

Senate Bill 291

By: Senators Henson of the 41st and Orrock of the 36th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 create provisions for physician-assisted end-of-life options for terminally ill individuals; to
3 provide for definitions; to provide a criminal penalty; to provide a short title; to provide for
4 related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 This Act shall be known and may be cited as the "Georgia Death with Dignity Act."

8 **SECTION 2.**

9 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
10 a new chapter to read as follows:

11 "CHAPTER 54

12 31-54-1.

13 As used in this chapter, the term:

14 (1) 'Adult' means an individual who is 18 years of age or older.

15 (2) 'Attending physician' means a physician who has primary responsibility for the care
16 of a terminally ill individual and the treatment of the individual's terminal illness.

17 (3) 'Consulting physician' means a physician who is qualified by specialty or experience
18 to make a professional diagnosis and prognosis regarding a terminally ill individual's
19 illness.

20 (4) 'Health care provider' or 'provider' means a person or facility that is licensed,
21 certified, registered, or otherwise authorized or permitted by law to administer health care
22 or dispense medication in the ordinary course of business or practice of a profession
23 under this title or Title 34.

- 24 (5) 'Informed decision' means a decision that is:
25 (A) Made by an individual to obtain a prescription for medical aid-in-dying medication
26 that the qualified individual may decide to self-administer to end his or her life in a
27 peaceful manner;
28 (B) Based on an understanding and acknowledgment of the relevant facts; and
29 (C) Made after the attending physician fully informs the individual of:
30 (i) His or her medical diagnosis and prognosis of six months or less;
31 (ii) The potential risks associated with taking the medical aid-in-dying medication to
32 be prescribed;
33 (iii) The probable result of taking the medical aid-in-dying medication to be
34 prescribed;
35 (iv) The choices available to such individual that demonstrate his or her
36 self-determination and intent to end his or her life in a peaceful manner, including the
37 ability to choose whether to:
38 (I) Request medical aid in dying;
39 (II) Obtain a prescription for medical aid-in-dying medication to end his or her life;
40 (III) Fill the prescription and possess medical aid-in-dying medication to end his
41 or her life; and
42 (IV) Ultimately self-administer the medical aid-in-dying medication to bring about
43 a peaceful death; and
44 (v) All feasible alternatives or additional treatment opportunities, including comfort
45 care, palliative care, hospice care, and pain control.
46 (6) 'Licensed mental health professional' means a psychiatrist licensed under Chapter 34
47 of Title 43 or a psychologist licensed under Chapter 39 of Title 43.
48 (7) 'Medical aid in dying' means the medical practice of a physician prescribing medical
49 aid-in-dying medication to a qualified individual that the individual may choose to
50 self-administer to bring about a peaceful death.
51 (8) 'Medical aid-in-dying medication' means medication prescribed by a physician
52 pursuant to this chapter to provide medical aid in dying to a qualified individual.
53 (9) 'Medically confirmed' means that a consulting physician who has examined the
54 terminally ill individual and the individual's relevant medical records has confirmed the
55 medical opinion of the attending physician.
56 (10) 'Mental capacity' or 'mentally capable' means that in the opinion of an individual's
57 attending physician, consulting physician, psychiatrist or psychologist, the individual has
58 the ability to make and communicate an informed decision to health care providers.
59 (11) 'Physician' means a doctor of medicine or osteopathy licensed to practice medicine
60 by the Georgia Composite Medical Board.

61 (12) 'Prognosis of six months or less' means a prognosis resulting from a terminal illness
 62 that the illness will, within reasonable medical judgment, result in death within six
 63 months and which has been medically confirmed.

64 (13) 'Qualified individual' means a terminally ill adult with a prognosis of six months or
 65 less, who has mental capacity, has made an informed decision, is a resident of this state,
 66 and has satisfied the requirements of this chapter in order to obtain a prescription for
 67 medical aid-in-dying medication to end his or her life in a peaceful manner.

68 (14) 'Resident' means an individual who is able to demonstrate residency in this state by
 69 providing any of the following documentation to his or her attending physician:

70 (A) A driver's license or identification card issued pursuant to Chapter 5 of Title 40;

71 (B) A voter registration card or other documentation showing the individual is
 72 registered to vote in this state;

73 (C) Evidence that the individual owns or leases property in this state; or

74 (D) An income tax return filed with the State of Georgia for the most recent tax year.

75 (15) 'Self-administer' means a qualified individual's affirmative, conscious, and physical
 76 act of administering the medical aid-in-dying medication to himself or herself to bring
 77 about his or her own death.

78 (16) 'Terminal illness' means an incurable and irreversible illness that will, within
 79 reasonable medical judgment, result in death.

80 31-54-2.

81 (a) An adult resident of this state may make a request, pursuant to Code Sections 31-54-3
 82 and 31-54-11, to receive a prescription for medical aid-in-dying medication if:

83 (1) The individual's attending physician has diagnosed the individual with a terminal
 84 illness with a prognosis of six months or less;

85 (2) The individual's attending physician has determined the individual has mental
 86 capacity; and

87 (3) The individual has voluntarily expressed the wish to receive a prescription for
 88 medical aid-in-dying medication.

89 (b) The right to request medical aid-in-dying medication shall not exist because of age or
 90 disability.

91 31-54-3.

92 (a) In order to receive a prescription for medical aid-in-dying medication pursuant to this
 93 chapter, an individual who satisfies the requirements in Code Section 31-54-2 shall make
 94 two oral requests, separated by at least 15 days, and a valid written request to his or her
 95 attending physician.

- 96 (b) To be valid, a written request for medical aid-in-dying medication shall be:
 97 (1) Substantially in the same form as set forth in Code Section 31-54-11;
 98 (2) Signed and dated by the individual seeking the medical aid-in-dying medication;
 99 (3) Witnessed by at least two persons who, in the presence of the individual, attest to the
 100 best of their knowledge and belief that the individual is:
 101 (A) Mentally capable;
 102 (B) Acting voluntarily; and
 103 (C) Not being coerced to sign the request; and
 104 (4) Of the two witnesses to the written request, at least one must not be:
 105 (A) Related to the individual by blood, marriage, civil union, or adoption;
 106 (B) A person who, at the time the request is signed, is entitled, under a will or by
 107 operation of law, to any portion of the individual's estate upon his or her death; or
 108 (C) An owner, operator, or employee of a health care facility where the individual is
 109 receiving medical treatment or is a resident.
 110 (c) Neither the individual's attending physician nor a person authorized as the individual's
 111 qualified power of attorney or durable medical power of attorney shall serve as a witness
 112 to the written request.

113 31-54-4.

- 114 (a) At any time, an individual may rescind his or her request for medical aid-in-dying
 115 medication without regard to the individual's mental state.
 116 (b) An attending physician shall not write a prescription for medical aid-in-dying
 117 medication under this chapter unless the attending physician offers the qualified individual
 118 an opportunity to rescind the request for the medical aid-in-dying medication.

119 31-54-5.

120 The attending physician shall:

- 121 (1) Make the initial determination of whether an individual requesting medical
 122 aid-in-dying medication has a terminal illness, has a prognosis of six months or less, is
 123 mentally capable, is making an informed decision, and has made the request voluntarily;
 124 (2) Request that the individual demonstrate Georgia residency by providing
 125 documentation as described in Code Section 31-54-1;
 126 (3) Provide care that conforms to established medical standards and accepted medical
 127 guidelines;
 128 (4) Refer the individual to a consulting physician for medical confirmation of the
 129 diagnosis and prognosis and for a determination of whether the individual is mentally
 130 capable, is making an informed decision, and acting voluntarily;

- 131 (5) Provide full, individual-centered disclosures to ensure that the individual is making
132 an informed decision by discussing with the individual:
- 133 (A) His or her medical diagnosis and prognosis of six months or less;
134 (B) The feasible alternatives or additional treatment opportunities, including comfort
135 care, palliative care, hospice care, and pain control;
136 (C) The potential risks associated with taking the medical aid-in-dying medication to
137 be prescribed;
138 (D) The probable result of taking the medical aid-in-dying medication to be prescribed;
139 and
140 (E) The possibility that the individual can obtain the medical aid-in-dying medication
141 but chooses not to use it;
- 142 (6) Refer the individual to a licensed mental health professional pursuant to Code
143 Section 31-54-7 if the attending physician believes that the individual may not be
144 mentally capable of making an informed decision;
- 145 (7) Confirm that the individual's request does not arise from coercion or undue influence
146 by another person by discussing with the individual, outside the presence of other
147 persons, whether the individual is feeling coerced or unduly influenced by another
148 person;
- 149 (8) Counsel the individual about the importance of:
- 150 (A) Having another person present when the individual self-administers the medical
151 aid-in-dying medication prescribed pursuant to this chapter;
152 (B) Not taking the medical aid-in-dying medication in a public place;
153 (C) Safekeeping and proper disposal of unused medical aid-in-dying medication in
154 accordance with Code Section 31-54-19; and
155 (D) Notifying his or her next of kin of the request for medical aid-in-dying medication;
- 156 (9) Inform the individual that he or she may rescind the request for medical aid-in-dying
157 medication at any time and in any manner;
- 158 (10) Verify, immediately prior to writing the prescription for medical aid-in-dying
159 medication, that the individual is making an informed decision;
- 160 (11) Ensure that all appropriate steps are carried out in accordance with this chapter
161 before writing a prescription for medical aid-in-dying medication; and
- 162 (12)(A) Dispense medical aid-in-dying medications directly to the qualified individual,
163 including ancillary medications intended to minimize the individual's discomfort, if the
164 attending physician has a current drug enforcement administration certificate and
165 complies with any applicable administrative rule; or
166 (B) Deliver the written prescription personally, by mail, or through authorized
167 electronic transmission in the manner permitted by law to a licensed pharmacist, who

168 shall dispense the medical aid-in-dying medication to the qualified individual, the
169 attending physician, or a person expressly designated by the qualified individual.

170 31-54-6.

171 Before an individual who is requesting medical aid-in-dying medication may receive a
172 prescription for such medication, a consulting physician shall:

173 (1) Examine the individual and his or her relevant medical records; and

174 (2) Confirm, in writing, to the attending physician that:

175 (A) The individual has a terminal illness;

176 (B) The individual has a prognosis of six months or less;

177 (C) The individual is making an informed decision; and

178 (D) The individual is mentally capable, or provide documentation that the consulting
179 physician has referred the individual for further evaluation in accordance with Code
180 Section 31-54-7.

181 31-54-7.

182 (a) An attending physician shall not prescribe medical aid-in-dying medication under this
183 chapter for an individual with a terminal illness until the individual is determined to be
184 mentally capable of making an informed decision, and those determinations are confirmed
185 in accordance with this Code section.

186 (b) If the attending physician or the consulting physician believes that the individual may
187 not be mentally capable of making an informed decision, the attending physician or
188 consulting physician shall refer the individual to a licensed mental health professional for
189 a determination of whether the individual is mentally capable of making an informed
190 decision.

191 (c) A licensed mental health professional who evaluates an individual under this Code
192 section shall communicate, in writing, to the attending or consulting physician who
193 requested the evaluation his or her conclusions about whether the individual is mentally
194 capable of making an informed decision. If the licensed mental health professional
195 determines that the individual is not mentally capable of making an informed decision, the
196 individual shall not be deemed a qualified individual under this chapter and the attending
197 physician shall not prescribe medical aid-in-dying medication to the individual.

198 31-54-8.

199 (a) Unless otherwise prohibited by law, the attending physician or the hospice medical
200 director shall sign the death certificate of a qualified individual who obtained and
201 self-administered aid-in-dying medication.

202 (b) When a death has occurred in accordance with this chapter, the cause of death shall be
203 listed as the underlying terminal illness and the death shall not constitute grounds for
204 post-mortem inquiry under Article 2 of Chapter 16 of Title 45.

205 31-54-9.

206 (a) An individual with a terminal illness is not a qualified individual and shall not receive
207 a prescription for medical aid-in-dying medication unless he or she has made an informed
208 decision.

209 (b) Immediately before writing a prescription for medical aid-in-dying medication under
210 this chapter, the attending physician shall verify that the individual with a terminal illness
211 is making an informed decision.

212 31-54-10.

213 (a) The attending physician shall document, in the individual's medical record, the
214 following information:

215 (1) Dates of all oral requests;

216 (2) A valid written request;

217 (3) The attending physician's diagnosis and prognosis, determination of mental capacity,
218 and that the individual is making a voluntary request and an informed decision;

219 (4) The consulting physician's confirmation of diagnosis and prognosis, mental capacity,
220 and that the individual is making an informed decision;

221 (5) If applicable, written confirmation of mental capacity from a licensed mental health
222 professional;

223 (6) A notation of notification of the right to rescind a request made pursuant to this
224 chapter; and

225 (7) A notation by the attending physician that all requirements under this chapter have
226 been satisfied, indicating steps taken to carry out the request, including a notation of the
227 medical aid-in-dying medications prescribed and when.

228 (b)(1) The Department of Public Health shall annually review a sample of records
229 maintained pursuant to this chapter to ensure compliance. The department shall adopt
230 rules to facilitate the collection of information defined in subsection (a) of this Code
231 section. Except as otherwise required by law, the information collected by the
232 department is not a public record and is not available for public inspection. However, the
233 department shall generate and make available to the public an annual statistical report of
234 information collected under this subsection.

235 (2) The department shall require any health care provider, upon dispensing a medical
236 aid-in-dying medication pursuant to this chapter, to file a copy of a dispensing record

237 with the department. The dispensing record is not a public record and is not available for
238 public inspection.

239

240 31-54-11.

241 A request for medical aid-in-dying medication authorized by this chapter shall be in
242 substantially the following form:

243 'REQUEST FOR MEDICATION TO END MY LIFE IN A PEACEFUL MANNER

244 I, _____, am an adult of sound mind.

245 I am suffering from _____, which my attending physician
246 has determined is a terminal illness and which has been medically confirmed. I have
247 been fully informed of my diagnosis and prognosis of six months or less, the nature of
248 the medical aid-in-dying medication to be prescribed and potential associated risks, the
249 expected result, and the feasible alternatives or additional treatment opportunities,
250 including comfort care, palliative care, hospice care, and pain control.

251 I request that my attending physician prescribe medical aid-in-dying medication that will
252 end my life in a peaceful manner if I choose to take it, and I authorize my attending
253 physician to contact any pharmacist about my request.

254 _____ I understand that I have the right to rescind this request at any time.

255 _____ I understand the seriousness of this request, and I expect to die if I take the
256 aid-in-dying medication prescribed.

257 _____ I further understand that although most deaths occur within three hours, my death
258 may take longer, and my attending physician has counseled me about this possibility. I
259 make this request voluntarily, without reservation, and without being coerced, and I
260 accept full responsibility for my actions.

261 Signed: _____

262 Dated: _____

263 DECLARATION OF WITNESSES

264 We declare that the individual signing this request:

265 _____ Is personally known to us or has provided proof of identity;

266 _____ Signed this request in our presence;

267 _____ Appears to be of sound mind and not under duress, coercion, or undue influence; and

268 I am not the attending physician for the individual.

269 WITNESS ONE

270 Name: _____ Date: _____

271 WITNESS TWO

272 Name: _____ Date: _____

273 Note:

274 (a) Of the two witnesses to the written request, at least one must not:

275 (1) Be a relative (by blood, marriage, civil union, or adoption) of the individual signing
 276 this request;

277 (2) Be entitled to any portion of the individual's estate upon death; or

278 (3) Own, operate, or be employed at a health care facility where the individual is a
 279 patient or resident; and

280 (b) Neither the individual's attending physician nor a person authorized as the individual's
 281 qualified power of attorney or durable medical power of attorney shall serve as a witness
 282 to the written request.'

283 31-54-12.

284 (a) Physicians and health care providers shall provide medical services under this chapter
 285 that meet or exceed the standard of care for end-of-life medical care.

286 (b) If a health care provider is unable or unwilling to carry out an eligible individual's
 287 request and the individual transfers care to a new health care provider, the health care
 288 provider shall coordinate transfer of the individual's medical records to a new health care
 289 provider.

290 31-54-13.

291 (a) A provision in a contract, will, or other agreement, whether written or oral, that would
 292 affect whether an individual may make or rescind a request for medical aid in dying
 293 pursuant to this chapter is invalid.

294 (b) An obligation owing under any currently existing contract shall not be conditioned
 295 upon, or affected by, an individual's act of making or rescinding a request for medical
 296 aid-in-dying medication pursuant to this chapter.

297 31-54-14.

298 (a) The sale, procurement, or issuance of, or the rate charged for, any life, health, or
 299 accident insurance or annuity policy shall not be conditioned upon, or affected by, an
 300 individual's act of making or rescinding a request for medical aid-in-dying medication in
 301 accordance with this chapter.

302 (b) A qualified individual's act of self-administering medical aid-in-dying medication
 303 pursuant to this chapter shall not affect a life, health, or accident insurance or annuity
 304 policy.

305 (c) An insurer shall not deny or otherwise alter health care benefits available under a
 306 policy of sickness and accident insurance for an individual with a terminal illness who is
 307 covered under the policy, based on whether or not the individual makes a request pursuant
 308 to this chapter.

309 (d) An individual with a terminal illness who is a recipient under any medical assistance
 310 program of this state shall not be denied benefits under such program or have his or her
 311 benefits under such program otherwise altered based on whether or not such individual
 312 makes a request pursuant to this chapter.

313 31-54-15.

314 (a) A person shall not be subject to civil or criminal liability or professional disciplinary
 315 action for acting in good faith under this chapter, which includes being present when a
 316 qualified individual self-administers the prescribed medical aid-in-dying medication.

317 (b) Except as provided for in Code Section 31-54-17, a health care provider or professional
 318 organization or association shall not subject an individual to any of the following for
 319 participating or refusing to participate in good-faith compliance under this chapter:

320 (1) Censure;

321 (2) Discipline;

322 (3) Suspension;

323 (4) Loss of license, privileges, or membership; or

324 (5) Any other penalty.

325 (c) A request by an individual for, or the provision by an attending physician of, medical
 326 aid-in-dying medication in good-faith compliance with this chapter shall not:

327 (1) Constitute neglect or elder abuse for any purpose of law; or

328 (2) Provide the basis for the appointment of a guardian or conservator.

329 (d) This Code section shall not limit civil or criminal liability for negligence, recklessness,
 330 or intentional misconduct.

331 31-54-16.

332 (a) A health care provider may choose whether to participate in providing medical
 333 aid-in-dying medication to an individual in accordance with this chapter.

334 (b) If a health care provider is unable or unwilling to carry out an individual's request for
 335 medical aid-in-dying medication made in accordance with this chapter, and the individual
 336 transfers his or her care to a new health care provider, the prior health care provider shall
 337 transfer, upon request, a copy of the individual's relevant medical records to the new health
 338 care provider.

339 31-54-17.

340 (a) A health care facility may prohibit a physician employed or under contract from
 341 writing a prescription for medical aid-in-dying medication for a qualified individual who
 342 intends to use the medical aid-in-dying medication on the facility's premises. The health
 343 care facility shall notify the physician in writing of its policy with regard to prescriptions
 344 for medical aid-in-dying medication. A health care facility that fails to provide advance
 345 notice to the physician shall not be entitled to enforce such a policy against the physician.

346 (b) A health care facility or health care provider shall not subject a physician, nurse,
 347 pharmacist, or other person to discipline, suspension, loss of license or privileges, or any
 348 other penalty or sanction for actions taken in good-faith reliance on this chapter or for
 349 refusing to act under this chapter.

350 (c) A health care facility shall notify patients in writing of its policy with regard to medical
 351 aid in dying. A health care facility that fails to provide advance notification to patients
 352 shall not be entitled to enforce such a policy.

353 31-54-18.

354 (a) A person commits a felony and, upon conviction thereof, shall be punished by
 355 imprisonment for not less than one nor more than five years if the person, knowingly or
 356 intentionally, causes an individual's death by:

357 (1) Forging or altering a request for medical aid-in-dying medication to end an
 358 individual's life without the individual's authorization; or

359 (2) Concealing or destroying a rescission of a request for medical aid-in-dying
 360 medication.

361 (b) A person commits a felony and, upon conviction thereof, shall be punished by
 362 imprisonment for not less than one nor more than five years if the person knowingly or
 363 intentionally coerces or exerts undue influence on an individual with a terminal illness to:

364 (1) Request medical aid-in-dying medication for the purpose of ending the terminally ill
 365 individual's life; or

- 366 (2) Destroy a rescission of a request for medical aid-in-dying medication.
367 (c) Nothing in this chapter limits further liability for civil damages resulting from other
368 negligent conduct or intentional misconduct by any person.
369 (d) The penalties specified in this chapter do not preclude criminal penalties applicable
370 under Title 16 for conduct that is inconsistent with this chapter.

371 31-54-19.

372 A person who has custody or control of medical aid-in-dying medication dispensed under
373 this chapter that the terminally ill individual decides not to use or that remains unused after
374 the terminally ill individual's death shall dispose of the unused medical aid-in-dying
375 medication either by:

376 (1) Returning the unused medical aid-in-dying medication to the attending physician who
377 prescribed the medical aid-in-dying medication, who shall dispose of the unused medical
378 aid-in-dying medication in the manner required by law; or

379 (2) Lawful means in accordance with a state or federally approved medication take-back
380 program authorized under the federal Secure and Responsible Drug Disposal Act of 2010,
381 Pub. L. 111-273, and regulations adopted pursuant to the federal act.

382 31-54-20.

383 Nothing in this chapter authorizes a physician or any other person to end an individual's life
384 by lethal injection, mercy killing, or euthanasia. Actions taken in accordance with this
385 chapter shall not, for any purpose, constitute suicide, assisted suicide, mercy killing,
386 homicide, or elder abuse under Title 16.

387 31-54-21.

388 A government entity that incurs costs resulting from an individual terminating his or her
389 life pursuant to this chapter in a public place has a claim against the estate of the individual
390 to recover the costs and reasonable attorney fees related to enforcing the claim.

391 31-54-22.

392 Nothing in this chapter shall change the legal effect of:

393 (1) A declaration made under Chapter 32 of this title directing that life-sustaining
394 procedures be withheld or withdrawn;

395 (2) A cardiopulmonary resuscitation directive executed under Chapter 32 of this title; or

396 (3) An advance medical directive executed under Chapter 32 of this title."

397

SECTION 3.

398 All laws and parts of laws in conflict with this Act are repealed.