AN ACT

Amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, providing for procedures regarding the request and dispensation of lethal medication to patients seeking to die in a dignified and humane manner, for duties of attending physicians, for duties of consulting physicians, for insurance or annuity policies; imposing duties on the Department of Health; providing for immunities and for attorney fees; 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

DEATH WITH DIGNITY

Sec.

54B01. Definitions.

54B02. Written request for medication.

54B03. Form of written request.

54B04. Attending physician responsibilities.

54B05. Consulting physician confirmation.

54B06. Counseling referral.
§ 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:

"Adult." An individual who is 18 years of age or older.

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

"Capable." An opinion of either a court or a patient's attending physician or consulting physician, psychiatrist or psychologist that a patient has the ability to make and communicate health care decisions to health care providers,
including communication through persons familiar with the
patient's manner of communicating if those persons are
available.

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

"Counseling." One or more consultations as necessary between
a licensed psychiatrist or psychologist and a patient for the
purpose of determining that the patient is capable and not
suffering from a psychiatric or psychological disorder or
depression causing impaired judgment.

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

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

"Informed decision." A decision by a qualified patient to
request and obtain a prescription to end his or her life in a
humane and dignified manner, which decision is based on an
appreciation of the relevant facts and after being fully
informed by the attending physician of:

(1) His or her medical diagnosis.

(2) His or her prognosis.

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

(4) The probable result of taking the medication to be
prescribed.

(5) The feasible alternatives, including, but not
limited to, comfort care, hospice care and pain control.
"Medically confirmed." The medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient's relevant medical records.

"Participate under this chapter." To perform the duties of an attending physician under section 54B04 (relating to attending physician responsibilities), the consulting physician function under section 54B05 (relating to consulting physician confirmation) or the consulting function under section 54B06 (relating to counseling referral). The term does not include:

1. making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis;
2. providing information about this chapter to a patient upon his request;
3. providing a patient, upon the request of the patient, with a referral to another physician; or
4. contracting by a patient with his or her attending physician and consulting physician to act outside of the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

"Patient." A person who is under the care of a physician.

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

"Qualified patient." A capable adult who is a resident of this Commonwealth and has satisfied the requirements of this chapter in order to obtain a prescription for medication to end his or her life in a humane and dignified manner.

"Terminal disease." An incurable and irreversible disease...
that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.

§ 54B02. Written request for medication.

An adult resident of this Commonwealth who is capable and has been determined by the attending physician and consulting physician to be suffering from a terminal disease, and who has voluntarily expressed his or her wish to die, may make a written request for medication for the purpose of ending his or her life in a humane and dignified manner in accordance with this chapter. No person may qualify to write a request for medication under this section solely because of age or disability.

§ 54B03. Form of written request.

(a) Signature, date and attestation.--A valid request for medication under this chapter shall be in substantially the form described in section 54B22 (relating to instrument), signed and dated by the patient and witnessed by at least two individuals who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is capable, acting voluntarily and not being coerced to sign the request.

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

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

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

(3) 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 patient's attending physician at the
time the request is signed shall not be a witness.

(d) Long-term care patient.--If the 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
facility and having the qualifications specified by the
department by rule.

§ 54B04. Attending physician responsibilities.

(a) Responsibilities.--The attending physician shall:

(1) Make the initial determination of whether a patient
has a terminal disease, is capable and has made the request
voluntarily.

(2) Request that the patient demonstrate Commonwealth
residency under section 54B13 (relating to residency
requirement).

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

(i) His or her medical diagnosis.

(ii) His or her prognosis.

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

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

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

(4) 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.

(5) Refer the patient for counseling if appropriate
under section 54B06 (relating to counseling referral).
(6) Recommend the patient notify next of kin.

(7) Counsel the patient about the importance of having another person present when the patient takes the medication prescribed under this chapter and of not taking the medication in a public place.

(8) Inform the patient that he or she has an opportunity to rescind the request at any time and in any manner under section 54B10 (relating to right to rescind request) and offer the patient an opportunity to rescind at the end of the 15-day waiting period under section 54B11 (relating to waiting periods).

(9) Immediately prior to writing a prescription for medication under this chapter, verify the patient is making an informed decision.

(10) Fulfill the medical record documentation requirements of section 54B12 (relating to medical record documentation requirements).

(11) Ensure the steps in this chapter are carried out prior to writing a prescription for medication to enable a qualified patient to end his or her life in a humane and dignified manner.

(12) (i) Dispense medications directly, including ancillary medications intended to facilitate the desired effect to minimize the patient's discomfort, provided the attending physician is authorized to do so in this Commonwealth, has a current Drug Enforcement Administration certificate and complies with any applicable administrative rule; or

(ii) with the patient's written consent:

(A) contact a pharmacist and inform the
(B) deliver the written prescription personally or
by mail to the pharmacist, who will dispense the
medications to either the patient, the attending
physician or an expressly identified agent of the
patient.

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

§ 54B05. Consulting physician confirmation.
Before a patient is qualified under this chapter, a
consulting physician shall examine the patient and the patient's
relevant medical records to confirm the attending physician's
diagnosis that the patient is suffering from a terminal disease.
This confirmation shall be in writing. The consulting physician
must also verify the patient:

(1) Is capable.
(2) Is acting voluntarily.
(3) Has made an informed decision.

§ 54B06. Counseling referral.
If the opinion of the attending physician or the consulting
physician is that the patient may be suffering from a
psychiatric or psychological disorder or depression causing
impaired judgment, either physician shall refer the patient for

counseling. No medication to end a patient's life in a humane
and dignified manner may 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.

§ 54B07. Informed decision.

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No person may receive a prescription for medication to end his or her life in a humane and dignified manner unless he or she has made an informed decision. Immediately prior to writing a prescription for medication under this chapter, the attending physician shall verify the patient is making an informed decision.

§ 54B08. Family notification.

The attending physician shall recommend that the patient notify the next of kin of his or her request for medication under this chapter. A patient who declines or is unable to notify the next of kin shall not have his or her request denied for that reason.

§ 54B09. Written and oral requests.

In order to receive a prescription for medication to end his or her life in a humane and dignified manner, a qualified patient shall have made an oral request and a written request and shall reiterate the oral request to his or her attending physician no less than 15 days after making the initial oral request. At the time the qualified patient makes his or her second oral request, the attending physician shall offer the patient an opportunity to rescind the request.

§ 54B10. Right to rescind request.

A patient may rescind his or her request at any time and in any manner without regard to his or her mental state. No prescription for medication under this chapter may be written without the attending physician's offering the qualified patient an opportunity to rescind the request.

§ 54B11. Waiting periods.

No less than 15 days shall elapse between the patient's initial oral request and the writing of a prescription under

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this chapter. No less than 48 hours shall elapse between the
patient's written request and the writing of a prescription
under this chapter.
§ 54B12. Medical record documentation requirements.
The following shall be documented or filed in the patient's
medical record:
(1) All oral requests by a patient for medication to end
his or her life in a humane and dignified manner.
(2) All written requests by a patient for medication to
end his or her life in a humane and dignified manner.
(3) The attending physician's diagnosis and prognosis
and determination that the patient is capable and acting
voluntarily and has made an informed decision.
(4) The consulting physician's diagnosis and prognosis
and verification that the patient is capable and acting
voluntarily and has made an informed decision.
(5) A report of the outcome and determinations made
during counseling, if performed.
(6) The attending physician's offer to the patient to
rescind his or her request at the time of the patient's
second oral request under section 54B09 (relating to written
and oral requests).
(7) A note by the attending physician indicating the
requirements under this chapter have been met and the steps
taken to carry out the request, including a notation of the
medication prescribed.
§ 54B13. Residency requirement.
Only requests made by Commonwealth residents under this
chapter shall be granted. Factors demonstrating residency
include, but are not limited to:
(1) Possession of a driver's license.

(2) Voter registration.

(3) Evidence the person owns or leases property in this Commonwealth.

(4) A tax return filed in the most recent year.

§ 54B14. Reporting requirements.

(a) Review.--

(1) The department shall annually review a sample of records maintained under this chapter.

(2) The department shall require any health care provider to file a copy of the dispensing record with the department upon dispensing medication under this chapter.

(b) Rulemaking.--The department shall promulgate rules to facilitate the collection of information regarding compliance with this chapter. 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 an annual statistical report of information collected under subsection (b).

§ 54B15. 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, may be valid which affects whether a person may make or rescind a request for medication to end his or her life in a humane and dignified manner.

(b) Obligations under an existing contract.--No obligation under an existing contract may be conditioned or affected by a person's making or rescinding of a request for medication to end his or her life in a humane and dignified manner.
§ 54B16. Insurance or annuity policies.

The sale, procurement or issuance of life, health or accident insurance or an annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the making or rescinding of a request, by a person, for medication to end his or her life in a humane and dignified manner. A qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner may not have an effect upon a life, health or accident insurance or an annuity policy.

§ 54B17. Construction.

Nothing under this chapter may be construed to authorize a physician or any other person 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. Immunities.

Except as provided in section 54B20 (relating to liabilities):

(1) No person may 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 medication to end his or her life in a humane and dignified manner.

(2) No professional organization or association or health care provider may subject a person 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) No request by a patient for or provision by an
attending physician of medication in good faith compliance
with this chapter may constitute negligence for any purpose
of law or provide the sole basis for the appointment of a
guardian or conservator.

§ 54B19. Health care provider participation; notification;
permissible sanctions.

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

(b) Prohibiting participation.--Notwithstanding any other
provision of law, a health care provider may prohibit another
health care provider from participating under this chapter on
the premises of the prohibiting provider if the prohibiting
provider has notified the health care provider of the
prohibiting provider's policy regarding participating 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) Sanctions by health care provider.--Notwithstanding
subsection (a) or section 54B18 (relating to immunities), a
health care provider may subject another health care provider to
the sanctions stated in this subsection if the sanctioning
health care provider has notified the sanctioned provider prior
to its participation under this chapter that it prohibits participation under this chapter. The available sanctions shall include:

(1) loss of privileges, loss of membership or other sanction provided under the medical staff bylaws, policies and procedures of the sanctioning health care provider if the sanctioned provider is a member of the sanctioning provider's medical staff and participates under this chapter while on the premises of a health care facility of the sanctioning health care provider, but not including the private medical office of a physician or other 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 a provider panel, if the sanctioned provider participates under this chapter while on the premises of the sanctioning health care provider or on property that is owned by or under the direct control of the sanctioning health care provider; or

(3) termination of contract or other nonmonetary remedies provided by contract if the sanctioned provider participates under this chapter while acting in the course and scope of the sanctioned provider's capacity as an employee or independent contractor of the sanctioning health care provider. 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 provider's capacity as an employee or independent contractor; or
(ii) a patient from contracting with his or her attending physician and consulting physician to act outside the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(d) Due process.--A health care provider that imposes sanctions under subsection (c) must follow all due process and other procedures the sanctioning health care provider may have that are related to the imposition of sanctions on another health care provider.

(e) Unprofessional or dishonorable conduct reports.--Action taken under section 54B03 (relating to form of written request), 54B04 (relating to attending physician responsibilities), 54B05 (relating to consulting physician confirmation) or 54B06 (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.

(f) 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.

(g) 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.

§ 54B20. Liabilities.

(a) Mishandling instrument.--A person who without authorization of the patient willfully alters or forges a request for 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 immunities).

(b) Undue influence.--A person who coerces or exerts undue influence on a patient to request medication for the purpose of ending the patient's life or to destroy a rescission of such 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 person.

§ 54B21. Claims by governmental entity for costs incurred.

A governmental entity that incurs costs resulting from a person terminating his or her life under the provisions of this chapter in a public place shall have a claim against the estate of the person to recover those costs and reasonable attorney fees related to enforcing the claim.

§ 54B22. Instrument.

A request for a medication as authorized under this chapter 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.

I am suffering from__________, which my attending physician has determined is a terminal disease 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 and pain control.

I request that my attending physician prescribe medication
that will end my life in a humane and dignified manner.

INITIAL ONE:

( ) I have informed my family of my decision and have 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 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:

Date:

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) 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' signature:

Number and Street:

City, State and Zip Code:

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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 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 a patient or resident. If the patient is an inpatient at a health care facility, one of the witnesses shall be an individual designated by the facility.

§ 54B23. Penalties for mishandling instrument.

(a) Intent to hasten death.--A person 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), a person without authorization of the patient who 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 60 days.