

MAINE STATE LEGISLATURE

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OFFICE OF
THE GOVERNOR

NO. 9 FY 19/20
DATE June 12, 2019

AN ORDER IMPLEMENTING THE DEATH WITH DIGNITY ACT

WHEREAS, L.D. 1313, An Act to Enact the Maine Death with Dignity Act, has been enacted by both houses of the State Legislature by a vote of 73 - 72 in the House and 19 - 16 in the Senate, and been signed into law;

WHEREAS, L.D. 1313 makes a major change in the state's policy towards those who are nearing the end of their life;

WHEREAS, Section 17 of L.D. 1313 requires the Department of Health and Human Services ("Department") to "review all records maintained under this Act" and to require any health care provider prescribing a lethal dose of medication under the Act to file a copy of the prescription and portions of the medical record with the Department and requires the department to compile an annual statistical report;

WHEREAS, Section 17 of L.D. 1313 also requires the Department to adopt major substantive rules to facilitate the collection of information regarding compliance with the Act within six months of the effective date of the Act, although the effective date of the Act is ninety days after adjournment of the Legislature, which requires the Department to adopt major substantive rules on an emergency basis;

WHEREAS, L.D. 1313 requires that any "qualified patient" who requests a lethal dose of a prescription drug must be a competent individual and a resident of the state, with no durational residency requirement; that the person make an "informed decision," verified by the attending physician; and that the attending physician comply with other prerequisites before prescribing a lethal dose of prescription drugs;

WHEREAS, policy makers and citizens have expressed deep concerns about the possibility of abuse and inappropriate pressures on those nearing the end of life when implementing L.D. 1313 and the need for hospice and palliative care for those facing terminal disease;

WHEREAS, it is in the public interest to gather information, in addition to that expressly required by the law, in order for public policy-makers and law enforcement to be confident in the enforcement of the law; ensure that the goals of the law are respected; and that patients' rights, liberties and access to care are safeguarded; and

WHEREAS, the tracking the use of lethal medications permitted by L.D. 1313 over the course of the coming months and years, including any appropriate medical, sociodemographic or geographic factors and trends, and including the disposal of unused medications, is in the public interest;


NOW, THEREFORE, I, Janet T. Mills, Governor of the State of Maine, pursuant to *Me. Const. Art V, Pt 1, secs. 1 and 12*, do hereby Order as follows:

I. DEPARTMENT RESPONSIBILITIES

- A. The Department shall, without delay, and pursuant to 5 M.R.S. section 8073 (Emergency Major Substantive Rules) adopt rules for the reporting of all actions taken by licensed physicians and others pursuant to L.D. 1313, including the records and information necessary to demonstrate compliance with Sections 14, 17 and 24 and any other provision of L.D. 1313.
- B. The Department shall review reports, history and information available from other states with similar laws and incorporate in its data collection such information as it deems appropriate to monitor the impact of the law, including: patients' age, gender, family and marital status; the diagnosis of patients and duration of illness; the patients' approximate length of residency in the state and most recent previous residence, if known; the patients' type of insurance or medical care coverage, if any; the type and dosage of medications prescribed; whether the medication is taken and proper disposal of the remaining medications; the location of patients at the time of the requests for medication and at the time of consumption of the medication, including the type of facility patients may be in; any information regarding any feasible alternatives to lethal medication offered patients, including palliative care and hospice care available to patients; and any other information pertinent to verifying compliance with the law and public policy.
- C. Both as part of the major substantive rulemaking process and as part of its broader data collection and analysis of trends and practices, the Department may consult with and take comments from the Maine Hospital Association, Maine Medical Association, Maine Hospice Council, Disability Rights Center of Maine, Board of Licensure in Medicine, Board of Osteopathic Licensure, Board of Pharmacy, Board of Nursing and other organizations and individuals with expertise in end of life care.

II. EFFECTIVE DATE

The effective date of this Order is June 12, 2019.



Janet T. Mills
Governor