
SENATE BILL 6843

State of Washington

59th Legislature

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By Senators Thibaudeau, Pridemore, Fairley, Jacobsen and Kohl-Welles

Read first time 01/26/2006. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the Washington death with dignity act; amending
2 RCW 42.56.360; adding a new chapter to Title 70 RCW; repealing RCW
3 70.122.100; prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

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

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

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

18 (4) "Consulting physician" means a physician who is qualified by

1 specialty or experience to make a professional diagnosis and prognosis
2 regarding the patient's disease.

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

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

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

16 (a) His or her medical diagnosis;

17 (b) His or her prognosis;

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

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

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

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

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

28 (10) "Physician" means a doctor of medicine or osteopathy licensed
29 to practice medicine in the state of Washington.

30 (11) "Qualified patient" means a capable adult who is a resident of
31 Washington state and has satisfied the requirements of this chapter in
32 order to obtain a prescription for medication to end his or her life in
33 a humane and dignified manner.

34 (12) "Terminal disease" means an incurable and irreversible disease
35 that has been medically confirmed and will, within reasonable medical
36 judgment, produce death within six months.

1 NEW SECTION. **Sec. 2.** (1) An adult who is capable, is a resident
2 of Washington state, and has been determined by the attending physician
3 and consulting physician to be suffering from a terminal disease, and
4 who has voluntarily expressed his or her wish to die, may make a
5 written request for medication to end his or her life in a humane and
6 dignified manner in accordance with this chapter.

7 (2) A person does not qualify under this chapter solely because of
8 age or disability.

9 NEW SECTION. **Sec. 3.** (1) A valid request for medication under
10 this chapter must be in substantially the form described in section 21
11 of this act, signed and dated by the patient and witnessed by at least
12 two individuals who, in the presence of the patient, attest that to the
13 best of their knowledge and belief the patient is capable, acting
14 voluntarily, and is not being coerced to sign the request.

15 (2) One of the witnesses must be a person who is not:

16 (a) A relative of the patient by blood, marriage, or adoption;

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

20 (c) An owner, operator, or employee of a health care facility where
21 the qualified patient is receiving medical treatment or is a resident.

22 (3) The patient's attending physician at the time the request is
23 signed may not be a witness.

24 (4) If the patient is a patient in a long-term care facility at the
25 time the written request is made, one of the witnesses must be an
26 individual designated by the facility and having the qualifications
27 specified by the department of health by rule.

28 NEW SECTION. **Sec. 4.** (1) The attending physician must:

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

31 (b) Request that the patient demonstrate Washington residency under
32 section 13 of this act;

33 (c) To ensure that the patient is making an informed decision,
34 inform the patient of:

35 (i) His or her medical diagnosis;

36 (ii) His or her prognosis;

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

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

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

7 (d) Refer the patient to a consulting physician for medical
8 confirmation of the diagnosis, and for a determination that the patient
9 is capable and acting voluntarily;

10 (e) Refer the patient for counseling if appropriate under section
11 6 of this act;

12 (f) Recommend that the patient notify next of kin;

13 (g) Counsel the patient about the importance of having another
14 person present when the patient takes the medication prescribed under
15 this chapter and of not taking the medication in a public place;

16 (h) Inform the patient that he or she has an opportunity to rescind
17 the request at any time and in any manner, and offer the patient an
18 opportunity to rescind at the end of the fifteen-day waiting period
19 under section 9 of this act;

20 (i) Verify, immediately before writing the prescription for
21 medication under this chapter, that the patient is making an informed
22 decision;

23 (j) Fulfill the medical record documentation requirements of
24 section 12 of this act;

25 (k) Ensure that all appropriate steps are carried out in accordance
26 with this chapter before writing a prescription for medication to
27 enable a qualified patient to end his or her life in a humane and
28 dignified manner; and

29 (l)(i) Dispense medications directly, including ancillary
30 medications intended to facilitate the desired effect to minimize the
31 patient's discomfort, if the attending physician is authorized under
32 statute and rule to dispense and has a current drug enforcement
33 administration certificate; or

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

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

37 (B) Deliver the written prescription personally or by mail to the

1 pharmacist, who will dispense the medications to either the patient,
2 the attending physician, or an expressly identified agent of the
3 patient.

4 (2) The attending physician may sign the patient's death
5 certificate.

6 NEW SECTION. **Sec. 5.** Before a patient is qualified under this
7 chapter, a consulting physician must examine the patient and his or her
8 relevant medical records and confirm, in writing, the attending
9 physician's diagnosis that the patient is suffering from a terminal
10 disease, and verify that the patient is capable, is acting voluntarily,
11 and has made an informed decision.

12 NEW SECTION. **Sec. 6.** If in the opinion of the attending physician
13 or the consulting physician a patient may be suffering from a
14 psychiatric or psychological disorder or depression causing impaired
15 judgment, either physician must refer the patient for counseling.
16 Medication to end a patient's life in a humane and dignified manner may
17 not be prescribed until the person performing the counseling determines
18 that the patient is not suffering from a psychiatric or psychological
19 disorder or depression causing impaired judgment.

20 NEW SECTION. **Sec. 7.** A person may not receive a prescription for
21 medication to end his or her life in a humane and dignified manner
22 unless he or she has made an informed decision. Immediately before
23 writing a prescription for medication under this chapter, the attending
24 physician must verify that the patient is making an informed decision.

25 NEW SECTION. **Sec. 8.** The attending physician shall recommend that
26 the patient notify the next of kin of his or her request for medication
27 under this chapter. A patient who declines or is unable to notify next
28 of kin may not have his or her request denied for that reason.

29 NEW SECTION. **Sec. 9.** To receive a prescription for medication to
30 end his or her life in a humane and dignified manner, a qualified
31 patient must have made an oral request and a written request, and
32 reiterate the oral request to his or her attending physician at least

1 fifteen days after making the initial oral request. At the time the
2 qualified patient makes his or her second oral request, the attending
3 physician must offer the patient an opportunity to rescind the request.

4 NEW SECTION. **Sec. 10.** A patient may rescind his or her request at
5 any time and in any manner without regard to his or her mental state.
6 No prescription for medication under this chapter may be written
7 without the attending physician offering the qualified patient an
8 opportunity to rescind the request.

9 NEW SECTION. **Sec. 11.** At least fifteen days must elapse between
10 the patient's initial oral request and the writing of a prescription
11 under this chapter. At least forty-eight hours must elapse between the
12 patient's written request and the writing of a prescription under this
13 chapter.

14 NEW SECTION. **Sec. 12.** The following must be documented or filed
15 in the patient's medical record:

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

18 (2) All written requests by a patient for medication to end his or
19 her life in a humane and dignified manner;

20 (3) The attending physician's diagnosis and prognosis, and
21 determination that the patient is capable, is acting voluntarily, and
22 has made an informed decision;

23 (4) The consulting physician's diagnosis and prognosis, and
24 verification that the patient is capable, is acting voluntarily, and
25 has made an informed decision;

26 (5) A report of the outcome and determinations made during
27 counseling, if performed;

28 (6) The attending physician's offer to the patient to rescind his
29 or her request at the time of the patient's second oral request under
30 section 9 of this act; and

31 (7) A note by the attending physician indicating that all
32 requirements under this chapter have been met and indicating the steps
33 taken to carry out the request, including a notation of the medication
34 prescribed.

1 NEW SECTION. **Sec. 13.** Only requests made by Washington state
2 residents under this chapter may be granted. Factors demonstrating
3 Washington state residency include but are not limited to:

4 (1) Possession of a Washington state driver's license;

5 (2) Registration to vote in Washington state; or

6 (3) Evidence that the person owns or leases property in Washington
7 state.

8 NEW SECTION. **Sec. 14.** (1)(a) The department of health must
9 annually review a sample of records maintained under this chapter.

10 (b) The department of health must require any health care provider
11 upon dispensing medication under this chapter to file a copy of the
12 dispensing record with the department.

13 (2) The department of health must adopt rules to facilitate the
14 collection of information regarding compliance with this chapter.
15 Except as otherwise required by law, the information collected is not
16 a public record and may not be made available for inspection by the
17 public.

18 (3) The department of health must generate and make available to
19 the public an annual statistical report of information collected under
20 subsection (2) of this section.

21 NEW SECTION. **Sec. 15.** (1) Any provision in a contract, will, or
22 other agreement, whether written or oral, to the extent the provision
23 would affect whether a person may make or rescind a request for
24 medication to end his or her life in a humane and dignified manner, is
25 not valid.

26 (2) Any obligation owing under any currently existing contract may
27 not be conditioned or affected by the making or rescinding of a
28 request, by a person, for medication to end his or her life in a humane
29 and dignified manner.

30 NEW SECTION. **Sec. 16.** The sale, procurement, or issuance of any
31 life, health, or accident insurance or annuity policy or the rate
32 charged for any policy may not be conditioned upon or affected by the
33 making or rescinding of a request, by a person, for medication to end
34 his or her life in a humane and dignified manner. A qualified

1 patient's act of ingesting medication to end his or her life in a
2 humane and dignified manner may not have an effect upon a life, health,
3 or accident insurance or annuity policy.

4 NEW SECTION. **Sec. 17.** Nothing in this chapter authorizes a
5 physician or any other person to end a patient's life by lethal
6 injection, mercy killing, or active euthanasia. Actions taken in
7 accordance with this chapter do not, for any purpose, constitute
8 suicide, assisted suicide, mercy killing, or homicide, under the law.

9 NEW SECTION. **Sec. 18.** (1) Except as provided in section 19 of
10 this act and subsection (2) of this section:

11 (a) A person may not be subject to civil or criminal liability or
12 professional disciplinary action for participating in good faith
13 compliance with this chapter. This includes being present when a
14 qualified patient takes the prescribed medication to end his or her
15 life in a humane and dignified manner;

16 (b) A professional organization or association, or health care
17 provider, may not subject a person to censure, discipline, suspension,
18 loss of license, loss of privileges, loss of membership, or other
19 penalty for participating or refusing to participate in good faith
20 compliance with this chapter;

21 (c) A patient's request for or provision by an attending physician
22 of medication in good faith compliance with this chapter does not
23 constitute neglect for any purpose of law or provide the sole basis for
24 the appointment of a guardian or conservator; and

25 (d) A health care provider is not under any duty, whether by
26 contract, by statute, or by any other legal requirement, to participate
27 in the provision to a qualified patient of medication to end his or her
28 life in a humane and dignified manner. If a health care provider is
29 unable or unwilling to carry out a patient's request under this
30 chapter, and the patient transfers his or her care to a new health care
31 provider, the prior health care provider must transfer, upon request,
32 a copy of the patient's relevant medical records to the new health care
33 provider.

34 (2)(a) A health care provider may prohibit another health care
35 provider from participating in this chapter on the premises of the
36 prohibiting provider if the prohibiting provider has notified the

1 health care provider of the prohibiting provider's policy regarding
2 participating in this chapter. This subsection does not prevent a
3 health care provider from providing health care services to a patient
4 that do not constitute participation in this chapter.

5 (b) A health care provider may subject another health care provider
6 to the sanctions stated in this subsection if the sanctioning health
7 care provider has notified the sanctioned provider before participation
8 in this chapter that it prohibits participation in this chapter:

9 (i) Loss of privileges, loss of membership, or other sanctions
10 provided under the medical staff bylaws, policies, and procedures of
11 the sanctioning health care provider if the sanctioned provider is a
12 member of the sanctioning provider's medical staff and participates in
13 this chapter while on the health care facility premises of the
14 sanctioning health care provider, but not including the private medical
15 office of a physician or other provider;

16 (ii) Termination of a lease or other property contract or other
17 nonmonetary remedies provided by a lease contract, not including loss
18 or restriction of medical staff privileges or exclusion from a provider
19 panel, if the sanctioned provider participates in this chapter while on
20 the premises of the sanctioning health care provider or on property
21 that is owned by or under the direct control of the sanctioning health
22 care provider; or

23 (iii) Termination of a contract or other nonmonetary remedies
24 provided by contract if the sanctioned provider participates in this
25 chapter while acting in the course and scope of the sanctioned
26 provider's capacity as an employee or independent contractor of the
27 sanctioning health care provider. Nothing in this subsection
28 (2)(b)(iii) prevents:

29 (A) A health care provider from participating in this chapter while
30 acting outside the course and scope of the provider's capacity as an
31 employee or independent contractor; or

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

36 (c) A health care provider that imposes sanctions under (b) of this
37 subsection must follow all due process and other procedures the

1 sanctioning health care provider may have that are related to the
2 imposition of sanctions on another health care provider.

3 (d) For the purposes of this subsection:

4 (i) "Notify" means a separate statement in writing to the health
5 care provider specifically informing the health care provider before
6 the provider's participation in this chapter of the sanctioning health
7 care provider's policy about participation in activities covered by
8 this chapter.

9 (ii) "Participate in this chapter" means to perform the duties of
10 an attending physician under section 4 of this act, the consulting
11 physician function under section 5 of this act, or the counseling
12 function under section 6 of this act. "Participate in this chapter"
13 does not include:

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

16 (B) Providing information about the Washington death with dignity
17 act to a patient upon the request of the patient;

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

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

24 (3) Suspension or termination of staff membership or privileges
25 under subsection (2) of this section is not reportable under RCW
26 18.71.0193. Action taken under section 3, 4, 5, or 6 of this act may
27 not be the sole basis for a report of unprofessional conduct under RCW
28 18.130.180.

29 (4) This chapter does not allow a lower standard of care for
30 patients in the community where the patient is treated or a similar
31 community.

32 NEW SECTION. **Sec. 19.** (1) A person who without authorization of
33 the patient willfully alters or forges a request for medication or
34 conceals or destroys a rescission of that request with the intent or
35 effect of causing the patient's death is guilty of a class A felony.

36 (2) A person who coerces or exerts undue influence on a patient to

1 request medication to end the patient's life, or to destroy a
2 rescission of a request, is guilty of a class A felony.

3 (3) This chapter does not limit further liability for civil damages
4 resulting from other negligent conduct or intentional misconduct by any
5 person.

6 (4) The penalties in this chapter do not preclude criminal
7 penalties applicable under other law for conduct that is inconsistent
8 with this chapter.

9 NEW SECTION. **Sec. 20.** Any governmental entity that incurs costs
10 resulting from a person terminating his or her life under this chapter
11 in a public place has a claim against the estate of the person to
12 recover such costs and reasonable attorneys' fees related to enforcing
13 the claim.

14 NEW SECTION. **Sec. 21.** A request for a medication as authorized by
15 this chapter must be in substantially the following form:

16 REQUEST FOR MEDICATION
17 TO END MY LIFE IN A HUMANE
18 AND DIGNIFIED MANNER

19 I, _____, am an adult of sound mind.
20 I am suffering from _____, which my attending physician has
21 determined is a terminal disease and which has been medically confirmed
22 by a consulting physician.
23 I have been fully informed of my diagnosis, prognosis, the nature of
24 medication to be prescribed and potential associated risks, the
25 expected result, and the feasible alternatives, including comfort care,
26 hospice care, and pain control.

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

29 INITIAL ONE:

30 _____ I have informed my family of my decision and taken their
31 opinions into consideration.

32 _____ I have decided not to inform my family of my decision.

33 _____ I have no family to inform of my decision.

1 I understand that I have the right to rescind this request at any time.
2 I understand the full import of this request and I expect to die when
3 I take the medication to be prescribed. I further understand that
4 although most deaths occur within three hours, my death may take longer
5 and my physician has counseled me about this possibility.
6 I make this request voluntarily and without reservation, and I accept
7 full moral responsibility for my actions.

8 Signed: _____

9 Dated: _____

10 DECLARATION OF WITNESSES

11 We declare that the person signing this request:

- 12 (1) Is personally known to us or has provided proof of identity;
- 13 (2) Signed this request in our presence;
- 14 (3) Appears to be of sound mind and not under duress, fraud, or undue
15 influence; and
- 16 (4) Is not a patient for whom either of us is an attending physician.

17 _____Witness 1/Date

18 _____Witness 2/Date

19 NOTE: One witness must not be a relative (by blood, marriage, or
20 adoption) of the person signing this request, may not be entitled to
21 any portion of the person's estate upon death, and may not own,
22 operate, or be employed at a health care facility where the person is
23 a patient or resident. If the patient is an inpatient at a health care
24 facility, one of the witnesses must be an individual designated by the
25 facility.

26 NEW SECTION. **Sec. 22.** This act may be known and cited as the
27 Washington death with dignity act.

28 NEW SECTION. **Sec. 23.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

1 obtained, prepared, or maintained by the local health department for
2 the purposes of an infant mortality review conducted by the department
3 of health under RCW 70.05.170; (~~and~~)

4 (g) Information collected by the department of health under chapter
5 70.-- RCW (sections 1 through 23 of this act) except as provided in
6 section 14 of this act; and

7 (h) Complaints filed under chapter 18.130 RCW after July 27, 1997,
8 to the extent provided in RCW 18.130.095(1).

9 (2) Chapter 70.02 RCW applies to public inspection and copying of
10 health care information of patients.

11 NEW SECTION. Sec. 26. RCW 70.122.100 (Mercy killing or physician-
12 assisted suicide not authorized) and 1992 c 98 s 10 & 1979 c 112 s 11
13 are each repealed.

14 NEW SECTION. Sec. 27. Section 25 of this act takes effect July 1,
15 2006.

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