

A011-0910

10 AN ACT CONCERNING:

20 Death with Dignity

30 FOR the purpose of ensuring the continued dignity of all terminally ill
40 Maryland residents if they so choose;

50 BY repealing and amending

60 Article -- Health General

70 Title 5

80 Section 5-611

90 Annotated Code of Maryland

100 SECTION 1. BE IT ENACTED BY THE MARYLAND STUDENT
110 LEGISLATURE, That the Laws of Maryland read as follows:

120 Section 5 -- Death

130 § 5-611. Medically ineffective treatment not required; mercy killing or
140 euthanasia prohibited; construction of subtitle.

150 (a) *Ethically inappropriate treatment not required.*- Except as provided in §
160 5-613 (a) (3) of this subtitle, nothing in this subtitle may be construed to
170 require a physician to prescribe or render medical treatment to a patient that
180 the physician determines to be ethically inappropriate.

190 (b) *Medically ineffective treatment not required.*-

200 (1) Except as provided in § 5-613 (a) (3) of this subtitle, nothing in
210 this subtitle may be construed to require a physician to prescribe or
220 render medically ineffective treatment.

230 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
240 patient's attending physician may withhold or withdraw as medically
250 ineffective a treatment that under generally accepted medical
260 practices is life-sustaining in nature only if the patient's attending
270 physician and a second physician certify in writing that the
280 treatment is medically ineffective and the attending physician
290 informs the patient or the patient's agent or surrogate of the
300 physician's decision.

310 (ii) If the patient is being treated in the emergency department
320 of a hospital and only one physician is available, the

330 certification of a second physician is not required.

340 (c) ~~Mercy killing or euthanasia prohibited.~~ Nothing in this subtitle may be
350 construed to condone, authorize, or approve mercy killing or euthanasia, or
360 to permit any affirmative or deliberate act or omission to end life other than
370 to permit the natural process of dying.

380 (c) EUTHANASIA PERMITTED

390 (1) DEFINITIONS. THE FOLLOWING WORDS AND PHRASES,
400 WHENEVER USED IN §5-611, HAVE THE FOLLOWING
410 MEANINGS:

420 (i) "ADULT" MEANS AN INDIVIDUAL WHO IS 18 YEARS
430 OF AGE OR OLDER.

440 (ii) "ATTENDING PHYSICIAN" MEANS THE PHYSICIAN
450 WHO HAS PRIMARY RESPONSIBILITY FOR THE CARE
460 OF THE PATIENT AND TREATMENT OF THE PATIENT'S
470 TERMINAL DISEASE.

480 (iii) "CAPABLE" MEANS THAT IN THE OPINION OF A
490 COURT OR IN THE OPINION OF THE PATIENT'S
500 ATTENDING PHYSICIAN OR CONSULTING PHYSICIAN,
510 PSYCHIATRIST OR PSYCHOLOGIST, A PATIENT HAS
520 THE ABILITY TO MAKE AND COMMUNICATE HEALTH
530 CARE DECISIONS TO HEALTH CARE PROVIDERS,
540 INCLUDING COMMUNICATION THROUGH PERSONS
550 FAMILIAR WITH THE PATIENT'S MANNER OF
560 COMMUNICATING IF THOSE PERSONS ARE
570 AVAILABLE.

580 (iv) "CONSULTING PHYSICIAN" MEANS A PHYSICIAN
590 WHO IS QUALIFIED BY SPECIALTY OR EXPERIENCE
600 TO MAKE A PROFESSIONAL DIAGNOSIS AND
610 PROGNOSIS REGARDING THE PATIENT'S DISEASE.

620 (v) "COUNSELING" MEANS ONE OR MORE
630 CONSULTATIONS AS NECESSARY BETWEEN A STATE
640 LICENSED PSYCHIATRIST OR PSYCHOLOGIST AND A
650 PATIENT FOR THE PURPOSE OF DETERMINING THAT
660 THE PATIENT IS CAPABLE AND NOT SUFFERING
670 FROM A PSYCHIATRIC OR PSYCHOLOGICAL
680 DISORDER OR DEPRESSION CAUSING IMPAIRED
690 JUDGMENT.

700 (vi) "HEALTH CARE PROVIDER" MEANS A PERSON
710 LICENSED, CERTIFIED OR OTHERWISE AUTHORIZED
720 OR PERMITTED BY THE LAW OF THIS STATE TO

730 ADMINISTER HEALTH CARE OR DISPENSE
740 MEDICATION IN THE ORDINARY COURSE OF
750 BUSINESS OR PRACTICE OF A PROFESSION, AND
760 INCLUDES A HEALTH CARE FACILITY.
770 (vii) "INFORMED DECISION" MEANS A DECISION BY A
780 QUALIFIED PATIENT, TO REQUEST AND OBTAIN A
790 PRESCRIPTION TO END HIS OR HER LIFE IN A
800 HUMANE AND DIGNIFIED MANNER, THAT IS BASED
810 ON AN APPRECIATION OF THE RELEVANT FACTS AND
820 AFTER BEING FULLY INFORMED BY THE ATTENDING
830 PHYSICIAN OF:
840 (A) HIS OR HER MEDICAL DIAGNOSIS;
850 (B) HIS OR HER PROGNOSIS;
860 (C) THE POTENTIAL RISKS ASSOCIATED WITH
870 TAKING THE MEDICATION TO BE PRESCRIBED;
880 (D) THE PROBABLE RESULT OF TAKING THE
890 MEDICATION TO BE PRESCRIBED; AND
900 (E) THE FEASIBLE ALTERNATIVES, INCLUDING,
910 BUT NOT LIMITED TO, COMFORT CARE,
920 HOSPICE CARE AND PAIN CONTROL.
930 (viii) "MEDICALLY CONFIRMED" MEANS THE
940 MEDICAL OPINION OF THE ATTENDING PHYSICIAN
950 HAS BEEN CONFIRMED BY A CONSULTING
960 PHYSICIAN WHO HAS EXAMINED THE PATIENT AND
970 THE PATIENT'S RELEVANT MEDICAL RECORDS.
980 (ix) "PATIENT" MEANS A PERSON WHO IS UNDER THE
990 CARE OF A PHYSICIAN.
1000 (x) "PHYSICIAN" MEANS A DOCTOR OF MEDICINE OR
1010 OSTEOPATHY LICENSED TO PRACTICE MEDICINE BY
1020 THE BOARD OF MEDICAL EXAMINERS FOR THE
1030 STATE OF MARYLAND.
1040 (xi) "QUALIFIED PATIENT" MEANS A CAPABLE ADULT
1050 WHO IS A RESIDENT OF MARYLAND AND HAS
1060 SATISFIED THE REQUIREMENTS OF §5-611 IN ORDER
1070 TO OBTAIN A PRESCRIPTION FOR MEDICATION TO
1080 END HIS OR HER LIFE IN A HUMANE AND DIGNIFIED
1090 MANNER.
1100 (xii) "TERMINAL DISEASE" MEANS AN INCURABLE
1110 AND IRREVERSIBLE DISEASE THAT HAS BEEN
1120 MEDICALLY CONFIRMED AND WILL, WITHIN

1130 REASONABLE MEDICAL JUDGMENT, PRODUCE
1140 DEATH WITHIN SIX MONTHS.

1150 (2) WHO MAY INITIATE A WRITTEN REQUEST FOR
1160 MEDICATION.

1170 (i) AN ADULT WHO IS CAPABLE, IS A RESIDENT OF
1180 MARYLAND, AND HAS BEEN DETERMINED BY THE
1190 ATTENDING PHYSICIAN AND CONSULTING
1200 PHYSICIAN TO BE SUFFERING FROM A TERMINAL
1210 DISEASE, AND WHO HAS VOLUNTARILY EXPRESSED
1220 HIS OR HER WISH TO DIE, MAY MAKE A WRITTEN
1230 REQUEST FOR MEDICATION FOR THE PURPOSE OF
1240 ENDING HIS OR HER LIFE IN A HUMANE AND
1250 DIGNIFIED MANNER IN ACCORDANCE WITH §5-611.

1260 (ii) NO PERSON SHALL QUALIFY UNDER THE
1270 PROVISIONS OF §5-611 SOLELY BECAUSE OF AGE OR
1280 DISABILITY.

1290 (3) FORM OF THE WRITTEN REQUEST.

1300 (i) A VALID REQUEST FOR MEDICATION UNDER §5-611
1310 SHALL BE IN SUBSTANTIALLY THE FORM DESCRIBED
1320 IN §5-611, SIGNED AND DATED BY THE PATIENT AND
1330 WITNESSED BY AT LEAST TWO INDIVIDUALS WHO,
1340 IN THE PRESENCE OF THE PATIENT, ATTEST THAT TO
1350 THE BEST OF THEIR KNOWLEDGE AND BELIEF THE
1360 PATIENT IS CAPABLE, ACTING VOLUNTARILY, AND IS
1370 NOT BEING COERCED TO SIGN THE REQUEST.

1380 (ii) ONE OF THE WITNESSES SHALL BE A PERSON WHO
1390 IS NOT:

1400 (A) A RELATIVE OF THE PATIENT BY BLOOD,
1410 MARRIAGE OR ADOPTION;

1420 (B) A PERSON WHO AT THE TIME THE REQUEST
1430 IS SIGNED WOULD BE ENTITLED TO ANY
1440 PORTION OF THE ESTATE OF THE QUALIFIED
1450 PATIENT UPON DEATH UNDER ANY WILL OR BY
1460 OPERATION OF LAW; OR

1470 (C) AN OWNER, OPERATOR OR EMPLOYEE OF A
1480 HEALTH CARE FACILITY WHERE THE
1490 QUALIFIED PATIENT IS RECEIVING MEDICAL
1500 TREATMENT OR IS RESIDENT.

1510 (iii) THE PATIENT'S ATTENDING PHYSICIAN AT THE
1520 TIME THE REQUEST IS SIGNED SHALL NOT BE A

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WITNESS.

(iv) IF THE PATIENT IS A PATIENT IN A LONG TERM CARE FACILITY AT THE TIME THE WRITTEN REQUEST IS MADE, ONE OF THE WITNESSES SHALL BE AN INDIVIDUAL DESIGNATED BY THE FACILITY AND HAVING THE QUALIFICATIONS SPECIFIED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(4) SAFEGUARDS: ATTENDING PHYSICIAN RESPONSIBILITIES.

(i) 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 MARYLAND RESIDENCY;

(C) TO ENSURE THAT THE PATIENT IS MAKING AN INFORMED DECISION, INFORM THE PATIENT OF:

(1) HIS OR HER MEDICAL DIAGNOSIS;

(2) HIS OR HER PROGNOSIS;

(3) THE POTENTIAL RISKS ASSOCIATED WITH TAKING THE MEDICATION TO BE PRESCRIBED;

(4) THE PROBABLE RESULT OF TAKING THE MEDICATION TO BE PRESCRIBED; AND

(5) 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;

(F) RECOMMEND THAT THE PATIENT NOTIFY

1920 NEXT OF KIN;
1930 (G) COUNSEL THE PATIENT ABOUT THE
1940 IMPORTANCE OF HAVING ANOTHER PERSON
1950 PRESENT WHEN THE PATIENT TAKES THE
1960 MEDICATION PRESCRIBED AND OF NOT TAKING
1970 THE MEDICATION IN A PUBLIC PLACE;
1980 (H) INFORM THE PATIENT THAT HE OR SHE HAS
1990 AN OPPORTUNITY TO RESCIND THE REQUEST
2000 AT ANY TIME AND IN ANY MANNER, AND
2010 OFFER THE PATIENT AN OPPORTUNITY TO
2020 RESCIND AT THE END OF THE 15 DAY WAITING
2030 PERIOD;
2040 (I) VERIFY, IMMEDIATELY PRIOR TO WRITING
2050 THE PRESCRIPTION FOR MEDICATION, THAT
2060 THE PATIENT IS MAKING AN INFORMED
2070 DECISION;
2080 (J) FULFILL THE MEDICAL RECORD
2090 DOCUMENTATION REQUIREMENTS;
2100 (K) ENSURE THAT ALL APPROPRIATE STEPS ARE
2110 CARRIED OUT PRIOR TO WRITING A
2120 PRESCRIPTION FOR MEDICATION TO ENABLE A
2130 QUALIFIED PATIENT TO END HIS OR HER LIFE IN
2140 A HUMANE AND DIGNIFIED MANNER; AND
2150 (L) (1) DISPENSE MEDICATIONS DIRECTLY,
2160 INCLUDING ANCILLARY MEDICATIONS
2170 INTENDED TO FACILITATE THE DESIRED
2180 EFFECT TO MINIMIZE THE PATIENT'S
2190 DISCOMFORT, PROVIDED THE ATTENDING
2200 PHYSICIAN IS REGISTERED AS A
2210 DISPENSING PHYSICIAN WITH THE BOARD
2220 OF MEDICAL EXAMINERS, HAS A CURRENT
2230 DRUG ENFORCEMENT ADMINISTRATION
2240 CERTIFICATE AND COMPLIES WITH ANY
2250 APPLICABLE ADMINISTRATIVE RULE; OR
2260 (2) WITH THE PATIENT'S WRITTEN
2270 CONSENT:
2280 (I) CONTACT A PHARMACIST AND
2290 INFORM THE PHARMACIST OF THE
2300 PRESCRIPTION; AND
2310 (II) DELIVER THE WRITTEN

2720 PHYSICIAN SHALL VERIFY THAT THE PATIENT IS
2730 MAKING AN INFORMED DECISION.

2740 (8) FAMILY NOTIFICATION.

2750 (i) THE ATTENDING PHYSICIAN SHALL RECOMMEND
2760 THAT THE PATIENT NOTIFY THE NEXT OF KIN OF HIS
2770 OR HER REQUEST FOR MEDICATION. A PATIENT WHO
2780 DECLINES OR IS UNABLE TO NOTIFY NEXT OF KIN
2790 SHALL NOT HAVE HIS OR HER REQUEST DENIED FOR
2700 THAT REASON.

2800 (9) WRITTEN AND ORAL REQUESTS.

2900 (i) IN ORDER TO RECEIVE A PRESCRIPTION FOR
3000 MEDICATION TO END HIS OR HER LIFE IN A HUMANE
3010 AND DIGNIFIED MANNER, A QUALIFIED PATIENT
3020 SHALL HAVE MADE AN ORAL REQUEST AND A
3030 WRITTEN REQUEST, AND REITERATE THE ORAL
3040 REQUEST TO HIS OR HER ATTENDING PHYSICIAN NO
3050 LESS THAN FIFTEEN (15) DAYS AFTER MAKING THE
3060 INITIAL ORAL REQUEST. AT THE TIME THE
3070 QUALIFIED PATIENT MAKES HIS OR HER SECOND
3080 ORAL REQUEST, THE ATTENDING PHYSICIAN SHALL
3090 OFFER THE PATIENT AN OPPORTUNITY TO RESCIND
3100 THE REQUEST.

3110 (10) RIGHT TO RESCIND REQUEST.

3120 (i) A PATIENT MAY RESCIND HIS OR HER REQUEST AT
3130 ANY TIME AND IN ANY MANNER WITHOUT REGARD
3140 TO HIS OR HER MENTAL STATE. NO PRESCRIPTION
3150 FOR MEDICATION MAY BE WRITTEN WITHOUT THE
3160 ATTENDING PHYSICIAN OFFERING THE QUALIFIED
3170 PATIENT AN OPPORTUNITY TO RESCIND THE
3180 REQUEST.

3190 (11) WAITING PERIODS.

3200 (i) NO LESS THAN FIFTEEN (15) DAYS SHALL ELAPSE
3210 BETWEEN THE PATIENT'S INITIAL ORAL REQUEST
3220 AND THE WRITING OF A PRESCRIPTION.

3230 (ii) NO LESS THAN 48 HOURS SHALL ELAPSE
3240 BETWEEN THE PATIENT'S WRITTEN REQUEST AND
3250 THE WRITING OF A PRESCRIPTION.

3260 (12) MEDICAL RECORD DOCUMENTATION REQUIREMENTS.

3270 (i) THE FOLLOWING SHALL BE DOCUMENTED OR

3280 FILED IN THE PATIENT'S MEDICAL RECORD:

- 3290 (A) ALL ORAL REQUESTS BY A PATIENT FOR
3300 MEDICATION TO END HIS OR HER LIFE IN A
3310 HUMANE AND DIGNIFIED MANNER;
3320 (B) ALL WRITTEN REQUESTS BY A PATIENT FOR
3330 MEDICATION TO END HIS OR HER LIFE IN A
3340 HUMANE AND DIGNIFIED MANNER;
3350 (C) THE ATTENDING PHYSICIAN'S DIAGNOSIS
3360 AND PROGNOSIS, DETERMINATION THAT THE
3370 PATIENT IS CAPABLE, ACTING VOLUNTARILY
3380 AND HAS MADE AN INFORMED DECISION;
3390 (D) THE CONSULTING PHYSICIAN'S DIAGNOSIS
3400 AND PROGNOSIS, AND VERIFICATION THAT THE
3410 PATIENT IS CAPABLE, ACTING VOLUNTARILY
3420 AND HAS MADE AN INFORMED DECISION;
3430 (E) A REPORT OF THE OUTCOME AND
3440 DETERMINATIONS MADE DURING COUNSELING,
3450 IF PERFORMED;
3460 (F) THE ATTENDING PHYSICIAN'S OFFER TO THE
3470 PATIENT TO RESCIND HIS OR HER REQUEST AT
3480 THE TIME OF THE PATIENT'S SECOND ORAL
3490 REQUEST; AND
3500 (G) A NOTE BY THE ATTENDING PHYSICIAN
3510 INDICATING THAT ALL REQUIREMENTS HAVE
3520 BEEN MET AND INDICATING THE STEPS TAKEN
3530 TO CARRY OUT THE REQUEST, INCLUDING A
3540 NOTATION OF THE MEDICATION PRESCRIBED.

3550 (13) RESIDENCY REQUIREMENT.

- 3510 (i) ONLY REQUESTS MADE BY MARYLAND
3520 RESIDENTS SHALL BE GRANTED. FACTORS
3530 DEMONSTRATING MARYLAND RESIDENCY INCLUDE
3540 BUT ARE NOT LIMITED TO:

- 3560 (A) POSSESSION OF AN MARYLAND DRIVER
3570 LICENSE;
3580 (B) REGISTRATION TO VOTE IN MARYLAND;
3590 (C) EVIDENCE THAT THE PERSON OWNS OR
3600 LEASES PROPERTY IN MARYLAND; OR
3610 (D) FILING OF A MARYLAND TAX RETURN FOR
3620 THE MOST RECENT TAX YEAR.

3630 (14) REPORTING REQUIREMENTS.

3640 (i) (A) THE HEALTH SERVICES SHALL ANNUALLY
3650 REVIEW A SAMPLE OF RECORDS MAINTAINED.
3660 (B) THE DIVISION SHALL REQUIRE ANY HEALTH
3670 CARE PROVIDER UPON DISPENSING
3680 MEDICATION TO FILE A COPY OF THE
3690 DISPENSING RECORD WITH THE DIVISION.
3700 (ii) THE HEALTH SERVICES SHALL MAKE RULES TO
3710 FACILITATE THE COLLECTION OF INFORMATION.
3720 EXCEPT AS OTHERWISE REQUIRED BY LAW, THE
3730 INFORMATION COLLECTED SHALL NOT BE A PUBLIC
3740 RECORD AND MAY NOT BE MADE AVAILABLE FOR
3750 INSPECTION BY THE PUBLIC.
3760 (iii) THE DIVISION SHALL GENERATE AND MAKE
3770 AVAILABLE TO THE PUBLIC AN ANNUAL
3780 STATISTICAL REPORT OF INFORMATION COLLECTED
3790 UNDER SUBSECTION (ii) OF THIS SECTION.

3800 (15) EFFECT ON CONSTRUCTION OF WILLS, CONTRACTS
3810 AND STATUTES.
3820 (i) NO PROVISION IN A CONTRACT, WILL OR OTHER
3830 AGREEMENT, WHETHER WRITTEN OR ORAL, TO THE
3840 EXTENT THE PROVISION WOULD AFFECT WHETHER
3850 A PERSON MAY MAKE OR RESCIND A REQUEST FOR
3860 MEDICATION TO END HIS OR HER LIFE IN A HUMANE
3870 AND DIGNIFIED MANNER, SHALL BE VALID.
3880 (ii) NO OBLIGATION OWING UNDER ANY CURRENTLY
3890 EXISTING CONTRACT SHALL BE CONDITIONED OR
3900 AFFECTED BY THE MAKING OR RESCINDING OF A
3910 REQUEST, BY A PERSON, FOR MEDICATION TO END
3920 HIS OR HER LIFE IN A HUMANE AND DIGNIFIED
3930 MANNER.

3940 (16) INSURANCE OR ANNUITY POLICIES.
3950 (i) THE SALE, PROCUREMENT, OR ISSUANCE OF ANY
3960 LIFE, HEALTH, OR ACCIDENT INSURANCE OR
3970 ANNUITY POLICY OR THE RATE CHARGED FOR ANY
3980 POLICY SHALL NOT BE CONDITIONED UPON OR
3990 AFFECTED BY THE MAKING OR RESCINDING OF A
4000 REQUEST, BY A PERSON, FOR MEDICATION TO END
4010 HIS OR HER LIFE IN A HUMANE AND DIGNIFIED
4020 MANNER. NEITHER SHALL A QUALIFIED PATIENT'S
4030 ACT OF INGESTING MEDICATION TO END HIS OR HER

4040 LIFE IN A HUMANE AND DIGNIFIED MANNER HAVE
4050 AN EFFECT UPON A LIFE, HEALTH, OR ACCIDENT
4060 INSURANCE OR ANNUITY POLICY.

4070 (17) CONSTRUCTION OF ACT.

4080 NOTHING IN §5-611 SHALL BE CONSTRUED TO AUTHORIZE
4090 A PHYSICIAN OR ANY OTHER PERSON TO END A PATIENT'S
4100 LIFE BY LETHAL INJECTION, MERCY KILLING. ACTIONS
4110 TAKEN IN ACCORDANCE WITH §5-611 SHALL NOT, FOR
4120 ANY PURPOSE, CONSTITUTE SUICIDE, ASSISTED SUICIDE,
4130 MERCY KILLING OR HOMICIDE, UNDER THE LAW.

4140 (18) IMMUNITIES; BASIS FOR PROHIBITING HEALTH CARE
4150 PROVIDER FROM PARTICIPATION; NOTIFICATION;
4160 PERMISSIBLE SANCTIONS.

4170 (i) NO PERSON SHALL BE SUBJECT TO CIVIL OR
4180 CRIMINAL LIABILITY OR PROFESSIONAL
4190 DISCIPLINARY ACTION FOR PARTICIPATING IN GOOD
4200 FAITH COMPLIANCE WITH §5-611.

4210 THIS INCLUDES BEING PRESENT WHEN A QUALIFIED
4220 PATIENT TAKES THE PRESCRIBED MEDICATION TO
4230 END HIS OR HER LIFE IN A HUMANE AND DIGNIFIED
4240 MANNER.

4250 (ii) NO PROFESSIONAL ORGANIZATION OR
4260 ASSOCIATION, OR HEALTH CARE PROVIDER, MAY
4270 SUBJECT A PERSON TO CENSURE, DISCIPLINE,
4280 SUSPENSION, LOSS OF LICENSE, LOSS OF PRIVILEGES,
4290 LOSS OF MEMBERSHIP OR OTHER PENALTY FOR
4300 PARTICIPATING OR REFUSING TO PARTICIPATE IN
4310 GOOD FAITH COMPLIANCE WITH §5-611.

4320 (iii) NO REQUEST BY A PATIENT FOR OR PROVISION
4330 BY AN ATTENDING PHYSICIAN OF MEDICATION IN
4340 GOOD FAITH COMPLIANCE WITH THE PROVISIONS OF
4350 §5-611 SHALL CONSTITUTE NEGLIGENCE FOR ANY
4360 PURPOSE OF LAW OR PROVIDE THE SOLE BASIS FOR
4370 THE APPOINTMENT OF A GUARDIAN OR
4380 CONSERVATOR.

4390 (iv) NO HEALTH CARE PROVIDER SHALL BE UNDER
4400 ANY DUTY, WHETHER BY CONTRACT, BY STATUTE
4410 OR BY ANY OTHER LEGAL REQUIREMENT TO
4420 PARTICIPATE IN THE PROVISION TO A QUALIFIED
4430 PATIENT OF MEDICATION TO END HIS OR HER LIFE IN

4440 A HUMANE AND DIGNIFIED MANNER. IF A HEALTH
4450 CARE PROVIDER IS UNABLE OR UNWILLING TO
4460 CARRY OUT A PATIENT'S REQUEST UNDER §5-611,
4470 AND THE PATIENT TRANSFERS HIS OR HER CARE TO
4480 A NEW HEALTH CARE PROVIDER, THE PRIOR HEALTH
4490 CARE PROVIDER SHALL TRANSFER, UPON REQUEST,
4500 A COPY OF THE PATIENT'S RELEVANT MEDICAL
4510 RECORDS TO THE NEW HEALTH CARE PROVIDER.

4520 (v) (A) NOTWITHSTANDING ANY OTHER PROVISION
4530 OF LAW, A HEALTH CARE PROVIDER MAY
4540 PROHIBIT ANOTHER HEALTH CARE PROVIDER
4550 FROM PARTICIPATING IN §5-611 ON THE
4560 PREMISES OF THE PROHIBITING PROVIDER IF
4570 THE PROHIBITING PROVIDER HAS NOTIFIED THE
4580 HEALTH CARE PROVIDER OF THE PROHIBITING
4590 PROVIDER'S POLICY REGARDING
4600 PARTICIPATING IN §5-611. NOTHING IN THIS
4610 PARAGRAPH PREVENTS A HEALTH CARE
4620 PROVIDER FROM PROVIDING HEALTH CARE
4630 SERVICES TO A PATIENT THAT DO NOT
4640 CONSTITUTE PARTICIPATION IN §5-611.

4650 (B) NOTWITHSTANDING THE PROVISIONS OF
4660 SUBSECTIONS (i) TO (v) OF THIS SECTION, A
4670 HEALTH CARE PROVIDER MAY SUBJECT
4680 ANOTHER HEALTH CARE PROVIDER TO THE
4690 SANCTIONS STATED IN THIS PARAGRAPH IF THE
4700 SANCTIONING HEALTH CARE PROVIDER HAS
4710 NOTIFIED THE SANCTIONED PROVIDER PRIOR
4720 TO PARTICIPATION IN §5-611 THAT IT PROHIBITS
4730 PARTICIPATION IN §5-611:

4740 (1) LOSS OF PRIVILEGES, LOSS OF
4750 MEMBERSHIP OR OTHER SANCTIONS
4760 PROVIDED PURSUANT TO THE MEDICAL
4770 STAFF BYLAWS, POLICIES AND
4780 PROCEDURES OF THE SANCTIONING
4790 HEALTH CARE PROVIDER IF THE
4800 SANCTIONED PROVIDER IS A MEMBER OF
4810 THE SANCTIONING PROVIDER'S MEDICAL
4820 STAFF AND PARTICIPATES IN §5-611 WHILE
4830 ON THE HEALTH CARE FACILITY

4840 PREMISES, OF THE SANCTIONING HEALTH
4850 CARE PROVIDER, BUT NOT INCLUDING
4860 THE PRIVATE MEDICAL OFFICE OF A
4870 PHYSICIAN OR OTHER PROVIDER;
4880 (2) TERMINATION OF LEASE OR OTHER
4890 PROPERTY CONTRACT OR OTHER
4900 NONMONETARY REMEDIES PROVIDED BY
4910 LEASE CONTRACT, NOT INCLUDING LOSS
4920 OF RESTRICTION OF MEDICAL STAFF
4930 PRIVILEGES OR EXCLUSION FROM A
4940 PROVIDER PANEL, IF THE SANCTIONED
4950 PROVIDER PARTICIPATES WHILE ON THE
4960 PREMISES OF THE SANCTIONING HEALTH
4970 CARE PROVIDER OR ON PROPERTY THAT
4980 IS OWNED BY OR UNDER THE DIRECT
4990 CONTROL OF THE SANCTIONING HEALTH
5000 CARE PROVIDER; OR
5010 (3) TERMINATION OF CONTRACT OR
5020 OTHER NONMONETARY REMEDIES
5030 PROVIDED BY CONTRACT IF THE
5040 SANCTIONED PROVIDER PARTICIPATES IN
5050 §5-611 WHILE ACTING IN THE COURSE AND
5060 SCOPE OF THE SANCTIONED PROVIDER'S
5070 CAPACITY AS AN EMPLOYEE OR
5080 INDEPENDENT CONTRACTOR OF THE
5090 SANCTIONING HEALTH CARE PROVIDER.
5100 NOTHING IN THIS SUBPARAGRAPH SHALL
5110 BE CONSTRUED TO PREVENT:
5120 (I) A HEALTH CARE PROVIDER FROM
5130 PARTICIPATING IN §5-611 WHILE
5140 ACTING OUTSIDE THE COURSE AND
5150 SCOPE OF THE PROVIDER'S
5160 CAPACITY AS AN EMPLOYEE OR
5170 INDEPENDENT CONTRACTOR; OR
5180 (II) A PATIENT FROM CONTRACTING
5190 WITH HIS OR HER ATTENDING
5200 PHYSICIAN AND CONSULTING
5210 PHYSICIAN TO ACT OUTSIDE THE
5220 COURSE AND SCOPE OF THE
5230 PROVIDER'S CAPACITY AS AN

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EMPLOYEE OR INDEPENDENT
CONTRACTOR OF THE SANCTIONING
HEALTH CARE PROVIDER.

(C) A HEALTH CARE PROVIDER THAT IMPOSES
SANCTIONS PURSUANT TO PARAGRAPH (B) OF
THIS SUBSECTION 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.

(D) FOR PURPOSES OF THIS SUBSECTION:

(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 §5-611 OF THE SANCTIONING HEALTH
CARE PROVIDER'S POLICY ABOUT
PARTICIPATION IN ACTIVITIES COVERED
BY §5-611.

(2) "PARTICIPATE IN §5-611" MEANS TO
PERFORM THE DUTIES OF AN ATTENDING
PHYSICIAN, THE CONSULTING PHYSICIAN
FUNCTION OR THE COUNSELING
FUNCTION

(3) "PARTICIPATE IN §5-611" DOES NOT
INCLUDE:

(I) MAKING AN INITIAL
DETERMINATION THAT A PATIENT
HAS A TERMINAL DISEASE AND
INFORMING THE PATIENT OF THE
MEDICAL PROGNOSIS;

(II) PROVIDING INFORMATION
ABOUT THE MARYLAND DEATH
WITH DIGNITY ACT TO A PATIENT
UPON THE REQUEST OF THE
PATIENT;

(III) PROVIDING A PATIENT, UPON
THE REQUEST OF THE PATIENT, WITH

5640 A REFERRAL TO ANOTHER
5650 PHYSICIAN; OR
5660 (IV) A PATIENT CONTRACTING WITH
5670 HIS OR HER ATTENDING PHYSICIAN
5680 AND CONSULTING PHYSICIAN TO
5690 ACT OUTSIDE OF THE COURSE AND
5700 SCOPE OF THE PROVIDER'S
5710 CAPACITY AS AN EMPLOYEE OR
5720 INDEPENDENT CONTRACTOR OF THE
5730 SANCTIONING HEALTH CARE
5740 PROVIDER.

5750 (vi) SUSPENSION OR TERMINATION OF STAFF
5760 MEMBERSHIP OR PRIVILEGES UNDER SUBSECTION (v)
5770 OF THIS SECTION IS NOT REPORTABLE. ACTION
5780 TAKEN PURSUANT TO §5-611 SHALL NOT BE THE
5790 SOLE BASIS FOR A REPORT OF UNPROFESSIONAL OR
5800 DISHONORABLE CONDUCT.

5810 (vii) NO PROVISION OF §5-611 SHALL BE CONSTRUED
5820 TO ALLOW A LOWER STANDARD OF CARE FOR
5830 PATIENTS IN THE COMMUNITY WHERE THE PATIENT
5840 IS TREATED OR A SIMILAR COMMUNITY.

5850 (19) LIABILITIES.

5860 (i) A PERSON WHO WITHOUT AUTHORIZATION OF
5870 THE PATIENT WILLFULLY ALTERS OR FORGES A
5880 REQUEST FOR MEDICATION OR CONCEALS OR
5890 DESTROYS A RESCISSION OF THAT REQUEST WITH
5900 THE INTENT OR EFFECT OF CAUSING THE PATIENT'S
5910 DEATH SHALL BE GUILTY OF A CLASS A FELONY.

5920 (ii) A PERSON WHO COERCES OR EXERTS UNDUE
5930 INFLUENCE ON A PATIENT TO REQUEST MEDICATION
5940 FOR THE PURPOSE OF ENDING THE PATIENT'S LIFE,
5950 OR TO DESTROY A RESCISSION OF SUCH A REQUEST,
5960 SHALL BE GUILTY OF A CLASS A FELONY.

5970 (iii) NOTHING IN §5-611 LIMITS FURTHER LIABILITY
5980 FOR CIVIL DAMAGES RESULTING FROM OTHER
5990 NEGLIGENT CONDUCT OR INTENTIONAL
6000 MISCONDUCT BY ANY PERSON.

6010 (iv) THE PENALTIES IN §5-611 DO NOT PRECLUDE
6020 CRIMINAL PENALTIES APPLICABLE UNDER OTHER
6030 LAW FOR CONDUCT WHICH IS INCONSISTENT WITH

6040 THE PROVISIONS OF §5-611.
6050 (20) CLAIMS BY GOVERNMENTAL ENTITY FOR COSTS
6060 INCURRED.
6070 (i) ANY GOVERNMENTAL ENTITY THAT INCURS
6080 COSTS RESULTING FROM A PERSON TERMINATING
6090 HIS OR HER LIFE PURSUANT TO THE PROVISIONS OF
6100 §5-611 IN A PUBLIC PLACE SHALL HAVE A CLAIM
6110 AGAINST THE ESTATE OF THE PERSON TO RECOVER
6120 SUCH COSTS AND REASONABLE ATTORNEY FEES
6130 RELATED TO ENFORCING THE CLAIM.
6140 (21) SEVERABILITY.
6150 ANY SECTION OF §5-611 BEING HELD INVALID AS TO ANY
6160 PERSON OR CIRCUMSTANCE SHALL NOT AFFECT THE
6170 APPLICATION OF ANY OTHER SECTION OF §5-611 WHICH
6180 CAN BE GIVEN FULL EFFECT WITHOUT THE INVALID
6190 SECTION OR APPLICATION.
6200 (22) FORM OF THE REQUEST.
6210 A REQUEST FOR A MEDICATION AS AUTHORIZED BY §5-611
6220 SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

6230 REQUEST FOR MEDICATION
6240 TO END MY LIFE IN A HUMANE
6250 AND DIGNIFIED MANNER

6260 I, _____, AM AN ADULT OF SOUND MIND.

6270 I AM SUFFERING FROM _____, WHICH MY ATTENDING
6280 PHYSICIAN HAS DETERMINED IS A TERMINAL DISEASE
6290 AND WHICH HAS BEEN MEDICALLY CONFIRMED BY A
6300 CONSULTING PHYSICIAN.

6310 I HAVE BEEN FULLY INFORMED OF MY DIAGNOSIS,
6320 PROGNOSIS, THE NATURE OF MEDICATION TO BE
6330 PRESCRIBED AND POTENTIAL ASSOCIATED RISKS, THE
6340 EXPECTED RESULT, AND THE FEASIBLE ALTERNATIVES,
6350 INCLUDING COMFORT CARE, HOSPICE CARE AND PAIN
6360 CONTROL.

6370 I REQUEST THAT MY ATTENDING PHYSICIAN PRESCRIBE
6380 MEDICATION THAT WILL END MY LIFE IN A HUMANE AND
6390 DIGNIFIED MANNER.

6400 INITIAL ONE:

6410 _____ I HAVE INFORMED MY FAMILY OF MY DECISION AND
6420 TAKEN THEIR OPINIONS INTO CONSIDERATION.

6430 _____ I HAVE DECIDED NOT TO INFORM MY FAMILY OF MY
6440 DECISION.

6450 _____ I HAVE NO FAMILY TO INFORM OF MY DECISION.

6460 I UNDERSTAND THAT I HAVE THE RIGHT TO RESCIND THIS
6470 REQUEST AT ANY TIME.

6480 I UNDERSTAND THE FULL IMPORT OF THIS REQUEST AND I
6490 EXPECT TO DIE WHEN I TAKE THE MEDICATION TO BE
6500 PRESCRIBED. I FURTHER UNDERSTAND THAT ALTHOUGH
6510 MOST DEATHS OCCUR WITHIN THREE HOURS, MY DEATH
6520 MAY TAKE LONGER AND MY PHYSICIAN HAS COUNSELED
6530 ME ABOUT THIS POSSIBILITY.

6540 I MAKE THIS REQUEST VOLUNTARILY AND WITHOUT
6560 RESERVATION, AND I ACCEPT FULL MORAL
6570 RESPONSIBILITY FOR MY ACTIONS.

6580 SIGNED: _____

6590 DATED: _____

6600 DECLARATION OF WITNESSES

6610 WE DECLARE THAT THE PERSON SIGNING THIS REQUEST:

6620 (A) IS PERSONALLY KNOWN TO US OR HAS PROVIDED
6630 PROOF OF IDENTITY;

6640 (B) SIGNED THIS REQUEST IN OUR PRESENCE;

6650 (C) APPEARS TO BE OF SOUND MIND AND NOT UNDER
6660 DURESS, FRAUD OR UNDUE INFLUENCE;

6670 (D) IS NOT A PATIENT FOR WHOM EITHER OF US IS
6680 ATTENDING PHYSICIAN.

6690 _____ WITNESS 1/DATE

6700 _____ WITNESS 2/DATE

6710 NOTE: ONE WITNESS SHALL NOT BE A RELATIVE (BY
6720 BLOOD, MARRIAGE OR ADOPTION) OF THE PERSON
6730 SIGNING THIS REQUEST, SHALL NOT BE ENTITLED TO ANY
6740 PORTION OF THE PERSON'S ESTATE UPON DEATH AND
6750 SHALL NOT OWN, OPERATE OR BE EMPLOYED AT A
6760 HEALTH CARE FACILITY WHERE THE PERSON IS A
6770 PATIENT OR RESIDENT. IF THE PATIENT IS AN INPATIENT
6780 AT A HEALTH CARE FACILITY, ONE OF THE WITNESSES
6790 SHALL BE AN INDIVIDUAL DESIGNATED BY THE FACILITY.

6800 (23) PENALTIES.

6810 (i) IT SHALL BE A CLASS A FELONY FOR A PERSON
6820 WITHOUT AUTHORIZATION OF THE PRINCIPAL TO
6830 WILLFULLY ALTER, FORGE, CONCEAL OR DESTROY
6840 AN INSTRUMENT, THE REINSTATEMENT OR
6850 REVOCATION OF AN INSTRUMENT OR ANY OTHER
6860 EVIDENCE OR DOCUMENT REFLECTING THE
6870 PRINCIPAL'S DESIRES AND INTERESTS, WITH THE
6880 INTENT AND EFFECT OF CAUSING A WITHHOLDING
6890 OR WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES
6900 OR OF ARTIFICIALLY ADMINISTERED NUTRITION
6910 AND HYDRATION WHICH HASTENS THE DEATH OF
6920 THE PRINCIPAL.

6930 (ii) EXCEPT AS PROVIDED IN SUBSECTION (i) OF THIS
6940 SECTION, IT SHALL BE A CLASS A MISDEMEANOR
6950 FOR A PERSON WITHOUT AUTHORIZATION OF THE
6960 PRINCIPAL TO WILLFULLY ALTER, FORGE, CONCEAL
6970 OR DESTROY AN INSTRUMENT, THE REINSTATEMENT
6980 OR REVOCATION OF AN INSTRUMENT, OR ANY
6990 OTHER EVIDENCE OR DOCUMENT REFLECTING THE
7000 PRINCIPAL'S DESIRES AND INTERESTS WITH THE
7010 INTENT OR EFFECT OF AFFECTING A HEALTH CARE
7020 DECISION.

7030 (d) *Assistance in eating and drinking.*- A health care provider shall make
7040 reasonable efforts to provide an individual with food and water by mouth
7050 and to assist the individual as needed to eat and drink voluntarily.

7060 (e) *Construction of subtitle.*-

7070 (1) Nothing in this subtitle is intended to preclude a separate decision
7080 by a health care agent or surrogate regarding the provision of or the
7090 withholding or withdrawal of nutrients and fluids administered by
7100 artificial means.

7110 (2) Nothing in this subtitle authorizes any action with respect to
7120 medical treatment, if the health care provider is aware that the patient
7130 for whom the health care is provided has expressed disagreement with
7140 the action.

7150 AND BE IT FURTHER ENACTED, that this Act take affect on October 1,
7160 2010.

7170 MANDATES:

7180 Martin O'Malley, Governor of Maryland,
7190 Thomas V. Mike Miller, President of the Maryland State Senate
7200 Michael E. Busch, Speaker of the House of Delegates
7210 Edward J. Kasemeyer, Senate Majority Leader
7220 Kumar P. Barve, House Majority Leader

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