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LC00643

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO HEALTH AND SAFETY

Introduced By: Representatives Ajello, Segal, Handy, Rice, and Walsh

Date Introduced: March 01, 2007

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 CHAPTER 82

4 THE RHODE ISLAND DEATH WITH DIGNITY ACT

5 **23-82-1. Definitions.** – The following words and phrases, whenever used in this chapter,
6 have the following meanings;

7 (1) "Adult" means an individual who is eighteen (18) years of age or older.

8 (2) "Attending physician" means the physician who has primary responsibility for the
9 care of the patient and treatment of the patient's terminal disease.

10 (3) "Capable" means that in the opinion of a court or in the opinion of the patient's
11 attending physician or consulting physician, psychiatrist or psychologist, a patient has the ability
12 to make and communicate health care decisions to health care providers, including
13 communication through persons familiar with the patient's manner of communicating if those
14 persons are available.

15 (4) "Consulting physician" means a physician who is qualified by specialty or experience
16 to make a professional diagnosis and prognosis regarding the patient's disease.

17 (5) "Counseling" means one or more consultations as necessary between a state licensed
18 psychiatrist or psychologist and a patient for the purpose of determining that the patient is capable
19 and not suffering from a psychiatric or psychological disorder or depression causing impaired

1 judgment.

2 (6) "Health care provider" means a person licensed, certified or otherwise authorized or
3 permitted by the law of this state to administer health care or dispense medication in the ordinary
4 course of business or practice of a profession, and includes a health care facility.

5 (7) "Informed decision" means a decision by a qualified patient, to request and obtain a
6 prescription to end his or her life in a human and dignified manner, that is based on an
7 appreciation of the relevant facts and after being fully informed by the attending physician of:

8 (a) His or her medical diagnosis;

9 (b) His or her prognosis;

10 (c) The potential risks associated with taking the medication to be prescribed;

11 (d) The probable result of taking the medication to be prescribed; and

12 (e) The feasible alternatives, including, but not limited to, comfort care, hospice care and
13 pain control.

14 (8) "Medically confirmed" means the medical opinion of the attending physician has been
15 confirmed by a consulting physician who has examined and patient and the patient's relevant
16 medical records.

17 (9) "Patient" means a person who is under the care of a physician.

18 (10) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine
19 by the office of state Medical Examiners for the state of Rhode Island.

20 (11) "Qualified patient" means a capable adult who is a resident of Rhode Island and has
21 satisfied the requirements of this chapter in order to obtain a prescription for medication to end
22 his or her life in a humane and dignified manners.

23 (12) "Terminal disease" means an incurable and irreversible disease that has been
24 medically confirmed and will, within reasonable medical judgment, produce death within six (6)
25 months.

26 **23-82-2. Written request for medication to end one's life in a humane and dignified**
27 **manner. – (a) Who may initiate a written request for medication:**

28 (1) An adult who is capable, is a resident of Rhode Island, and has been determined by
29 the attending physician and consulting physician to be suffering from a terminal disease, and who
30 has voluntarily expressed his or her wish to die, may make a written request for medication for
31 the purpose of ending his or her life in a humane and dignified manner in accordance with this
32 chapter.

33 (2) No person shall qualify under the provisions of this chapter solely because of age or
34 disability.

1 (b) Form of the written request. (1) A valid request for medication under this chapter
2 shall be in substantially the form described in section 23-82-20, signed and dated by the patient
3 and witnessed by at least two (2) individuals who, in the presence of the patient, attest that to the
4 best of their knowledge and belief the patient is capable, acting voluntarily, and is not being
5 coerced to sign the request.

6 (2) One of the witnesses shall be a person who is not:

7 (i) A relative of the patient by blood, marriage or adoption;

8 (ii) A person who at the time the request is signed would be entitled to any portion of the
9 estate of the qualified patient upon death under any will or by operation of law; or

10 (iii) An owner, operator or employee of a health care facility where the qualified patient
11 is receiving medical treatment or is a resident.

12 (3) The patient's attending physician at the time the request is signed shall not be a
13 witness.

14 (4) If the patient is a patient in a long-term care facility at the time the written request is
15 made, one of the witnesses shall be an individual designated by the facility.

16 **23-82-3. Attending physician responsibilities** – (a) The attending physician shall:

17 (1) Make the initial determination of whether a patient has a terminal disease, is capable,
18 and has made the request voluntarily;

19 (2) Request that the patient demonstrate Rhode Island residency pursuant to section 23-
20 82-12;

21 (3) To ensure that the patient is making an informed decision, inform the patient of:

22 (i) His or her medical diagnosis;

23 (ii) His or her prognosis;

24 (iii) The potential risks associated with taking the medication to be prescribed;

25 (iv) The probable result of taking the medication to be prescribed; and

26 (v) The feasible alternatives, including, but not limited to, comfort care, hospice care and
27 pain control;

28 (4) Refer the patient to a consulting physician for medical confirmation of the diagnosis,
29 and for a determination that the patient is capable and acting voluntarily;

30 (5) Refer the patient for counseling if appropriate pursuant to section 23-82-5;

31 (6) Recommend that the patient notify next of kin;

32 (7) Counsel the patient about the importance of having another person present when the
33 patient takes the medication prescribed pursuant to this chapter and of not taking the medication
34 in a public place;

1 (8) Inform the patient that he or she has an opportunity to rescind the request at any time
2 and in any manner, and offer the patient an opportunity to rescind at the end of the fifteen (15)
3 day waiting period pursuant section 23-82-8.

4 (9) Verify, immediately prior to writing the prescription for medication under this
5 chapter, that the patient is making an informed decision;

6 (10) Fulfill the medical record documentation requirements of section 23-82-11;

7 (11) Ensure that all appropriate steps are carried out in accordance with this chapter prior
8 to writing a prescription for medication to enable a qualified patient to end his or her life in a
9 humane and dignified manner; and

10 (12)(i) Dispense medications directly, including ancillary medications intended to
11 facilitate the desired effect to minimize the patient's discomfort, provided the attending physician
12 is registered as a dispensing physician with the office of state Medical Examiners, has a current
13 Drug Enforcement Administration certificate and complies with any applicable administrative
14 rule; or

15 (ii) With the patient's written consent;

16 (A) Contact a pharmacist and inform the pharmacist of the prescription; and

17 (B) Deliver the written prescription personally or by mail to the pharmacist, who will
18 dispense the medications to either the patient, the attending physician or an expressly identified
19 agent of the patient.

20 (b) Notwithstanding any other provision of law, the attending physician may sign the
21 patient's death certificate.

22 **23-82-4. Consulting physician confirmation.** – Before a patient is qualified under this
23 chapter, a consulting physician shall examine the patient and his or her relevant medical records
24 and confirm, in writing, the attending physician's diagnosis that the patient is suffering from a
25 terminal disease, and verify that the patient is capable, is acting voluntarily and has made an
26 informed decision.

27 **23-82-5. Counseling referral** – If in the opinion of the attending physician or the
28 consulting physician a patient may be suffering form a psychiatric or psychological disorder or
29 depression causing impaired judgment, either physician shall refer the patient for counseling. No
30 medication to end a patient's life in a humane and dignified manner shall be prescribed until the
31 person performing the counseling determines that the patient is not suffering from a psychiatric or
32 psychological disorder or depression causing impaired judgment.

33 **23-82-6. Informed decision.** – No person shall receive a prescription for medication to
34 end his or her life in a humane and dignified manner unless he or she has made an informed

1 decision as defined in subsection 23-82-1(7). Immediately prior to writing a prescription for
2 medication pursuant to this chapter, the attending physician shall verify that the patient is making
3 an informed decision.

4 **23-82-7. Family notification.** – The attending physician shall recommend that the patient
5 notify the next of kin of his or her request for medication pursuant to this chapter. A patient who
6 declines or is unable to notify next of kin shall not have his or her request denied for that reason.

7 **23-82-8. Written and oral requests.** – In order to receive a prescription for medication
8 to end his or her life in a humane and dignified manner, a qualified patient shall have made an
9 oral request and a written request, and reiterate the oral request to his or her attending physician
10 no less than fifteen (15) days after making the initial oral request. At the time the qualified
11 patient makes his or her second oral request, the attending physician shall offer the patient an
12 opportunity to rescind the request.

13 **23-82-9. Right to rescind request.** – A patient may rescind his or her request at any time
14 and in any manner without regard to his or her mental state. No prescription for medication
15 pursuant to this chapter may be written without the attending physician offering the qualified
16 patient an opportunity to rescind the request.

17 **23-82-10. Waiting periods.** – No less than fifteen (15) days shall elapse between the
18 patient's initial oral request and the writing of a prescription pursuant to this chapter. No less than
19 forty-eight (48) hours shall elapse between the patient's written request and the writing of a
20 prescription pursuant to this chapter.

21 **23-82-11. Medical record documentation requirements.** – The following shall be
22 documented or filed in the patient's medical record:

23 (a) All oral requests by a patient for medication to end his or her life in a humane and
24 dignified manner;

25 (b) All written requests by a patient for medication to end his or her life in a humane and
26 dignified manner;

27 (c) The attending physician's diagnosis and prognosis, determination that the patient is
28 capable, acting voluntarily and has made an informed decision;

29 (d) The consulting physician's diagnosis and prognosis, and verification that the patient is
30 capable, acting voluntarily and has made an informed decision;

31 (e) A report of the outcome and determinations made during counseling, if performed;

32 (f) The attending physician's offer to the patient to rescind his or her request at the time
33 of the patient's second oral request pursuant to section 23-82-8; and

34 (g) A note by the attending physician indicating that all requirements under this chapter

1 have been met and indicating the steps taken to carry out the request, including a notation of the
2 medication prescribed.

3 **23-82-12. Residency requirement.** – Only requests made by Rhode Island residents
4 under this chapter shall be granted. Factors demonstrating Rhode Island residency include, but
5 are not limited to:

6 (a) Possession of Rhode Island driver's license;

7 (b) Registration to vote in Rhode Island;

8 (c) Evidence that the person owns or leases property in Rhode Island; or

9 (d) Filing of an Rhode Island tax return for the most recent tax year.

10 **23-82-13. Reporting requirements.** – (a)(1) The department of human services shall
11 annually review a sample of records maintained pursuant to this chapter.

12 (2) The department shall require any healthcare provider upon dispensing medication
13 pursuant to this chapter to file a copy of the dispensing record with the department.

14 (b) The department shall make rules to facilitate the collection of information regarding
15 compliance with this chapter. Except as otherwise required by law, the information collected
16 shall not be a public record and may not be made available for inspection by the public.

17 (c) The department shall generate and make available to the public an annual statistical
18 report of information collected under subsection (b) of this section.

19 **23-82-14. Effect on construction of wills, contracts and statutes.** – (a) No provision in
20 a contract, will or other agreement, whether written or oral, to the extent the provision would
21 affect whether a person may make or rescind a request for medication to end his or her life in a
22 humane and dignified manner, shall be valid.

23 (b) No obligation owing under any currently existing contract shall be conditioned or
24 affected by the making or rescinding of a request, by a person, for medication to end his or her
25 life in a humane and dignified manner.

26 **23-82-15. Insurance or annuity policies.** – The sale, procurement, or issuance of any
27 life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be
28 conditioned upon or affected by the making or rescinding of a request, by a person, for
29 medication to end his or her life in a humane and dignified manner. Neither shall a qualified
30 patient's act of ingesting medication to end his or her life in a humane and dignified manner have
31 an effect upon a life, health, or accident insurance or annuity policy.

32 **23-82-16. Construction of act.** – Nothing in this chapter shall be construed to authorize a
33 physician or any other person to end a patient's life by lethal injection, mercy killing or active
34 ethanasia. Actions taken in accordance with this chapter shall not, for any purpose, constitute

1 suicide, assisted suicide, mercy killing or homicide, under the law.

2 **23-82-17. Immunities; basis for prohibiting health care provider from participation;**
3 **notification; permissible sanctions.** – Except as provided in section 23-82-18.

4 (a) No person shall be subject to civil or criminal liability or professional disciplinary
5 action for participating in good faith compliance with this chapter. This includes being present
6 when a qualified patient takes the prescribed medication to end his or her life in a humane and
7 dignified manner.

8 (b) No professional organization or association, or health care provider, may subject a
9 person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership or
10 other penalty for participating or refusing to participate in good faith compliance with this
11 chapter.

12 (c) No request by a patient for or provision by an attending physician of medication in
13 good faith compliance with the provisions of this chapter shall constitute neglect for any purpose
14 of law or provide the sole basis for the appointment of a guardian or conservator.

15 (d) No health care provider shall be under any duty, whether by contract, by statute or by
16 any other legal requirement to participate in the provision to a qualified patient of medication to
17 end his or her life in a humane and dignified manner. If a health care provider is unable or
18 unwilling to carry out a patient's request under this chapter, and the patient transfers his or her
19 care to a new health care provider, the prior healthcare provider shall transfer, upon request, a
20 copy of the patient's relevant medical records to the new health care provider.

21 (e)(1) Notwithstanding any other provision of law, a health care provider may prohibit
22 another health care provider from participating in that which is provided in this chapter on the
23 premises of the prohibiting provider if the prohibiting provider has notified the health care
24 provider of the prohibiting provider's policy regarding participating in that, which is provided for
25 in this chapter. Nothing in this paragraph prevents a health care provider from providing health
26 care services to a patient that do not constitute participation in that, which is provided for in this
27 chapter.

28 (2) Notwithstanding the provisions of subsections (a) to (d) of this section, a health care
29 provider may subject another health care provider to the sanctions stated in this paragraph if the
30 sanctioning health care provider has notified the sanctioned provider prior to participation in that
31 which is provided for in this chapter that it prohibits participation that which is provided for in
32 this chapter.

33 (i) Loss of privileges, loss of membership or other sanction provided pursuant to the
34 medical staff bylaws, policies and procedures of the sanctioning health care provider if the

1 sanctioned provider is a member of the sanctioning provider's medical staff and participates in
2 that which is provided for in this chapter while on the health care facility premises, of the
3 sanctioning health care provider, but not including the private medical office of a physician or
4 other provider;

5 (ii) Termination of lease or other property contract or other nonmonetary remedies
6 provided by lease contract, not including loss or restriction of medical staff privileges or
7 exclusion from a provider panel, if the sanctioned provider participates in that which is provided
8 for in this chapter while on the premises of the sanctioning health care provider or on property
9 that is owned by or under the direct control of the sanctioning health care provider; or

10 (iii) Termination of contract or other nonmonetary remedies provided by contract if the
11 sanctioned provider participates in that which is provided for in this chapter while acting in the
12 course and scope of the sanctioned provider's capacity as an employee or independent contractor
13 of the sanctioning health care provider. Nothing in this subparagraph shall be construed to
14 prevent:

15 (A) A health care provider from participating in that which is provided in this chapter
16 while acting outside the course an scope of the provider's capacity as an employee or independent
17 contractor; or

18 (B) A patient from contracting with his or her attending physician and consulting
19 physician to act outside the course and scope of the provider's capacity as an employee or
20 independent contractor of the sanctioning health care provider.

21 (3) A health care provider that imposes sanctions pursuant to paragraph (b) of this
22 subsection must follow all due process and other procedures the sanctioning health care provider
23 may have that are related to the imposition of sanctions on another health care provider.

24 (4) For purposes of this subsection:

25 (i) "Notify" means a separate statement in writing to the health care provider specifically
26 informing the health care provider prior to the provider's participation in this chapter of the
27 sanctioning health car provider's policy about participating in activities covered by this chapter.

28 (ii) "Participate in this chapter" means to perform the duties of an attending physician
29 pursuant to section 23-82-3, the consulting physician function pursuant to section 23-82-4 or the
30 counseling function pursuant to section 23-82-5. Participate in this chapter does not include:

31 (A) Making an initial determination that a patient has a terminal disease and informing
32 the patient of the medical prognosis;

33 (B) Providing information about the Rhode Island Death with Dignity Act to a patient
34 upon the request of the patient;

1 (C) Providing a patient, upon the request of the patient, with referral to another physician;
2 or

3 (D) A patient contracting with his or her attending physician and consulting physician to
4 act outside of the course and scope of the provider's capacity as an employee or independent
5 contractor of the sanctioning health care provider.

6 (E) No provision of this chapter shall be construed to allow a lower standard of care for
7 patients in the community where the patient is treated or a similar community.

8 **23-82-18. Liabilities.** – (a) A person who without authorization of the patient willfully
9 alters or forges a request for medication or conceals or destroys a rescission of that request with
10 the intent or effect of causing the patient's death shall be guilty of a felony.

11 (b) A person who coerces or exerts undue influence on a patient to request medication for
12 the purpose of ending the patient's life, or to destroy a rescission of such a request, shall be guilty
13 of a felony.

14 (c) Nothing in this chapter limits further liability for civil damages resulting from other
15 negligent conduct or intentional misconduct by any person.

16 (d) The penalties pursuant to this chapter do not preclude criminal penalties applicable
17 under other law for conduct which is inconsistent with the provision of this chapter.

18 **23-82-19. Claims by governmental entity for costs incurred.** – Any governmental
19 entity that incurs costs resulting from a person terminating his or her life pursuant to the
20 provisions of this chapter in a public place shall have a claim against the estate of the person to
21 recover such costs and reasonable attorney fees related to enforcing the claim.

22 **23-82-20. Form of the request.** – A request for a medication as authorized by this
23 chapter shall be in substantially the following form:

24 REQUEST FOR MEDICATION
25 TO END MY LIFE IN A HUMANE
26 AND DIGNIFIED MANNER

27 I, _____, am an adult of sound mind.
28 I am suffering from _____, which my attending physician has determined is a
29 terminal disease and which has been medically confirmed by a consulting physician.

30 I have been fully informed of my diagnosis, prognosis, the nature of medication to be
31 prescribed and potential associated risks, the expected result, and the feasible alternatives,
32 including comfort care, hospice care and pain control.

33 I request that my attending physician prescribe medication that will end my life in a
34 humane and dignified manner.

1 punishable up to five (5) years imprisonment and/or a fine up to five thousand dollars (\$5,000)
2 for a person without authorization of the principal to willfully alter, forge, conceal or destroy an
3 instrument, the reinstatement or revocation of an instrument, or any other evidence or document
4 reflecting the principal's desires and interests with the intent or effect of affecting a health care
5 decision.

6 **23-82-22. Severability.** – If any provision of this chapter or the application thereof to any
7 person or circumstances is held invalid, such invalidity shall not affect other provisions or
8 applications of the chapter, which can be given effect without the invalid provision or application,
9 and to the end the provisions of this chapter are declared to be severable.

10 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

- 1 This act would create the "Rhode Island Death with Dignity Act."
- 2 This act would take effect upon passage.

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