

A LICENSED HEALTH CARE PROFESSIONAL DOES NOT VIOLATE § 3-102 OF THIS SUBTITLE BY WITHHOLDING OR WITHDRAWING A MEDICALLY ADMINISTERED LIFE-SUSTAINING PROCEDURE:

(1) IN COMPLIANCE WITH TITLE 5, SUBTITLE 6 OF THE HEALTH - GENERAL ARTICLE; OR

(2) IN ACCORDANCE WITH REASONABLE MEDICAL PRACTICE.

(C) FAMILY CARE GIVER.

(1) UNLESS THE FAMILY MEMBER KNOWINGLY ADMINISTERS A PROCEDURE OR ADMINISTERS OR DISPENSES A MEDICATION TO CAUSE DEATH, A FAMILY MEMBER DOES NOT VIOLATE § 3-102 OF THIS SUBTITLE IF THE FAMILY MEMBER:

(I) IS A CARE GIVER FOR A PATIENT ENROLLED IN A LICENSED HOSPICE PROGRAM; AND

(II) ADMINISTERS THE PROCEDURE OR ADMINISTERS OR DISPENSES THE MEDICATION TO RELIEVE PAIN UNDER THE SUPERVISION OF A HEALTH CARE PROFESSIONAL.

(2) PARAGRAPH (1) OF THIS SUBSECTION APPLIES EVEN IF THE MEDICATION OR PROCEDURE HASTENS DEATH OR INCREASES THE RISK OF DEATH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 416(c).

In subsection (a) of this section, the references to "administering or prescribing a procedure or administering, prescribing, or dispensing a medication" are substituted for the former references to "administer[ing], prescrib[ing], or dispens[ing] medications or procedures" because a procedure cannot be "dispensed". Similarly, in subsection (c) of this section, the references to "administer[ing] [a] procedure or administer[ing] or dispens[ing] a medication" are substituted for the former reference to "administer[ing] or dispens[ing] medications or procedures".

In subsection (b) of this section, the former reference to "the Health Care Decisions Act" is deleted as included in the reference to "Title 5, Subtitle 6 of the Health - General Article".

The Criminal Law Article Review Committee notes, for the consideration of the General Assembly, that the reference to a "health care professional" in subsection (c)(1)(ii) of this section, which describes the individual under whose supervision a family member may administer pain relief, omits the qualification "licensed" used elsewhere in this subtitle in the defined term "licensed health care professional". If the licensure of the health care professional in this situation is material, the General Assembly may wish to consider adding the word "licensed" to modify "health care professional" in this provision.