

By: Senator(s) Jackson (11th), Dawkins

To: Public Health and
Welfare

SENATE BILL NO. 2283

1 AN ACT TO ENACT THE MISSISSIPPI DEATH WITH DIGNITY ACT WHICH
2 WILL ALLOW TERMINALLY ILL MISSISSIPPIANS TO END THEIR LIVES
3 THROUGH THE VOLUNTARY SELF-ADMINISTRATION OF LETHAL MEDICATIONS,
4 EXPRESSLY PRESCRIBED BY A PHYSICIAN FOR THAT PURPOSE; TO DEFINE
5 TERMS AND CONDITIONS FOR THE ACT; TO ESTABLISH WHO MAY INITIATE A
6 WRITTEN REQUEST FOR SUCH MEDICATIONS AND PROVIDE WRITTEN AND ORAL
7 FORMS FOR SUCH REQUESTS; TO ESTABLISH THE RESPONSIBILITIES OF
8 ATTENDING PHYSICIANS RECEIVING SUCH REQUESTS; TO ESTABLISH THE
9 RESPONSIBILITIES OF PHYSICIANS CONSULTING ON SUCH REQUESTS; TO
10 REQUIRE PATIENTS TO REFERRALS TO COUNSELING BY ATTENDING OR
11 CONSULTING PHYSICIANS; TO ESTABLISH SAFEGUARDS ENSURING THAT
12 PATIENTS MAKE INFORMED DECISIONS ON WHETHER TO ACCEPT LETHAL
13 MEDICATIONS; TO AUTHORIZE PATIENTS WITH THE RIGHT TO RESCIND
14 REQUESTS FOR SUCH MEDICATIONS; TO ESTABLISH WAITING PERIODS BEFORE
15 PATIENTS MAY RECEIVE SUCH MEDICATIONS AFTER MAKING THE APPROPRIATE
16 REQUESTS; TO REQUIRE THAT CERTAIN DOCUMENTATION BE INCLUDED IN THE
17 PATIENT'S MEDICAL RECORDS; TO ESTABLISH RESIDENCY REQUIREMENTS FOR
18 PATIENTS MAKING A REQUEST UNDER THE ACT; TO ESTABLISH THE
19 REPORTING REQUIREMENTS THAT MUST BE FOLLOWED BY THE STATE HEALTH
20 DEPARTMENT IN ADMINISTERING THIS ACT; TO ESTABLISH PERMISSIBLE
21 CRIMINAL PENALTIES AND CIVIL LIABILITIES FOR VIOLATIONS OF THE
22 ACT; TO AMEND SECTION 97-3-49, MISSISSIPPI CODE OF 1972, TO
23 CONFORM; AND FOR RELATED PURPOSES.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

25 **SECTION 1.** Sections 1 through 24 of this act shall be known
26 and cited as the "Mississippi Death With Dignity Act."

27 **SECTION 2.** The following words and phrases, whenever used in
28 this act, have the following meanings:



29 (a) "Adult" means an individual who is eighteen (18)
30 years of age or older.

31 (b) "Attending physician" means the physician who has
32 primary responsibility for the care of the patient and treatment
33 of the patient's terminal disease.

34 (c) "Capable" means that in the opinion of a court or
35 in the opinion of the patient's attending physician or consulting
36 physician, psychiatrist or psychologist, a patient has the ability
37 to make and communicate health care decisions to health care
38 providers, including communication through persons familiar with
39 the patient's manner of communicating if those persons are
40 available.

41 (d) "Consulting physician" means a physician who is
42 qualified by specialty or experience to make a professional
43 diagnosis and prognosis regarding the patient's disease.

44 (e) "Counseling" means one or more consultations as
45 necessary between a state-licensed psychiatrist or psychologist
46 and a patient for the purpose of determining that the patient is
47 capable and not suffering from a psychiatric or psychological
48 disorder or depression causing impaired judgment.

49 (f) "Health care provider" means a person licensed,
50 certified or otherwise authorized or permitted by the law of this
51 state to administer health care or dispense medication in the
52 ordinary course of business or practice of a profession, and
53 includes a health care facility.



(g) "Informed decision" means a decision by a qualified patient, to request and obtain a prescription to end his or her life in a humane and dignified manner, that is based on an appreciation of the relevant facts and after being fully informed by the attending physician of:

- (i) His or her medical diagnosis;
- (ii) His or her prognosis;
- (iii) The potential risks associated with taking the medication to be prescribed;
- (iv) The probable result of taking the medication to be prescribed; and
- (v) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain control.

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

(i) "Patient" means a person who is under the care of a physician.

(j) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine by the Mississippi State Board of Medical Licensure.

(k) "Qualified patient" means a capable adult who is a resident of Mississippi and has satisfied the requirements of this



act in order to obtain a prescription for medication to end his or her life in a humane and dignified manner.

(1) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six (6) months.

SECTION 3. (1) An adult who is capable, is a resident of Mississippi, and has been determined by the attending physician and consulting physician to be suffering from a terminal disease, and who has voluntarily expressed his or her wish to die, may make a written request for medication for the purpose of ending his or her life in a humane and dignified manner in accordance with this act.

(2) No person shall qualify under the provisions of this act solely because of age or disability.

SECTION 4. (1) A valid request for medication under this act shall be in substantially the form described in Section 23 of this act, signed and dated by the patient and witnessed by at least two (2) individuals who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is capable, acting voluntarily, and is not being coerced to sign the request.

(2) One (1) of the witnesses shall be a person who is not:

(a) A relative of the patient by blood, marriage or adoption;



(b) A person who at the time the request is signed would be entitled to any portion of the estate of the qualified patient upon death under any will or by operation of law; or

(c) An owner, operator or employee of a health care facility where the qualified patient is receiving medical treatment or is a resident.

(3) The patient's attending physician at the time the request is signed shall not be a witness.

(4) If the patient is a patient in a long-term care facility at the time the written request is made, one (1) of the witnesses shall be an individual designated by the facility and having the qualifications specified by the State Department of Health by rule.

SECTION 5. (1) The attending physician shall:

(a) Make the initial determination of whether a patient has a terminal disease, is capable, and has made the request voluntarily;

(b) Request that the patient demonstrate Mississippi residency pursuant to Section 14 of this act;

(c) To ensure that the patient is making an informed decision, inform the patient of:

(i) His or her medical diagnosis;

(ii) His or her prognosis;

(iii) The potential risks associated with taking the medication to be prescribed;



(iv) The probable result of taking the medication to be prescribed; and

(v) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain control;

(d) Refer the patient to a consulting physician for medical confirmation of the diagnosis, and for a determination that the patient is capable and acting voluntarily;

(e) Refer the patient for counseling if appropriate pursuant to Section 7 of this act;

(f) Recommend that the patient notify next of kin;

(g) Counsel the patient about the importance of having another person present when the patient takes the medication prescribed pursuant to this act and of not taking the medication in a public place;

(h) Inform the patient that he or she has an opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind at the end of the fifteen-day waiting period pursuant to Section 10 of this act;

(i) Verify, immediately prior to writing the prescription for medication under this act, that the patient is making an informed decision;

(j) Fulfill the medical record documentation requirements of Section 13 of this act;

(k) Ensure that all appropriate steps are carried out in accordance with this act before writing a prescription for



medication to enable a qualified patient to end his or her life in a humane and dignified manner; and

(1) (i) Dispense medications directly, including ancillary medications intended to facilitate the desired effect to minimize the patient's discomfort, provided the attending physician is registered as a dispensing physician with the Mississippi State Board of Medical Licensure and/or Mississippi State Board of Pharmacy, has a current Drug Enforcement Administration certificate and complies with any applicable administrative rule; or

(ii) With the patient's written consent:

1. Contact a pharmacist and inform the pharmacist of the prescription; and

2. Deliver the written prescription personally or by mail to the pharmacist, who will dispense the medications to either the patient, the attending physician or an expressly identified agent of the patient.

(2) Notwithstanding any other provision of law, the attending physician may sign the patient's death certificate.

SECTION 6. Before a patient is qualified under this act, a consulting physician shall examine the patient and his or her relevant medical records and confirm, in writing, the attending physician's diagnosis that the patient is suffering from a terminal disease, and verify that the patient is capable, is acting voluntarily and has made an informed decision.



178 **SECTION 7.** If in the opinion of the attending physician or
179 the consulting physician a patient may be suffering from a
180 psychiatric or psychological disorder or depression causing
181 impaired judgment, either physician shall refer the patient for
182 counseling. No medication to end a patient's life in a humane and
183 dignified manner shall be prescribed until the person performing
184 the counseling determines that the patient is not suffering from a
185 psychiatric or psychological disorder or depression causing
186 impaired judgment.

187 **SECTION 8.** No person shall receive a prescription for
188 medication to end his or her life in a humane and dignified manner
189 unless he or she has made an informed decision as defined in
190 Section 2(g) of this act. Immediately prior to writing a
191 prescription for medication under this act, the attending
192 physician shall verify that the patient is making an informed
193 decision.

194 **SECTION 9.** The attending physician shall recommend that the
195 patient notify the next of kin of his or her request for
196 medication pursuant to this act. A patient who declines or is
197 unable to notify next of kin shall not have his or her request
198 denied for that reason.

199 **SECTION 10.** In order to receive a prescription for
200 medication to end his or her life in a humane and dignified
201 manner, a qualified patient shall have made an oral request and a
202 written request, and reiterate the oral request to his or her



203 attending physician no less than fifteen (15) days after making
204 the initial oral request. At the time the qualified patient makes
205 his or her second oral request, the attending physician shall
206 offer the patient an opportunity to rescind the request.

207 **SECTION 11.** A patient may rescind his or her request at any
208 time and in any manner without regard to his or her mental state.
209 No prescription for medication under this act may be written
210 without the attending physician offering the qualified patient an
211 opportunity to rescind the request.

212 **SECTION 12.** No less than fifteen (15) days shall elapse
213 between the patient's initial oral request and the writing of a
214 prescription under this act. No less than forty-eight (48) hours
215 shall elapse between the patient's written request and the writing
216 of a prescription under this act.

217 **SECTION 13.** The following shall be documented or filed in
218 the patient's medical record:

219 (a) All oral requests by a patient for medication to
220 end his or her life in a humane and dignified manner;

221 (b) All written requests by a patient for medication to
222 end his or her life in a humane and dignified manner;

223 (c) The attending physician's diagnosis and prognosis,
224 determination that the patient is capable, acting voluntarily and
225 has made an informed decision;



(d) The consulting physician's diagnosis and prognosis, and verification that the patient is capable, acting voluntarily and has made an informed decision;

(e) A report of the outcome and determinations made during counseling, if performed;

(f) The attending physician's offer to the patient to rescind his or her request at the time of the patient's second oral request pursuant to Section 10 of this act; and

(g) A note by the attending physician indicating that all requirements under this act have been met and indicating the steps taken to carry out the request, including a notation of the medication prescribed.

SECTION 14. (1) Only requests made by Mississippi residents under this act shall be granted.

(2) Factors demonstrating Mississippi residency include, but are not limited to:

(a) Possession of a Mississippi driver's license;

(b) Registration to vote in Mississippi;

(c) Evidence that the person owns or leases property in Mississippi; or

(d) Filing of a Mississippi tax return for the most recent tax year.

SECTION 15. (1) (a) The State Board of Health shall annually review a sample of records maintained pursuant to this act.



(b) The board shall require any health care provider upon dispensing medication pursuant to this act to file a copy of the dispensing record with the board.

(2) The State Board of Health shall make rules to facilitate the collection of information regarding compliance with this act. Except as otherwise required by law, the information collected shall not be a public record and may not be made available for inspection by the public.

(3) The State Board of Health shall generate and make available to the public an annual statistical report of information collected under subsection (2) of this section.

SECTION 16. (1) No provision in a contract, will or other agreement, whether written or oral, to the extent the provision would affect whether a person may make or rescind a request for medication to end his or her life in a humane and dignified manner, shall be valid.

(2) No obligation owing under any currently existing contract shall be conditioned or affected by the making or rescinding of a request, by a person, for medication to end his or her life in a humane and dignified manner.

SECTION 17. The sale, procurement, or issuance of any life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the making or rescinding of a request, by a person, for medication to end his or her life in a humane and dignified



manner. Neither shall a qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner have an effect upon a life, health, or accident insurance or annuity policy.

SECTION 18. Nothing in this act shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing or active euthanasia. Actions taken in accordance with this act shall not, for any purpose, constitute suicide, assisted suicide, mercy killing or homicide, under the law.

SECTION 19. Except as provided in Section 20 of this act:

(a) No person shall be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with this act. This includes being present when a qualified patient takes the prescribed medication to end his or her life in a humane and dignified manner.

(b) No professional organization or association, or health care provider, may subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership or other penalty for participating or refusing to participate in good faith compliance with this act.

(c) No request by a patient for or provision by an attending physician of medication in good faith compliance with the provisions of this act shall constitute neglect for any



300 purpose of law or provide the sole basis for the appointment of a
301 guardian or conservator.

302 (d) No health care provider shall be under any duty,
303 whether by contract, by statute or by any other legal requirement
304 to participate in the provision to a qualified patient of
305 medication to end his or her life in a humane and dignified
306 manner. If a health care provider is unable or unwilling to carry
307 out a patient's request under this act, and the patient transfers
308 his or her care to a new health care provider, the prior health
309 care provider shall transfer, upon request, a copy of the
310 patient's relevant medical records to the new health care
311 provider.

312 (e) (i) Notwithstanding any other provision of law, a
313 health care provider may prohibit another health care provider
314 from participating in this act on the premises of the prohibiting
315 provider if the prohibiting provider has notified the health care
316 provider of the prohibiting provider's policy regarding
317 participating in this act. Nothing in this paragraph prevents a
318 health care provider from providing health care services to a
319 patient that do not constitute participation in this act as
320 described in subparagraph (iv) of this paragraph (e).

321 (ii) Notwithstanding the provisions of paragraphs
322 (a) through (d) of this section, a health care provider may
323 subject another health care provider to the sanctions stated in
324 this paragraph if the sanctioning health care provider has



325 notified the sanctioned provider prior to participation in this
326 act that it prohibits participation in this act:

327 1. Loss of privileges, loss of membership or
328 other sanction provided pursuant to the medical staff bylaws,
329 policies and procedures of the sanctioning health care provider if
330 the sanctioned provider is a member of the sanctioning provider's
331 medical staff and participates in this act while on the health
332 care facility premises, as defined in Section 41-7-173, of the
333 sanctioning health care provider, but not including the private
334 medical office of a physician or other provider;

335 2. Termination of lease or other property
336 contract or other nonmonetary remedies provided by lease contract,
337 not including loss or restriction of medical staff privileges or
338 exclusion from a provider panel, if the sanctioned provider
339 participates in this act while on the premises of the sanctioning
340 health care provider or on property that is owned by or under the
341 direct control of the sanctioning health care provider; or

342 3. Termination of contract or other
343 nonmonetary remedies provided by contract if the sanctioned
344 provider participates in this act while acting in the course and
345 scope of the sanctioned provider's capacity as an employee or
346 independent contractor of the sanctioning health care provider.
347 Nothing in this item 3 shall be construed to prevent:

348 a. A health care provider from
349 participating in this act while acting outside the course and



scope of the provider's capacity as an employee or independent contractor; or

b. A patient from contracting with his or her attending physician and consulting physician to act outside the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(iii) A health care provider that imposes sanctions pursuant to subparagraph (ii) of this paragraph (e) must follow all due process and other procedures the sanctioning health care provider may have that are related to the imposition of sanctions on another health care provider.

(iv) For purposes of this paragraph (e):

1. "Notify" means a separate statement in writing to the health care provider specifically informing the health care provider prior to the provider's participation in this act of the sanctioning health care provider's policy about participation in activities covered by this act.

2. "Participate in this act" means to perform the duties of an attending physician pursuant to Section 5 of this act, the consulting physician function pursuant to Section 6 of this act or the counseling function pursuant to Section 7 of this act. "Participate in this act" does not include:

a. Making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis;



b. Providing information about the Mississippi Death with Dignity Act to a patient upon the request of the patient;

c. Providing a patient, upon the request of the patient, with a referral to another physician; or

d. A patient contracting with his or her attending physician and consulting physician to act outside of the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(f) Suspension or termination of staff membership or privileges under paragraph (e) of this section is not reportable under Section 73-25-83. Action taken pursuant to Sections 4 through 7 of this act shall not be the sole basis for a report of unprofessional or dishonorable conduct under Section 73-25-29.

(g) No provision of this act shall be construed to allow a lower standard of care for patients in the community where the patient is treated or a similar community.

SECTION 20. (1) It shall be unlawful for any person, without authorization of the patient, to willfully alter or forge a request for medication or conceal or destroy a rescission of that request with the intent or effect of causing the patient's death.

(2) It shall be unlawful for any person to coerce or exert undue influence on a patient to request medication for the purpose



of ending the patient's life, or to destroy a rescission of such a request.

(3) Any person who violates this section is guilty of a felony and upon conviction shall be confined for not less than one (1) year nor more than twenty (20) years and fined not more than Ten Thousand Dollars (\$10,000.00), or both.

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

(5) The penalties in this act do not preclude criminal penalties applicable under other law for conduct which is inconsistent with the provisions of this act.

SECTION 21. Any governmental entity that incurs costs resulting from a person terminating his or her life pursuant to the provisions of this act in a public place shall have a claim against the estate of the person to recover such costs and reasonable attorney fees related to enforcing the claim.

SECTION 22. Any section of this act being held invalid as to any person or circumstance shall not affect the application of any other section of this act which can be given full effect without the invalid section or application.

SECTION 23. A request for a medication as authorized by this act shall be in substantially the following form:

REQUEST FOR MEDICATION
TO END MY LIFE IN A HUMANE



424 AND DIGNIFIED MANNER

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

426 I am suffering from _____, which my attending physician has
427 determined is a terminal disease and which has been medically
428 confirmed by a consulting physician.

429 I have been fully informed of my diagnosis, prognosis, the
430 nature of medication to be prescribed and potential associated
431 risks, the expected result, and the feasible alternatives,
432 including comfort care, hospice care and pain control.

433 I request that my attending physician prescribe medication
434 that will end my life in a humane and dignified manner.

435 INITIAL ONE:

436 _____ I have informed my family of my decision and taken
437 their opinions into consideration.

438 _____ I have decided not to inform my family of my decision.

439 _____ I have no family to inform of my decision.

440 I understand that I have the right to rescind this request at
441 any time.

442 I understand the full import of this request and I expect to
443 die when I take the medication to be prescribed. I further
444 understand that although most deaths occur within three (3) hours,
445 my death may take longer and my physician has counseled me about
446 this possibility.

447 I make this request voluntarily and without reservation, and
448 I accept full moral responsibility for my actions.



449 Signed: _____

450 Dated: _____

451 DECLARATION OF WITNESSES

452 We declare that the person signing this request:

453 (a) Is personally known to us or has provided proof of
454 identity;

455 (b) Signed this request in our presence;

456 (c) Appears to be of sound mind and not under duress,
457 fraud or undue influence;

458 (d) Is not a patient for whom either of us is attending
459 physician.

460 Witness 1 _____ Date _____

461 Witness 2 _____ Date _____

462 NOTE: One (1) witness shall not be a relative (by blood,
463 marriage or adoption) of the person signing this request, shall
464 not be entitled to any portion of the person's estate upon death
465 and shall not own, operate or be employed at a health care
466 facility where the person is a patient or resident. If the
467 patient is an inpatient at a health care facility, one (1) of the
468 witnesses shall be an individual designated by the facility.

469 **SECTION 24.** (1) (a) It shall be unlawful for a person
470 without authorization of the principal to willfully alter, forge,
471 conceal or destroy an instrument, the reinstatement or revocation
472 of an instrument or any other evidence or document reflecting the
473 principal's desires and interests, with the intent and effect of



causing a withholding or withdrawal of life-sustaining procedures or of artificially administered nutrition and hydration which hastens the death of the principal.

(b) Any person who violates this subsection is guilty of a felony and upon conviction shall be confined for not less than one (1) year nor more than twenty (20) years and fined not more than Ten Thousand Dollars (\$10,000.00), or both.

(2) (a) Except as provided in subsection (1) of this section, it shall be unlawful for a person without authorization of the principal to willfully alter, forge, conceal or destroy an instrument, the reinstatement or revocation of an instrument, or any other evidence or document reflecting the principal's desires and interests with the intent or effect of affecting a health care decision.

(b) Any person who violates this subsection is guilty of a misdemeanor and upon conviction shall be confined for no more than one (1) year, fined not more than One Thousand Dollars (\$1,000.00), or both.

SECTION 25. Section 97-3-49, Mississippi Code of 1972, is amended as follows:

97-3-49. Except as otherwise provided in the Mississippi Death with Dignity Act, a person who * * * willfully, or in any manner, advises, encourages, abets, or assists another person to take, or in taking, the latter's life, or in attempting to take the latter's life, is guilty of a felony and, on conviction, shall



499 be punished by imprisonment in the Penitentiary not exceeding ten
500 (10) years, or by fine not exceeding One Thousand Dollars
501 (\$1,000.00), and imprisonment in the county jail not exceeding one
502 (1) year.

503 **SECTION 26.** This act shall take effect and be in force from
504 and after July 1, 2017.

