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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 943 Session of  
2015

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INTRODUCED BY ROZZI, THOMAS, STURLA, W. KELLER AND EVERETT,  
APRIL 10, 2015

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REFERRED TO COMMITTEE ON JUDICIARY, APRIL 10, 2015

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AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the  
2 Pennsylvania Consolidated Statutes, providing for procedures  
3 regarding the request and dispensation of lethal medication  
4 to patients seeking to die in a dignified and humane manner,  
5 for duties of attending physicians, for duties of consulting  
6 physicians, for insurance or annuity policies; imposing  
7 duties on the Department of Health; providing for immunities  
8 and for attorney fees; and imposing penalties.

9 This act shall be referred to as the CARE Act.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Title 20 of the Pennsylvania Consolidated  
13 Statutes is amended by adding a chapter to read:

14 CHAPTER 54B

15 COMPASSIONATE AUTONOMOUS RIGHT FOR

16 THE END OF LIFE

17 Sec.

18 54B01. Definitions.

19 54B02. Written request for medication.

20 54B03. Form of written request.

21 54B04. Attending physician responsibilities.

- 1 54B05. Consulting physician confirmation.  
2 54B06. Counseling referral.  
3 54B07. Informed decision.  
4 54B08. Family notification.  
5 54B09. Written and oral requests.  
6 54B10. Right to rescind request.  
7 54B11. Waiting periods.  
8 54B12. Medical record documentation requirements.  
9 54B13. Residency requirement.  
10 54B14. Reporting requirements.  
11 54B15. Effect on construction of wills and contracts.  
12 54B16. Insurance or annuity policies.  
13 54B17. Construction.  
14 54B18. Immunities.  
15 54B19. Health care provider participation; notification;  
16 permissible sanctions.  
17 54B20. Liabilities.  
18 54B21. Claims by governmental entity for costs incurred.  
19 54B22. Instrument.  
20 54B23. Penalties for mishandling instrument.  
21 § 54B01. Definitions.

22 The following words and phrases when used in this chapter  
23 shall have the meanings given to them in this section unless the  
24 context clearly indicates otherwise:

25 "Adult." An individual who is 18 years of age or older.

26 "Attending physician." The physician who has primary  
27 responsibility for the care of the patient and treatment of the  
28 patient's terminal disease.

29 "Capable." An opinion of either a court or a patient's  
30 attending physician or consulting physician, psychiatrist,

1 psychologist or clinical social worker that a patient has the  
2 ability to make and communicate health care decisions to health  
3 care providers, including communication through individuals  
4 familiar with the patient's manner of communicating if those  
5 individuals are available.

6 "Consulting physician." A physician who is qualified by  
7 specialty or experience to make a professional diagnosis and  
8 prognosis regarding the patient's disease.

9 "Counseling." One or more consultations as necessary between  
10 a licensed psychiatrist or psychologist and a patient for the  
11 purpose of determining that the patient is capable and not  
12 suffering from a psychiatric or psychological disorder or  
13 depression causing impaired judgment.

14 "Department." The Department of Health of the Commonwealth.

15 "Health care provider." A person licensed, certified or  
16 otherwise authorized or permitted by the laws of this  
17 Commonwealth to administer health care or dispense medication in  
18 the ordinary course of business or practice of a profession. The  
19 term includes a health care facility and institution.

20 "Informed decision." A decision by a qualified patient to  
21 request and obtain a prescription to end his or her life in a  
22 humane and dignified manner, which decision is based on an  
23 appreciation of the relevant facts and after being fully  
24 informed by the attending physician of:

25 (1) His or her medical diagnosis.

26 (2) His or her prognosis.

27 (3) The potential risks associated with taking the  
28 medication to be prescribed.

29 (4) The probable result of taking the medication to be  
30 prescribed.

1           (5) The feasible alternatives, including, but not  
2           limited to, comfort care, hospice care and pain control.  
3           "Medically confirmed." The medical opinion of the attending  
4           physician has been confirmed by a consulting physician who has  
5           examined the patient and the patient's relevant medical records.

6           "Participate under this chapter." To perform the duties of  
7           an attending physician under section 54B04 (relating to  
8           attending physician responsibilities), the consulting physician  
9           function under section 54B05 (relating to consulting physician  
10           confirmation) or the consulting function under section 54B06  
11           (relating to counseling referral). The term does not include:

12           (1) making an initial determination that a patient has a  
13           terminal disease and informing the patient of the medical  
14           prognosis;

15           (2) providing information about this chapter to a  
16           patient upon his request;

17           (3) providing a patient, upon the request of the  
18           patient, with a referral to another physician; or

19           (4) contracting by a patient with his or her attending  
20           physician and consulting physician to act outside of the  
21           course and scope of the provider's capacity as an employee or  
22           independent contractor of the sanctioning health care  
23           provider.

24           "Patient." An individual who is under the care of a  
25           physician.

26           "Physician." A doctor of medicine or osteopathy licensed to  
27           practice by the State Board of Medicine or State Board of  
28           Osteopathic Medicine.

29           "Qualified patient." A capable adult who is a resident of  
30           this Commonwealth and has satisfied the requirements of this

1 chapter in order to obtain a prescription for medication to end  
2 his or her life in a humane and dignified manner.

3 "Terminal disease." An incurable and irreversible disease  
4 that has been medically confirmed and will, within reasonable  
5 medical judgment, produce death within six months.

6 § 54B02. Written request for medication.

7 An adult resident of this Commonwealth who is capable and has  
8 been determined by the attending physician and consulting  
9 physician to be suffering from a terminal disease, and who has  
10 voluntarily expressed his or her wish to die, may make a written  
11 request for medication for the purpose of ending his or her life  
12 in a humane and dignified manner in accordance with this  
13 chapter. No individual may qualify to write a request for  
14 medication under this section solely because of age or  
15 disability.

16 § 54B03. Form of written request.

17 (a) Signature, date and attestation.--A valid request for  
18 medication under this chapter shall be in substantially the form  
19 described in section 54B22 (relating to instrument), signed and  
20 dated by the patient and witnessed by at least two individuals  
21 who, in the presence of the patient, attest that to the best of  
22 their knowledge and belief the patient is capable, acting  
23 voluntarily and not being coerced to sign the request.

24 (b) Witness.--One of the witnesses shall be an individual  
25 who is not:

26 (1) a relative of the patient by blood, marriage or  
27 adoption;

28 (2) someone with whom the patient has had a significant  
29 relationship;

30 (3) an individual who, at the time the request is

1 signed, would be entitled to any portion of the estate of the  
2 qualified patient upon death under any will or by operation  
3 of law; or

4 (4) an owner, operator or employee of a health care  
5 facility where the qualified patient is receiving medical  
6 treatment or is a resident.

7 (c) Prohibition.--The patient's attending physician,  
8 consulting physician or an individual who has conducted an  
9 evaluation of the patient at the time the request is signed  
10 shall not be a witness.

11 (d) Long-term care patient.--If the patient is in a long-  
12 term care facility at the time the written request is made, one  
13 of the witnesses shall be an individual designated by the  
14 facility and having the qualifications specified by the  
15 department by rule.

16 § 54B04. Attending physician responsibilities.

17 (a) Responsibilities.--The attending physician shall:

18 (1) Make the initial determination of whether a patient  
19 has a terminal disease, is capable and has made the request  
20 voluntarily.

21 (2) Request that the patient demonstrate Commonwealth  
22 residency under section 54B13 (relating to residency  
23 requirement).

24 (3) Ensure that the patient is making an informed  
25 decision and inform the patient of:

26 (i) His or her medical diagnosis.

27 (ii) His or her prognosis.

28 (iii) The potential risks associated with taking the  
29 medication to be prescribed.

30 (iv) The probable result of taking the medication to

1           be prescribed.

2           (v) The feasible alternatives, including, but not  
3           limited to, comfort care, hospice care and pain control.

4           (4) Refer the patient to a consulting physician for  
5           medical confirmation of the diagnosis and for a determination  
6           that the patient is capable and acting voluntarily.

7           (5) Refer the patient for counseling if appropriate  
8           under section 54B06 (relating to counseling referral).

9           (6) Recommend the patient notify next of kin or someone  
10          with whom the patient has a significant relationship.

11          (7) Counsel the patient about the importance of having  
12          another individual present when the patient takes the  
13          medication prescribed under this chapter and of not taking  
14          the medication in a public place.

15          (8) Inform the patient that he or she has an opportunity  
16          to rescind the request at any time and in any manner under  
17          section 54B10 (relating to right to rescind request) and  
18          offer the patient an opportunity to rescind at the end of the  
19          15-day waiting period under section 54B11 (relating to  
20          waiting periods).

21          (9) Immediately prior to writing a prescription for  
22          medication under this chapter, verify the patient is making  
23          an informed decision.

24          (10) Fulfill the medical record documentation  
25          requirements of section 54B12 (relating to medical record  
26          documentation requirements).

27          (11) Ensure the steps in this chapter are carried out  
28          prior to writing a prescription for medication to enable a  
29          qualified patient to end his or her life in a humane and  
30          dignified manner.

1       (12) (i) Dispense medications directly, including  
2       ancillary medications intended to facilitate the desired  
3       effect to minimize the patient's discomfort, provided the  
4       attending physician is authorized to do so in this  
5       Commonwealth, has a current Drug Enforcement  
6       Administration certificate and complies with any  
7       applicable administrative rule; or

8           (ii) with the patient's written consent:

9               (A) contact a pharmacist and inform the  
10              pharmacist of the prescription; and

11              (B) deliver the written prescription personally,  
12              by facsimile or by mail to the pharmacist, who will  
13              dispense the medications to either the patient, the  
14              attending physician or an expressly identified agent  
15              of the patient.

16       (b) Death certificate.--Notwithstanding any other provision  
17       of law, the attending physician may sign the patient's death  
18       certificate.

19       § 54B05. Consulting physician confirmation.

20       Before a patient is qualified under this chapter, a  
21       consulting physician shall physically examine the patient and  
22       the patient's relevant medical records to confirm the attending  
23       physician's diagnosis that the patient is suffering from a  
24       terminal disease. This confirmation shall be in writing. The  
25       consulting physician must also verify the patient:

26           (1) Is capable.

27           (2) Is acting voluntarily.

28           (3) Has made an informed decision.

29       § 54B06. Counseling referral.

30       If the opinion of the attending physician or the consulting



1 physician is that the patient may be suffering, at the time a  
2 written request is made under section 54B02 (relating to written  
3 request for medication), from a psychiatric or psychological  
4 disorder or depression causing impaired judgment, either  
5 physician shall refer the patient for counseling. No medication  
6 to end a patient's life in a humane and dignified manner may be  
7 prescribed until the individual performing the counseling  
8 determines that the patient is not suffering from a psychiatric  
9 or psychological disorder or depression causing impaired  
10 judgment.

11 § 54B07. Informed decision.

12 No individual may receive a prescription for medication to  
13 end his or her life in a humane and dignified manner unless he  
14 or she has made an informed decision. Immediately prior to  
15 writing a prescription for medication under this chapter, the  
16 attending physician shall verify the patient is making an  
17 informed decision.

18 § 54B08. Family notification.

19 The attending physician shall recommend that the patient  
20 notify the next of kin or an individual with whom the patient  
21 has a significant relationship of his or her request for  
22 medication under this chapter. A patient who declines or is  
23 unable to notify the next of kin or an individual with whom the  
24 patient has a significant relationship shall not have his or her  
25 request denied for that reason.

26 § 54B09. Written and oral requests.

27 In order to receive a prescription for medication to end his  
28 or her life in a humane and dignified manner, a qualified  
29 patient shall have made an oral request and a written request  
30 and shall make a second oral request to his or her attending

1 physician no less than 15 days after making the initial oral  
2 request. At the time the qualified patient makes his or her  
3 second oral request, the attending physician shall offer the  
4 patient an opportunity to rescind the request.

5 § 54B10. Right to rescind request.

6 A patient may rescind his or her request at any time and in  
7 any manner without regard to his or her mental state. No  
8 prescription for medication under this chapter may be written  
9 without the attending physician's offering the qualified patient  
10 an opportunity to rescind the request.

11 § 54B11. Waiting periods.

12 No less than 15 days shall elapse between the patient's  
13 initial oral request and the writing of a prescription under  
14 this chapter. No less than 48 hours shall elapse between the  
15 patient's written request and the writing of a prescription  
16 under this chapter.

17 § 54B12. Medical record documentation requirements.

18 The following shall be documented or filed in the patient's  
19 medical record:

20 (1) All oral requests by a patient for medication to end  
21 his or her life in a humane and dignified manner.

22 (2) All written requests by a patient for medication to  
23 end his or her life in a humane and dignified manner.

24 (3) The attending physician's diagnosis and prognosis  
25 and determination that the patient is capable and acting  
26 voluntarily and has made an informed decision.

27 (4) The consulting physician's diagnosis and prognosis  
28 and verification that the patient is capable and acting  
29 voluntarily and has made an informed decision.

30 (5) A report of the outcome and determinations made

1 during counseling, if performed.

2 (6) The attending physician's offer to the patient to  
3 rescind his or her request at the time of the patient's  
4 second oral request under section 54B09 (relating to written  
5 and oral requests).

6 (7) A note by the attending physician indicating the  
7 requirements under this chapter have been met and the steps  
8 taken to carry out the request, including a notation of the  
9 medication prescribed.

10 § 54B13. Residency requirement.

11 Only requests made by Commonwealth residents under this  
12 chapter shall be granted. Factors demonstrating residency  
13 include, but are not limited to:

14 (1) Possession of a driver's license.

15 (2) Voter registration.

16 (3) Evidence the individual owns or leases property in  
17 this Commonwealth.

18 (4) A tax return filed in the most recent year.

19 § 54B14. Reporting requirements.

20 (a) Review.--

21 (1) The department shall annually review a sample of  
22 records maintained under this chapter.

23 (2) The department shall require any health care  
24 provider to file a copy of the dispensing record with the  
25 department upon dispensing medication under this chapter.

26 (b) Rulemaking.--The department shall promulgate rules to  
27 facilitate the collection of information regarding compliance  
28 with this chapter. Except as otherwise provided by law, the  
29 information collected is not a public record and may not be made  
30 available for inspection by the public.

1 (c) Report.--The department shall generate and make  
2 available to the public, to the extent doing so would not be  
3 reasonably expected to violate the privacy of any individual, an  
4 annual statistical report of information collected under  
5 subsection (b).

6 § 54B15. Effect on construction of wills and contracts.

7 (a) Effect on existing agreements.--No provision in a  
8 contract, will or other agreement, whether written or oral, may  
9 be valid which affects whether an individual may make or rescind  
10 a request for medication to end his or her life in a humane and  
11 dignified manner.

12 (b) Obligations under an existing contract.--No obligation  
13 under an existing contract may be conditioned or affected by an  
14 individual's making or rescinding of a request for medication to  
15 end his or her life in a humane and dignified manner.

16 § 54B16. Insurance or annuity policies.

17 The sale, procurement or issuance of life, health or accident  
18 insurance or an annuity policy or the rate charged for any  
19 policy shall not be conditioned upon or affected by the making  
20 or rescinding of a request, by an individual, for medication to  
21 end his or her life in a humane and dignified manner. A  
22 qualified patient's act of ingesting medication to end his or  
23 her life in a humane and dignified manner may not have an effect  
24 upon a life, health or accident insurance or an annuity policy.

25 § 54B17. Construction.

26 Nothing under this chapter may be construed to authorize a  
27 physician or any other individual to end a patient's life by  
28 lethal injection, mercy killing or active euthanasia. Actions  
29 taken in accordance with this chapter shall not constitute  
30 suicide, assisted suicide, mercy killing or homicide under the

1 law.

2 § 54B18. Immunities.

3 Except as provided in section 54B20 (relating to  
4 liabilities):

5 (1) No person may be subject to civil or criminal  
6 liability or professional disciplinary action for  
7 participating in good faith compliance with this chapter.  
8 This includes being present when a qualified patient takes  
9 the prescribed medication to end his or her life in a humane  
10 and dignified manner.

11 (2) No professional organization or association or  
12 health care provider may subject a person to censure,  
13 discipline, suspension, loss of license, loss of privileges,  
14 loss of membership or other penalty for participating in good  
15 faith or refusing to participate under this chapter.

16 (3) No request by a patient for or provision by an  
17 attending physician of medication in good faith compliance  
18 with this chapter may constitute negligence for any purpose  
19 of law or provide the sole basis for the appointment of a  
20 guardian or conservator.

21 § 54B19. Health care provider participation; notification;  
22 permissible sanctions.

23 (a) Participation not required.--No health care provider may  
24 be under any duty, whether by contract, by statute or by any  
25 other legal requirement, to participate in the provision to a  
26 qualified patient of medication to end his or her life in a  
27 humane and dignified manner. If a health care provider is unable  
28 or unwilling to carry out a patient's request under this chapter  
29 and the patient transfers his or her care to a new health care  
30 provider, the prior health care provider shall transfer, upon

1 request, a copy of the patient's relevant medical records to the  
2 new health care provider.

3 (b) Prohibiting participation.--Notwithstanding any other  
4 provision of law, a health care provider may prohibit another  
5 health care provider from participating under this chapter on  
6 the premises of the prohibiting provider if the prohibiting  
7 provider has notified the health care provider of the  
8 prohibiting provider's policy regarding participating under this  
9 chapter. Nothing in this subsection prevents a health care  
10 provider from providing health care services to a patient that  
11 does not constitute participation under this chapter.

12 (c) Health care facility.--Notwithstanding any other  
13 provision of law to the contrary, a health care facility may  
14 prohibit an attending physician from writing a prescription for  
15 medication under this chapter for a patient who is a resident in  
16 its facility and intends to use the medication on the facility's  
17 premises, if the facility has notified the prescribing physician  
18 in writing of its policy with regard to the prescriptions.  
19 Notwithstanding section 54B18 (relating to immunities), any  
20 health care provider who violates a policy established by a  
21 health care facility under this section may be subject to  
22 sanctions otherwise allowable under law or contract.

23 (d) Due process.--A health care provider that imposes  
24 sanctions under subsection (c) must follow all due process and  
25 other procedures the sanctioning health care provider may have  
26 that are related to the imposition of sanctions on another  
27 health care provider.

28 (e) Unprofessional or dishonorable conduct reports.--Action  
29 taken under section 54B03 (relating to form of written request),  
30 54B04 (relating to attending physician responsibilities), 54B05

1 (relating to consulting physician confirmation) or 54B06  
2 (relating to counseling referral) may not be the sole basis for  
3 a report of unprofessional or dishonorable conduct to the State  
4 Board of Medicine or the State Board of Osteopathic Medicine.

5 (f) Standard of care.--No provision of this chapter may be  
6 construed to allow a lower standard of care for patients in the  
7 community where the patient is treated or a similar community.

8 (g) Definition.--As used in this section, the term "notify"  
9 means a separate written statement to the health care provider  
10 which sanctions its participation in activities covered by this  
11 chapter before the participation occurs.

12 § 54B20. Liabilities.

13 (a) Civil action.--Except as provided under section 54B18  
14 (relating to immunities), nothing in this chapter shall be  
15 construed to limit liability for civil damages resulting from  
16 negligent conduct or intentional misconduct by any person.

17 (b) Criminal action.--Except as provided under section  
18 54B18, nothing in this chapter shall be construed to limit  
19 criminal prosecution under any other provision of law.

20 (c) Disciplinary action.--A health care provider shall be  
21 subject to review and disciplinary action by the appropriate  
22 licensing entity for failing to act in accordance with this  
23 chapter, if failure is not in good faith.

24 § 54B21. Claims by governmental entity for costs incurred.

25 A governmental entity that incurs costs resulting from an  
26 individual terminating his or her life under the provisions of  
27 this chapter in a public place shall have a claim against the  
28 estate of the individual to recover those costs and reasonable  
29 attorney fees related to enforcing the claim.

30 § 54B22. Instrument.

1 A request for a medication as authorized under this chapter  
2 shall be in substantially the following form:

3 REQUEST FOR MEDICATION

4 TO END MY LIFE IN A HUMANE

5 AND DIGNIFIED MANNER

6 I, \_\_\_\_\_, am an adult of sound mind.

7 I am suffering from \_\_\_\_\_, which my attending physician has  
8 determined is a terminal disease and which has been medically  
9 confirmed by a consulting physician.

10 I have been fully informed of my diagnosis and prognosis, the  
11 nature of medication to be prescribed and potential associated  
12 risks, the expected result and the feasible alternatives,  
13 including comfort care, hospice care and pain control.

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

16 INITIAL ONE:

17 ( ) I have informed my family or significant other of my  
18 decision and have taken their opinions into consideration.

19 ( ) I have decided not to inform my family or significant  
20 other of my decision.

21 ( ) I have no family or significant other to inform of my  
22 decision.

23 I understand that I have the right to rescind this request at  
24 any time.

25 I understand that this request will supersede any provision  
26 of an advanced directive in conflict with the provisions of this  
27 request.

28 I understand the full import of this request and I expect to  
29 die when I take the medication to be prescribed. I further  
30 understand that although most deaths occur within three hours,



1 my death may take longer and my physician has counseled me about  
2 this possibility.

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

5 Signed:

6 Date:

7 DECLARATION OF WITNESSES

8 We declare that the individual signing this request:

9 (a) Is personally known to us or has provided proof of  
10 identity.

11 (b) Signed this request in our presence.

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

14 (d) Is not a patient for whom either of us is an attending  
15 physician.

16 Date:

17 Witness' signature:

18 Number and Street:

19 City, State and Zip Code:

20 Witness' signature:

21 Number and Street:

22 City, State and Zip Code:

23 NOTE: One witness shall not be a relative by blood, marriage  
24 or adoption of the individual signing this request, shall not be  
25 entitled to any portion of the individual's estate upon death  
26 and shall not own, operate or be employed at a health care  
27 facility where the individual is a patient or resident. If the  
28 patient is an inpatient at a health care facility, one of the  
29 witnesses shall be an individual designated by the facility.

30 § 54B23. Penalties for mishandling instrument.

1     (a) Intent to hasten death.--An individual who without  
2 authorization of the principal willfully alters, forges,  
3 conceals or destroys an instrument, the reinstatement or  
4 revocation of an instrument or any other evidence or document  
5 reflecting the principal's desires and interests with the intent  
6 and effect of causing a withholding or withdrawal of life-  
7 sustaining procedures or of artificially administered nutrition  
8 and hydration which hastens the death of the principal commits a  
9 felony of the first degree.

10     (b) Intent to affect health care decision.--Except as  
11 provided in subsection (a), an individual without authorization  
12 of the principal who willfully alters, forges, conceals or  
13 destroys an instrument, the reinstatement or revocation of an  
14 instrument, or any other evidence or document reflecting the  
15 principal's desires and interests with the intent or effect of  
16 affecting a health care decision commits a misdemeanor of the  
17 first degree.

18     Section 2. This act shall take effect in 60 days.