

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 879
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10442-MG-15B

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

Sponsors: Representatives Harrison, Hardister, McGrady, and Fisher (Primary Sponsors).

Referred to:

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

5 The General Assembly of North Carolina enacts:

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

8 "Article 23B.

9 "End of Life Option Act.

10 "**§ 90-326. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Adult. – An individual who is 18 years of age or older.
- 13 (2) Attending physician. – A North Carolina licensed physician who meets the
14 following requirements: (i) has established a bona fide physician-patient
15 relationship with an individual with a terminal disease, (ii) has the requisite
16 experience to confirm the individual's terminal disease diagnosis and to fulfill
17 the responsibilities of an attending physician under this Article, and (iii) has
18 primary responsibility for supervising the individual's terminal disease under
19 the provisions of this Article. The attending physician need not be the
20 individual's primary care physician.
- 21 (3) Attending Physician Checklist and Compliance Form. – The form published
22 by the Department pursuant to G.S. 90-326.17 identifying each and every
23 requirement that must be fulfilled by an attending physician in order to be in
24 good-faith compliance with this Article if the attending physician chooses to
25 participate in the activities authorized under this Article.
- 26 (4) Attending witness. – An individual nominated by the qualified individual to
27 be present if and when the qualified individual self-administers the terminal
28 comfort care drug and who undertakes to (i) complete the Attending Witness
29 Completion Form confirming self-administration of the terminal comfort care
30 drug and the death of the qualified individual and (ii) return the Attending
31 Witness Completion Form to the attending physician within 48 hours after the
32 death of the qualified individual. The attending witness may, but need not, be
33 (i) related to the qualified individual by blood, adoption, or marriage, or (ii) a
34 health care provider. At the discretion of the qualified individual, the attending
35 witness may be the attending physician.



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- 1 (5) Bona fide physician-patient relationship. – A treating relationship in the
2 course of which a physician has completed an assessment of a patient's
3 medical history and current medical condition, including a personal physical
4 examination.
- 5 (6) Capacity to make medical decisions. – In the opinion of an individual's
6 attending physician, psychiatrist, or psychologist, the individual has the ability
7 to understand the nature and consequences of a health care decision; the ability
8 to understand its significant benefits, risks, and alternatives; and the ability to
9 make and communicate an informed decision to health care providers,
10 including communication through persons familiar with the qualified
11 individual's manner or language of communication, if those persons are
12 required.
- 13 (7) Department. – The North Carolina Department of Health and Human
14 Services.
- 15 (8) Health care provider or provider of health care. – An individual who is
16 licensed, certified, or otherwise authorized under Chapter 90 of the General
17 Statutes to provide health care services in the ordinary course of business or
18 practice of a profession or a health care facility licensed under Chapter 131E
19 of the General Statutes, where health care services are provided to patients.
20 The term includes all of the following:
- 21 a. An agent or employee of a health care facility that is licensed, certified,
22 or otherwise authorized to provide health care services.
- 23 b. The officers and directors of a health care facility.
- 24 c. An agent or employee of a health care provider who is licensed,
25 certified, or otherwise authorized to provide health care services.
- 26 (9) Hospice. – As defined in G.S. 131E-176(13a).
- 27 (10) Hospice evaluation. – A written assessment by a qualified hospice physician
28 or a qualified hospice nurse practitioner of an individual's eligibility for
29 hospice, regardless of whether the individual meets the criteria for admission
30 into hospice. The term includes a certification of terminal illness that meets
31 the requirements of 42 C.F.R. § 418.22.
- 32 (11) Informed decision. – A decision by an individual with a terminal disease to
33 request and obtain a prescription for a terminal comfort care drug that the
34 individual may self-administer to hasten the individual's death, that is based
35 on an understanding and acknowledgement of the relevant facts, and that is
36 made after being fully informed by the attending physician of all of the
37 following:
- 38 a. The individual's medical diagnosis and prognosis.
- 39 b. The risks associated with taking the terminal comfort care drug.
- 40 c. The probable result of taking the terminal comfort care drug.
- 41 d. The right of the individual to change his or her mind at any time by
42 discontinuing proceedings under this Article and by choosing not to
43 obtain the terminal comfort care drug or, after obtaining the terminal
44 comfort care drug, by deciding not to proceed with self-administration.
- 45 e. The feasible alternatives or additional end-of-life options.
- 46 (12) Mental health specialist assessment. – One or more consultations between an
47 individual and a mental health specialist for the purpose of determining that
48 the individual has the capability to make medical decisions and is not suffering
49 from impaired judgment.
- 50 (13) Mental health specialist. – A psychiatrist or a psychologist licensed to practice
51 in North Carolina.

- 1 (14) Physician. – An individual licensed to practice medicine by the North Carolina
2 Medical Board under Article 1 of Chapter 90 of the General Statutes.
- 3 (15) Public place. – Any street, alley, park, public building, place of business, or
4 assembly open to or frequented by the public, and any other place that is open
5 to the public view or to which the public has access.
- 6 (16) Qualified individual. – An adult who meets all of the following qualifications:
7 a. Is a resident of North Carolina.
8 b. Has the capacity to make medical decisions and to self-administer
9 drugs.
10 c. Has undergone a hospice evaluation.
11 d. Has satisfied the requirements of this Article in order to obtain a
12 prescription for a terminal comfort care drug.
- 13 (17) Self-administer. – A qualified individual's affirmative, voluntary, conscious,
14 and physical act of administering and self-administering the terminal comfort
15 care drug to hasten death.
- 16 (18) Terminal comfort care drug. – A controlled substance determined and
17 prescribed by a physician licensed in this State for a qualified individual with
18 the purpose of hastening the qualified individual's death due to a terminal
19 disease.
- 20 (19) Terminal disease. – An incurable and irreversible disease that, having
21 previously been determined, has been medically confirmed by the attending
22 physician and will, within reasonable medical judgment, result in death within
23 six months.

24 **"§ 90-326.1. Right to information.**

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

33 **"§ 90-326.2. Initiation of request for terminal comfort care drug.**

34 (a) An individual who is an adult with the capacity to make medical decisions suffering
35 from an incurable, terminal disease may make a request to receive a prescription for a terminal
36 comfort care drug, provided that all of the following conditions are satisfied:

- 37 (1) The individual has undergone a hospice evaluation.
38 (2) The individual's attending physician has diagnosed the individual to be
39 suffering from an incurable, terminal disease.
40 (3) The individual has voluntarily expressed verbally and in writing the wish to
41 receive a prescription for a terminal comfort care drug.
42 (4) The individual is a resident of North Carolina.
43 (5) The individual documents his or her request pursuant to the requirements of
44 G.S. 90-326.3 and on the form specified in G.S. 90-326.3A.
45 (6) The individual has the physical and mental ability to self-administer the
46 terminal comfort care drug.

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

49 (c) A request for a prescription for a terminal comfort care drug under this Article shall
50 be made solely and directly by the individual diagnosed with the terminal disease and shall not
51 be made on behalf of the patient, including through an advance health care directive or a power

of attorney, conservator, health care agent, surrogate, or any other legally recognized health care decision maker.

"§ 90-326.3. Form of request for terminal comfort care drug.

(a) An individual seeking to obtain a prescription for a terminal comfort care drug pursuant to this Article shall make a verbal request, followed by a written request no later than 10 days after the verbal request, that meets the requirements of subsection (b) of this section directly to his or her attending physician and not to a designee of the physician. The attending physician shall directly, and not through a designee, receive all requests required by this section. The attending physician shall keep records of the verbal and written requests in the individual's medical file. The record of any verbal request must include the date and time of the request as well as a summary of the request.

(b) In order to be valid, a written request for a terminal comfort care drug must meet all of the following criteria:

(1) The request shall be in the form specified in G.S. 90-326.3A.

(2) The request shall be signed and dated by the individual seeking the terminal comfort care drug in the presence of two adult witnesses, who, in the presence of the individual, shall attest that to the best of their knowledge and belief the individual is all of the following:

a. An individual who is personally known to them or has provided proof of identity.

b. An individual who voluntarily signed this request in their presence.

c. An individual whom they believe to be mentally capable and not acting under duress, fraud, or undue influence.

d. An individual for whom not more than one of them is the attending physician or mental health specialist.

"§ 90-326.3A. Request for Terminal Comfort Care Drug Form.

A request for a terminal comfort care drug, as authorized by this Article, shall be in the following form:

"REQUEST FOR A TERMINAL COMFORT CARE DRUG TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

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

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

I have undergone a hospice evaluation and released the records of that evaluation to my attending physician.

I have been fully informed of my diagnosis and prognosis, the nature of the terminal comfort care drug to be prescribed and potential associated risks, the expected result, and the feasible alternatives or additional treatment options.

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

INITIAL ONE:

..... I have informed one or more members of my family of my decision and 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.

INITIAL ONE:

..... I nominate to be my attending witness should I decide to self-administer the prescribed terminal comfort care drug and authorize to transmit the final confirmation of my death by self-administration to my attending physician; or

..... I have chosen not to nominate an attending witness, and have been informed of the risks of not having a witness to attend my self-administration of the terminal comfort care drug.

I understand that I have the right to change my mind at any time and to withdraw or rescind this request and not to self-administer the terminal comfort care drug once prescribed.

I undertake to keep the terminal comfort care drug in a safe and secure place until such time, if ever, when I decide to self-administer it.

I undertake not to take the terminal comfort care drug in a public place, or on the premises of any hospice, hospital, or other licensed medical or assisted living facility.

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

I understand that I may have friends, family, clergy persons, colleagues, or medical practitioners, including my attending physician or primary care physician, with me if and when I decide to self-administer the terminal comfort care drug.

I understand the full import of this request and I expect to die if I take the terminal comfort care drug to be prescribed. My attending physician has counseled me about the possibility that my death may not occur immediately upon the self-administration of the drug.

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

Signed:

Dated:

DECLARATION OF WITNESSES

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

- (1) Is personally known to us or has provided proof of identity.
- (2) Voluntarily signed this request in our presence.
- (3) Is an individual whom we believe to be mentally capable and not under duress, fraud, or undue influence.
- (4) Is an individual for whom not more than one of us is the attending physician or mental health specialist.

..... Witness 1/Date

..... Witness 2/Date"

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

The Attending Witness Completion Form given by the attending physician to the qualified individual at the time the attending physician writes the prescription for a terminal comfort care drug shall appear in the following form:

"ATTENDING WITNESS COMPLETION FORM AFTER SELF-ADMINISTRATION OF A TERMINAL COMFORT CARE DRUG

I,, was nominated by (name of qualified individual) to be his/her attending witness at the time of self-administration of the prescribed terminal comfort care drug.

On (date and time), I witnessed the self-administration of said terminal comfort care drug by (name of qualified individual).

I confirm that (name of qualified individual) self-administered the terminal comfort care drug willingly and without coercion or undue pressure and was aware of his or her right not to self-administer the drug at any time.

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

There were no complications arising during the self-administration.

(If there were complications, please describe here:

.....)

1 I confirm that did self-administer the entire prescription of the terminal
2 comfort care drug, and if the entirety was not self-administered, I undertake to ensure that the
3 remaining prescription is disposed of in a safe and lawful manner.

4 Signed:

5 Dated:

6 Time:"

7 Within 48 hours after the qualified individual has self-administered the terminal comfort care
8 drug, the attending witness shall complete this Attending Witness Completion Form and timely
9 transmit it to the attending physician.

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

14 **"§ 90-326.4. Discontinuation, withdrawal, or rescission of request.**

15 A qualified individual may at any time discontinue, withdraw, or rescind his or her request
16 for a terminal comfort care drug or decide not to self-administer an terminal comfort care drug
17 once obtained.

18 **"§ 90-326.5. Attending physician responsibilities.**

19 (a) No person other than the attending physician may write a prescription for a terminal
20 comfort care drug. A designee of the attending physician is not authorized to prescribe a terminal
21 comfort care drug.

22 (b) Before prescribing a terminal comfort care drug, the attending physician shall do all
23 of the following:

24 (1) Make an initial determination that the adult requesting the terminal comfort
25 care drug meets all of the following qualifications:

26 a. Has the capacity to make medical decisions.

27 1. If there are indications of a mental disorder or disease, the
28 physician shall refer the individual for a mental health
29 specialist assessment.

30 2. If a mental health specialist assessment referral is made, no
31 terminal comfort care drugs shall be prescribed unless the
32 mental health specialist determines that the individual has the
33 capacity to make medical decisions and is not suffering from
34 impaired judgment due to a mental disorder or disease.

35 b. Has a terminal disease.

36 c. Has undergone a hospice evaluation which the attending physician has
37 reviewed along with any records associated with that evaluation.

38 d. Has voluntarily made the request for a terminal comfort care drug
39 pursuant to G.S. 90-326.3 and on the form specified in
40 G.S. 90-326.3A.

41 e. Is a qualified individual as defined in G.S. 90-326.

42 (2) Confirm that the individual is making an informed decision by discussing with
43 him or her all of the following:

44 a. The individual's medical diagnosis and prognosis.

45 b. The risks associated with self-administering the requested terminal
46 comfort care drug.

47 c. The probable result of self-administering the terminal comfort care
48 drug.

49 d. The right of the individual to discontinue the application for the
50 terminal comfort care drug at any time and the right not to
51 self-administer the terminal comfort care drug.

- 1 e. The feasible alternatives or additional end-of-life options.
2 (3) Confirm that the qualified individual's request does not arise from coercion or
3 undue influence by another person by discussing with the qualified individual,
4 outside of the presence of any other persons, except when a qualified translator
5 is necessary, whether or not the qualified individual is being coerced or unduly
6 influenced by another person.
7 (4) Advise the qualified individual of the importance of the following:
8 a. Having another person present when the qualified individual
9 self-administers the terminal comfort care drug by nominating an
10 attending witness to be present if and when the qualified individual
11 decides to self-administer the terminal comfort care drug, who will be
12 responsible for (i) completing the Attending Witness Completion
13 Form specified in G.S. 90-326.3B within 48 hours after the qualified
14 individual has self-administered the terminal comfort care drug and
15 (ii) timely transmitting the Attending Witness Completion Form
16 specified in G.S. 90-326.3B to the attending physician.
17 b. Not self-administering the terminal comfort care drug in a public place
18 or on the premises of any hospice, hospital, or other licensed medical
19 or assisted living facility.
20 c. Notifying next-of-kin of the qualified individual's request for a
21 terminal comfort care drug and of the qualified individual's decision
22 to self-administer the terminal comfort care drug.
23 d. Maintaining the terminal comfort care drug in a safe and secure
24 location until the qualified individual decides to self-administer it.
25 e. Properly disposing of the terminal comfort care drug if the qualified
26 person decides to forego self-administration.
27 (5) Offer the qualified individual an opportunity to withdraw or rescind the
28 request for a terminal comfort care drug before prescribing the terminal
29 comfort care drug.
30 (6) Inform the qualified individual of the right to withdraw or rescind the request
31 for a terminal comfort care drug at any time and in any manner and that the
32 qualified individual is in no way obligated to self-administer the terminal
33 comfort care drug once prescribed if the qualified individual changes his or
34 her mind.
35 (7) Verify, immediately prior to writing the prescription for a terminal comfort
36 care drug, that the qualified individual is making an informed decision and is
37 in no way acting under undue pressure or coercion.
38 (8) Confirm that all requirements have been met and all appropriate steps have
39 been carried out in accordance with this Article before writing a prescription
40 for a terminal comfort care drug.
41 (9) Fulfill the documentation requirements of G.S. 90-326.7.
42 (10) Complete the Attending Physician Checklist and Compliance Form published
43 by the Department pursuant to G.S. 90-326.17 and include it in the
44 individual's medical record.
45 (11) Provide to the qualified individual a copy of the Attending Witness
46 Completion Form specified in G.S. 90-326.3B in a self-addressed, stamped
47 envelope with the instruction that the form should be completed, executed,
48 and returned to the attending physician by the attending witness.
49 (c) If the conditions set forth in subsection (a) of this section are satisfied, the attending
50 physician may deliver the terminal comfort care drug in any of the following ways:

1 (1) Dispense the terminal comfort care drug directly to the qualified individual,
2 including ancillary medication intended to minimize the qualified individual's
3 discomfort, provided that the attending physician meets all of the following
4 requirements:

5 a. Is authorized under North Carolina law to dispense controlled
6 substances.

7 b. Has a valid United States Drug Enforcement Administration
8 registration number and certificate.

9 c. Is in compliance with all applicable State and federal rules.

10 (2) With the qualified individual's written consent, contact a pharmacist to inform
11 the pharmacist of the prescription and deliver the written prescription to the
12 pharmacist personally, by mail, or by electronic transmission. The pharmacist
13 may then dispense the terminal comfort care drug to the qualified individual,
14 the attending physician, or a person expressly designated verbally and in
15 writing by the qualified individual to receive the terminal comfort care drug.
16 The pharmacist shall complete the Pharmacist Compliance Form published by
17 the Department pursuant to G.S. 90-326.17.

18 (d) Delivery of the dispensed drug to the qualified individual, the attending physician, or
19 a person expressly designated in writing by the qualified individual may be made by personal
20 delivery or with a signature required upon delivery, by the United States Postal Service or other
21 public or private business engaged in the delivery of mail, packages, or parcels.

22 **"§ 90-326.6. Mental health specialist responsibilities.**

23 Upon referral from the attending physician or mental health specialist shall do all of the
24 following:

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

26 (2) Determine whether the individual has the mental capacity to make medical
27 decisions, act voluntarily, and make an informed decision.

28 (3) Determine whether the individual is suffering from impaired judgment due to
29 a mental disorder or disease.

30 (4) Fulfill the documentation requirements of this Article.

31 (5) Submit in a timely manner to the attending physician the Mental Health
32 Specialist Compliance Form published by the Department pursuant to
33 G.S. 90-326.17.

34 **"§ 90-326.7. Documentation requirements.**

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

36 (1) A summary of all verbal requests by the qualified individual for terminal
37 comfort care drugs, including the date, time, and location of each request and
38 any tape or digital recording or written summary of the verbal requests.

39 (2) All written requests for terminal comfort care drugs.

40 (3) The attending physician's diagnosis and prognosis and the determination that
41 the individual is a qualified individual who has the capacity to make medical
42 decisions, is acting voluntarily, and has made an informed decision, or
43 alternatively that the attending physician has determined that the individual is
44 not a qualified individual, and why in the attending physician's judgment the
45 individual is not a qualified individual.

46 (4) Confirmation that the individual has undergone a hospice evaluation.

47 (5) A report of the outcome and determinations made during a mental health
48 specialist's assessment, if performed.

49 (6) The attending physician's offer to the qualified individual to withdraw or
50 rescind his or her request at the time of the individual's second oral request.

1 (7) The Attending Witness Completion Form specified in G.S. 90-326.3B, if
2 returned to the attending physician completed.

3 (8) A note by the attending physician indicating that all requirements under
4 G.S. 90-326.5 have been met and indicating the steps taken to carry out the
5 request, including the name and dosage of the specific --terminal comfort care
6 drug prescribed.

7 **"§ 90-326.8. Required submissions to the Department upon prescribing terminal comfort**
8 **care drug.**

9 (a) Within 48 hours after writing a prescription for a terminal comfort care drug, the
10 attending physician shall submit to the Department a copy of the prescription.

11 (b) Within 48 hours after dispensing a terminal comfort care drug, the pharmacist shall
12 submit to the Department a copy of the Pharmacist Compliance Form published by the
13 Department pursuant to G.S. 90-326.17.

14 (c) Within 30 calendar days after writing a prescription for a terminal comfort care drug,
15 the attending physician shall submit to the Department a copy of the qualifying patient's written
16 request and the Attending Physician Checklist and Compliance Form published by the
17 Department pursuant to G.S. 90-326.17.

18 (d) Within 30 calendar days after the later of (i) the qualified individual's death from
19 self-administering the terminal comfort care drug or from any other cause or (ii) the date on
20 which the attending physician receives actual notice of the qualified individual's death from the
21 Attending Witness Completion Form published by the Department pursuant to G.S. 90-326.17
22 or otherwise, the attending physician shall submit to the Department an Attending Physician
23 Follow-Up Form published by the Department pursuant to G.S. 90-326.17.

24 **"§ 90-326.9. Death certificate.**

25 The attending physician may sign the qualified individual's death certificate. In any event,
26 the cause of death on a qualified individual's death certificate shall be recorded as the underlying
27 terminal disease and not the act of self-administering the terminal comfort care drug.

28 **"§ 90-326.10. Effect on insurance.**

29 (a) The sale, procurement, or issuance of any life, health, or annuity policy, health care
30 service plan contract, or health benefit plan or the rate charged for any policy, plan contract, or
31 benefit plan shall not be conditioned upon or affected by the making or rescinding of a person's
32 request for a terminal comfort care drug.

33 (b) Consistent with G.S. 90-326.11, death resulting from the self-administration of a
34 terminal comfort care drug shall not be deemed suicide, but rather a hastened death from the
35 underlying terminal disease, and therefore coverage under a life, health, or annuity policy shall
36 not be denied, curtailed, or exempted on that basis.

37 (c) A qualified individual's act of self-administering a terminal comfort care drug shall
38 not have any effect upon a life, health, or annuity policy other than that of a natural death from
39 the underlying disease.

40 (d) An insurance carrier shall not provide any information in communications to a
41 qualified individual about the availability of terminal comfort care drugs absent a request by the
42 qualified individual or the qualified individual's attending physician at the behest of the qualified
43 individual.

44 **"§ 90-326.11. No civil or criminal liability, penalty, or professional disciplinary action for**
45 **good-faith participation in the activities authorized by this Article.**

46 (a) A person shall not be subject to civil or criminal liability or professional disciplinary
47 action for participating in good-faith compliance with the activities authorized under this Article
48 or for being present when a qualified individual self-administers a terminal comfort care drug.

49 (b) An individual with a terminal disease who self-administers a lethal dose of medication
50 shall not be considered a person exposed to grave physical harm under any Good Samaritan law,
51 and no person shall be subject to civil or criminal liability solely for being present when an

1 individual with a terminal disease self-administers a lethal dose of medication or for failing to
2 act to prevent the patient from self-administering a lethal dose of medication.

3 (c) A person who is present when an individual with a terminal disease self-administers
4 a terminal comfort care drug may, without civil or criminal liability, assist the qualified individual
5 at his or her request by preparing the terminal comfort care drug; provided, however, that the
6 person does not directly assist the qualified person in self-administering the terminal comfort
7 care drug.

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

13 (e) No health care provider or pharmacist shall be subject to civil, criminal,
14 administrative, disciplinary, employment, credentialing, professional discipline, contractual
15 liability, or medical staff action, sanction, penalty, or other liability for participating in the
16 activities authorized under this Article, including determining the diagnosis or prognosis of an
17 individual, determining the capacity of an individual for the purpose of determining if he or she
18 is a qualified individual under this Article, providing information about this Article to an
19 individual, and providing a referral to a physician licensed in this State who participates in the
20 activities authorized under this Article.

21 **"§ 90-326.12. Request for terminal comfort care drug not a basis for guardianship or claim**
22 **of neglect or elder abuse.**

23 (a) A request by a qualified individual to an attending physician to provide a terminal
24 comfort care drug in good-faith compliance with the provisions of this Article shall not provide
25 the basis for the appointment of a guardian or conservator.

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

28 **"§ 90-326.13. Voluntary nature of authorized activities under this Article.**

29 (a) Participation in activities authorized under this Article is strictly voluntary. A person
30 or entity that elects, for reasons of conscience, morality, or ethics, not to engage in activities
31 authorized under this Article is not required to take any action in support of another individual's
32 decisions or actions under this Article. Except as provided in subsection (d) of this section, a
33 person or entity that elects not to engage in such activities shall not impede or interfere with a
34 qualified individual's decision to self-administer a terminal comfort care drug.

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

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

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

48 A health care provider that elects to prohibit its employees, independent contractors, or other
49 persons or entities, including health care providers, from participating in activities authorized
50 under this Article shall first give notice of the policy prohibiting participation under this Article
51 to the individuals or entities prohibited from participating in such activities. A health care

1 provider that fails to provide such prior notice of its policy shall not be entitled to enforce the
2 policy against any individual or entity.

3 **"§ 90-326.14. Impermissible sanctions.**

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

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

8 (2) Providing information about the End of Life Option Act to an individual upon
9 inquiry.

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

11 (b) An entity that prohibits activities authorized under this Article in accordance with
12 G.S. 90-326.14 shall not sanction an individual health care provider for contracting with a
13 qualified individual to engage in activities authorized under this Article if the individual health
14 care provider is acting outside the course and scope of his or her employment or contract with
15 the entity prohibiting such activities.

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

18 **"§ 90-326.15. Felonious activities.**

19 (a) Knowingly altering or forging a request for a terminal comfort care drug to hasten an
20 individual's death without that individual's authorization, concealing or destroying a withdrawal
21 or rescission of a request for a terminal comfort care drug, destroying or concealing an
22 individual's written request for a terminal comfort care drug, or concealing or destroying an
23 individual's prescribed terminal comfort care drug is punishable as a felony if the act is done with
24 the intent or effect of causing, interfering with, or preventing the individual's death against his or
25 her wishes.

26 (b) Knowingly coercing or exerting undue influence on an individual to request or
27 self-administer a terminal comfort care drug for the purpose of ending his or her life or knowingly
28 destroying a withdrawal or rescission of a request or administering a terminal comfort care drug
29 to an individual without his or her knowledge or consent is punishable as a felony.

30 (c) Knowingly coercing or exerting undue influence to interfere with an individual's
31 expressed desire to hasten his or her death by self-administration of a prescribed terminal comfort
32 care drug is punishable as a felony.

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

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

37 **"§ 90-326.16. Department to collect information; information to remain confidential and**
38 **is not a public record.**

39 (a) The Department shall collect and review the information submitted pursuant to
40 G.S. 90-326.8. The information collected and maintained by the Department pursuant to
41 G.S. 90-326.8 and this section is confidential and not a public record under G.S. 132-1. The
42 Department shall collect and maintain this information in a manner that protects the privacy of
43 the qualified individual, the qualified individual's family, and any participating health care
44 provider or pharmacist.

45 (b) Annually, on or before April 15, the Department shall create and make available to
46 the general public on the Department's Internet Web site a report based on the information
47 collected by the Department pursuant to G.S. 90-326.8 and this section during the preceding
48 calendar year. The report shall include at least all of the following based on the information
49 provided to the Department pursuant to G.S. 90-326.8 and this section and the Department's
50 access to vital statistics:

- 1 (1) The number of individuals who initiated procedures to obtain a terminal
2 comfort care drug under this Article.
- 3 (2) The number of individuals for whom a terminal comfort care drug was
4 prescribed.
- 5 (3) The number of known individuals who died each year for whom a terminal
6 comfort care drug was prescribed and the cause of death for each of these
7 individuals.
- 8 (4) For the preceding calendar year, the cumulative totals of all the following:
 - 9 a. The number of prescriptions written for terminal comfort care drugs.
 - 10 b. The number of people who died as a result of self-administering a
11 terminal comfort care drug.
- 12 (5) The number of known deaths in North Carolina hastened by terminal comfort
13 care drugs per 10,000 deaths in North Carolina and by natural causes per
14 10,000 deaths.
- 15 (6) The number of physicians licensed in this State who wrote prescriptions for
16 terminal comfort care drugs.
- 17 (7) The number of pharmacists participating in activities authorized under this
18 Article.
- 19 (8) The names and dosages of prescribed terminal comfort care drugs.
- 20 (9) Of the individuals who died as a result of self-administering a terminal
21 comfort care drug, demographic percentages organized by the following
22 characteristics:
 - 23 a. Age at death.
 - 24 b. Education level.
 - 25 c. Race.
 - 26 d. Sex.
 - 27 e. Type of insurance, including whether or not the individual had
28 insurance coverage.
 - 29 f. Underlying terminal disease.
 - 30 g. The number of days elapsed between the date the prescription was
31 filled and the date the prescription was self-administered and resulted
32 in death.

33 **"§ 90-326.17. Department to develop, update, and publish forms.**

34 The Department shall develop an Attending Physician Checklist and Compliance Form, an
35 Attending Physician Follow-Up Form, a Mental Health Specialist Compliance Form, a
36 Pharmacist Compliance Form, and any other form the Department deems necessary to implement
37 the provisions of this Article, provided, however, that any form the Department develops
38 pursuant to this section shall be consistent with the requirements of this Article. The Department
39 shall, as necessary, update and publish all forms to be used under this Article on its Internet Web
40 site in a format that can be downloaded by the general public.

41 **"§ 90-326.18. Disposal of terminal comfort care drugs after death of qualified individual.**

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

48 **"§ 90-326.19. Construction of Article.**

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

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

3 **"§ 90-326.20. Severability of provisions.**

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

8 **SECTION 2.(a)** By December 31, 2019, the Department of Health and Human
9 Services shall develop and publish to its Internet Web site, in downloadable format, the forms
10 described in G.S. 90-326.17, as enacted by this act.

11 **SECTION 2.(b)** The first report required by the Department under
12 G.S. 90-326.16(b), as enacted by this act, is due and shall be published on its Internet Web site
13 on or before March 15, 2021.

14 **SECTION 2.(c)** This section is effective when this act becomes law.

15 **SECTION 3.** Except as otherwise provided, this act becomes effective December 1,
16 2019, and applies to offenses committed on or after that date.