ASSISTANCE TO SUICIDE
Act 270 of 1992

AN act to prohibit certain acts pertaining to the assistance of suicide; to provide for the development of legislative recommendations concerning certain issues related to death and dying, including assistance of suicide; to create the Michigan commission on death and dying; to prescribe its membership, powers, and duties; to prescribe penalties; and to repeal certain parts of this act on a specific date.

History: 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

The People of the State of Michigan enact:

752.1021 Legislative findings; effective date of section.

Sec. 1. (1) The legislature finds that the voluntary self-termination of human life, with or without assistance, raises serious ethical and public health questions in the state. To study this problem and to develop recommendations for legislation, the Michigan commission on death and dying is created.

(2) This section shall take effect February 25, 1993.

History: 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

752.1022 Definitions; effective date of section.

Sec. 2. (1) As used in this act:

(a) "Commission" means the Michigan commission on death and dying created in section 3.

(b) "Legislative council" means the legislative council established under section 15 of article IV of the state constitution of 1963.

(c) "Licensed health care professional" means any of the following:

(*i*) A physician or physician's assistant licensed or authorized to practice under part 170 or 175 of the public health code, being sections 333.17001 to 333.17088 and 333.17501 to 333.17556 of the Michigan Compiled Laws.

(*ii*) A registered nurse or licensed practical nurse licensed or authorized to practice under part 172 of the public health code, being sections 333.17201 to 333.17242 of the Michigan Compiled Laws.

(*iii*) A pharmacist licensed under part 177 of the public health code, being sections 333.17701 to 333.17770 of the Michigan Compiled Laws.

(d) "Patient" means a person who engages in an act of voluntary self-termination.

(e) "Public health code" means Act No. 368 of the Public Acts of 1978, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws.

(f) "The voluntary self-termination of life", "voluntary self-termination", and "self-termination" mean conduct by which a person expresses the specific intent to end, and attempts to cause the end of, his or her life, but do not include the administration of medication or medical treatment intended by a person to relieve his or her pain or discomfort, unless that administration is also independently and specifically intended by the person to cause the end of his or her life.

(2) This section shall take effect February 25, 1993.

History: 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

752.1023 Michigan commission on death and dying; creation; nomination and appointment of members; alternates; quorum; rules governing proceedings; notice; deliberations; death or resignation of member; effective date of section.

Sec. 3. (1) The Michigan commission on death and dying is created within the legislative council. In accordance with its own rules and procedures, each of the following may nominate 2 persons for appointment to the commission:

(a) American association of retired persons.

(b) American civil liberties union of Michigan.

(c) Citizens for better care.

(d) Health care association of Michigan.

(e) Hemlock of Michigan.

(f) Michigan association for retarded citizens.

(g) Michigan association of osteopathic physicians and surgeons.

(h) Michigan association of suicidology.

(i) Michigan council on independent living.

(j) Michigan head injury survivor's council.

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(k) Michigan hospice organization.
(*l*) Michigan hospital association.
(m) Michigan nonprofit homes association.
(n) Michigan nurses association.
(o) Michigan psychiatric society.
(p) Michigan psychological association.
(q) Michigan senior advocates council.
(r) Michigan state medical society.
(s) National association of social workers, Michigan division.
(t) Right to life of Michigan, inc.
(u) State bar of Michigan.
(v) Prosecuting attorneys association of Michigan.

(2) Within 30 days after receiving notice of the nominations of an organization listed in subsection (1), the chairperson and alternate chairperson of the legislative council shall select from the nominees of that organization a member and a person to serve as that member's alternate on the commission.

(3) A majority of commission members appointed constitute a quorum.

(4) The commission shall convene its first meeting within 90 days after the effective date of this act, at which the members shall elect from members of the commission a chairperson, vice-chairperson, and secretary. The commission shall establish rules governing commission proceedings. These rules shall provide alternate members with full rights of participation, other than voting, in all commission proceedings.

(5) Following its first meeting, the commission shall meet as often as necessary to fulfill its duties under this act. Either the chairperson or a majority of the appointed members may call a meeting upon 7 days' written notice to the commission members.

(6) In its deliberations, the commission shall provide for substantial involvement from the academic, health care, legal, and religious communities, as well as from members of the general public.

(7) Upon the death or resignation of a commission member, the person serving as his or her alternate shall succeed that member. If a member of the commission is absent from a commission meeting, the person serving as his or her alternate shall act as a member of the commission at that meeting.

(8) This section shall take effect February 25, 1993.

History: 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

752.1024 Development and submission of recommendations to legislature; effective date of section.

Sec. 4. (1) Within 15 months after the effective date of this act, the commission shall develop and submit to the legislature recommendations as to legislation concerning the voluntary self-termination of life. In developing these recommendations, the commission shall consider each of the following:

(a) Current data concerning voluntary self-termination, including each of the following:

(*i*) The current self-termination rate in the state, compared with historical levels.

(*ii*) The causes of voluntary self-termination, and in particular each of the following:

(A) The role of alcohol and other drugs.

(B) The role of age, disease, and disability.

(*iii*) Past and current Michigan law concerning voluntary self-termination, including the status of persons who assist a patient's self-termination, and in particular the effect of any relevant law enacted during the 86th Legislature.

(*iv*) The laws of other states concerning voluntary self-termination, and in particular the effect of those laws on the rate of self-termination.

(b) The proper aims of legislation affecting voluntary self-termination, including each of the following:

(*i*) The existence of a societal consensus in the state on the morality of the voluntary self-termination of life, including the morality of other persons assisting a patient's self-termination.

(*ii*) The significance of each of the following:

(A) The attitudes of a patient's family regarding his or her voluntary self-termination.

(B) The cause of a patient's act of self-termination, including apprehension or existence of physical pain, disease, or disability.

(*iii*) Whether to differentiate among the following causes of voluntary self-termination:

(A) Physical conditions, as distinguished from psychological conditions.

(B) Physical conditions that will inevitably cause death, as distinguished from physical conditions with which a patient may survive indefinitely.

(C) Withdrawing or withholding medical treatment, as distinguished from administering medication, if

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both are in furtherance of a process of voluntary self-termination.

(*iv*) With respect to how the law should treat a person who assists a patient's voluntary self-termination, whether to differentiate based on the following:

(A) The nature of the assistance, including inaction; noncausal facilitation; information transmission; encouragement; providing the physical means of self-termination; active participation without immediate risk to the person assisting; and active participation that incurs immediate risk to the person assisting, such as suicide pacts.

(B) The motive of the person assisting, including compassion, fear for his or her own safety, and fear for the safety of the patient.

(C) The patient's awareness of his or her true condition, including the possibility of mistake or deception.

(*v*) The relevance of each of the following:

(A) The legal status of suicide.

(B) The legal status of living wills.

(C) The right to execute a durable power of attorney for health care, as provided in section 496 of the revised probate code, Act No. 642 of the Public Acts of 1978, being section 700.496 of the Michigan Compiled Laws.

(D) The common-law right of a competent adult to refuse medical care or treatment.

(E) Constitutional rights of free speech, free exercise of religion, and privacy, and constitutional prohibitions on the establishment of religion.

(c) The most efficient method of preventing voluntary self-terminations, to the extent prevention is a proper aim of legislation. In particular, the commission shall consider each of the following:

(*i*) The costs of various methods of preventing voluntary self-terminations, including the use of any of the following:

(A) Public health measures, such as crisis therapy and suicide counseling services.

(B) Tort law.

(C) Criminal law, including the desirability of criminalizing suicide or attempted suicide.

(D) Civil sanctions, including the denial of inheritance and requirements of community service and mandatory counseling.

(*ii*) The likely effect of any of the methods listed in subparagraph (*i*) on the self-termination rate, and in particular the probability that a particular method might cause the self-termination rate to increase.

(*iii*) The impact of any of the methods listed in subparagraph (*i*) on the practice of medicine and the availability of health care in the state.

(*iv*) Whether current state law is adequate to address the question of voluntary self-termination in the state.

(d) Appropriate guidelines and safeguards regarding voluntary self-terminations the law should allow, including the advisability of allowing, in limited cases, the administering of medication in furtherance of a process of voluntary self-termination.

(e) Any other factors the commission considers necessary in developing recommendations for legislation concerning the voluntary self-termination of life.

(2) This section shall take effect February 25, 1993.

History: 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

752.1025 Conducting business of commission; effective date of section.

Sec. 5. (1) The business of the commission shall be conducted in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) This section shall take effect February 25, 1993.

History: 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

752.1026 Availability of writings to the public; effective date of section.

Sec. 6. (1) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) This section shall take effect February 25, 1993.

History: 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

****** 752.1027 THIS SECTION IS REPEALED EFFECTIVE 6 MONTHS AFTER THE DATE THE COMMISSION MAKES ITS RECOMMENDATIONS TO THE LEGISLATURE PURSUANT TO SECTION 4: See (5) of 752.1027 ******

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752.1027 Prohibited acts; violation; penalties; applicability of subsection (1); exceptions; effective date of section; repeal of section.

Sec. 7. (1) A person who has knowledge that another person intends to commit or attempt to commit suicide and who intentionally does either of the following is guilty of criminal assistance to suicide, a felony punishable by imprisonment for not more than 4 years or by a fine of not more than $2,000.00, or both:

(a) Provides the physical means by which the other person attempts or commits suicide.

(b) Participates in a physical act by which the other person attempts or commits suicide.

(2) Subsection (1) shall not apply to withholding or withdrawing medical treatment.

(3) Subsection (1) does not apply to prescribing, dispensing, or administering medications or procedures if the intent is to relieve pain or discomfort and not to cause death, even if the medication or procedure may hasten or increase the risk of death.

(4) This section shall take effect February 25, 1993.

(5) This section is repealed effective 6 months after the date the commission makes its recommendations to the legislature pursuant to section 4.

History: 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

Constitutionality: In a memorandum opinion, the Michigan Supreme Court held that 1) the assisted suicide provisions of MCL 752.1027 of the Michigan Compiled Laws were validly enacted and do not violate the Title-Object Clause of the Michigan Constitution, and 2) the US Constitution does not prohibit a state from imposing criminal penalties for assisting a suicide. Michigan v Kevorkian, 445 Mich 917; 521 NW2d 4 (1994).

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