED TO ANY BENEFIT ON THE INDIVIDUAL’S DEATH;

in lines 12 and 22, in each instance, strike “1.”; strike beginning with the semicolon in line 12 down through “DEATH” in line 15; and strike beginning with the semicolon in line 22 down through “DEATH” in line 25.

AMENDMENT NO. 4

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On page 9, in line 21, after the period insert “**I MAKE THIS REQUEST FREE FROM ANY FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE.**”.

On page 10, in line 6, strike “AND”; and in line 7, after “4.” insert “**TO THE BEST OF MY KNOWLEDGE, IS REQUESTING AID IN DYING FREE FROM ANY FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE;**

5.”.

On page 11, in line 6, strike “AND”; and in line 7, after “DYING” insert “**; AND**

(IV) IS REQUESTING AID IN DYING FREE FROM ANY FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE”.

On page 12, in line 21, strike “AND”; and in the same line, after “DYING” insert “**, AND IS REQUESTING AID IN DYING FREE FROM ANY FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE**”.

On page 14, in line 9, after “(6)” insert “**CONFIRM THAT THE QUALIFIED INDIVIDUAL’S REQUEST FOR AID IN DYING IS NOT INFLUENCED BY ANY FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE;**

(7)”;

and in lines 12, 15, and 17, strike “(7)”, “(8)”, and “(9)”, respectively, and substitute “(8)”, “(9)”, and “(10)”, respectively.

On page 15, in line 25, strike “THE” and substitute “:

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1. THE;

in the same line, strike “, HAS MADE” and substitute “;

2. MADE;

and in lines 25 and 26, strike “, AND HAS VOLUNTARILY” and substitute “;

**3. MADE A REQUEST FREE FROM ANY FINANCIAL
CONSIDERATIONS INCLUDING THE CONTINUED COST OF CARE; AND**

4. VOLUNTARILY’.

AMENDMENT NO. 5

On page 9, in line 2, strike “MORE LIKELY THAN NOT” and substitute “**TO A REASONABLE DEGREE OF MEDICAL CERTAINTY**”; in line 5, after “RISKS,” insert “**AND**”; and strike beginning with the second comma in line 5 down through “HOSPICE” in line 7 and substitute “**. I HAVE ALSO BEEN FULLY INFORMED OF ALL ALTERNATIVES AND HEALTH CARE TREATMENT OPTIONS RECOGNIZED BY THE MEDICAL COMMUNITY, INCLUDING CLINICAL TRIALS, PALLIATIVE CARE, AND HOSPICE, AND OF MY RIGHT TO SEEK INVESTIGATIONAL TREATMENTS UNDER THE FEDERAL TRICKETT WENDLER, FRANK MONGIELLO, JORDAN MCLINN, AND MATTHEW BELLINA RIGHT TO TRY ACT OF 2017**”.

On page 12, strike in their entirety lines 3 and 4 and substitute:

“(5) ALL ALTERNATIVES AND HEALTH CARE TREATMENT OPTIONS RECOGNIZED BY THE MEDICAL COMMUNITY, INCLUDING CLINICAL TRIALS, PALLIATIVE CARE, AND HOSPICE, AND THE RIGHT TO SEEK INVESTIGATIONAL

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TREATMENTS UNDER THE FEDERAL TRICKETT WENDLER, FRANK MONGIELLO, JORDAN MCLINN, AND MATTHEW BELLINA RIGHT TO TRY ACT OF 2017.”;

in line 5, after “(D)” insert “(1)”; in the same line, strike “SUBJECT TO § 5-6A-06 OF THIS SUBTITLE, IF” and substitute “IF”; in line 8, strike “A” and substitute “:

(I) A”;

in line 10, after “SUBTITLE” insert “; AND

(II) A LICENSED MENTAL HEALTH PROFESSIONAL TO CARRY OUT THE DUTIES REQUIRED UNDER § 5-6A-06 OF THIS SUBTITLE.

(2) THE ATTENDING PHYSICIAN, THE CONSULTING PHYSICIAN, AND THE LICENSED MENTAL HEALTH PROFESSIONAL MAY NOT:

(I) BE IN THE SAME GROUP PRACTICE, AS DEFINED IN § 1-301 OF THE HEALTH OCCUPATIONS ARTICLE; OR

(II) HAVE ANY AGREEMENT OR SYSTEM INVOLVING REMUNERATION”;

in line 12, before “A” insert “(A)”; strike in their entirety lines 18 and 19 and substitute:

“(3) ADVISE THE INDIVIDUAL IN WRITING OF ALL ALTERNATIVES AND HEALTH CARE TREATMENT OPTIONS RECOGNIZED BY THE MEDICAL COMMUNITY, INCLUDING CLINICAL TRIALS, PALLIATIVE CARE, AND HOSPICE, AND OF THE RIGHT TO SEEK INVESTIGATIONAL TREATMENTS UNDER THE FEDERAL TRICKETT WENDLER, FRANK MONGIELLO, JORDAN MCLINN, AND MATTHEW BELLINA RIGHT TO TRY ACT OF 2017;”;

and after line 24, insert:

“(B) AFTER THE CONSULTING PHYSICIAN HAS ADVISED THE INDIVIDUAL UNDER SUBSECTION (A)(3) OF THIS SECTION, THE INDIVIDUAL SHALL SIGN A WRITTEN DOCUMENT STATING THAT THE INDIVIDUAL IS AWARE OF ALL ALTERNATIVES AND HEALTH CARE TREATMENT OPTIONS RECOGNIZED BY THE MEDICAL COMMUNITY, INCLUDING CLINICAL TRIALS, PALLIATIVE CARE, AND HOSPICE, AND THE RIGHT TO SEEK INVESTIGATIONAL TREATMENTS UNDER THE FEDERAL TRICKETT WENDLER, FRANK MONGIELLO, JORDAN MCLINN, AND MATTHEW BELLINA RIGHT TO TRY ACT OF 2017.”

On pages 12 and 13, strike in their entirety the lines beginning with line 26 on page 12 through line 8 on page 13, inclusive, and substitute:

“A LICENSED MENTAL HEALTH PROFESSIONAL TO WHOM AN INDIVIDUAL HAS BEEN REFERRED UNDER § 5-6A-04(D) OF THIS SUBTITLE SHALL:

(1) EXAMINE THE INDIVIDUAL AND THE INDIVIDUAL’S RELEVANT MEDICAL RECORDS;

(2) DETERMINE WHETHER THE INDIVIDUAL HAS THE CAPACITY TO MAKE MEDICAL DECISIONS AND IS NOT SUFFERING FROM A CONDITION THAT IS CAUSING IMPAIRED JUDGMENT;

(3) DETERMINE WHETHER THE INDIVIDUAL IS REQUESTING AID IN DYING FREE FROM ANY FINANCIAL CONSIDERATIONS, INCLUDING THE CONTINUED COST OF CARE;

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(4) COMMUNICATE THE LICENSED MENTAL HEALTH PROFESSIONAL'S DETERMINATIONS TO THE ATTENDING PHYSICIAN AND THE CONSULTING PHYSICIAN IN WRITING; AND

(5) DOCUMENT THE FULFILLMENT OF THE LICENSED MENTAL HEALTH PROFESSIONAL'S DUTIES UNDER THIS SECTION IN WRITING.

On page 13, in line 10, strike "AND" and substitute a comma; in the same line, after the second "PHYSICIAN" insert ", AND LICENSED MENTAL HEALTH PROFESSIONAL"; and in line 11, strike "AND 5-6A-05" and substitute "THROUGH 5-6A-06".

On page 15, in line 23, after "PROGNOSIS" insert "AND THE BASIS FOR THAT DIAGNOSIS".

On pages 15 and 16, strike in their entirety the lines beginning with line 30 on page 15 through line 5 on page 16, inclusive, and substitute:

"(5) DOCUMENTATION THAT THE LICENSED MENTAL HEALTH PROFESSIONAL HAS FULFILLED THE LICENSED MENTAL HEALTH PROFESSIONAL'S DUTIES UNDER § 5-6A-06 OF THIS SUBTITLE;"

AMENDMENT NO. 6

On page 16, strike in their entirety lines 26 through 30, inclusive, and substitute:

"(C) THE REPORT PRODUCED BY THE DEPARTMENT UNDER THIS SECTION SHALL INCLUDE, FOR THE STATE AND DISAGGREGATED BY COUNTY:

(1) THE NUMBER OF PRESCRIPTIONS WRITTEN FOR AID IN DYING MEDICATION;

(2) THE NUMBER OF PHYSICIANS WHO WROTE PRESCRIPTIONS FOR AID IN DYING MEDICATION;

(3) THE NUMBER OF INDIVIDUALS WHO RECEIVED A PRESCRIPTION FOR AID IN DYING;

(4) FOR EACH INDIVIDUAL WHO REQUESTED AID IN DYING:

(i) THE INDIVIDUAL'S AGE AT DEATH;

(ii) THE INDIVIDUAL'S EDUCATION LEVEL;

(iii) THE INDIVIDUAL'S RACE;

(iv) THE INDIVIDUAL'S SEX; AND

(v) WHETHER OR NOT THE INDIVIDUAL HAD INSURANCE AND, IF SO, THE INDIVIDUAL'S TYPE OF INSURANCE;

(5) WHETHER OR NOT THE INDIVIDUAL WAS ENROLLED IN HOSPICE AT THE TIME THE REQUEST WAS MADE;

(6) WHETHER OR NOT THE INDIVIDUAL HAD DISABILITY, AS DEFINED IN 42 U.S.C. § 12102, BEFORE THE INDIVIDUAL WAS DIAGNOSED WITH A TERMINAL ILLNESS;

(7) THE INDIVIDUAL'S TERMINAL ILLNESS;

(Over)

(8) THE NUMBER OF KNOWN INDIVIDUALS WHO DIED FOLLOWING THE SELF-ADMINISTRATION OF MEDICATION FOR AID IN DYING; AND

(9) THE INDIVIDUAL'S STATED REASON FOR SEEKING AID IN DYING.

AMENDMENT NO. 7

On page 17, strike beginning with “**FOR**” in line 5 down through “**THE**” in line 7 and substitute “**THE**”; in line 15, after “**FOR**” insert “**ANY CRIME**”; and strike beginning with “**MURDER**” in line 15 down through “**DYING**” in line 24.

AMENDMENT NO. 8

On page 18, strike in their entirety lines 15 through 19, inclusive; in line 20, strike “**(2)**” and substitute “**(A)**”; in the same line, strike “**A**” and substitute “**EXCEPT AS PROVIDED IN § 5-6A-14(C) OF THIS SUBTITLE, A**”; in line 23, after “**PENALTY**” insert “**SOLELY**”; in line 24, strike “**GOOD-FAITH COMPLIANCE WITH**” and substitute “**AID IN DYING UNDER**”; and strike in their entirety lines 25 through 30, inclusive, and substitute:

“(B) AN INDIVIDUAL’S REQUEST FOR AID IN DYING MAY NOT PROVIDE THE SOLE BASIS FOR THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR.”