

Filed

JAN 24 2008

SECRETARY OF STATE

OFFICE OF THE CODE REVISER  
PRITCHARD BUILDING  
OLYMPIA, WA 98504

IN THE MATTER OF THE PROPOSED  
INITIATIVE TO THE PEOPLE  
Relating to Death with Dignity

PETITIONER: The Honorable Booth Gardner  
It's My Decision Committee  
P.O. Box 21984  
Seattle, WA 98111

**CERTIFICATE OF REVIEW (pursuant to RCW 29A.72.020)**

I hereby certify that sponsor's proposal was received in the office of the Code Reviser on January 9, 2008, that I have reviewed the proposal, and that any recommendations thereon, if any, have been communicated to the sponsor.

Dated January 17, 2008

K. Kyle Thiessen  
Code Reviser

By

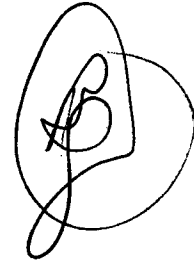
  
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KIKI KEIZER  
Assistant Code Reviser

# Initiative Measure No. 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



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### 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
- Section 24. Amendments
- Section 25. Amendments
- Section 26. Short title
- 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

A handwritten signature or set of initials, possibly 'B' or 'R', enclosed in a circle with a long tail extending downwards.

# Initiative Measure No. 1000

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SECRETARY OF STATE

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

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

## 6 THE WASHINGTON DEATH WITH DIGNITY ACT

### 7 General Provisions

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

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

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

16 (3) "Competent" means that, in the opinion of a court or in the  
17 opinion of the patient's attending physician or consulting physician,

1 psychiatrist, or psychologist, a patient has the ability to make and  
2 communicate an informed decision to health care providers, including  
3 communication through persons familiar with the patient's manner of  
4 communicating if those persons are available.

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

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

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

17 (7) "Informed decision" means a decision by a qualified patient, to  
18 request and obtain a prescription for medication that the qualified  
19 patient may self-administer to end his or her life in a humane and  
20 dignified manner, that is based on an appreciation of the relevant  
21 facts and after being fully informed by the attending physician of:

22 (a) His or her medical diagnosis;

23 (b) His or her prognosis;

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

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

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

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

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

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

36 (11) "Qualified patient" means a competent adult who is a resident  
37 of Washington state and has satisfied the requirements of this chapter

1 in order to obtain a prescription for medication that the qualified  
2 patient may self-administer to end his or her life in a humane and  
3 dignified manner.

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

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

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

11 NEW SECTION. **Sec. 2.** WHO MAY INITIATE A WRITTEN REQUEST FOR  
12 MEDICATION. (1) An adult who is competent, is a resident of Washington  
13 state, and has been determined by the attending physician and  
14 consulting physician to be suffering from a terminal disease, and who  
15 has voluntarily expressed his or her wish to die, may make a written  
16 request for medication that the patient may self-administer to end his  
17 or her life in a humane and dignified manner in accordance with this  
18 chapter.

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

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

28 (2) One of the witnesses shall be a person who is not:

29 (a) A relative of the patient by blood, marriage, or adoption;

30 (b) A person who at the time the request is signed would be  
31 entitled to any portion of the estate of the qualified patient upon  
32 death under any will or by operation of law; or

33 (c) An owner, operator, or employee of a health care facility where  
34 the qualified patient is receiving medical treatment or is a resident.

1 (3) The patient's attending physician at the time the request is  
2 signed shall not be a witness.

3 (4) If the patient is a patient in a long-term care facility at the  
4 time the written request is made, one of the witnesses shall be an  
5 individual designated by the facility and having the qualifications  
6 specified by the department of health by rule.

7 **Safeguards**

8 NEW SECTION. **Sec. 4. ATTENDING PHYSICIAN RESPONSIBILITIES.** (1)

9 The attending physician shall:

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

12 (b) Request that the patient demonstrate Washington state residency  
13 under section 13 of this act;

14 (c) To ensure that the patient is making an informed decision,  
15 inform the patient of:

16 (i) His or her medical diagnosis;

17 (ii) His or her prognosis;

18 (iii) The potential risks associated with taking the medication to  
19 be prescribed;

20 (iv) The probable result of taking the medication to be prescribed;  
21 and

22 (v) The feasible alternatives including, but not limited to,  
23 comfort care, hospice care, and pain control;

24 (d) Refer the patient to a consulting physician for medical  
25 confirmation of the diagnosis, and for a determination that the patient  
26 is competent and acting voluntarily;

27 (e) Refer the patient for counseling if appropriate under section  
28 6 of this act;

29 (f) Recommend that the patient notify next of kin;

30 (g) Counsel the patient about the importance of having another  
31 person present when the patient takes the medication prescribed under  
32 this chapter and of not taking the medication in a public place;

33 (h) Inform the patient that he or she has an opportunity to rescind  
34 the request at any time and in any manner, and offer the patient an  
35 opportunity to rescind at the end of the fifteen-day waiting period  
36 under section 9 of this act;

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

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

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

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

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

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

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

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

27 NEW SECTION. **Sec. 5.** CONSULTING PHYSICIAN CONFIRMATION. Before  
28 a patient is qualified under this chapter, a consulting physician shall  
29 examine the patient and his or her relevant medical records and  
30 confirm, in writing, the attending physician's diagnosis that the  
31 patient is suffering from a terminal disease, and verify that the  
32 patient is competent, is acting voluntarily, and has made an informed  
33 decision.

34 NEW SECTION. **Sec. 6.** COUNSELING REFERRAL. If, in the opinion of  
35 the attending physician or the consulting physician, a patient may be  
36 suffering from a psychiatric or psychological disorder or depression

1 causing impaired judgment, either physician shall refer the patient for  
2 counseling. Medication to end a patient's life in a humane and  
3 dignified manner shall not be prescribed until the person performing  
4 the counseling determines that the patient is not suffering from a  
5 psychiatric or psychological disorder or depression causing impaired  
6 judgment.

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

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

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

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

32 NEW SECTION. **Sec. 11. WAITING PERIODS.** (1) At least fifteen days

1 shall elapse between the patient's initial oral request and the writing  
2 of a prescription under this chapter.

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

6 NEW SECTION. **Sec. 12.** MEDICAL RECORD DOCUMENTATION REQUIREMENTS.

7 The following shall be documented or filed in the patient's medical  
8 record:

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

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

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

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

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

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

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

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

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

33 (2) Registration to vote in Washington state; or

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

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

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

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

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

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

29        NEW SECTION.    **Sec. 16.**    EFFECT ON CONSTRUCTION OF WILLS, CONTRACTS,  
30 AND STATUTES.        (1) Any provision in a contract, will, or other  
31 agreement, whether written or oral, to the extent the provision would  
32 affect whether a person may make or rescind a request for medication to  
33 end his or her life in a humane and dignified manner, is not valid.

34        (2) Any obligation owing under any currently existing contract  
35 shall not be conditioned or affected by the making or rescinding of a

1 request, by a person, for medication to end his or her life in a humane  
2 and dignified manner.

3 NEW SECTION. **Sec. 17. INSURANCE OR ANNUITY POLICIES.** The sale,  
4 procurement, or issuance of any life, health, or accident insurance or  
5 annuity policy or the rate charged for any policy shall not be  
6 conditioned upon or affected by the making or rescinding of a request,  
7 by a person, for medication that the patient may self-administer to end  
8 his or her life in a humane and dignified manner. A qualified  
9 patient's act of ingesting medication to end his or her life in a  
10 humane and dignified manner shall not have an effect upon a life,  
11 health, or accident insurance or annuity policy.

12 NEW SECTION. **Sec. 18. CONSTRUCTION OF ACT.** (1) Nothing in this  
13 chapter authorizes a physician or any other person to end a patient's  
14 life by lethal injection, mercy killing, or active euthanasia. Actions  
15 taken in accordance with this chapter do not, for any purpose,  
16 constitute suicide, assisted suicide, mercy killing, or homicide, under  
17 the law. State reports shall not refer to practice under this chapter  
18 as "suicide" or "assisted suicide." Consistent with sections 1 (7),  
19 (11), and (12), 2(1), 4(1)(k), 6, 7, 9, 12 (1) and (2), 16 (1) and (2),  
20 17, 19(1) (a) and (d), and 20(2) of this act, state reports shall refer  
21 to practice under this chapter as obtaining and self-administering  
22 life-ending medication.

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

27 **Immunities and Liabilities**

28 NEW SECTION. **Sec. 19. IMMUNITIES--BASIS FOR PROHIBITING HEALTH**  
29 **CARE PROVIDER FROM PARTICIPATION--NOTIFICATION--PERMISSIBLE SANCTIONS.**  
30 (1) Except as provided in section 20 of this act and subsection (2) of  
31 this section:  
32 (a) A person shall not be subject to civil or criminal liability or  
33 professional disciplinary action for participating in good faith

