



HOUSE BILL No. 5015

September 12, 1995, Introduced by Rep. Wallace and referred to the Committee on Judiciary and Civil Rights.

A bill to provide a process that allows a terminally ill individual to request from a physician a prescription to end his or her life; to prescribe the powers and duties of certain physicians and other health care providers; to provide for the rescission of a request; to prescribe the powers and duties of certain state agencies and departments; to provide for the promulgation of rules; to prohibit certain persons from requiring the making of such a request as a condition of receiving coverage, benefits, or services; to prohibit certain actions by insurers; to prohibit and invalidate certain provisions in wills and contracts; to prescribe penalties and liabilities; to provide immunity from civil or criminal liability and administrative penalty under certain circumstances; to repeal acts and parts of acts; and to require a referendum.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Adult" means an individual who is 18 years of age or
3 older.

4 (b) "Attending physician" means the physician who has pri-
5 mary responsibility for the care of the patient and treatment of
6 the patient's terminal disease.

7 (c) "Capable" means not incapable.

8 (d) "Consulting physician" means a physician who is quali-
9 fied by specialty or experience to make a professional diagnosis
10 and prognosis regarding the patient's terminal disease.

11 (e) "Counseling" means a consultation between a patient and
12 a psychiatrist or psychologist for the purpose of determining
13 whether the patient is suffering from a psychiatric or psycholog-
14 ical disorder including, but not limited to, depression that may
15 cause impaired judgment.

16 (f) "Health care provider" means a person licensed, regis-
17 tered, or otherwise authorized or permitted by the law of this
18 state to administer health care in the ordinary course of busi-
19 ness or practice of a health profession. Health care provider
20 includes a health facility.

21 (g) "Health facility" means a health facility or agency
22 licensed under article 17 of the public health code, Act No. 368
23 of the Public Acts of 1978, being sections 333.20101 to 333.22260
24 of the Michigan Compiled Laws.

25 (h) "Incapable" means that, in the opinion of a court or in
26 the opinion of the patient's attending physician or consulting

1 physician, a patient lacks the ability to make and communicate
2 health care decisions to a health care provider, including commu-
3 nication through individuals familiar with the patient's manner
4 of communicating if those individuals are available.

5 (i) "Informed decision" means a decision by a qualified
6 patient to request and obtain a prescription to end his or her
7 life in a humane and dignified manner that is based on an appre-
8 ciation of the relevant facts and is made after being fully
9 informed by the attending physician of all of the following:

10 (i) His or her medical diagnosis.

11 (ii) His or her prognosis.

12 (iii) The potential risks associated with taking the medica-
13 tion to be prescribed.

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

16 (v) The feasible alternatives to taking the medication pre-
17 scribed, including, but not limited to, comfort care, hospice
18 care, and pain control.

19 (j) "Medically confirmed" means the medical opinion of the
20 attending physician is confirmed by a consulting physician who
21 examines the patient and the patient's relevant medical records.

22 (k) "Patient" means an individual who is under the care of a
23 physician and who makes a request for medication under this act.

24 (l) "Physician" means an allopathic or osteopathic physician
25 licensed to engage in the practice of medicine or the practice of
26 osteopathic medicine and surgery under article 15 of Act No. 368

1 of the Public Acts of 1978, being sections 333.16101 to 333.18838
2 of the Michigan Compiled Laws.

3 (m) "Qualified patient" means a capable adult who is a resi-
4 dent of this state and who satisfies the requirements of this act
5 in order to obtain a prescription for medication to end his or
6 her life in a humane and dignified manner.

7 (n) "Terminal disease" means an incurable and irreversible
8 disease that is medically confirmed and will, within reasonable
9 medical judgment, produce death within 6 months or less.

10 Sec. 2. An adult who is capable, is a resident of this
11 state, and is determined by the attending physician and consult-
12 ing physician to be suffering from a terminal disease, and who
13 has voluntarily expressed his or her wish to die, may make a
14 written request for medication for the purpose of ending his or
15 her life in a humane and dignified manner in accordance with this
16 act.

17 Sec. 3. (1) A valid written request for medication under
18 this act shall be in substantially the form described in section
19 4, signed and dated by the patient, and witnessed by at least 2
20 individuals who, in the presence of the patient, attest that to
21 the best of their knowledge and belief the patient is capable, is
22 acting voluntarily, and is not being coerced to sign the
23 request.

24 (2) One of the witnesses shall be an individual who is not 1
25 or more of the following:

26 (a) A relative of the patient by blood, marriage, or
27 adoption.

1 (b) An individual who at the time the request is signed
2 would be entitled to have control over a portion of the estate of
3 the qualified patient upon the patient's death under a will or
4 trust, or by operation of law.

5 (c) An owner, operator, or employee of a health facility
6 where the qualified patient is receiving medical treatment or is
7 a resident.

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

10 (4) If the patient is a patient in a health facility that is
11 a nursing home, home for the aged, hospital long-term care unit,
12 or county medical care facility at the time the written request
13 is made, 1 of the witnesses shall be an individual designated by
14 the facility and having the qualifications specified by the
15 department by rule.

16 Sec. 4. A request for medication as authorized by this act
17 shall be in substantially the following form:

18 "REQUEST FOR MEDICATION

19 TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

20 I, _____, am an adult of sound mind.

21 I am suffering from _____, which my attending phy-
22 sician has determined is a terminal disease and which has been
23 medically confirmed by a consulting physician.

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

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

3 INITIAL ONE:

4 _____ I have informed my family of my decision and taken
5 their opinions into consideration.

6 _____ I have decided not to inform my family of my
7 decision.

8 _____ I have no family to inform of my decision.

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

11 I understand the full import of this request, and I expect
12 to die when I take the medication to be prescribed.

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

15 Signed: _____

16 Dated: _____

17 DECLARATION OF WITNESSES

18 We declare that the individual signing this request:

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

21 (b) Signed this request in our presence.

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

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

26 Witness 1 _____ Date _____

Witness 2 _____ Date _____"

(2) One witness under subsection (1) shall not be a relative, by blood, marriage, or adoption, of the person signing this request, shall not be entitled to all or part of the person's estate upon death, and shall not own, operate, or be employed at a health facility where the person is a patient or resident. If the patient is an inpatient at a health care facility, 1 of the witnesses shall be an individual designated by the facility.

Sec. 5. The attending physician shall do all of the following:

(a) Make the initial determination of whether a patient has a terminal disease, is capable, and makes the request authorized under this act voluntarily.

(b) Inform the patient of all of the following:

(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.

(c) 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.

1 (d) Refer the patient for counseling, if appropriate, as
2 provided in section 7.

3 (e) Request that the patient notify next of kin.

4 (f) Inform the patient that he or she has an opportunity to
5 rescind the request at any time and in any manner, and offer the
6 patient an opportunity to rescind at the end of the 15-day wait-
7 ing period provided by section 10.

8 (g) Verify, immediately before writing the prescription for
9 medication under this act, that the patient is making an informed
10 decision.

11 (h) Fulfill the medical record documentation requirements of
12 section 12.

13 (i) Ensure that all appropriate steps are carried out in
14 accordance with this act before writing a prescription for medi-
15 cation to enable a qualified patient to end his or her life in a
16 humane and dignified manner.

17 Sec. 6. Before a patient is a qualified patient under this
18 act, a consulting physician shall examine the patient and his or
19 her relevant medical records and confirm, in writing, the attend-
20 ing physician's diagnosis that the patient is suffering from a
21 terminal disease, and shall verify that the patient is capable,
22 is acting voluntarily, and is making an informed decision.

23 Sec. 7. If, in the opinion of the attending physician or
24 the consulting physician, a patient may be suffering from a psy-
25 chiatric or psychological disorder including, but not limited to,
26 depression that may cause impaired judgment, either physician
27 shall refer the patient for counseling. A physician shall not

1 prescribe medication to end a patient's life in a humane and
2 dignified manner under this act until the individual performing
3 the counseling determines and informs the physician that the
4 patient is not suffering from a psychiatric or psychological dis-
5 order including, but not limited to, depression that may cause
6 impaired judgment.

7 Sec. 8. An individual shall not receive a prescription for
8 medication to end his or her life in a humane and dignified
9 manner unless he or she has made an informed decision. As
10 required under section 5, immediately before writing a prescrip-
11 tion for medication under this act, the attending physician shall
12 verify that the patient is making an informed decision.

13 Sec. 9. As required under section 5, the attending physi-
14 cian shall ask the patient to notify next of kin of his or her
15 request for medication under this act. The attending physician
16 shall not deny a request for medication under this act solely
17 because a patient declines or is unable to notify his or her next
18 of kin.

19 Sec. 10. (1) In order to receive a prescription for medica-
20 tion to end his or her life in a humane and dignified manner
21 under this act, a qualified patient shall make an oral request
22 and a written request for medication under this act, and shall
23 reiterate the oral request to his or her attending physician not
24 less than 15 days after making the initial oral request.

25 (2) At the time the qualified patient makes his or her
26 second oral request, the attending physician shall offer the
27 patient an opportunity to rescind the request. A physician shall

1 not write a prescription under this act until not less than 48
2 hours elapse after the qualified patient's second oral request.

3 Sec. 11. A patient may rescind his or her request for medi-
4 cation under this act at any time and in any manner without
5 regard to his or her mental state. An attending physician shall
6 not write a prescription for medication under this act without
7 offering the qualified patient an opportunity to rescind the
8 request.

9 Sec. 12. All of the following shall be documented and filed
10 in the patient's medical record:

11 (a) All oral requests made by a patient under this act for
12 medication to end his or her life in a humane and dignified
13 manner.

14 (b) All written requests made by a patient under this act
15 for medication to end his or her life in a humane and dignified
16 manner.

17 (c) The attending physician's diagnosis and prognosis and
18 determination that the patient is capable, is acting voluntarily,
19 and is making an informed decision.

20 (d) The consulting physician's diagnosis and prognosis and
21 verification that the patient is capable, is acting voluntarily,
22 and is making an informed decision.

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

25 (f) The attending physician's offer to the patient to
26 rescind his or her request at the time of the patient's second
27 oral request as required by section 10.

1 (g) A note by the attending physician indicating that all
2 requirements under this act have been met and indicating the
3 steps taken to carry out the request, including a notation of the
4 medication prescribed.

5 Sec. 13. A request for medication under this act that is
6 made by an individual other than a Michigan resident shall not be
7 granted.

8 Sec. 14. (1) The department of public health shall annually
9 review a sample of records maintained as required by this act.

10 (2) The department shall promulgate rules to facilitate the
11 collection of information regarding compliance with this act.
12 Except as provided in subsection (3), the information collected
13 is not a public record, shall not be made available for inspec-
14 tion by the public, and is exempt from disclosure under the free-
15 dom of information act, Act No. 442 of the Public Acts of 1976,
16 being sections 15.231 to 15.246 of the Michigan Compiled Laws.

17 (3) The department shall generate and make available to the
18 public an annual statistical report of information collected
19 under subsection (2).

20 Sec. 15. (1) A provision in a contract, will, or other
21 agreement, whether written or oral, is invalid to the extent the
22 provision would affect whether an individual may make or rescind
23 a request for medication to end his or her life in a humane and
24 dignified manner under this act.

25 (2) An obligation owing under a currently existing contract
26 shall not be conditioned or affected by the making or rescinding

1 of a request by an individual for medication to end his or her
2 life in a humane and dignified manner under this act.

3 Sec. 16. The sale, procurement, or issuance of a life,
4 health, or accident insurance or annuity policy or the rate
5 charged for a policy shall not be conditioned upon or affected by
6 the making or rescinding of a request by an individual for medi-
7 cation to end his or her life in a humane and dignified manner
8 under this act. A qualified patient's act of ingesting medica-
9 tion to end his or her life in a humane and dignified manner does
10 not have an effect upon a life, health, or accident insurance or
11 annuity policy.

12 Sec. 17. This act does not authorize a physician or another
13 individual to end a patient's life by lethal injection, mercy
14 killing, or active euthanasia. An action taken in accordance
15 with this act does not, for any purpose, constitute suicide,
16 assisted suicide, mercy killing, or homicide under the law.

17 Sec. 18. Except as provided in section 19:

18 (a) A person is not subject to civil or criminal liability
19 or professional disciplinary action for participating in good
20 faith compliance with this act, including, but not limited to,
21 being present when a qualified patient takes the prescribed medi-
22 cation to end his or her life in a humane and dignified manner
23 under this act.

24 (b) A professional organization or association or a health
25 care provider shall not subject a person to censure, discipline,
26 suspension, loss of license, loss of privileges, loss of

1 membership, or other penalty for participating or refusing to
2 participate in good faith compliance with this act.

3 (c) A request by a patient for, or provision by an attending
4 physician of, medication in good faith compliance with this act
5 does not constitute neglect for any purpose of law and does not
6 provide the sole basis for the appointment of a guardian or
7 conservator.

8 (d) A health care provider is not under a duty, whether by
9 contract, by statute, or by any other legal requirement, to par-
10 ticipate in the provision to a qualified patient of medication to
11 end his or her life in a humane and dignified manner under this
12 act. If a health care provider is unable or unwilling to carry
13 out a patient's request under this act, and the patient transfers
14 his or her care to a new health care provider, the prior health
15 care provider shall transfer, upon request, a copy of the
16 patient's relevant medical records to the new health care
17 provider.

18 Sec. 19. (1) A person who without authorization of the
19 patient willfully alters or forges a request for medication under
20 this act or conceals or destroys a rescission of that request
21 with the intent or effect of causing the patient's death is
22 guilty of a felony.

23 (2) A person who coerces or exerts undue influence on a
24 patient to request medication for the purpose of ending the
25 patient's life under this act, or to destroy a rescission of a
26 request, is guilty of a felony.

1 (3) This act does not limit further liability for civil
2 damages resulting from other negligent conduct or intentional
3 misconduct by any person.

4 (4) The penalties in this act do not preclude criminal pen-
5 alties applicable under other law for conduct that is inconsis-
6 tent with this act.

7 Sec. 20. Act No. 270 of the Public Acts of 1992, being sec-
8 tions 752.1021 to 752.1027 of the Michigan Compiled Laws, is
9 repealed.

10 Sec. 21. This act shall not take effect unless submitted to
11 the qualified electors of the state at the general election to be
12 held November 5, 1996, in the same manner as provided by law for
13 proposed amendments to the state constitution of 1963, and
14 approved by a majority of electors voting on the question. If
15 approved by the electors in the manner prescribed in this sec-
16 tion, this act shall take effect January 1, 1997.