

1 AN ACT relating to individual-directed care at the end of life.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 16 of this Act:*

6 *(1) "Adult" means a person who is eighteen (18) years of age or older;*

7 *(2) "Attending health care provider" means the health care provider licensed in*
8 *Kentucky who has primary responsibility for the treatment and care of the*
9 *individual's terminal condition;*

10 *(3) "Coercion or undue influence" means the willful attempt, whether by deception,*
11 *intimidation, or any other means to:*

12 *(a) Cause an individual to request, obtain, or self-administer medication*
13 *pursuant to Sections 1 to 16 of this Act with intent to cause the death of the*
14 *individual; or*

15 *(b) Prevent a qualified individual from obtaining or self-administering*
16 *medication pursuant to Sections 1 to 16 of this Act;*

17 *(4) "Consulting provider" means a provider licensed in Kentucky who is qualified by*
18 *specialty or experience to make a professional diagnosis and prognosis regarding*
19 *the individual's disease;*

20 *(5) "Health care facility" means a hospital, nursing facility, nursing home, or*
21 *hospice, public or private, whether organized for profit or not, that is licensed*
22 *pursuant to KRS Chapter 216B;*

23 *(6) "Health care provider" means a person licensed, certified, or otherwise*
24 *authorized or permitted by the laws of Kentucky to diagnose and treat medical*
25 *conditions, and prescribe and dispense medication, including controlled*
26 *substances. "Health care provider" includes:*

27 *(a) A doctor of medicine licensed by the Kentucky Board of Medical Licensure*

- 1 pursuant to KRS Chapter 311;
- 2 (b) A doctor of osteopathy licensed by the Kentucky Board of Medical
- 3 Licensure pursuant to KRS Chapter 311;
- 4 (c) An advanced practice registered nurse licensed by the Kentucky Board of
- 5 Nursing and certified by a national nurse certification organization
- 6 acceptable to the board to practice as a clinical nurse specialist or nurse
- 7 practitioner pursuant to KRS Chapter 314; or
- 8 (d) A physician assistant licensed by the Kentucky Board of Medical Licensure
- 9 pursuant to KRS 311.840 to 311.862;
- 10 (7) "Informed decision" means a decision by a qualified individual to request and
- 11 obtain a prescription for medication that the qualified individual may self-
- 12 administer to bring about a peaceful death after being fully informed by the
- 13 attending health care provider and consulting provider of:
- 14 (a) The qualified individual's medical diagnosis;
- 15 (b) The qualified individual's prognosis;
- 16 (c) The potential risks associated with taking the medication to be prescribed;
- 17 (d) The probable result of taking the medication to be prescribed;
- 18 (e) The feasible end-of-life care and treatment options for the individual's
- 19 terminal disease, including but not limited to comfort care, palliative care,
- 20 hospice care, and pain control, and the risks and benefits of each; and
- 21 (f) The qualified individual's right to withdraw a request, or consent for any
- 22 other treatment, at any time;
- 23 (8) "Medical aid in dying" means the practice of evaluating a request, determining
- 24 qualification, and providing a prescription to a qualified individual;
- 25 (9) "Medically confirmed" means the attending health care provider's medical
- 26 opinion that the individual is eligible to receive medication has been confirmed by
- 27 the consulting provider after performing a medical evaluation;

1 (10) "Mentally capable" means that in the opinion of the attending health care or
2 consulting provider, or qualified mental health professional, if an opinion is
3 requested, that the individual requesting medication has the ability to make and
4 communicate an informed decision;

5 (11) "Prognosis of six (6) months or less" means the terminal disease will, within
6 reasonable medical judgment, result in death within six (6) months;

7 (12) "Qualified individual" means a capable adult who is a resident of Kentucky and
8 who has satisfied the requirements of Sections 1 to 16 of this Act in order to
9 obtain a prescription for medication to bring about a peaceful death. No person
10 will be considered a qualified individual solely because of advanced age or
11 disability;

12 (13) "Qualified mental health professional" has the same meaning as set out in KRS
13 202A.011;

14 (14) "Self-administer" means a qualified individual performs an affirmative,
15 conscious, voluntary act to ingest medication prescribed to bring about the
16 individual's peaceful death. Self-administration does not include administration
17 by intravenous or other parenteral injection or infusion; and

18 (15) "Terminal disease" means an incurable and irreversible disease that has been
19 medically confirmed and will, within reasonable medical judgment, produce
20 death within six (6) months.

21 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) Nothing in Sections 1 to 16 this Act shall be construed to limit the information an
24 attending or consulting provider shall provide to a qualified individual in order to
25 comply with all Kentucky informed consent laws and the medical standards of
26 care.

27 (2) If an attending or consulting health care provider is unable or unwilling to

1 provide information or services that the qualified individual has requested, upon
2 request of the qualified individual the provider shall timely transfer both care of
3 the qualified individual and any related medical records to a new attending or
4 consulting provider, so that the qualified individual can make a voluntary,
5 affirmative decision regarding end-of-life care.

6 (3) Failure to provide information about medical aid in dying to a qualified
7 individual who requests it, or failure to refer the qualified individual to another
8 attending or consulting provider who can provide the information upon request,
9 shall be considered a failure to obtain informed consent for subsequent medical
10 treatments.

11 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
12 READ AS FOLLOWS:

13 (1) Care that complies with the requirements of Sections 1 to 16 of this Act meets the
14 medical standard of care.

15 (2) Nothing in Sections 1 to 16 of this Act exempts an attending or consulting
16 provider or other medical personnel from meeting medical standards of care for
17 the treatment of qualified individuals with a terminal disease.

18 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
19 READ AS FOLLOWS:

20 (1) A mentally capable individual with a terminal disease may request a prescription
21 for medication under Sections 1 to 16 of this Act. An individual shall have made
22 an oral request and a written request, and reiterated the oral request to the
23 individual's attending provider no less than fifteen (15) days after making the
24 initial oral request.

25 (2) The attending and consulting health care providers of an individual shall meet
26 all the requirements of Section 6 of this Act.

27 (3) Notwithstanding subsection (1) of this section, if the individual's attending health

1 care provider has medically determined that the individual will, within reasonable
2 medical judgment, die within fifteen (15) days after making the initial oral
3 request under this section, the individual may qualify by reiterating the oral
4 request to the attending health care provider at any time after making the initial
5 oral request.

6 (4) At the time the individual makes the second oral request, the attending provider
7 shall offer the individual an opportunity to rescind the request.

8 (5) Oral and written requests for medical aid in dying may be made only by the
9 requesting individual and shall not be made by the individual's surrogate
10 decision-maker, health care proxy, attorney-in-fact for health care, nor via
11 advance health care directive.

12 (6) If the individual decides to transfer care to another health care provider, the
13 former health care provider shall transfer all relevant medical records including
14 written documentation of the dates of the individual's requests concerning
15 medical aid in dying.

16 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
17 READ AS FOLLOWS:

18 (1) A valid request for medication under Sections 1 to 16 of this Act shall be in
19 substantially the same form as in this section, signed and dated by the qualified
20 individual, and witnessed by at least one (1) individual who, in the presence of the
21 qualified individual, attests that to the best of the witness's knowledge and belief
22 the qualified individual is capable, acting voluntarily, and not being coerced nor
23 unduly influenced to sign the request.

24 (2) The witness required under this section shall be a person who is not:

25 (a) A relative of the individual by blood, marriage, or adoption;

26 (b) A person who at the time the request is signed would be entitled to any
27 portion of the estate of the qualified individual upon death, under any will

1 or by operation of law; or

2 (c) An owner, operator, or employee of a health care facility where the
3 qualified individual is receiving medical treatment or is a resident.

4 (3) The qualified individual's attending health care provider at the time the request is
5 signed shall not be a witness.

6 (4) The qualified individual's interpreter shall not be a witness.

7 (5) A valid request for medication as authorized by Sections 1 to 16 of this Act shall
8 be in substantially the following form:

9 "REQUEST FOR MEDICATION TO END MY LIFE IN PEACEFUL MANNER

10 I,, am an adult of sound mind. I have been diagnosed with
11, and given six months or less to live.

12 I have been fully informed of the feasible alternatives, concurrent or additional
13 treatment opportunities for my terminal disease, including but not limited to comfort
14 care, palliative care, hospice care, or pain control, and the potential risks and benefits
15 of each. I have been offered or received resources or referrals to pursue these
16 alternatives, concurrent, or additional treatment opportunities for my terminal disease.

17 I have been fully informed of the nature of medication to be prescribed, the risks and
18 benefits including that the likely outcome of self-administering the medication is death.

19 I understand that I can rescind this request at any time and that I am under no
20 obligation to fill the prescription once written nor to self-administer the medication if I
21 obtain it.

22 I request that my attending health care provider furnish a prescription for medication
23 that will end my life in a peaceful manner if I choose to self-administer it, and I
24 authorize my attending provider to contact a pharmacist to dispense the prescription at
25 a time of my choosing.

26 I make this request voluntarily, free from coercion or undue influence.

27 Signed:.....

1 Dated:.....

2 Signature of Witness:.....

3 Dated:....." .

4 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) The attending health care provider shall:

7 (a) Determine whether an individual has a terminal disease with a prognosis of
8 six (6) months or less and is mentally capable;

9 (b) Request that the individual demonstrate Kentucky residency;

10 (c) Confirm that the individual’s request does not arise from coercion or undue
11 influence by asking the individual about coercion and influence, outside the
12 presence of other persons, except for an interpreter as necessary;

13 (d) Inform the individual of:

14 1. The diagnosis;

15 2. The prognosis;

16 3. The potential risks, benefits, and probable result of self-administering
17 the prescribed medication to bring about a peaceful death;

18 4. The potential benefits and risks of feasible alternatives, including but
19 not limited to concurrent or additional treatment options for the
20 individual’s terminal disease, palliative care, comfort care, hospice
21 care, and pain control; and

22 5. The individual’s right to rescind the request for medication at any
23 time and in any manner;

24 (e) Inform the individual that there is no obligation to fill the prescription nor
25 an obligation to self-administer the medication if it is obtained;

26 (f) Provide the individual with a referral for comfort care, palliative care,
27 hospice care, pain control, or other end-of-life treatment options as

- 1 requested or as clinically indicated;
- 2 (g) Refer the individual to a consulting health care provider for medical
- 3 confirmation that the individual requesting medication:
- 4 1. Has a terminal disease with a prognosis of six (6) months or less to
- 5 live; and
- 6 2. Is mentally capable;
- 7 (h) Include the consulting health care provider's written determination in the
- 8 individual's medical record;
- 9 (i) Refer the individual to a licensed qualified mental health professional if the
- 10 attending health care provider observes signs that the individual may not be
- 11 capable of making an informed decision;
- 12 (j) Include the qualified mental health professional's written determination in
- 13 the individual's medical record, if a determination was requested;
- 14 (k) Inform the individual of the benefits of notifying the next of kin of the
- 15 individual's decision to request medication;
- 16 (l) Fulfill the medical record documentation requirements;
- 17 (m) Ensure that all steps are carried out in accordance with Sections 1 to 16 of
- 18 this Act before providing a prescription to a qualified individual for
- 19 medication, including:
- 20 1. Confirming that the individual has made an informed decision to
- 21 obtain a prescription for medication;
- 22 2. Offering the individual an opportunity to rescind the request for
- 23 medication; and
- 24 3. Educating the individual on:
- 25 a. The recommended procedure for self-administering the
- 26 medication to be prescribed;
- 27 b. The safekeeping and proper disposal of unused medication in

- 1 accordance with state and federal law;
- 2 c. The importance of having another person present when the
- 3 individual self-administers the medication to be prescribed; and
- 4 d. Not taking the medical aid-in-dying medication in a public
- 5 place;
- 6 (n) Deliver the prescription personally, by mail, or through an authorized
- 7 electronic transmission to a licensed pharmacist who will dispense the
- 8 medication, including any ancillary medications, to the attending provider,
- 9 to the qualified individual, or to an individual expressly designated by the
- 10 qualified individual in person or with a signature required on delivery, by
- 11 mail service or by messenger service;
- 12 (o) If authorized by the Drug Enforcement Administration, dispense the
- 13 prescribed medication, including any ancillary medications, to the qualified
- 14 individual or an individual designated in person by the qualified individual;
- 15 and
- 16 (p) Document in the qualified individual's medical record the individual's
- 17 diagnosis and prognosis, determination of mental capability, the date of the
- 18 oral requests, a copy of the written request, a notation that the requirements
- 19 under this section have been completed, and identification of the medication
- 20 and ancillary medications prescribed to the qualified individual.
- 21 (2) A consulting health care provider shall:
- 22 (a) Evaluate the qualified individual and the individual's relevant medical
- 23 records;
- 24 (b) Confirm, in writing, to the attending health care provider that the qualified
- 25 individual:
- 26 1. Has a terminal disease with prognosis of six (6) months or less to live;
- 27 2. Is mentally capable or provide documentation that the consulting

1 health care provider has referred the individual for further evaluation
2 in accordance with Section 7 of this Act; and

3 3. Is acting voluntarily, free from coercion or undue influence.

4 (3) Notwithstanding any other provision of law, the attending provider may sign the
5 individual's death certificate.

6 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
7 READ AS FOLLOWS:

8 (1) If either the attending health care provider or the consulting health care provider
9 is unable to confirm that the individual is capable of making an informed
10 decision, the attending health care provider or consulting health care provider
11 shall refer the individual to a qualified mental health professional for
12 determination regarding mental capability.

13 (2) The qualified mental health professional who evaluates the individual under this
14 section shall submit to the requesting attending or consulting health care
15 provider a written determination of whether the individual is mentally capable.

16 (3) If the qualified mental health professional determines that the individual is not
17 mentally capable, the individual shall not be deemed a qualified individual and
18 the attending health care provider shall not prescribe medication to the
19 individual.

20 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
21 READ AS FOLLOWS:

22 A person who has custody or control of medication prescribed pursuant Sections 1 to
23 16 of this Act after the qualified individual's death shall dispose of the medication by
24 lawful means in accordance with state or federal guidelines.

25 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) A health care provider shall provide sufficient information to a qualified

1 individual with a terminal disease regarding available options, the alternatives,
2 and the foreseeable risks and benefits of each so that the individual is able to
3 make informed decisions regarding his or her end-of-life care.

4 (2) A health care provider may choose whether or not to practice medical aid in
5 dying.

6 (3) If a health care provider is unable or unwilling to fulfill a qualified individual's
7 request for medication, the health care provider shall:

8 (a) Document the date of the qualified individual's request in the medical
9 record; and

10 (b) Upon request, transfer the qualified individual's medical records to a new
11 health care provider consistent with federal and state laws.

12 (4) A health care provider shall not engage in false, misleading, or deceptive
13 practices relating to a willingness to qualify an individual or provide a
14 prescription to a qualified individual pursuant Sections 1 to 16 of this Act.
15 Intentionally misleading an individual shall constitute coercion.

16 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
17 READ AS FOLLOWS:

18 (1) A health care facility may prohibit providers from qualifying, prescribing, or
19 dispensing medication pursuant to Sections 1 to 16 of this Act while performing
20 duties for the facility. A prohibiting facility must provide advance notice in
21 writing at the time of hiring, contracting with, or privileging providers and staff,
22 and on a yearly basis thereafter; a health care facility that fails to provide
23 explicit, advance notice in writing waives the right to enforce the prohibitions.

24 (2) If an individual wishes to transfer care to another health care facility, the
25 prohibiting facility shall coordinate a timely transfer, including transfer of the
26 individual's medical records that include notation of the date the individual first
27 made a request concerning medical aid in dying.

- 1 (3) No health care facility shall prohibit a provider from fulfilling the requirements
2 of informed consent and meeting the standard of medical care by:
- 3 (a) Providing information to an individual regarding the individual's health
4 status, including but not limited to diagnosis, prognosis, recommended
5 treatment, treatment alternatives, and any potential risks to the individual's
6 health;
- 7 (b) Providing information about available services, relevant community
8 resources, and how to access those resources to obtain the care of the
9 individual's choice;
- 10 (c) Providing information regarding health care services available pursuant to
11 Sections 1 to 16 of this Act, information about relevant community
12 resources, and how to access those resources for obtaining care of the
13 individual's choice;
- 14 (d) Prescribing medication pursuant to Sections 1 to 16 of this Act for a
15 qualified individual outside the scope of provider's employment or contract
16 with the prohibiting facility and off the premises of the prohibiting facility;
17 or
- 18 (e) Being present when a qualified individual self-administers medication
19 prescribed pursuant to Sections 1 to 16 of this Act or at the time of death, if
20 requested by the qualified individual or his or her representative and outside
21 the scope of the provider's employment or contractual duties.
- 22 (4) A health care facility shall not engage in false, misleading, or deceptive practices
23 relating to its policy around end-of-life care services, including whether it has a
24 policy which prohibits affiliated health care providers from determining an
25 individual's qualification for medical aid in dying, writing a prescription for a
26 qualified individual, or intentionally denying a qualified individual access to
27 medication by failing to transfer an individual and his or her medical records to

1 another provider in a timely manner. Intentionally misleading an individual or
 2 deploying misinformation to obstruct access to services pursuant to Sections 1 to
 3 16 of this Act constitutes coercion or undue influence.

4 (5) If any part of this section is found to be in conflict with federal requirements
 5 which are a prescribed condition to receipt of federal funds to the state, the
 6 conflicting part of this section is inoperative solely to the extent of the conflict
 7 with respect to the facility directly affected, and such finding or determination
 8 shall not affect the operation of the remainder of Sections 1 to 16 of this Act.

9 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
 10 READ AS FOLLOWS:

11 (1) No person or health care facility shall be subject to civil or criminal liability or
 12 professional disciplinary action, including censure, suspension, loss of license,
 13 loss of privileges, loss of membership, or any other penalty for engaging in good
 14 faith compliance with Sections 1 to 16 of this Act.

15 (2) No provider, health care facility, professional organization, or association shall
 16 subject a provider to discharge, demotion, censure, discipline, suspension, loss of
 17 license, loss of privileges, loss of membership, discrimination, or any other
 18 penalty for providing medical aid in dying in accordance with the standard of
 19 care and in good faith under Sections 1 to 16 of this Act.

20 (3) No provider, health care facility, professional organization, or association shall
 21 subject a provider to discharge, demotion, censure, discipline, suspension, loss of
 22 license, loss of privileges, loss of membership, discrimination, or any other
 23 penalty for providing medical aid in dying in accordance with the standard of
 24 care and in good faith under Sections 1 to 16 of this Act when:

25 (a) Engaging in the outside practice of medicine and off the facility premises;

26 or

27 (b) Providing scientific and accurate information about medical aid in dying to

1 *an individual when discussing end-of-life care options.*

2 *(4) An individual is not subject to civil or criminal liability or professional discipline*
 3 *if, at the request of the qualified individual, he or she is present outside the scope*
 4 *of his or her employment contract and off the facility premises, when the*
 5 *qualified individual self-administers medication pursuant to Sections 1 to 16 of*
 6 *this Act, or at the time of death. A person who is present may, without civil or*
 7 *criminal liability, assist the qualified individual by preparing the medication*
 8 *prescribed pursuant to Sections 1 to 16 of this Act.*

9 *(5) A request by an individual for, and the provision of medication to, an individual*
 10 *pursuant to Sections 1 to 16 of this Act alone does not constitute neglect or elder*
 11 *abuse for any purpose of law, nor shall it be the sole basis for appointment of a*
 12 *guardian or conservator.*

13 *(6) This section does not limit civil liability for intentional or negligent misconduct.*

14 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
 15 READ AS FOLLOWS:

16 *(1) The Cabinet for Health and Family Services shall:*

17 *(a) Annually review all records maintained under Sections 1 to 16 of this Act;*

18 *(b) Create an Attending Health Care Provider Checklist Form and Attending*
 19 *Health Care Provider Follow-Up Form to facilitate collection of the*
 20 *information described in this section and post it to the cabinet's Web site;*

21 *(c) Require an attending health care provider to submit an Attending Health*
 22 *Care Provider Checklist Form and Attending Health Care Provider Follow-*
 23 *Up Form within thirty (30) calendar days after the issuing of the*
 24 *prescription for or the dispensing of medication;*

25 *(d) Require an attending health care provider to submit an Attending Health*
 26 *Care Provider Checklist Form and Attending Health Care Provider Follow-*
 27 *Up Form within sixty (60) days of notification of a qualified individual's*

1 death from self-administration of medication prescribed pursuant to
2 Sections 1 to 16 of this Act; and

3 (e) The Attending Health Care Provider Checklist Form and Attending Health
4 Care Provider Follow-Up Form shall include:

5 1. The qualifying individual's name and date of birth;

6 2. The qualifying individual's terminal diagnosis and prognosis;

7 3. Notice that the requirements pursuant to Sections 1 to 16 of this Act
8 were completed;

9 4. Notice that medication has been prescribed;

10 5. The qualifying individual's date of death, if deceased; and

11 6. A notation of whether or not the qualified individual was enrolled in
12 hospice services at the time of the qualified individual's death.

13 (2) Within sixty (60) days of the effective date of this Act, the Cabinet for Health and
14 Family Services shall promulgate administrative regulations to facilitate the
15 collection of information relating to compliance with Sections 1 to 16 of this Act.
16 The information collected on individual persons and health care providers shall
17 be confidential, shall not be a public record, and shall not be made available for
18 inspection by the public.

19 (3) The Cabinet for Health and Family Services shall submit an annual report
20 summarizing information collected under this section to the Interim Joint
21 Committee on Health, Welfare, and Family Services by December 1 of each year.
22 The report shall not include identifying information for individuals or entities.
23 The report shall include the number of prescriptions for medication written, the
24 number of providers who wrote prescriptions for medication, and the number of
25 qualified individuals who died following self-administration of medication
26 prescribed and dispensed pursuant to Sections 1 to 16 of this Act.

27 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) Any provision in a contract, will, or other agreement, whether written or oral, to
3 the extent the provision would affect whether a person may make or rescind a
4 request for medication to self-administer to end the person's life in a humane and
5 dignified manner, shall be void as against public policy. Any obligation owing
6 under any currently existing contract shall not be conditioned upon or affected by
7 the making or rescinding of a request by a person for medication to end the
8 person's life in a humane and dignified manner.

9 (2) The sale, procurement, or issuance of any life, health, or accident insurance or
10 annuity policy or the rate charged for any life, health, or accident insurance or
11 annuity policy shall not be conditioned upon or affected by the making or
12 rescinding of a request by a qualified individual for medication that the
13 individual may self-administer to end the individual's life in accordance with
14 Sections 1 to 16 of this Act.

15 (3) A qualified individual whose life is insured under a life insurance policy and the
16 beneficiaries of the policy shall not be denied benefits on the basis of self-
17 administration of medication by the qualified individual in accordance with
18 Sections 1 to 16 of this Act.

19 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
20 READ AS FOLLOWS:

21 (1) Unless otherwise prohibited by law, the attending health care provider or the
22 hospice medical director may sign the death certificate of a qualified individual
23 who obtained and self-administered a prescription for medication pursuant to
24 Sections 1 to 16 of this Act.

25 (2) When a death has occurred in accordance with Sections 1 to 16 of this Act, the
26 death shall be attributed to the underlying terminal disease.

27 (3) Death following self-administering medication under Sections 1 to 16 of this Act

1 alone does not constitute grounds for postmortem inquiry.

2 (4) Death in accordance with Sections 1 to 16 of this Act shall not be designated
3 suicide, assisted suicide, mercy killing, homicide, or euthanasia.

4 (5) A qualified individual's act of self-administering medication prescribed pursuant
5 to Sections 1 to 16 of this Act shall not be indicated on the death certificate.

6 (6) The coroner may conduct a preliminary investigation to determine whether an
7 individual received a prescription for medication pursuant to Sections 1 to 16 of
8 this Act.

9 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
10 READ AS FOLLOWS:

11 (1) Intentionally altering or forging an individual's request for medication pursuant
12 to Sections 1 to 16 of this Act or concealing or destroying a rescission of a request
13 for medication pursuant to Sections 1 to 16 of this Act is a Class D felony.

14 (2) Intentionally coercing or exerting undue influence on an individual with a
15 terminal disease to request medication pursuant to Sections 1 to 16 of this Act or
16 to request or utilize medication pursuant to Sections 1 to 16 of this Act is a Class
17 D felony.

18 (3) Nothing in this section limits civil liability nor damages arising from negligent
19 conduct or intentional misconduct, including failure to obtain informed consent
20 by any person, provider, or health care facility.

21 (4) The penalties specified in this section do not preclude criminal penalties
22 applicable under other laws for conduct inconsistent with Sections 1 to 16 of this
23 Act.

24 (5) For purposes of this section, "intentionally" has the same meaning as in KRS
25 501.020.

26 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
27 READ AS FOLLOWS:

1 *Any governmental entity that incurs costs resulting from self-administration of*
 2 *medication prescribed under Section 1 to 16 of this Act in a public place will have a*
 3 *claim against the estate of the qualified individual to recover these costs and*
 4 *reasonable attorney fees related to enforcing the claim.*

5 ➔SECTION 17. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304
 6 IS CREATED TO READ AS FOLLOWS:

7 *No insurer shall:*

- 8 *(1) Issue or renew an insurance policy, contract, or annuity that violates the*
 9 *provisions of Section 13 of this Act; or*
 10 *(2) Deny benefits on the basis of terms in an existing policy, contract, or annuity that*
 11 *are in violation of the provisions of Section 13 of this Act.*

12 ➔Section 18. KRS 507.020 is amended to read as follows:

- 13 (1) A person is guilty of murder when:
- 14 (a) With intent to cause the death of another person, he causes the death of such
 15 person or of a third person; except that in any prosecution a person shall not
 16 be guilty under this subsection if he acted under the influence of extreme
 17 emotional disturbance for which there was a reasonable explanation or excuse,
 18 the reasonableness of which is to be determined from the viewpoint of a
 19 person in the defendant's situation under the circumstances as the defendant
 20 believed them to be. However, nothing contained in this section shall
 21 constitute a defense to a prosecution for or preclude a conviction of
 22 manslaughter in the first degree or any other crime; or
- 23 (b) Including, but not limited to, the operation of a motor vehicle under
 24 circumstances manifesting extreme indifference to human life, he wantonly
 25 engages in conduct which creates a grave risk of death to another person and
 26 thereby causes the death of another person.
- 27 (2) Murder is a capital offense.

1 **(3) It shall be an affirmative defense to a charge of murder that the person's conduct**
2 **was expressly authorized by Sections 1 to 16 of this Act.**

3 ➔Section 19. KRS 507.030 is amended to read as follows:

4 (1) A person is guilty of manslaughter in the first degree when:

5 (a) With intent to cause serious physical injury to another person, he causes the
6 death of such person or of a third person;

7 (b) With intent to cause the death of another person, he causes the death of such
8 person or of a third person under circumstances which do not constitute
9 murder because he acts under the influence of extreme emotional disturbance,
10 as defined in subsection (1)(a) of KRS 507.020; or

11 (c) Through circumstances not otherwise constituting the offense of murder, he or
12 she intentionally abuses another person or knowingly permits another person
13 of whom he or she has actual custody to be abused and thereby causes death to
14 a person twelve (12) years of age or less, or who is physically helpless or
15 mentally helpless.

16 (2) Manslaughter in the first degree is a Class B felony.

17 **(3) It shall be an affirmative defense to a charge of manslaughter in the first degree**
18 **that the person's conduct was expressly authorized by Sections 1 to 16 of this Act.**

19 ➔Section 20. If any section, subsection, or provision of this Act is found by a
20 court of competent jurisdiction in a final, unappealable order to be invalid or
21 unconstitutional, the decision of the courts shall not affect or impair any of the remaining
22 sections, subsections, or provisions of this Act. The General Assembly specifically states
23 its intention that it would have enacted the Act, or any section or subsection of this Act,
24 without the severed part.

25 ➔Section 21. Sections 1 to 16 of this Act may be cited as the Kentucky Our Care,
26 Our Options Act.