

2017 -- H 5468

=====
LC000555
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

—————
A N A C T

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

Introduced By: Representatives Ajello, Regunberg, Tanzi, Donovan, and Carson

Date Introduced: February 15, 2017

Referred To: House Health, Education & Welfare

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 4.13

4 LILA MANFIELD SAPINSLEY COMPASSIONATE CARE ACT

5 **23-4.13-1. Short title.**

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

8 **23-4.13-2. Definitions.**

9 As used in this chapter:

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

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

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

17 (4) "Health care provider" means a person, partnership, corporation, facility, or
18 institution, licensed or certified or authorized by law to administer health care or dispense

1 medication in the ordinary course of business or practice of a profession.

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

4 (6) "Interested person" means:

5 (i) The patient's physician;

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

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

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

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

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

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

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

20 **23-4.13-3. Requirements for prescription and documentation - Immunity.**

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

25 (1) The patient made an oral request to the physician in the physician's physical presence
26 to be prescribed medication to be self-administered for the purpose of hastening the patient's
27 death.

28 (2) No fewer than fifteen (15) days after the first oral request, the patient made a second
29 oral request to the physician in the physician's physical presence to be prescribed medication to
30 be self-administered for the purpose of hastening the patient's death.

31 (3) At the time of the second oral request, the physician offered the patient an opportunity
32 to rescind the request.

33 (4) The patient made a written request to be prescribed medication to be self-
34 administered for the purpose of hastening the patient's death that was signed by the patient in the

1 presence of two (2) or more subscribing witnesses at least one of whom is not an interested
2 person as defined in §23-4.13-2, who were at least eighteen (18) years of age, and who subscribed
3 and attested that the patient appeared to understand the nature of the document and to be free
4 from duress or undue influence at the time the request was signed.

5 (5) The physician determined that the patient:

6 (i) Was suffering a terminal condition, based on the physician's physical examination of
7 the patient and the physician's review of the patient's relevant medical records;

8 (ii) Was capable;

9 (iii) Was making an informed decision;

10 (iv) Had made a voluntary request for medication to hasten their death; and

11 (v) Was a Rhode Island resident.

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

14 (i) The patient's medical diagnosis;

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

19 (iii) The range of treatment options appropriate for the patient and the patient's diagnosis;

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

22 (v) The range of possible results, including potential risks associated with taking the
23 medication to be prescribed; and

24 (vi) The probable result of taking the medication to be prescribed.

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

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

32 (9) If applicable, the physician consulted with the patient's primary care physician with
33 the patient's consent.

34 (10) The physician informed the patient that the patient may rescind the request at any

1 time and in any manner and offered the patient an opportunity to rescind after the patient's second
2 oral request.

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

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

8 (i) The patient's written request for medication to hasten their death;

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

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

11 (13) The physician either:

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

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

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

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

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

21 (i) The date, time and detailed description of all oral requests of the patient for
22 medication to hasten their death;

23 (ii) All written requests by the patient for medication to hasten their death;

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

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

28 (v) The physician's attestation that the patient was enrolled in hospice care at the time of
29 the patient's oral and written requests for medication to hasten their death or that the physician
30 informed the patient of all feasible end-of-life services;

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

34 (vii) A report of the outcome and determinations made during any evaluation which the

1 patient may have received:

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

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

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

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

11 **23-4.13-4. No duty to aid.**

12 A patient with a terminal condition who self-administers a lethal dose of medication shall
13 not be considered to be a person exposed to grave physical harm under §11-56-1, and no person
14 shall be subject to civil or criminal liability solely for being present when a patient with a
15 terminal condition self-administers a lethal dose of medication pursuant to this chapter, or for not
16 acting to prevent the patient from self-administering a lethal dose of medication pursuant to this
17 chapter, or for not rendering aid to a patient who has self-administered medication pursuant to
18 this chapter.

19 **23-4.13-5. Limitations on actions.**

20 (a) A physician, nurse, pharmacist, or other person shall not be under any duty, by law or
21 contract, to participate in the provision of a lethal dose of medication to a patient.

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

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

29 **23-4.13-6. Health care facility exception.**

30 A health care facility may prohibit a physician from writing a prescription for a dose of
31 medication intended to be lethal for a patient who is a resident in its facility and intends to use the
32 medication on the facility's premises, provided the facility has notified the physician in writing of
33 its policy with regard to the said prescriptions. Notwithstanding the provisions of §23-4.13-5(b),
34 any physician who violates a policy established by a health care facility under this section may be

1 subject to sanctions otherwise allowable under law or contract.

2 **23-4.13-7. Insurance policies; prohibitions.**

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

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

8 **23-4.13-8. No effect on palliative sedation.**

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

11 **23-4.13-9. Protection of patient choice at end-of-life.**

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

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

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

18 (3) The physician prescribes a dose of medication that may be lethal to the patient; and

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

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

23 **23-4.13-10. Immunity for physicians.**

24 A physician shall be immune from any civil or criminal liability or professional
25 disciplinary action for actions performed in good faith compliance with the provisions of this
26 chapter.

27 **23-4.13-11. Safe disposal of unused medications.**

28 The department of health shall adopt rules providing for the safe disposal of unused
29 medications prescribed under this chapter.

30 **23-4.13-12. Statutory construction.**

31 Nothing in this chapter shall be construed to authorize a physician or any other person to
32 end a patient's life by lethal injection, mercy killing, or active euthanasia. Action taken in
33 accordance with this chapter shall not be construed for any purpose to constitute suicide, assisted
34 suicide, mercy killing, or homicide under the law. This section shall not be construed to conflict

1 [with section 1553 of the Patient Protection and Affordable Care Act, Pub.L. No. 111-148, as](#)
2 [amended by the Health Care and Education Reconciliation Act of 2010, Pub.L. No. 111-152.](#)

3 SECTION 2. This act shall take effect upon passage.

=====
LC000555
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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

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

4 This act would take effect upon passage.

=====
LC000555
=====