



HOUSE BILL No. 4134

January 17, 1995, Introduced by Rep. Martinez and referred to the Committee on Health Policy.

A bill to provide a process for authorizing and requesting aid-in-dying; to provide that aid-in-dying be provided under a written directive and request; to provide for the revocation of an aid-in-dying directive and rescission of a request for aid-in-dying; to provide for the judicial review of an aid-in-dying directive or request; to prohibit certain persons from requiring the execution of such a directive or request as a condition of receiving coverage, benefits, or services; to prohibit certain actions by insurers; to prohibit certain contract provisions; to require a presumption under state inheritance law under certain circumstances; to prescribe penalties and liabilities; to provide immunity from civil or criminal liability and administrative penalty under certain circumstances; to exempt certain persons from penalties and liabilities; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 2. As used in this act:

4 (a) "Aid-in-dying" means the provision to another person of
5 a lethal agent with the primary purpose of substantially increas-
6 ing the probability of the other person's death.

7 (b) "Attending physician" means the physician who provides
8 aid-in-dying.

9 (c) "Directive" means a document executed under section 3
10 setting forth a patient's wishes concerning the provision to the
11 patient of aid-in-dying.

12 (d) "Health facility" means a health facility or agency as
13 defined in section 20106 of the public health code, Act No. 368
14 of the Public Acts of 1978, being section 333.20106 of the
15 Michigan Compiled Laws.

16 (e) "Home for the aged" means that term as defined in
17 section 20106 of Act No. 368 of the Public Acts of 1978.

18 (f) "Lethal agent" means a substance that, through direct
19 contact with the human body, substantially increases the proba-
20 bility of death.

21 (g) "Patient" means an individual who executes a directive
22 in accordance with this act.

23 (h) "Patient advocate" means a person who has been desig-
24 nated to exercise powers concerning care, custody, and medical
25 treatment decisions for another person pursuant to section 496 of

1 the revised probate code, Act No. 642 of the Public Acts of 1978,
2 being section 700.496 of the Michigan Compiled Laws.

3 (i) "Physician" means a person licensed by the state to
4 engage in the practice of medicine or the practice of osteopathic
5 medicine and surgery under article 15 of the public health code,
6 Act No. 368 of the Public Acts of 1978, being sections 333.16101
7 to 333.18838 of the Michigan Compiled Laws.

8 (j) "Primary purpose" means a purpose but for the achieve-
9 ment of which a person would not have acted.

10 (k) "Professional counselor" means an individual licensed to
11 engage in the practice of counseling under article 15 of Act
12 No. 368 of the Public Acts of 1978.

13 (l) "Psychologist" means a person licensed to engage in the
14 practice of psychology under article 15 of Act No. 368 of the
15 Public Acts of 1978.

16 (m) "Request" means a request for the carrying out of a
17 directive authorizing aid-in-dying.

18 (n) "Social worker" means a person registered under
19 article 16 of the occupational code, Act No. 299 of the Public
20 Acts of 1980, being sections 339.1601 to 339.1610 of the Michigan
21 Compiled Laws.

22 Sec. 3. (1) A patient 18 years of age or older who is of
23 sound mind and mentally competent to consent to aid-in-dying may
24 execute a directive to authorize aid-in-dying.

25 (2) A directive shall be in writing, dated, and executed
26 voluntarily. The directive shall be signed by the patient, or in
27 the patient's presence at his or her direction. The directive

1 may specify conditions under which aid-in-dying will be
2 authorized.

3 (3) A physician or health facility that is provided a copy
4 of a directive shall immediately make the directive part of the
5 patient's permanent medical record.

6 Sec. 4. (1) Aid-in-dying shall be provided by an attending
7 physician pursuant to a directive authorizing aid-in-dying only
8 if all of the following conditions are met:

9 (a) At least 15 days before aid-in-dying is provided, both
10 of the following have occurred:

11 (i) A copy of the directive has been delivered to the
12 attending physician.

13 (ii) The patient has communicated to the attending physician
14 the patient's request that the aid-in-dying authorized in the
15 directive be carried out.

16 (b) Immediately after the communication required under sub-
17 division (a)(ii), the attending physician has caused reasonable
18 steps to be taken to notify the patient's spouse, parents, chil-
19 dren, and patient advocate, if any, of the communication.

20 (c) Subject to subdivision (d), in the time period between
21 the communication required under subdivision (a)(ii) and provi-
22 sion of aid-in-dying, each of the following has occurred:

23 (i) The attending physician and at least 1 other physician
24 have counseled the patient regarding the patient's medical diag-
25 nosis and prognosis, treatment options, and the nature and risks
26 of the aid-in-dying procedure.

1 (ii) A psychologist or physician specializing in psychiatry
2 other than the attending physician has certified in writing that
3 the patient is of sound mind and is mentally competent to consent
4 to aid-in-dying, acting voluntarily and in an informed manner,
5 and under no duress, fraud, or undue influence.

6 (iii) A professional counselor, a psychologist, a physician
7 specializing in psychiatry, or a social worker has counseled the
8 patient regarding both the patient's motivations for requesting
9 aid-in-dying and alternatives to aid-in-dying.

10 (d) At least 3 days have elapsed since satisfaction of the
11 requirement of subdivision (c).

12 (e) The patient is conscious, of sound mind, and mentally
13 competent to consent to aid-in-dying at the time the aid-in-dying
14 is provided.

15 (f) The lethal agent is provided with the intent of causing
16 the patient's swift and painless death.

17 (g) The attending physician has no actual notice that the
18 directive has been revoked or that the request to carry out the
19 directive has been rescinded.

20 (2) A person who provides aid-in-dying in violation of this
21 section is guilty of a felony punishable by imprisonment for not
22 more than 5 years, or a fine of not more than \$10,000.00, or
23 both.

24 Sec. 5. A patient may revoke a directive authorizing
25 aid-in-dying, or rescind a request to carry out the directive, at
26 any time and in any manner by which he or she is able to
27 communicate an intent to do so. If the revocation or rescission

1 is not in writing, a person who observes the revocation or
2 rescission may describe the circumstances of the revocation or
3 rescission in writing and sign the writing. A revocation of a
4 directive or rescission of a request is binding upon a physician
5 or health facility upon actual notice of the revocation or
6 rescission. A physician or health facility that has actual
7 notice of a revocation of a directive or a rescission of a
8 request shall immediately make the revocation or rescission part
9 of the patient's permanent medical record and note the revocation
10 or rescission on the directive. If a directive is revoked or a
11 request is rescinded, it shall be as if the directive was never
12 executed or the request was never communicated.

13 Sec. 6. (1) If a dispute arises as to whether a patient has
14 requested aid-in-dying, revoked a directive, or rescinded a
15 request, or whether the requirements of this act for aid-in-dying
16 have been satisfied, a petition may be filed by the patient or
17 the patient's spouse, parent, child, grandchild, sibling, pre-
18 sumptive heir, known devisee, physician, or patient advocate with
19 the probate court in the county in which the patient resides or
20 is found, asking the court's determination.

21 (2) In an action under this section, a patient or the
22 patient's spouse, parent, child, grandchild, sibling, presumptive
23 heir, known devisee, physician, or patient advocate may obtain
24 injunctive relief to ensure compliance with the terms of a direc-
25 tive in accordance with this act.

26 (3) If a petition is filed under this section, the court may
27 appoint an attorney to represent the patient.

1 (4) The court shall conduct a hearing on a petition under
2 this section within 7 days after the court's receipt of the
3 petition. Within 7 days after the hearing, the court shall issue
4 its decision.

5 (5) The court may impose appropriate sanctions for the
6 filing of a frivolous petition under this section, including rea-
7 sonable attorney's fees to opposing parties.

8 Sec. 7. (1) A health facility may adopt a policy specifying
9 conditions under which, if at all, it will comply with the terms
10 of a directive or permit aid-in-dying. Otherwise, and except for
11 damages arising from negligence, a person or health facility is
12 not subject to civil or criminal liability or administrative
13 sanction, including license or permit suspension, revocation, or
14 nonrenewal, for causing or participating in aid-in-dying, in
15 accordance with a directive executed in compliance with this act
16 and in accordance with this act.

17 (2) A health facility is not required to admit a patient for
18 the purpose of providing aid-in-dying. A health facility or a
19 physician, member, or associate of the staff, or other person
20 connected with the health facility, may refuse to provide, par-
21 ticipate in, give advice regarding, or allow to be provided on
22 its premises aid-in-dying. A health facility or an individual
23 described in this subsection who refuses to provide or partici-
24 pate in providing aid-in-dying under this subsection is immune
25 from any civil or criminal liability or administrative penalty
26 for the refusal.

1 (3) A physician or other health professional who is employed
2 by, under contract to, or associated with a health facility in
3 which aid-in-dying is provided, who states an objection to
4 aid-in-dying on professional, ethical, moral, or religious
5 grounds, is not required to participate in aid-in-dying.

6 (4) A health facility that refuses to allow aid-in-dying to
7 be provided on its premises shall not deny staff privileges or
8 employment to an individual for the sole reason that the individ-
9 ual previously participated in, or expressed a willingness to
10 participate in, aid-in-dying. A health facility shall not dis-
11 criminate against its staff members or other employees for the
12 sole reason that the staff members or employees have participated
13 in, or have expressed a willingness to participate in,
14 aid-in-dying.

15 Sec. 8. This act does not authorize a deliberate act or
16 omission to end human life other than aid-in-dying by a physician
17 when voluntarily requested by a conscious patient who is of sound
18 mind and mentally competent to consent to aid-in-dying at the
19 time aid-in-dying is provided in accordance with this act.

20 Sec. 9. (1) A person shall not require another person to
21 execute or request the carrying out of a directive authorizing
22 aid-in-dying as a condition for any benefit, services, or con-
23 tract, including insurance coverage or health care benefits or
24 services. A part of a contract requiring the execution of a
25 directive or a request to carry out a directive authorizing
26 aid-in-dying is void.

1 (2) An insurer shall not do any of the following because of
2 the execution or carrying out of a directive, or because of the
3 insured's refusal to execute or request the carrying out of a
4 directive authorizing aid-in-dying:

5 (a) Refuse to provide or continue coverage to the patient.

6 (b) Charge a patient a higher premium.

7 (c) Offer a patient different policy terms.

8 (d) Consider the terms of an existing policy to have been
9 breached or modified.

10 (e) Invoke any suicide or intentional death exemption.

11 (3) A person who violates this section is guilty of a felony
12 punishable by imprisonment for not more than 5 years, or a fine
13 of not more than \$10,000.00, or both.

14 Sec. 10. (1) A person shall not do or attempt to do any of
15 the following:

16 (a) Provide aid-in-dying knowingly against the wishes of the
17 patient.

18 (b) Forge or falsify a directive with the intent to cause
19 aid-in-dying to be provided to a patient contrary to the wishes
20 of the patient.

21 (c) Coerce or fraudulently induce a patient to execute a
22 directive or to make a request to carry out the directive.

23 (d) Willfully conceal or withhold personal knowledge from
24 the attending physician of a revocation of a directive or a
25 rescission of a request with the intent to cause aid-in-dying to
26 be provided to a patient contrary to the wishes of the patient,
27 if the person is any of the following: the patient's spouse,

1 parent, child, grandchild, sibling, presumptive heir, known
2 devisee at the time aid-in-dying is provided, physician, or
3 patient advocate, an employee of a life or health insurance or
4 health benefits provider for the patient, an employee of a health
5 facility treating the patient, or an employee of a home for the
6 aged where the patient resides.

7 (2) If the patient dies as a result of the violation, a
8 person who violates subsection (1) is guilty of a felony, punish-
9 able by imprisonment for life. If the patient does not die as a
10 result of the violation, a person who violates subsection (1) is
11 guilty of a felony, punishable by imprisonment for life or any
12 term of years, or a fine of not more than \$100,000.00, or both.

13 Sec. 11. A person who fails to communicate to the attending
14 physician knowledge of the patient's revocation of a directive
15 authorizing aid-in-dying or a rescission of a request to carry
16 out the directive, with intent to cause the patient's death,
17 shall be considered to have predeceased the patient for purposes
18 of state inheritance law and for purposes of life insurance cov-
19 erage if the patient receives aid-in-dying as a result of the
20 failure to communicate and dies as a result of the aid-in-dying.

21 Sec. 12. The provisions of this act are cumulative and do
22 not impair or supersede a legal right that a person may have to
23 consent to or refuse medical intervention.

24 Sec. 13. Act No. 270 of the Public Acts of 1992, being
25 sections 752.1021 to 752.1027 of the Michigan Compiled Laws, is
26 repealed.