



SENATE BILL No. 980

April 24, 1996, Introduced by Senators SHUGARS and
DUNASKISS and referred to the Committee on Families,
Mental Health and Human Services.

A bill to provide for the rights of patients and patient advocates to direct medical treatment; to require that certain information be given in order to qualify a medical treatment decision as informed; to provide certain immunities and criminal penalties; to allow certain petitions to be filed with the probate court; and to prohibit certain conduct by certain insurers and other persons.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan dignified death act".

3 Sec. 2. The legislature finds all of the following:

4 (a) That communication between health care providers and
5 patients and patients' families is an essential ingredient to
6 medical treatment.

1 (b) That the free flow of information among health care
2 providers, patients, and patients' families can give patients and
3 their families a sense of control over their lives, ease the
4 stress involved in coping with severe illness, and provide needed
5 guidance to health care providers in determining the appropriate
6 variety and degree of medical intervention to be used in a given
7 case.

8 (c) That communication among health care providers,
9 patients, and patients' families is the foundation of the legal
10 doctrine of informed consent whereby patients ultimately choose
11 the nature and extent of medical care they will receive as a
12 knowing partner, rather than a passive recipient, of the healing
13 process.

14 (2) In affirmation of the tradition in this state recogniz-
15 ing the integrity of patients undergoing medical treatment and
16 their families, the Michigan legislature enacts the "Michigan
17 dignified death act". In doing so, the legislature recognizes
18 that a well-considered body of common law exists detailing the
19 relationship between health care providers and their patients.
20 This act is not intended to abrogate any part of the common law,
21 but is intended to be read in conjunction with the common law.
22 This act is intended to state plainly the right of patients
23 receiving health care, and of surrogates acting on their behalf,
24 to make informed decisions to receive, continue, discontinue, or
25 refuse medical treatment. It is hoped that by doing so, the leg-
26 islature will encourage the clear understanding of the rights
27 patients receiving health care enjoy in choosing medical

1 treatment, and that the legislature will cooperate with the
2 health professions to insure the good health of the people of the
3 state of Michigan.

4 Sec. 3. (1) As used in this act:

5 (a) "Health care professional" means an individual licensed
6 or registered under article 15 of the public health code, Act
7 No. 368 of the Public Acts of 1978, being sections 333.16101 to
8 333.18838 of the Michigan Compiled Laws.

9 (b) "Health facility or agency" means a health facility or
10 agency licensed under article 17 of the public health code, Act
11 No. 368 of the Public Acts of 1978, being sections 333.20101 to
12 333.22260 of the Michigan Compiled Laws.

13 (c) "Medical treatment" means a treatment, procedure, medi-
14 cation, surgery, or diagnostic test that may be provided by a
15 health care professional or a health facility or agency under
16 generally accepted standards of medical practice and that is not
17 prohibited by law.

18 (d) "Patient" means an individual who is under the care of a
19 health care professional or a health facility or agency, but does
20 not include an individual who is less than 18 years of age.

21 (e) "Patient advocate" means that term as defined in section
22 496 of the revised probate code, Act No. 642 of the Public Acts
23 of 1978, being section 700.496 of the Michigan Compiled Laws.

24 (2) A patient or a patient advocate acting on behalf of the
25 patient in accordance with section 496 of Act No. 642 of the
26 Public Acts of 1978 has the right to make an informed decision

1 regarding receiving, continuing, discontinuing, and refusing
2 medical treatment.

3 (3) For purposes of subsection (2) and subject to subsection
4 (4), a decision to receive, continue, refuse, or discontinue med-
5 ical treatment is informed only if the patient or patient advo-
6 cate has first been offered and either has accepted or refused
7 all of the following information:

8 (a) A diagnosis or, if a diagnosis is not possible, a
9 description of the patient's medical condition for which medical
10 treatment is being prescribed.

11 (b) An explanation of the various medical treatment options
12 available to the patient and a prognosis of outcome for each med-
13 ical treatment option, including medical treatments that may not
14 be reimbursed by the patient's health care payment or benefits
15 plan.

16 (c) A prognosis, if 1 or more of the medical treatment
17 options presented under subdivision (b) are refused by the
18 patient or by the patient's patient advocate.

19 (4) The information required under subsection (3) is in
20 addition to, and does not modify, the information required under
21 sections 5133(2), 9123(3), 17013(1), and 17015(3) of Act No. 368
22 of the Public Acts of 1978, being sections 333.5133, 333.9123,
23 333.17013, and 333.17015 of the Michigan Compiled Laws.

24 (5) A health care professional or a health facility or
25 agency that complies in good faith with the request of a patient
26 or a patient advocate to withhold or discontinue medical
27 treatment in accordance with subsections (2) and (3) is not

1 criminally or civilly liable for the effects on the patient's
2 life or health resulting from the withholding or discontinuing of
3 the medical treatment.

4 (6) If a person who has an interest in a patient's
5 well-being has reason to believe that the patient is either
6 unable to make a medical treatment decision or is making a medi-
7 cal treatment decision as a result of fraud or duress may file a
8 petition with the probate court in the county where the patient
9 resides or is found requesting the probate court's determination
10 as to the patient's ability to freely make an informed medical
11 treatment decision. This subsection is in addition to, and does
12 not modify, the ability of the probate court to determine a
13 patient's ability to participate in medical treatment decisions
14 or to determine whether a patient advocate is acting in the best
15 interest of the patient under section 496 of Act No. 642 of the
16 Public Acts of 1978.

17 (7) A person who knowingly causes or attempts to cause, by
18 fraud or duress, a patient or a patient advocate to make a medi-
19 cal treatment decision refusing or discontinuing medical treat-
20 ment with the intent to harm the patient or endanger the
21 patient's life is guilty of a felony punishable by not more than
22 4 years' imprisonment, or by a fine of not more than \$2,000.00,
23 or both. For purposes of this subsection, intentionally with-
24 holding information from a patient about the patient's diagnosis,
25 medical treatment options, or prognosis constitutes fraud, unless
26 the information is withheld because the patient's attending
27 physician determines that giving the patient such information is

1 medically contraindicated as documented by the attending
2 physician in the patient's medical record.

3 (8) A life insurer, a health insurer, or a health care pay-
4 ment or benefits plan shall not do 1 or more of the following
5 because a patient has made a decision to refuse or discontinue a
6 medical treatment:

7 (a) Refuse to provide or continue coverage or benefits to
8 the patient.

9 (b) Limit the amount of coverage or benefits available to a
10 patient.

11 (c) Charge the patient a different rate.

12 (d) Consider the terms of an existing policy, certificate,
13 or contract to have been breached or modified.

14 (e) Invoke a suicide or intentional death exemption or
15 exclusion in a policy, certificate, or contract covering the
16 patient.

17 (9) This section does not do 1 or more of the following:

18 (a) Impair or supersede a legal right a parent, patient
19 advocate, guardian, or other individual may have to consent to or
20 refuse medical treatment on behalf of another.

21 (b) Create a presumption about a patient's desire to receive
22 or refuse medical treatment, regardless of the ability of the
23 patient to participate in medical treatment decisions.

24 (c) Limit the ability of a court making a determination
25 about a patient's medical treatment decisions to take into con-
26 sideration all of the following state interests:

1 (i) The preservation of life.

2 (ii) The prevention of suicide.

3 (iii) The protection of innocent third parties.

4 (iv) The preservation of the integrity of the medical
5 profession.

6 (d) Authorize suicide, assisted suicide, mercy killing, or
7 euthanasia.