

HOUSE BILL NO. HB0122

Death with dignity.

Sponsored by: Representative(s) Zwonitzer and Pelkey

A BILL

for

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

11

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

13

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

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CHAPTER 22

END OF LIVE DECISIONS

ARTICLE 6

AID IN DYING

35-22-601. Definitions.

(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

1 treating the patient's illness prior to the consultation
2 and is licensed under Wyoming law and practicing within the
3 scope of that license as a physician;

4

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

10

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

13

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

17

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

20

21 (viii) "Mental health care provider" means any
22 person licensed under Wyoming law practicing within the
23 scope of that license as a psychiatrist or psychologist;

1

2 (ix) "Patient" means a person who is under the
3 care of an attending health care provider;

4

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

7

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

11

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

14

15 (xiii) "This act" means W.S. 35-22-601 through
16 35-22-611.

17

18 **35-22-602. Right to be informed.**

19

20 A patient has the right to be informed by the patient's
21 attending health care provider of all available options for
22 the management or treatment of the patient's terminal

1 condition, including the option to request medication
2 pursuant to this act.

3

4 **35-22-603. Qualification; requirements.**

5

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

9

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

13

14 (i) The patient is an adult Wyoming resident;

15

16 (ii) The patient has a terminal condition;

17

18 (iii) The patient is competent and acting
19 voluntarily;

20

21 (iv) The patient has been provided all required
22 information about their terminal condition, the medication

1 and any feasible alternatives pursuant to W.S.
2 35-22-604(a)(ii);

3

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

7

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

12

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

15

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

18

19 (ix) The attending health care provider has
20 verified all requirements of this subsection have been
21 completed.

22

1 (c) No patient shall qualify for medication under
2 this act on the sole basis of age, disability, or any
3 condition which is not a terminal condition.

4

5 **35-22-604. Attending health care provider**
6 **responsibilities.**

7

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

11

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

15

16 (ii) Inform the patient of:

17

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

20

21 (B) The risks and probable result of taking
22 medication prescribed under this act; and

23

1 (C) Any feasible alternatives, including
2 treatment, comfort care, hospice care and palliative care.

3
4 (iii) Refer the patient to a consulting health
5 care provider for an independent assessment of whether the
6 patient has a terminal condition, has made an informed
7 decision, is competent and is acting voluntarily regarding
8 the request of medication;

9
10 (iv) Refer the patient for counseling if
11 appropriate pursuant to W.S. 35-22-606;

12
13 (v) Inform the patient of the option to rescind
14 the request for medication at any time and in any manner;

15
16 (vi) Comply with the medical record
17 documentation requirements pursuant to W.S. 35-22-607; and

18
19 (vii) Ensure that all requirements of this act
20 are met prior to writing a prescription for medication.

21
22 **35-22-605. Request procedure.**

23

1 (a) To receive medication under this act a patient
2 shall make to the attending health care provider:

3

4 (i) An initial request for medication;

5

6 (ii) A second request for medication in writing
7 which shall be substantially in the form described in W.S.
8 35-22-611, signed and dated by the patient and witnessed by
9 two (2) persons who, in the presence of the patient, attest
10 that to the best of their knowledge the patient is
11 competent and acting voluntarily and at least one (1) of
12 which complies with the requirements of subsection (b) of
13 this section;

14

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

18

19 (b) At least one (1) of the witnesses signing the
20 form required by paragraph (a)(ii) of this section shall
21 not be:

22

1 (i) A relative of the patient by blood, marriage
2 or adoption;

3

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

8

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

12

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

18

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

22

23 **35-22-606. Counseling referral.**

1

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

10

11 **35-22-607. Medical record documentation requirements.**

12

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

15

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

18

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

23

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

5
6 (iv) Verification that the patient has been
7 informed of all information required by W.S.
8 35-22-604(a)(ii) and (v);

9
10 (v) If the patient was referred for counseling
11 pursuant to W.S. 35-22-606, a report from the mental health
12 care provider who performed the counseling stating the
13 outcome and any determinations made during counseling by
14 the mental health care provider on whether the patient's
15 judgment is impaired;

16
17 (vi) Verification by the attending health care
18 provider that all requirements of this act have been met
19 and indicating the steps taken to carry out the patient's
20 request; and

21
22 (vii) Whether the patient has rescinded a
23 request for medication.

1

2 **35-22-608. Reporting requirements; rulemaking.**

3

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

11

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

14

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

18

19 (ii) Collect information to assist with the
20 preparation of an annual statistical report pursuant to
21 subsection (c) of this section.

22

1 (c) The department may generate and make available to
2 the public an annual statistical report of information
3 collected pursuant to this section. The report shall not
4 include any information which would tend to disclose the
5 identity of any individual who has been prescribed
6 medication pursuant to this act or the identity of any
7 attending health care provider who prescribed medication
8 pursuant to this act.

9

10 **35-22-609. Immunities; health care provider**
11 **participation; liabilities.**

12

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

17

18 (b) No professional organization or association or
19 health care institution may subject a person to any penalty
20 for participating or refusing to participate in any
21 activity authorized under this act.

22

1 (c) Actions taken or information received in
2 accordance with this act does not impose a duty to report
3 under W.S. 35-20-103 or any other similar requirement.
4

5 (d) No health care provider shall be under any duty
6 to participate in providing a patient with medication in
7 accordance with this act. An attending health care provider
8 who is unable or unwilling to carry out a patient's request
9 shall:
10

11 (i) Promptly inform the patient;
12

13 (ii) Provide continuing care to the patient
14 until a transfer of care can be effected; and
15

16 (iii) Immediately make all reasonable efforts to
17 assist in the transfer of care of the patient to another
18 attending health care provider who is willing and able to
19 carry out the patient's request.
20

21 (e) Notwithstanding subsections (a) and (b) of this
22 section, any person who violates a policy established by a

1 health care institution may be subject to sanctions
2 otherwise allowable under law or contract.

3

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

10

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

17

18 (h) Any person who willfully alters, forges, conceals
19 or destroys an instrument or any other evidence reflecting
20 a patient's desires and interests with the intent or effect
21 of affecting any decision under this act, but does not act
22 with the intent of causing the patient's death, shall be
23 guilty of a misdemeanor punishable by imprisonment for a

1 term not more than one (1) year, a fine of not more than
2 two thousand dollars (\$2,000.00) or both.

3

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

8

9 **35-22-610. Construction of act.**

10

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

16

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

20

21 **35-22-611. Form.**

22

1 A written request for medication pursuant to W.S.
2 35-22-605(a)(ii) shall be in substantially the following
3 form:

4

5

REQUEST FOR MEDICATION

6

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

9

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

14

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

19

20 I request that my attending health care provider prescribe
21 medication that will end my life should I choose to take
22 it.

23

1 I understand that I have a right to rescind this request at
2 any time.

3

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

6

7 I make this request voluntarily and without reservation.

8

9 Signature of Candidate

10

11 Dated:

12

13

14 DECLARATION OF WITNESSES

15

16 We declare that the person signing this request:

17

18 Is personally known to us or has provided proof of
19 identify;

20

21 Signed this request in our presence;

22

1 Appears to be of sound mind and not under duress, fraud or
2 undue influence; and

3

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

6

7 Signature of Witness 1

8

9 Dated

10

11 Signature of Witness 2

12

13 Dated

14

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

16

17 (END)