As Introduced

132nd General Assembly
Regular Session
2017-2018

S. B. No. 249

Senator Tavares
Cosponsors: Senators Yuko, Schiavoni

A BILL

To amend sections 3795.03 and 3795.04 and to enact sections 3792.01, 3792.02, 3792.03, 3792.04, 3792.05, 3792.06, 3792.07, 3792.08, 3792.09, 3792.10, 3792.11, 3792.12, 3792.13, 3792.14, 3792.15, 3792.16, 3792.17, 3792.18, 3792.19, 3792.20, 3792.21, 3792.22, 3792.23, 3792.24, 3792.25, 3792.26, 3792.27, 3792.28, 3792.29, and 4729.97 of the Revised Code to authorize an individual with a terminal condition and the capacity to make medical decisions to request a prescription for an aid-in-dying medication.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3795.03 and 3795.04 be amended and sections 3792.01, 3792.02, 3792.03, 3792.04, 3792.05, 3792.06, 3792.07, 3792.08, 3792.09, 3792.10, 3792.11, 3792.12, 3792.13, 3792.14, 3792.15, 3792.16, 3792.17, 3792.18, 3792.19, 3792.20, 3792.21, 3792.22, 3792.23, 3792.24, 3792.25, 3792.26, 3792.27, 3792.28, 3792.29, and 4729.97 of the Revised Code be enacted to read as follows:
Sec. 3792.01. As used in this chapter:

(A) "Adult" means an individual who is eighteen years of age or older.

(B) "Aid-in-dying medication" means a drug prescribed by a physician for a qualified individual that the qualified individual may choose to self-administer to bring about the individual's death due to a terminal condition.

(C) "Attending physician" means the physician to whom a qualifying individual, or the family of a qualifying individual, has assigned primary responsibility for the treatment or care of the individual, or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(D) "Attending physician follow-up form" means the form specified in section 3792.29 of the Revised Code.

(E) "Attending physician checklist and compliance form" means the form specified in section 3792.27 of the Revised Code.

(F) "Capacity to make medical decisions" means that, in the opinion of an individual's attending physician, consulting physician, psychiatrist, or psychologist, the individual has the ability to understand the nature and consequences of a health care decision, the ability to understand its significant benefits, risks, and alternatives, and the ability to make and communicate an informed decision to health care providers.

(G) "Consulting physician" means a physician who is independent from the attending physician and who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding an individual's terminal condition.

(H) "Consulting physician compliance form" means the form
specified in section 3792.28 of the Revised Code.

(I) "Informed decision" means a decision by an individual with a terminal condition to request and obtain a prescription for a 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 ingest it.

(5) The feasible alternatives or additional treatment opportunities, including comfort care, hospice care, palliative care, and pain control.

(J) "Life-sustaining treatment" has the same meaning as in section 2133.01 of the Revised Code.

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

(L) "Mental health specialist assessment" means one or more consultations between an individual and a psychiatrist or licensed psychologist for the purpose of determining that the
individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.

(M) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(N) "Qualified individual" means an adult who has the capacity to make medical decisions, is a resident of this state, and has satisfied the requirements of this chapter to obtain a prescription for a medication to end the adult's life. An individual shall not be considered a "qualified individual" solely because of age or disability.

(O) "Self-administer" means a qualified individual's affirmative, conscious, and physical act of administering and ingesting an aid-in-dying medication to bring about the individual's death.

(P) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a qualified individual's attending physician and a consulting physician, both of the following apply:

(1) There can be no recovery.

(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

Sec. 3792.02. (A) An adult with the capacity to make medical decisions and who has a terminal condition may request to receive a prescription for an aid-in-dying medication if all of the following are the case:
(1) The individual's attending physician has diagnosed the individual with a terminal condition.

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

(3) The individual is a resident of this state and able to prove residency by presenting any of the following to the individual's attending physician:

(a) A valid driver's license or identification card issued under Chapter 4507. of the Revised Code;

(b) Evidence that the individual is registered to vote in this state;

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

(d) Evidence that the individual filed a tax return in this state for the most recent tax year.

(4) The individual has documented the individual's request in accordance with section 3792.03 of the Revised Code.

(5) The individual has the physical and mental ability to self-administer the aid-in-dying medication.

(B) A request for a prescription for an aid-in-dying medication shall be made solely and directly by the individual diagnosed with the terminal condition and shall not be made on the individual's behalf through a guardian, an attorney in fact under a durable power of attorney for health care, or any other person authorized to make health care decisions on the individual's behalf.

Sec. 3792.03. (A) An individual seeking to obtain a
prescription for an aid-in-dying medication shall submit two oral requests, a minimum of fifteen days apart, and a written request to the individual's attending physician. The written request shall be submitted at least fifteen days after the initial oral request is submitted. All requests shall be submitted directly to the attending physician.

(B) A valid written request for an aid-in-dying medication shall meet all of the following conditions:

(1) Be in the form specified in section 3792.12 of the Revised Code;

(2) Subject to division (C) of this section, be signed and dated in the presence of two unrelated adults by the individual seeking the aid-in-dying medication;

(3) Be witnessed by at least two additional adults (who are not the adults described in division (B)(2) of this section, the attending physician, the consulting physician, or a psychiatrist or licensed psychologist who conducted a mental health special assessment on the individual) who attest that, to the best of their knowledge and belief, the individual requesting the aid-in-dying medication is all of the following:

   (a) An individual who is personally known to them or has provided proof of identity;

   (b) An individual who voluntarily signed this request in their presence;

   (c) An individual whom they believe to be of sound mind and not under duress, fraud, or undue influence.

(C) Only one of the two witnesses described in division (B)(2) of this section may meet either of the following
criteria:

(1) Be related to the qualified individual by blood, marriage, or adoption or be entitled to a portion of the individual's estate upon death;

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

(D) The attending physician, consulting physician, or mental health specialist shall not be related to the qualified individual by blood, marriage, or adoption or be entitled to a portion of the individual's estate upon death.

Sec. 3792.04. An individual may at any time withdraw or rescind a request for an aid-in-dying medication or decide not to ingest an aid-in-dying medication.

Sec. 3792.05. (A) An individual's attending physician is the only person authorized to issue a prescription for an aid-in-dying medication to the individual; that authority shall not be delegated. If such a prescription is requested, the attending physician shall offer the requesting individual an opportunity to withdraw or rescind the request.

(B) The attending physician shall wait at least forty-eight hours after a written request for an aid-in-dying medication has been signed in accordance with division (B) of section 3792.03 of the Revised Code before issuing a prescription for an aid-in-dying medication in response to the request. The attending physician also shall do all of the following before issuing the prescription:

(1) Subject to division (C) of this section, determine whether the requesting individual has the capacity to make medical decisions;
(2) Determine whether the requesting individual has a terminal disease;

(3) Determine whether the requesting individual has voluntarily made the request for an aid-in-dying medication in accordance with sections 3792.02 and 3792.03 of the Revised Code.

(4) Confirm that the individual is making an informed decision by discussing with the individual all of the following:
   (a) The individual's medical diagnosis and prognosis;
   (b) The potential risks associated with ingesting the requested aid-in-dying medication;
   (c) The probable result of ingesting the aid-in-dying medication;
   (d) The possibility that the individual may choose to obtain the aid-in-dying medication but not ingest it.
   (e) The feasible alternatives or additional treatment options, including comfort care, hospice care, palliative care, and pain control.

(5) Refer the individual to a consulting physician for medical confirmation of the diagnosis and prognosis, as well as for a determination that the individual has the capacity to make medical decisions and has complied with this chapter;

(6) Confirm that the individual's request does not arise from coercion or undue influence by another person;

(7) Counsel the individual about the importance of all of the following:
   (a) Having another person present when the individual
ingests the aid-in-dying medication;

(b) Not ingesting the aid-in-dying medication in a public place;

(c) Notifying the individual's next of kin (if reasonably available) of the individual's request for an aid-in-dying medication;

(d) Participating in a hospice care program;

(e) Maintaining the aid-in-dying medication in a safe and secure location until the time the qualified individual ingests it.

(8) Inform the qualified individual that the individual may withdraw or rescind the request for an aid-in-dying medication at any time and in any manner;

(9) Offer the qualified individual an opportunity to withdraw or rescind the request for an aid-in-dying medication before prescribing that medication;

(10) Verify, immediately before issuing the prescription for an aid-in-dying medication, that the qualified individual is making an informed decision;

(11) Confirm that all requirements are met and all appropriate steps are carried out in accordance with this chapter before issuing a prescription for an aid-in-dying medication;

(12) Fulfill the record documentation required by section 3792.09 and 3792.24 of the Revised Code;

(13) Complete the attending physician checklist and compliance form, as specified in section 3792.27 of the Revised Code;
Code, insert it and the consulting physician compliance form in the qualified individual's medical record, and submit both forms to the department of health.

(C) If the attending physician determines that the requesting individual may have a mental disorder, the physician shall refer the individual for a mental health specialist assessment.

Sec. 3792.06. If the conditions specified in division (B) of section 3792.05 of the Revised Code are satisfied, a qualified individual may receive one or more aid-in-dying medications from a pharmacist who dispenses such medications pursuant to written prescriptions from the attending physician. The physician may include a separate prescription for a medication intended to minimize the individual's discomfort.

Sec. 3792.07. A consulting physician shall do all of the following before a qualified individual receives a prescription for an aid-in-dying medication from the attending physician:

(A) Examine the individual and the individual's relevant medical records;

(B) Confirm in writing the attending physician's diagnosis and prognosis;

(C) Determine that the individual has the capacity to make medical decisions, is acting voluntarily, and has made an informed decision;

(D) Refer the individual for a mental health specialist assessment if there is an indication that the individual has a mental disorder;

(E) Fulfill the record documentation requirements in this.
chapter;

(F) Submit the consulting physician compliance form to the attending physician.

Sec. 3792.08. If an attending physician or consulting physician refers a qualified individual to a psychiatrist or licensed psychologist for a mental health specialist assessment, the psychiatrist or licensed psychologist shall do all of the following:

(A) Examine the qualified individual and the individual's relevant medical records;

(B) Determine that the qualified individual has the mental capacity to make medical decisions, is able to act voluntarily, and is able to make an informed decision;

(C) Determine that the individual is not suffering from impaired judgment due to a mental disorder;

(D) Fulfill the record documentation requirements in this chapter.

Sec. 3792.09. All of the following shall be documented in an individual's medical record:

(A) All oral and written requests for aid-in-dying medications;

(B) The attending physician's diagnosis and prognosis, as well as the determination that a qualified individual has the capacity to make medical decisions, is acting voluntarily, and has made an informed decision, or that the attending physician has determined that the individual is not a qualified individual;
(C) The consulting physician's diagnosis and prognosis, as well as verification that the qualified individual has the capacity to make medical decisions, is acting voluntarily, and has made an informed decision, or that the consulting physician has determined that the individual is not a qualified individual;

(D) A report of the outcome and determinations made during a mental health specialist's assessment, if performed;

(E) The attending physician's offer to the qualified individual to withdraw or rescind the individual's request at the time of the individual's second oral request;

(F) A note by the attending physician indicating that all requirements under division (B) of section 3792.05 and section 3792.06 of the Revised Code have been met and the steps taken to carry out the request, including a notation of the aid-in-dying medication prescribed.

Sec. 3792.10. (A) Not later than thirty days after issuing a prescription for an aid-in-dying medication, the attending physician shall submit to the department of health a copy of the qualifying patient's written request, the attending physician checklist and compliance form, and consulting physician compliance form.

(B) Not later than thirty days after a qualified individual's death from ingesting an aid-in-dying medication or from any other cause, the attending physician shall submit the attending physician follow-up form to the department of health.

Sec. 3792.11. A qualified individual shall not receive a prescription for an aid-in-dying medication under this chapter unless the individual has made an informed decision. Immediately
before issuing a prescription for an aid-in-dying medication,
the attending physician shall verify that the individual is
making an informed decision.

Sec. 3792.12. (A) A request for an aid-in-dying medication
shall be in the following form:

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

I, .................................., am an adult of sound mind and a
resident of the State of Ohio. 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 options, including
comfort care, hospice care, palliative care, and pain control.

I request that my attending physician prescribe an aid-in-dying
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 have 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 withdraw or 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. My attending physician has counseled me about the possibility that my death may not be immediate on my consumption of the medication.

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

Signed:.............................

Dated:..............................

DECLARATION OF WITNESSES

We declare that the person signing this request:

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

--Voluntarily signed this request in our presence;

--Is an individual whom we believe to be of sound mind and not under duress, fraud, or undue influence; and

--Is not an individual for whom either of us is the attending physician, consulting physician, or psychiatrist or licensed psychologist who conducted a mental health specialist assessment.
on the person.

.................................. (Signature of Witness 1 and date)

.................................. (Signature of Witness 2 and date)

NOTE: Only one of the two witnesses may be a relative (by blood, marriage, or adoption) of a person signing this request or be entitled to a portion of the person's estate on 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 in the same language as any conversations, consultations, or interpreted conversations or consultations between a patient and the patient's attending and consulting physicians.

(2) Notwithstanding division (B)(1) of this section, the written request may be prepared in English even when the conversations or consultations or interpreted conversations or consultations were 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 be in the following form:

I, .................................. (name of interpreter), am fluent in English and .......................... (insert target language).

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

Mr./Ms. ...........................(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 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 ................ (target language) and further declare under penalty of perjury 
that the foregoing is true and correct.

Executed at ..................................... (insert city, 
county, and state) on ......................... (date)

X.............................. Interpreter signature

X.............................. Interpreter printed name

X.............................. Interpreter address

(3) An interpreter whose services are provided pursuant to 
this division shall not be related to the qualified individual 
by blood, marriage, or adoption or be entitled to a portion of 
the person's estate on death. An interpreter whose services are 
provided pursuant to division (B) of this section shall meet the 
standards promulgated by the national council on interpreting in 
health care or standards approved by the department of health.

Sec. 3792.13. (A) A provision in a contract, will, or 
other agreement that is executed on or after thirty days 
following the effective date of this section, to the extent the
provision would affect whether a person may make, withdraw, or rescind a request for an aid-in-dying medication, is invalid.

(B) An obligation owing under any contract executed on or after thirty days following the effective date of this section shall not be conditioned upon or affected by a qualified individual making, withdrawing, or rescinding a request for an aid-in-dying medication.

Sec. 3792.14. (A) Neither of the following shall be conditioned upon or affected by an individual making or rescinding a request for an aid-in-dying medication in accordance with this chapter:

(1) The sale, procurement, or issuance of a life insurance, health insurance, or annuity policy, contract, or plan that is delivered, issued for delivery, or renewed in this state:

(2) The rate charged for such a policy, contract, or plan.

(B) Pursuant to section 3792.23 of the Revised Code, no life insurance, health insurance, or annuity policy, contract, or plan that is delivered, issued for delivery, or renewed in this state shall exclude coverage for an insured individual solely on the basis that the individual's self-administration of an aid-in-dying medication in accordance with this chapter is suicide.

(C) Notwithstanding any provision in the Revised Code to the contrary, a qualified individual's act of self-administering an aid-in-dying medication shall not have an effect upon an insurance policy other than that of a natural death from the underlying disease.

(D) As used in this division, "health plan issuer" has the
same meaning as in section 3922.01 of the Revised Code.

(1) A health plan issuer shall not provide any information in communications made by the plan issuer to an insured individual about the availability of coverage for an aid-in-dying medication absent a request for such information by either of the following:

(a) The insured individual;

(b) The insured individual's attending physician, at the request of the individual.

(2) No single communication made by a health plan issuer to an insured individual shall include both of the following:

(a) A denial of coverage for treatment for the individual's terminal condition;

(b) Information about the availability of coverage for an aid-in-dying medication.

Sec. 3792.15. (A) No person shall be subject to any of the following, as applicable, because the person was present when the qualified individual self-administers an aid-in-dying medication, assists a qualified individual by preparing an aid-in-dying medication, participates in good faith compliance with this chapter, refuses to participate in activities authorized by this chapter, refuses to inform an individual regarding the individual's rights under this chapter, or refuses to refer an individual to a physician who participates in activities authorized by this chapter:

(1) Criminal prosecution;

(2) Liability for damages in a tort or other civil action for injury, death, or loss to person or property;
(3) Professional disciplinary action by a state regulatory board;

(4) Employment, credentialing, or medical staff action, sanction, or penalty;

(5) Discipline by a professional association.

(B) This section shall not be construed to limit the application of, or provide immunity from, section 3792.20 or 3792.22 of the Revised Code.

Sec. 3792.16. A request by a qualified individual to an attending physician to provide an aid-in-dying medication in good faith compliance with this chapter shall not be the sole basis for the appointment of a guardian or conservator.

Sec. 3792.17. No action taken in compliance with this chapter shall constitute or provide the basis for any claim of neglect or elder abuse.

Sec. 3792.18. A person shall not be required to take any action in support of an individual's decision to ingest an aid-in-dying medication.

Sec. 3792.19. (A)(1) As used in this section, "participating, or entering into an agreement to participate, in activities under this chapter" means doing, or entering into an agreement to do, any one or more of the following:

(a) Performing the duties of an attending physician as specified in section 3792.05 of the Revised Code;

(b) Performing the duties of a consulting physician as specified in section 3792.07 of the Revised Code;

(c) Performing the duties of a psychiatrist or licensed
psychologist as specified in section 3792.08 of the Revised Code;

(d) Delivering the prescription for, dispensing, or delivering a dispensed aid-in-dying medication;

(e) Being present when the qualified individual takes an aid-in-dying medication.

(2) "Participating, or entering into an agreement to participate, in activities under this chapter" does not include doing, or entering into an agreement to do, any of the following:

(a) Diagnosing whether a patient has a terminal condition, informing the patient of the medical prognosis, or determining whether a patient has the capacity to make medical decisions;

(b) Providing information to a patient about this chapter;

(c) Providing a patient, on the patient's request, with a referral to another health care provider for the purpose of participating in activities authorized by this chapter.

(B) A health care provider may prohibit its employees, independent contractors, or other persons or entities, including other health care providers, from participating in activities under this chapter while on premises owned or under the management or direct control of the prohibiting provider or while acting within the course or scope of any employment by, or contract with, the prohibiting provider.

(C) A health care provider that elects to prohibit a person from participating in activities under this chapter, as described in division (B) of this section, shall first give notice of the prohibition to the person.
that fails to provide notice as required by this division shall not enforce its policy against the person.

(D) A health care provider that determines that a person violated a prohibition implemented under this section may take action against that person, including imposing any of the following sanctions:

(1) Revocation of privileges or membership or other action authorized by the bylaws or rules and regulations of the medical staff;

(2) Suspension, loss of employment, or other action authorized by the policies and practices of the prohibiting provider;

(3) Termination of any lease or other contract between the prohibiting provider and the person that violated the policy;

(4) Imposition of any other non-monetary remedy provided for in any lease or contract between the prohibiting provider and the person in violation of the policy.

(E) This section shall not be construed to prevent, or to allow a health care provider to prohibit, any other health care provider, employee, independent contractor, or other person from either of the following:

(1) Participating, or entering into an agreement to participate, in activities under this chapter as an attending physician or consulting physician while on premises that are not owned or under the management or direct control of the prohibiting provider;

(2) Participating, or entering into an agreement to participate, in activities under this chapter while on premises
that are not owned or under the management or direct control of the prohibiting provider or while acting outside the course and scope of the participant's duties as an employee of, or an independent contractor for, the prohibiting provider.

Sec. 3792.20. A physician shall not be subject to disciplinary action by the state medical board under section 4731.22 of the Revised Code solely for any of the following:

(A) Making an initial determination pursuant to the standard of care that an individual has a terminal disease and informing the individual of the medical prognosis;

(B) Providing information about this chapter to an individual on the individual's request;

(C) Providing an individual, on request, with a referral to another physician.

Sec. 3792.21. A health care provider that prohibits activities under this chapter in accordance with section 3792.19 of the Revised Code shall not sanction a physician for contracting with a qualified individual to engage in activities authorized by this chapter if the physician is acting outside of the course and scope of the physician's capacity as an employee or independent contractor of the prohibiting provider.

Sec. 3792.22. (A) No person shall knowingly do either of the following with the purpose or effect of causing an individual's death:

(1) Alter or forge a request for an aid-in-dying medication to end an individual's life without the individual's authorization;

(2) Conceal or destroy a withdrawal or rescission of a
request for an aid-in-dying medication.

(B) No person shall knowingly do any of the following:

(1) Coerce or exert undue influence on an individual to request or ingest an aid-in-dying medication for the purpose of ending the individual's life;

(2) Coerce or exert undue influence on an individual to destroy a withdrawal or rescission of an individual's request for an aid-in-dying medication;

(3) Administer an aid-in-dying medication to an individual without the individual's knowledge or consent.

(C) Whoever violates division (A) or (B) of this section is guilty of a felony of the third degree.

(D) A person acts "knowingly" under this section if the person acts with the culpable mental state specified in division (B) of section 2901.22 of the Revised Code.

Sec. 3792.23. Nothing in this chapter shall 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 chapter do not, for any purpose, constitute suicide, assisted suicide, euthanasia, homicide, or elder abuse.

Sec. 3792.24. (A) The department of health shall collect and review the information submitted under section 3792.10 of the Revised Code. The information 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 this chapter. The information is confidential and not a public record under section 149.43 of the Revised Code. The
information is not subject to discovery or admissible as evidence in any judicial proceeding.

(B) Not later than December 31 of each year beginning in 2018, the department shall prepare a report summarizing information collected from the attending physician follow-up forms submitted to it during the prior twelve months. The report shall be posted on the department’s web site. The report shall include all of the following for the immediately preceding twelve months:

1. The number of people for whom a prescription for an aid-in-dying medication was issued;
2. The number of individuals who died for whom a prescription for an aid-in-dying medication was issued, as well as the cause of death of those individuals;
3. The total number of prescriptions for aid-in-dying medications issued, the number of individuals who died as a result of ingesting an aid-in-dying medication, and the number of individuals who died and were enrolled in a hospice care program at the time of death;
4. The number of known deaths in this state from the use of aid-in-dying medications per ten thousand deaths in this state;
5. The number of physicians who issued prescriptions for aid-in-dying medications;
6. Of people who died from using an aid-in-dying medication, demographic percentages organized by the following characteristics:
   a. Age at death;
(b) Education level;

(c) Race;

(d) Sex;

(e) Type of insurance, including whether or not they had insurance;

(f) Underlying illness.

Sec. 3792.25. A person who has custody or control of an unused aid-in-dying medication after the death of a qualified individual shall personally deliver the unused medication to a location identified by the state board of pharmacy in rules adopted under section 4729.97 of the Revised Code.

Sec. 3792.26. A government entity that incurs costs resulting from a qualified individual who terminates the individual's life, pursuant to this chapter, 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. 3792.27. An attending physician checklist and compliance form shall be substantially in the following form:

ATTENDING PHYSICIAN CHECKLIST & COMPLIANCE FORM

(A) PATIENT INFORMATION

PATIENT'S NAME (LAST, FIRST, M.I.)

DATE OF BIRTH

PATIENT RESIDENTIAL ADDRESS (STREET, CITY, ZIP CODE)
(B) ATTENDING PHYSICIAN INFORMATION

PHYSICIAN'S NAME (LAST, FIRST, M.I.)

(...)

TELEPHONE NUMBER

MAILING ADDRESS (STREET, CITY, ZIP CODE)

PHYSICIAN'S CERTIFICATE NUMBER

(C) CONSULTING PHYSICIAN INFORMATION

PHYSICIAN'S NAME (LAST, FIRST, M.I.)

(...)

TELEPHONE NUMBER

MAILING ADDRESS (STREET, CITY, ZIP CODE)

PHYSICIAN'S CERTIFICATE NUMBER

(D) ELEGIBILITY DETERMINATION

(1) TERMINAL DISEASE

(2) CHECK BOXES FOR COMPLIANCE:

[ ] 1. Determination that the patient has a terminal condition.

[ ] 2. Determination that patient is a resident of Ohio.
3. Determination that patient has the capacity to make medical decisions.

4. Determination that patient is acting voluntarily.

5. Determination of capacity by psychiatrist or licensed psychologist, if necessary.

6. Determination that patient has made his/her decision after being fully informed of:
   a. His or her medical diagnosis; and
   b. His or her prognosis; and
   c. The potential risks associated with ingesting the requested aid-in-dying medication;
   d. The probable result of ingesting the aid-in-dying medication;
   e. The possibility that he or she may choose to obtain the aid-in-dying medication but not take it.

(E) ADDITIONAL COMPLIANCE REQUIREMENTS

1. Counseled patient about the importance of all of the following:
   a. Maintaining the aid-in-dying medication in a safe and secure location until the time the qualified individual will ingest it;
   b. Having another person present when he or she ingests the aid-in-dying medication;
   c. Not ingesting the aid-in-dying medication in a public place;
   d. Notifying the next of kin of his or her request for...
an aid-in-dying medication. (An individual who declines or is unable to notify next of kin shall not have his or her request denied for that reason); and

[ ] e. Participating in a hospice program or palliative care program.

[ ] 2. Informed patient of right to rescind request (1st time).

[ ] 3. Discussed the feasible alternatives, including comfort care, hospice care, palliative care, and pain control.

[ ] 4. Met with patient one-on-one, except in the presence of an interpreter, to confirm the request is not coming from coercion.

[ ] 5. First oral request for aid-in-dying medication: ../../....

Attending physician initials: ..... 754


Attending physician initials: ..... 757

[ ] 7. Written request submitted: ../../....

Attending physician initials: ..... 759

[ ] 8. Offered patient right to rescind (2nd time).

(F) PATIENT’S MENTAL STATUS

Check one of the following (required):

[ ] I have determined that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.
[ ] I have referred the patient to the psychiatrist or licensed psychologist listed below for one or more consultations to determine that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.

[ ] If a referral was made to a psychiatrist or licensed psychologist, that person has determined that the patient is not suffering from impaired judgment due to a mental disorder.

Psychiatrist or licensed psychologist's information, if applicable:

..................................
NAME
..................................
TITLE & LICENSE NUMBER
..................................
ADDRESS (STREET, CITY, ZIP CODE)

(G) MEDICATION PRESCRIBED
..................................
PHARMACIST NAME
..................................
TELEPHONE NUMBER

1. Aid-in-dying medication prescribed:
   [ ] a. Name: ...........................
   [ ] b. Dosage: .........................

2. Antiemetic medication prescribed:
   [ ] a. Name: ...........................
[ ] b. Dosage: ........................

3. Method prescription was delivered:
   [ ] a. In person
   [ ] b. By mail
   [ ] c. Electronically

4. Date medication was prescribed: ../../....

..................................
PHYSICIAN'S SIGNATURE

..................................
DATE

..................................
NAME (PLEASE PRINT)

Sec. 3792.28. A consulting physician compliance form shall
be substantially in the following form:

CONSULTING PHYSICIAN COMPLIANCE FORM

(A) PATIENT INFORMATION

..................................
PATIENT'S NAME (LAST, FIRST, M.I.)

..................................
DATE OF BIRTH

(B) ATTENDING PHYSICIAN

..................................
PHYSICIAN'S NAME (LAST, FIRST, M.I.)

(...)

TELEPHONE NUMBER
(C) CONSULTING PHYSICIAN'S REPORT

.................................

(1) TERMINAL CONDITION

.................................

DATE OF EXAMINATION(S)

(2) Check boxes for compliance. (Both the attending and consulting physicians must make these determinations.)

[ ] 1. Determination that the patient has a terminal condition.

[ ] 2. Determination that patient has the mental capacity to make medical decisions.

[ ] 3. Determination that patient is acting voluntarily.

[ ] 4. Determination that patient has made his/her decision after being fully informed of:

[ ] a. His or her medical diagnosis; and

[ ] b. His or her prognosis; and

[ ] c. The potential risks associated with taking the medication to be prescribed; and

[ ] d. The potential result of taking the medication to be prescribed; and

[ ] e. The feasible alternatives, including, but not limited to, comfort care, hospice care, palliative care, and pain control.

(D) PATIENT'S MENTAL STATUS

Check one of the following (required):
[ ] I have determined that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.

[ ] I have referred the patient to the psychiatrist or licensed psychologist listed below for one or more consultations to determine that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.

[ ] If a referral was made to a psychiatrist or licensed psychologist, that person has determined that the patient is not suffering from impaired judgment due to a mental disorder.

Psychiatrist or licensed psychologist's information, if applicable:

..................................
NAME
(…)…-
TELEPHONE NUMBER

..................................
DATE

(E) CONSULTANT'S INFORMATION

..................................
PHYSICIAN'S SIGNATURE

..................................
DATE

..................................
NAME (PLEASE PRINT)
NOTE: "Capacity to make medical decisions" means that, in the opinion of an individual's attending physician, consulting physician, psychiatrist, or licensed psychologist, the individual has the ability to understand the nature and consequences of a health care decision, the ability to understand its significant benefits, risks, and alternatives, and the ability to make and communicate an informed decision to health care providers.

Sec. 3792.29. An attending physician follow-up form shall be substantially in the following form:

ATTENDING PHYSICIAN FOLLOW-UP FORM

The End of Life Option Act requires physicians who write a prescription for an aid-in-dying medication to complete this follow-up form within 30 calendar days of a patient's death, whether from ingestion of the aid-in-dying medication obtained under the Act or from any other cause.

For the Ohio Department of Health to accept this form, it must be signed by the attending physician, whether or not he or she was present at the patient's time of death.

This form should be mailed or sent electronically to the Ohio Department of Health. All information is kept strictly confidential.

Date: ..../../. ....
Patient name: ..............................................

Attending physician name: ................................

Did the patient die from ingesting the aid-in-dying medication, from their underlying illness, or from another cause such as terminal sedation or ceasing to eat or drink?

[ ] Aid-in-dying medication (lethal dose) Please sign below and go to next page.

Attending physician signature: ......................

[ ] Underlying illness There is no need to complete the rest of the form. Please sign below.

Attending physician signature: ......................

[ ] Other There is no need to complete the rest of the form. Please specify the circumstances surrounding the patient's death and sign.

Please specify:

............................................................

............................................................

Attending physician signature: ......................

PART A and PART B should only be completed if the patient died from ingesting the lethal dose of the aid-in-dying medication.

Please read carefully the following to determine which situation applies. Check the box that indicates the scenario and complete the remainder of the form accordingly.

[ ] The attending physician was present at the time of death.
The attending physician must complete this form in its entirety and sign Part A and Part B.

[ ] The attending physician was not present at the time of death, but another licensed health care provider was present.

The licensed health care provider must complete and sign Part A of this form. The attending physician must complete and sign Part B of the form.

[ ] Neither the attending physician nor another licensed health care provider was present at the time of death.

Part A may be left blank. The attending physician must complete and sign Part B of the form.

PART A: To be completed and signed by the attending physician or another licensed health care provider present at death:

1. Was the attending physician at the patient's bedside when the patient took the aid-in-dying medication?

[ ] Yes

[ ] No

If no: Was another physician or trained health care provider present when the patient ingested the aid-in-dying medication?

[ ] Yes, another physician

[ ] Yes, a trained health-care provider/volunteer

[ ] No

[ ] Unknown

2. Was the attending physician at the patient's bedside at the time of death?
[ ] Yes

[ ] No

If no: Was another physician or a licensed health care provider present at the patient's time of death?

[ ] Yes, another physician or licensed health care provider

[ ] No

[ ] Unknown

3. On what day did the patient consume the lethal dose of the aid-in-dying medication?

../... (month/day/year) [ ] Unknown

4. On what day did the patient die after consuming the lethal dose of the aid-in-dying medication?

../... (month/day/year) [ ] Unknown

5. Where did the patient ingest the lethal dose of the aid-in-dying medication?

[ ] Private home

[ ] Assisted-living residence

[ ] Nursing home

[ ] Hospital in-patient unit

[ ] In-patient hospice facility

[ ] Other (specify) ..........................................

[ ] Unknown

6. What was the time between the ingestion of the lethal dose of
aid-in-dying medication and unconsciousness?

Minutes ..... and/or Hours ..... [ ] Unknown

7. What was the time between lethal medication ingestion and death?

Minutes ..... and/or Hours ..... [ ] Unknown

8. Were there any complications that occurred after the patient took the lethal dose of the aid-in-dying medication?

[ ] Yes - vomiting, emesis

[ ] Yes - regained consciousness

[ ] No Complications

[ ] Other - Please describe: .........................

[ ] Unknown

9. Was the Emergency Medical System activated for any reason after ingesting the lethal dose of the aid-in-dying medication?

[ ] Yes - Please describe:__

[ ] No

[ ] Unknown

10. At the time of ingesting the lethal dose of the aid-in-dying medication, was the patient receiving hospice care?

[ ] Yes

[ ] No, refused care

[ ] No, other (specify) .........................

..........................................

Signature of attending physician present at time of death
PART A: To be completed and signed by the attending licensed health care provider if not attending physician

Name of Licensed Health Care Provider present at time of death

Signature of Licensed Health Care Provider

PART B: To be completed and signed by the attending physician

11. On what date was the prescription written for the aid-in-dying medication? ../..../....

12. When the patient initially requested a prescription for the aid-in-dying medication, was the patient receiving hospice care?
   [ ] Yes
   [ ] No, refused care
   [ ] No, other (specify) .........................

13. What type of health care coverage did the patient have for their underlying illness? (Check all that apply.)
   [ ] Medicare
   [ ] Medicaid
   [ ] V.A.
   [ ] Private Insurance
   [ ] No insurance
   [ ] Had insurance, don't know type

14. Possible concerns that may have contributed to the patient's decision to request a prescription for aid-in-dying medication. Please check "yes," "no," or "Don't know," depending on whether or not you believe that concern contributed to their request.
(Please check as many boxes as you think may apply).

A concern about...

His or her terminal condition representing a steady loss of autonomy

[ ] Yes
[ ] No
[ ] Don't know

The decreasing ability to participate in activities that made life enjoyable

[ ] Yes
[ ] No
[ ] Don't know

The loss of control of bodily functions

[ ] Yes
[ ] No
[ ] Don't know

Persistent and uncontrollable pain and suffering

[ ] Yes
[ ] No
[ ] Don't know

A loss of Dignity

[ ] Yes
[ ] No
Sec. 3795.03. Nothing in section 3795.01, 3795.02, or 3795.04 of the Revised Code shall do any of the following:

(A) Prohibit or preclude a physician, certified nurse practitioner, certified nurse-midwife, or clinical nurse specialist who carries out the responsibility to provide comfort care to a patient in good faith and while acting within the scope of the physician's or nurse's authority from prescribing, dispensing, administering, or causing to be administered any particular medical procedure, treatment, intervention, or other measure to the patient, including, but not limited to, prescribing, personally furnishing, administering, or causing to be administered by judicious titration or in another manner any form of medication, for the purpose of diminishing the patient's pain or discomfort and not for the purpose of postponing or causing the patient's death, even though the medical procedure, treatment, intervention, or other measure may appear to hasten or increase the risk of the patient's death;

(B) Prohibit or preclude health care personnel acting under the direction of a person authorized to prescribe a patient's treatment and who carry out the responsibility to provide comfort care to the patient in good faith and while acting within the scope of their authority from dispensing, administering, or causing to be administered any particular medical procedure, treatment, intervention, or other measure to the patient, including, but not limited to, personally furnishing, administering, or causing to be administered by
judicious titration or in another manner any form of medication, for the purpose of diminishing the patient's pain or discomfort and not for the purpose of postponing or causing the patient's death, even though the medical procedure, treatment, intervention, or other measure may appear to hasten or increase the risk of the patient's death;

(C) Prohibit or affect the use or continuation, or the withholding or withdrawal, of life-sustaining treatment, CPR, or comfort care under Chapter 2133. of the Revised Code;

(D) Prohibit or affect the provision or withholding of health care, life-sustaining treatment, or comfort care to a principal under a durable power of attorney for health care or any other health care decision made by an attorney in fact under sections 1337.11 to 1337.17 of the Revised Code;

(E) Affect or limit the authority of a physician, a health care facility, a person employed by or under contract with a health care facility, or emergency service personnel to provide or withhold health care to a person in accordance with reasonable medical standards applicable in an emergency situation;

(F) Affect or limit the authority of a person to refuse to give informed consent to health care, including through the execution of a durable power of attorney for health care under sections 1337.11 to 1337.17 of the Revised Code, the execution of a declaration under sections 2133.01 to 2133.15 of the Revised Code, or authorizing the withholding or withdrawal of CPR under sections 2133.21 to 2133.26 of the Revised Code.

(G) Affect or limit the authority of a person to perform any action in good faith compliance with Chapter 3792. of the
Revised Code.

Sec. 3795.04. (A) Except as provided in section 3795.03 of the Revised Code, no person shall knowingly cause another person to commit or attempt to commit suicide by doing either of the following:

(1) Providing the physical means by which the other person commits or attempts to commit suicide;

(2) Participating in a physical act by which the other person commits or attempts to commit suicide.

(B) Whoever violates division (A) of this section is guilty of assisting suicide, a felony of the third degree.

(C) Any action taken in good faith compliance with Chapter 3792. of the Revised Code is not a violation of division (A) of this section.

Sec. 4729.97. For purposes of section 3792.25 of the Revised Code, the state board of pharmacy shall adopt rules to identify the locations to which a person who has custody or control of an unused aid-in-dying medication may personally deliver the medication. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Section 2. That existing sections 3795.03 and 3795.04 of the Revised Code are hereby repealed.

Section 3. This act shall be known as the "End of Life Option Act."