An act to add Part 1.85 (commencing with Section 443) to Division 1 of the Health and Safety Code, relating to end of life.

LEGISLATIVE COUNSEL'S DIGEST

SB 128, as amended, Wolk. End of life.

Existing law authorizes an adult to give an individual health care instruction and to appoint an attorney to make health care decisions for that individual in the event of his or her incapacity pursuant to a power of attorney for health care.

This bill would enact the End of Life Option Act authorizing an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal illness, disease, as defined, to make a request for medication prescribed pursuant to these provisions for the purpose of ending his or her life. The bill would establish the procedures for making these requests. The bill would also establish the forms to request aid-in-dying medication and, under specified circumstances, an interpreter declaration.
to be signed subject to penalty of perjury, thereby imposing a crime and state-mandated local program.

This bill would prohibit a provision in a contract, will, or other agreement, or in a health care service plan contract, or health benefit plan contract, agreement from being conditioned upon or affected by a person making or rescinding a request for the above-described medication. The bill would prohibit the sale, procurement, or issuance of any life, health, or accident insurance or annuity policy, health care service plan, contract, or health benefit plan, or the rate charged for any policy, policy or plan contract, from being conditioned upon or affected by the request. The bill would prohibit an insurance carrier from providing any information in communications made to an individual about the availability of aid-in-dying medication absent a request by the individual, his or her attending physician at the behest of the individual, or the individual’s designee. The bill would also prohibit any communication from containing both the denial of treatment and information as to the availability of aid-in-dying medication coverage.

This bill would provide immunity from civil or criminal liability or professional disciplinary action for participating in good faith compliance with the act, and would specify that the immunities and prohibitions on sanctions of a health care provider are solely reserved for conduct provided for by the bill. The bill would provide that participation in activities authorized pursuant to this bill shall be voluntary. The bill would authorize a health care provider to prohibit its employees, independent contractors, or other persons or entities, including other health care providers, from participating in activities under this act while on the premises owned or under the management or direct control of that prohibiting health care provider, or while acting within the course and scope of any employment by, or contract with, the prohibiting health care provider.

This bill would make it a felony to knowingly alter or forge a request for medication to end an individual’s life without his or her authorization or to conceal or destroy a rescission of a request for medication, if it is done with the intent or effect of causing the individual’s death. The bill would make it a felony to knowingly coerce or exert undue influence on an individual to request medication for the purpose of ending his or her life or to destroy a rescission of a request. By creating a new crime, the bill would impose a state-mandated local program. The bill would provide that nothing in its provisions be construed to authorize ending
a patient’s life by lethal injection, mercy killing, or active euthanasia, and would provide that action taken in accordance with the act shall not constitute, among others, suicide or homicide.

This bill would require the State Department of Public Health Officer to adopt regulations regarding the collection of information, establishing additional reporting requirements for physicians and pharmacists to determine the use of, and compliance with, the act, and would require the department state Public Health Officer to annually review a sample of certain records and the State Department of Public Health to make a statistical report of the information collected.

This bill would require specified information to be documented in the individual’s medical record, including, among other things, all oral and written requests for aid-in-dying medication.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.


*The people of the State of California do enact as follows:*

SECTION 1. Part 1.85 (commencing with Section 443) is added to Division 1 of the Health and Safety Code, to read:

PART 1.85. END OF LIFE OPTION ACT

443. This part shall be known and may be cited as the End of Life Option Act.

443.1. As used in this part, the following definitions shall apply:

(a) “Adult” means an individual 18 years of age or older.

(b) “Aid-in-dying medication” means medication determined and prescribed by a physician for a qualified individual, which the
qualified individual may choose to self-administer to bring about
his or her death due to a terminal illness. disease.

(c) “Attending physician” means the physician who has primary
responsibility for the health care of an individual and treatment of
the individual’s terminal illness. disease.

(d) “Competent” means that, in the opinion of a court or in the
opinion of an individual’s attending physician, consulting
physician, psychiatrist, or psychologist, the individual has the
ability to make and communicate an informed decision to health
care providers, including communication through a person familiar
with the individual’s manner of communicating, if that person is
available.

(e) “Consulting physician” means a physician who is qualified
by specialty or experience to make a professional diagnosis and
prognosis regarding an individual’s illness. terminal disease.

(f) “Counseling” means one or more consultations, as necessary,
between an individual and a psychiatrist or psychologist licensed
in this state for the purpose of determining that the individual is
competent and is not suffering from a psychiatric or psychological
disorder or depression causing impaired judgment.

(g) “Department” means the State Department of Public Health.

(h) “Health care provider” or “provider” means a person
licensed, certified, or otherwise authorized or permitted by law to
administer health care or dispense medication in the ordinary
course of business or practice of a profession, including, but not
limited to, physicians, doctors of osteopathy, and pharmacists.
“Health care provider” or “provider” includes a health care facility
as identified in Section 1250.

(i) “Informed decision” means a decision by a terminally ill
individual an individual with a terminal disease to request and
obtain a prescription for medication that the individual may
self-administer to end the individual’s life, that is based on an
understanding and acknowledgment of the relevant facts, and that
is made after being fully informed by the attending physician of
all of the following:

(1) The individual’s medical diagnosis and prognosis.

(2) The potential risks associated with taking the medication to
be prescribed.

(3) The probable result of taking the medication to be prescribed.
4 The possibility that the individual may choose not to obtain
5 the medication or may obtain the medication but may decide not
6 to take it.
7 (5) The feasible alternatives or additional treatment
8 opportunities, including, but not limited to, comfort care, hospice
9 care, palliative care, and pain control.
10 (j) “Medically confirmed” means the medical opinion of the
11 attending physician has been confirmed by a consulting physician
12 who has examined the individual and the individual’s relevant
13 medical records.
14 (k) “Physician” means a doctor of medicine or osteopathy
15 currently licensed to practice medicine in this state.
16 (l) “Public place” means any street, alley, park, public building,
17 any place of business or assembly open to or frequented by the
18 public, and any other place that is open to the public view, or to
19 which the public has access.
20 (m) “Qualified individual” means a competent adult who is a
21 resident of California and has satisfied the requirements of this
22 part in order to obtain a prescription for medication to end his or
23 her life.
24 (n) “Self-administer” means a qualified individual’s affirmative,
25 conscious, and physical act of using the medication to bring about
26 his or her own death.
27 (o) “Terminal—illness disease” means an incurable and
28 irreversible illness disease that has been medically confirmed and
29 will, within reasonable medical judgment, result in death within
30 six months.
31 443.2. (a) A competent, qualified individual who is—a
32 terminally ill adult an adult with a terminal disease may make a
33 request to receive a prescription for aid-in-dying medication if all
34 of the following conditions are satisfied:
35 (1) The qualified individual’s attending physician has
36 determined the individual to be suffering from a terminal illness
37 disease.
38 (2) The qualified individual has voluntarily expressed the wish
39 to receive a prescription for aid-in-dying medication.
40 (3) The qualified individual is a resident of California and is
41 able to establish residency through any of the following means:
42 (A) Possession of a California driver license or other
43 identification issued by the State of California.
(B) Registration to vote in California.
(C) Evidence that the person owns or leases property in California.
(D) Filing of a California tax return for the most recent tax year.
(4) The qualified individual documents his or her request pursuant to the requirements set forth in Section 443.3.
(b) A person may not qualify under the provisions of this part solely because of age or disability.
(c) A request for a prescription for aid-in-dying medication under this part shall not be made on behalf of the patient through a power of attorney, an advance health care directive, or a conservator.
443.3. (a) A qualified individual wishing to receive a prescription for aid-in-dying medication pursuant to this part shall submit two oral requests, a minimum of 15 days apart, and a written request to his or her attending physician. The attending physician must receive all three requests required pursuant to this section.
(b) A valid written request for aid-in-dying medication under subdivision (a) shall meet all of the following conditions:
(1) The request shall be in substantially the form described in Section 443.9.
(2) The request shall be signed and dated, in the presence of two witnesses in accordance with paragraph (3), by the qualified individual seeking the medication.
(3) The request shall be witnessed by at least two other adult persons who, in the presence of the qualified individual, shall attest that to the best of their knowledge and belief the qualified individual is all of the following:
(A) Competent.
(B) Acting voluntarily.
(C) Not being coerced to sign the request.
(c) Only one of the two witnesses at the time the written request is signed may:
(1) Be related to the qualified individual by blood, marriage, or adoption or be entitled to a portion of the person’s estate upon death.
(2) Own, operate, or be employed at a health care facility where the qualified individual is receiving medical treatment or resides.
(d) The attending physician of the qualified individual shall not
be one of the witnesses required pursuant to paragraph (3) of
subdivision (b).

443.4. (a) A qualified individual may at any time rescind his
or her request for aid-in-dying medication without regard to the
qualified individual’s mental state.

(b) A prescription for aid-in-dying medication provided under
this part may not be written without the attending physician
offering the qualified individual an opportunity to rescind the
request.

443.5. (a) Before prescribing aid-in-dying medication, the
attending physician shall do all of the following:

(1) Make the initial determination of all of the following:
(A) Whether the requesting adult is competent.
(B) Whether the requesting adult has a terminal illness.
(C) Whether the requesting adult has voluntarily made the
request for aid-in-dying medication pursuant to Sections 443.2
and 443.3.
(D) Whether the requesting adult is a qualified individual
pursuant to subdivision (m) of Section 443.1.
(2) Ensure the qualified individual is making an informed
decision by discussing with him or her all of the following:
(A) His or her medical diagnosis and prognosis.
(B) The potential risks associated with taking the aid-in-dying
medication to be prescribed.
(C) The probable result of taking the aid-in-dying medication
to be prescribed.
(D) The possibility that he or she may choose to obtain the
aid-in-dying medication but not take it.
(E) The feasible alternatives or additional treatment
opportunities, including, but not limited to, comfort care, hospice
care, palliative care, and pain control.
(3) Refer the qualified individual to a consulting physician for
medical confirmation of the diagnosis, diagnosis and prognosis,
and for a determination that the qualified individual is competent
and has complied with the provisions of this part.
(4) Refer the qualified individual for counseling if appropriate.

No aid-in-dying medication shall be prescribed until the person
performing the counseling determines that the patient is not
suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

(5) Ensure that the qualified individual’s request does not arise from coercion or undue influence by another person by discussing with the qualified individual, outside of the presence of any other persons, whether or not the qualified individual is feeling coerced or unduly influenced by another person.

(6) Counsel the qualified individual about the importance of all of the following:

(A) Having another person present when he or she takes the aid-in-dying medication prescribed pursuant to this part.

(B) Not taking the aid-in-dying medication in a public place.

(C) Notifying the next of kin of his or her request for aid-in-dying medication. A qualified individual who declines or is unable to notify next of kin shall not have his or her request denied for that reason.

(D) Participating in a hospice program.

(7) Inform the qualified individual that he or she may rescind the request for aid-in-dying medication at any time and in any manner.

(8) Offer the qualified individual an opportunity to rescind the request for aid-in-dying medication before prescribing the aid-in-dying medication.

(9) Verify, immediately prior to writing the prescription for aid-in-dying medication, that the qualified individual is making an informed decision.

(10) Ensure that all appropriate steps are carried out in accordance with this part before writing a prescription for aid-in-dying medication.

(11) Fulfill the record documentation that may be required under Sections 443.16 and 443.19.

(b) If the conditions set forth in subdivision (a) are satisfied, the attending physician may deliver the aid-in-dying medication in any of the following ways:

(1) Dispense aid-in-dying medications directly, including ancillary medication intended to minimize the qualified individual’s discomfort, if the attending physician meets all of the following criteria:

(A) Is authorized to dispense medicine under California law.
(B) Has a current United States Drug Enforcement Administration (USDEA) certificate.

(C) Complies with any applicable administrative rule or regulation.

(2) With the qualified individual’s written consent, the attending physician may contact a pharmacist, inform the pharmacist of the prescriptions, and deliver the written prescriptions personally, by mail, or electronically to the pharmacist, who may dispense the medications to the qualified individual, the attending physician, or a person expressly designated by the qualified individual and with the designation delivered to the pharmacist in writing or verbally.

(c) Delivery of the dispensed medication to the qualified individual, the attending physician, or a person expressly designated by the qualified individual may be made by: personal delivery, United Parcel Service, United States Postal Service, Federal Express, or by messenger service. service with a signature required at delivery.

443.6. Prior to a qualified individual obtaining aid-in-dying medication from the attending physician, the consulting physician shall perform all of the following:

(a) Examine the qualified individual and his or her relevant medical records.

(b) Confirm in writing the attending physician’s diagnosis and prognosis.

(c) Verify, in the opinion of the consulting physician, that the qualified individual is competent, acting voluntarily, and has made an informed decision.

(d) Fulfill the record documentation that may be required under Sections 443.16 and 443.19.

443.7. (a) Unless otherwise prohibited by law, the attending physician may sign the qualified individual’s death certificate.

(b) The cause of death listed on an individual’s death certificate who uses aid-in-dying medication shall be the underlying terminal illness disease.

443.8. A qualified individual may not receive a prescription for aid-in-dying medication pursuant to this part, unless he or she has made an informed decision. Immediately before writing a prescription for aid-in-dying medication under this part, the
attending physician shall verify that the individual is making an informed decision.

443.9. (a) A request for aid-in-dying medication as authorized by this part shall be in substantially the following form:

REQUEST FOR MEDICATION TO END MY LIFE IN A HUMANE AND
DIGNIFIED MANNER I, ................................................................., am an adult of sound mind and a resident of the State of California.
I am suffering from ................, which my attending physician has determined is in its terminal phase and which has been medically confirmed.
I have been fully informed of my diagnosis and prognosis, the nature of the aid-in-dying medication to be prescribed and potential associated risks, the expected result, and the feasible alternatives or additional treatment opportunities, including comfort care, hospice care, palliative care, and pain control.
I request that my attending physician prescribe medication that will end my life in a humane and dignified manner if I choose to take it, and I authorize my attending physician to contact any pharmacist about my request.

INITIAL ONE:

........... I have informed one or more members of my family of my decision and taken their opinions into consideration.
........... I have decided not to inform my family of my decision.
........... I have no family to inform of my decision.

I understand that I have the right to rescind this request at any time.
I understand the full import of this request and I expect to die if I take the aid-in-dying medication to be prescribed. My attending physician has counseled me about the possibility that my death may not be immediately upon the consumption of the medication.
I make this request voluntarily, without reservation, and without being coerced.

Signed:........................................
Dated:........................................

DECLARATION OF WITNESSES
We declare that the person signing this request:
(a) is personally known to us or has provided proof of identity;
(b) signed this request in our presence;
(c) is an individual whom we believe to be of sound mind and not under duress, fraud, or undue influence; and
(d) is not an individual for whom either of us is the attending physician.

..........................Witness 1/Date
..........................Witness 2/Date

NOTE: Only one of the two witnesses may be a relative (by blood, marriage, or adoption) of the person signing this request or be entitled to a portion of the person’s estate upon death. Only one of the two witnesses may own, operate or be employed at a health care facility where the person is a patient or resident.

(b) (1) The written language of the request shall be written in the same translated language as any conversations, consultations, or interpreted conversations or consultations between a patient and his or her attending or consulting physicians.

(2) Notwithstanding paragraph (1), the written request may be prepared in English even where the conversations or consultations or interpreted conversations or consultations where conducted in a language other than English if the English language form includes an attached interpreter’s declaration that is signed under penalty of perjury. The interpreter’s declaration shall state words to the effect that:

I (INSERT NAME OF INTERPRETER), am fluent in English and (INSERT TARGET LANGUAGE).

On (insert date) at approximately (insert time), I read the “Request for Medication to End My Life” to (insert name of individual/patient) in (insert target language).

Mr./Ms. (insert name of patient/qualified individual) affirmed to me that he/she understood the content of this form and affirmed his/her desire to sign this form under his/her own power and volition and that the request to sign the form followed consultations with an attending and consulting physician.

I declare that I am fluent in English and (insert target language) and further declare under penalty of perjury that the foregoing is true and correct.

Executed at (insert city, county, and state) on this (insert day of month) of (insert month), (insert year).

X______Interpreter signature
X______Interpreter printed name
X______Interpreter address

(3) An interpreter provided by paragraph (2) shall not be related to the qualified individual by blood, marriage, or adoption or be entitled to a portion of the person’s estate upon death. An
interpreter provided by paragraph (2) shall be qualified as described in subparagraph (H) of paragraph (2) of subdivision (c) of Section 1300.67.04 of Title 28 of the California Code of Regulations and meet the standards promulgated by the California Healthcare Interpreters Association or the National Council on Interpreting in Healthcare or other standards deemed acceptable for healthcare providers in California.

443.10. (a) A provision in a contract, will, or other agreement, whether written or oral, to the extent the provision would affect whether a person may make or rescind a request for aid-in-dying medication, is not valid.

(b) An obligation owing under any contract in effect on or after January 1, 2016, may not be conditioned or affected by a qualified individual making or rescinding a request for aid-in-dying medication.

443.11. (a) The sale, procurement, or issuance of a life, health, accident insurance or annuity policy, health care service plan contract, or health benefit plan, or the rate charged for a policy or plan contract may not be conditioned upon or affected by a person making or rescinding a request for aid-in-dying medication.

(b) Notwithstanding any other law, a qualified individual’s act of self-administering aid-in-dying medication may not have an effect upon a life, health, or accident insurance or annuity policy other than that of a natural death from the underlying illness.

c) An insurance carrier shall not provide any information in communications made to an individual about the availability of aid-in-dying medication absent a request by the individual, his or her attending physician at the behest of the individual, or the individual’s designee. Any communication shall not include both the denial of treatment and information as to the availability of aid-in-dying medication coverage. For the purposes of this subdivision, “insurance carrier” means a health care service plan pursuant to Section 1345 or a health insurer pursuant to Section 106 of the Insurance Code.

443.12. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with this part, including an individual who is present when a qualified individual self-administers the prescribed aid-in-dying medication.
(b) A health care provider or professional organization or association—may shall not subject an individual to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for participating or refusing to participate in good faith compliance with this part, for participating in good faith compliance with this part or for refusing to participate in accordance with subdivision (d).

(c) A request by an individual to an attending physician or to a pharmacist to dispense aid-in-dying medication or provide aid-in-dying medication in good faith compliance with the provisions of this part does not constitute neglect or elder abuse for any purpose of law or provide the sole basis for the appointment of a guardian or conservator.

(c) (1) A request by a qualified individual to an attending physician to provide aid-in-dying medication in good faith compliance with the provisions of this part shall not provide the sole basis for the appointment of a guardian or conservator.

(2) A request by an individual to a pharmacist to dispense aid-in-dying medication in good faith compliance with the provisions of this part shall not constitute neglect or elder abuse for any purpose of law.

(d) (1) Participation in activities authorized pursuant to this part shall be voluntary. A person or entity that elects, for reasons of conscience, morality, or ethics, not to engage in activities authorized pursuant to this part is not required to take any action in support of a patient’s decision under this part, except as otherwise required by law. required by Sections 442 through 442.7, inclusive.

(2) If a health care provider is unable or unwilling to carry out an a qualified individual’s request under this part and the qualified individual transfers care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the qualified individual’s relevant medical records to the new health care provider.

(e) (1) Subject to paragraph (2), notwithstanding any other law, a health care provider may prohibit its employees, independent contractors, or other persons or entities, including other health care providers, from participating in activities under this part while on premises owned or under the management or direct control of that prohibiting health care provider or while
acting within the course and scope of any employment by, or
contract with, the prohibiting health care provider.

(2) A health care provider that elects to prohibit its employees,
independent contractors, or other persons or entities, including
health care providers, from participating in activities under this
part, as described in paragraph (1), shall first give notice of the
policy prohibiting participation in this part to the individual or
entity. A health care provider that fails to provide notice to an
individual or entity in compliance with this paragraph shall not
be entitled to enforce such a policy against that individual or entity.

(3) Subject to compliance with paragraph (2), the prohibiting
health care provider may take action, including, but not limited
to, the following, as applicable, against any individual or entity
that violates this policy:

(A) Loss of privileges, loss of membership, or other action
authorized by the bylaws or rules and regulations of the medical
staff.

(B) Suspension, loss of employment, or other action authorized
by the policies and practices of the prohibiting health care
provider.

(C) Termination of any lease or other contract between the
prohibiting health care provider and the individual or entity that
violates the policy.

(D) Imposition of any other nonmonetary remedy provided for
in any lease or contract between the prohibiting health care
provider and the individual or entity in violation of the policy.

(4) Nothing in this subdivision shall be construed to prevent,
or to allow a prohibiting health care provider to prohibit any other
health care provider, employee, independent contractor, or other
person or entity from any of the following:

(A) Participating, or entering into an agreement to participate,
in activities under this part, while on premises that are not owned
or under the management or direct control of the prohibiting
provider or while acting outside the course and scope of the
participant’s duties as an employee of, or an independent
contractor for, the prohibiting health care provider.

(B) Participating, or entering into an agreement to participate,
in activities under this part as an attending physician or consulting
physician while on premises that are not owned or under the
management or direct control of the prohibiting provider.
(5) In taking actions pursuant to paragraph (3), a health care provider shall comply with all procedures required by law, its own policies or procedures, and any contract with the individual or entity in violation of the policy, as applicable.

(6) For purposes of this subdivision:

(A) “Notice” means a separate statement in writing advising of the prohibiting health care provider policy with respect to participating in activities under this part.

(B) “Participating, or entering into an agreement to participate, in activities under this part” means doing or entering into an agreement to do any one or more of the following:

(i) Performing the duties of an attending physician specified in Section 443.5.

(ii) Performing the duties of a consulting physician specified in Section 443.6.

(iii) Delivering the prescription for, dispensing, or delivering the dispensed aid-in-dying medication pursuant to paragraph (2) of subdivision (b) of, and subdivision (c) of, Section 443.5.

(iv) Being present when the qualified individual takes the aid-in-dying medication prescribed pursuant to this part.

(C) “Participating, or entering into an agreement to participate, in activities under this part” does not include doing, or entering into an agreement to do, any of the following:

(i) Making an initial determination that a patient has a terminal illness and informing the patient of the medical prognosis.

(ii) Providing information to a patient about the End of Life Option Act.

(iii) Providing a patient, upon the patient’s request, with a referral to another health care provider for the purposes of participating in the activities authorized by the End of Life Option Act.

(7) Any action taken by a prohibiting provider pursuant to this subdivision shall not be reportable under Sections 800 through 809.9, inclusive, of the Business and Professions Code. The fact that a health care provider participates in activities under this part shall not be the sole basis for a complaint or report by another health care provider of unprofessional or dishonorable conduct under Sections 800 through 809.9, inclusive, of the Business and Professions Code.
(f) Nothing in this part shall prevent a health care provider from providing an individual with health care services that do not constitute participation in this part.

443.13. (a) A health care provider may not be sanctioned for any of the following:

(1) Making an initial determination pursuant to the standard of care that an individual has a terminal illness disease and informing him or her of the medical prognosis.

(2) Providing information about the End of Life Option Act to a patient upon the request of the individual.

(3) Providing an individual, upon request, with a referral to another physician.

(d) Contracting with an individual to act outside the course and scope of the provider’s capacity as an employee or independent contractor of a health care provider that prohibits activities under this part.

(b) A health care provider that prohibits activities under this part in accordance with subdivision (e) of Section 443.12 shall not sanction an individual health care provider for contracting with a qualified individual to engage in activities authorized by this part if the individual health care provider is acting outside of the course and scope of his or her capacity as an employee or independent contractor of the prohibiting health care provider.

(c) Notwithstanding any contrary provision in this section, the immunities and prohibitions on sanctions of a health care provider are solely reserved for actions taken pursuant to this part and those health care providers may be sanctioned for conduct and actions not included and provided for in this part if the conduct and actions do not comply with the standards and practices set forth by the Medical Board of California.

443.14. (a) Knowingly altering or forging a request for aid-in-dying medication to end an individual’s life without his or her authorization or concealing or destroying a rescission of a request for aid-in-dying medication is punishable as a felony if the act is done with the intent or effect of causing the individual’s death.
(b) Knowingly coercing or exerting undue influence on an individual to request aid-in-dying medication for the purpose of ending his or her life or to destroy a rescission of a request is punishable as a felony.

(c) For purposes of this section, “knowingly” has the meaning provided in Section 7 of the Penal Code.

(d) Nothing in this section limits further liability for civil damages resulting from other negligent conduct or intentional misconduct by any person: shall be construed to limit civil liability.

(e) The penalties in this section do not preclude criminal penalties applicable under any law for conduct inconsistent with the provisions of this part.

443.15. Nothing in this part may be construed to authorize a physician or any other person to end an individual’s life by lethal injection, mercy killing, or active euthanasia. Actions taken in accordance with this part shall not, for any purposes, constitute suicide, assisted suicide, mercy killing, homicide, or elder abuse under the law.

443.16. (a) The State Public Health Officer, in consultation with the State Department of Social Services, shall annually review a sample of records maintained pursuant to Section 443.19 and shall adopt regulations establishing additional reporting requirements for physicians and pharmacists pursuant to this part.

(b) The reporting requirements shall be designed to collect information to determine utilization and compliance with this part. The information collected shall be confidential and shall be collected in a manner that protects the privacy of the patient, the patient’s family, and any medical provider or pharmacist involved with the patient under the provisions of this part.

(c) Based on the information collected, the department shall provide an annual compliance and utilization statistical report aggregated by age, gender, race, ethnicity, and primary language spoken at home and other data the department may determine relevant. The department shall make the report public within 30 days of completion of each annual report.

443.17. A person who has custody or control of any unused aid-in-dying medication prescribed pursuant to this part after the death of the patient shall personally deliver the unused aid-in-dying medication for disposal by delivering it to the nearest qualified...
facility that properly disposes of controlled substances, or if none
is available, shall dispose of it by lawful means.

443.18. Any governmental entity that incurs costs resulting from a qualified individual terminating his or her life pursuant to the provisions of this part in a public place shall have a claim against the estate of the qualified individual to recover those costs and reasonable attorney fees related to enforcing the claim.

443.19. All of the following shall be documented in the individual’s medical record:

(a) All oral requests for aid-in-dying medication.

(b) All written requests for aid-in-dying medication.

(c) The attending physician’s diagnosis and prognosis, determination that a qualified individual is competent, acting voluntarily, and has made an informed decision, or that the attending physician has determined that the individual is not a qualified individual.

(d) The consulting physician’s diagnosis and prognosis, and verification that the qualified individual is competent, acting voluntarily, and has made an informed decision, or that the consulting physician has determined that the individual is not a qualified individual.

(e) A report of the outcome and determinations made during counseling, if performed.

(f) The attending physician’s offer to the qualified individual to rescind his or her request at the time of the qualified individual’s second oral request.

(g) A note by the attending physician indicating that all requirements under Sections 443.5 and 443.6 have been met and indicating the steps taken to carry out the request, including a notation of the aid-in-dying medication prescribed.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Section 443.16 to the Health and Safety Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(a) Any limitation to public access to personally identifiable patient data collected pursuant to Section 443.16 of the Health and
Safety Code as proposed to be added by this act is necessary to protect the privacy rights of the patient and his or her family. (b) The interests in protecting the privacy rights of the patient and his or her family in this situation strongly outweigh the public interest in having access to personally identifiable data relating to services. (c) The statistical report to be made available to the public pursuant to subdivision (c) of Section 443.16 of the Health and Safety Code is sufficient to satisfy the public’s right to access.

SEC. 3. The provisions of this part are severable. If any provision of this part or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.