

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 789

Short Title: End of Life Option Act. (Public)

Sponsors: Representatives Harrison, Fisher, and Meyer (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING AN END OF LIFE OPTION ACT TO ALLOW QUALIFIED
3 PATIENTS DIAGNOSED WITH A TERMINAL DISEASE TO END LIFE IN A
4 HUMANE AND DIGNIFIED MANNER.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 23B.

9 "End of Life Option Act.

10 **"§ 90-326. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Adult. – An individual who is 18 years of age or older.
- 13 (2) Aid-in-dying drug. – A controlled substance determined and prescribed by a
14 physician licensed in this State for a qualified individual with the purpose of
15 hastening the qualified individual's death due to a terminal disease.
- 16 (3) Attending physician. – The North Carolina licensed physician, having
17 established a bona fide physician-patient relationship with an individual with
18 a terminal disease, who has primary responsibility for supervising the
19 individual's terminal disease under the provisions of this Article. The
20 attending physician need not be the individual's primary care physician.
- 21 (4) Attending Physician Checklist and Compliance Form. – The form published
22 by the Department pursuant to G.S. 90-326.18 identifying each and every
23 requirement that must be fulfilled by an attending physician in order to be in
24 good faith compliance with this Article if the attending physician chooses to
25 participate in the activities authorized under this Article.
- 26 (5) Attending witness. – An individual named by the qualified individual to be
27 present if and when the qualified individual self-administers the aid-in-dying
28 drug and who undertakes to (i) complete the Attending Witness Completion
29 Form confirming ingestion of the aid-in-dying drug and the death of the
30 qualified individual and (ii) return the Attending Witness Completion Form
31 to the attending physician within 48 hours after the death of the qualified
32 individual. The attending witness may, but need not be (i) related to the
33 qualified individual by blood, adoption, or marriage or (ii) a health care
34 provider. At the discretion of the qualified individual, the attending witness
35 may be the attending physician or consulting physician.



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- 1 (6) Bona fide physician-patient relationship. – A treating or consulting
2 relationship in the course of which a physician has completed a full
3 assessment of a patient's medical history and current medical condition,
4 including a personal physical examination.
- 5 (7) Capacity to make medical decisions. – In the opinion of an individual's
6 attending physician, consulting physician, psychiatrist, or psychologist, the
7 individual has the ability to understand the nature and consequences of a
8 health care decision; the ability to understand its significant benefits, risks,
9 and alternatives; and the ability to make and communicate an informed
10 decision to health care providers, including communication through persons
11 familiar with the qualified individual's manner or language of
12 communication, if those persons are required.
- 13 (8) Consulting physician. – A physician who is independent from the attending
14 physician, not part of the same practice group as the attending physician, and
15 qualified by specialty or experience to make a professional diagnosis and
16 prognosis regarding an individual's terminal disease.
- 17 (9) Department. – The North Carolina Department of Health and Human
18 Services.
- 19 (10) Health care provider or provider of health care. – An individual who is
20 licensed, certified, or otherwise authorized under Chapter 90 of the General
21 Statutes to provide health care services in the ordinary course of business or
22 practice of a profession or a health care facility licensed under Chapter 131E
23 of the General Statutes, where health care services are provided to patients.
24 The term includes all of the following:
- 25 a. An agent or employee of a health care facility that is licensed,
26 certified, or otherwise authorized to provide health care services.
- 27 b. The officers and directors of a health care facility.
- 28 c. An agent or employee of a health care provider who is licensed,
29 certified, or otherwise authorized to provide health care services.
- 30 (11) Informed decision. – A decision by an individual with a terminal disease to
31 request and obtain a prescription for an aid-in-dying drug that the individual
32 may self-administer to hasten the individual's death, that is based on an
33 understanding and acknowledgement of the relevant facts, and that is made
34 after being fully informed by the attending physician of all of the following:
- 35 a. The individual's medical diagnosis and prognosis.
- 36 b. The risks associated with taking the aid-in-dying drug to be
37 prescribed.
- 38 c. The probable result of taking the aid-in-dying drug to be prescribed.
- 39 d. The right of the individual to change his or her mind at any time by
40 discontinuing proceedings under this Article and by choosing not to
41 obtain the aid-in-dying drug or, after obtaining the aid-in-dying drug,
42 by deciding not to ingest it.
- 43 e. The feasible alternatives or additional end-of-life opportunities,
44 including VSED, comfort or palliative care, hospice care, terminal
45 sedation, and pain control.
- 46 (12) Medically confirmed. – The medical diagnosis and prognosis of the
47 attending physician has been confirmed by a consulting physician who has
48 examined the individual and the individual's relevant medical records and
49 communicated his or her findings to the attending physician.
- 50 (13) Mental health specialist assessment. – One or more consultations between an
51 individual and a mental health specialist for the purpose of determining that

1 the individual has the capability to make medical decisions and is not
2 suffering from impaired judgment due to a mental disorder or disease.

3 (14) Mental health specialist. – A psychiatrist or a psychologist licensed to
4 practice in North Carolina.

5 (15) Palliative care. – Care that eases or relieves pain or discomfort.

6 (16) Physician. – An individual licensed to practice medicine by the North
7 Carolina Medical Board under Article 1 of Chapter 90 of the General
8 Statutes.

9 (17) Public place. – Any street, alley, park, public building, place of business, or
10 assembly open to or frequented by the public, and any other place that is
11 open to the public view or to which the public has access.

12 (18) Qualified individual. – An adult who has the capacity to make medical
13 decisions, is a resident of North Carolina, and has satisfied the requirements
14 of this Article in order to obtain a prescription for an aid-in-dying drug to
15 hasten death.

16 (19) Self-administer. – A qualified individual's affirmative, voluntary, conscious,
17 and physical act of administering and ingesting the aid-in-dying drug to
18 hasten death.

19 (20) Terminal disease. – An incurable and irreversible disease that has been
20 medically confirmed by the attending and consulting physicians and will,
21 within reasonable medical judgment, result in death within six months.

22 (21) Terminal sedation. – The palliative practice of relieving distress and
23 suffering in an individual with a terminal disease by means of a continuous
24 intravenous or subcutaneous infusion of a sedative drug until death occurs.

25 (22) VSED. – Voluntary Stopping of Eating and Drinking, a means of hastening
26 death by cessation of eating and drinking food and beverages in order to halt
27 all nutrition and hydration.

28 **"§ 90-326.1. Right to information.**

29 An individual suffering from an incurable, terminal disease has a right to be informed of all
30 available end-of-life options related to terminal care and to receive answers to any specific
31 question about the foreseeable risks and benefits of medication without the physician
32 withholding any requested information, regardless of the purpose of the inquiry or the nature of
33 the information. A physician who engages in discussions with a patient related to such risks and
34 benefits shall not be construed as assisting in or contributing to a patient's independent decision
35 to self-administer a lethal dose of medication, and such discussions shall not be used to
36 establish civil or criminal liability or professional disciplinary action.

37 **"§ 90-326.2. Initiation of request for aid-in-dying drug.**

38 (a) An individual who is an adult with the capacity to make medical decisions suffering
39 from an incurable, terminal disease may make a request to receive a prescription for an
40 aid-in-dying drug, provided that all of the following conditions are satisfied:

41 (1) The individual's attending physician has diagnosed the individual to be
42 suffering from an incurable, terminal disease.

43 (2) The individual has voluntarily expressed verbally and in writing the wish to
44 receive a prescription for an aid-in-dying drug.

45 (3) The individual is a resident of North Carolina and is able to establish
46 residency through any of the following means:

47 a. Possession of a North Carolina drivers license or other identification
48 issued by the State of North Carolina.

49 b. Registration to vote in North Carolina.

50 c. Evidence that the person owns or leases property in North Carolina.

51 d. Filing of a North Carolina tax return for the most recent tax year.

- (4) The individual documents his or her request pursuant to the requirements of G.S. 90-326.3 and on the form specified in G.S. 90-326.3A.
- (5) The individual has the physical and mental ability to self-administer the aid-in-dying drug.

(b) A person shall not be considered a qualified individual under the provisions of this Article solely because of age or disability.

(c) A request for a prescription for an aid-in-dying drug under this Article shall be made solely and directly by the individual diagnosed with the terminal disease and shall not be made on behalf of the patient, including through an advance health care directive or a power of attorney, conservator, health care agent, surrogate, or any other legally recognized health care decision maker.

"§ 90-326.3. Form of request for aid-in-dying drug.

(a) An individual seeking to obtain a prescription for an aid-in-dying drug pursuant to this Article shall submit two verbal requests, a minimum of 15 days apart, followed by a written request that meets the requirements of subsection (b) of this section directly to his or her attending physician and not to a designee of the physician. The attending physician shall directly, and not through a designee, receive all three requests required pursuant to this section. The attending physician shall keep records of the verbal and written requests in the individual's medical file. The record of the verbal requests must include the date and time of the request as well as a summary of the request.

(b) In order to be valid, a written request for an aid-in-dying drug must meet all of the following criteria:

- (1) The request shall be in the form specified in G.S. 90-326.3A.
- (2) The request shall be signed and dated by the individual seeking the aid-in-dying drug in the presence of two adult witnesses, at least one of whom shall be a North Carolina resident, who, in the presence of the individual, shall attest that to the best of their knowledge and belief the individual is all of the following:
 - a. An individual who is personally known to them or has provided proof of identity.
 - b. An individual who voluntarily signed this request in their presence.
 - c. An individual whom they believe to be mentally capable and not acting under duress, fraud, or undue influence.
 - d. Not an individual for whom either of them is the attending physician, consulting physician, or mental health specialist.

(c) Neither of the witnesses at the time the written request is signed may:

- (1) Be related to the qualified individual by blood, marriage, registered domestic partnership, or adoption or be entitled to a portion of the individual's estate upon death by devise or inheritance.
- (2) Own, operate, or be employed at a health care facility where the individual is receiving medical treatment or currently resides.

"§ 90-326.3A. Request for Aid-In-Dying Drug Form.

A request for an aid-in-dying drug, as authorized by this Article, shall be in the following form:

"REQUEST FOR AN AID-IN-DYING DRUG TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

I,, am an adult of sound mind and a resident of the State of North Carolina.

I have been diagnosed as suffering from, which my attending physician has determined is in its terminal phase and which has been medically confirmed as leaving me less than six months to live.

I have been fully informed of my diagnosis and prognosis, the nature of the aid-in-dying drug to be prescribed and potential associated risks, the expected result, and the feasible alternatives or additional treatment options, including VSED, comfort or palliative care, hospice care, terminal sedation, and pain control.

I request that my attending physician prescribe an aid-in-dying drug that will end my life in a humane and dignified manner if I choose to take it, and I authorize my attending physician to contact my pharmacist about my request.

INITIAL ONE:

..... I have informed one or more members of my family of my decision and taken their opinions into consideration.

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

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

I nominate to be my attending witness should I decide to ingest the prescribed aid-in-dying drug and authorize to transmit the final confirmation of my death by ingestion to my attending physician.

I understand that I have the right to change my mind at any time and to withdraw or rescind this request and not to ingest the aid-in-dying drug once prescribed.

I undertake to keep the aid-in-dying drug in a safe and secure place until such time, if ever, when I decide to ingest it.

I understand that if I decide to take the aid-in-dying drug, it is my responsibility to self-administer it, although someone may assist me in preparing the aid-in-dying drug for immediate consumption.

I understand that I may have friends, family, clergy persons, colleagues, or medical practitioners, including my attending physician or primary care physician with me if and when I decide to ingest the aid-in-dying drug.

I understand the full import of this request and I expect to die if I take the aid-in-dying drug to be prescribed. My attending physician has counseled me about the possibility that my death may not occur immediately upon the ingestion of the drug.

I make this request voluntarily, without reservation, and without coercion.

Signed:

Dated:

DECLARATION OF WITNESSES

We declare that the person signing this request meets all of the following criteria:

- (1) Is personally known to us or has provided proof of identity.
- (2) Voluntarily signed this request in our presence.
- (3) Is an individual whom we believe to be mentally capable and not under duress, fraud, or undue influence.
- (4) Is not an individual for whom either of us is the attending physician, consulting physician, or mental health specialist.
- (5) Is not related to us by blood, marriage, registered domestic partnership, or adoption, and, to the best of our knowledge, we are not entitled to a portion of the person's estate upon death by devise or inheritance.

..... Witness 1/Date

..... Witness 2/Date"

"§ 90-326.3B. Attending Witness Completion Form.

The Attending Witness Completion Form given by the attending physician to the qualified individual at the time the attending physician writes the prescription for an aid-in-dying drug shall appear in the following form:

"ATTENDING WITNESS COMPLETION FORM AFTER SELF-ADMINISTRATION OF AN AID-IN-DYING DRUG

1 I,, was nominated by (name
2 of qualified individual) to be his/her attending witness at the time of
3 self-administration of the prescribed aid-in-dying drug.

4 On (date and time), I witnessed the self-administration of said aid-in-dying
5 drug by (name of qualified individual).

6 I confirm that (name of qualified individual) self-administered the aid-in-dying
7 drug willingly and without coercion or undue pressure and was aware of his or her right not to
8 ingest the drug at any time.

9 I confirm that (qualified individual) did expire within minutes.

10 There were no complications arising during the ingestion.

11 (If there were complications, please describe here:

12)

13 I confirm that did self-administer the entire prescription of the aid-in-dying
14 drug, and if the entirety was not self-administered, I undertake to dispose of the remaining
15 prescription in a safe and lawful manner.

16 Signed:

17 Dated:

18 Time:"

19 Within 48 hours after the qualified individual has self-administered the aid-in-dying drug,
20 the attending witness shall complete this Attending Witness Completion Form and timely
21 transmit it to the attending physician.

22 Upon receiving the Attending Witness Completion Form, the attending physician shall add
23 it to the medical records of the qualified individual and include it in his or her transmission of
24 the Attending Physician Follow-Up Form to the North Carolina Department of Health and
25 Human Services."

26 **"§ 90-326.4. Discontinuation, withdrawal, or rescission of request.**

27 A qualified individual may at any time discontinue, withdraw, or rescind his or her request
28 for an aid-in-dying drug or decide not to ingest an aid-in-dying drug once obtained.

29 **"§ 90-326.5. Attending physician responsibilities.**

30 (a) No person other than the attending physician may write a prescription for an
31 aid-in-dying drug. A designee of the attending physician is not authorized to prescribe an
32 aid-in-dying drug.

33 (b) Before prescribing an aid-in-dying drug, the attending physician shall do all of the
34 following:

35 (1) Make an initial determination of all of the following:

36 a. That the requesting adult has the capacity to make medical decisions.

37 1. If there are indications of a mental disorder or disease, the
38 physician shall refer the individual for a mental health
39 specialist assessment.

40 2. If a mental health specialist assessment referral is made, no
41 aid-in-dying drugs shall be prescribed unless the mental
42 health specialist determines that the individual has the
43 capacity to make medical decisions and is not suffering from
44 impaired judgment due to a mental disorder or disease.

45 b. That the requesting adult has a terminal disease.

46 c. That the requesting adult has voluntarily made the request for an
47 aid-in-dying drug pursuant to G.S. 90-326.3 and on the form
48 specified in G.S. 90-326.3A.

49 d. That the requesting adult is a qualified individual as defined in
50 G.S. 90-326.

- 1 (2) Confirm that the individual is making an informed decision by discussing
2 with him or her all of the following:
3 a. The individual's medical diagnosis and prognosis.
4 b. The risks associated with ingesting the requested aid-in-dying drug.
5 c. The probable result of ingesting the aid-in-dying drug.
6 d. The right of the individual to discontinue the application for the
7 aid-in-dying drug at any time and the right not to ingest the
8 aid-in-dying drug.
9 e. The feasible alternatives or additional end-of-life options, including
10 VSED, comfort or palliative care, hospice care, terminal sedation,
11 and pain control.
12 (3) Refer the individual to a consulting physician for medical confirmation of
13 the individual's diagnosis, prognosis, and capacity to make medical decisions
14 and for confirmation that the individual has complied with the provisions of
15 this Article.
16 (4) Confirm that the qualified individual's request does not arise from coercion
17 or undue influence by another person by discussing with the qualified
18 individual, outside of the presence of any other persons, except when a
19 qualified translator is necessary, whether or not the qualified individual is
20 being coerced or unduly influenced by another person.
21 (5) Advise the qualified individual of the critical importance of all of the
22 following:
23 a. Having another person present when the qualified individual ingests
24 the aid-in-dying drug by nominating an attending witness to be
25 present if and when the qualified individual decides to ingest the
26 aid-in-dying drug, who will be responsible for (i) completing the
27 attending Witness Completion Form specified in G.S. 90-326.3B
28 within 48 hours after the qualified individual has self-administered
29 the aid-in-dying drug and (ii) timely transmitting the Attending
30 Witness Completion Form specified in G.S. 90-326.3B to the
31 attending physician.
32 b. Not ingesting the aid-in-dying drug in a public place.
33 c. Notifying next-of-kin of the qualified individual's request for an
34 aid-in-dying drug and of the qualified individual's decision to
35 self-administer the aid-in-dying drug.
36 d. Participating in a hospice program, pain management regime, or
37 both.
38 e. Maintaining the aid-in-dying drug in a safe and secure location until
39 the qualified individual decides to ingest it.
40 f. Properly disposing of the aid-in-dying drug if the qualified person
41 decides to forego ingestion.
42 (6) Offer the qualified individual an opportunity to withdraw or rescind the
43 request for an aid-in-dying drug before prescribing the aid-in-dying drug.
44 (7) Inform the qualified individual of the right to withdraw or rescind the
45 request for an aid-in-dying drug at any time and in any manner and that the
46 qualified individual is in no way obligated to ingest the aid-in-dying drug
47 once prescribed if the qualified individual changes his or her mind.
48 (8) Verify, immediately prior to writing the prescription for an aid-in-dying
49 drug, that the qualified individual is making an informed decision and is in
50 no way acting under undue pressure or coercion.

- 1 (9) Confirm that all requirements have been met and all appropriate steps have
2 been carried out in accordance with this Article before writing a prescription
3 for an aid-in-dying drug.
4 (10) Fulfill the documentation requirements of G.S. 90-326.8.
5 (11) Complete the Attending Physician Checklist and Compliance Form
6 published by the Department pursuant to G.S. 90-326.18 and include it with
7 the Consulting Physician Compliance Form published by the Department
8 pursuant to G.S. 90-326.18 in the individual's medical record.
9 (12) Provide to the qualified individual a copy of the Attending Witness
10 Completion Form specified in G.S. 90-326.3B in a self-addressed, stamped
11 envelope with the instruction that the form should be completed, executed,
12 and returned to the attending physician by the attending witness.

13 (c) If the conditions set forth in subsection (a) of this section are satisfied, the attending
14 physician may deliver the aid-in-dying drug in any of the following ways:

- 15 (1) Dispense the aid-in-dying drug directly to the qualified individual, including
16 ancillary medication intended to minimize the qualified individual's
17 discomfort, provided that the attending physician meets all of the following
18 requirements:
19 a. Is authorized under North Carolina law to dispense controlled
20 substances.
21 b. Has a valid United States Drug Enforcement Administration
22 registration number and certificate.
23 c. Is in compliance with all applicable State and federal rules.
24 (2) With the qualified individual's written consent, contact a pharmacist to
25 inform the pharmacist of the prescription and deliver the written prescription
26 to the pharmacist personally, by mail, or by electronic transmission. The
27 pharmacist may then dispense the aid-in-dying drug to the qualified
28 individual, the attending physician, or a person expressly designated verbally
29 and in writing by the qualified individual to receive the aid-in-dying drug.
30 The pharmacist shall complete the Pharmacist Compliance Form published
31 by the Department pursuant to G.S. 90-326.18.

32 (d) Delivery of the dispensed drug to the qualified individual, the attending physician,
33 or a person expressly designated in writing by the qualified individual may be made by
34 personal delivery or with a signature required upon delivery, by the United States postal service
35 or other public or private business engaged in the delivery of mail, packages, or parcels.

36 **"§ 90-326.6. Consulting physician responsibilities.**

37 Before a qualified individual obtains a prescription for an aid-in-dying drug from the
38 attending physician, the consulting physician shall perform all of the following:

- 39 (1) Examine the qualified individual and his or her relevant medical records.
40 (2) Confirm in writing the attending physician's diagnosis and prognosis.
41 (3) Determine that the qualified individual has the capacity to make medical
42 decisions, is acting voluntarily, and has made an informed decision.
43 (4) If there are indications of a mental disorder or disease, refer the individual
44 for assessment by a mental health specialist.
45 (5) Fulfill the documentation requirements of this Article.
46 (6) Submit in a timely manner to the attending physician the Consulting
47 Physician Compliance Form published by the Department pursuant to
48 G.S. 90-326.18.

49 **"§ 90-326.7. Mental health specialist responsibilities.**

50 Upon referral from the attending or consulting physician, the mental health specialist shall
51 do all of the following:

- 1 (1) Examine the qualified individual and his or her relevant medical records.
- 2 (2) Determine whether the individual has the mental capacity to make medical
- 3 decisions, act voluntarily, and make an informed decision.
- 4 (3) Determine whether the individual is suffering from impaired judgment due
- 5 to a mental disorder or disease.
- 6 (4) Fulfill the documentation requirements of this Article.
- 7 (5) Submit in a timely manner to the attending physician or the consulting
- 8 physician, as appropriate, the Mental Health Specialist Compliance Form
- 9 published by the Department pursuant to G.S. 90-326.18.

10 **"§ 90-326.8. Documentation requirements.**

11 All of the following shall be documented in the qualified individual's medical record:

- 12 (1) A summary of all verbal requests by the qualified individual for aid-in-dying
- 13 drugs, including the date, time, and location of each request and any tape or
- 14 digital recording or written summary of the verbal requests.
- 15 (2) All written requests for aid-in-dying drugs.
- 16 (3) The attending physician's diagnosis and prognosis and the determination that
- 17 the individual is a qualified individual who has the capacity to make medical
- 18 decisions, is acting voluntarily, and has made an informed decision, or
- 19 alternatively that the attending physician has determined that the individual
- 20 is not a qualified individual, and why in the attending physician's judgment
- 21 the individual is not a qualified individual.
- 22 (4) The consulting physician's diagnosis and prognosis and verification that the
- 23 qualified individual has the capacity to make medical decisions, is acting
- 24 voluntarily, and has made an informed decision, or alternatively that the
- 25 consulting physician has determined that the individual is not a qualified
- 26 individual, and why in the consulting physician's judgment the individual is
- 27 not a qualified individual.
- 28 (5) A report of the outcome and determinations made during a mental health
- 29 specialist's assessment, if performed.
- 30 (6) The attending physician's offer to the qualified individual to withdraw or
- 31 rescind his or her request at the time of the individual's second oral request.
- 32 (7) The Attending Witness Completion Form specified in G.S. 90-326.3B, if
- 33 returned to the attending physician completed.
- 34 (8) A note by the attending physician indicating that all requirements under
- 35 G.S. 90-326.5 and G.S. 90-326.6 have been met and indicating the steps
- 36 taken to carry out the request, including the name and dosage of the specific
- 37 aid-in-dying drug prescribed.

38 **"§ 90-326.9. Required submissions to Department upon prescribing aid-in-dying drug.**

39 (a) Within 48 hours after writing a prescription for an aid-in-dying drug, the attending

40 physician shall submit to the Department a copy of the prescription.

41 (b) Within 48 hours after dispensing an aid-in-dying drug, the pharmacist shall submit

42 to the Department a copy of the Pharmacist Compliance Form published by the Department

43 pursuant to G.S. 90-326.18.

44 (c) Within 15 calendar days after a determination by the attending physician, the

45 consulting physician, or the mental health specialist that an individual is not a qualified

46 individual under this Article, the attending physician shall submit to the Department a written

47 summary of the individual's request for an aid-in-dying drug and the reasons for concluding

48 that the individual is not a qualified individual under this Article.

49 (c) Within 30 calendar days after writing a prescription for an aid-in-dying drug, the

50 attending physician shall submit to the Department a copy of the qualifying patient's written

51 request, the Attending Physician Checklist and Compliance Form published by the Department

1 pursuant to G.S. 90-326.18, and the Consulting Physician Compliance Form published by the
2 Department pursuant to G.S. 90-326.18.

3 (d) Within 30 calendar days after the later of (i) the qualified individual's death from
4 ingesting the aid-in-dying drug or from any other cause or (ii) the date on which the attending
5 physician receives actual notice of the qualified individual's death from the Attending Witness
6 Completion Form published by the Department pursuant to G.S. 90-326.18 or otherwise, the
7 attending physician shall submit to the Department an Attending Physician Follow-Up Form
8 published by the Department pursuant to G.S. 90-326.18.

9 **"§ 90-326.10. Death certificate.**

10 The attending physician may sign the qualified individual's death certificate. In any event,
11 the cause of death on a qualified individual's death certificate shall be recorded as the
12 underlying terminal disease.

13 **"§ 90-326.11. Effect on insurance.**

14 (a) The sale, procurement, or issuance of any life, health, or annuity policy, health care
15 service plan contract, or health benefit plan or the rate charged for any policy, plan contract, or
16 benefit plan shall not be conditioned upon or affected by the making or rescinding of a person's
17 request for an aid-in-dying drug.

18 (b) Consistent with G.S. 90-326.13, death resulting from the self-administration of an
19 aid-in-dying drug shall not be deemed suicide, but rather a hastened death from the underlying
20 terminal disease, and therefore coverage under a life, health, or annuity policy shall not be
21 denied, curtailed, or exempted on that basis.

22 (c) A qualified individual's act of self-administering an aid-in-dying drug shall not have
23 any effect upon a life, health, or annuity policy other than that of a natural death from the
24 underlying disease.

25 (d) An insurance carrier shall not provide any information in communications to a
26 qualified individual about the availability of aid-in-dying drugs absent a request by the
27 qualified individual or the qualified individual's attending physician at the behest of the
28 qualified individual.

29 **"§ 90-326.12. No civil or criminal liability, penalty, or professional disciplinary action for**
30 **good faith participation in the activities authorized by this Article.**

31 (a) A person shall not be subject to civil or criminal liability or professional disciplinary
32 action for participating in good faith compliance with the activities authorized under this
33 Article or for being present when a qualified individual self-administers an aid-in-dying drug.

34 (b) An individual with a terminal disease who self-administers a lethal dose of
35 medication shall not be considered a person exposed to grave physical harm under any Good
36 Samaritan law, and no person shall be subject to civil or criminal liability solely for being
37 present when an individual with a terminal disease self-administers a lethal dose of medication
38 or for failing to act to prevent the patient from self-administering a lethal dose of medication.

39 (c) A person who is present when an individual with a terminal disease self-administers
40 an aid-in-dying drug may, without civil or criminal liability, assist the qualified individual at
41 his or her request by preparing the aid-in-dying drug; provided, however, that the person does
42 not directly assist the qualified person in ingesting or self-administering the aid-in-dying drug.

43 (d) No health care provider, pharmacist, licensing board, or professional organization or
44 association shall subject an individual to censure, discipline, suspension, adverse action on a
45 license, loss of privileges, loss of membership, or other penalty for participating in good faith
46 compliance with the activities authorized under this Article or for refusing to participate in
47 activities authorized under this Article in accordance with subsection (e) of this section.

48 (e) No health care provider or pharmacist shall be subject to civil, criminal,
49 administrative, disciplinary, employment, credentialing, professional discipline, contractual
50 liability, or medical staff action, sanction, penalty, or other liability for participating in the
51 activities authorized under this Article, including determining the diagnosis or prognosis of an

1 individual, determining the capacity of an individual for the purpose of determining if he or she
2 is a qualified individual under this Article, providing information about this Article to an
3 individual, and providing a referral to a physician licensed in this State who participates in the
4 activities authorized under this Article.

5 **"§ 90-326.13. Request for aid-in-dying not a basis for guardianship or claim of neglect or**
6 **elder abuse.**

7 (a) A request by a qualified individual to an attending physician to provide an
8 aid-in-dying drug in good faith compliance with the provisions of this Article shall not provide
9 the basis for the appointment of a guardian or conservator.

10 (b) No actions taken in compliance with the provisions of this Article shall constitute or
11 provide the basis for any claim of neglect or elder abuse for any purpose of law.

12 **"§ 90-326.14. Voluntary nature of authorized activities under this Article.**

13 (a) Participation in activities authorized under this Article is strictly voluntary. A person
14 or entity that elects, for reasons of conscience, morality, or ethics, not to engage in activities
15 authorized under this Article is not required to take any action in support of another individual's
16 decisions or actions under this Article. Except as provided in subsection (d) of this section, a
17 person or entity that elects not to engage in such activities shall not impede or interfere with a
18 qualified individual's decision to self-administer an aid-in-dying drug.

19 (b) No health care provider or pharmacist shall be subject to civil, criminal,
20 administrative, disciplinary, employment, credentialing, professional discipline, contractual
21 liability, or medical staff action, sanction, penalty, or other liability for refusing to participate in
22 activities authorized under this Article.

23 (c) If a health care provider or pharmacist is unable or unwilling to carry out an
24 individual's request under this Article and the individual transfers care to a new health care
25 provider, the individual may request that a copy of his or her medical records be sent directly to
26 the individual or to the new health care provider.

27 (d) A health care provider may prohibit its employees, independent contractors, or other
28 persons or entities, including other health care providers, from participating in activities
29 authorized under this Article while on premises owned or under the management or direct
30 control of that health care provider, or while acting within the course and scope of any
31 employment by, or contract with, that health care provider.

32 A health care provider, that elects to prohibit its employees, independent contractors, or
33 other persons or entities, including health care providers, from participating in activities
34 authorized under this Article, shall first give notice of the policy prohibiting participation under
35 this Article to the individuals or entities prohibited from participating in such activities. A
36 health care provider that fails to provide such prior notice of its policy shall not be entitled to
37 enforce the policy against any individual or entity.

38 **"§ 90-326.15. Impermissible sanctions.**

39 (a) A health care provider may not be sanctioned for any of the following:

40 (1) Making an initial determination pursuant to the standard of care that an
41 individual has a terminal disease and informing him or her of the medical
42 prognosis.

43 (2) Providing information about the End of Life Options Act to an individual
44 upon inquiry.

45 (3) Providing an individual, upon request, with a referral to another physician.

46 (b) An entity that prohibits activities authorized under this Article in accordance with
47 G.S. 90-326.17 shall not sanction an individual health care provider for contracting with a
48 qualified individual to engage in activities authorized under this Article if the individual health
49 care provider is acting outside the course and scope of his or her employment or contract with
50 the entity prohibiting such activities.

1 (c) The protection from sanctions described in this section is solely reserved for health
2 care providers who engage in actions authorized under this Article.

3 **"§ 90-326.16. Felonious activities.**

4 (a) Knowingly altering or forging a request for an aid-in-dying drug to hasten an
5 individual's death without that individual's authorization, concealing or destroying a withdrawal
6 or rescission of a request for an aid-in-dying drug, destroying or concealing an individual's
7 written request for aid-in-dying drug, or concealing or destroying an individual's prescribed
8 aid-in-dying drug is punishable as a felony if the act is done with the intent or effect of causing,
9 interfering with, or preventing the individual's death against his or her wishes.

10 (b) Knowingly coercing or exerting undue influence on an individual to request or
11 ingest an aid-in-dying drug for the purpose of ending his or her life or knowingly destroying a
12 withdrawal or rescission of a request or administering an aid-in-dying drug to an individual
13 without his or her knowledge or consent is punishable as a felony.

14 (c) Knowingly coercing or exerting undue influence to interfere with an individual's
15 expressed desire to hasten his or her death by ingestion of a prescribed aid-in-dying drug is
16 punishable as a felony.

17 (d) Nothing in this section shall be construed to limit civil liability for acts or omissions
18 of gross negligence or intentional misconduct.

19 (e) The penalties in this section do not preclude criminal penalties applicable under
20 other provisions of law for conduct inconsistent with the provisions of this Article.

21 **"§ 90-326.17. Department to collect information; information to remain confidential and**
22 **is not a public record.**

23 (a) The Department shall collect and review the information submitted pursuant to
24 G.S. 90-326.9. The information collected and maintained by the Department pursuant to
25 G.S. 90-326.9 and this section is confidential and not a public record under G.S. 132-1. The
26 Department shall collect and maintain this information in a manner that protects the privacy of
27 the qualified individual, the qualified individual's family, and any participating health care
28 provider or pharmacist.

29 (b) Annually on or before March 15, the Department shall create and make available to
30 the general public on the Department's Internet Web site a report based on the information
31 collected by the Department pursuant to G.S. 90-326.9 and this section during the preceding
32 calendar year. The report shall include at least all of the following based on the information
33 provided to the Department pursuant to G.S. 90-326.9 and this section and the Department's
34 access to vital statistics:

35 (1) The number of individuals who initiated procedures to obtain an
36 aid-in-dying drug under this Article.

37 (2) The number of individuals for whom an aid-in-dying drug was prescribed.

38 (3) The number of individuals who initiated a request for an aid-in-dying drug
39 under this Article, but whose request was denied by the attending physician,
40 the consulting physician, or a mental health specialist.

41 (4) The number of known individuals who died each year for whom an
42 aid-in-dying drug was prescribed and the cause of death for each of these
43 individuals.

44 (5) For the preceding calendar year, the cumulative totals of all the following:

45 a. The number of prescriptions written for aid-in-dying drugs.

46 b. The number of people who died as a result of ingesting an
47 aid-in-dying drug.

48 c. Of the number in sub-subdivision (5)b. of this subsection, the number
49 who were enrolled in hospice or other palliative care programs at the
50 time of death.

- 1 (6) The number of known deaths in North Carolina hastened by aid-in-dying
2 drugs per 10,000 deaths in North Carolina and by natural causes per 10,000
3 deaths.
- 4 (6) The number of physicians licensed in this State who wrote prescriptions for
5 aid-in-dying drugs.
- 6 (7) The number of pharmacists participating in activities authorized under this
7 Article.
- 8 (8) The names and dosages of prescribed aid-in-dying drugs.
- 9 (9) Of the individuals who died as a result of ingesting an aid-in-dying drug,
10 demographic percentages organized by the following characteristics:
- 11 a. Age at death.
- 12 b. Education level.
- 13 c. Race.
- 14 d. Sex.
- 15 e. Type of insurance, including whether or not the individual had
16 insurance coverage.
- 17 f. Underlying terminal disease.
- 18 g. The number of days elapsed between the date the prescription was
19 filled and the date the prescription was ingested and resulted in death.

20 **"§ 90-326.18. Department to develop, update, and publish forms.**

21 The Department shall develop an Attending Physician Checklist and Compliance Form, an
22 Attending Physician Follow-Up Form, a Consulting Physician Compliance Form, a Mental
23 Health Specialist Compliance Form, a Pharmacist Compliance Form, and any other form the
24 Department deems necessary to implement the provisions of this Article, provided, however,
25 that any form the Department develops pursuant to this section shall be consistent with the
26 requirements of this Article. The Department shall, as necessary, update and publish all forms
27 to be used under this Article on its Internet Web site in a format that can be downloaded by the
28 general public.

29 **"§ 90-326.19. Disposal of aid-in-dying drugs after death of qualified individual.**

30 A person who has custody or control of any unused aid-in-dying drugs prescribed pursuant
31 to this Article after the death of a qualified individual shall (i) personally deliver the unused
32 aid-in-dying drugs for disposal at the nearest qualified facility that properly disposes of
33 controlled substances, or if none is available, (ii) dispose of the aid-in-dying drug by lawful
34 means in accordance with rules adopted by the North Carolina State Board of Pharmacy or a
35 federal Drug Enforcement Administration approved take-back program.

36 **"§ 90-326.20. Construction of Article.**

37 (a) This Article shall not be construed to authorize a physician or any other person to
38 end an individual's life by lethal injection, mercy killing, or active euthanasia.

39 (b) Actions taken in accordance with this Article shall not, for any purposes, constitute
40 suicide, assisted suicide, homicide, or elder abuse under the laws of North Carolina.

41 **"§ 90-326.21. Severability of provisions.**

42 If any provision of this Article or the application of this Article to any person or
43 circumstances is for any reason held invalid, such invalidity shall not affect other provisions or
44 applications of this Article that can be given effect without the invalid provision or application,
45 and to this end the provisions of this Article are declared to be severable."

46 **SECTION 2.(a)** By December 31, 2017, the Department of Health and Human
47 Services shall develop and publish to its Internet Web site, in downloadable format, the forms
48 described in G.S. 90-326.18, as enacted by this act.

49 **SECTION 2.(b)** The first report required by the Department under
50 G.S. 90-326.17(b), as enacted by this act, is due and shall be published on its Internet Web site
51 on or before March 15, 2019.

- 1 **SECTION 2.(c)** This section is effective when this act becomes law.
2 **SECTION 3.** Except as otherwise provided, this act becomes effective December
3 1, 2017, and applies to offenses committed on or after that date.