

General Assembly

January Session, 2019

## Committee Bill No. 5898

LCO No. **3838** 

Referred to Committee on PUBLIC HEALTH

Introduced by: (PH)

## 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, 2019*) As used in this section
   and sections 2 to 19, inclusive, of this act:
- 3 (1) "Adult" means a person who is eighteen years of age or older;

4 (2) "Aid in dying" means the medical practice of a physician
5 prescribing medication to a qualified patient who is terminally ill,
6 which medication a qualified patient may self-administer to bring
7 about his or her death;

8 (3) "Attending physician" means the physician who has primary 9 responsibility for the medical care of a patient and treatment of a 10 patient's terminal illness;

11 (4) "Competent" means, in the opinion of a patient's attending 12 physician, consulting physician, psychiatrist, psychologist or a court, 13 that a patient has the capacity to understand and acknowledge the 14 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 (A) is qualified by specialty or experience to
make a professional diagnosis and prognosis regarding a patient's
terminal illness, and (B) does not routinely share office space with a
patient's attending physician;

(6) "Counseling" means one or more consultations as necessary
between a psychiatrist or a psychologist 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 19a490 of the general statutes;

37 (9) "Informed decision" means a decision by a qualified patient to 38 request and obtain a prescription for medication that the qualified 39 patient may self-administer for aid in dying, that is based on an 40 understanding and acknowledgment of the relevant facts and after 41 being fully informed by the attending physician of: (A) The qualified 42 patient's medical diagnosis and prognosis; (B) the potential risks 43 associated with self-administering the medication to be prescribed; (C) 44 the probable result of taking the medication to be dispensed or 45 prescribed; and (D) the feasible alternatives to aid in dying and health 46 care treatment options, including, but not limited to, palliative care;

47 (10) "Medically confirmed" means the medical opinion of the
48 attending physician has been confirmed by a consulting physician who
49 has examined the patient and the patient's relevant medical records;

50 (11) "Palliative care" means health care centered on a seriously ill 51 patient and such patient's family that (A) optimizes a patient's quality 52 of life by anticipating, preventing and treating a patient's suffering 53 throughout the continuum of a patient's terminal illness, (B) addresses 54 the physical, emotional, social and spiritual needs of a patient, (C) 55 facilitates patient autonomy, patient access to information and patient 56 choice, and (D) includes, but is not limited to, discussions between a 57 patient and a health care provider concerning a patient's goals for 58 treatment and appropriate treatment options available to a patient, 59 including hospice care and comprehensive pain and symptom 60 management;

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

62 (13) "Pharmacist" means a person licensed to practice pharmacy63 pursuant to chapter 400j of the general statutes;

64 (14) "Physician" means a person licensed to practice medicine and65 surgery pursuant to chapter 370 of the general statutes;

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

(16) "Psychologist" means a person licensed to practice psychologypursuant to chapter 383 of the general statutes;

(17) "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;

(18) "Self-administer" means a qualified patient's act of ingestingmedication; and

(19) "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.

Sec. 2. (NEW) (*Effective October 1, 2019*) (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 his or her wish to receive aid in dying, may request aid in dying by making 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 this
section, section 1 or sections 3 to 19, inclusive, of this act.

91 Sec. 3. (NEW) (Effective October 1, 2019) (a) A patient wishing to 92 receive aid in dying shall submit two written requests to such patient's 93 attending physician in substantially the form set forth in section 4 of 94 this act. A patient's second written request for aid in dying shall be 95 submitted not earlier than fifteen days after the date on which a patient 96 submits the first request. A valid written request for aid in dying 97 under sections 1 and 2 of this act and sections 4 to 19, inclusive, of this 98 act shall be signed and dated by the patient. Each request shall be 99 witnessed by at least two persons in the presence of the patient. Each 100 person serving as a witness shall attest, in writing, that to the best of 101 his or her knowledge and belief (1) the patient appears to be of sound 102 mind, (2) the patient is acting voluntarily and not being coerced to sign 103 the request, and (3) the witness is not: (A) A relative of the patient by 104 blood, marriage or adoption, (B) entitled to any portion of the estate of 105 the patient upon the patient's death, under any will or by operation of

106 law, or (C) an owner, operator or employee of a health care facility107 where the patient is a resident or receiving medical treatment.

108 (b) No person serving as a witness to a patient's request to receive 109 aid in dying shall be: (1) A relative of such patient by blood, marriage 110 or adoption; (2) at the time the request is signed, entitled to any 111 portion of the estate of the patient upon the patient's death, under any 112 will or by operation of law; (3) an owner, operator or employee of a 113 health care facility where the patient is a resident or receiving medical 114 treatment; or (4) such patient's attending physician at the time the 115 request is signed.

(c) 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, 2019*) A request for aid in dying as authorized by this section, sections 1 to 3, inclusive, of this act and sections 5 to 19, inclusive, of this act shall be in substantially the following form:

## 124 REQUEST FOR MEDICATION TO AID IN DYING

125 I, ...., am an adult of sound mind.

126 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. 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
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.

142 INITIAL ONE:

143 .... I have informed my family of my decision and taken family144 opinions into consideration.

- 145 .... I have decided not to inform my family of my decision.
- 146 .... I have no family to inform of my decision.

147 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 three hours, 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.

155 Signed: ....

156 Dated: ....

157 DECLARATION OF WITNESSES

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

160 Witness 1 .... Witness 2 ....

161 Initials .... Initials ....

162 .... 1. The person making and signing the request is personally163 known to me or has provided proof of identity;

164 .... 2. The person making and signing the request signed this request165 in my presence on the date of the person's signature;

166 .... 3. The person making the request appears to be of sound mind167 and not under duress, fraud or undue influence;

168 .... 4. I am not the attending physician for the person making the169 request;

170 .... 5. The person making the request is not my relative by blood,171 marriage or adoption;

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

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

178 Printed Name of Witness 1 ....

179 Signature of Witness 1 .... Date ....

180 Printed Name of Witness 2 ....

181 Signature of Witness 2 .... Date ....

182 Sec. 5. (NEW) (*Effective October 1, 2019*) (a) A qualified patient may 183 rescind his or her request for aid in dying at any time and in any 184 manner without regard to his or her mental state.

(b) An attending physician shall offer a qualified patient anopportunity to rescind his or her request for aid in dying at the time

187 such patient submits a second written request for aid in dying to the188 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 his or her request for
aid in dying.

Sec. 6. (NEW) (*Effective October 1, 2019*) 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;

201 (2) Require the patient to demonstrate residency in this state by 202 presenting: (A) A Connecticut driver's license; (B) a valid voter 203 registration record authorizing the patient to vote in this state; or (C) 204 any other government-issued document that the attending physician 205 reasonably believes demonstrates that the patient is a current resident 206 of this state;

207 (3) Ensure that the patient is making an informed decision by 208 informing the patient of: (A) The patient's medical diagnosis; (B) the 209 patient's prognosis; (C) the potential risks associated with self-210 administering the medication to be dispensed or prescribed for aid in 211 dying; (D) the probable result of self-administering the medication to 212 be dispensed or prescribed for aid in dying; (E) the feasible alternatives 213 to aid in dying and health care treatment options including, but not 214 limited to, palliative care; and (F) the availability of counseling with a 215 psychologist, psychiatrist or licensed clinical social worker; and

216 (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.

221 Sec. 7. (NEW) (Effective October 1, 2019) In order for a patient to be 222 found to be a qualified patient for the purposes of this section, sections 223 1 to 6, inclusive, of this act and sections 8 to 19, inclusive, of this act, a 224 consulting physician shall: (1) Examine the patient and the patient's 225 relevant medical records; (2) confirm, in writing, the attending 226 physician's diagnosis that the patient has a terminal illness; (3) verify 227 that the patient is competent, is acting voluntarily and has made an 228 informed decision to request aid in dying; and (4) refer the patient for 229 counseling, if required in accordance with section 8 of this act.

Sec. 8. (NEW) (*Effective October 1, 2019*) (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, 2019*) (a) 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 request for aid in dying in accordance with sections 3 and 4 of this act, the attending physician shall:

247 (1) Recommend to the qualified patient that he or she notify his or

her 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 selfadministers 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 he or she may rescind his or herrequest 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 forthin section 10 of this act; and

262 (6) (A) Dispense such medication, including ancillary medication 263 intended to facilitate the desired effect to minimize the qualified 264 patient's discomfort, if the attending physician is authorized to 265 dispense such medication, to the qualified patient; or (B) upon the 266 qualified patient's request and with the qualified patient's written 267 consent (i) contact a pharmacist and inform the pharmacist of the 268 prescription, and (ii) personally deliver the written prescription, by 269 mail, facsimile or electronic transmission to the pharmacist, who shall 270 dispense such medication directly to the qualified patient, the 271 attending physician or an expressly identified agent of the qualified 272 patient.

(b) The person signing the qualified patient's death certificate shalllist the underlying terminal illness as the cause of death.

Sec. 10. (NEW) (*Effective October 1, 2019*) The attending physician shall ensure that the following items are documented or filed in a qualified patient's medical record:

| 278 | (1) The basis for determining that a qualified patient is an adult and |
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| 279 | a resident of the state;   |

- (2) All oral requests by a qualified patient for medication for aid indying;
- (3) All written requests by a qualified patient for medication for aidin dying;

(4) 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;

(5) 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;

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

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

(8) 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.

304 Sec. 11. (NEW) (*Effective October 1, 2019*) Any person, other than a 305 qualified patient, in possession of medication dispensed or prescribed 306 for aid in dying that has not been self-administered shall return such medication to the attending physician or the Commissioner of
Consumer Protection in accordance with section 21a-252 of the general
statutes.

Sec. 12. (NEW) (*Effective October 1, 2019*) (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) On and after October 1, 2019, 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.

318 (c) A qualified patient's act of requesting aid in dying or self319 administering medication dispensed or prescribed for aid in dying
320 shall not constitute suicide for any purpose, including, but not limited
321 to, a criminal prosecution under section 53a-56 of the general statutes.

322 Sec. 13. (NEW) (Effective October 1, 2019) (a) As used in this section, 323 "participate in the provision of medication" means to perform the 324 duties of an attending physician or consulting physician, a psychiatrist, 325 psychologist or pharmacist in accordance with the provisions of 326 sections 2 to 10, inclusive, of this act. "Participate in the provision of 327 medication" does not include: (1) Making an initial diagnosis of a 328 patient's terminal illness; (2) informing a patient of his or her medical 329 diagnosis or prognosis; (3) informing a patient concerning the 330 provisions of this section, sections 1 to 12, inclusive, of this act and 331 sections 16 to 19, inclusive, of this act, upon the patient's request; or (4) 332 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 19, 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.

348 (d) A health care facility may adopt written policies prohibiting a 349 health care provider associated with such health care facility from 350 participating in the provision of medication to a patient for aid in 351 dying, provided such facility provides written notice of such policy 352 and any sanctions for violation of such policy to such health care 353 provider. Notwithstanding the provisions of this subsection or any 354 policies adopted in accordance with this subsection, a health care 355 provider may: (1) Diagnose a patient with a terminal illness; (2) inform 356 a patient of his or her medical prognosis; (3) provide a patient with 357 information concerning the provisions of this section, sections 1 to 12, 358 inclusive, of this act and sections 16 to 19, inclusive, of this act, upon a 359 patient's request; (4) refer a patient to another health care facility or 360 health care provider; (5) transfer a patient's medical records to a health 361 care provider or health care facility, as requested by a patient; or (6) 362 participate in the provision of medication for aid in dying when such 363 health care provider is acting outside the scope of his or her 364 employment or contract with a health care facility that prohibits 365 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 19, inclusive, of this act.

Sec. 14. (NEW) (*Effective October 1, 2019*) (a) A person is guilty of murder when such person, without authorization of a patient, wilfully alters or forges a request for aid in dying, as described in sections 3 and 4 of this act, or conceals or destroys a rescission of such a request for aid in dying with the intent or effect of causing the patient's death.

(b) A person is guilty of murder when such person coerces or exerts undue influence on a patient to complete a request for aid in dying, as described in sections 3 and 4 of this act, or coerces or exerts undue influence on a patient to destroy a rescission of such request with the intent or effect of causing the patient's death.

Sec. 15. (NEW) (*Effective October 1, 2019*) (a) Nothing in sections 1 to 14, inclusive, of this act or sections 16 to 19, 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) No action taken in accordance with sections 1 to 14, inclusive, of
this act or sections 16 to 19, 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.

393 (c) No person shall be subject to civil or criminal liability or 394 professional disciplinary action, including, but not limited to, 395 revocation of such person's professional license, for (1) participating in 396 the provision of medication or related activities in good faith 397 compliance with the provisions of sections 1 to 14, inclusive, of this act 398 and sections 16 to 19, inclusive, of this act, or (2) being present at the 399 time a qualified patient self-administers medication dispensed or 400 prescribed for aid in dying.

(d) An attending physician's dispensing of, or issuance of a
prescription for 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. 16. (NEW) (*Effective October 1, 2019*) Sections 1 to 15, inclusive,
of this act or sections 17 to 19, inclusive, of this act do not limit liability
for civil damages resulting from negligent conduct or intentional
misconduct by any person.

411 Sec. 17. (NEW) (*Effective October 1, 2019*) (a) Any person who 412 knowingly possesses, sells or delivers medication dispensed or 413 prescribed for aid in dying for any purpose other than delivering such 414 medication to a qualified patient, or returning such medication in 415 accordance with section 11 of this act, shall be guilty of a class D 416 felony.

(b) Nothing in sections 1 to 16, inclusive, of this act or section 18 or
19 of this act shall preclude criminal prosecution under any provision
of law for conduct that is inconsistent with said sections.

Sec. 18. (NEW) (*Effective October 1, 2019*) Nothing in sections 1 to 17, inclusive, of this act or section 19 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 chapter 813 of the general statutes.

Sec. 19. (NEW) (*Effective October 1, 2019*) No person who serves as an attending physician, consulting physician or a witness as described in section 3 of this act, or otherwise participates in the provision of medication for aid in dying to a qualified patient, 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

- 432 any property as beneficiary or survivor of such qualified patient after
- 433 such qualified patient has self-administered medication dispensed or
- 434 prescribed for aid in dying.

| This act shall take effect as follows and shall amend the following |                 |             |  |
|---|-----------------|-------------|--|
| sections:   |                 |             |  |
|   |                 |             |  |
| Section 1   | October 1, 2019 | New section |  |
| Sec. 2  | October 1, 2019 | New section |  |
| Sec. 3  | October 1, 2019 | New section |  |
| Sec. 4  | October 1, 2019 | New section |  |
| Sec. 5  | October 1, 2019 | New section |  |
| Sec. 6  | October 1, 2019 | New section |  |
| Sec. 7  | October 1, 2019 | New section |  |
| Sec. 8  | October 1, 2019 | New section |  |
| Sec. 9  | October 1, 2019 | New section |  |
| Sec. 10   | October 1, 2019 | New section |  |
| Sec. 11   | October 1, 2019 | New section |  |
| Sec. 12   | October 1, 2019 | New section |  |
| Sec. 13   | October 1, 2019 | New section |  |
| Sec. 14   | October 1, 2019 | New section |  |
| Sec. 15   | October 1, 2019 | New section |  |
| Sec. 16   | October 1, 2019 | New section |  |
| Sec. 17   | October 1, 2019 | New section |  |
| Sec. 18   | October 1, 2019 | New section |  |
| Sec. 19   | October 1, 2019 | New section |  |

## Statement of Purpose:

To provide aid in dying to terminally ill patients.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. STEINBERG, 136th Dist.; REP. GRESKO, 121st Dist.

H.B. 5898