

Preliminary Exposure Draft

For Comment and Review

Proposed Federal End of Life Care Act

(To be revised to reflect legislative technicalities)

A BILL

To amend titles XVIII and XIX of the Social Security Act to relieve the suffering of people approaching the end of life.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'End of Life Care Act' of 201x.

SEC. 2. AUTHORITY FOR THE DYING TO ELECT CARE OPTIONS.

Any person, who is diagnosed with an incurable disease which is medically expected to progress toward decline and death, may elect at any time after the diagnosis is made to forego all life prolonging treatments and to receive palliative care. Such care shall be known as "End-of-Life Care (EOL)," and it shall be separate and distinct from Hospice care. A video recorded clear assent shall suffice to effect the election. Although a video assent shall be considered to be self-validating, a written assent shall require validation by three witnesses.

The provisions of this Act shall preempt all other laws that may conflict with any provision in this Act whether such laws are state or Federal.

EOL shall not preclude Hospice care but Hospice shall require separate eligibility. If a person on EOL qualifies for Hospice, the two programs shall be non-duplicative. Hospice shall be secondary to EOL.

If such a person prefers to be treated out of hospital, then that preference shall be honored by all care providers, except that, if hospitalization can provide alleviation of physical pain, then the minimal hospital intervention shall be authorized to effect that outcome. If such a person chooses to forego food and drink or food or drink, then such choice shall be honored and amelioration of related symptoms can be offered. The dying person shall be permitted to resume food and drink at any time but solely at the person's own volition.

If a person who has elected EOL dies as a result of palliative care provided, in no instance shall such demise be deemed an act of homicide. Care providers are mandated to act as vigorously as needed to relieve suffering for such a person, even if the amelioration of suffering is likely to, or does result in death. Such amelioration, when administered under the medical supervision of a physician or registered nurse, shall not be adjudged to be complicity in the death of another but as normal medical intervention to facilitate life's close. In the absence of fraudulent misuse of authority, no tort or criminal liability shall attach from such treatment or the effects thereof.

The reimbursement for EOL shall be the same as that applicable under Title XIX Medicaid's reimbursement rates for custodial care.

This Act shall take effect immediately upon enactment.

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