

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 780

Short Title: End of Life Option Act. (Public)

Sponsors: Representatives Harrison, Hardister, Faircloth, and Fisher (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

May 4, 2021

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING AN END OF LIFE OPTION ACT TO ALLOW QUALIFIED
3 INDIVIDUALS DIAGNOSED WITH A TERMINAL DISEASE TO END LIFE IN A
4 HUMANE AND DIGNIFIED MANNER.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article
7 to read:

8 "Article 23B.

9 "End of Life Option Act.

10 "**§ 90-326. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Adult. – An individual who is 18 years of age or older.
- 13 (2) Attending physician. – A North Carolina licensed physician who meets the
14 following requirements: (i) has established a bona fide physician-patient
15 relationship with an individual with a terminal disease, (ii) has the requisite
16 experience to confirm the individual's terminal disease diagnosis and to fulfill
17 the responsibilities of an attending physician under this Article, and (iii) has
18 primary responsibility for supervising the individual's terminal disease under
19 the provisions of this Article. The attending physician need not be the
20 individual's primary care physician.
- 21 (3) Attending Physician Checklist and Compliance Form. – The form published
22 by the Department pursuant to G.S. 90-326.17 identifying each and every
23 requirement that must be fulfilled by an attending physician in order to be in
24 good-faith compliance with this Article.
- 25 (4) Attending witness. – An individual nominated by the qualified individual to
26 be present if and when the qualified individual self-administers the terminal
27 comfort care drug and who undertakes to do the following:
- 28 a. Complete the Attending Witness Completion Form confirming
29 self-administration of the terminal comfort care drug and that the
30 qualified individual died as a result of such self-administration.
- 31 b. Return the Attending Witness Completion Form to the attending
32 physician within 48 hours after the death of the qualified individual.
33 The attending witness may, but need not, be (i) related to the qualified
34 individual by blood, adoption, or marriage, or (ii) a health care



- 1 provider. At the discretion of the qualified individual, the attending
2 witness may be the attending physician.
- 3 (5) Bona fide physician-patient relationship. – A treating relationship in the
4 course of which a physician has completed an assessment of a patient's
5 medical history and current medical condition, including a personal physical
6 examination.
- 7 (6) Capacity to make medical decisions. – In the opinion of an individual's
8 attending physician or mental health specialist, the individual has the ability
9 to understand the nature and consequences of a health care decision; the ability
10 to understand its significant benefits, risks, and alternatives; and the ability to
11 make and communicate an informed decision to health care providers,
12 including communication through persons familiar with the qualified
13 individual's manner or language of communication, if those persons are
14 required.
- 15 (7) Department. – The North Carolina Department of Health and Human
16 Services.
- 17 (8) Health care provider. – An individual who is licensed, certified, or otherwise
18 authorized under Chapter 90 of the General Statutes to provide health care
19 services in the ordinary course of business or practice of a profession or a
20 health care facility licensed under Chapter 131E of the General Statutes,
21 where health care services are provided to patients. The term includes all of
22 the following:
- 23 a. An agent, officer, director, or employee of a health care facility that is
24 licensed, certified, or otherwise authorized to provide health care
25 services.
- 26 b. An agent or employee of a health care provider who is licensed,
27 certified, or otherwise authorized to provide health care services.
- 28 (9) Hospice. – As defined in G.S. 131E-176(13a).
- 29 (10) Hospice evaluation. – A written assessment by a qualified hospice physician
30 or a qualified hospice nurse practitioner of an individual's eligibility for
31 hospice, regardless of whether the individual meets the criteria for admission
32 into hospice. The term includes a certification of terminal illness that meets
33 the requirements of 42 C.F.R. § 418.22.
- 34 (11) Informed decision. – A decision by a qualified individual to request and obtain
35 a prescription for a terminal comfort care drug that the qualified individual
36 may self-administer to hasten the qualified individual's death, that is based on
37 an understanding and acknowledgement of the relevant facts, and that is made
38 after being fully informed by the attending physician of all of the following:
- 39 a. The medical diagnosis and prognosis.
- 40 b. The risks associated with taking the terminal comfort care drug.
- 41 c. The probable result of taking the terminal comfort care drug.
- 42 d. The right to change the decision at any time by discontinuing
43 proceedings under this Article and by choosing not to obtain the
44 terminal comfort care drug or, after obtaining the terminal comfort
45 care drug, by deciding not to proceed with self-administration.
- 46 e. The feasible alternatives or additional end-of-life options.
- 47 (12) Mental health specialist assessment. – One or more consultations between an
48 individual and a mental health specialist for the purpose of determining that
49 the qualified individual has the capacity to make medical decisions and is not
50 suffering from impaired judgment.

- 1 (13) Mental health specialist. – A psychiatrist or a psychologist licensed to practice
2 in North Carolina.
- 3 (14) Physician. – An individual licensed to practice medicine by the North Carolina
4 Medical Board under Article 1 of Chapter 90 of the General Statutes.
- 5 (15) Public place. – Any street, alley, park, public building, place of business, or
6 assembly open to or frequented by the public, and any other place that is open
7 to public view or to which the public has access.
- 8 (16) Qualified individual. – An adult who meets all the following qualifications:
9 a. Is a resident of North Carolina.
10 b. Has the capacity to make medical decisions.
11 c. Has the physical and mental ability to self-administer a terminal
12 comfort care drug.
13 d. Has been diagnosed by the attending physician as suffering from a
14 terminal disease.
15 e. Has undergone a hospice evaluation.
16 f. Has expressed verbally and in writing the desire to receive a
17 prescription for a terminal comfort care drug.
18 g. Is acting voluntarily and without coercion or duress.
19 h. Has documented a request pursuant to the requirements of
20 G.S. 90-326.3 on the form specified in G.S. 90-326.3A.
21 i. Has satisfied the requirements of this Article to obtain a terminal
22 comfort care drug.
23 An individual shall not be deemed a qualified individual under this Article
24 solely on the basis of age or disability.
- 25 (17) Self-administer. – A qualified individual's affirmative, voluntary, conscious,
26 and physical act of self-administering the terminal comfort care drug.
- 27 (18) Terminal comfort care drug. – A controlled substance determined and
28 prescribed by a physician licensed in this State for a qualified individual with
29 the purpose of hastening the qualified individual's death due to a terminal
30 disease.
- 31 (19) Terminal disease. – An incurable and irreversible disease that, having
32 previously been determined, has been medically confirmed by the attending
33 physician and will, within reasonable medical judgment, result in death within
34 six months.

35 **"§ 90-326.1. Right to information.**

36 An individual suffering from a terminal disease has a right to be informed of all available
37 end-of-life options related to terminal care and to receive answers to any specific question about
38 the foreseeable risks and benefits of medication without the physician withholding any requested
39 information, regardless of the purpose of the inquiry or the nature of the information. A physician
40 who engages in discussions with an individual related to such risks and benefits shall not be
41 construed as assisting in, or contributing to, an individual's independent decision to
42 self-administer a lethal dose of medication, and such discussions shall not be used to establish
43 civil or criminal liability or professional disciplinary action.

44 **"§ 90-326.2. Initiation of request for terminal comfort care drug.**

45 (a) A qualified individual may request a prescription for a terminal comfort care drug in
46 accordance with the requirements of this Article.

47 (b) A request under this Article for a terminal comfort care drug is subject to all the
48 following:

- 49 (1) Shall not be made by (i) a proxy of, or on behalf of, the qualified individual
50 or (ii) any of the following:
51 a. An advanced directive for a natural death.

- b. A health care power of attorney.
 - c. A guardian.
 - d. A conservator.
 - e. A health care agent.
 - f. A surrogate.
 - g. Any other legally recognized health care decision maker.
- (2) Shall be made solely and directly by the qualified individual.

"§ 90-326.3. Form of request for terminal comfort care drug.

(a) A qualified individual seeking to obtain a prescription for a terminal comfort care drug pursuant to this Article shall make a verbal request, followed by a written request no sooner than 7 days after the verbal request, that meets the requirements of subsection (b) of this section directly to his or her attending physician and not to a designee of the physician. The attending physician shall directly, and not through a designee, receive all requests required by this section. The attending physician shall keep records of the verbal and written requests in the qualified individual's medical file. The record of any verbal request must include the date and time of the request as well as a summary of the request.

(b) In order to be valid, a written request for a terminal comfort care drug must meet all of the following criteria:

- (1) The request shall be in the form specified in G.S. 90-326.3A.
- (2) The request shall be signed and dated by the qualified individual seeking the terminal comfort care drug in the presence of two adult witnesses, who, in the presence of the qualified individual, shall attest that to the best of their knowledge and belief the individual is all of the following:
 - a. An individual who is personally known to them or has provided proof of identity.
 - b. An individual who voluntarily signed this request in their presence.
 - c. An individual whom they believe to be mentally capable and not acting under duress, fraud, or undue influence.
 - d. An individual for whom not more than one of them is the attending physician or mental health specialist.
 - e. An individual for whom not more than one of them is related by blood or marriage, or is otherwise expecting to inherit real or personal property from the individual.

"§ 90-326.3A. Request for Terminal Comfort Care Drug Form.

A request for a terminal comfort care drug, as authorized by this Article, shall be in the following form:

"REQUEST FOR A TERMINAL COMFORT CARE DRUG

I,, am an adult of sound mind and a resident of the State of North Carolina.

I have been diagnosed as suffering from, which my attending physician has determined is in its terminal phase and which has been medically confirmed as leaving me less than six months to live.

I have undergone a hospice evaluation and released the records of that evaluation to my attending physician.

I have been fully informed of my diagnosis and prognosis, the nature of the terminal comfort care drug to be prescribed and potential associated risks, the expected result, and the feasible alternatives or additional treatment options.

I request that my attending physician prescribe a terminal comfort care drug that will end my life in a humane and dignified manner if I choose to take it, and I authorize my attending physician to contact my pharmacist to fill my request.

INITIAL ONE:

1 I have informed one or more members of my family of my decision and have taken
2 their opinions into consideration.

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

4 I have no family to inform of my decision.

5 INITIAL ONE:

6 I nominate to be my attending witness should I decide to
7 self-administer the prescribed terminal comfort care drug and authorize to
8 transmit the final confirmation of my death by self-administration to my attending physician; or

9 I have chosen not to nominate an attending witness, and have been informed of the
10 risks of not having a witness to attend my self-administration of the terminal comfort care drug.

11 I understand that I have the right to change my mind at any time and to withdraw or rescind
12 this request and not to self-administer the terminal comfort care drug once prescribed.

13 I undertake to keep the terminal comfort care drug in a safe and secure place until such time,
14 if ever, when I decide to self-administer it.

15 I undertake not to take the terminal comfort care drug in a public place, or on the premises of
16 any hospice, hospital, or other licensed medical or assisted living facility, except with the written
17 consent of the hospice, hospital, or other licensed medical or assisted living facility.

18 I understand that if I decide to take the terminal comfort care drug, it is my responsibility to
19 self-administer it, although someone may assist me in preparing the terminal comfort care drug
20 for immediate consumption.

21 I understand that I may have friends, family, clergy persons, colleagues, or medical
22 practitioners, including my attending physician or primary care physician, with me if and when
23 I decide to self-administer the terminal comfort care drug.

24 I understand the full import of this request, and I expect to die if I take the terminal comfort
25 care drug to be prescribed. My attending physician has counseled me about the possibility that
26 my death may not occur immediately upon the self-administration of the terminal comfort care
27 drug.

28 I make this request voluntarily, without reservation, and without coercion or undue influence.

29 Signed:

30 Dated:

31 DECLARATION OF WITNESSES

32 We declare that the individual signing this request meets all of the following criteria:

- 33 (1) Is personally known to us or has provided proof of identity.
- 34 (2) Voluntarily signed this request in our presence.
- 35 (3) Is an individual whom we believe to be mentally capable and not under duress,
36 fraud, or undue influence.
- 37 (4) Is an individual for whom not more than one of us is the attending physician
38 or mental health specialist.
- 39 (5) An individual for whom not more than one of them is related by blood or
40 marriage, or is otherwise expecting to inherit real or personal property from
41 the individual.

42 Witness 1/Date

43 Witness 2/Date"

44 **"§ 90-326.3B. Attending Witness Completion Form.**

45 The Attending Witness Completion Form given by the attending physician to the qualified
46 individual at the time the attending physician writes the prescription for a terminal comfort care
47 drug shall appear in the following form:

48 "ATTENDING WITNESS COMPLETION FORM AFTER SELF-ADMINISTRATION OF
49 A TERMINAL COMFORT CARE DRUG

I, , was nominated by (name of qualified individual) to be his/her attending witness at the time of self-administration of the prescribed terminal comfort care drug.

On (date and time), I witnessed the self-administration of said terminal comfort care drug by (name of qualified individual).

I confirm that (name of qualified individual) self-administered the terminal comfort care drug willingly and without coercion or undue influence and was aware of his or her right not to self-administer the terminal comfort care drug at any time.

I confirm that (qualified individual) did not self-administer the terminal comfort care drug in a public place or on the premises of any hospice, hospital, or other licensed medical or assisted living facility, except with the written consent of the hospice, hospital, other licensed medical or assisted living facility, and did expire within minutes.

There were no complications arising during the self-administration.

(If there were complications, please describe here:

.....)

I confirm that did self-administer the entire prescription of the terminal comfort care drug, and if the entirety was not self-administered, I undertake to ensure that the remaining prescription is disposed of in a safe and lawful manner.

Signed:

Dated:

Time: "

Within 48 hours after the qualified individual has self-administered the terminal comfort care drug, the attending witness shall complete this Attending Witness Completion Form and timely transmit it to the attending physician in the self-addressed envelope provided to the attending witness.

Upon receiving the Attending Witness Completion Form, the attending physician shall add it to the medical records of the qualified individual and include it in his or her transmission of the Supplemental Attending Physician Form to the North Carolina Department of Health and Human Services."

"§ 90-326.4. Discontinuation, withdrawal, or rescission of request.

A qualified individual may at any time discontinue, withdraw, or rescind his or her request for a terminal comfort care drug or decide not to self-administer a terminal comfort care drug once obtained.

"§ 90-326.5. Attending physician responsibilities.

(a) No person other than the attending physician may write a prescription for a terminal comfort care drug. A designee of the attending physician is not authorized to prescribe a terminal comfort care drug.

(b) Before prescribing a terminal comfort care drug, the attending physician shall do all the following:

(1) Make an initial determination that the individual requesting the terminal comfort care drug meets all of the following qualifications:

a. Has the capacity to make medical decisions.

1. If there are indications of a mental disorder or disease, the physician shall refer the individual for a mental health specialist assessment.

2. If a mental health specialist assessment referral is made, no terminal comfort care drugs shall be prescribed unless the mental health specialist determines that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder or disease.

b. Has a terminal disease.

- 1 c. Has undergone a hospice evaluation which the attending physician has
2 reviewed along with any records associated with that evaluation.
- 3 d. Has voluntarily made the request for a terminal comfort care drug
4 pursuant to G.S. 90-326.3 and on the form specified in
5 G.S. 90-326.3A.
- 6 e. Is a qualified individual as defined in G.S. 90-326.
- 7 (2) Confirm that the qualified individual is making an informed decision by
8 discussing with him or her all of the following:
- 9 a. The individual's medical diagnosis and prognosis.
- 10 b. The risks associated with self-administering the requested terminal
11 comfort care drug.
- 12 c. The probable result of self-administering the terminal comfort care
13 drug.
- 14 d. The right of the qualified individual to discontinue the application for
15 the terminal comfort care drug at any time and the right not to
16 self-administer the terminal comfort care drug.
- 17 e. The feasible alternatives or additional end-of-life options.
- 18 (3) Confirm that the qualified individual's request does not arise from coercion or
19 undue influence by discussing with the qualified individual, outside of the
20 presence of any other persons, except when a qualified translator is necessary,
21 whether or not the qualified individual is being coerced or unduly influenced.
- 22 (4) Advise the qualified individual of the importance of the following:
- 23 a. Having another person present when the qualified individual
24 self-administers the terminal comfort care drug by nominating an
25 attending witness to be present if and when the qualified individual
26 decides to self-administer the terminal comfort care drug, who will be
27 responsible for (i) completing the Attending Witness Completion
28 Form specified in G.S. 90-326.3B within 48 hours after the qualified
29 individual has self-administered the terminal comfort care drug and
30 (ii) timely transmitting the Attending Witness Completion Form
31 specified in G.S. 90-326.3B to the attending physician.
- 32 b. Not self-administering the terminal comfort care drug in a public place
33 or on the premises of any hospice, hospital, or other licensed medical
34 or assisted living facility, except with the written authorization of the
35 hospice, hospital, or other licensed medical or assisted living facility.
- 36 c. Notifying next-of-kin of the qualified individual's request for a
37 terminal comfort care drug and of the qualified individual's decision
38 to self-administer the terminal comfort care drug.
- 39 d. Maintaining the terminal comfort care drug in a safe and secure
40 location until the qualified individual decides to self-administer it.
- 41 e. Properly disposing of the terminal comfort care drug if the qualified
42 individual decides to forego self-administration.
- 43 (5) Offer the qualified individual an opportunity to withdraw or rescind the
44 request for a terminal comfort care drug before prescribing the terminal
45 comfort care drug.
- 46 (6) Inform the qualified individual of the right to withdraw or rescind the request
47 for a terminal comfort care drug at any time and in any manner and that the
48 qualified individual is in no way obligated to self-administer the terminal
49 comfort care drug once prescribed if the qualified individual changes his or
50 her mind.

- 1 (7) Verify, immediately prior to writing the prescription for a terminal comfort
2 care drug, that the qualified individual is making an informed decision and is
3 in no way acting under undue coercion or undue influence.
- 4 (8) Confirm that all requirements have been met and all appropriate steps have
5 been carried out in accordance with this Article before writing a prescription
6 for a terminal comfort care drug.
- 7 (9) Fulfill the documentation requirements of G.S. 90-326.7.
- 8 (10) Complete the Attending Physician Checklist and Compliance Form and the
9 Supplemental Attending Physician Form published by the Department
10 pursuant to G.S. 90-326.17 and include it in the individual's medical record.
- 11 (11) Provide to the qualified individual a copy of the Attending Witness
12 Completion Form specified in G.S. 90-326.3B in a self-addressed, stamped
13 envelope with the instruction that the form should be completed, executed,
14 and returned to the attending physician by the attending witness, if the
15 qualified individual has opted to nominate an attending witness.
- 16 (c) If the conditions set forth in subsection (a) of this section are satisfied, the attending
17 physician shall deliver the terminal comfort care drug in any of the following ways:
- 18 (1) Dispense the terminal comfort care drug directly to the qualified individual,
19 including ancillary medication intended to minimize the qualified individual's
20 discomfort, provided that the attending physician meets all of the following
21 requirements:
- 22 a. Is authorized under North Carolina law to dispense controlled
23 substances.
- 24 b. Has a valid United States Drug Enforcement Administration
25 registration number and certificate.
- 26 c. Is in compliance with all applicable State and federal rules.
- 27 (2) With the qualified individual's written consent, contact a pharmacist to inform
28 the pharmacist of the prescription and deliver the written prescription to the
29 pharmacist personally, by mail, or by electronic transmission. The pharmacist
30 shall then dispense the terminal comfort care drug to the qualified individual,
31 the attending physician, or a person expressly designated verbally and in
32 writing by the qualified individual to receive the terminal comfort care drug.
33 The pharmacist shall complete the Pharmacist Compliance Form published by
34 the Department pursuant to G.S. 90-326.17.
- 35 (d) Delivery of the dispensed drug to the qualified individual, the attending physician, or
36 a person expressly designated in writing by the qualified individual may be made by personal
37 delivery or with a signature required upon delivery, by the United States Postal Service or other
38 public or private business engaged in the delivery of mail, packages, or parcels.

39 **"§ 90-326.6. Mental health specialist responsibilities.**

40 Upon referral from the attending physician, the mental health specialist shall do all of the
41 following:

- 42 (1) Examine the qualified individual and his or her relevant medical records.
- 43 (2) Determine whether the individual has the mental capacity to make medical
44 decisions, act voluntarily, and make an informed decision.
- 45 (3) Determine whether the individual is suffering from impaired judgment due to
46 a mental disorder or disease.
- 47 (4) Fulfill the documentation requirements of this Article.
- 48 (5) Submit in a timely manner to the attending physician the Mental Health
49 Specialist Compliance Form published by the Department pursuant to
50 G.S. 90-326.17.

51 **"§ 90-326.7. Documentation requirements.**

1 All of the following shall be documented in the qualified individual's medical record:

- 2 (1) A summary of all verbal requests by the qualified individual for terminal
3 comfort care drugs, including the date, time, and location of each request and
4 any tape or digital recording or written summary of the verbal requests.
- 5 (2) All written requests for terminal comfort care drugs.
- 6 (3) The attending physician's diagnosis and prognosis and the determination that
7 the individual is a qualified individual who has the capacity to make medical
8 decisions, is acting voluntarily, and has made an informed decision, or
9 alternatively that the attending physician has determined that the individual is
10 not a qualified individual, and why in the attending physician's judgment the
11 individual is not a qualified individual.
- 12 (4) Confirmation that the individual has undergone a hospice evaluation, along
13 with any documents transmitted to the attending physician regarding the
14 hospice evaluation.
- 15 (5) A report of the outcome and determinations made during a mental health
16 specialist's assessment, if performed.
- 17 (6) The attending physician's offer to the qualified individual to withdraw or
18 rescind the request.
- 19 (7) The Attending Witness Completion Form specified in G.S. 90-326.3B, if
20 completed and returned to the attending physician.
- 21 (8) A note by the attending physician indicating that all requirements under
22 G.S. 90-326.5 have been met and indicating the steps taken to carry out the
23 request, including the name and dosage of the specific terminal comfort care
24 drug prescribed.

25 **"§ 90-326.8. Required submissions to the Department upon prescribing terminal comfort**
26 **care drug.**

27 (a) Within 48 hours after writing a prescription for a terminal comfort care drug, the
28 attending physician shall submit to the Department a copy of the prescription.

29 (b) Within 48 hours after dispensing a terminal comfort care drug, the pharmacist shall
30 submit to the Department a copy of the Pharmacist Compliance Form published by the
31 Department pursuant to G.S. 90-326.17.

32 (c) Within 30 calendar days after writing a prescription for a terminal comfort care drug,
33 the attending physician shall submit to the Department a copy of the qualified individual's request
34 for a terminal comfort care drug and the Attending Physician Checklist and Compliance Form
35 published by the Department pursuant to G.S. 90-326.17.

36 (d) Within 30 calendar days after receiving actual notice of the qualified individual's
37 death from self-administering the terminal comfort care drug, or from any other cause, the
38 attending physician shall submit to the Department a Supplemental Physician Checklist and
39 Compliance Form, including a copy of the Attending Witness Completion Form if the qualified
40 individual nominated an attending witness who, in fact, did return a completed Attending Witness
41 Completion Form.

42 **"§ 90-326.9. Death certificate.**

43 The attending physician may sign the qualified individual's death certificate. In any event,
44 the cause of death on a qualified individual's death certificate shall be recorded as the underlying
45 terminal disease and not the act of self-administering the terminal comfort care drug.

46 **"§ 90-326.10. Effect on insurance.**

47 (a) The sale, procurement, or issuance of any life, health, or annuity policy, health care
48 service plan contract, or health benefit plan or the rate charged for any policy, plan contract, or
49 benefit plan shall not be conditioned upon or affected by the making or rescinding of a person's
50 request for a terminal comfort care drug.

1 **(b) Consistent with G.S. 90-326.11, death resulting from the self-administration of a**
2 **terminal comfort care drug shall not be deemed suicide, but rather a hastened death from the**
3 **underlying terminal disease, and therefore coverage under a life, health, or annuity policy shall**
4 **not be denied, curtailed, or exempted on that basis.**

5 **(c) A qualified individual's act of self-administering a terminal comfort care drug shall**
6 **not have any effect upon a life, health, or annuity policy other than that of a natural death from**
7 **the underlying disease.**

8 **(d) An insurance carrier shall not provide any information in communications to a**
9 **qualified individual about the availability of terminal comfort care drugs absent a request by the**
10 **qualified individual or the qualified individual's attending physician at the behest of the qualified**
11 **individual.**

12 **"§ 90-326.11. No civil or criminal liability, penalty, or professional disciplinary action for**
13 **good-faith participation in the activities authorized by this Article.**

14 **(a) A person shall not be subject to civil or criminal liability or professional disciplinary**
15 **action for participating in good-faith compliance with the activities authorized under this Article**
16 **or for being present when a qualified individual self-administers a terminal comfort care drug.**

17 **(b) A qualified individual who self-administers a terminal comfort care drug shall not be**
18 **considered a person exposed to grave physical harm under any Good Samaritan law, and no**
19 **person shall be subject to civil or criminal liability solely for being present when a qualified**
20 **individual self-administers a terminal comfort care drug or for failing to act to prevent the**
21 **qualified individual from self-administering a terminal comfort care drug.**

22 **(c) A person who is present when a qualified individual self-administers a terminal**
23 **comfort care drug may, without civil or criminal liability, assist the qualified individual at his or**
24 **her request by preparing the terminal comfort care drug; provided, however, that the person does**
25 **not directly assist the qualified individual in self-administering the terminal comfort care drug.**

26 **(d) No health care provider, pharmacist, licensing board, or professional organization or**
27 **association shall subject an individual to censure, discipline, suspension, adverse action on a**
28 **license, loss of privileges, loss of membership, or other penalty for participating in good-faith**
29 **compliance with the activities authorized under this Article or for refusing to participate in**
30 **activities authorized under this Article in accordance with subsection (e) of this section.**

31 **(e) No health care provider or pharmacist shall be subject to civil, criminal,**
32 **administrative, disciplinary, employment, credentialing, professional discipline, contractual**
33 **liability, or medical staff action, sanction, penalty, or other liability for participating in the**
34 **activities authorized under this Article, including determining the diagnosis or prognosis of an**
35 **individual, determining the capacity of an individual for the purpose of determining if he or she**
36 **is a qualified individual under this Article, providing information about this Article to an**
37 **individual, and providing a referral to a physician licensed in this State who participates in the**
38 **activities authorized under this Article.**

39 **"§ 90-326.12. Request for terminal comfort care drug not a basis for guardianship or claim**
40 **of neglect or elder abuse.**

41 **(a) A request by a qualified individual to an attending physician to provide a terminal**
42 **comfort care drug in good-faith compliance with the provisions of this Article shall not provide**
43 **the basis for the appointment of a guardian or conservator.**

44 **(b) No actions taken in compliance with the provisions of this Article shall constitute or**
45 **provide the basis for any claim of neglect or elder abuse for any purpose of law.**

46 **"§ 90-326.13. Voluntary nature of authorized activities under this Article.**

47 **(a) Participation in activities authorized under this Article is strictly voluntary. A person**
48 **or entity that elects, for reasons of conscience, religious belief, morality, or ethics, not to engage**
49 **in activities authorized under this Article is not required to take any action in support of another**
50 **individual's decisions or actions under this Article. Except as provided in subsection (d) of this**

1 section, a person or entity that elects not to engage in such activities shall not impede or interfere
2 with a qualified individual's decision to self-administer a terminal comfort care drug.

3 (b) No health care provider or pharmacist shall be subject to civil, criminal,
4 administrative, disciplinary, employment, credentialing, professional discipline, contractual
5 liability, or medical staff action, sanction, penalty, or other liability for refusing to participate in
6 activities authorized under this Article.

7 (c) If a health care provider or pharmacist is unable or unwilling to carry out a qualified
8 individual's request under this Article and the qualified individual transfers care to a new health
9 care provider, the qualified individual may request that a copy of his or her medical records be
10 sent directly to the qualified individual or to the new health care provider.

11 (d) A health care provider may prohibit its employees, independent contractors, or other
12 persons or entities, including other health care providers, from participating in activities
13 authorized under this Article while on premises owned or under the management or direct control
14 of that health care provider, or while acting within the course and scope of any employment by,
15 or under contract with, that health care provider.

16 A health care provider that elects to prohibit its employees, independent contractors, or other
17 persons or entities, including health care providers, from participating in activities authorized
18 under this Article shall first give notice of the policy prohibiting participation under this Article
19 to the individuals or entities prohibited from participating in such activities. A health care
20 provider that fails to provide such prior notice of its policy shall not be entitled to enforce the
21 policy against any individual or entity.

22 **"§ 90-326.14. Impermissible sanctions.**

23 (a) A health care provider may not be sanctioned for any of the following:

24 (1) Making an initial determination pursuant to the standard of care that an
25 individual has a terminal disease and informing him or her of the medical
26 prognosis.

27 (2) Providing information about the End of Life Option Act to an individual upon
28 inquiry.

29 (3) Providing an individual, upon request, with a referral to another physician.

30 (b) An entity that prohibits activities authorized under this Article in accordance with
31 G.S. 90-326.14 shall not sanction an individual health care provider for contracting with a
32 qualified individual to engage in activities authorized under this Article if the individual health
33 care provider is acting outside the course and scope of his or her employment or contract with
34 the entity prohibiting such activities.

35 (c) The protection from sanctions described in this section is solely reserved for health
36 care providers who engage in actions authorized under this Article.

37 **"§ 90-326.15. Felonious activities.**

38 Knowingly doing any of the following with the intent to cause, interfere with, or prevent a
39 qualified individual's death against the qualified individual's wishes is a felony:

40 (1) Altering, forging, concealing, or destroying a request for a terminal comfort
41 care drug without the qualified individual's authorization.

42 (2) Concealing or destroying a withdrawal or rescission of a request for a terminal
43 comfort care drug without the qualified individual's authorization.

44 (3) Concealing or destroying a qualified individual's prescribed terminal comfort
45 care drug without the qualified individual's authorization, or preventing a
46 qualified individual from self-administering the prescribed terminal comfort
47 care drug.

48 (4) Coercing or exerting undue influence on a qualified individual to request or
49 to self-administer a terminal comfort care drug for the purpose of ending the
50 qualified individual's life.

- 1 (5) Coercing or exerting undue influence on a qualified individual to prevent the
2 qualified individual from requesting or self-administering a terminal comfort
3 care drug.

4 **"§ 90-326.16. Department to collect information; information to remain confidential and**
5 **is not a public record.**

6 (a) The Department shall collect and review the information submitted pursuant to
7 G.S. 90-326.8. The information collected and maintained by the Department pursuant to
8 G.S. 90-326.8 and this section is confidential and not a public record under G.S. 132-1. The
9 Department shall collect and maintain this information in a manner that protects the privacy of
10 the qualified individual, the qualified individual's family, the qualified individual's attending
11 witness, and any participating health care provider or pharmacist.

12 (b) Annually, on or before April 15, the Department shall create and make available to
13 the general public on the Department's internet website a report based on the information
14 collected by the Department pursuant to G.S. 90-326.8 and this section during the preceding
15 calendar year. The report shall include at least all of the following based on the information
16 provided to the Department pursuant to G.S. 90-326.8 and this section and the Department's
17 access to vital statistics:

- 18 (1) The number of individuals who initiated procedures to obtain a terminal
19 comfort care drug under this Article.
- 20 (2) The number of qualified individuals for whom a terminal comfort care drug
21 was prescribed.
- 22 (3) The number of qualified individuals who died each year for whom a terminal
23 comfort care drug was prescribed and the underlying terminal disease for each
24 of these individuals.
- 25 (4) For the preceding calendar year, the cumulative totals of all the following:
26 a. The number of prescriptions written for terminal comfort care drugs.
27 b. The number of qualified individuals who died as a result of
28 self-administering a terminal comfort care drug.
- 29 (5) The number of known deaths in North Carolina hastened by terminal comfort
30 care drugs per 10,000 deaths in North Carolina and by natural causes per
31 10,000 deaths.
- 32 (6) The number of physicians licensed in this State who wrote prescriptions for
33 terminal comfort care drugs.
- 34 (7) The number of pharmacists participating in activities authorized under this
35 Article.
- 36 (8) The names and dosages of prescribed terminal comfort care drugs.
- 37 (9) Of the qualified individuals who died as a result of self-administering a
38 terminal comfort care drug, demographic percentages organized by the
39 following characteristics:
40 a. Age at death.
41 b. Education level.
42 c. Race.
43 d. Sex.
44 e. Type of insurance, including whether or not the individual had
45 insurance coverage.
46 f. Underlying terminal disease.
47 g. The number of days elapsed between the date the prescription was
48 filled and the date the prescription was self-administered and resulted
49 in death.

50 **"§ 90-326.17. Department to develop, update, and publish forms.**

1 The Department shall develop an Attending Physician Checklist and Compliance Form, a
2 Supplemental Attending Physician Form, a Mental Health Specialist Compliance Form, a
3 Pharmacist Compliance Form, and any other form the Department deems necessary to implement
4 the provisions of this Article, provided, however, that any form the Department develops
5 pursuant to this section shall be consistent with the requirements of this Article. The Department
6 shall, as necessary, update and publish all forms to be used under this Article on its internet
7 website in a format that can be downloaded by the general public.

8 **"§ 90-326.18. Disposal of terminal comfort care drugs after death of qualified individual.**

9 A person who has custody or control of any unused terminal comfort care drugs prescribed
10 pursuant to this Article after the death of a qualified individual shall (i) personally deliver the
11 unused terminal comfort care drugs for disposal at the nearest qualified facility that properly
12 disposes of controlled substances, or if none is available, (ii) dispose of the terminal comfort care
13 drug by lawful means in accordance with rules adopted by the North Carolina State Board of
14 Pharmacy or a federal Drug Enforcement Administration approved take-back program.

15 **"§ 90-326.19. Construction of Article.**

16 (a) This Article shall not be construed to authorize a physician or any other person to end
17 a qualified individual's life by lethal injection, mercy killing, or active euthanasia.

18 (b) Actions taken in accordance with this Article shall not, for any purposes, constitute
19 suicide, assisted suicide, homicide, or elder abuse under the laws of North Carolina.

20 **"§ 90-326.20. Severability of provisions.**

21 If any provision of this Article or the application of this Article to any person or circumstances
22 is for any reason held invalid, such invalidity shall not affect other provisions or applications of
23 this Article that can be given effect without the invalid provision or application, and to this end
24 the provisions of this Article are declared to be severable."

25 **SECTION 2.(a)** By December 31, 2021, the Department of Health and Human
26 Services shall develop and publish to its internet website, in downloadable format, the forms
27 described in G.S. 90-326.17, as enacted by this act.

28 **SECTION 2.(b)** The first report required by the Department under
29 G.S. 90-326.16(b), as enacted by this act, is due and shall be published on its internet website on
30 or before March 15, 2022.

31 **SECTION 2.(c)** This section is effective when this act becomes law.

32 **SECTION 3.** Except as otherwise provided, this act becomes effective December 1,
33 2021, and applies to offenses committed on or after that date.