AN ACT

Amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, providing for compassionate assisted dignified death; and imposing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 20 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 54B

COMPASSIONATE ASSISTED DIGNIFIED DEATH

Sec.

54B01. Definitions.

54B02. Qualified patient requirements.

54B03. Request for medication.

54B04. Right and opportunity to rescind request.

54B05. Form of written request.

54B06. Waiting periods.

54B07. Attending physician responsibilities.

54B08. Confirmation of terminal illness.
§ 54B01. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Attending physician." The physician who has primary responsibility for the care of a patient with a terminal illness and treatment of the patient's terminal illness.

"Capable." The ability of a patient to make and communicate informed health care decisions without impaired judgment to health care providers, including communication through individuals familiar with the patient's manner of communicating, as determined by a court or a patient's attending physician, consulting physician, mental health care professional or clinical social worker.

"Confirmation of terminal illness." A written confirmation from a consulting physician of a patient's terminal illness.

"Consulting physician." A physician who is qualified by
specialty or experience to make a professional diagnosis and
prognosis regarding a patient's terminal illness.

"Counseling." One or more consultations between a mental
health care provider and a patient for the purpose of
determining if the patient is capable.

"Department." The Department of Health of the Commonwealth.

"End-of-life medication." A medication determined and
prescribed by an attending physician to a qualified patient, by
which the qualified patient may administer to end the qualified
patient's life.

"Health care facility." A health care facility as defined in
section 802.1 of the act of July 19, 1979 (P.L.130, No.48),
known as the Health Care Facilities Act.

"Health care provider." A person licensed, certified or
otherwise authorized or permitted by the laws of this
Commonwealth to administer health care services or dispense
medication in the ordinary course of business or practice of a
profession.

"Informed decision." A decision by a patient to request and
obtain a prescription for end-of-life medication which is based
on an appreciation of the relevant facts after being fully
informed by the attending physician of the information required
under section 54B07 (relating to attending physician
responsibilities).

"Long-term care facility." A long-term care nursing facility
as defined in section 802.1 of the Health Care Facilities Act.

"Medical confirmation." The confirmation by a consulting
physician who has examined the patient and the patient's
relevant medical records that the patient has a terminal
illness, is capable and is voluntarily making an informed
"Mental health care provider." A person who is licensed, certified or otherwise authorized by the laws of this Commonwealth to administer or provide mental health care in the ordinary course of business or practice of a profession.

"Participate under this chapter." To perform the duties of an attending physician under section 54B07, the consulting physician function under section 54B08 (relating to confirmation of terminal illness) or the consultation function under section 54B09 (relating to counseling referral). The term does not include:

(1) making an initial determination that a patient has a terminal illness and informing the patient of the medical prognosis;

(2) providing information about end-of-life medication and related information to a patient upon request;

(3) providing, upon the request of the patient, a referral to another physician; or

(4) contracting by a patient with the patient's attending physician and consulting physician to act outside of the course and scope of the health care provider's capacity as an employee or independent contractor of the sanctioning health care provider.

"Patient." An individual who is:

(1) eighteen years of age or older; and

(2) under the care of an attending physician.

"Physician." A doctor of medicine or osteopathy licensed to practice by the State Board of Medicine or State Board of Osteopathic Medicine.

"Qualified patient." A patient who meets the requirements of

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section 54B02 (relating to qualified patient requirements).
"Terminal illness." An incurable and irreversible illness
that will, within reasonable medical judgment, produce death
within six months.

§ 54B02. Qualified patient requirements.
To qualify to receive end-of-life medication under this
chapter, a patient must:
(1) Have a terminal illness, as determined by an
attending physician and a consulting physician.
(2) Be capable of making an informed decision, as
determined under sections 54B07 (relating to attending
physician responsibilities) and 54B08(3) (relating to
confirmation of terminal illness).
(3) Be a resident of this Commonwealth.

§ 54B03. Request for medication.
(a) General rule.--A qualified patient may make a request
under subsection (b) for end-of-life medication for the purpose
of ending the qualified patient's life in a compassionate,
humane and dignified manner under this chapter.
(b) Request requirements.--In order to receive a
prescription for end-of-life medication, a qualified patient
must:
(1) Make an oral request to the attending physician.
(2) Except as provided for under section 54B06 (relating
to waiting periods), reiterate the oral request by making a
second oral request to the attending physician no less than
15 days after making the initial oral request.
(3) Make a written request to the attending physician in
the form required under section 54B05 (relating to form of
written request).
§ 54B04. Right and opportunity to rescind request.

(a) General rule.--A qualified patient may rescind the request to end the qualified patient's life at any time and in any manner without regard to mental state.

(b) Opportunity required.--At the time a qualified patient makes the qualified patient's second oral request, the attending physician must offer the qualified patient an opportunity to rescind the request.

(c) Prohibition.--A prescription for end-of-life medication under this chapter may not be written without the attending physician's offering the qualified patient an opportunity to rescind the request.

§ 54B05. Form of written request.

(a) Signature, date and attestation.--A valid request for end-of-life medication under this chapter shall be in substantially the form under subsection (e), signed and dated by the qualified patient and witnessed by at least two individuals who, in the presence of the qualified patient, attest that to the best of the witness's knowledge and belief the qualified patient is capable, acting voluntarily and not being coerced to sign the request.

(b) Witness.--One of the witnesses shall be an individual who is not:

(1) a relative of the qualified patient by blood, marriage or adoption;

(2) someone with whom the qualified patient has had a significant relationship;

(3) an individual who, at the time the request is signed, would be entitled to a portion of the estate of the qualified patient upon death under a will or by operation of
law; or

(4) an owner, operator or employee of a health care
    facility where the qualified patient is receiving medical
    treatment or is a resident.

(c) Prohibition.--The qualified patient's attending
    physician, consulting physician or an individual who has
    conducted an evaluation of the qualified patient at the time the
    request is signed shall not be a witness.

(d) Long-term care patient.--If the qualified patient is in
    a long-term care facility at the time the written request is
    made, one of the witnesses shall be an individual designated by
    the long-term care facility and who has the qualifications
    required by the department by rule.

(e) Form.--A request for end-of-life medication as
    authorized under this chapter shall be in substantially the
    following form:

   REQUEST FOR MEDICATION
   TO END MY LIFE IN A COMPASSIONATE
   HUMANE AND DIGNIFIED MANNER

   I, ________________________________, am an adult of sound mind.
   I am suffering from ________________________________, which my
   attending physician has determined is a terminal illness and
   which has been medically confirmed by a consulting physician.
   I have been fully informed of my diagnosis and prognosis, the
   nature of medication to be prescribed and potential associated
   risks, the expected result and the feasible alternatives,
   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 compassionate, humane and dignified
I have informed my family or significant other of my decision and have taken their opinions into consideration.

I have decided not to inform my family or significant other of my decision.

I have no family or significant other to inform of my decision.

I understand that I have the right to rescind this request at any time.

I understand that this request will supersede any provision of an advance directive in conflict with the provisions of this request.

I understand the full import of this request and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

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 on the date of the person's signature.

(c) Appears to be of sound mind and not under duress, fraud or undue influence.
(d) Is not a patient for whom either of us is an attending physician.

Date:  
Witness' printed name:  
Witness' signature:  
Number and Street:  
City, State and Zip Code:  
Date:  
Witness' printed name:  
Witness' signature:  
Number and Street:  
City, State and Zip Code:  

NOTE: One witness shall not be a relative by blood, marriage or adoption of the person signing this request, shall not be someone with whom the person has a significant relationship, shall not be entitled to any portion of the person's estate upon death and shall not own, operate or be employed at a health care facility where the person is receiving medical treatment or a resident. If the patient is an inpatient at a long-term care facility, one of the witnesses shall be a person designated by the facility.

§ 54B06. Waiting periods.

(a) General rule.--Except as provided under subsection (b), the following apply:

(1) At least 15 days shall elapse between the qualified patient's initial oral request and the writing of a prescription for end-of-life medication under this chapter.

(2) At least 48 hours shall elapse between the qualified patient's written request and the writing of a prescription for end-of-life medication under this chapter.
(b) Exceptions.--The following apply:

(1) If the qualified patient's attending physician has determined, and a medical confirmation is received under section 54B08 (relating to confirmation of terminal illness), that the qualified patient will, within reasonable medical judgment, die within 15 days of making the initial oral request, the qualified patient may reiterate the second oral request to the attending physician at any time after making the initial oral request.

(2) If the qualified patient's attending physician has determined, and a medical confirmation is received under section 54B08, that the qualified patient will, within reasonable medical judgment, die before the expiration of at least one of the waiting periods described under subsection (a), the prescription for end-of-life medication under this chapter may be written at any time following the later of the qualified patient's written request or second oral request.

§ 54B07. Attending physician responsibilities.

(a) Responsibilities.--Upon request of a patient, an attending physician shall:

(1) Determine if the patient has a terminal illness, is capable and has made the request for end-of-life medication voluntarily.

(2) Ensure that the patient is making an informed decision and inform the patient of:

(i) The patient's medical diagnosis.

(ii) The patient's prognosis.

(iii) The potential risks associated with taking the end-of-life medication to be prescribed.

(iv) The probable result of taking the end-of-life medication.
medication to be prescribed.

(v) The feasible alternatives, including, but not limited to, comfort care, hospice care, palliative care and pain control.

(3) Refer the patient to a consulting physician for medical confirmation of the diagnosis and for a determination that the patient is capable and acting voluntarily.

(4) Refer the patient for counseling, if appropriate, under section 54B09 (relating to counseling referral).

(5) Recommend the patient notify next of kin or someone with whom the patient has a significant relationship.

(6) Counsel the patient about the importance of:

(i) having another individual present when the patient takes the end-of-life medication prescribed under this chapter; and

(ii) not taking the end-of-life medication in a public place.

(7) Inform the patient that the patient has an opportunity to rescind the request at any time and in any manner under section 54B04 (relating to right and opportunity to rescind request) and offer the patient an opportunity to rescind at the end of the 15-day waiting period or at the time the patient makes the patient's second oral request under section 54B06 (relating to waiting periods).

(8) Immediately prior to writing a prescription for end-of-life medication under this chapter, verify the patient is making an informed decision.

(9) Fulfill the medical record documentation requirements under section 54B11 (relating to medical record documentation requirements).

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If the patient fulfills all the requirements under this chapter, approve the qualified patient's request to receive end-of-life medication.

(i) Dispense end-of-life medications directly, including ancillary medications intended to facilitate the desired effect to minimize the qualified patient's discomfort if the attending physician is authorized to prescribe medications in this Commonwealth, has a current Drug Enforcement Administration certificate and complies with applicable administrative rules; or

(ii) with the qualified patient's written consent:

(A) contact a pharmacist and inform the pharmacist of the prescription; and

(B) deliver the written prescription personally, electronically, by facsimile or by mail to the pharmacist, who shall dispense the end-of-life medications to the qualified patient, the attending physician or an expressly identified agent of the qualified patient.

(b) Death certificate.—Notwithstanding any other provision of law, the attending physician may sign the qualified patient's death certificate.

§ 54B08. Confirmation of terminal illness.

A confirmation of terminal illness must be received before a patient is determined to be a qualified patient under this chapter. The consulting physician performing the confirmation of terminal illness shall physically examine a patient requesting end-of-life medication under section 54B03 (relating to request for medication) and the patient's relevant medical records to confirm the attending physician's diagnosis that the patient is
suffering from a terminal illness. The consulting physician must also verify the patient is:

(1) Capable.
(2) Acting voluntarily.
(3) Making an informed decision.

§ 54B09. Counseling referral.

If the opinion of the attending physician or the consulting physician is that the patient may not be capable, at the time a written request is made under section 54B03 (relating to request for medication), either the attending physician or consulting physician shall refer the patient to a mental health care provider for counseling. End-of-life medication may not be prescribed until the mental health care provider performing the counseling determines that the patient is capable and able to make a voluntary informed decision without impaired judgment.

§ 54B10. Family notification.

The attending physician must recommend that the qualified patient notify the next of kin or an individual with whom the qualified patient has a significant relationship of the qualified patient's request for end-of-life medication under this chapter. An attending physician may not deny a request for end-of-life medication solely because a qualified patient declines or is unable to notify the next of kin or an individual with whom the qualified patient has a significant relationship.

§ 54B11. Medical record documentation requirements.

The following shall be documented or filed in the qualified patient's medical record:

(1) All oral requests by a qualified patient for end-of-life medication.
(2) All written requests by a qualified patient for end-
of-life medication.

(3) The attending physician's diagnosis of terminal illness and determination that the qualified patient is capable, acting voluntarily and making an informed decision.

(4) All medical confirmations of terminal illness.

(5) Documentation that the qualified patient is capable and acting voluntarily and has made an informed decision.

(6) A report of the outcome and determinations made during counseling.

(7) A certification of the imminence of the qualified patient's death.

(8) Documentation of the attending physician's offer to the qualified patient to rescind the qualified patient's request at the time of the qualified patient's second oral request under section 54B03 (relating to request for medication).

(9) Documentation by the attending physician that the requirements under this chapter have been met and the steps taken to carry out the request, including a notation of the end-of-life medication prescribed.

§ 54B12. Reporting requirements.

(a) Review and rulemaking.--The department shall:

(1) Annually review a sample of records maintained under this chapter.

(2) Require a health care provider to file a copy of the prescription or the dispensing record with the department upon writing the prescription or dispensing end-of-life medication under this chapter.

(3) Promulgate rules to facilitate the collection of information regarding compliance with this chapter.
(b) Records.--Except as otherwise provided by law, the information collected is not a public record and may not be made available for inspection by the public.

(c) Report.--The department shall generate and make available to the public, to the extent doing so would not be reasonably expected to violate the privacy of any person, an annual statistical report of information collected under subsection (b).

§ 54B13. Effect on construction of wills and contracts.

(a) Effect on existing agreements.--No provision in a contract, will or other agreement, whether written or oral, shall be valid to the extent that the provision would condition or restrict an individual's decision to make or rescind a request for end-of-life medication.

(b) Obligations under an existing contract.--No obligation under an existing contract shall be affected by an individual's making or rescinding of a request for end-of-life medication.

§ 54B14. Insurance or annuity policies.

The sale, procurement or issuance of a life, health or accident insurance or annuity policy or the rate charged for a policy shall not be conditioned upon or affected by the making or rescinding of a request, by a qualified patient, for end-of-life medication. A qualified patient's act of ingesting end-of-life medication may not have an effect upon a life, health or accident insurance or an annuity policy.

§ 54B15. Health care provider participation, notification and permissible sanctions.

(a) Participation not required.--No health care provider may be under any duty, whether by contract, statute or other legal requirement, to prescribe or administer end-of-life medication.
to a qualified patient. If a health care provider is unable or unwilling to carry out a qualified patient's request under this chapter and the qualified patient transfers care to another health care provider, the prior health care provider shall transfer, upon request, a copy of the qualified patient's relevant medical records to the new health care provider.

(b) Prohibiting participation.--Notwithstanding any other provision of law, a health care facility may prohibit a health care provider from participating under this chapter if the prohibiting health care facility has notified the health care provider of the prohibiting health care facility's policy regarding participation under this chapter. Nothing in this subsection prevents a health care provider from providing health care services to a patient that does not constitute participation under this chapter.

(c) Notification requirement.--A health care facility shall give notice of the policy prohibiting participation under this chapter. A health care facility that fails to provide notice prohibiting participation under this chapter may not enforce sanctions against a health care provider under subsection (d).

(d) Sanctions.--Notwithstanding subsection (a) or section 54B18 (relating to immunity), a health care facility may subject a health care provider to the sanctions under this subsection if notification was provided as required under subsection (c). The available sanctions shall include:

(1) Loss of privileges, loss of membership or other sanctions provided under the medical staff bylaws, policies and procedures if the health care provider is a member of the health care facility's medical staff and participates under this chapter while on the premises, which shall not include

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the private medical office of a physician or other health

care provider.

(2) Termination of lease or other property contract or
other nonmonetary remedies provided by lease contract, not
including loss or restriction of medical staff privileges or
exclusion from the health care facility panel, if the health
care provider participates under this chapter while on the
premises of or on property that is owned by or under the
direct control of the health care facility.

(3) Termination of contract or other nonmonetary
remedies provided by contract if the health care provider
participates under this chapter while acting in the course
and scope of the health care provider's capacity as an
employee or independent contractor of the health care
facility. Nothing in this paragraph may be construed to
prevent:

(i) a health care provider from participating under
this chapter while acting outside the course and scope of
the health care provider's capacity as an employee or
independent contractor; or

(ii) a patient from contracting with the patient's
attending physician and consulting physician to act
outside the course and scope of the health care
provider's capacity as an employee or independent
contractor of the health care facility.

(e) Due process.--A health care facility that imposes
sanctions under subsection (d) shall follow all due process and
other procedures the health care facility may have that are
related to the imposition of sanctions on a health care
provider.

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(f) Unprofessional or dishonorable conduct reports.--
Authorized action taken under section 54B05 (relating to form of
written request), 54B07 (relating to attending physician
responsibilities), 54B08 (relating to confirmation of terminal
illness) or 54B09 (relating to counseling referral) may not be
the sole basis for a report of unprofessional or dishonorable
conduct to the State Board of Medicine or the State Board of
Osteopathic Medicine.

(g) Standard of care.--No provision of this chapter may be
construed to allow a lower standard of care for patients in the
community where the patient is treated, or a similar community.

(h) Definition.--As used in this section, the term "notify"
means a separate written statement to the health care provider
which sanctions its participation in activities covered by this
chapter before the participation occurs.

§ 54B16. Claims by governmental entity for costs incurred.
A governmental entity that incurs costs resulting from a
qualified patient ending the qualified patient's life under this
chapter in a public place shall have a claim against the estate
of the individual to recover costs and reasonable attorney fees
related to enforcing the claim.

§ 54B17. Construction.
Nothing under this chapter may be construed to authorize a
physician or any other individual to end a patient's life by
lethal injection, mercy killing or active euthanasia. Actions
taken in accordance with this chapter shall not constitute
suicide, assisted suicide, mercy killing or homicide under the
law.

§ 54B18. Immunity.
Except as provided in section 54B19 (relating to liability):
(1) An individual may not be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with this chapter. This includes being present when a qualified patient takes the prescribed end-of-life medication.

(2) A professional organization or association, health care facility or health care provider may not subject an individual to censure, discipline, suspension, loss of license, loss of privileges, loss of membership or other penalty for participating in good faith or refusing to participate under this chapter.

(3) A request by a patient for or provision by an attending physician of end-of-life medication in good faith compliance with this chapter does not constitute negligence for any purpose of law or provide the sole basis for the appointment of a guardian or conservator.

§ 54B19. Liability.

(a) Mishandling instrument.--An individual who, without authorization of the patient, willfully alters or forges a request for end-of-life medication or conceals or destroys a rescission of that request with the intent or effect of causing the patient's death shall not be immune from criminal liability under section 54B18 (relating to immunity).

(b) Undue influence.--An individual who coerces or exerts undue influence on a patient to request end-of-life medication for the purpose of ending the patient's life or to destroy a rescission of a request shall not be immune from criminal liability under section 54B18.

(c) Civil damages.--Nothing under this chapter limits liability for civil damages resulting from negligent or
intentional misconduct by any individual.

§ 54B20. Prohibitions and penalties.

(a) Intent to hasten death.--An individual who, without authorization of the patient willfully alters, forges, conceals or destroys an instrument, the reinstatement or revocation of an instrument or any other evidence or document reflecting the patient's desires and interests with the intent and effect of causing a withholding or withdrawal of life-sustaining procedures or of artificially administered nutrition and hydration which hastens the death of the patient commits a felony of the first degree.

(b) Intent to affect health care decision.--Except as provided in subsection (a), an individual who, without authorization of the patient, willfully alters, forges, conceals or destroys an instrument, the reinstatement or revocation of an instrument, or any other evidence or document reflecting the patient's desires and interests with the intent or effect of affecting a health care decision commits a misdemeanor of the first degree.

Section 2. This act shall take effect in 120 days.