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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

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A N A C T

RELATING TO HEALTH AND SAFETY -- TERMINAL PATIENTS' RIGHT TO TRY ACT

Introduced By: Representatives Slater, and Diaz

Date Introduced: March 20, 2026

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative purpose.

2 The general assembly enacts this chapter to promote maximum access by removing barriers  
3 in state law and indemnifying those involved in providing potentially life-saving treatments and  
4 treatments to improve the quality of patients' remaining life, to incentivize healthcare facilities,  
5 healthcare providers, manufacturers of drugs, biologics and devices, and other persons and entities  
6 involved in the care of patients, to treat terminal illness, whether through company-sponsored  
7 clinical trial, single-patient protocol, compassionate use protocol, or any other means of access to  
8 drugs, biologics, and/or devices which gathers information on patient outcomes, and to make Rhode  
9 Island a jurisdiction that attracts and fosters clinical trials and the development of drugs, biologics,  
10 and devices intended to monitor, diagnose and treat terminal illness.

11 SECTION 2. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby  
12 amended by adding thereto the following chapter:

13 CHAPTER 106

14 TERMINAL PATIENTS' RIGHT TO TRY ACT

15 **23-106-1. Definitions.**

16 As used in this chapter:

17 (1) "Diagnostic use" means the use of an innovative medical device to identify, monitor,  
18 or characterize a disease or condition, or to determine the safety and effectiveness of treatment  
19 regimens, in patients with a medically threatening disease or condition.

1           (2) "Eligible facility" means an institution that is operating with an "Institutional Review  
2 Board" established pursuant to the provisions of 42 U.S.C. 289(a) and 45 CFR Part 46.

3           (3) "Eligible patient" means a person to whom all of the following apply:

4           (i) The person has been diagnosed by the person's physician and a consulting physician  
5 with a terminal illness or life-threatening disease;

6           (ii) The person has already tried or is not a candidate for eligible United States Food and  
7 Drug Administration (FDA) approved treatment options for the person's disease or condition;

8           (iii) The person is unable to participate in a clinical trial involving the eligible  
9 investigational drug, biologic or device;

10           (iv) The person has provided written informed consent for the use of the investigational  
11 drug, biological product, or device or, if the patient is a minor or lacks the mental capacity to  
12 provide informed consent, a parent or legal guardian has provided written informed consent on the  
13 patient's behalf;

14           (v) The physician providing access to an investigational drug, biologic, or device shall not  
15 be compensated directly by the manufacturer for providing access to this therapy.

16           (4) "Individualized investigational treatment" means drugs, biologics, or devices unique to  
17 and produced exclusively for use for an individual patient, based on their own genetic profile  
18 including, but not limited to, individualized gene therapy antisense oligonucleotides (ASO),  
19 individualized neoantigen vaccines, and any other individualized treatment.

20           (5) "Innovative medical device" means a device that has successfully completed phase one  
21 of a clinical trial, as defined in 21CFR 312.21(a), but has not been approved for general use by the  
22 FDA and remains under investigation in a clinical trial, and may be used for either therapeutic or  
23 diagnostic purposes by eligible patients.

24           (6) "Investigational drug, biologic, or device" means a drug, biologic, or device that has  
25 successfully completed phase one of a clinical trial as defined in 21CFR 312.21(a), but has not been  
26 approved for general use by the FDA and remains under investigation in a clinical trial.

27           (7) "Medically threatening disease or condition" means a terminal or life-threatening  
28 disease or conditions, or a disease or condition that is likely to result in significant morbidity or  
29 mortality, or that significantly impairs quality of life, as determined by the patient's physician.

30           (8) "Other protected access" means and includes:

31           (i) "Expanded access" whereby the treating physician requests access to an investigational  
32 drug, biologic, or device from the FDA which is subject to oversight from an Institutional Review  
33 Board; and

34           (ii) "Off-label use" means prescribing an FDA approved drug, biologic, or device for a use

1 not approved for that specific indication.

2 (9) "Physician" means an allopathic or osteopathic physician licensed pursuant to chapter  
3 37 of title 5, who is providing medical care, treatment or evaluation to the patient.

4 (10) "Remote signing" means the signing of any form, witnessed by a notary public or a  
5 licensed healthcare provider, providing written informed consent for a person diagnosed by a  
6 physician with a terminal or condition illness, or medically threatening disease or condition, to  
7 participate in a clinical trial or receive a drug, biologic, or device, by the patient or, if the patient is  
8 a minor or lacks the mental capacity to provide consent, by a parent or legal guardian on the patient's  
9 behalf.

10 (11) "Serious or potentially life-threatening disease or condition" means a disease or  
11 condition that is likely to result in significant morbidity, mortality, or permanent impairment of a  
12 vital organ function including, but not limited to:

13 (i) Cancer at stage three (3) or four (4), including aggressive or high-mortality cancers such  
14 as pancreatic cancer, glioblastoma, colorectal cancer, ovarian cancer, breast cancer, lung cancer,  
15 and triple-negative breast cancer;

16 (ii) Diseases or conditions that, without intervention, are likely to progress to a life-  
17 threatening state; and

18 (iii) Diseases or conditions that significantly impair quality of life or vital organ function,  
19 as determined by the patient's physician.

20 (12) "Telehealth prescreening" means any remote, real-time discussion intended, in part,  
21 to determine whether a person may be:

22 (i) Ineligible for or not selected to participate in a clinical trial; or

23 (ii) Ineligible to receive or not be offered a drug, biologic, or device.

24 (13) "Terminal illness" means a disease that, without life-sustaining procedures, shall result  
25 in death in the near future or a state of permanent unconsciousness from which recovery is unlikely.

26 **23-106-2. Immunity.**

27 Notwithstanding any provision of law to the contrary, a manufacturer of a drug, biologic,  
28 or device, a pharmacist, a healthcare facility, a healthcare provider, or a person or entity involved  
29 in the care of a patient using a drug, biologic, or device is immune from suit for any harm done to  
30 a patient resulting from the drug, biologic, or device if:

31 (1) The person has a terminal illness as determined by the person's physician and a  
32 consulting physician;

33 (2) The person's physician has determined that the person has no comparable or satisfactory  
34 United States Food and Drug Administration (FDA) approved treatment options available to treat

1 the disease or condition involved;

2 (3) The patient has provided written informed consent for the use of the drug, biologic, or  
3 device or, if the patient is a minor or lacks the mental capacity to provide informed consent, a parent  
4 or legal guardian has provided written informed consent on the patient's behalf and, if the patient  
5 is a legal adult, the consent is not contrary to the prior documented directions or directives of the  
6 patient;

7 (4) The manufacturer, pharmacist, facility, provider, or other person or entity has not  
8 engaged in willful misconduct or other bad faith conduct. For purpose of this subsection, "willful  
9 misconduct" means any conduct intended to hasten the death of the patient or conducted in bad  
10 faith or knowingly conducted as not in the best interest of this patient; and

11 (5) If the drug, biologic, or device consists of an individualized investigational treatment,  
12 it is administered by a healthcare provider in cooperation with an eligible facility.

13 **23-106-3. Private cause of action.**

14 (a) Nothing in this chapter shall be construed to create a private cause of action against any  
15 person or entity except as specified in subsection (b) of this section.

16 (b) Notwithstanding any provision of law to the contrary, any patient diagnosed by a  
17 physician with a terminal illness, and who has been treated, is being treated, or otherwise could be  
18 treated in this state with a drug, biologic, or device, and is affected by a violation of this chapter,  
19 or a healthcare facility or a healthcare provider involved in the treatment of the patient, shall be  
20 entitled to petition the superior court for injunctive relief and reasonable attorneys' fees against any  
21 regulatory or law enforcement authority that violates this chapter.

22 **23-106-4. Use of innovative medical devices for diagnostic purposes.**

23 (a) Notwithstanding any provision of law to the contrary, an eligible patient, as defined in  
24 § 23-106-1, may access and use an innovative medical device for diagnostic purposes, in addition  
25 to treatment; provided that:

26 (1) The physician providing access to the innovative medical device for diagnostic  
27 purposes deems the medical device useful for data collection and diagnostic purposes;

28 (2) The patient's physician has determined that the use of the device is necessary to  
29 diagnose, monitor, or characterize the patient's medically threatening disease or condition;

30 (3) The patient has provided written informed consent for the use of the device for  
31 diagnostic purposes, or, if the patient is a minor or lacks the mental capacity to provide informed  
32 consent, a parent or legal guardian has provided written informed consent on the patient's behalf;

33 (4) The physician providing access to the innovative medical device for diagnostic  
34 purposes shall not be compensated directly by the manufacturer for such access; and

1           (5) The use of the device is conducted in accordance with all applicable federal and state  
2 laws and regulations.

3           (b) The provisions of this chapter regarding liability, telehealth prescreening, and remote  
4 signing shall apply equally to the use of innovative medical devices for diagnostic purposes.

5           **23-106-5. Telehealth prescreening.**

6           (a) Notwithstanding any regulation or provision of law to the contrary, any healthcare  
7 provider, while physically located in the state, may conduct a telehealth prescreening with any  
8 patient, in any state or jurisdiction, who has been diagnosed by a physician with a terminal illness,  
9 a medically threatening disease or conditions or a serious or potentially life-threatening disease or  
10 condition.

11           (b) No regulatory or law enforcement agency or state subdivision shall take action against  
12 a healthcare facility, a healthcare provider, or a person or entity involved in the care of a patient for  
13 conducting a telehealth prescreening as defined in § 23-106-1 and pursuant to subsection (a) of this  
14 section.

15           (c) A healthcare facility, a healthcare provider, or a person or entity involved in the care of  
16 a patient shall be immune from suit to the extent that the suit is based upon a telehealth  
17 prescreening.

18           **23-106-6. Remote signing.**

19           (a) Notwithstanding any regulation or provision of law to the contrary, a manufacturer of  
20 a drug, biologic, or device, a pharmacist, a healthcare facility, a healthcare provider, or a person or  
21 entity involved in the care of a patient using a drug, biologic, or device may obtain consent to treat  
22 a patient using remote signing as defined in § 23-106-1; provided that, the manufacturer,  
23 pharmacist, facility, provider, or other person or entity has an office in the state and has conducted  
24 a telehealth prescreening pursuant to § 23-106-5.

25           (b) The remote signing shall amount to full and effective consent for treatment under all  
26 applicable laws and regulations.

27           (c) No regulatory or law enforcement agency or state subdivision shall take action against  
28 a healthcare facility, a healthcare provider, or a person or entity involved in the care of a patient for  
29 obtaining patient consent through remote signing, as defined in § 23-106-1, if the provider or  
30 facility has complied with subsection (a) of this section.

31           (d) A healthcare facility, a healthcare provider, or a person or entity involved in the care of  
32 a patient shall be immune from suit to the extent that the suit challenges the validity of a remote  
33 signing to effect lawful consent; provided that, the person or entity is complying in good faith with  
34 the terms of this chapter and has not engaged in willful misconduct.

1           **23-106-7. Rules and regulations.**

2           The director of the department of health shall promulgate rules and regulations to  
3 implement, enforce and carry out the purpose of this chapter.

4           SECTION 3. This act shall take effect on January 1, 2027.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- TERMINAL PATIENTS' RIGHT TO TRY ACT

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1           This act would establish the terminally ill patients' right to try act. The act would expand  
2 upon federal law by streamlining access to innovative treatments, allowing for telehealth and  
3 remote signing of documents, use of innovative medical devices for diagnostic purposes and  
4 providing immunity to healthcare providers.

5           This act would take effect on January 1, 2027.

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