

**SENATE 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 PART 56A. END OF LIFE CARE
- 2 Sec. 5652. (1) The legislature finds all of the following:
- 3 (a) That patients face a unique set of circumstances and
- 4 decisions once they have been diagnosed as having a ~~terminal~~
- 5 REDUCED LIFE EXPECTANCY DUE TO ADVANCED illness.
- 6 (b) That published studies indicate that ~~terminally ill~~
- 7 patients WITH REDUCED LIFE EXPECTANCY DUE TO ADVANCED ILLNESSES

HB 5258, As Passed Senate, December 12, 2001

House Bill No. 5258

2

1 fear that in end-of-life situations they could receive unwanted
2 aggressive medical treatment.

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

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

14 (E) THAT HEALTH CARE PROVIDERS SHOULD BE ENCOURAGED TO INI-
15 TIATE DISCUSSIONS WITH THEIR PATIENTS REGARDING ADVANCE MEDICAL
16 DIRECTIVES DURING INITIAL CONSULTATIONS, ANNUAL EXAMINATIONS, AND
17 HOSPITALIZATIONS, AT DIAGNOSIS OF A CHRONIC ILLNESS, AND WHEN A
18 PATIENT TRANSFERS FROM 1 HEALTH CARE SETTING TO ANOTHER.

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

HB 5258, As Passed Senate, December 12, 2001

House Bill No. 5258 as amended December 12, 2001

3

1 LIFE EXPECTANCY DUE TO ADVANCED ILLNESS to make decisions to
2 receive, continue, discontinue, or refuse medical treatment. It
3 is hoped that by doing so, the legislature will encourage better
4 communication between ~~terminally ill~~ patients WITH REDUCED LIFE
5 EXPECTANCY DUE TO ADVANCED ILLNESSES and health care providers to
6 ensure that ~~a terminally ill~~ THE patient's final days are mean-
7 ingful and dignified.

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

9 (A) "ADVANCED ILLNESS", EXCEPT AS OTHERWISE PROVIDED IN THIS
10 SUBDIVISION, MEANS A MEDICAL OR SURGICAL CONDITION
11 WITH SIGNIFICANT FUNCTIONAL IMPAIRMENT THAT IS NOT REVERSIBLE BY
12 CURATIVE THERAPIES AND THAT IS ANTICIPATED TO PROGRESS TOWARD
13 DEATH DESPITE ATTEMPTS AT CURATIVE THERAPIES OR MODULATION, THE
14 TIME COURSE OF WHICH MAY OR MAY NOT BE DETERMINABLE THROUGH REA-
15 SONABLE MEDICAL PROGNOSTICATION. FOR PURPOSES OF SECTION 5655(B)
16 ONLY. "ADVANCED ILLNESS" HAS THE SAME GENERAL MEANING AS "TERMINAL
17 ILLNESS" HAS IN THE MEDICAL COMMUNITY.

18 (B) ~~(a)~~ "Health facility" means a health facility or
19 agency licensed under article 17.

20 (C) ~~(b)~~ "Hospice" means that term as defined in section
21 20106.

22 (D) ~~(c)~~ "Medical treatment" means a treatment including,
23 but not limited to, palliative care treatment, or a procedure,
24 medication, surgery, a diagnostic test, or a hospice plan of care
25 that may be ordered, provided, or withheld or withdrawn by a
26 health professional or a health facility under generally accepted
standards of medical practice and that is not prohibited by law.

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

HB 5258, As Passed Senate, December 12, 2001

House Bill No. 5258

4

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

4 (G) ~~(f)~~ "Patient surrogate" means the parent or legal
5 guardian of a patient who is a minor or a member of the immediate
6 family, the next of kin, or the legal guardian of a patient who
7 has a condition other than minority that prevents the patient
8 from giving consent to medical treatment.

9 (H) ~~(g)~~ "Physician" means that term as defined in section
10 17001 or 17501.

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

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

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

22 (a) Orally inform the patient, the patient's patient surro-
23 gate, or, if the patient has designated a patient advocate and is
24 unable to participate in medical treatment decisions, the patient
25 advocate acting on behalf of the patient in accordance with sec-
26 tions 5506 to 5512 of the estates and protected individuals code,
27 1998 PA 386, MCL 700.5506 to 700.5512, about the recommended

HB 5258, As Passed Senate, December 12, 2001

House Bill No. 5258

5

1 medical treatment ~~for the terminal illness~~ and about
2 alternatives to the recommended medical treatment. ~~for the ter-~~
3 ~~minal illness.~~

4 (b) Orally inform the patient, patient surrogate, or patient
5 advocate about the advantages, disadvantages, and risks of the
6 recommended medical treatment and of each alternative medical
7 treatment described in subdivision (a) and about the procedures
8 involved. ~~in the recommended and each alternative medical~~
9 ~~treatment.~~

10 (2) A physician's duty to inform a patient, patient surro-
11 gate, or patient advocate under subsection (1) does not require
12 the disclosure of information beyond that required by the appli-
13 cable standard of practice.

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

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

HB 5258, As Passed Senate, December 12, 2001

House Bill No. 5258 as amended December 12, 2001

6

1 (a) If the patient has not designated a patient advocate,
2 that the patient has the option of designating a patient advocate
3 to make medical treatment decisions for the patient in the event
4 the patient is not able to participate in his or her medical
5 treatment decisions because of his or her medical condition.

6 (b) That the patient, or the patient's patient surrogate or
7 patient advocate, acting on behalf of the patient, has the right
8 to make an informed decision regarding receiving, continuing,
9 discontinuing, and refusing medical treatment FOR THE PATIENT'S
10 REDUCED LIFE EXPECTANCY DUE TO ADVANCED ILLNESS. ~~for the patient's~~
~~terminal illness.~~

11 (c) That the patient, or the patient's patient surrogate or
12 patient advocate, acting on behalf of the patient, may choose
13 palliative care treatment including, but not limited to, hospice
14 care and pain management.

15 (D) THAT THE PATIENT OR THE PATIENT'S SURROGATE OR PATIENT
16 ADVOCATE ACTING ON BEHALF OF THE PATIENT MAY CHOOSE ADEQUATE AND
17 APPROPRIATE PAIN AND SYMPTOM MANAGEMENT AS A BASIC AND ESSENTIAL
18 ELEMENT OF MEDICAL TREATMENT.

19 Enacting section 1. Sections 5654 and 5655 of the public
20 health code, 1978 PA 368, MCL 333.5654 and 333.5655, as amended
21 by this amendatory act, take effect October 1, 2002.

22 Enacting section 2. This amendatory act does not take
23 effect unless Senate Bill No. 781 of the 91st Legislature is
24 enacted into law.

25 Enacting section 3. The 2001 amendatory act that amended
26 section 5655 of the public health code, 1978 PA 368,
27 MCL 333.5655, shall not be construed as creating a new mandated

HB 5258, As Passed Senate, December 12, 2001

House Bill No. 5258

7

1 benefit for any coverages issued under the insurance code of
2 1956, 1956 PA 218, MCL 500.100 to 500.8302, the nonprofit health
3 care corporation reform act, 1980 PA 350, MCL 550.1101 to
4 550.1704, or any other health care payment or benefits plan.