INITIATIVE MEASURE 1000

Proposed by Initiative Petition

Official Ballot Title:

Initiative Measure No. 1000 concerns allowing certain terminally ill competent adults to obtain lethal prescriptions.

This measure would permit terminally ill, competent, adult Washington residents, who are medically predicted to have six months or less to live, to request and self-administer lethal medication prescribed by a physician.

Should this measure be enacted into law?

Yes [ ] No [ ]

Note: The Official Ballot Title was written by the Attorney General as required by law. The Explanatory Statement was written by the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management. For more in-depth fiscal analysis, visit www.ofm.wa.gov/initiatives. The complete text of Initiative Measure 1000 begins on page 33.

Fiscal Impact Statement

Fiscal Impact Statement for Initiative 1000

Initiative 1000 would require health care providers writing a prescription or dispensing medication under this act to file a copy of the dispensing record with the Washington State Department of Health. The Department would be required to create and make available to the public an annual statistical report of information collected. The Department would adopt rules on the process for collecting this information. One-time rule-making costs are estimated at **$60,000.** Ongoing data collection and reporting costs are estimated at **$19,000 per biennium**. Total costs for the 2009–11 biennium are **$79,000.**

Assumptions for Fiscal Analysis of Initiative 1000

The Department of Health will incur one-time costs in fiscal year 2010 for rulemaking. This includes the cost of conducting three rule-making hearings across the state, associated staff and related expenses, meeting room rentals, Office of Attorney General services, travel, printing and postage. Rule-making costs are estimated at **$60,000.**

Starting in fiscal year 2010, the Department of Health would have ongoing costs for staff required to collect and report the data identified in section 15 of this act. Staff and associated costs are estimated at **$19,000** for the 2009–11 biennium.

INITIATIVE MEASURE 1000

Explanatory Statement

The law as it presently exists:

Under existing Washington law, it is a crime for any person, including a physician, to knowingly assist another person in attempting suicide. Knowingly causing or aiding another person to attempt suicide is a class C felony. Washington's Natural Death Act states that nothing in that Act shall be construed to condone, authorize, or approve mercy-killing or physician-assisted suicide, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying. Death certificates are required to state the cause of death within the best knowledge or belief of the attending physician or medical attendant, or the health officer, coroner, or prosecuting attorney having jurisdiction. A physician or other medical license holder who is convicted of a felony related to the practice of the person's profession is subject to professional discipline, including license suspension or revocation.

The effect of the proposed measure, if approved:

This measure would allow a terminally ill, competent, adult Washington resident who is medically predicted to have six months or less to live, to request and self-administer lethal medication prescribed by a physician. The attending physician with primary responsibility for care of the patient would be required to determine that the patient has an incurable, irreversible disease expected to cause death within six months; that the patient is competent; that the patient has demonstrated Washington residency; that the request is voluntary; and that the patient is making an informed decision. A second, consulting physician, would be required to confirm that the patient is terminally ill, competent, and has made an informed and voluntary decision. The measure defines competent as having the ability to make and communicate an informed decision to health care providers. The measure defines an informed decision as a qualified patient's decision to request and obtain a lethal prescription, based on an appreciation of the relevant facts and after being fully informed by the attending physician of his or her diagnosis, prognosis, the risks and probable result of ingesting the medication, and feasible alternatives.

The attending physician would be required to recommend that the patient notify the patient's next of kin, but the patient would not be required to do so. If the attending or consulting physician believes the patient's judgment may be impaired by a psychiatric or psychological disorder or depression, the physician would be required to refer the patient to a psychiatrist or psychologist for counseling. Lethal medication could not be prescribed until the counselor determines that the patient's judgment is not impaired. Immediately before writing the prescription, the attending physician would be required to verify that the patient is making an informed decision.

The measure would require a patient to make one written and two oral requests to the attending physician for the lethal medication. The patient would have the right to rescind the request at any time, and in any manner, regardless of his or her mental state. The physician would be required to offer the patient an opportunity to rescind the request when the second oral request is made. A 15-day waiting period between the first and second oral requests would be required, and a 48-hour waiting period between the written request and the writing of the prescription would be required. The measure would require that the written request of the patient be substantially in a form contained in the measure. The form includes a statement that the patient is of sound mind and is making a voluntary request, has a terminal disease, has been informed of the likely effect of taking the lethal medication and feasible alternatives, that the patient understands the right to rescind the request at any time, and an indication of whether the patient's family has been informed.

Two persons would be required to witness the patient's written request and to attest that, to the best of their knowledge, the patient is competent, acting voluntarily, and not being coerced. The measure would require that one witness not be a relative; not be the patient's attending physician; not be entitled to a portion of the patient's estate; and not own, operate, or be employed by a health care facility where the patient is a patient or resident. If the patient is an inpatient at a health care facility, one witness would be required to be designated by the facility. The measure would require attending physicians to document compliance with its requirements.

Persons participating in good faith compliance with the measure, including being present when a qualified patient takes the prescribed lethal medication, would not be subject to criminal or civil liability, or professional disciplinary action. Any person who willfully alters or forges a request for lethal medication without the patient's authorization, conceals or destroys a rescission

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 Washington Administrative Code (WAC) 434-381-180. The secretary of state is not responsible for the content of arguments or statements.

Explanatory Statement *(continued)*

with the intent to cause the patient's death, or coerces or exerts undue influence on a patient to request lethal medication or destroy a rescission, would be guilty of a class A felony.

Provisions in wills, contracts, or agreements purporting to affect the ability to make or rescind a request for lethal medication would be invalid. Life, health, or accident insurance or annuity policies, and rates charged for them, could not be conditioned on or affected by making or rescinding a request for lethal medication. A qualified patient's ingestion of lethal medication would have no effect on a life, health, or accident insurance or annuity policy.

The measure would not require a health care provider or facility that is unable or unwilling, to provide a prescription for lethal medication. If a health care provider or facility is unable or unwilling to carry out a qualified patient's request for lethal medication, and the patient transfers his or her care to a new provider, the prior provider would be required to transfer a copy of the patient's relevant medical records to the new health care provider, upon the patient's request. With advance notice, a health care facility that chooses not to participate under this measure may prohibit other health care providers from participating on the facility's premises.

The measure would not prevent a health care provider from participating in the measure while acting outside the provider's capacity as an employee or independent contractor. In addition, the measure would not authorize a health care provider or facility to sanction a physician or counselor for making an initial determination that a patient has a terminal disease; informing the patient of the medical prognosis; providing information about the measure at the patient's request; or providing information regarding this measure or a referral to another physician at the patient's request.

State reports would refer to practices under the measure as obtaining and self-administering life-ending medication, and not as suicide or assisted suicide. The patient's death certificate would be required to list the underlying terminal disease as the cause of death.

The state Department of Health would be required to annually review all records maintained under the measure and to adopt rules for collecting information relating to compliance with the measure. Health care providers that prescribe or dispense lethal medication under the measure would be required to file a report with the Department of Health. Information collected by the Department of Health would not be public. The Department of Health would be required to annually produce a public statistical report of collected information.

Statement For Initiative Measure 1000

YES ON I-1000: IT'S MY DECISION

A YES vote FOR I-1000 allows mentally competent, terminally ill adults with six months or less to live to receive – under strict safeguards – a prescription for life-ending medication. This choice belongs exclusively to the terminally ill individual. Government, politicians, religious groups and others should not dictate these personal decisions.

TEN YEARS OF DIGNITY IN OREGON

I-1000 mirrors an Oregon law that has been in place for over 10 years. The Oregon law was upheld by the U.S. Supreme Court and approved twice by voters.

Earlier this year, *The Oregonian* newspaper wrote that the law "helped elevate end-of-life care" and that "in a decade of experience with the law, no abuses have shown up." *The Seattle Times* added that "those it affects, and their families, will be thankful for its passage."

Independent studies of Oregon's Death with Dignity law prove that the safeguards protect patients, prevent misuse and coercion, and allow mentally competent, terminally ill patients the option of a peaceful, dignified death. People with terminal cancer and AIDS would have the right to decide whether to end their intolerable suffering.

SAFEGUARDS WORK

There are multiple safeguards in Washington's death with dignity law. These safeguards include independently witnessed oral and written requests, two waiting periods, mental competency and prognosis confirmed by two physicians, and self-administration of the medication. Only the patient – and no one else – may administer the medication.

YES ON I-1000: DEATH WITH DIGNITY

I-1000 asks, "Who should decide these difficult end-of-life questions?" We say the decision belongs with the patient and their family, and no one else.

For more information, visit www.yeson1000.org or call (206) 633-2008.

Rebuttal of Statement Against

Suffering, terminally ill adults should have the right to make their own end-of-life choices.

Opponents of I-1000 – funded largely by one religious group – want to impose their views on everyone.

Independent studies of Oregon's law show no abuse (www.oregon.gov./DHS).

No one is forced to use it.

I-1000 has the same safeguards as Oregon's law.

The Washington Public Health Association, American Medical Women's Association, thousands of doctors, nurses, disabled people, clergy, citizens and patients endorse I-1000.

Voters' Pamphlet Argument Prepared by:

GOVERNOR BOOTH GARDNER (D); GOVERNOR DANIEL J. EVANS (R); TOM PRESTON, MD; DOROTHY H. MANN, PhD, M.P.H.; REV. BRUCE PARKER, D. Min.; LINDA N. OLSON, PhD, RN.

Statement Against Initiative Measure 1000

I-1000 legalizes assisted suicide in Washington. The law is flawed and dangerous.

I-1000 IS DANGEROUS FOR PEOPLE WHO CANNOT AFFORD HEALTH CARE.

Adding I-1000 to our broken, profit-driven health care system puts Washingtonians at risk – anyone with limited access to health care or inadequate health insurance. *In Oregon, patients have been denied chemotherapy but offered assisted suicide instead.*

I-1000 HAS NO REAL SAFEGUARDS.

I-1000 requires almost no government oversight, with no penalties for abuse. It overrides our disclosure laws and requires doctors to falsify death certificates.

I-1000 endangers vulnerable people. Its supposed "safeguards" are inadequate:

- Depressed and mentally ill people can be given lethal drug overdoses.
- Spouses and children need never be told a loved one is being given a lethal drug overdose.
- There is no protection against coercion or financial pressures.

OUR STATE'S LEADING PHYSICIANS' ORGANIZATION, THE WASHINGTON STATE MEDICAL ASSOCIATION, STRONGLY OPPOSES I-1000.

Proponents say I-1000 provides a choice when dying, but for those who are not wealthy, it could be a choice made by insurers and state bureaucrats; they will have the choice to steer patients toward assisted suicide rather than provide actual end-of-life care.

DISABILITY COMMUNITY LEADERS OPPOSE I-1000.

Recent medical advances assure pain can be controlled and no one need suffer at the end of life. *I-1000 is not needed.*

Dangerous assisted suicide laws have been rejected in 24 states, including here in Washington in 1991. It's time to reject assisted suicide, again.

VOTE "NO" ON I-1000. IT'S JUST TOO DANGEROUS.

For more information, visit www.noassistedsuicide.com or call (206) 337-2091.

Rebuttal of Statement For

The truth: Assisted suicide in Oregon isn't dignified. And its safeguards don't work.

Credible studies show *end of life suffering has increased, not decreased* in Oregon. Depressed and confused people have been coerced into assisted suicide there.

No wonder *The Oregonian* calls the law: "rigged to avoid finding answers." (3/8/05)

I-1000 offers even fewer protections than Oregon's law. Washington's voters *do* want to decide difficult end-of-life questions themselves.

That's why they'll vote NO on I-1000.

Voters' Pamphlet Argument Prepared by:

MARGARITA PRENTICE, State Senator and nurse; CYNTHIA MARKUS, MD, President, Washington State Medical Association; DUANE FRENCH, disability rights leader, Not Dead Yet – Washington; ROSE CRUMB, RN, hospice nurse, founder Volunteer Hospice of Clallam County; DAVID CORTINAS, publisher of *LaVoz* Hispanic Newspaper; LINDA SEAMAN, MD, FAAHPM, board certified hospice and palliative medicine.

Complete Text of
INITIATIVE MEASURE 985
(continued)

so deposited in the toll revenue fund. All funds so transferred for the payment of principal or interest on bonds issued for any particular toll bridge shall be segregated and applied solely for the payment of that principal or interest. The proceedings authorizing the issuance of bonds may provide for setting up a reserve fund or funds out of the tolls and other revenues not needed for the payment of principal and interest, as the same currently matures and for the preservation and continuance of the fund in a manner to be provided therein. The proceedings may also require the immediate application of all surplus moneys in the toll revenue fund to the retirement of the bonds prior to maturity, by call or purchase, in such manner and upon such terms and the payment of such premiums as may be deemed advisable in the judgment of the department.

The moneys remaining in each separate toll revenue fund after providing the amount required for interest and redemption of bonds as provided in this section shall be held and applied as provided in the proceedings authorizing the issuance of the bonds. If the proceedings authorizing the issuance of the bonds do not require surplus revenues to be held or applied in any particular manner, they shall be ((~~allocated and used for such other purposes incidental to the construction, operation, and maintenance of the toll bridge or bridges as the department may determine~~)) dedicated to reducing traffic congestion and deposited in the Reduce Traffic Congestion Account created in section 10 of this act.

NEW SECTION. **Sec. 18.** This act does not inhibit or prohibit the department of transportation or any other state or local government agency or body from allocating or expending other revenue from other sources to fund costs associated with opening carpool lanes to everyone during non-peak hours, synchronizing traffic lights on heavily-traveled arterials and streets, or increasing funding for emergency roadside assistance as required under this act.

NEW SECTION. **Sec. 19.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 20.** Subheadings used in this act are not any part of the law.

NEW SECTION. **Sec. 21.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 22.** This act shall be known and cited as the Reduce Traffic Congestion Act of 2008.

NEW SECTION. **Sec. 23.** This act takes effect December 4, 2008.

Complete Text of
INITIATIVE MEASURE 1000

The Washington Death with Dignity Act

Section Outline

Section 1. Definitions
Adult
Attending physician
Competent
Consulting physician
Counseling
Health care provider
Informed decision
Medically confirmed
Patient
Physician
Qualified patient
Self-administer
Terminal disease

Written Request for Medication to End Life in a Humane and Dignified Manner

Section 2. Who may initiate a written request for medication
Section 3. Form of the written request

Safeguards

Section 4. Attending physician responsibilities
Section 5. Consulting physician confirmation
Section 6. Counseling referral
Section 7. Informed decision
Section 8. Family notification
Section 9. Written and oral requests
Section 10. Right to rescind request
Section 11. Waiting periods
Section 12. Medical record documentation requirements
Section 13. Residency requirement
Section 14. Disposal of unused medications
Section 15. Reporting requirements
Section 16. Effect on construction of wills, contracts, and statutes
Section 17. Insurance or annuity policies
Section 18. Construction of Act

Immunities and Liabilities

Section 19. Immunities--basis for prohibiting health care provider from participation--notification--permissible sanctions
Section 20. Liabilities
Section 21. Claims by governmental entity for costs incurred

Additional Provisions

Section 22. Form of the request
Section 23. Amendments
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Section 27. Severability
Section 28. Effective date
Section 29. New chapter in Title 70
Section 30. Captions, part headings, and subpart headings not law
Section 31. Expiration date

Initiative Measure No. 1000

AN ACT Relating to death with dignity; amending RCW 70.122.100; reenacting and amending RCW 42.56.360 and 42.56.360; adding a new chapter to Title 70 RCW; prescribing penalties; providing an effective date; and providing an expiration date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

THE WASHINGTON DEATH WITH DIGNITY ACT
General Provisions

NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means an individual who is eighteen years of age or older.

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

(3) "Competent" means that, in the opinion of a court or in the opinion of the patient's attending physician or consulting physician, psychiatrist, or psychologist, a patient has the ability to make and communicate an informed decision to health care providers, including communication through persons familiar with the patient's manner of communicating if those persons are available.

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

(5) "Counseling" means one or more consultations as necessary between a state licensed psychiatrist or psychologist and a patient for the purpose of determining that the patient is competent and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

(6) "Health care provider" means a person licensed, certified, or otherwise authorized or permitted by law to administer health care or dispense medication in the ordinary course of business or practice of a profession, and includes a health care facility.

(7) "Informed decision" means a decision by a qualified patient, to request and obtain a prescription for medication that the qualified patient may self-administer 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:

(a) His or her medical diagnosis;

(b) His or her prognosis;

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

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

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

(8) "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.

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

(10) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine in the state of Washington.

(11) "Qualified patient" means a competent adult who is a resident of Washington state and has satisfied the requirements of this chapter in order to obtain a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner.

(12) "Self-administer" means a qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner.

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

Written Request for Medication to End Life in a Humane and Dignified Manner

NEW SECTION. **Sec. 2.** WHO MAY INITIATE A WRITTEN REQUEST FOR MEDICATION. (1) An adult who is competent, is a resident of Washington state, 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 that the patient may self-administer to end his or her life in a humane and dignified manner in accordance with this chapter.

(2) A person does not qualify under this chapter solely because of age or disability.

NEW SECTION. **Sec. 3.** FORM OF THE WRITTEN REQUEST. (1) A valid request for medication under this chapter shall be in substantially the form described in section 22 of this act, signed and dated by the patient and witnessed by at least two individuals who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is competent, acting voluntarily, and is not being coerced to sign the request.

(2) One 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 of the witnesses shall be an individual designated by the facility and having the qualifications specified by the department of health by rule.

Safeguards

NEW SECTION. **Sec. 4.** ATTENDING PHYSICIAN RESPONSIBILITIES. (1) The attending physician shall:

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

(b) Request that the patient demonstrate Washington state residency under section 13 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 competent and acting voluntarily;

(e) Refer the patient for counseling if appropriate under section 6 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 under this chapter 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 under section 9 of this act;

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

(j) Fulfill the medical record documentation requirements of section 12 of this act;

(k) Ensure that all appropriate steps are carried out in accordance with this chapter before writing a prescription for medication to enable a qualified patient to end his or her life in a humane and dignified manner; and

(l)(i) Dispense medications directly, including ancillary medications intended to facilitate the desired effect to minimize the patient's discomfort, if the attending physician is authorized under statute and rule to dispense and has a current drug enforcement administration certificate; or

(ii) With the patient's written consent:

(A) Contact a pharmacist and inform the pharmacist of the prescription; and

(B) Deliver the written prescription personally, by mail or facsimile to the pharmacist, who will dispense the medications directly to either the patient, the attending physician, or an expressly identified agent of the patient. Medications dispensed pursuant to this subsection shall not be dispensed by mail or other form of courier.

(2) The attending physician may sign the patient's death certificate which shall list the underlying terminal disease as the cause of death.

NEW SECTION. **Sec. 5.** CONSULTING PHYSICIAN CONFIRMATION. Before a patient is qualified under this chapter, 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 competent, is acting voluntarily, and has made an informed decision.

NEW SECTION. **Sec. 6.** COUNSELING REFERRAL. If, in the opinion of the attending physician or the consulting physician, a patient may be suffering from a psychiatric or psychological disorder or depression causing impaired judgment, either physician shall refer the patient for counseling. Medication to end a patient's life in a humane and dignified manner shall not be prescribed until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

NEW SECTION. **Sec. 7.** INFORMED DECISION. A person shall not receive a prescription for medication to end his or her life in a humane and dignified manner unless he or she has made an informed decision. Immediately before writing a prescription for medication under this chapter, the attending physician shall verify that the qualified patient is making an informed decision.

NEW SECTION. **Sec. 8.** FAMILY NOTIFICATION. The attending physician shall recommend that the patient notify the next of kin of his or her request for medication under this chapter. A patient who declines or is unable to notify next of kin shall not have his or her request denied for that reason.

NEW SECTION. **Sec. 9.** WRITTEN AND ORAL REQUESTS. To receive a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner, a qualified patient shall have made an oral request and a written request, and reiterate the oral request to his or her attending physician at least fifteen days after making the initial oral request. At the time the qualified patient makes his or her second oral request, the attending physician shall offer the qualified patient an opportunity to rescind the request.

NEW SECTION. **Sec. 10.** RIGHT TO RESCIND REQUEST. A patient may rescind his or her request at any time and in any manner without regard to his or her mental state. No prescription for medication under this chapter may be written without the attending physician offering the qualified patient an opportunity to rescind the request.

NEW SECTION. **Sec. 11.** WAITING PERIODS. (1) At least fifteen days shall elapse between the patient's initial oral request and the writing of a prescription under this chapter.

(2) At least forty-eight hours shall elapse between the date the patient signs the written request and the writing of a prescription under this chapter.

NEW SECTION. **Sec. 12.** MEDICAL RECORD DOCUMENTATION REQUIREMENTS. The following shall be documented or filed in the patient's medical record:

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

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

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

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

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

(6) The attending physician's offer to the patient to rescind his or her request at the time of the patient's second oral request under section 9 of this act; and

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

NEW SECTION. **Sec. 13.** RESIDENCY REQUIREMENT. Only requests made by Washington state residents under this chapter may be granted. Factors demonstrating Washington state residency include but are not limited to:

(1) Possession of a Washington state driver's license;

(2) Registration to vote in Washington state; or

(3) Evidence that the person owns or leases property in Washington state.

NEW SECTION. **Sec. 14.** DISPOSAL OF UNUSED MEDICATIONS. Any medication dispensed under this chapter that was not self-administered shall be disposed of by lawful means.

NEW SECTION. **Sec. 15.** REPORTING REQUIREMENTS. (1)(a) The department of health shall annually review all records maintained under this chapter.

(b) The department of health shall require any health care provider upon writing a prescription or dispensing medication under this chapter to file a copy of the dispensing record and such other administratively required documentation with the department. All administratively required documentation shall be mailed or otherwise transmitted as allowed by department of health rule to the department no later than thirty calendar days after the writing of a prescription and dispensing of medication under this chapter, except that all documents required to be filed with the department by the prescribing physician after the death of the patient shall be mailed no later than thirty calendar days after the date of death of the patient. In the event that anyone required under this chapter to report information to the department of health provides an inadequate or incomplete report, the department shall contact the person to request a complete report.

(2) The department of health shall adopt rules to facilitate the collection of information regarding compliance with this chapter. Except as otherwise required by law, the information collected is not a public record and may not be made available for inspection by the public.

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

NEW SECTION. **Sec. 16.** EFFECT ON CONSTRUCTION OF WILLS, CONTRACTS, AND STATUTES. (1) Any 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, is not valid.

(2) Any obligation owing under any currently existing contract shall not 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.

NEW SECTION. **Sec. 17.** INSURANCE OR ANNUITY POLICIES. 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 that the patient may self-administer to end his or her life in a humane and dignified manner. A qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner shall not have an effect upon a life, health, or accident insurance or annuity policy.

NEW SECTION. **Sec. 18.** CONSTRUCTION OF ACT. (1) Nothing in this chapter authorizes 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 chapter do not, for any purpose, constitute suicide, assisted suicide, mercy killing, or homicide, under the law. State reports shall not refer to practice under this chapter as "suicide" or "assisted suicide." Consistent with sections 1 (7), (11), and (12), 2(1), 4(1)(k), 6, 7, 9, 12 (1) and (2), 16 (1) and (2), 17, 19(1) (a) and (d), and 20(2) of this act, state reports shall refer to practice under this chapter as obtaining and self-administering life-ending medication.

(2) Nothing contained in this chapter shall be interpreted to lower the applicable standard of care for the attending physician, consulting physician, psychiatrist or psychologist, or other health care provider participating under this chapter.

Immunities and Liabilities

NEW SECTION. **Sec. 19.** IMMUNITIES--BASIS FOR

PROHIBITING HEALTH CARE PROVIDER FROM PARTICIPATION--NOTIFICATION--PERMISSIBLE SANCTIONS. (1) Except as provided in section 20 of this act and subsection (2) of this section:

(a) A person shall not be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with this chapter. 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) A professional organization or association, or health care provider, may not 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 chapter;

(c) A patient's request for or provision by an attending physician of medication in good faith compliance with this chapter does not constitute neglect for any purpose of law or provide the sole basis for the appointment of a guardian or conservator; and

(d) Only willing health care providers shall participate in the provision to a qualified patient of medication to end his or her 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 his or her 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.

(2)(a) A health care provider may prohibit another health care provider from participating under this act on the premises of the prohibiting provider if the prohibiting provider has given notice to all health care providers with privileges to practice on the premises and to the general public of the prohibiting provider's policy regarding participating under this act. This subsection does not prevent a health care provider from providing health care services to a patient that do not constitute participation under this act.

(b) A health care provider may subject another health care provider to the sanctions stated in this subsection if the sanctioning health care provider has notified the sanctioned provider before participation in this act that it prohibits participation in this act:

(i) Loss of privileges, loss of membership, or other sanctions provided under 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 act 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 a lease or other property contract or other nonmonetary remedies provided by a lease contract, not including loss or restriction of medical staff privileges or exclusion from a provider panel, if the sanctioned provider participates in this act 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 a contract or other nonmonetary remedies provided by contract if the sanctioned provider participates in this act while acting in the course and scope of the sanctioned provider's capacity as an employee or independent contractor of the sanctioning health care provider. Nothing in this subsection (2)(b)(iii) prevents:

(A) A health care provider from 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.

(c) A health care provider that imposes sanctions under (b) of this subsection shall 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 the purposes of this subsection:

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

(ii) "Participate in this act" means to perform the duties of an attending physician under section 4 of this act, the consulting physician function under section 5 of this act, or the counseling function under section 6 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 Washington 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.

(3) Suspension or termination of staff membership or privileges under subsection (2) of this section is not reportable under RCW 18.130.070. Action taken under section 3, 4, 5, or 6 of this act may not be the sole basis for a report of unprofessional conduct under RCW 18.130.180.

(4) References to "good faith" in subsection (1)(a), (b), and (c) of this section do not allow a lower standard of care for health care providers in the state of Washington.

NEW SECTION. **Sec. 20.** LIABILITIES. (1) A person who without authorization of the patient willfully alters or forges a request for medication or conceals or destroys a rescission of that request with the intent or effect of causing the patient's death is guilty of a class A felony.

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

(3) This chapter does not limit further liability for civil damages resulting from other negligent conduct or intentional misconduct by any person.

(4) The penalties in this chapter do not preclude criminal penalties

applicable under other law for conduct that is inconsistent with this chapter.

NEW SECTION. **Sec. 21.** CLAIMS BY GOVERNMENTAL ENTITY FOR COSTS INCURRED. Any governmental entity that incurs costs resulting from a person terminating his or her life under this chapter in a public place has a claim against the estate of the person to recover such costs and reasonable attorneys' fees related to enforcing the claim.

Additional Provisions

NEW SECTION. **Sec. 22.** FORM OF THE REQUEST. A request for a medication as authorized by this chapter shall be in substantially the following form:

REQUEST FOR MEDICATION TO END MY LIFE IN A HUMAN AND DIGNIFIED MANNER

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

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

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

I request that my attending physician prescribe medication that I may self-administer to end my life in a humane and dignified manner and to contact any pharmacist to fill the prescription.

INITIAL ONE:

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

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

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

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

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

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

Signed: . . . . . .

Dated: . . . . . .

DECLARATION OF WITNESSES

By initialing and signing below on or after the date the person named above signs, we declare that the person making and signing the above request:

Witness 1 Initials	Witness 2 Initials	
. . . . .	. . . . .	1. Is personally known to us or has provided proof of identity;
. . . . .	. . . . .	2. Signed this request in our presence on the date of the person's signature;
. . . . .	. . . . .	3. Appears to be of sound mind and not under duress, fraud, or undue influence;
. . . .	. . . . .	4. Is not a patient for whom either of us is the attending physician.

Printed Name of Witness 1: . . . . . .

Signature of Witness 1/Date: . . . . . .

Printed Name of Witness 2: . . . . . .

Signature of Witness 2/Date: . . . . . .

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

Sec. 23. RCW 42.56.360 and 2007 c 261 s 4 and 2007 c 259 s 49 are each reenacted and amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, and notifications or reports of adverse events or incidents made under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170;

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1); ((~~and~~))

(h) Information obtained by the department of health under chapter 70.225 RCW; and

(i) Information collected by the department of health under chapter 70.-- RCW (sections 1 through 22, 26 through 28, and 30 of this act) except as provided in section 15 of this act.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

Sec. 24. RCW 42.56.360 and 2007 c 273 s 25, 2007 c 261 s 4, and 2007 c 259 s 49 are each reenacted and amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, and notifications or reports of adverse events or incidents made under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170;

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1); ((~~and~~))

(h) Information obtained by the department of health under chapter 70.225 RCW; and

(i) Information collected by the department of health under chapter 70.-- RCW (sections 1 through 22, 26 through 28, and 30 of this act) except as provided in section 15 of this act.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

Sec. 25. RCW 70.122.100 and 1992 c 98 s 10 are each amended to read as follows:

Nothing in this chapter shall be construed to condone, authorize, or approve mercy killing ((~~or physician-assisted suicide, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying~~)), lethal injection, or active euthanasia.

NEW SECTION. **Sec. 26.** SHORT TITLE. This act may be known and cited as the Washington death with dignity act.

NEW SECTION. **Sec. 27.** SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 28.** EFFECTIVE DATE. This act takes effect one hundred twenty days after the election at which it is approved, except for section 24 of this act which takes effect July 1, 2009.

NEW SECTION. **Sec. 29.** Sections 1 through 22, 26 through 28, and 30 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 30.** CAPTIONS, PART HEADINGS, AND SUBPART HEADINGS NOT LAW. Captions, part headings, and subpart headings used in this act are not any part of the law.

NEW SECTION. **Sec. 31.** Section 23 of this act expires July 1, 2009.