STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

BOARD OF PSYCHOLOGY – Administration
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MEMORANDUM

DATE	April 16, 2015
TO	Policy and Advocacy Committee Members
FROM	Jonathan Burke Administrative Services Coordinator
SUBJECT	**SB 128 (Wolk) – End of Life**

Background:

Please see attached analysis for detail on the proposed legislation.

Action Requested:

The staff recommendation is to continue to watch SB 128 (Wolk).

Attachment A is the staff analysis of SB 128.
Attachment B is the language of the bill.

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: SB 128 **VERSION:** AMENDED IN SENATE APRIL 14, 2015

AUTHOR: WOLK & MONNING **SPONSOR:** AUTHORS

RECOMMENDED POSITION: WATCH

SUBJECT: END OF LIFE

Overview: This bill would establish the End of Life Option Act in California, modeled after Oregon's Death with Dignity Act that was enacted in 1997. This would allow a mentally competent, terminally ill adult in California in the final stages of their disease to request medication from a physician to assist suicide.

Current Law:

1) Every person who deliberately aids, or advises, or encourages another to commit suicide, is guilty of a felony. (Penal Code (PC) § 401)

2) Provides that a competent adult has a fundamental right to accept or reject medical treatment, including the right to withdraw or withhold life-sustaining treatment that may cause or hasten the individual's death. (See e.g., Cruzan v. Director, Missouri Dept. of Health (1990) 497 U.S. 261; Thor v. Superior Court (1993) 5 Cal.4th 725; Cobbs v. Grant (1970) 8 Cal.3d 229.)

3) Authorizes, under the Natural Death Act, an adult of sound mind to execute a declaration governing the withholding or withdrawal of life sustaining treatment. (Health and Safety Code Section 7185 et seq.)

Proposed Law:

1) This bill Authorizes an adult who is competent, a resident of California, determined by the attending physician and a consulting physician to be suffering from a terminal disease, and who has voluntarily expressed the wish to hasten the end of his or her life, to make both an oral and written request for medication for the purpose of hastening the end of his or her life in accordance with strict procedural requirements. (Health and Safety Code (HSC) Proposed Section 443.2)

2) Requires that any qualified patient utilizing the procedures under this measure must self-administer the medication provided, and further provides that nothing in the measure shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. It also provides that actions taken in accordance with the measure shall not, for any purpose, constitute suicide, assisted suicide, mercy killing, or homicide under the law. (HSC Proposed Section 443.3)

3) Provides that no person shall receive a prescription for medication to hasten the end of his or her life unless a host of conditions are met, including that the patient has made an oral

request and a written request, and reiterated the oral request to his or her attending physician, not less than 15 days after making the initial oral request. At the time of the second oral request, the attending physician shall offer the patient the opportunity to rescind the request. (HSC Proposed Section 443).

Comments:

1) **Effect on Psychologists.**

The proposed California Law is substantially based on Oregon's Death with Dignity Act (1997). The law would mandate that if the physician believes a patient to be suffering from depression or another psychological malady then counseling with a licensed psychologist or psychiatrist is required before the lethal prescription can be written. SB 128 has very similar definitions to the Oregon Law, but an abbreviated description of when psychological counseling would be necessary (see below).

Board staff contacted the Oregon Board of Psychologist Examiners regarding any impact on disciplinary matters, licensing, and Continuing Education/ Continuing Professional Development (CE/CPD) and was told that there was no impact because of the Death with Dignity Act. The Board's existing regulations regarding unprofessional conduct and gross negligence would cover offenses related to the bill. The counseling requirement to determine the competence of a person seeking to end his or her life is within the scope of practicing psychologists to whom the patient might be referred and does not require additional CE/CPD.

Oregon Law
(3) "Capable" means that in the opinion of a court or in the opinion of the patient's attending physician or consulting physician, psychiatrist, or psychologist, a patient has the ability to make and communicate health care decisions to health care providers, including communication through persons familiar with the patient's manner of communicating if those persons are available... (Oregon Statutes (ORS) Section 127.800 s.1.01.)

Proposed California Law:
(d) "Competent" means that, in the opinion of a court or in the opinion of an individual's attending physician, consulting physician, psychiatrist, or psychologist, the individual has the ability to make and communicate an informed decision to health care providers, including communication through a person familiar with the individual's manner of communicating, if that person is available. (HSC Section 443.1 (d))

Oregon Law
"Counseling" means one or more consultations as necessary between a state licensed psychiatrist or psychologist and a patient for the purpose of determining that the patient is capable and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment....

Proposed California Law:
(f) "Counseling" means one or more consultations, as necessary, between an individual and a psychiatrist or psychologist licensed in this state for the purpose of determining that the individual is competent and is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment. (HSC Section 443.1 (f))

Oregon Law
If in the opinion of the attending physician or the consulting physician a patient may be suffering from a psychiatric or psychological disorder or depression causing impaired judgment, either physician shall refer the patient for counseling. No medication to end a patient's life in a humane and dignified manner shall be prescribed until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment. (ORS 127.825 s.3.03*)*

Proposed California Statute
(a) Before prescribing aid-in-dying medication, the attending physician shall do all of the following:...
... (4) Refer the qualified individual for counseling if appropriate. (HSC Section 443.5 (4))

2) BreEZe Impact. N/A.

3) **Support and Opposition.**

Support:
AIDS Healthcare Foundation; AIDS Project Los Angeles (APLA); Alameda County Board of Supervisors; American Civil Liberties Union of California (ACLU); American Federation of State, County and Municipal Employees (AFSCME) AFL-CIO; American Medical Student Association (AMSA); American Medical Women's Association (AMWA); California Church IMPACT; California Primary Care Association (CPCA); California Senior Legislature (CSL); Cardinal Point at Mariner Square Residents' Association; City Council of Cathedral City; Civil Rights For Seniors; Compassion & Choices; Conference of California Bar Associations (CCBA); Congress of California Seniors (CCS); County of Santa Cruz, Board of Supervisors; Dave Jones, Insurance Commissioner; Death with Dignity National Center; Democrats of the Napa Valley Club; Democratic Party of Orange County; Democratic Party of Santa Barbara County; Democratic Women of Santa Barbara; Desert Stonewall Democrats; Diane Feinstein, United States Senator; Equality California; GLMA: Health Professionals Advancing LGBT Equality; Hemlock Society of San Diego; Gray Panthers of Long Beach; Laguna Woods Democratic Club; Lampoc Valley Democratic Club; Libertarian Party of Orange County; Los Angeles LGBT Center; Napa County Democratic Central Committee (NCDCC); National Association of Social Workers, California Chapter (NASW-CA); National Center for Lesbian Rights (NCLR); National Council of Jewish Women California (NCJW CA); Older Women's League-SF; Progressive Democrats of America (PDA) California; San Francisco AIDS Foundation; San Francisco for Democracy; San Mateo Democracy for America; Secular Coalition for California; Sierra County Democratic Party; Shared Crossing Project; Social Action and Missions Team of Bloom in the Desert Ministries United Church of Christ, Palm Springs, California; Sonoma County Democratic Party; South Orange County Democratic Club (SOCDC); I Care For Your Loved One: Compassionate Senior Services; Trinity County Progressives; thousands of individuals

Opposition:
Agudath Israel of California; Alliance of Catholic Health Care; ARC and United Cerebral Palsy California Collaboration; Arroyo Grande Community Hospital; Association of Northern California Oncologists (ANCO); Autistic Self Advocacy Network (ASAN); California Catholic Conference, Inc.; California Disability Alliance (CDA); California Family Alliance; California Foundation for Independent Living Centers (CFILC);

California Hospital Association (CHA); California Nurses for Ethical Standards; California ProLife Council; California Right to Life Committee, Inc.; Calvary Chapel Golden Springs; Capitol Resource Institute; Concerned Women for America; Dignity Health; Disability Rights Education & Defense Fund (DREDF); Faith & Public Policy (ministry of Calvary Chapel Chino Hills; Life Legal Defense Foundation; Life Priority Network; International Life Services; Medical Oncology Association of Southern California (MOASC); Mission Hospital; Mission Hospital Laguna Beach; National Right to Life Committee; North Orange County ProLife Chapter; Pajaro Valley Senior Coalition; Petaluma Valley Hospital; Providence Health & Services; Queen of the Valley Medical Center; Redwood Memorial Hospital, Fortuna; San Joaquin ProLife Council; Santa Rosa Memorial Hospital; Scholl Institute of Bioethics; Silicon Valley Independent Living Center; Sisters of Social Service of Los Angeles; St. Joseph Hospital, Eureka; St. Joseph Hospital, Orange; St. Jude Medical Center; St. Mary Medical Center; thousands of individuals

4) **History**

2015
04/14/2015 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.
04/07/2015 From SENATE Committee on JUDICIARY: Do pass as amended to Committee on APPROPRIATIONS. (5-2)
03/27/15 Set for hearing April 7.
03/26/15 From committee: Do pass and re-refer to Com. on JUD. (Ayes 6. Noes 2.) (March 25). Re-referred to Com. on Judiciary
03/17/15 From committee with author's amendments. Read second time and amended. Re-referred to Com. on HEALTH.
02/27/15 Set for hearing March 25.
02/05/15 Referred to Coms. on HEALTH and JUD.
01/21/15 From printer. May be acted upon on or after February 20.
01/20/15 Introduced. Read first time. To Com. on RLS. for assignment. To print.

California LEGISLATIVE INFORMATION

SB-128 End of life. (2015-2016)

AMENDED IN SENATE MARCH 17, 2015

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL **No. 128**

Introduced by Senators Wolk and Monning
(Principal coauthors: Senators Jackson and Leno)
(Principal coauthor: Assembly Member Eggman)
(Coauthors: Senators Block, Hall, Hancock, Hernandez, Hill, McGuire, and Wieckowski)
(Coauthors: Assembly Members *Chu, Cooper, Frazier,* Cristina Garcia, Quirk, *Rendon,* and ~~Mark Stone)~~ *Mark Stone)*

January 20, 2015

An act to add Part 1.85 (commencing with Section 443) to Division 1 of the Health and Safety Code, relating to end of life.

LEGISLATIVE COUNSEL'S DIGEST

SB 128, as amended, Wolk. End of life.

Existing law authorizes an adult to give an individual health care instruction and to appoint an attorney to make health care decisions for that individual in the event of his or her incapacity pursuant to a power of attorney for health care.

This bill would enact the End of Life Option Act authorizing an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal illness, as defined, to make a request for medication prescribed pursuant to these provisions for the purpose of ending his or her life. The bill would establish the procedures for making these requests. The bill would also establish the forms to request aid-in-dying medication and under specified circumstances an interpreter declaration to be signed subject to penalty of perjury, thereby imposing a crime and state-mandated local program.

This bill would prohibit a provision in a contract, will, or other agreement, or in a health care service plan contract, or health benefit plan contract, from being conditioned upon or affected by a person making or rescinding a request for the above-described medication. The bill would prohibit the sale, procurement, or issuance of any life, health, or accident insurance or annuity policy, or the rate charged for any policy, from being conditioned upon or affected by the request.

This bill would provide immunity from civil or criminal liability or professional disciplinary action for participating in good faith compliance with the ~~act.~~ *act, and would specify that the immunities and prohibitions on sanctions of a health care provider are solely reserved for conduct provided for by the bill.* The bill would provide that participation in activities authorized pursuant to this bill shall be voluntary.

This bill would make it a felony to knowingly alter or forge a request for medication to end an individual's life without his or her authorization or to conceal or destroy a rescission of a request for medication, if it is done with the intent or effect of causing the individual's death. The bill would make it a felony to knowingly coerce or exert undue influence on an individual to request medication for the purpose of ending his or her life or to destroy a rescission of a request. By creating a new crime, the bill would impose a state-mandated local program. The bill would provide that nothing in its provisions be construed to authorize ending a patient's life by lethal injection, mercy killing, or active euthanasia, and would provide that action taken in accordance with the act shall not constitute, among others, suicide or homicide.

This bill would require the State Department of Public Health to adopt regulations regarding the collection of information to determine the use of and compliance with the act, and would require the department to annually review a sample of certain records and make a statistical report of the information collected.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Part 1.85 (commencing with Section 443) is added to Division 1 of the Health and Safety Code, to read:

PART 1.85. End of Life Option Act

443. This part shall be known and may be cited as the End of Life Option Act.

443.1. As used in this part, the following definitions shall apply:

(a) "Adult" means an individual 18 years of age or older.

(b) "Aid-in-dying medication" means medication determined and prescribed by a physician for a qualified individual, which the qualified individual may choose to self-administer to bring about his or her death due to a terminal illness.

(c) "Attending physician" means the physician who has primary responsibility for the health care of an individual and treatment of the individual's terminal illness.

(d) "Competent" means that, in the opinion of a court or in the opinion of an individual's attending physician, consulting physician, psychiatrist, or psychologist, the individual has the ability to make and communicate an informed decision to health care providers, including communication through a person familiar with the individual's manner of communicating, if that person is available.

(e) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding an individual's illness.

(f) "Counseling" means one or more consultations, as necessary, between an individual and a psychiatrist or psychologist licensed in this state for the purpose of determining that the individual is competent and is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

(g) "Department" means the State Department of Public Health.

(h) "Health care provider" or "provider" means a person licensed, certified, or otherwise authorized or permitted by law to administer health care or dispense medication in the ordinary course of business or practice of a profession, including, but not limited to, physicians, doctors of osteopathy, and pharmacists. "Health care provider" or "provider" includes a health care facility as identified in Section 1250.

(i) "Informed decision" means a decision by a terminally ill individual to request and obtain a prescription for medication that the individual may self-administer to end the individual's life, that is based on an understanding and acknowledgment of the relevant facts, and that is made after being fully informed by the attending physician of all of the following:

(1) The individual's medical diagnosis and prognosis.

(2) The potential risks associated with taking the medication to be prescribed.

(3) The probable result of taking the medication to be prescribed.

(4) The possibility that the individual may choose not to obtain the medication or may obtain the medication but may decide not to take it.

(5) The feasible alternatives or additional treatment opportunities, including, but not limited to, comfort care, hospice care, palliative care, and pain control.

(j) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the individual and the individual's relevant medical records.

(k) "Physician" means a doctor of medicine or osteopathy *currently* licensed to practice medicine in this state.

(l) "Public place" means any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place that is open to the public view, or to which the public has access.

(m) "Qualified individual" means a competent adult who is a resident of California and has satisfied the requirements of this part in order to obtain a prescription for medication to end his or her life.

(n) "Self-administer" means a qualified individual's affirmative, conscious, and physical act of using the medication to bring about his or her own death.

(o) "Terminal illness" means an incurable and irreversible illness that has been medically confirmed and will, within reasonable medical judgment, result in death within six months.

443.2. (a) A competent, qualified individual who is a terminally ill adult may make a request to receive a prescription for aid-in-dying medication if all of the following conditions are satisfied:

(1) The qualified individual's attending physician has determined the individual to be suffering from a terminal illness.

(2) The qualified individual has voluntarily expressed the wish to receive a prescription for aid-in-dying medication.

(3) The qualified individual is a resident of California and is able to establish residency through any of the following means:

(A) Possession of a California driver ~~license.~~ *license or other identification issued by the State of California.*

(B) Registration to vote in California.

(C) Evidence that the person owns or leases property in California.

(D) Filing of a California tax return for the most recent tax year.

(4) The qualified individual documents his or her request pursuant to the requirements set forth in Section 443.3.

(b) A person may not qualify under the provisions of this part solely because of age or disability.

(c) A request for a prescription for aid-in-dying medication under this part shall not be made on behalf of the patient through a power of attorney, an advance health care directive, or a conservator.

443.3. (a) A qualified individual wishing to receive a prescription for aid-in-dying medication pursuant to this part shall submit two oral requests, a minimum of 15 days apart, and a written request to his or her attending physician.

(b) A valid written request for aid-in-dying medication under subdivision (a) shall meet all of the following conditions:

(1) The request shall be in substantially the form described in Section 443.9.

(2) The request shall be signed and dated by the qualified individual seeking the medication.

(3) The request shall be witnessed by at least two other adult persons who, in the presence of the qualified individual, shall attest that to the best of their knowledge and belief the qualified individual is all of the following:

(A) Competent.

(B) Acting voluntarily.

(C) Not being coerced to sign the request.

(c) ~~At most,~~ *Only* one of the two witnesses at the time the written request is signed may:

(1) Be related to the qualified individual by blood, marriage, or adoption or be entitled to a portion of the person's estate upon ~~death, but not both.~~ *death.*

(2) Own, operate, or be employed at a health care facility where the qualified individual is receiving medical treatment or resides.

(d) The attending physician of the qualified individual shall not be one of the witnesses required pursuant to paragraph (3) of subdivision (b).

443.4. (a) A qualified individual may at any time rescind his or her request for aid-in-dying medication without regard to the qualified individual's mental state.

(b) A prescription for aid-in-dying medication provided under this part may not be written without the attending physician offering the qualified individual an opportunity to rescind the request.

443.5. (a) Before prescribing aid-in-dying medication, the attending physician shall do all of the following:

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

(A) Whether the requesting adult is competent.

(B) Whether the requesting adult has a terminal illness.

(C) Whether the requesting adult has voluntarily made the request for aid-in-dying medication pursuant to Sections 443.2 and 443.3.

(D) Whether the requesting adult is a qualified individual pursuant to subdivision (m) of Section 443.1.

(2) Ensure the qualified individual is making an informed decision by discussing with him or her all of the following:

(A) His or her medical diagnosis and prognosis.

(B) The potential risks associated with taking the aid-in-dying medication to be prescribed.

(C) The probable result of taking the aid-in-dying medication to be prescribed.

(D) The possibility that he or she may choose to obtain the medication but not take it.

(E) The feasible alternatives or additional treatment opportunities, including, but not limited to, comfort care, hospice care, palliative care, and pain control.

(3) Refer the qualified individual to a consulting physician for medical confirmation of the diagnosis, prognosis, and for a determination that the qualified individual is competent and has complied with the provisions of this part.

(4) Refer the qualified individual for counseling if appropriate.

(5) Ensure that the qualified individual's request does not arise from coercion or undue influence by another person.

(6) Counsel the qualified individual about the importance of all of the following:

(A) Having another person present when he or she takes the aid-in-dying medication prescribed pursuant to this part.

(B) Not taking the aid-in-dying medication in a public place.

(7) Inform the qualified individual that he or she may rescind the request for aid-in-dying medication at any time and in any manner.

(8) Offer the qualified individual an opportunity to rescind the request for medication before prescribing the aid-in-dying medication.

(9) Verify, immediately prior to writing the prescription for medication, that the qualified individual is making an informed decision.

(10) Ensure that all appropriate steps are carried out in accordance with this part before writing a prescription for aid-in-dying medication.

(11) Fulfill the record documentation that may be required under Section 443.16.

(b) If the conditions set forth in subdivision (a) are satisfied, the attending physician may deliver the aid-in-dying medication in any of the following ways:

(1) Dispense aid-in-dying medications directly, including ancillary medication intended to minimize the qualified individual's discomfort, if the attending physician meets all of the following criteria:

(A) ~~Is registered as a dispensing physician with the Medical Board of California.~~ *Is authorized to dispense medicine under California law.*

(B) Has a current United States Drug Enforcement Administration (USDEA) certificate.

(C) Complies with any applicable administrative rule or regulation.

(2) With the qualified individual's written consent, the attending physician may contact a pharmacist, inform the pharmacist of the prescriptions, and deliver the written prescriptions personally, by mail, or electronically to the pharmacist, who ~~shall~~ *may* dispense the medications to the qualified individual, the attending physician, or a person expressly designated by the qualified individual and with the designation delivered to the pharmacist in writing or verbally.

(c) Delivery of the dispensed medication to the qualified individual, the attending physician, or a person expressly designated by the qualified individual may be made by: personal delivery, United Parcel Service, United States Postal Service, Federal Express, or by messenger service.

443.6. Prior to a qualified individual obtaining aid-in-dying medication from the attending physician, the consulting physician shall perform all of the following:

(a) Examine the qualified individual and his or her relevant medical records.

(b) Confirm in writing the attending physician's diagnosis and prognosis.

(c) Verify, in the opinion of the consulting physician, that the qualified individual is competent, acting voluntarily, and has made an informed decision.

(d) Fulfill the record documentation that may be required under Section 443.16.

443.7. (a) Unless otherwise prohibited by law, the attending physician may sign the qualified individual's death certificate.

(b) The cause of death listed on an individual's death certificate who uses aid-in-dying medication shall be the underlying terminal illness.

443.8. A qualified individual may not receive a prescription for aid-in-dying medication pursuant to this part, unless he or she has made an informed decision. Immediately before writing a prescription for aid-in-dying medication under this part, the attending physician shall verify that the individual is making an informed decision.

443.9. (a) A request for aid-in-dying medication as authorized by this part shall be in substantially the following form:

REQUEST FOR MEDICATION TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER I, ..., am an adult of sound mind and a resident of the ~~state~~ *State* of California.

I am suffering from ....., which my attending physician has determined is in its terminal phase and which has been medically confirmed.

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

I request that my attending physician prescribe medication 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 any 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 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 I take the aid-in-dying medication to be prescribed. ~~I further understand that although most deaths occur within three hours, my death may take longer, and my~~ *My* attending physician has counseled me about ~~this possibility.~~ *the possibility that my death may not be immediately upon the consumption of the medication.*

I make this request ~~voluntarily and without reservation.~~ *voluntarily, without reservation, and without being coerced.*

Signed:.....

Dated:.....

DECLARATION OF WITNESSES

We declare that the person signing this request:

(a) is personally known to us or has provided proof of identity;

(b) signed this request in our presence;

(c) is an individual whom we believe to be of sound mind and not under duress, fraud, or undue influence; and

(d) is not an individual for whom either of us is the attending physician.

.....Witness 1/Date

.....Witness 2/Date

NOTE: Only one of the two witnesses may be a relative (by blood, marriage, or adoption) of the person signing this request or be entitled to a portion of the person's estate upon death. Only one of the two witnesses may own, operate or be employed at a health care facility where the person is a patient or resident.

(b) (1) The written language of the request shall be written in the same translated language as any conversations, consultations, or interpreted conversations or consultations between a patient and his or her attending or consulting physicians.

(2) Notwithstanding paragraph (1), the written request may be prepared in English even where the conversations or consultations or interpreted conversations or consultations where conducted in a language other than English if the English language form includes an attached interpreter's declaration that is signed under penalty of perjury. The interpreter's declaration shall state words to the effect that:

I (INSERT NAME OF INTERPRETER), am fluent in English and (INSERT TARGET LANGUAGE).

On (insert date) at approximately ~~(Insert~~ *(insert* time), I read the "Request for Medication to End My Life" to (insert name of individual/patient) in (insert target language).

Mr./Ms. ~~(Insert~~ *(insert* name of patient/qualified individual) affirmed to me that he/she understood the content of this form and affirmed his/her desire to sign this form under his/her own power and volition and that the request to sign the form followed consultations with an attending and consulting physician.

I declare that I am fluent in English and (insert target language) and further declare under penalty of perjury that the foregoing is true and correct.

Executed at (insert city, county, and state) on this (insert day of month) of (insert month), (insert year).

X_____Interpreter signature

X_____Interpreter printed name

X_____Interpreter address

(3) An interpreter provided by paragraph (2) shall not be related to the qualified individual by blood, marriage, or adoption or be entitled to a portion of the person's estate upon death. An interpreter provided by paragraph (2) shall be qualified as described in subparagraph (H) of paragraph (2) of subdivision (c) of Section 1300.67.04 of Title 28 of the California Code of Regulations.

443.10. (a) A provision in a contract, will, or other agreement, whether written or oral, to the extent the provision would affect whether a person may make or rescind a request for aid-in-dying medication, is not valid.

(b) An obligation owing under any ~~currently existing~~ contract *in effect on January 1, 2016,* may not be conditioned or affected by a qualified individual making or rescinding a request for aid-in-dying medication.

443.11. (a) The sale, procurement, or issuance of a life, health, accident insurance or annuity policy, health care service plan contract, or health benefit plan, or the rate charged for a policy or plan contract may not be conditioned upon or affected by a person making or rescinding a request for aid-in-dying medication.

(b) Notwithstanding any other law, a qualified individual's act of self-administering aid-in-dying medication may not have an effect upon a life, health, or accident insurance or annuity policy other than that of a natural death from the underlying illness.

443.12. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with this part, including an individual who is present when a qualified individual self-administers the prescribed aid-in-dying medication.

(b) A health care provider or professional organization or association may not subject an individual to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for participating or refusing to participate in good faith compliance with this part.

(c) A request by an individual to an attending physician or to a pharmacist to dispense aid-in-dying medication or provide aid-in-dying medication in good faith compliance with the provisions of this part does not constitute neglect or elder abuse for any purpose of law or provide the sole basis for the appointment of a guardian or conservator.

(d) (1) Participation in activities authorized pursuant to this part shall be voluntary. A person or entity that elects, for reasons of conscience, morality, or ethics, not to engage in activities authorized pursuant to this part is not required to take any action in support of a patient's decision under this part, except as otherwise required by law.

(2) If a health care provider is unable or unwilling to carry out an individual's request under this part and the individual transfers care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the individual's relevant medical records to the new health care provider.

(e) Nothing in this part shall prevent a health care provider from providing an individual with health care services that do not constitute participation in this part.

443.13. A health care provider may not be sanctioned for any of the following:

(a) Making an initial determination *pursuant to the standard of care* that an individual has a terminal illness and informing him or her of the medical prognosis.

(b) Providing information about the End of Life Option Act to a patient upon the request of the individual.

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

(d) Contracting with an individual to act outside the course and scope of the provider's capacity as an employee or independent contractor of a health care provider that prohibits activities under this part.

(e) Notwithstanding any contrary provision in this section, the immunities and prohibitions on sanctions of a health care provider are solely reserved for actions taken pursuant to this part and those health care providers may be sanctioned for conduct and actions not included and provided for in this part if the conduct and actions do not comply with the standards and practices set forth by the Medical Board of California.

443.14. (a) Knowingly altering or forging a request for medication to end an individual's life without his or her authorization or concealing or destroying a rescission of a request for medication is punishable as a felony if the act is done with the intent or effect of causing the individual's death.

(b) Knowingly coercing or exerting undue influence on an individual to request medication for the purpose of ending his or her life or to destroy a rescission of a request is punishable as a felony.

(c) For purposes of this section, "knowingly" has the meaning provided in Section 7 of the Penal Code.

(d) Nothing in this section limits further liability for civil damages resulting from other negligent conduct or intentional misconduct by any person.

(e) The penalties in this section do not preclude criminal penalties applicable under any law for conduct inconsistent with the provisions of this part.

443.15. Nothing in this part may be construed to authorize a physician or any other person to end an individual's life by lethal injection, mercy killing, or active euthanasia. Actions taken in accordance with this part shall not, for any purposes, constitute suicide, assisted suicide, mercy killing, homicide, or elder abuse under the law.

443.16. (a) The State Public Health Officer, in consultation with the State Department of Social Services, shall adopt regulations establishing reporting requirements for physicians and pharmacists pursuant to this part.

(b) The reporting requirements shall be designed to collect information to determine utilization and compliance with this part. The information collected shall be confidential and shall be collected in a manner that protects the privacy of the patient, the patient's family, and any medical provider or pharmacist involved with the patient under the provisions of this part.

(c) Based on the information collected, the department shall provide an annual compliance and utilization statistical report aggregated by age, gender, race, ethnicity, and primary language spoken at home and other data the department may determine relevant. The department shall make the report public within 30 days of completion of each annual report.

443.17. A person who has custody or control of any unused aid-in-dying medication prescribed pursuant to this part after the death of the patient shall personally deliver the unused aid-in-dying medication for disposal by delivering it to the nearest qualified facility that properly disposes of controlled substances, or if none is available, shall dispose of it by lawful means.

443.18. Any governmental entity that incurs costs resulting from a qualified individual terminating his or her life pursuant to the provisions of this part in a public place shall have a claim against the estate of the qualified individual to recover those costs and reasonable attorney fees related to enforcing the claim.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Section 443.16 to the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(a) Any limitation to public access to personally identifiable patient data collected pursuant to Section 443.16 of the Health and Safety Code as proposed to be added by this act is necessary to protect the privacy rights of the patient and his or her family.

(b) The interests in protecting the privacy rights of the patient and his or her family in this situation strongly outweigh the public interest in having access to personally identifiable data relating to services.

(c) The statistical report to be made available to the public pursuant to subdivision (c) of Section 443.16 of the Health and Safety Code is sufficient to satisfy the public's right to access.

SEC. 3. The provisions of this part are severable. If any provision of this part or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.