AN ACT

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

Introduced By: Senators Goldin, Ottiano, Miller, Lynch, and Jabour

Date Introduced: March 03, 2015

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 4.13

LILA MANFIELD SAPINSLEY COMPASSIONATE CARE ACT

23-4.13-1. Short title. -- This chapter shall be known and may be cited as the “Lila Manfield Sapinsley Compassionate Care Act”.

23-4.13-2. Definitions. -- As used in this chapter:

(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, including a personal physical examination.

(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" means a person, partnership, corporation, facility, or institution, licensed or certified or authorized by law to administer health care or dispense medication in the ordinary course of business or practice of a 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 he or she is a relative of the patient by blood, civil marriage, civil union, or adoption;

(iii) A person who knows that he or she 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; or

(iv) An owner, operator, or employee of a health care facility, nursing home, or residential care facility where the patient is receiving medical treatment or is a resident.

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

(8) "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.

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

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

23-4.13-3. 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 hastening the patient’s 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 to the physician in the physician's physical presence to be prescribed medication to be self-administered for the purpose of hastening the patient's death.

2. No fewer than fifteen (15) days after the first oral request, the patient made a second oral request to the physician in the physician's physical presence to be prescribed medication to be self-administered for the purpose of hastening the patient's 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 hastening the patient’s death that was signed by the patient in the presence of two (2) or more subscribing witnesses at least one of whom is not an interested person as defined in § 23-4.13-2(6), 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) Was suffering a terminal condition, based on the physician's physical examination of the patient and the physician's review of the patient’s relevant medical records;

(ii) Was capable;

(iii) Was making an informed decision;

(iv) Had made a voluntary request for medication to hasten his or her 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 than the time predicted;

(iii) The range of treatment options appropriate for 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, including potential risks associated with taking the medication to be prescribed; and

(vi) The probable result of 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) If applicable, the physician consulted with the patient's primary care physician with the patient's consent.

(10) 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.
(11) 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.

(12) 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 for medication to hasten his or her death;

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

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

(13) The physician either:

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

(ii) With the patient's written consent:

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

(B) Delivered the written prescription personally or by mail or electronically to the pharmacist, who dispensed the medication to the patient, the physician, or an expressly identified agent of the patient.

(14) 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 for medication to hasten his or her death;

(ii) All written requests by the patient for medication to hasten his or her death;

(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 for medication to hasten his or her death or that the physician informed the patient of all feasible end-of-life services;

(vi) The physician's verification that the patient either did not have impaired judgment or that the physician referred the patient for an evaluation and the person conducting the evaluation has determined that the patient did not have impaired judgment;

(vii) A report of the outcome and determinations made during any evaluation which the patient may have received;
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.

(15) 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.

23-4.13-4. No duty to aid. -- A patient with a terminal condition who self-administers a
lethal dose of medication 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 a lethal dose of medication
pursuant to this chapter, or for not acting to prevent the patient from self-administering a lethal
dose of medication pursuant to this chapter, or for not rendering aid to a patient who has self-
administered medication pursuant to this chapter.

23-4.13-5. Limitations on actions. -- (a) A physician, nurse, pharmacist, or other person
shall not be under any duty, by law or contract, to participate in the provision of a lethal dose of
medication to a patient.

(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.

23-4.13-6. Healthcare facility exception. -- A healthcare facility may prohibit a
physician from writing a prescription for a dose of medication intended to be lethal for a patient
who is a resident in its facility and intends to use the medication on the facility's premises,
provided the facility has notified the physician in writing of its policy with regard to the said
prescriptions. Notwithstanding the provisions of § 23-4.13-5(b), any physician who violates a
policy established by a healthcare facility under this section may be subject to sanctions otherwise
allowable under law or contract.

23-4.13-7. Insurance policies; prohibitions. -- (a) A person and his or her 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 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.

23-4.13-8. 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.

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 that may be lethal to the patient; and

(4) The physician advises the patient of all foreseeable risks related to the prescription;
and

(5) The patient makes an independent decision to self-administer a lethal dose of the
medication.

23-4.13-10. Immunity for physicians. -- A physician 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.

23-4.13-11. Safe disposal of unused medications. -- The department of health shall
adopt rules providing for the safe disposal of unused medications prescribed under this chapter.

23-4.13-12. 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
SECTION 2. This act shall take effect upon passage.
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 create the Lila Manfield Sapinsley Compassionate Care Act, to provide a legal mechanism whereby a terminally ill patient may choose to end his or her life using drugs prescribed by a physician.

This act would take effect upon passage.