1	UTAH DEATH WITH DIGNITY ACT
2	2015 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Rebecca Chavez-Houck
5	Senate Sponsor:
6 7	LONG TITLE
8	General Description:
9	This bill amends the Utah Uniform Probate Code to enact the Utah Death with Dignity
10	Act.
11	Highlighted Provisions:
12	This bill:
13	► defines terms;
14	 designates when a person may make a request for medication;
15	establishes attending physician responsibilities;
16	requires a consulting physician confirmation;
17	 provides for a counseling referral when needed;
18	requires an informed decision;
19	encourages family notification;
20	 requires a written and oral request and ability to rescind request at any time;
21	requires waiting periods;
22	• includes:
23	 documentation and reporting requirements; and
24	• a requirement that the patient be a resident of the state;
25	• establishes the effect of the decision to end a person's life on wills, contracts, and
26	insurance or annuity contracts;
27	 provides limited immunities and procedures for permissible sanctions;



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28	 establishes criminal penalties for certain actions; and
29	provides a uniform for patient consent.
30	Money Appropriated in this Bill:
31	None
32	Other Special Clauses:
33	This bill provides a special effective date.
34	Utah Code Sections Affected:
35	ENACTS:
36	75-2c-101 , Utah Code Annotated 1953
37	75-2c-102, Utah Code Annotated 1953
38	75-2c-103, Utah Code Annotated 1953
39	75-2c-104, Utah Code Annotated 1953
40	75-2c-105, Utah Code Annotated 1953
41	75-2c-106, Utah Code Annotated 1953
42	75-2c-107, Utah Code Annotated 1953
43	75-2c-108, Utah Code Annotated 1953
44	75-2c-109, Utah Code Annotated 1953
45	75-2c-110, Utah Code Annotated 1953
46	75-2c-111, Utah Code Annotated 1953
47	75-2c-112, Utah Code Annotated 1953
48	75-2c-113, Utah Code Annotated 1953
49	75-2c-114, Utah Code Annotated 1953
50	75-2c-115, Utah Code Annotated 1953
51	75-2c-116, Utah Code Annotated 1953
52	75-2c-117, Utah Code Annotated 1953
53	75-2c-118, Utah Code Annotated 1953
54	75-2c-119, Utah Code Annotated 1953
55	75-2c-120, Utah Code Annotated 1953
56	75-2c-121 , Utah Code Annotated 1953
57	75-2c-122, Utah Code Annotated 1953
58	

59	Be it enacted by the Legislature of the state of Utah:
60	Section 1. Section 75-2c-101 is enacted to read:
61	CHAPTER 2c. UTAH DEATH WITH DIGNITY ACT
62	<u>75-2c-101.</u> Title.
63	This chapter is known as the "Utah Death with Dignity Act."
64	Section 2. Section 75-2c-102 is enacted to read:
65	<u>75-2c-102.</u> Definitions.
66	As used in this chapter:
67	(1) "Adult" means an individual who is 18 years of age or older.
68	(2) "Attending physician" means the physician who has primary responsibility for the
69	care of the patient and treatment of the patient's terminal disease.
70	(3) "Capable" means that in the opinion of a court or in the opinion of the patient's
71	attending physician or consulting physician, psychiatrist or psychologist, a patient has the
72	ability to make and communicate health care decisions to health care providers, including
73	communication through persons familiar with the patient's manner of communicating if those
74	persons are available.
75	(4) "Consulting physician" means a physician who is qualified by specialty or
76	experience to make a professional diagnosis and prognosis regarding the patient's disease.
77	(5) "Counseling" means one or more consultations as necessary between a state
78	licensed psychiatrist or psychologist and a patient for the purpose of determining that the
79	patient is capable and not suffering from a psychiatric or psychological disorder or depression
80	causing impaired judgment.
81	(6) "Health care provider" means a person licensed, certified, or otherwise authorized
82	or permitted by the law of this state to administer health care or dispense medication in the
83	ordinary course of business or practice of a profession and includes a health care facility.
84	(7) "Informed decision" means a decision by a qualified patient to request and obtain a
85	prescription to end the patient's life in a humane and dignified manner that is based on an
86	appreciation of the relevant facts and after being fully informed by the attending physician of:
87	(a) the patient's medical diagnosis;
88	(b) the patient's prognosis;
89	(c) the potential risks associated with taking the medication to be prescribed;

90	(d) the probable result of taking the medication to be prescribed; and
91	(e) the feasible alternatives, including comfort care, hospice care, and pain control.
92	(8) "Intractable and unbearable illness" means a bodily disorder that cannot be cured or
93	successfully palliated and that causes such severe suffering that a patient prefers death.
94	(9) "Medically confirmed" means the medical opinion of the attending physician has
95	been confirmed by a consulting physician who has examined the patient and the patient's
96	relevant medical records.
97	(10) "Patient" means a person who is under the care of a physician.
98	(11) "Physician" means a doctor of medicine or osteopathy licensed to practice
99	medicine in the state.
100	(12) "Qualified patient" means a capable adult who is a resident of Utah and has
101	satisfied the requirements of this chapter to obtain a prescription for medication to end the
102	patient's life in a humane and dignified manner.
103	(13) "Self administer" means a qualified individual's affirmative, conscious act of using
104	the medication to bring about the individual's own peaceful and humane death.
105	(14) "Terminal disease" means an incurable and irreversible disease that has been
106	medically confirmed and will, within reasonable medical judgment, produce death within six
107	months.
108	Section 3. Section 75-2c-103 is enacted to read:
109	75-2c-103. Initiation of written request for medication.
110	(1) A person may make a written request for medication for the purpose of ending the
111	person's life in a humane and dignified manner in accordance with this chapter if the person:
112	(a) is an adult;
113	(b) is capable;
114	(c) is a resident of Utah;
115	(d) has been determined by the attending physician and consulting physician to be:
116	(i) suffering from a terminal disease; or
117	(ii) an intractable and unbearable illness; and
118	(e) has voluntarily expressed a wish to die.
119	(2) A person may not qualify under the provisions of Subsection (1) solely because of
120	age or disability.

121	Section 4. Section 75-2c-104 is enacted to read:
122	75-2c-104. Form of the written request.
123	(1) A valid request for medication under this chapter shall be in substantially the form
124	described in Section 75-2c-122, signed and dated by the patient and witnessed by at least two
125	individuals who, in the presence of the patient, attest that to the best of their knowledge and
126	belief the patient is capable, is acting voluntarily, and is not being coerced to sign the request.
127	(2) One of the witnesses shall be a person who is not:
128	(a) a relative of the patient by blood, marriage or adoption;
129	(b) a person who at the time the request is signed would be entitled to any portion of
130	the estate of the qualified patient upon death under any will or by operation of law; or
131	(c) an owner, operator, or employee of a health care facility where the qualified patient
132	is receiving medical treatment or is a resident.
133	(3) The patient's attending physician at the time the request is signed shall not be a
134	witness.
135	Section 5. Section 75-2c-105 is enacted to read:
136	75-2c-105. Attending physician responsibilities.
137	(1) The attending physician shall:
138	(a) make the initial determination of whether a patient:
139	(i) (A) has a terminal disease; or
140	(B) has an intractable and unbearable illness;
141	(ii) is capable; and
142	(iii) has made the request voluntarily;
143	(b) request that the patient attest to Utah residency pursuant to Section 75-2c-113;
144	(c) ensure that the patient is making an informed decision, by informing the patient of:
145	(i) the patient's medical diagnosis;
146	(ii) the patient's prognosis;
147	(iii) the potential risks associated with taking the medication to be prescribed;
148	(iv) the probable result of taking the medication to be prescribed; and
149	(v) the feasible alternatives, including comfort care, hospice care, and pain control;
150	(d) refer the patient to a consulting physician for medical confirmation of the diagnosis
151	and for a determination that the patient is capable and acting voluntarily;

152	(e) refer the patient for counseling if appropriate pursuant to Section 75-2c-107;
153	(f) recommend that the patient notify next of kin;
154	(g) counsel the patient about the importance of having another person present when the
155	patient takes the medication prescribed pursuant to this chapter and of not taking the
156	medication in a public place;
157	(h) inform the patient that the patient has an opportunity to rescind the request at any
158	time and in any manner, and offer the patient an opportunity to rescind at the end of the 15 day
159	waiting period required by Section 75-2c-111;
160	(i) verify, immediately prior to writing the prescription for medication under this
161	chapter, that the patient is making an informed decision;
162	(j) fulfill the medical record documentation requirements of Section 75-2c-112;
163	(k) ensure that all appropriate steps are carried out in accordance with this chapter prior
164	to writing a prescription for medication to enable a qualified patient to end the patient's life in a
165	humane and dignified manner;
166	(1) with the patient's consent:
167	(i) contact a pharmacist and inform the pharmacist of the prescription; and
168	(ii) deliver the written prescription personally or electronically to the pharmacist, who
169	will dispense the medications to either the patient, the attending physician, or an expressly
170	identified agent of the patient; and
171	(m) inform the Department of Health of the prescription written for the patient,
172	including the name of any drugs prescribed.
173	(2) Notwithstanding any other provision of law, the attending physician may sign the
174	patient's death certificate.
175	Section 6. Section 75-2c-106 is enacted to read:
176	75-2c-106. Consulting physician confirmation.
177	Before a patient is qualified under this chapter, a consulting physician shall examine the
178	patient and the patient's relevant medical records and confirm, in writing, the attending
179	physician's diagnosis that the patient is suffering from a terminal disease or intractable and
180	unbearable illness and verify that the patient is capable, is acting voluntarily, and has made an
181	informed decision.
182	Section 7. Section 75-2c-107 is enacted to read:

183	<u>75-2c-107.</u> Counseling referral.
184	If in the opinion of the attending physician or the consulting physician a patient may be
185	suffering from a psychiatric or psychological disorder or depression causing impaired
186	judgment, either physician shall refer the patient for counseling. No medication to end a
187	patient's life in a humane and dignified manner shall be prescribed until the person performing
188	the counseling determines that the patient is not suffering from a psychiatric or psychological
189	disorder or depression causing impaired judgment.
190	Section 8. Section 75-2c-108 is enacted to read:
191	75-2c-108. Informed decision.
192	A patient shall not receive a prescription for medication to end the patient's life in a
193	humane and dignified manner unless the patient has made an informed decision as defined in
194	Section 75-2c-102. Immediately prior to writing a prescription for medication under this
195	chapter, the attending physician shall verify that the patient is making an informed decision.
196	Section 9. Section 75-2c-109 is enacted to read:
197	75-2c-109. Family notification.
198	The attending physician shall recommend that the patient notify the next of kin of the
199	patient's request for medication pursuant to this chapter. A patient who declines or is unable to
200	notify next of kin shall not have the patient's request denied for that reason.
201	Section 10. Section 75-2c-110 is enacted to read:
202	75-2c-110. Written and oral requests Opportunity to rescind.
203	(1) In order to receive a prescription for medication to end a patient's life in a humane
204	and dignified manner, a qualified patient shall:
205	(a) make an oral request for medication;
206	(b) make a written request for medication; and
207	(c) repeat the oral request to the patient's attending physician no less than 15 days after
208	making the initial oral request.
209	(2) At the time the qualified patient makes the second oral request, the attending
210	physician shall offer the patient an opportunity to rescind the request.
211	(3) A patient may rescind the patient's request at any time and in any manner without
212	regard to the patient's mental state. A prescription for medication under this chapter shall not
213	be written without the attending physician offering the qualified patient an opportunity to

214	rescind the request.
215	Section 11. Section 75-2c-111 is enacted to read:
216	75-2c-111. Waiting periods.
217	A physician shall not write a prescription under this chapter until:
218	(1) no less than 15 days have elapsed between the patient's initial oral request and the
219	writing of a prescription; and
220	(2) no less than 48 hours have elapsed between the patient's written request and the
221	writing of a prescription.
222	Section 12. Section 75-2c-112 is enacted to read:
223	75-2c-112. Medical record documentation requirements.
224	The following shall be documented or filed in the patient's medical record:
225	(1) all oral requests by a patient for medication to end the patient's life in a humane and
226	dignified manner;
227	(2) all written requests by a patient for medication to end the patient's life in a humane
228	and dignified manner;
229	(3) the attending physician's diagnosis, prognosis, and determination that the patient is
230	capable, acting voluntarily, and has made an informed decision;
231	(4) the consulting physician's diagnosis and prognosis and verification that the patient
232	is capable, acting voluntarily, and has made an informed decision;
233	(5) a report of the outcome and determinations made during counseling, if performed;
234	(6) the attending physician's offer to the patient to rescind the patient's request at the
235	time of the patient's second oral request; and
236	(7) a note by the attending physician indicating that all requirements under this chapter
237	have been met and indicating the steps taken to carry out the request, including a notation of
238	the medication prescribed.
239	Section 13. Section 75-2c-113 is enacted to read:
240	75-2c-113. Residency requirement.
241	(1) An attending physician may rely on a patient's attestation of meeting the
242	requirements for being a resident of Utah if the attestation complies with Subsections (2) and
243	<u>(3).</u>
244	(2) A patient shall attest to the attending physician that the patient is a resident of the

245	state, and:
246	(a) possesses a Utah driver license or Utah identification card;
247	(b) is registered to vote in Utah;
248	(c) owns or leases property in Utah;
249	(d) filed a Utah tax return for the most recent tax year; or
250	(e) has some other indication of residency that is recognized by state law.
251	(3) A patient who relies on Subsection (2)(e) to attest to residency in Utah shall
252	specifically describe the factors that the patient is relying upon in the attestation to the
253	attending physician.
254	Section 14. Section 75-2c-114 is enacted to read:
255	75-2c-114. Reporting requirements.
256	(1) A health care provider who dispenses a medication pursuant to this chapter shall
257	file a copy of the dispensing record with the Utah Department of Health in the manner required
258	by the department.
259	(2) (a) The Utah Department of Health may review a sample of the medical records of
260	patients who receive a medication under this chapter.
261	(b) Except as otherwise required by law, the information collected under Subsections
262	(1) and (2) shall not be a public record and may not be made available for inspection by the
263	public.
264	(3) The Utah Department of Health shall:
265	(a) generate and make available to the public an annual statistical report of
266	de-identified information collected under this section;
267	(b) make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
268	facilitate the collection of information regarding compliance with this chapter; and
269	(c) provide an annual report to the Legislature's Health and Human Services Interim
270	Committee regarding the statistical report in Subsection (3)(a).
271	Section 15. Section 75-2c-115 is enacted to read:
272	75-2c-115. Effect on construction of wills, contracts, and statutes.
273	(1) No provision in a contract, will, or other agreement, whether written or oral, to the
274	extent the provision would affect whether a person may make or rescind a request for
275	medication to end the person's life in a humane and dignified manner, shall be valid.

276	(2) No obligation owing under any currently existing contract shall be conditioned or
277	affected by the making or rescinding of a request, by a person, for medication to end the
278	person's life in a humane and dignified manner.
279	Section 16. Section 75-2c-116 is enacted to read:
280	75-2c-116. Insurance or annuity policies.
281	The sale, procurement, or issuance of any life, health, or accident insurance or annuity
282	policy or the rate charged for any policy shall not be conditioned upon or affected by the
283	making or rescinding of a request, by a person, for medication to end the person's life in a
284	humane and dignified manner. Neither shall a qualified patient's act of ingesting medication to
285	end the patient's life in a humane and dignified manner have an effect upon a life, health, or
286	accident insurance or annuity policy.
287	Section 17. Section 75-2c-117 is enacted to read:
288	75-2c-117. Construction of chapter.
289	Nothing in this chapter shall be construed to authorize a physician or any other person
290	to end a patient's life by lethal injection, mercy killing, or active euthanasia. Actions taken in
291	accordance with this chapter shall not, for any purpose, constitute suicide, assisted suicide,
292	mercy killing, or homicide, under the law.
293	Section 18. Section 75-2c-118 is enacted to read:
294	75-2c-118. Immunities Basis for prohibiting health care provider from
295	participation Notification Permissible sanctions.
296	(1) Except as provided in Section 75-2c-119, the provisions of this section apply to this
297	chapter.
298	(2) A person shall not be subject to civil or criminal liability or professional
299	disciplinary action for participating in good faith compliance with this chapter, including being
300	present when a qualified patient takes the prescribed medication to end the qualified patient's
301	life in a humane and dignified manner.
302	(3) A professional organization or association, or health care provider, may not subject
303	a person to censure, discipline, suspension, loss of license, loss of privileges, loss of
304	membership, or other penalty for participating or refusing to participate in good faith
305	compliance with this chapter.
306	(4) A request by a patient for or provision by an attending physician of medication in

good faith compliance with the provisions of this chapter shall not constitute neglect for any purpose of law or provide the sole basis for the appointment of a guardian or conservator.

- (5) A health care provider shall not be under any duty, whether by contract, by statute, or by any other legal requirement, to participate in the provision to a qualified patient of medication to end the patient's life in a humane and dignified manner. If a health care provider is unable or unwilling to carry out a patient's request under this chapter, and the patient transfers the patient's care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the patient's relevant medical records to the new health care provider.
- (6) (a) Notwithstanding any other provision of law, a health care provider may prohibit another health care provider from participating in this chapter on the premises of the prohibiting health care provider if the prohibiting health care provider notifies the health care provider of the prohibiting provider's policy regarding participating in this chapter. Nothing in this Subsection (6)(a) prevents a health care provider from providing health care services to a patient that do not constitute participation in this chapter.
- (b) Notwithstanding the provisions of Subsections (2) through (5), a healthcare provider may subject another health care provider to the sanctions stated in this Subsection (6)(b) if the sanctioning health care provider has notified the sanctioned provider prior to participation in this chapter that it prohibits participation in this chapter:
- (i) loss of privileges, loss of membership or other sanction provided pursuant to the medical staff bylaws, policies, and procedures of the sanctioning health care provider, if the sanctioned provider is a member of the sanctioning provider's medical staff and participates in this chapter while on the health care facility premises of the sanctioning health care provider, but not including the private medical office of a physician or other provider;
- (ii) termination of lease or other property contract or other nonmonetary remedies provided by lease contract, not including loss or restriction of medical staff privileges or exclusion from a provider panel, if the sanctioned provider participates in this chapter while on the premises of the sanctioning health care provider or on property that is owned by or under the direct control of the sanctioning health care provider; or
- (iii) termination of contract or other nonmonetary remedies provided by contract if the sanctioned provider participates in this chapter while acting in the course and scope of the

338	sanctioned provider's capacity as an employee or independent contractor of the sanctioning
339	health care provider.
340	(c) Nothing in Subsections (6)(a) and (b) shall be construed to prevent:
341	(i) a health care provider from participating in this chapter while acting outside the
342	course and scope of the provider's capacity as an employee or independent contractor of the
343	sanctioning health care provider; or
344	(ii) a patient from contracting with the patient's attending physician and consulting
345	physician to act outside the course and scope of the provider's capacity as an employee or
346	independent contractor of the sanctioning health care provider.
347	(7) A health care provider that imposes sanctions pursuant to Subsection (6)(b) shall
348	follow all due process and other procedures the sanctioning health care provider may have that
349	are related to the imposition of sanctions on another health care provider.
350	(8) For purposes of this section:
351	(a) "Notify" means a separate statement in writing to the health care provider
352	specifically informing the health care provider prior to the provider's participation in this
353	chapter of the sanctioning health care provider's policy about participation in activities covered
354	by this chapter.
355	(b) "Participate in this chapter":
356	(i) means to perform the duties of an attending physician pursuant to Section
357	75-2c-105, the consulting physician function pursuant to Section 75-2c-106, or the counseling
358	function pursuant to Section 75-2c-107; and
359	(ii) does not include:
360	(A) making an initial determination that a patient has a terminal disease or intractable
361	and unbearable illness and informing the patient of the medical prognosis;
362	(B) providing information to a patient, upon the request of the patient, about the Utah
363	Death with Dignity Act;
364	(C) providing a patient, upon the request of the patient, with a referral to another
365	physician; or
366	(D) a patient contracting with the patient's attending physician and consulting physician
367	to act outside of the course and scope of the provider's capacity as an employee or independent
368	contractor of the sanctioning health care provider

369	(9) Suspension or termination of staff membership or privileges under Subsection (6) is
370	not reportable under Title 58, Occupations and Professions. Action taken pursuant to Section
371	75-2c-118 shall not be the sole basis for a report of unprofessional conduct to a licensing board
372	under Title 58, Occupations and Professions.
373	(10) This chapter shall not be construed to allow a lower standard of care for patients
374	in the community where the patient is treated or a similar community.
375	Section 19. Section 75-2c-119 is enacted to read:
376	<u>75-2c-119.</u> Liabilities.
377	(1) A person who, without authorization of the patient, willfully alters or forges a
378	request for medication or conceals or destroys a rescission of that request with the intent or
379	effect of causing the patient's death shall be guilty of a first degree felony.
380	(2) A person who coerces or exerts undue influence on a patient to request medication
381	for the purpose of ending the patient's life, or to destroy a rescission of such a request, shall be
382	guilty of a first degree felony.
383	(3) Nothing in this chapter limits further liability for civil damages resulting from other
384	negligent conduct or intentional misconduct by any person.
385	(4) The penalties in this chapter do not preclude criminal penalties applicable under
386	other law for conduct that is inconsistent with the provisions of this chapter.
387	Section 20. Section 75-2c-120 is enacted to read:
388	75-2c-120. Claims by governmental entity for costs incurred.
389	A governmental entity that incurs costs resulting from a person terminating the person's
390	life pursuant to the provisions of this chapter in a public place shall have a claim against the
391	estate of the person to recover the costs and reasonable attorney fees related to enforcing the
392	claim.
393	Section 21. Section 75-2c-121 is enacted to read:
394	75-2c-121. Severability.
395	Any section of this chapter that is held invalid as to any person or circumstance shall
396	not affect the application of any other section of this chapter that can be given full effect
397	without the invalid section or application.
398	Section 22. Section 75-2c-122 is enacted to read:
399	75-2c-122. Form of the request.

400	A request for a medication as authorized by this chapter shall be in substantially the
401	following form:
402	REQUEST FOR MEDICATION
403	TO END MY LIFE IN A HUMANE
404	AND DIGNIFIED MANNER
405	I, , am an adult of sound mind.
406	I am suffering from , which my attending physician has determined is a
407	terminal disease or an intractable and unbearable disease and which has been medically
408	confirmed by a consulting physician.
409	I have been fully informed of my diagnosis, prognosis, the nature of medication to be
410	prescribed, and potential associated risks, the expected result, and the feasible alternatives,
411	including comfort care, hospice care, and pain control.
412	I request that my attending physician prescribe medication that will end my life in a
413	humane and dignified manner.
414	INITIAL ONE:
415	I have informed my family of my decision and taken their opinions into
416	consideration.
417	I have decided not to inform my family of my decision.
418	I have no family to inform of my decision.
419	I understand that I have the right to rescind this request at any time.
420	I understand the full import of this request and I expect to die when I take the
421	medication to be prescribed. I further understand that although most deaths occur within three
422	hours, my death may take longer and my physician has counseled me about this possibility.
423	I make this request voluntarily and without reservation, and I accept full moral
424	responsibility for my actions.
425	Signed:
426	Dated:
427	DECLARATION OF WITNESSES
428	We declare that the person signing this request:
429	(a) is personally known to us or has provided proof of identity;
430	(b) signed this request in our presence;

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431	(c) appears to be of sound mind and not under duress, fraud or undue influence;
432	(d) is not a patient for whom either of us is the attending physician.
433	Witness 1/Date
434	Witness 2/Date
435	NOTE: One witness shall not be a relative (by blood, marriage, or adoption) of the
436	person signing this request, shall not be entitled to any portion of the person's estate upon
437	death, and shall not own, operate, or be employed at a health care facility where the person is a
438	patient or resident. If the patient is an inpatient at a health care facility, one of the witnesses
439	shall be an individual designated by the facility.
440	Section 23. Effective date.
441	This bill takes effect on July 1, 2015.

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