

SENATE BILL No. 782

October 23, 2001, Introduced by Senators SHUGARS, GARCIA, SCHWARZ and HAMMERSTROM and referred to the Committee on Health Policy.

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:

PART 56A. END OF LIFE CARE

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

(a) That patients face a unique set of circumstances and decisions once they have been diagnosed as having a ~~terminal~~ REDUCED LIFE EXPECTANCY DUE TO ADVANCED illness.

(b) That published studies indicate that ~~terminally ill~~ patients WITH REDUCED LIFE EXPECTANCY DUE TO ADVANCED ILLNESSES

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

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) "Health facility" means a health facility or agency
10 licensed under article 17.

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

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15 may be ordered, provided, or withheld or withdrawn by a health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

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

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

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

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

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

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

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

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

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 illness.~~

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 ADEQUATE AND APPROPRIATE pain AND SYMPTOM management AS
5 A BASIC AND ESSENTIAL ELEMENT OF MEDICAL TREATMENT.

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

9 Enacting section 2. This amendatory act does not take
10 effect unless Senate Bill No. 781
11 of the 91st Legislature is enacted into
12 law.