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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO HEALTH AND SAFETY -- LILA MANFIELD SAPINSLEY COMPASSIONATE CARE ACT

Introduced By: Senators Miller, Goldin, Calkin, and Kallman

Date Introduced: April 01, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby amended by adding thereto the following chapter:

CHAPTER 4.14

LILA MANFIELD SAPINSLEY COMPASSIONATE CARE ACT

23-4.14-1. Short title.

This chapter shall be known and may be cited as the "Lila Manfield Sapinsley Compassionate Care Act."

23-4.14-2. Definitions.

As used in this chapter, the following words and terms shall have the following meanings:

(1) "Bona fide physician-patient relationship" means a treating or consulting relationship in the course of which a physician has completed a full assessment of the patient's medical history and current medical condition.

(2) "Capable" means that a patient has the ability to make and communicate health care decisions to a physician, including communication through persons familiar with the patient's manner of communicating if those persons are available.

(3) "Health care facility" shall have the same meaning as in § 23-17-2.

(4) "Health care provider" or "provider" means a person who is licensed, certified, registered or otherwise authorized or permitted by law to administer health care or dispense

medication in the practice of the medical profession.

(5) "Impaired judgment" means that a person does not sufficiently understand or appreciate the relevant facts necessary to make an informed decision.

(6) "Interested person" means:

(i) The patient's physician;

(ii) A person who knows that they are a relative of the patient by blood, civil marriage, civil union, or adoption;

(iii) A person who knows that they would be entitled, upon the patient's death, to any portion of the estate or assets of the patient under any will or trust, by operation of law, or by contract.

(7) "Medical aid in dying" means a medical practice that allows mentally capable, terminally ill adults to request a prescription for life-ending medication from their physician, which the person may self-administer if and when they choose.

(8) "Palliative care" shall have the same definition as in § 23-89-3.

(9) "Patient" means a person who is eighteen (18) years of age or older, a resident of Rhode Island, and under the care of a physician

(10) "Physician" means an individual licensed to engage in the practice of medicine as defined in § 5-37-1.

(11) "Self-administer" means an individual performing an affirmative conscious, voluntary act to take into their body medication for medical aid in dying to bring about their own peaceful death.

(12) "Terminal condition" means an incurable and irreversible disease which would, within reasonable medical judgment, result in death within six (6) months or less.

23-4.14-3. Requirements for prescription and documentation -- Immunity.

(a) A physician shall not be subject to any civil or criminal liability or professional disciplinary action if the physician prescribes to a patient with a terminal condition medication to be self-administered for the purpose of bringing about a peaceful death and the physician affirms by documenting in the patient's medical record that all of the following occurred:

(1) The patient made an oral request directly to the physician to be prescribed medication for the purpose of being self-administered to bring about a peaceful death.

(2) No fewer than fifteen (15) days after the first oral request, the patient made a second oral request to the physician to be prescribed medication to be self-administered for the purpose of bringing about a peaceful death.

(3) At the time of the second oral request, the physician offered the patient an opportunity

to rescind the request.

(4) The patient made a written request to be prescribed medication to be self-administered for the purpose of bringing about a peaceful death that was signed by the patient in the presence of two (2) subscribing witnesses at least one of whom is not an interested person as defined in § 23-4.14-2, who were at least eighteen (18) years of age, and who subscribed and attested that the patient appeared to understand the nature of the document and to be free from duress or undue influence at the time the request was signed.

(5) The physician determined that the patient:

(i) Has a terminal condition, after evaluating the patient and their relevant medical records;

(ii) Was capable;

(iii) Was making an informed decision;

(iv) Had made a voluntary request for medication to bring about a peaceful death; and

(v) Was a Rhode Island resident.

(6) The physician informed the patient in person, both verbally and in writing, of all the following:

(i) The patient's medical diagnosis;

(ii) The patient's prognosis, including an acknowledgement that the physician's prediction of the patient's life expectancy was an estimate based on the physician's best medical judgment and was not a guarantee of the actual time remaining in the patient's life, and that the patient could live longer or shorter than the time predicted;

(iii) The range of treatment options available to the patient and the patient's diagnosis;

(iv) If the patient was not enrolled or participating in hospice care, all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;

(v) The range of possible results, risks, and benefits of each option including potential risks associated with taking the medication to be prescribed.

(7) The physician referred the patient to a second physician for medical confirmation of the diagnosis, prognosis, and a determination that the patient was capable, was acting voluntarily, and had made an informed decision.

(8) The physician either verified that the patient did not have impaired judgment or referred the patient for an evaluation by a psychiatrist, psychologist, or clinical social worker, licensed in Rhode Island, for confirmation that the patient was capable and did not have impaired judgment.

(9) The physician informed the patient that the patient may rescind the request at any time and in any manner and offered the patient an opportunity to rescind after the patient's second oral request.

(10) The physician ensured that all required steps were carried out in accordance with this section and confirmed, immediately prior to writing the prescription for medication, that the patient was making an informed decision.

(11) The physician wrote the prescription no fewer than forty-eight (48) hours after the last to occur of the following events:

(i) The patient's written request;

(ii) The patient's second oral request; or

(iii) The physician's offering the patient an opportunity to rescind the request.

(12) The physician either:

(i) Dispensed the medication directly, provided that at the time the physician dispensed the medication, they were licensed to dispense medication in Rhode Island, had a current Drug Enforcement Administration certificate, and complied with any applicable administrative rules;

(ii) With the patient's consent:

(A) Contacted a pharmacist and informed the pharmacist of the prescription; and

(B) Delivered the written prescription personally, or by mail service or messenger service (with a signature required on delivery), or electronically to the pharmacist, who dispensed the medication to the patient, the physician, or an expressly identified agent of the patient.

(13) The physician recorded and filed the following in the patient's medical record:

(i) The date, time and detailed description of all oral requests of the patient;

(ii) All written requests by the patient;

(iii) The physician's diagnosis, prognosis, and basis for the determination that the patient was capable, was acting voluntarily, and had made an informed decision;

(iv) The second physician's diagnosis, prognosis, and verification that the patient was capable, was acting voluntarily, and had made an informed decision;

(v) The physician's attestation that the patient was enrolled in hospice care at the time of the patient's oral and written requests or that the physician informed the patient of all feasible alternatives, concurrent or additional treatment opportunities, and end-of-life care services; has determined that the patient did not have impaired judgment;

(vii) A report of the outcome and determinations made by the psychiatrist, psychologist, or clinical social worker during any evaluation which the patient may have received;

(viii) The date, time, and detailed description of the physician's offer to the patient to rescind the request for medication at the time of the patient's second oral request; and

(ix) A note by the physician indicating that all requirements under this section were satisfied and describing all of the steps taken to carry out the request, including a notation of the

medication prescribed.

(14) After writing the prescription, the physician promptly filed a report with the department of health documenting completion of all of the requirements under this section.

(b) This section shall not be construed to limit civil or criminal liability for gross negligence, recklessness, or intentional misconduct.

23-4.14-4. No duty to aid.

A patient with a terminal condition who self-administers prescribed medication to bring about a peaceful death shall not be considered to be a person exposed to grave physical harm under § 11-56-1, and no person shall be subject to civil or criminal liability solely for being present when a patient with a terminal condition self-administers medication prescribed pursuant to this chapter, or for not acting to prevent the patient from self-administering medication prescribed pursuant to this chapter, or for not rendering aid to a patient who has self-administered medication pursuant to this chapter.

23-4.14-5. Limitations on actions.

(a) A physician, nurse, pharmacist, or other person shall not be under any duty, by law or contract, to provide medical aid in dying to an individual in accordance with this chapter.

(b) A health care facility or health care provider shall not subject a physician, nurse, pharmacist, or other person to discipline, suspension, loss of license, loss of privileges, or other penalty for actions taken in good faith reliance on the provisions of this chapter or refusals to act under this chapter.

(c) Except as otherwise provided in this chapter herein, nothing in this chapter shall be construed to limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

23-4.14-6. No duty to provide medical aid in dying.

(a) A health care provider may choose whether to provide medical aid in dying to an individual in accordance with this chapter.

(b) If a health care provider is unable or unwilling to carry out an individual's request for medical aid in dying they must make reasonable efforts to accommodate the individual's request including, transferring care of the individual to a new health care provider, and the unwilling health care provider shall coordinate the transfer of the individual's medical records to the new health care provider.

23-4.14-7. Health care facility exception.

A health care facility may prohibit a physician from writing a prescription for medication pursuant to this chapter for a patient who intends to self-administer said medication on the facility's

premises, provided the facility has previously notified the physician and patient in writing of its policy with regard to the said prescriptions. Notwithstanding the provisions of § 23-4.14-5(b), any physician who violates a policy established by a health care facility under this section may be subject to sanctions otherwise allowable under law or contract.

23-4.14-8. Insurance policies; Prohibitions.

(a) A person and their beneficiaries shall not be denied benefits under any life insurance policy, as defined in § 27-4-0.1, for actions taken in accordance with this chapter.

(b) The sale, procurement or issuance of a life, health or accident insurance or annuity policy, or the rate charged for a policy may not be conditioned upon or affected by an individual's act of making or rescinding a request for medical aid-in-dying medication.

(c) A patient's act of self-administering medication prescribed pursuant to this chapter shall not invalidate any part of a life, health, or accident insurance or annuity policy.

(d) It is unlawful for an insurer to deny or alter health care benefits otherwise available to an individual with a terminal condition based on the availability of aid in dying or otherwise attempt to coerce a patient with a terminal condition to make a request for medication pursuant to this chapter.

(e) The sale, procurement, or issue of any medical malpractice insurance policy or the rate charged for the policy shall not be conditioned upon or affected by whether the physician is willing or unwilling to participate in the provisions of this chapter.

23-4.14-9. No effect on palliative sedation.

This chapter shall not limit or otherwise affect the provision, administration, or receipt of palliative sedation consistent with accepted medical standards.

23-4.14-10. Protection of patient choice at end-of-life.

A physician with a bona fide physician-patient relationship with a patient with a terminal condition shall not be considered to have engaged in unprofessional conduct under § 5-37-5.1 if:

(1) The physician determines that the patient is capable and does not have impaired judgment; and

(2) The physician informs the patient of all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control; and

(3) The physician prescribes a dose of medication intended to bring about a peaceful death to the patient.

23-4.14-11. Immunity for physicians.

(a) A health care provider or health care facility shall be immune from any civil or criminal liability or professional disciplinary action for actions performed in good faith compliance with the

provisions of this chapter.

(b) A request by an individual for or provision by a physician of medical aid-in-dying medication with this chapter does not solely constitute neglect or elder abuse for any purpose of law, or provide the sole basis for the appointment of a guardian or conservator.

(c) A person is not subject to civil or criminal liability when, in compliance with this chapter for being present when a qualified individual self-administers the prescribed medical aid-in-dying medication.

(d) This section does not limit civil or criminal liability for negligence, recklessness or intentional misconduct.

23-4.14-12. Safe disposal of unused medications.

A person who has custody or control of medical aid-in-dying medication dispensed under this chapter that remains unused after the terminally ill individual's death will dispose of the unused medical aid-in-dying medication by lawful means in accordance with state and federal guidelines including:

(1) Returning the unused medical aid-in-dying medication to the prescribing physician who shall dispose of the medication by lawful means; or

(2) Returning the unused medical aid-in-dying medication to a federally approved medication take-back program.

23-4.14-13. Death certificate.

(a) Unless otherwise prohibited by law, the physician or the hospice medical director shall sign the death certificate of a qualified individual who obtained and self-administered medical aid-in-dying medication.

(b) When a death has occurred in accordance with this chapter, the manner of death shall not be listed as suicide or homicide.

(c) When a death has occurred in accordance with this chapter, the cause of death shall be listed as the underlying terminal illness.

(d) When a death has occurred in accordance with this chapter, this alone does not constitute grounds for a post-mortem inquiry, as described in § 23-4-4.

23-4.14-14. Statutory construction.

Nothing in this chapter shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Action taken in accordance with this chapter shall not be construed for any purpose to constitute suicide, assisted suicide, mercy killing, or homicide under the law. This section shall not be construed to conflict with section 1553 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as

amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO HEALTH AND SAFETY -- LILA MANFIELD SAPINSLEY COMPASSIONATE CARE ACT

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This act would establish detailed steps and safeguards to create the Lila Manfield Sapinsley Compassionate Care Act, to provide a legal mechanism whereby a terminally ill patient may choose to end their life using drugs prescribed by a physician.

This act would take effect upon passage.

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