

HOUSE BILL No. 5257

October 17, 2001, Introduced by Reps. Zelenko, Raczkowski, Richardville, Stewart, Julian, Howell, Woronchak, Basham, Scranton, Patterson, Shulman, George, Ehardt, Jelinek, Voorhees, Shackleton, Vear, Plakas, Kuipers, Pappageorge, Anderson, Hummel, Meyer, Vander Veen, Gilbert, Stamas, Allen, Kooiman, Middaugh, Faunce, Kowall, Birkholz, Van Woerkom, DeVuyst, Cassis, Pumford, Cameron Brown, Sanborn and Neumann and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 5656, 5657, 5658, 5659, and 5660 (MCL
333.5656, 333.5657, 333.5658, 333.5659, and 333.5660), as added
by 1996 PA 594.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5656. (1) ~~Within 60 days after the effective date of~~
2 ~~the amendatory act that added this part~~ BY JANUARY 1, 2002, the
3 department of community health shall develop and publish a NEW
4 standardized, written summary that contains all of the informa-
5 tion required under section 5655.

6 (2) The department shall develop the NEW standardized, writ-
7 ten summary in consultation with appropriate professional and
8 other organizations. The department shall draft the summary in

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1 nontechnical terms that a patient, patient surrogate, or patient
2 advocate can easily understand.

3 (3) The department shall make the NEW standardized, written
4 summary described in subsection (1) available to physicians
5 through the Michigan board of medicine and the Michigan board of
6 osteopathic medicine and surgery created in article 15. The
7 Michigan board of medicine and the Michigan board of osteopathic
8 medicine and surgery shall notify in writing each physician
9 subject to this part of the requirements of this part and the
10 availability of the NEW standardized, written summary within 10
11 days after the NEW summary is published.

12 Sec. 5657. (1) If a physician gives a copy of the NEW stan-
13 dardized, written summary made available under section 5656 to a
14 ~~terminally ill~~ patient WITH REDUCED LIFE EXPECTANCY DUE TO
15 ADVANCED ILLNESS, to the patient's patient surrogate, or to the
16 patient's patient advocate, the physician is in full compliance
17 with the requirements of section 5655.

18 (2) A physician may make available to a ~~terminally ill~~
19 patient WITH REDUCED LIFE EXPECTANCY DUE TO ADVANCED ILLNESS, to
20 the patient's patient surrogate, or to the patient's patient
21 advocate a form indicating that the patient, patient surrogate,
22 or patient advocate has been given a copy of the NEW standard-
23 ized, written summary described in section 5656 and received the
24 oral information required under section 5654. If a physician
25 makes such a form available to a ~~terminally ill~~ patient, to the
26 patient's patient surrogate, or to the patient's patient
27 advocate, the physician shall request that the patient, patient's

1 patient surrogate, or patient advocate sign the form and shall
2 place a copy of the signed form in the patient's medical record.

3 (3) A patient, a patient's patient surrogate, or a patient
4 advocate who signs a form under subsection (2) is barred from
5 subsequently bringing a civil ~~—~~ or administrative action
6 against the physician for providing the information orally and in
7 writing under section 5655 based on failure to obtain informed
8 consent.

9 Sec. 5658. A physician who, as part of a medical treatment
10 plan for a ~~terminally ill~~ patient WITH REDUCED LIFE EXPECTANCY
11 DUE TO ADVANCED ILLNESS, prescribes for ~~the terminally ill~~ THAT
12 patient a controlled substance that is included in schedules 2 to
13 5 under part 72 and that is a narcotic drug is immune from admin-
14 istrative and civil liability based on prescribing the controlled
15 substance if the prescription is given in good faith and with the
16 intention to treat a patient with ~~a terminal illness~~ REDUCED
17 LIFE EXPECTANCY DUE TO ADVANCED ILLNESS or alleviate the
18 patient's pain, or both, and all of the following are met:

19 (a) The prescription is for a legitimate legal and profes-
20 sionally recognized therapeutic purpose.

21 (b) Prescribing the controlled substance is within the scope
22 of practice of the physician.

23 (c) The physician holds a valid license under article 7 to
24 prescribe controlled substances.

25 Sec. 5659. A life insurer, a health insurer, or a health
26 care payment or benefits plan shall not do 1 or more of the
27 following because a ~~terminally ill~~ patient WITH REDUCED LIFE

1 EXPECTANCY DUE TO ADVANCED ILLNESS, the patient's patient
2 surrogate, or the patient's patient advocate has made a decision
3 to refuse or discontinue a medical treatment as a result of
4 information received as required under this part:

5 (a) Refuse to provide or continue coverage or benefits to
6 the ~~terminally ill~~ patient within the scope and level of cover-
7 age or benefits of an existing policy, certificate, or contract.

8 (b) Limit the amount of coverage or benefits available to ~~a~~
9 ~~terminally ill~~ THE patient within the scope and level of cover-
10 age or benefits of an existing policy, certificate, or contract.

11 (c) Charge the ~~terminally ill~~ patient a different rate for
12 coverage or benefits under an existing policy, certificate, or
13 contract.

14 (d) Consider the terms of an existing policy, certificate,
15 or contract to have been breached or modified.

16 (e) Invoke a suicide or intentional death exemption or
17 exclusion in a policy, certificate, or contract covering the
18 ~~terminally ill~~ patient.

19 Sec. 5660. This part does not do the following:

20 (a) Impair or supersede a legal right a parent, patient,
21 advocate, legal guardian, or other individual may have to consent
22 to or refuse medical treatment on behalf of another.

23 (b) Create a presumption about ~~a terminally ill patient's~~
24 ~~desire~~ THE DESIRE OF A PATIENT WHO HAS REDUCED LIFE EXPECTANCY
25 DUE TO ADVANCED ILLNESS to receive or refuse medical treatment,
26 regardless of the ability of the patient to participate in
27 medical treatment decisions.

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1 (c) Limit the ability of a court making a determination
2 about a ~~terminally ill patient's medical treatment decisions~~
3 DECISION OF A PATIENT WHO HAS REDUCED LIFE EXPECTANCY DUE TO
4 ADVANCED ILLNESS to take into consideration all of the following
5 state interests:

6 (i) The preservation of life.

7 (ii) The prevention of suicide.

8 (iii) The protection of innocent third parties.

9 (iv) The preservation of the integrity of the medical
10 profession.

11 (d) Condone, authorize, or approve suicide, assisted sui-
12 cide, mercy killing, or euthanasia.

13 Enacting section 1. Section 5657 of the public health code,
14 1978 PA 368, MCL 333.5657, as amended by this amendatory act,
15 takes effect March 1, 2002.

16 Enacting section 2. This amendatory act does not take
17 effect unless Senate Bill No. _____ or House Bill No. 5258
18 (request no. 03603'01 *) of the 91st Legislature is enacted into
19 law.