

HB 1903 -- END OF LIFE CARE

SPONSOR: Mackey

This bill establishes the "Marilyn Teitelbaum Death with Dignity Act" which adds provisions relating to patient-direct care at the end of life.

A patient has the right to information regarding all treatment options reasonably available for the patient's care, including, but not limited to, information in response to specific questions about the foreseeable risks and benefits of certain medications, without a physician withholding requested information from the patient, and regardless of the purpose of the questions or the nature of the information.

A competent adult resident of this state who has been determined by an attending physician and a consulting physician to be suffering from a terminal disease, and who has voluntarily expressed his or her wish to die, may make a written request for medication to self-administer, in accordance with the provisions of the bill.

The bill specifies what constitutes a valid request for this type of medication, including witness requirements and conditions for those witnesses, and that the attending physician of the patient at the time of the written request shall not be a witness.

This bill additionally specifies the requirements of the attending physician as it pertains to the initial determination of a patient's terminal illness; the state residency requirement; the informed decision-making of the patient, including providing information about risks, prognoses, and possible alternatives; referrals, either to a consulting physician or a counselor; and fulfillment of the request, medical record documentation, and delivery of the prescription.

If, in the opinion either of the attending physician or consulting physician, a patient may be suffering from a psychological or psychiatric disorder, or depression causing impaired judgment, the physician shall refer the patient to counseling. Medication for the patient to self-administer for the purposes of ending his or her life shall not be administered, prescribed, or dispensed until the counselor is able to determine the patient is not suffering from a condition that so impairs judgment as to prevent the informed decision of the patient.

The bill specifies that a patient who declines or is unable to notify his or her next of kin shall not be denied medication for that reason.

A patient may revoke his or her request at any time, in any manner, and without regard to his or her mental state. At least 15 days must elapse between the initial oral request and the date that the written request is signed by the patient. At least 48 hours must elapse between the date the written request is signed by the patient and the writing of a prescription.

The bill also specifies the required materials to be documented or filed within the patient's medical record, as well as what factors may be offered in determining a person's residence to fulfill the requirement.

A person who has custody of or control over any unused medications prescribed in accordance with the provisions of the bill shall personally deliver the unused medications to the nearest facility that is qualified to dispose of controlled substances. If such a delivery is not practical, the person is required to dispose of the unused medications by any lawful means.

The Department of Health and Senior Services is tasked with:

- (1) Requiring any health care provider, upon writing a prescription or dispensing medication under the provisions of this bill, to file a copy of the record, as well as any other required documentation;
- (2) Promulgating rules to facilitate the collection of information regarding compliance with the provisions of the bill, as well as general rules for the administration of the provisions of the bill; and
- (3) Generating an annual statistical report, made available to the public, of information collected under the provisions of this bill and submitting a copy of that report to standing committees in the House of Representatives and the Senate having jurisdiction over health matters.

The sale, procurement, or issuance of any life, health, or accident insurance or annuity policy, or the rate charged for any life, health, or accident insurance or annuity policy, shall not be conditioned upon or affected by the making or revoking of a request by a qualified patient. A qualified patient shall not be denied benefits on the basis of his or her self-administration of medication in accordance with the provisions of the bill.

Nothing in this bill authorizes a physician, or any other person, to end a patient's life by lethal injection, mercy killing, or active euthanasia. Actions taken in accordance with the provisions

of this bill do not, for any purpose, constitute "suicide", "assisted suicide", "mercy killing", or "homicide" under the law. A covered individual, as defined in the bill, who is present during, has knowledge of, performs, or engages in any of the activities described in this bill shall not be subject to any civil or criminal liability, professional discipline, or other penalty of any nature so long as the person is acting in good faith and is not guilty of willful misconduct or gross negligence.

Nothing in this bill requires a health care provider to provide medication to a qualified patient in order to end his or her life. If a health care provider is unable or unwilling to carry out the request, the health care provider shall transfer any relevant medical records for the patient to a new health care provider upon the patient's request.

The bill also includes provisions governing the basis for prohibiting persons or entities from participating in activities under this bill. A health care provider may prohibit its employees, independent contractors, or other persons or entities, including other health care providers, from participating in the activities under this bill. If a health care provider does so, the provider must first give notice of the policy to those employees, independent contractors, or other persons or entities.

Any governmental entity that incurs costs resulting from a person ending his or her life, in accordance with the provisions of this bill, in a public place, has a claim against the estate of the person to recover costs and reasonable attorney's fees related to enforcing the claim.