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Date: (Filing No. S-)

HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
SENATE
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 113, L.D. 347, Bill, “An Act To Support Death with Dignity”

Amend the bill in section 1 in §2908 in subsection 1 in paragraph H in the first 2 lines (page 1, lines 30 and 31 in L.D.) by striking out the following: "is terminally ill and has a limited life expectancy" and inserting the following: 'has a terminal condition'

Amend the bill in section 1 in §2908 in subsection 4 by striking out all of paragraph B and inserting the following:

'B. The physician shall complete the following actions:

(1) Determine, based on physical examination of the person and review of the person's medical records, that the person meets the definition of "patient" as provided in subsection 1, paragraph H, is capable and is making a voluntary request and an informed decision;

(2) Include in the patient's medical record the following:

(a) Documentation of the initial and 2nd oral requests made under paragraph A, subparagraphs (1) and (2), including the wording of the requests;

(b) A statement that the physician offered the patient an opportunity to rescind the 2nd oral request made under paragraph A, subparagraph (2) and the opportunity to rescind the written request at any time, including the wording of the offers of opportunities to rescind;

(c) A statement that the physician has informed the patient orally and in writing of the following:

(i) The patient's medical diagnosis;

(ii) The patient's medical prognosis, including acknowledgment that the physician's prediction of the patient's life expectancy is an estimate based on the physician's best medical judgment and is not a guarantee of the

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- 1 actual time remaining in the patient's life and that the patient could live
2 longer than the time predicted;
- 3 (iii) The range of treatment options appropriate for the patient and the
4 patient's diagnosis;
- 5 (iv) If the patient is not enrolled in hospice care, all feasible end-of-life
6 services, including palliative care, comfort care, hospice care and pain
7 control;
- 8 (v) The range of possible results, including, but not limited to, potential
9 risks associated with taking the medication to be prescribed; and
- 10 (vi) The probable result of taking the medication to be prescribed;
- 11 (d) A statement that the physician has counseled the patient regarding:
- 12 (i) The importance of having another person present when the patient
13 takes the medication to be prescribed;
- 14 (ii) The importance of maintaining the medication to be prescribed in a
15 safe and secure location; and
- 16 (iii) The possibility that the patient may obtain the medication to be
17 prescribed but may choose not to take that medication;
- 18 (e) A statement that the physician discussed with the patient, outside the
19 presence of others, whether the patient felt unduly influenced by another
20 person regarding the patient's request pursuant to paragraph A and that it is
21 the physician's belief and opinion that the patient's request is not a result of
22 undue influence of another person;
- 23 (f) A statement that the physician referred the patient to a 2nd physician for
24 medical confirmation of the diagnosis and prognosis;
- 25 (g) A statement that the person meets the definition of "patient" as provided
26 in subsection 1, paragraph H, is capable and is making a voluntary request
27 and an informed decision;
- 28 (h) A statement that the physician has determined that the patient does not
29 have impaired judgment or, in the alternative, that the physician has referred
30 the patient for an evaluation by a licensed psychiatrist, psychologist or
31 clinical social worker and that that person has determined that the patient is
32 capable and does not have impaired judgment;
- 33 (i) A statement that the physician, after obtaining the consent of the patient,
34 consulted with the patient's primary care physician if the patient has a
35 primary care physician;
- 36 (j) A statement that the requirements of divisions (a) to (i) were completed
37 immediately prior to writing the prescription and that the prescription was
38 written no earlier than 48 hours after the patient's written request under
39 paragraph A;

1 (k) A statement that the physician is licensed to dispense medication or
2 submitted the prescription to a licensed pharmacist as directed by the patient
3 under paragraph A, subparagraph (4); and

4 (l) A statement that the physician has fully complied with the requirements
5 of this subparagraph; and

6 (3) Promptly notify the Department of Health and Human Services regarding
7 compliance with the requirements of this section, the patient's compliance with
8 paragraph A and the physician's compliance with this paragraph.'

9 **SUMMARY**

10 This amendment is the minority report of the committee. It adds to the bill
11 requirements that a physician must counsel a patient who is seeking medication in order
12 to hasten the end of life regarding the importance of having another person present when
13 the patient takes the medication, the importance of storing the medication safely and the
14 possibility that the patient may choose not to take the medication. It also requires the
15 physician to discuss with the patient, outside the presence of others, whether the patient
16 feels unduly influenced.

17 **FISCAL NOTE REQUIRED**

18 **(See attached)**