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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1032 Session of  
2013

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INTRODUCED BY LEACH AND FERLO, JUNE 24, 2013

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REFERRED TO JUDICIARY, JUNE 24, 2013

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AN ACT

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

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

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

13 CHAPTER 54B

14 DEATH WITH DIGNITY

15 Sec.

16 54B01. Definitions.

17 54B02. Written request for medication.

18 54B03. Form of written request.

19 54B04. Attending physician responsibilities.

20 54B05. Consulting physician confirmation.

21 54B06. Counseling referral.

- 1 54B07. Informed decision.  
2 54B08. Family notification.  
3 54B09. Written and oral requests.  
4 54B10. Right to rescind request.  
5 54B11. Waiting periods.  
6 54B12. Medical record documentation requirements.  
7 54B13. Residency requirement.  
8 54B14. Reporting requirements.  
9 54B15. Effect on construction of wills and contracts.  
10 54B16. Insurance or annuity policies.  
11 54B17. Construction.  
12 54B18. Immunities.  
13 54B19. Health care provider participation; notification;  
14 permissible sanctions.  
15 54B20. Liabilities.  
16 54B21. Claims by governmental entity for costs incurred.  
17 54B22. Instrument.  
18 54B23. Penalties for mishandling instrument.  
19 § 54B01. Definitions.

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

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

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

27 "Capable." An opinion of either a court or a patient's  
28 attending physician or consulting physician, psychiatrist or  
29 psychologist that a patient has the ability to make and  
30 communicate health care decisions to health care providers,

1 including communication through persons familiar with the  
2 patient's manner of communicating if those persons are  
3 available.

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

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

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

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

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

23 (1) His or her medical diagnosis.

24 (2) His or her prognosis.

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

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

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

1 "Medically confirmed." The medical opinion of the attending  
2 physician has been confirmed by a consulting physician who has  
3 examined the patient and the patient's relevant medical records.

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

10 (1) making an initial determination that a patient has a  
11 terminal disease and informing the patient of the medical  
12 prognosis;

13 (2) providing information about this chapter to a  
14 patient upon his request;

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

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

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

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

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

30 "Terminal disease." An incurable and irreversible disease

1 that has been medically confirmed and will, within reasonable  
2 medical judgment, produce death within six months.

3 § 54B02. Written request for medication.

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

12 § 54B03. Form of written request.

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

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

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

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

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

1 (c) Prohibition.--The patient's attending physician at the  
2 time the request is signed shall not be a witness.

3 (d) Long-term care patient.--If the patient is in a long-  
4 term care facility at the time the written request is made, one  
5 of the witnesses shall be an individual designated by the  
6 facility and having the qualifications specified by the  
7 department by rule.

8 § 54B04. Attending physician responsibilities.

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

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

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

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

18 (i) His or her medical diagnosis.

19 (ii) His or her prognosis.

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

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

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

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

29 (5) Refer the patient for counseling if appropriate  
30 under section 54B06 (relating to counseling referral).

1           (6) Recommend the patient notify next of kin.

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

6           (8) Inform the patient that he or she has an opportunity  
7 to rescind the request at any time and in any manner under  
8 section 54B10 (relating to right to rescind request) and  
9 offer the patient an opportunity to rescind at the end of the  
10 15-day waiting period under section 54B11 (relating to  
11 waiting periods).

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

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

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

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

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

30                   (A) contact a pharmacist and inform the

1           pharmacist of the prescription; and  
2                   (B) deliver the written prescription personally  
3           or by mail to the pharmacist, who will dispense the  
4           medications to either the patient, the attending  
5           physician or an expressly identified agent of the  
6           patient.

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

10   § 54B05. Consulting physician confirmation.

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

17           (1) Is capable.

18           (2) Is acting voluntarily.

19           (3) Has made an informed decision.

20   § 54B06. Counseling referral.

21       If the opinion of the attending physician or the consulting  
22       physician is that the patient may be suffering from a  
23       psychiatric or psychological disorder or depression causing  
24       impaired judgment, either physician shall refer the patient for  
25       counseling. No medication to end a patient's life in a humane  
26       and dignified manner may be prescribed until the person  
27       performing the counseling determines that the patient is not  
28       suffering from a psychiatric or psychological disorder or  
29       depression causing impaired judgment.

30   § 54B07. Informed decision.



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

7 § 54B08. Family notification.

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

13 § 54B09. Written and oral requests.

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

22 § 54B10. Right to rescind request.

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

28 § 54B11. Waiting periods.

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

1 this chapter. No less than 48 hours shall elapse between the  
2 patient's written request and the writing of a prescription  
3 under this chapter.

4 § 54B12. Medical record documentation requirements.

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

7 (1) All oral requests by a patient for medication to end  
8 his or her life in a humane and dignified manner.

9 (2) All written requests by a patient for medication to  
10 end his or her life in a humane and dignified manner.

11 (3) The attending physician's diagnosis and prognosis  
12 and determination that the patient is capable and acting  
13 voluntarily and has made an informed decision.

14 (4) The consulting physician's diagnosis and prognosis  
15 and verification that the patient is capable and acting  
16 voluntarily and has made an informed decision.

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

19 (6) The attending physician's offer to the patient to  
20 rescind his or her request at the time of the patient's  
21 second oral request under section 54B09 (relating to written  
22 and oral requests).

23 (7) A note by the attending physician indicating the  
24 requirements under this chapter have been met and the steps  
25 taken to carry out the request, including a notation of the  
26 medication prescribed.

27 § 54B13. Residency requirement.

28 Only requests made by Commonwealth residents under this  
29 chapter shall be granted. Factors demonstrating residency  
30 include, but are not limited to:

1           (1) Possession of a driver's license.

2           (2) Voter registration.

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

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

6 § 54B14. Reporting requirements.

7           (a) Review.--

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

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

13           (b) Rulemaking.--The department shall promulgate rules to  
14           facilitate the collection of information regarding compliance  
15           with this chapter. Except as otherwise provided by law, the  
16           information collected is not a public record and may not be made  
17           available for inspection by the public.

18           (c) Report.--The department shall generate and make  
19           available to the public an annual statistical report of  
20           information collected under subsection (b).

21 § 54B15. Effect on construction of wills and contracts.

22           (a) Effect on existing agreements.--No provision in a  
23           contract, will or other agreement, whether written or oral, may  
24           be valid which affects whether a person may make or rescind a  
25           request for medication to end his or her life in a humane and  
26           dignified manner.

27           (b) Obligations under an existing contract.--No obligation  
28           under an existing contract may be conditioned or affected by a  
29           person's making or rescinding of a request for medication to end  
30           his or her life in a humane and dignified manner.

1 § 54B16. Insurance or annuity policies.

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

10 § 54B17. Construction.

11 Nothing under this chapter may be construed to authorize a  
12 physician or any other person to end a patient's life by lethal  
13 injection, mercy killing or active euthanasia. Actions taken in  
14 accordance with this chapter shall not constitute suicide,  
15 assisted suicide, mercy killing or homicide under the law.

16 § 54B18. Immunities.

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

19 (1) No person may be subject to civil or criminal  
20 liability or professional disciplinary action for  
21 participating in good faith compliance with this chapter.  
22 This includes being present when a qualified patient takes  
23 the prescribed medication to end his or her life in a humane  
24 and dignified manner.

25 (2) No professional organization or association or  
26 health care provider may subject a person to censure,  
27 discipline, suspension, loss of license, loss of privileges,  
28 loss of membership or other penalty for participating in good  
29 faith or refusing to participate under this chapter.

30 (3) No request by a patient for or provision by an

1 attending physician of medication in good faith compliance  
2 with this chapter may constitute negligence for any purpose  
3 of law or provide the sole basis for the appointment of a  
4 guardian or conservator.

5 § 54B19. Health care provider participation; notification;  
6 permissible sanctions.

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

17 (b) Prohibiting participation.--Notwithstanding any other  
18 provision of law, a health care provider may prohibit another  
19 health care provider from participating under this chapter on  
20 the premises of the prohibiting provider if the prohibiting  
21 provider has notified the health care provider of the  
22 prohibiting provider's policy regarding participating under this  
23 chapter. Nothing in this subsection prevents a health care  
24 provider from providing health care services to a patient that  
25 does not constitute participation under this chapter.

26 (c) Sanctions by health care provider.--Notwithstanding  
27 subsection (a) or section 54B18 (relating to immunities), a  
28 health care provider may subject another health care provider to  
29 the sanctions stated in this subsection if the sanctioning  
30 health care provider has notified the sanctioned provider prior

1 to its participation under this chapter that it prohibits  
2 participation under this chapter. The available sanctions shall  
3 include:

4 (1) loss of privileges, loss of membership or other  
5 sanction provided under the medical staff bylaws, policies  
6 and procedures of the sanctioning health care provider if the  
7 sanctioned provider is a member of the sanctioning provider's  
8 medical staff and participates under this chapter while on  
9 the premises of a health care facility of the sanctioning  
10 health care provider, but not including the private medical  
11 office of a physician or other provider;

12 (2) termination of lease or other property contract or  
13 other nonmonetary remedies provided by lease contract, not  
14 including loss or restriction of medical staff privileges or  
15 exclusion from a provider panel, if the sanctioned provider  
16 participates under this chapter while on the premises of the  
17 sanctioning health care provider or on property that is owned  
18 by or under the direct control of the sanctioning health care  
19 provider; or

20 (3) termination of contract or other nonmonetary  
21 remedies provided by contract if the sanctioned provider  
22 participates under this chapter while acting in the course  
23 and scope of the sanctioned provider's capacity as an  
24 employee or independent contractor of the sanctioning health  
25 care provider. Nothing in this paragraph may be construed to  
26 prevent:

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

1 (ii) a patient from contracting with his or her  
2 attending physician and consulting physician to act  
3 outside the course and scope of the provider's capacity  
4 as an employee or independent contractor of the  
5 sanctioning health care provider.

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

11 (e) Unprofessional or dishonorable conduct reports.--Action  
12 taken under section 54B03 (relating to form of written request),  
13 54B04 (relating to attending physician responsibilities), 54B05  
14 (relating to consulting physician confirmation) or 54B06  
15 (relating to counseling referral) may not be the sole basis for  
16 a report of unprofessional or dishonorable conduct to the State  
17 Board of Medicine or the State Board of Osteopathic Medicine.

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

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

25 § 54B20. Liabilities.

26 (a) Mishandling instrument.--A person who without  
27 authorization of the patient willfully alters or forges a  
28 request for medication or conceals or destroys a rescission of  
29 that request with the intent or effect of causing the patient's  
30 death shall not be immune from criminal liability under section

1 54B18 (relating to immunities).

2 (b) Undue influence.--A person who coerces or exerts undue  
3 influence on a patient to request medication for the purpose of  
4 ending the patient's life or to destroy a rescission of such a  
5 request shall not be immune from criminal liability under  
6 section 54B18.

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

10 § 54B21. Claims by governmental entity for costs incurred.

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

16 § 54B22. Instrument.

17 A request for a medication as authorized under this chapter  
18 shall be in substantially the following form:

19 REQUEST FOR MEDICATION  
20 TO END MY LIFE IN A HUMANE  
21 AND DIGNIFIED MANNER

22 I, \_\_\_\_\_, am an adult of sound mind.

23 I am suffering from \_\_\_\_\_, which my attending physician has  
24 determined is a terminal disease and which has been medically  
25 confirmed by a consulting physician.

26 I have been fully informed of my diagnosis and prognosis, the  
27 nature of medication to be prescribed and potential associated  
28 risks, the expected result and the feasible alternatives,  
29 including comfort care, hospice care and pain control.

30 I request that my attending physician prescribe medication



1 that will end my life in a humane and dignified manner.

2 INITIAL ONE:

3 ( ) I have informed my family of my decision and have taken  
4 their opinions into consideration.

5 ( ) I have decided not to inform my family of my decision.

6 ( ) I have no family to inform of my decision.

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

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

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

16 Signed:

17 Date:

18 DECLARATION OF WITNESSES

19 We declare that the person signing this request:

20 (a) Is personally known to us or has provided proof of  
21 identity.

22 (b) Signed this request in our presence.

23 (c) Appears to be of sound mind and not under duress, fraud  
24 or undue influence.

25 (d) Is not a patient for whom either of us is an attending  
26 physician.

27 Date:

28 Witness' signature:

29 Number and Street:

30 City, State and Zip Code:

1 Witness' signature:

2 Number and Street:

3 City, State and Zip Code:

4 NOTE: One witness shall not be a relative by blood, marriage  
5 or adoption of the person signing this request, shall not be  
6 entitled to any portion of the person's estate upon death and  
7 shall not own, operate or be employed at a health care facility  
8 where the person is a patient or resident. If the patient is an  
9 inpatient at a health care facility, one of the witnesses shall  
10 be an individual designated by the facility.

11 § 54B23. Penalties for mishandling instrument.

12 (a) Intent to hasten death.--A person who without  
13 authorization of the principal willfully alters, forges,  
14 conceals or destroys an instrument, the reinstatement or  
15 revocation of an instrument or any other evidence or document  
16 reflecting the principal's desires and interests with the intent  
17 and effect of causing a withholding or withdrawal of life-  
18 sustaining procedures or of artificially administered nutrition  
19 and hydration which hastens the death of the principal commits a  
20 felony of the first degree.

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

28 Section 2. This act shall take effect in 60 days.