Senate

General Assembly

File No. 64

February Session, 2022

Substitute Senate Bill No. 88

Senate, March 22, 2022

The Committee on Public Health reported through SEN. DAUGHERTY ABRAMS of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING AID IN DYING FOR TERMINALLY ILL PATIENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2022*) As used in this section and sections 2 to 18, inclusive, of this act:

(1) "Adult" means a person who is eighteen years of age or older;

(2) "Aid in dying" means the medical practice of a physician prescribing medication to a qualified patient who is terminally ill, which medication a qualified patient may self-administer to bring about such patient's death;

(3) "Attending physician" means the physician who has primary responsibility for the medical care of a patient and treatment of a patient's terminal illness and whose practice is not primarily comprised of evaluating, qualifying and prescribing or dispensing medication pursuant to the provisions of this section and sections 2 to 18, inclusive,

of this act;

(4) "Competent" means, in the opinion of a patient's attending physician, consulting physician, psychiatrist, psychologist or licensed clinical social worker, that a patient has the capacity to understand and acknowledge the nature and consequences of health care decisions, including the benefits and disadvantages of treatment, to make an informed decision and to communicate such decision to a health care provider, including communicating through a person familiar with a patient's manner of communicating;

(5) "Consulting physician" means a physician other than a patient's attending physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a patient's terminal illness;

(6) "Counseling" means one or more consultations as necessary between a psychiatrist, psychologist or licensed clinical social worker and a patient for the purpose of determining that a patient is competent and not suffering from depression or any other psychiatric or psychological disorder that causes impaired judgment;

(7) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care or dispense medication in the ordinary course of business or practice of a profession, including, but not limited to, a physician, psychiatrist, psychologist or pharmacist;

(8) "Health care facility" means a hospital, residential care home, nursing home or rest home, as such terms are defined in section 19a-490 of the general statutes;

(9) "Hospice care" means health care centered on a terminally ill patient and such patient's family that provides for the physical, psychosocial, spiritual and emotional needs of such patient;

(10) "Informed decision" means a decision by a qualified patient to request and obtain a prescription for medication that the qualified

patient may self-administer for aid in dying, that is based on an understanding and acknowledgment of the relevant facts and after being fully informed by the attending physician of: (A) The qualified patient's medical diagnosis and prognosis; (B) the potential risks associated with self-administering the medication to be prescribed; (C) the probable result of taking the medication to be dispensed or prescribed; and (D) the feasible alternatives to aid in dying and health care treatment options, including, but not limited to, hospice care and palliative care;

(11) "Licensed clinical social worker" means a person who has been licensed as a clinical social worker pursuant to chapter 383b of the general statutes;

(12) "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;

(13) "Palliative care" means health care centered on a seriously ill patient and such patient's family that (A) optimizes a patient's quality of life by anticipating, preventing and treating a patient's suffering throughout the continuum of a patient's serious illness, (B) addresses the physical, emotional, social and spiritual needs of a patient, (C) facilitates patient autonomy, patient access to information and patient choice, and (D) includes, but is not limited to, discussions between a patient and a health care provider concerning a patient's goals for treatment and appropriate treatment options available to a patient, including hospice care and comprehensive pain and symptom management;

(14) "Patient" means a person who is under the care of a physician;

(15) "Pharmacist" means a person licensed to practice pharmacy pursuant to chapter 400j of the general statutes;

(16) "Physician" means a person licensed to practice medicine and surgery pursuant to chapter 370 of the general statutes;

(17) "Psychiatrist" means a physician specializing in psychiatry and licensed pursuant to chapter 370 of the general statutes;

(18) "Psychologist" means a person licensed to practice psychology pursuant to chapter 383 of the general statutes;

(19) "Qualified patient" means a competent adult who is a resident of this state, has a terminal illness and has satisfied the requirements of this section and sections 2 to 9, inclusive, of this act, in order to obtain aid in dying;

(20) "Self-administer" means a qualified patient's voluntary, conscious and affirmative act of ingesting medication; and

(21) "Terminal illness" means the final stage of an incurable and irreversible medical condition that an attending physician anticipates, within reasonable medical judgment, will produce a patient's death within six months if the progression of such condition follows its typical course.

Sec. 2. (NEW) (*Effective October 1, 2022*) (a) A patient who (1) is an adult, (2) is competent, (3) is a resident of this state, (4) has been determined by such patient's attending physician to have a terminal illness, and (5) has voluntarily expressed such patient's wish to receive aid in dying, may request aid in dying by submitting two written requests to such patient's attending physician pursuant to sections 3 and 4 of this act.

(b) No person, including, but not limited to, an agent under a living will, an attorney-in-fact under a durable power of attorney, a guardian, or a conservator, may act on behalf of a patient for purposes of sections 1 to 19, inclusive, of this act.

Sec. 3. (NEW) (*Effective October 1, 2022*) (a) A patient wishing to receive aid in dying shall submit two written requests to such patient's attending physician pursuant to section 4 of this act. A patient's second written request for aid in dying shall be submitted not earlier than fifteen days after the date on which such patient submits the first written

request. A valid written request for aid in dying under sections 1, 2 and 4 to 18, inclusive, of this act shall be signed and dated by the patient. Each written request shall be witnessed by at least two persons in the presence of the patient. Each person serving as a witness shall attest, in writing, that to the best of such person's knowledge and belief (1) the patient appears to be of sound mind, (2) the patient is acting voluntarily and not being coerced to sign the request, and (3) the witness is not: (A) A relative of the patient by blood, marriage or adoption, (B) entitled to any portion of the estate of the patient upon the patient's death, under any will or by operation of law, (C) an owner, operator or employee of a health care facility where the patient is a resident or receiving medical treatment, or (D) such patient's attending physician at the time the request is signed.

(b) Any patient's act of requesting aid in dying or a qualified patient's self-administration of medication prescribed for aid in dying shall not provide the sole basis for appointment of a conservator or guardian for such patient or qualified patient.

Sec. 4. (NEW) (*Effective October 1, 2022*) A written request for aid in dying as authorized by sections 1 to 19, inclusive, of this act shall be in substantially the following form:

REQUEST FOR MEDICATION TO AID IN DYING

I, …., am an adult of sound mind.

I am a resident of the State of Connecticut.

I am suffering from …., which my attending physician has determined is an incurable and irreversible medical condition that will, within reasonable medical judgment, result in death within six months from the date on which this document is executed if the progression of such condition follows its typical course. This diagnosis of a terminal illness has been medically confirmed by another physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be dispensed or prescribed to aid me in dying, the

potential associated risks, the expected result, feasible alternatives to aid in dying and additional health care treatment options, including hospice care and palliative care and the availability of counseling with a psychologist, psychiatrist or licensed clinical social worker.

I request that my attending physician dispense or prescribe medication that I may self-administer for aid in dying. I authorize my attending physician to contact a pharmacist to fill the prescription for such medication, upon my request.

INITIAL ONE:

…. I have informed my family of my decision and taken family 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 if and when I take the medication to be dispensed or prescribed. I further understand that although most deaths occur within one hour, my death may take longer and my attending physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full responsibility for my decision to request aid in dying.

Signed: ….

Dated: ….

DECLARATION OF WITNESSES

By initialing and signing below on the date the person named above signs, I declare that:

Witness 1 …. Witness 2 ….

Initials …. Initials ….

…. 1. The person making and signing the request is personally known to me or has provided proof of identity;

…. 2. The person making and signing the request signed this request in my presence on the date of the person's signature;

…. 3. The person making the request appears to be of sound mind and not under duress, fraud or undue influence;

…. 4. I am not the attending physician for the person making the request;

…. 5. The person making the request is not my relative by blood, marriage or adoption;

…. 6. I am not entitled to any portion of the estate of the person making the request upon such person's death under any will or by operation of law; and

…. 7. I am not an owner, operator or employee of a health care facility where the person making the request is a resident or receiving medical treatment.

Printed Name of Witness 1 ….

Signature of Witness 1 …. Date ….

Printed Name of Witness 2 ….

Signature of Witness 2 …. Date ….

Sec. 5. (NEW) (*Effective October 1, 2022*) (a) A qualified patient may rescind such patient's request for aid in dying at any time and in any manner without regard to such patient's mental state.

(b) An attending physician shall offer a qualified patient an opportunity to rescind such patient's request for aid in dying at the time such patient makes a second written request for aid in dying to the

attending physician.

(c) No attending physician shall dispense or prescribe medication for aid in dying without the attending physician first offering the qualified patient a second opportunity to rescind such patient's request for aid in dying.

Sec. 6. (NEW) (*Effective October 1, 2022*) When an attending physician is presented with a patient's first written request for aid in dying made pursuant to sections 2 to 4, inclusive, of this act, the attending physician shall:

(1) Make a determination that the patient (A) is an adult, (B) has a terminal illness, (C) is competent, and (D) has voluntarily requested aid in dying. Such determination shall not be made solely on the basis of age, disability or any specific illness;

(2) Require the patient to demonstrate residency in this state by presenting: (A) A valid Connecticut driver's license; (B) a valid voter registration record authorizing the patient to vote in this state; or (C) any other valid government-issued document that the attending physician reasonably believes demonstrates that the patient is a resident of this state on the date the request is presented;

(3) Ensure that the patient is making an informed decision by informing the patient of: (A) The patient's medical diagnosis; (B) the patient's prognosis; (C) the potential risks associated with self-administering the medication to be dispensed or prescribed for aid in dying; (D) the probable result of self-administering the medication to be dispensed or prescribed for aid in dying; (E) the feasible alternatives to aid in dying and health care treatment options including, but not limited to, hospice or palliative care; and (F) the availability of counseling with a psychologist, psychiatrist or licensed clinical social worker; and

(4) Refer the patient to a consulting physician for medical confirmation of the attending physician's diagnosis of the patient's terminal illness, the patient's prognosis and for a determination that the

patient is competent and acting voluntarily in requesting aid in dying.

Sec. 7. (NEW) (*Effective October 1, 2022*) In order for a patient to be found to be a qualified patient for the purposes of sections 1 to 19, inclusive, of this act, a consulting physician shall: (1) Examine the patient and the patient's relevant medical records; (2) confirm, in writing, the attending physician's diagnosis that the patient has a terminal illness; (3) verify that the patient is competent, is acting voluntarily and has made an informed decision to request aid in dying, as described in subdivision (3) of section 6 of this act; and (4) refer the patient for counseling, if required in accordance with section 8 of this act.

Sec. 8. (NEW) (*Effective October 1, 2022*) (a) If, in the medical opinion of the attending physician or the consulting physician, a patient may be suffering from a psychiatric or psychological condition including, but not limited to, depression, that is causing impaired judgment, either the attending or consulting physician shall refer the patient for counseling to determine whether the patient is competent to request aid in dying.

(b) An attending physician shall not provide the patient aid in dying until the person providing such counseling determines that the patient is not suffering a psychiatric or psychological condition including, but not limited to, depression, that is causing impaired judgment.

Sec. 9. (NEW) (*Effective October 1, 2022*) After an attending physician and a consulting physician determine that a patient is a qualified patient, in accordance with sections 6 to 8, inclusive, of this act and after such qualified patient submits a second written request for aid in dying in accordance with section 3 of this act, the attending physician shall:

(1) Recommend to the qualified patient that such patient notify such patient's next of kin of the qualified patient's request for aid in dying and inform the qualified patient that a failure to do so shall not be a basis for the denial of such request;

(2) Counsel the qualified patient concerning the importance of: (A)

Having another person present when the qualified patient self-administers the medication dispensed or prescribed for aid in dying; and (B) not taking the medication in a public place;

(3) Inform the qualified patient that such patient may rescind such patient's request for aid in dying at any time and in any manner;

(4) Verify, immediately before dispensing or prescribing medication for aid in dying, that the qualified patient is making an informed decision;

(5) Fulfill the medical record documentation requirements set forth in section 10 of this act; and

(6) (A) Dispense such medication, including ancillary medication intended to facilitate the desired effect to minimize the qualified patient's discomfort, if the attending physician is authorized to dispense such medication, to the qualified patient; or (B) upon the qualified patient's request and with the qualified patient's written consent (i) contact a pharmacist who chooses to participate in the provision of medication for aid in dying and inform the pharmacist of the prescription, and (ii) personally deliver the written prescription, by mail, facsimile or electronic transmission to the pharmacist, who may dispense such medication directly to the qualified patient, the attending physician or an expressly identified agent of the qualified patient.

Sec. 10. (NEW) (*Effective October 1, 2022*) The attending physician shall ensure that the following items are documented or filed in a qualified patient's medical record:

(1) The basis for determining that a qualified patient is an adult and a resident of the state;

(2) All written requests by a qualified patient for medication for aid in dying;

(3) The attending physician's diagnosis of a qualified patient's terminal illness and prognosis, and a determination that a qualified

patient is competent, is acting voluntarily and has made an informed decision to request aid in dying;

(4) The consulting physician's confirmation of a qualified patient's diagnosis and prognosis, confirmation that a qualified patient is competent, is acting voluntarily and has made an informed decision to request aid in dying;

(5) A report of the outcome and determinations made during counseling, if counseling was recommended and provided in accordance with section 8 of this act;

(6) Documentation of the attending physician's offer to a qualified patient to rescind such patient's request for aid in dying at the time the attending physician dispenses or prescribes medication for aid in dying; and

(7) A statement by the attending physician indicating that (A) all requirements under this section and sections 1 to 9, inclusive, of this act have been met, and (B) the steps taken to carry out a qualified patient's request for aid in dying, including the medication dispensed or prescribed.

Sec. 11. (NEW) (*Effective October 1, 2022*) Any person, other than a qualified patient, in possession of medication dispensed or prescribed for aid in dying that has not been self-administered shall (1) destroy such medication in a manner described on the Department of Consumer Protection's Internet web site, or (2) dispose of such medication at a pharmacy that accepts and disposes of unused prescription drugs pursuant to section 20-576a of the general statutes or a municipal police station that collects and disposes of unwanted pharmaceuticals pursuant to section 21a-12f of the general statutes.

Sec. 12. (NEW) (*Effective October 1, 2022*) (a) Any provision of a contract, including, but not limited to, a contract related to an insurance policy or annuity, conditioned on or affected by the making or rescinding of a request for aid in dying shall not be valid.

(b) Any provision of a will or codicil conditioned on or affected by the making or rescinding of a request for aid in dying shall not be valid.

(c) On and after October 1, 2022, the sale, procurement or issuance of any life, health or accident insurance or annuity policy or the rate charged for any such policy shall not be conditioned upon or affected by the making or rescinding of a request for aid in dying.

(d) A qualified patient's act of requesting aid in dying or self-administering medication dispensed or prescribed for aid in dying shall not constitute suicide for any purpose, including, but not limited to, a criminal prosecution under section 53a-56 of the general statutes.

Sec. 13. (NEW) (*Effective October 1, 2022*) (a) As used in this section, "participate in the provision of medication" means to perform the duties of an attending physician or consulting physician, a psychiatrist, psychologist or pharmacist in accordance with the provisions of sections 2 to 10, inclusive, of this act. "Participate in the provision of medication" does not include: (1) Making an initial diagnosis of a patient's terminal illness; (2) informing a patient of such patient's medical diagnosis or prognosis; (3) informing a patient concerning the provisions of this section, sections 1 to 12, inclusive, of this act and sections 16 to 18, inclusive, of this act, upon the patient's request; or (4) referring a patient to another health care provider for aid in dying.

(b) Participation in any act described in sections 1 to 12, inclusive, of this act and sections 16 to 18, inclusive, of this act by a patient, health care provider or any other person shall be voluntary. Each health care provider shall individually and affirmatively determine whether to participate in the provision of medication to a qualified patient for aid in dying. A health care facility shall not require a health care provider to participate in the provision of medication to a qualified patient for aid in dying, but may prohibit such participation in accordance with subsection (d) of this section.

(c) If a health care provider or health care facility chooses not to participate in the provision of medication to a qualified patient for aid

in dying, upon request of a qualified patient, such health care provider or health care facility shall transfer all relevant medical records to any health care provider or health care facility, as directed by a qualified patient.

(d) A health care facility may adopt written policies prohibiting a health care provider associated with such health care facility from participating in the provision of medication to a patient for aid in dying, provided such facility provides written notice of such policy and any sanctions for violation of such policy to such health care provider. Notwithstanding the provisions of this subsection or any policies adopted in accordance with this subsection, a health care provider may: (1) Diagnose a patient with a terminal illness; (2) inform a patient of such patient's medical prognosis; (3) provide a patient with information concerning the provisions of this section, sections 1 to 12, inclusive, of this act and sections 16 to 18, inclusive, of this act, upon a patient's request; (4) refer a patient to another health care facility or health care provider; (5) transfer a patient's medical records to a health care provider or health care facility, as requested by a patient; or (6) participate in the provision of medication for aid in dying when such health care provider is acting outside the scope of such provider's employment or contract with a health care facility that prohibits participation in the provision of such medication.

(e) Except as provided in a policy adopted in accordance with subsection (d) of this section, no health care facility may subject an employee or other person who provides services under contract with the health care facility to disciplinary action, loss of privileges, loss of membership or any other penalty for participating, or refusing to participate, in the provision of medication or related activities in good faith compliance with the provisions of this section, sections 1 to 12, inclusive, of this act and sections 16 to 18, inclusive, of this act.

Sec. 14. (NEW) (*Effective October 1, 2022*) (a) Nothing in sections 1 to 13, inclusive, of this act or sections 15 to 18, inclusive, of this act authorizes a physician or any other person to end another person's life

by lethal injection, mercy killing, assisting a suicide or any other active euthanasia.

(b) Nothing in sections 1 to 13, inclusive, of this act or sections 15 to 18, inclusive, of this act authorizes a health care provider or any person, including a qualified patient, to end the qualified patient's life by intravenous or other parenteral injection or infusion, mercy killing, homicide, murder, manslaughter, euthanasia, or any other criminal act.

(c) Any actions taken in accordance with sections 1 to 13, inclusive, of this act or sections 15 to 18, inclusive, of this act, do not, for any purposes, constitute suicide, assisted suicide, euthanasia, mercy killing, homicide, murder, manslaughter, elder abuse or neglect or any other civil or criminal violation under the general statutes.

(d) No action taken in accordance with sections 1 to 13, inclusive, of this act or sections 15 to 18, inclusive, of this act shall constitute causing or assisting another person to commit suicide in violation of section 53a-54a or 53a-56 of the general statutes.

(e) No person shall be subject to civil or criminal liability or professional disciplinary action, including, but not limited to, revocation of such person's professional license, for (1) participating in the provision of medication or related activities in good faith compliance with the provisions of sections 1 to 13, inclusive, of this act and sections 15 to 18, inclusive, of this act, or (2) being present at the time a qualified patient self-administers medication dispensed or prescribed for aid in dying.

(f) An attending physician's dispensing of, or issuance of a prescription for medication for aid in dying, a pharmacist's dispensing of medication for aid in dying or a patient's request for aid in dying, in good faith compliance with the provisions of sections 1 to 19, inclusive, of this act shall not constitute neglect for the purpose of any law or provide the sole basis for appointment of a guardian or conservator for such patient.

Sec. 15. (NEW) (*Effective October 1, 2022*) Sections 1 to 14, inclusive, of this act or sections 16 to 18, inclusive, of this act do not limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

Sec. 16. (NEW) (*Effective October 1, 2022*) Nothing in sections 1 to 15, inclusive, of this act or section 17 or 18 of this act shall limit the jurisdiction or authority of the nonprofit entity designated by the Governor to serve as the Connecticut protection and advocacy system under section 46a-10b of the general statutes.

Sec. 17. (NEW) (*Effective October 1, 2022*) No person who serves as an attending physician or consulting physician shall inherit or receive any part of the estate of such qualified patient, whether under the provisions of law relating to intestate succession or as a devisee or legatee, or otherwise under the will of such qualified patient, or receive any property as beneficiary or survivor of such qualified patient after such qualified patient has self-administered medication dispensed or prescribed for aid in dying.

Sec. 18. (NEW) (*Effective from passage*) Not later than October 1, 2022, the Department of Public Health shall create an attending physician checklist form and an attending physician follow-up form to facilitate the collection of information that attending physicians are required to submit to the department pursuant to the provisions of subsections (a) and (b) of section 19 of this act and post such forms on the department's Internet web site.

Sec. 19. (NEW) (*Effective October 1, 2022*) (a) Not later than thirty days after prescribing medication to a qualified patient pursuant to the provisions of sections 1 to 17, inclusive, of this act, an attending physician shall submit to the department an attending physician checklist form, containing the following information: (1) The qualified patient's name and date of birth; (2) the qualified patient's diagnosis and prognosis; and (3) a statement by the attending physician indicating that all requirements under this section and sections 1 to 10, inclusive, of this act have been met and that such physician has prescribed medication

pursuant to the provisions of sections 1 to 17, inclusive, of this act.

(b) Not later than sixty days after an attending physician receives notification of a qualified patient's death from self-administration of medication prescribed pursuant to the provisions of sections 1 to 17, inclusive, of this act, such attending physician shall submit to the department an attending physician follow-up form, containing the following information: (1) The qualified patients name and date of birth; (2) the date of the qualified patient's death; and (3) whether the qualified patient was provided hospice care at the time of such patient's death.

(c) On or before January 1, 2023, and annually thereafter, the Department of Public Health shall review the forms submitted pursuant to subsections (a) and (b) of this section to ensure compliance with the provisions of said subsections.

(d) On or before January 1, 2023, and annually thereafter, the Department of Public Health shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to public health containing the following data: (1) The number of prescriptions for medication written for qualified patients pursuant to the provisions of sections 1 to 17, inclusive, of this act; and (2) the number of qualified patients who died following self-administration of medication prescribed pursuant to the provisions of sections 1 to 17, inclusive, of this act. Such report shall not contain the identifying information of any qualified patient or health care provider.

(e) Any data collected by the Department of Public Health pursuant to the provisions of subsections (a) and (b) of this section shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2022*	New section

Sec. 2	*October 1, 2022*	New section
Sec. 3	*October 1, 2022*	New section
Sec. 4	*October 1, 2022*	New section
Sec. 5	*October 1, 2022*	New section
Sec. 6	*October 1, 2022*	New section
Sec. 7	*October 1, 2022*	New section
Sec. 8	*October 1, 2022*	New section
Sec. 9	*October 1, 2022*	New section
Sec. 10	*October 1, 2022*	New section
Sec. 11	*October 1, 2022*	New section
Sec. 12	*October 1, 2022*	New section
Sec. 13	*October 1, 2022*	New section
Sec. 14	*October 1, 2022*	New section
Sec. 15	*October 1, 2022*	New section
Sec. 16	*October 1, 2022*	New section
Sec. 17	*October 1, 2022*	New section
Sec. 18	*from passage*	New section
Sec. 19	*October 1, 2022*	New section

PH *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which establishes policies and procedures for aid in dying, results in no fiscal impact to the state or municipalities. The Department of Public Health has sufficient resources to carry out the bill's review and reporting requirements. It is expected that existing personnel at UConn Health can fulfill the procedural and other requirements.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sSB 88

AN ACT CONCERNING AID IN DYING FOR TERMINALLY ILL PATIENTS.

SUMMARY

This bill allows terminally ill adults, under specified conditions, to obtain and use prescriptions to self-administer lethal medications.

To be eligible, the patient must (1) be a competent adult (age 18 or older) and Connecticut resident; (2) have a terminal illness, as determined by his or her attending physician; (3) have voluntarily expressed a wish to receive aid in dying; and (4) meet the bill's other requirements. To request aid in dying, the bill requires that a patient submit two written requests (at least 15 days apart) to his or her attending physician.

The attending physician must ensure that the patient is making an informed decision by discussing certain issues with the patient, including the diagnosis and prognosis and feasible alternative treatment options. Also, a consulting physician must examine the patient and confirm (1) the attending physician's diagnosis and (2) that the patient is competent, acting voluntarily, and making an informed decision. The bill broadly prohibits attending and consulting physicians from financially benefitting from a patient's estate.

Under the bill, a "terminal illness" is the final stage of an incurable and irreversible condition that the attending physician anticipates, within reasonable medical judgment, will produce the patient's death within six months if the condition's progression follows its typical course.

Among other provisions, the bill:

1. requires two witnesses for a written request for aid in dying to be valid and limits who may serve as a witness;

2. allows only patients themselves, and not anyone acting on their behalf (e.g., agents under a living will or conservators) to request aid in dying;

3. requires the attending or consulting physician to refer the patient for counseling if they determine that the patient may be suffering from a psychological or psychiatric condition causing impaired judgment;

4. establishes several procedural and recordkeeping requirements for attending physicians when they receive an aid in dying request and when they determine the patient qualifies;

5. allows patients to rescind an aid in dying request at any time and in any manner;

6. prohibits health care facilities from requiring their providers to participate in providing aid in dying medication; and

7. requires attending physicians to report on aid in dying prescriptions and related deaths to the Department of Public Health (DPH), and the department to annually report that information to the Public Health Committee.

In authorizing aid in dying, the bill generally limits civil, criminal, and professional liability for individuals involved, provided the bill's requirements are met. It makes corresponding changes invalidating provisions of wills, annuities, life insurance, or other contracts impacted by a patient requesting aid in dying or rescinding such a request.

EFFECTIVE DATE: October 1, 2022, except upon passage for the provisions requiring DPH to create attending physician checklist and follow-up forms (§ 18).

§§ 2-4 — REQUESTING AID IN DYING

Under the bill, "aid in dying" is the medical practice of a physician prescribing medication to a terminally ill qualified patient, which the patient may self-administer to bring about his or her death. "Self-administer" is a qualified patient's voluntary, conscious, and affirmative act of ingesting medication.

Eligibility (§ 2)

To request aid in dying, the bill requires that a patient voluntarily express his or her wish to receive aid in dying and be:

1. an adult (i.e., age 18 or older);
2. a Connecticut resident;
3. competent (see below); and
4. determined by his or her attending physician to have a terminal illness.

A "qualified patient" is one who meets these criteria and has satisfied the bill's other requirements.

An "attending physician" is a state-licensed physician with primary responsibility for the patient's medical care and treatment of the patient's terminal illness, and whose practice is not primarily comprised of evaluating or qualifying patients for aid in dying or prescribing or dispensing aid in dying medication.

Under the bill, a patient is "competent" if, in the opinion of his or her attending or consulting physician (see below), psychiatrist, psychologist, or licensed clinical social worker (LCSW), the patient has the capacity to understand and acknowledge the nature and consequences of health care decisions, including the benefits and disadvantages of treatment, to make an informed decision (see below) and to communicate that decision to a Connecticut licensed health care provider. This includes communicating through a person familiar with the patient's manner of communicating.

The bill prohibits anyone from acting on a patient's behalf for purposes of the bill, including an agent under a living will, an attorney-in-fact under a durable power of attorney, a guardian, or a conservator.

Request Process (§ 3)

Before receiving aid in dying, a patient must submit two written requests in a form the bill establishes to his or her attending physician, at least 15 days apart.

Each written request must be signed and dated by the patient and witnessed by at least two people in the patient's presence. Each witness must attest in writing, that to the best of the witness's knowledge and belief, the patient (1) appears to be of sound mind and (2) is acting voluntarily and not being coerced to sign the request.

Each witness must also attest in writing, that to the best of the witness's knowledge and belief, he or she is not (1) related to the patient by blood, marriage, or adoption; (2) entitled to any portion of the estate upon the patient's death, by will or operation of law; (3) an owner, operator, or employee of a health care facility where the patient resides or is receiving treatment; or (4) the patient's attending physician when the request was signed.

Under the bill, a patient's act of requesting aid in dying, or a qualified patient's self-administration of aid in dying medication, must not provide the sole basis for appointing a conservator or guardian for the patient.

Form of Written Request (§ 4)

The bill requires written requests for aid in dying to be substantially the same as the following form:

REQUEST FOR MEDICATION TO AID IN DYING

I, …., am an adult of sound mind.

I am a resident of the State of Connecticut.

I am suffering from …., which my attending physician has determined is an incurable and irreversible medical condition that will, within reasonable medical judgment, result in death within six months from the date on which this document is executed if the progression of such condition follows its typical course. This diagnosis of a terminal illness has been medically confirmed by another physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be dispensed or prescribed to aid me in dying, the potential associated risks, the expected result, feasible alternatives to aid in dying and additional health care treatment options, including hospice care and palliative care and the availability of counseling with a psychologist, psychiatrist or licensed clinical social worker.

I request that my attending physician dispense or prescribe medication that I may self-administer for aid in dying. I authorize my attending physician to contact a pharmacist to fill the prescription for such medication, upon my request.

INITIAL ONE:

…. I have informed my family of my decision and taken family 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 if and when I take the medication to be dispensed or prescribed. I further understand that although most deaths occur within one hour, my death may take longer and my attending physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full responsibility for my decision to request aid in dying.

Signed: ….

Dated: ….

DECLARATION OF WITNESSES

By initialing and signing below on the date the person named above signs, I declare that:

Witness 1 …. Witness 2 ….

Initials …. Initials ….

…. 1. The person making and signing the request is personally known to me or has provided proof of identity;

…. 2. The person making and signing the request signed this request in my presence on the date of the person's signature;

…. 3. The person making the request appears to be of sound mind and not under duress, fraud or undue influence;

…. 4. I am not the attending physician for the person making the request;

…. 5. The person making the request is not my relative by blood, marriage or adoption;

…. 6. I am not entitled to any portion of the estate of the person making the request upon such person's death under any will or by operation of law; and

…. 7. I am not an owner, operator or employee of a health care facility where the person making the request is a resident or receiving medical treatment.

Printed Name of Witness 1 ….

Signature of Witness 1 …. Date ….

Printed Name of Witness 2 ….

Signature of Witness 2 …. Date ….

§ 5 — RESCISSION OF AID IN DYING REQUEST

The bill allows qualified patients to rescind aid in dying requests at any time and in any manner without regard to their mental state.

Under the bill, a qualified patient's attending physician must offer the patient an opportunity to rescind an aid in dying request when the patient makes his or her second written request. The bill prohibits attending physicians from dispensing or prescribing aid in dying medication without first offering the patient a second opportunity to rescind the request.

§§ 6-10 — PROCESS TO PRESCRIBE OR DISPENSE AID IN DYING MEDICATION

Steps to Verify Eligibility (§ 6)

Under the bill, when an attending physician is presented with a patient's first written request for aid in dying, the physician must determine that the patient is a competent adult, has a terminal illness, and is voluntarily making the request. The physician cannot make this determination solely based on the patient's age, disability, or any specific illness.

The physician must also require the patient to demonstrate Connecticut residency by showing (1) a valid driver's license, (2) a valid voter registration card, or (3) any other valid government-issued document that the physician reasonably believes demonstrates state residency on the date the request is presented.

The physician must also ensure that the patient is making an informed decision by informing the patient about (1) his or her diagnosis and prognosis; (2) the potential risks and probable results of self-administering the medication; (3) feasible alternatives and treatment options, including hospice and palliative care; and (4) the availability of counseling with a psychologist, psychiatrist, or LCSW.

The physician must fully inform the patient of these matters, and the patient's decision must be based on understanding and acknowledging the relevant facts.

Consulting Physician (§§ 6 & 7)

The bill also requires the attending physician to refer the patient to a consulting physician qualified by specialty or experience to make a diagnosis and prognosis about the terminal illness. In order for the patient to be qualified for aid in dying, the consulting physician must:

1. examine the patient and the patient's relevant medical records;
2. confirm the diagnosis; and
3. verify that the patient is competent, has made the request voluntarily, and has made an informed decision.

The confirmation of the terminal diagnosis must be in writing.

Counseling Referral (§§ 7 & 8)

Under the bill, if either the attending or consulting physician believes that the patient's judgment may be impaired by a psychiatric or psychological condition (including depression), then that physician must refer the patient for counseling to determine whether he or she is competent to request aid in dying.

In that case, the bill prohibits the attending physician from providing the patient aid in dying until the counselor (a psychiatrist, psychologist, or LCSW) determines that the patient is not suffering from a judgment-impairing psychiatric or psychological condition.

Steps After Second Request (§ 9)

Under the bill, after both physicians determine that the patient is qualified to obtain aid in dying and the patient submits a second written request, the attending physician must:

1. recommend that the patient notify his or her next-of-kin of the aid in dying request, but also inform the patient that it is not

required;

2. counsel the patient on the importance of (a) having someone else there when the patient self-administers the medication and (b) not taking it in public;

3. tell the patient that he or she may rescind the request at any time and in any manner;

4. verify that the patient is making an informed decision, immediately before dispensing or prescribing the medication;

5. document specified information in the patient's medical record (see § 10 below); and

6. either dispense the medication directly to the patient, or upon the patient's request, deliver the prescription to a pharmacist so that the pharmacist may dispense it to the patient (see below).

If the physician is authorized to dispense the medication and dispenses it directly, he or she must also dispense ancillary medication intended to minimize the patient's discomfort.

Alternatively, if the patient provides written consent and requests it, the physician must (1) contact a pharmacist who chooses to participate in providing aid in dying medication and inform the pharmacist of the prescription and (2) personally deliver the written prescription to the pharmacist by mail, fax, or electronic transmission. The pharmacist then may dispense the medication directly to the patient, the attending physician, or the patient's expressly identified agent.

Attending Physician Recordkeeping Requirements (§ 10)

The bill requires a qualified patient's attending physician to ensure that the following items are documented or filed in the patient's medical record:

1. the basis for determining that the patient is an adult and a state resident;

2. the patient's written requests for aid in dying medication;

3. the physician's terminal diagnosis and the prognosis;

4. the physician's determination that the patient is competent, acting voluntarily, and has made an informed decision to request aid in dying;

5. the consulting physician's confirmation of the information in items 3 and 4;

6. a report of the outcome and determinations made during counseling for patients with potentially impaired judgment;

7. documentation of the attending physician's offer to the patient to rescind his or her aid in dying request when the physician dispensed or prescribed the medication; and

8. the physician's statement indicating (a) that all of the bill's foregoing requirements have been met and (b) the steps that were taken to carry out the patient's request for aid in dying, including the medication dispensed or prescribed.

§ 11 — MEDICATION RETURN

Under the bill, if anyone other than a qualified patient possesses dispensed or prescribed aid in dying medication that the patient did not use, that person must (1) destroy it a manner prescribed on the Department of Consumer Protection's website or (2) dispose of it at a pharmacy or municipal police department that accepts and disposes of unused medications under existing law.

§ 12 — EFFECT ON INSURANCE CONTRACTS, WILLS, AND OTHER LAWS

The bill declares as invalid any contract provisions, including contracts related to insurance policies and annuities, or will or codicil provisions that are conditioned upon or affected by a patient making or rescinding an aid in dying request.

Starting October 1, 2022, the bill prohibits the sale, procurement, or issuance of life, health, or accident insurance or annuity policies, or policy rates, that are conditioned upon or affected by the making or rescinding of an aid in dying request.

The bill provides that a qualified patient's act of requesting aid in dying or self-administering the medication does not constitute suicide for any purpose, including criminal prosecution for 2nd degree manslaughter.

§ 13 — VOLUNTARY NATURE OF PARTICIPATION BY PATIENTS AND PROVIDERS

The bill provides that participation in any action under the bill is voluntary, whether by a patient, health care provider, or anyone else. In addition, health care providers must individually and affirmatively determine whether to "participate in the provision of medication" to qualified patients for aid in dying.

The bill prohibits health care facilities (i.e., hospitals, residential care homes, nursing homes, or rest homes) from requiring providers to participate. As further explained below, health care facilities may adopt policies prohibiting associated providers from participating and, under certain circumstances, they may impose sanctions on providers who fail to comply with that policy. However, the bill allows these providers to participate as long as they do so when acting outside the scope of their employment contract.

For these purposes, to "participate in the provision of medication" means to perform the duties of an attending or consulting physician, psychiatrist, psychologist, or pharmacist under the bill. It does not include (1) making an initial diagnosis of a patient's terminal illness, (2) informing a patient of his or her medical diagnosis or prognosis, (3) informing a patient about the bill upon the patient's request, or (4) referring a patient to another health care provider for aid in dying.

Under the bill, if a health care provider or facility chooses not to participate in providing medication for aid in dying, the provider or

facility must, upon a qualified patient's request, transfer all relevant medical records to another provider or facility as the patient directs.

Health Care Facility Policies

The bill allows health care facilities to adopt written policies prohibiting associated providers from participating in providing medication for aid in dying, as long as the facility gives them written notice of the policy and any sanctions for violating it.

The bill prohibits health care facilities, except as provided in such a policy, from subjecting employees or contracted service providers to disciplinary action, loss of privileges, loss of membership, or any other penalty for participating, or refusing to participate, in the provision of medication or related activities in good faith compliance with the bill.

Even if a facility adopts such a policy, the facility's providers may:

1. diagnose patients with a terminal illness;
2. inform patients of their medical prognoses;
3. provide patients with information about the bill upon request;
4. refer patients to other health care facilities or providers;
5. transfer medical records to other health care facilities or providers, as requested by the patient; or
6. participate in providing aid in dying medication when the provider is acting outside the scope of his or her employment or contract with the facility that prohibits the participation.

§§ 14 & 15 — UNAUTHORIZED ACTIONS, LIABILITY, AND RELATED ISSUES

The bill specifies that it does not authorize a:

1. physician or anyone else to end someone else's life by lethal injection, mercy killing, assisting a suicide, or any other active euthanasia; or

2. health care provider or anyone else, including a qualified patient, to end the patient's life by intravenous or other parenteral injection or infusion, mercy killing, homicide, murder, manslaughter, euthanasia, or any other criminal act.

The bill specifies that any actions taken under its aid in dying procedures do not constitute suicide, assisted suicide, euthanasia, mercy killing, homicide, murder, manslaughter, elder abuse or neglect, or any other civil or criminal violation under law. It further specifies that these actions do not constitute causing or assisting suicide under existing laws that make it (1) murder to intentionally cause someone to commit suicide by force, duress, or deception (CGS § 53a-54a) and (2) 2nd degree manslaughter to intentionally cause or aid someone to commit suicide by other means (CGS § 53a-56).

The bill prohibits anyone from being subject to civil or criminal liability or professional disciplinary action (including license revocation) for (1) participating in the provision of medication or related activities in good faith compliance with the bill or (2) being present when a qualified patient self-administers aid in dying medication.

Under the bill, an attending physician's dispensing or prescribing aid in dying medication, a pharmacist's dispensing of this medication, or a patient's aid in dying request, in good faith compliance with the bill does not (1) constitute neglect under law or (2) provide the sole basis for appointing a guardian or conservator for the patient.

However, the bill does not limit civil liability for damages resulting from negligence or intentional misconduct.

§ 16 — PROTECTION AND ADVOCACY SYSTEM JURISDICTION

The bill specifies that it does not limit the jurisdiction or authority of the nonprofit entity the governor designated to serve as the state's protection and advocacy system for individuals with disabilities (i.e., Disability Rights Connecticut).

§ 17 — LIMITATIONS ON PHYSICIANS' INHERITANCE

The bill prohibits anyone who serves as an attending or consulting physician under the bill from inheriting from or receiving any part of the patient's estate. This includes (1) receiving part of the estate under the intestate succession laws, as a devisee or legatee, or otherwise under the patient's will, or (2) receiving any property as the patient's beneficiary or survivor, after the patient has self-administered aid in dying medication.

§§ 18 & 19 — ATTENDING PHYSICIAN CHECKLIST AND FOLLOW-UP FORMS; REPORTING

The bill requires attending physicians, within 30 days after prescribing aid in dying medication to a qualified patient, to submit a checklist form to DPH. These physicians must also submit a follow-up form to DPH within 60 days after they are notified that a qualified patient died from self-administration of this medication. By October 1, 2022, DPH must (1) create these forms to facilitate collecting the required information and (2) post the forms on its website.

Both forms must include the qualified patient's name and date of birth. The first form must also include (1) the qualified patient's diagnosis and prognosis and (2) a statement by the attending physician indicating that all of the bill's applicable requirements have been met and that the physician has prescribed medication pursuant to the bill. The follow-up form must include (1) the date of the qualified patient's death and (2) whether the patient was provided hospice care at the time of death.

Under the bill, starting by January 1, 2023, DPH must (1) annually review the submitted forms to ensure compliance with the bill's reporting requirements and (2) report to the Public Health Committee. The department's annual reports to the committee must include the number of (1) aid in dying prescriptions written for qualified patients and (2) such patients who died following self-administration of this medication. The reports must not contain identifying information about qualified patients or health care providers.

The bill excludes any data DPH collects under these provisions from

disclosure under the Freedom of Information Act.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute
Yea 22 Nay 9 (03/08/2022)