

SUBSTITUTE FOR  
HOUSE BILL NO. 5258

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 5652, 5653, 5654, and 5655 (MCL 333.5652,  
333.5653, 333.5654, and 333.5655), sections 5652 and 5655 as  
added by 1996 PA 594 and sections 5653 and 5654 as amended by  
2000 PA 58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5652. (1) The legislature finds all of the following:

2       (a) That patients face a unique set of circumstances and  
3 decisions once they have been diagnosed as having a terminal OR  
4 ADVANCED illness.

5       (b) That published studies indicate that ~~terminally ill~~  
6 patients WITH REDUCED LIFE EXPECTANCY DUE TO ADVANCED ILLNESSES  
7 fear that in end-of-life situations they could receive unwanted  
8 aggressive medical treatment.

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1 (c) That ~~terminally ill~~ patients WITH REDUCED LIFE  
2 EXPECTANCY DUE TO ADVANCED ILLNESSES are often unaware of their  
3 legal rights, particularly with regard to controlling end-of-life  
4 decisions.

5 (d) That the free flow of information among health care pro-  
6 viders, patients, and patients' families can give patients and  
7 their families a sense of control over their lives, ease the  
8 stress involved in coping with a ~~terminal~~ REDUCED LIFE  
9 EXPECTANCY DUE TO ADVANCED illness, and provide needed guidance  
10 to all involved in determining the appropriate variety and degree  
11 of medical intervention to be used.

12 (E) THAT HEALTH CARE PROVIDERS SHOULD BE ENCOURAGED TO DIS-  
13 CUSS MEDICAL DIRECTIVES DURING INITIAL CONSULTATIONS, ANNUAL  
14 EXAMINATIONS, AND HOSPITALIZATIONS, AT DIAGNOSIS OF A CHRONIC  
15 ILLNESS, AND WHEN A PATIENT TRANSFERS FROM 1 HEALTH CARE SETTING  
16 TO ANOTHER.

17 (2) In affirmation of the tradition in this state recogniz-  
18 ing the integrity of patients and their desire for a humane and  
19 dignified death, the Michigan legislature enacts the "Michigan  
20 dignified death act". In doing so, the legislature recognizes  
21 that a well-considered body of common law exists detailing the  
22 relationship between health care providers and their patients.  
23 This act is not intended to abrogate any part of that COMMON  
24 law. This act is intended to increase ~~terminally ill patients'~~  
25 awareness of ~~their~~ THE right OF A PATIENT WHO HAS A REDUCED  
26 LIFE EXPECTANCY DUE TO ADVANCED ILLNESS to make decisions to  
27 receive, continue, discontinue, or refuse medical treatment. It

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1 is hoped that by doing so, the legislature will encourage better  
2 communication between ~~terminally ill~~ patients WITH REDUCED LIFE  
3 EXPECTANCY DUE TO ADVANCED ILLNESSES and health care providers to  
4 ensure that ~~a terminally ill~~ THE patient's final days are mean-  
5 ingful and dignified.

6 Sec. 5653. (1) As used in this part:

7 (a) "Health facility" means a health facility or agency  
8 licensed under article 17.

9 (b) "Hospice" means that term as defined in section 20106.

10 (c) "Medical treatment" means a treatment including, but not  
11 limited to, palliative care treatment, or a procedure, medica-  
12 tion, surgery, a diagnostic test, or a hospice plan of care that  
13 may be ordered, provided, or withheld or withdrawn by a health  
14 professional or a health facility under generally accepted stan-  
15 dards of medical practice and that is not prohibited by law.

16 (d) "Patient" means an individual who is under the care of a  
17 physician.

18 (e) "Patient advocate" means that term as described and used  
19 in sections 5506 to 5512 of the estates and protected individuals  
20 code, 1998 PA 386, MCL 700.5506 to 700.5512.

21 (f) "Patient surrogate" means the parent or legal guardian  
22 of a patient who is a minor or a member of the immediate family,  
23 the next of kin, or the legal guardian of a patient who has a  
24 condition other than minority that prevents the patient from  
25 giving consent to medical treatment.

26 (g) "Physician" means that term as defined in section 17001  
27 or 17501.

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1 ~~(h) "Terminal illness" means a disease or condition due to~~  
2 ~~which, in the opinion of a physician, a patient's death is antic-~~  
3 ~~ipated within 6 months after the date of the physician's~~  
4 ~~opinion.~~

5       (2) Article 1 contains general definitions and principles of  
6 construction applicable to all articles in this code.

7       Sec. 5654. (1) A physician who HAS DIAGNOSED A PATIENT AS  
8 HAVING A REDUCED LIFE EXPECTANCY DUE TO AN ADVANCED ILLNESS AND  
9 is recommending medical treatment for ~~terminal illness to a~~ THE  
10 patient ~~who has been diagnosed as having a terminal illness~~  
11 shall do all of the following:

12       (a) Orally inform the patient, the patient's patient surro-  
13 gate, or, if the patient has designated a patient advocate and is  
14 unable to participate in medical treatment decisions, the patient  
15 advocate acting on behalf of the patient in accordance with sec-  
16 tions 5506 to 5512 of the estates and protected individuals code,  
17 1998 PA 386, MCL 700.5506 to 700.5512, about ~~the recommended~~  
18 medical treatment for the ~~terminal~~ REDUCED LIFE EXPECTANCY DUE  
19 TO ADVANCED illness and about alternatives to ~~the recommended~~  
20 medical treatment for the ~~terminal~~ REDUCED LIFE EXPECTANCY DUE  
21 TO ADVANCED illness.

22       (b) Orally inform the patient, patient surrogate, or patient  
23 advocate about the advantages, disadvantages, and risks of the  
24 ~~recommended~~ medical treatment and of each alternative medical  
25 treatment described in subdivision (a) and about the procedures  
26 involved. ~~in the recommended and each alternative medical~~  
27 ~~treatment.~~

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1 (2) A physician's duty to inform a patient, patient  
2 surrogate, or patient advocate under subsection (1) does not  
3 require the disclosure of information beyond that required by the  
4 applicable standard of practice.

5 (3) Subsection (1) does not limit or modify the information  
6 required to be disclosed under sections 5133(2) and 17013(1).

7 Sec. 5655. In addition to the requirements of section 5654,  
8 ~~beginning 120 days after the effective date of the amendatory~~  
9 ~~act that added this part,~~ a physician who HAS DIAGNOSED A  
10 PATIENT AS HAVING A REDUCED LIFE EXPECTANCY DUE TO AN ADVANCED  
11 ILLNESS AND is recommending medical treatment for ~~terminal ill-~~  
12 ~~ness to a~~ THE patient ~~who has been diagnosed as having a termi-~~  
13 ~~nal illness~~ shall, both orally and in writing, inform the  
14 patient, the patient's patient surrogate, or, if the patient has  
15 designated a patient advocate and is unable to participate in  
16 medical treatment decisions, the patient advocate, of all of the  
17 following:

18 (a) If the patient has not designated a patient advocate,  
19 that the patient has the option of designating a patient advocate  
20 to make medical treatment decisions for the patient in the event  
21 the patient is not able to participate in his or her medical  
22 treatment decisions because of his or her medical condition.

23 (b) That the patient, or the patient's patient surrogate or  
24 patient advocate, acting on behalf of the patient, has the right  
25 to make an informed decision regarding receiving, continuing,  
26 discontinuing, and refusing medical treatment for the patient's  
27 ~~terminal~~ REDUCED LIFE EXPECTANCY DUE TO ADVANCED illness.

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1 (c) That the patient, or the patient's patient surrogate or  
2 patient advocate, acting on behalf of the patient, may choose  
3 palliative care treatment including, but not limited to, hospice  
4 care and pain management.

5 (D) THAT THE PATIENT OR THE PATIENT'S SURROGATE OR PATIENT  
6 ADVOCATE ACTING ON BEHALF OF THE PATIENT MAY CHOOSE ADEQUATE AND  
7 APPROPRIATE PAIN AND SYMPTOM MANAGEMENT AS A BASIC AND ESSENTIAL  
8 ELEMENT OF MEDICAL TREATMENT.

9 Enacting section 1. Sections 5654 and 5655 of the public  
10 health code, 1978 PA 368, MCL 333.5654 and 333.5655, as amended  
11 by this amendatory act, take effect March 1, 2002.

12 Enacting section 2. This amendatory act does not take  
13 effect unless House Bill No. 5257 of the 91st Legislature is  
14 enacted into law.

15 Enacting section 3. The 2001 amendatory act that amended  
16 section 5655 of the public health code, 1978 PA 368,  
17 MCL 333.5655, shall not be construed as creating a new mandated  
18 benefit for any coverages issued under the insurance code of  
19 1956, 1956 PA 218, MCL 500.100 to 500.8302, the nonprofit health  
20 care corporation reform act, 1980 PA 350, MCL 550.1101 to  
21 550.1704, or any other health care payment or benefits plan.