

## 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.**

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7

(a) As used in this article:

8

9

(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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15

(ii) "Capable" means that a patient has the ability to make and communicate health care decisions to a physician, including communication through persons familiar with the patient's manner of communicating if those persons are available;

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21

(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.**

20

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.

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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.**

12

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)