

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 381, Page 3, Section 191.227, Line 70, by
2 inserting after all of said line the following:

3 "191.1500. 1. Sections 191.1500 to 191.1565 shall be known and cited as the "Missouri
4 Death with Dignity Act".

5 2. As used in sections 191.1500 to 191.1565, the following terms shall mean:

6 (1) "Adult", any individual who is eighteen years of age or older;

7 (2) "Attending physician", the physician who has primary responsibility for the care of the
8 patient and treatment of the patient's terminal disease;

9 (3) "Capable", in the opinion of a court or in the opinion of the patient's attending physician
10 or consulting physician, psychiatrist, or psychologist, a patient has the ability to make and
11 communicate health care decisions to health care providers, including communication through
12 persons familiar with the patient's manner of communicating if those persons are available;

13 (4) "Consulting physician", a physician who is qualified by specialty or experience to make
14 a professional diagnosis and prognosis regarding the patient's disease;

15 (5) "Counseling", one or more consultations as necessary between a state-licensed
16 psychiatrist or psychologist and a patient for the purpose of determining that the patient is capable
17 and not suffering from a psychiatric or psychological disorder or depression causing impaired
18 judgment;

19 (6) "Health care provider", a person licensed, certified, or otherwise authorized or permitted
20 by the laws of this state to administer health care or dispense medication in the ordinary course of
21 business or practice of a profession and includes a health care facility;

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

25 (a) His or her medical diagnosis;

26 (b) His or her prognosis;

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

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

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

31 (8) "Medically confirmed", the medical opinion of the attending physician has been
32 confirmed by a consulting physician who has examined the patient and the patient's relevant medical
33 records;

34 (9) "Patient", a person who is under the care of a physician;

35 (10) "Physician", a doctor of medicine or osteopathy licensed to practice medicine in the
36 state of Missouri;

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1 (11) "Qualified patient", a capable adult who is a resident of this state and has satisfied the
 2 requirements of sections 191.1500 to 191.1565 in order to obtain a prescription for medication to
 3 end his or her life in a humane and dignified manner;

4 (12) "Terminal disease", an incurable and irreversible disease that has been medically
 5 confirmed and shall, within reasonable medical judgment, produce death within six months.

6 191.1503. 1. An adult who:

7 (1) Is capable;

8 (2) Is a resident of this state;

9 (3) Has been determined by the attending physician and consulting physician to be suffering
 10 from a terminal disease; and

11 (4) Has voluntarily expressed his or her wish to die;

12
 13 may make a written request for medication for the purpose of ending his or her life in a humane and
 14 dignified manner in accordance with sections 191.1500 to 191.1565.

15 2. No person shall qualify under sections 191.1500 to 191.1565 solely because of age or
 16 disability.

17 191.1506. 1. A valid request for medication under sections 191.1500 to 191.1565 shall be
 18 in substantially the form described in section 191.1560, signed and dated by the patient, and
 19 witnessed by at least two individuals who, in the presence of the patient, attest that to the best of
 20 their knowledge and belief the patient is capable, acting voluntarily, and is not being coerced to sign
 21 the request.

22 2. One of the witnesses shall be a person who is not:

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

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

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

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

29 4. If the patient is in a long-term care facility at the time the written request is made, one of
 30 the witnesses shall be an individual designated by the facility and having the qualifications specified
 31 by the department of health and senior services by rule.

32 191.1509. 1. The attending physician shall:

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

35 (2) Request that the patient demonstrate Missouri state residency under section 191.1536;

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

37 (a) His or her medical diagnosis;

38 (b) His or her prognosis;

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

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

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

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

45 (5) Refer the patient for counseling if appropriate under section 191.1515;

46 (6) Recommend that the patient notify next of kin;

47 (7) Counsel the patient about the importance of having another person present when the
 48 patient takes the medication prescribed under sections 191.1500 to 191.1565 and of not taking the

1 medication in a public place;

2 (8) Inform the patient that he or she has an opportunity to rescind the request at any time
 3 and in any manner and offer the patient an opportunity to rescind at the end of the fifteen-day
 4 waiting period under section 191.1524;

5 (9) Verify, immediately before writing the prescription for medication under sections
 6 191.1500 to 191.1565, that the patient is making an informed decision;

7 (10) Fulfill the medical record documentation requirements of section 191.1533;

8 (11) Ensure that all appropriate steps are carried out in accordance with sections 191.1500
 9 to 191.1565 prior to writing a prescription for medication to enable a qualified patient to end his or
 10 her life in a humane and dignified manner; and

11 (12) (a) Dispense medications directly, including ancillary medications intended to
 12 facilitate the desired effect to minimize the patient's discomfort; provided that, the attending
 13 physician is authorized under state law and rule to dispense, has a current drug enforcement
 14 administration certificate, and complies with any applicable administrative rule; or

15 (b) With the patient's written consent:

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

17 b. Deliver the written prescription personally, by mail, or facsimile to the pharmacist, who
 18 shall dispense the medications to either the patient, the attending physician, or an expressly
 19 identified agent of the patient.

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

22 191.1512. Before a patient is qualified under sections 191.1500 to 191.1565, a consulting
 23 physician shall examine the patient and his or her relevant medical records and confirm in writing
 24 the attending physician's diagnosis that the patient is suffering from a terminal disease and verify
 25 that the patient is capable, is acting voluntarily, and has made an informed decision.

26 191.1515. If, in the opinion of the attending physician or the consulting physician, a patient
 27 may be suffering from a psychiatric or psychological disorder or depression causing impaired
 28 judgment, either physician shall refer the patient for counseling. No medication to end a patient's
 29 life in a humane and dignified manner shall be prescribed until the person performing the
 30 counseling determines that the patient is not suffering from a psychiatric or psychological disorder
 31 or depression causing impaired judgment.

32 191.1518. No person shall receive a prescription for medication to end his or her life in a
 33 humane and dignified manner unless he or she has made an informed decision, as defined in section
 34 191.1500. Immediately prior to writing a prescription for medication under sections 191.1500 to
 35 191.1565, the attending physician shall verify that the qualified patient is making an informed
 36 decision.

37 191.1521. The attending physician shall recommend that the patient notify the next of kin of
 38 his or her request for medication under sections 191.1500 to 191.1565. A patient who declines or is
 39 unable to notify next of kin shall not have his or her request denied for that reason.

40 191.1524. In order to receive a prescription for medication to end his or her life in a humane
 41 and dignified manner, a qualified patient shall have made an oral request and a written request and
 42 reiterate the oral request to his or her attending physician at least fifteen days after making the initial
 43 oral request. At the time the qualified patient makes his or her second oral request, the attending
 44 physician shall offer the qualified patient an opportunity to rescind the request.

45 191.1527. A patient may rescind his or her request at any time and in any manner without
 46 regard to his or her mental state. No prescription for medication under sections 191.1500 to
 47 191.1565 shall be written without the attending physician offering the qualified patient an
 48 opportunity to rescind the request.

1 191.1530. No less than fifteen days shall elapse between the patient's initial oral request and
 2 the writing of a prescription under sections 191.1500 to 191.1565. No less than forty-eight hours
 3 shall elapse between the date of the patient's written request and the writing of a prescription under
 4 sections 191.1500 to 191.1565.

5 191.1533. The following shall be documented or filed in the patient's medical record:

6 (1) All oral requests made by the patient for medication to end his or her life in a humane
 7 and dignified manner;

8 (2) All written requests made by the patient for medication to end his or her life in a
 9 humane and dignified manner;

10 (3) The attending physician's diagnosis and prognosis and determination that the patient is
 11 capable, is acting voluntarily, and has made an informed decision;

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

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

15 (6) The attending physician's offer to the patient to rescind his or her request at the time of
 16 the patient's second oral request under section 191.1524; and

17 (7) A note by the attending physician indicating that all requirements under sections
 18 191.1500 to 191.1565 have been met and indicating the steps taken to carry out the request
 19 including a notation of the medication prescribed.

20 191.1536. Only requests made by Missouri residents under sections 191.1500 to 191.1565
 21 shall be granted. Factors demonstrating Missouri residency include, but are not limited to:

22 (1) Possession of a Missouri driver's license;

23 (2) Registration to vote in Missouri;

24 (3) Evidence that the person owns or leases property in Missouri; or

25 (4) Filing of a Missouri tax return for the most recent tax year.

26 191.1539. 1. (1) The department of health and senior services shall annually review all
 27 records maintained under sections 191.1500 to 191.1565.

28 (2) The department of health and senior services shall require any health care provider upon
 29 dispensing medication under sections 191.1500 to 191.1565 to file a copy of the dispensing record
 30 with the department.

31 2. The department of health and senior services shall adopt rules to facilitate the collection
 32 of information regarding compliance with sections 191.1500 to 191.1565. Except as otherwise
 33 required by law, the information collected shall not be a public record and shall not be made
 34 available for inspection by the public.

35 3. The department of health and senior services shall generate and make available to the
 36 public an annual statistical report of information collected under subsection 2 of this section.

37 191.1542. 1. No provision in a contract, will, or other agreement, whether written or oral,
 38 to the extent the provision would affect whether a person may make or rescind a request for
 39 medication to end his or her life in a humane and dignified manner, shall be valid.

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

43 191.1545. The sale, procurement, or issuance of any life, health, or accident insurance or
 44 annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the
 45 making or rescinding of a request by a person for medication to end his or her life in a humane and
 46 dignified manner. A qualified patient's act of ingesting medication to end his or her life in a humane
 47 and dignified manner shall not have an effect upon a life, health, or accident insurance or annuity
 48 policy.

1 191.1548. Nothing in sections 191.1500 to 191.1565 shall be construed to authorize a
2 physician or any other person to end a patient's life by lethal injection, mercy killing, or active
3 euthanasia. Actions taken in accordance with sections 191.1500 to 191.1565 shall not for any
4 purpose constitute suicide, assisted suicide, mercy killing, or homicide under the law.

5 191.1551. 1. Except as provided in subsection 2 of this section and section 191.1557:

6 (1) No person shall be subject to civil or criminal liability or professional disciplinary action
7 for participating in good faith compliance with sections 191.1500 to 191.1565, including being
8 present when a qualified patient takes the prescribed medication to end his or her life in a humane
9 and dignified manner;

10 (2) No professional organization or association or health care provider shall subject a person
11 to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other
12 penalty for participating or refusing to participate in good faith compliance with sections 191.1500
13 to 191.1565;

14 (3) No request by a patient for or provision by an attending physician of medication in good
15 faith compliance with sections 191.1500 to 191.1565 shall constitute neglect for any purpose of law
16 or provide the sole basis for the appointment of a guardian or conservator; and

17 (4) No health care provider shall be under any duty, whether by contract, statute, or any
18 other legal requirement to participate in the provision to a qualified patient of medication to end his
19 or her life in a humane and dignified manner. If a health care provider is unable or unwilling to
20 carry out a patient's request under sections 191.1500 to 191.1565 and the patient transfers his or her
21 care to a new health care provider, the prior health care provider shall, upon request, transfer a copy
22 of the patient's relevant medical records to the new health care provider.

23 2. (1) Notwithstanding any other provision of law, a health care provider may prohibit
24 another health care provider from participating under the Missouri death with dignity act on the
25 premises of the prohibiting provider if the prohibiting provider has notified the health care provider
26 of the prohibiting provider's policy regarding participation in the Missouri death with dignity act.
27 Nothing in this subdivision shall prevent a health care provider from providing health care services
28 to a patient that do not constitute participation in the Missouri death with dignity act.

29 (2) Notwithstanding the provisions of subsection 1 of this section, a health care provider
30 may subject another health care provider to the following sanctions if the sanctioning health care
31 provider has notified the sanctioning provider prior to participation under sections 191.1500 to
32 191.1565 that it prohibits participation in the Missouri death with dignity act:

33 (a) Loss of privileges, loss of membership, or other sanctions provided under the medical
34 staff bylaws, policies, and procedures of the sanctioning health care provider if the sanctioned
35 provider is a member of the sanctioning provider's medical staff and participates under the Missouri
36 death with dignity act while on the health care facility premises of the sanctioning health care
37 provider, but not including the private medical office of a physician or other provider;

38 (b) Termination of a lease or other property contract or other nonmonetary remedies
39 provided by a lease contract, not including loss or restriction of medical staff privileges or exclusion
40 from a provider panel, if the sanctioned provider participates under the Missouri death with dignity
41 act while on the premises of the sanctioning health care provider or on property that is owned by or
42 under the direct control of the sanctioning health care provider; or

43 (c) Termination of a contract or other nonmonetary remedies provided by contract if the
44 sanctioned provider participates under the Missouri death with dignity act while acting in the course
45 and scope of the sanctioned provider's capacity as an employee or independent contractor of the
46 sanctioning health care provider. Nothing in this paragraph shall be construed to prevent:

47 a. A health care provider from participating under the Missouri death with dignity act while
48 acting outside the course and scope of the provider's capacity as an employee or independent

1 contractor; or

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

5 (3) A health care provider that imposes sanctions under subdivision (2) of this subsection
6 shall follow all due process and other procedures the sanctioning health care provider may have that
7 are related to the imposition of sanctions on another health care provider.

8 (4) For the purposes of this subsection, the following terms shall mean:

9 (a) "Notify", a separate statement in writing to the health care provider specifically
10 informing the health care provider before the provider's participation under the Missouri death with
11 dignity act of the sanctioning health care provider's policy about participation in activities covered
12 by the Missouri death with dignity act;

13 (b) "Participate under the Missouri death with dignity act", to perform the duties of an
14 attending physician under section 191.1512, the consulting physician function under section
15 191.1512, or the counseling function under section 191.1515. Participate under the Missouri death
16 with dignity act does not include:

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

19 b. Providing information about the Missouri death with dignity act to a patient upon the
20 request of the patient;

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

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

26 3. Suspension or termination of staff membership or privileges under subsection 2 of this
27 section is not reportable to the department or state board of registration for the healing arts. Action
28 taken under sections 191.1506 to 191.1515 shall not be the sole basis for a report of unprofessional
29 conduct.

30 4. No provision of sections 191.1500 to 191.1565 shall be construed to allow a lower
31 standard of care for patients in the community where the patient is treated or a similar community.

32 191.1554. 1. A person, who without authorization of the patient, willfully alters or forges a
33 request for medication or conceals or destroys a rescission of that request with the intent or effect of
34 causing the patient's death is guilty of a class A felony.

35 2. A person who coerces or exerts undue influence on a patient to request medication to end
36 the patient's life or to destroy a rescission of a request is guilty of a class A felony.

37 3. Nothing in sections 191.1500 to 191.1565 shall limit further liability for civil damages
38 resulting from other negligent conduct or intentional misconduct by any person.

39 4. The penalties in sections 191.1500 to 191.1565 do not preclude criminal penalties
40 applicable under other law for conduct that is inconsistent with sections 191.1500 to 191.1565.

41 191.1557. Any governmental entity that incurs costs resulting from a person terminating his
42 or her life under sections 191.1500 to 191.1565 in a public place has a claim against the estate of the
43 person to recover such costs and reasonable attorneys' fees related to enforcing the claim.

44 191.1560. A request for a medication as authorized by sections 191.1500 to 191.1565 shall
45 be in substantially the following form:

46 REQUEST FOR MEDICATION TO END MY LIFE

47 IN A HUMANE AND DIGNIFIED MANNER

48 I,, am an adult of sound mind.

1 I am suffering from, which my attending physician has determined is a terminal
 2 disease and which has been medically confirmed by a consulting physician.

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

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

8 INITIAL ONE:

9 I have informed my family of my decision and taken their opinions into consideration.

10 I have decided not to inform my family of my decision.

11 I have no family to inform of my decision.

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

13 I understand the full import of this request and I expect to die when I take the medication to
 14 be prescribed. I further understand that although most deaths occur within three hours, my death
 15 may take longer, and my physician has counseled me about this possibility.

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

18 Signed:

19 Dated:

20 DECLARATION OF WITNESSES

21 We declare that the person making and signing the above request:

22 (1) Is personally known to us or has provided proof of identity;

23 (2) Signed this request in our presence on the date of the
 24 person's signature;

25 (3) Appears to be of sound mind and not under duress, fraud, or undue influence; and

26 (4) Is not a patient for whom either of us is the attending physician.

27 Witness 1/Date

28 Witness 2/Date

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

34 191.1563. 1. Any person who, without authorization of the principal, willfully alters,
 35 forges, conceals, or destroys an instrument, the reinstatement or revocation of an instrument, or any
 36 other evidence or document reflecting the principal's desires and interests with the intent and effect
 37 of causing a withholding or withdrawal of life-sustaining procedures or of artificially administered
 38 nutrition and hydration which hastens the death of the principal is guilty of a class A felony.

39 2. Except as provided in subsection 1 of this section, any person who, without authorization
 40 of the principal, willfully alters, forges, conceals, or destroys an instrument, the reinstatement or
 41 revocation of an instrument, or any other evidence or document reflecting the principal's desires and
 42 interests with the intent and effect of affecting a health care decision is guilty of a class A
 43 misdemeanor.

44 191.1565. The department of health may promulgate rules to implement the provisions of
 45 sections 191.1500 to 191.1565. Any rule or portion of a rule, as that term is defined in section
 46 536.010, that is created under the authority delegated in sections 191.1500 to 191.1565 shall
 47 become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
 48 applicable, section 536.028. Sections 191.1500 to 191.1565 and chapter 536 are nonseverable, and

1 if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
2 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
3 grant of rulemaking authority and any rule proposed or adopted after August 28, 2017, shall be
4 invalid and void."; and

5
6 Further amend said bill by amending the title, enacting clause, and intersectional references
7 accordingly.