SENATE BILL No. 300

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-36-7; IC 27-2-25; IC 34-30-2-75.7; IC 35-52-16-27.5.

Synopsis: End of life options. Allows individuals with a terminal illness who meet certain requirements to make a request to an attending physician for medication that the individual may self-administer to end the individual's life. Specifies requirements a physician must meet in order to prescribe the medication to a patient. Prohibits an insurer from denying payment of benefits under a life insurance policy based upon a suicide clause in the life insurance policy if the death of the insured individual is the result of medical aid in dying. Establishes a Level 1 felony if a person: (1) without authorization of the patient, willfully alters, forges, conceals, or destroys a request for medication or a rescission of a request for medication with the intent or effect of causing the individual's death; or (2) knowingly or intentionally coerces or exerts undue influence on an individual to request medication to end the individual's life or to destroy a rescission of a request for medication to end the individual's life.

Effective: July 1, 2019.
First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in this style type. Also, the word NEW will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in this style type or this style type reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL ____

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-326.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 326.8. "Self-administer", for purposes of IC 16-36-7, has the meaning set forth in IC 16-36-7-1.

2 SECTION 2. IC 16-18-2-351.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 351.5. "Terminal illness" means the following:

3 (1) For purposes of IC 16-25, has the meaning set forth in IC 16-25-1.1-9.

4 (2) For purposes of IC 16-36-7, the meaning set forth in IC 16-36-7-2.

5 SECTION 3. IC 16-36-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

6 Chapter 7. Medical Aid in Dying

7 Sec. 1. As used in this chapter, "self-administer" means the voluntary affirmative conscious physical act by an individual to
take the medication into the individual's body.

Sec. 2. As used in this chapter, "terminal illness" means an incurable and irreversible illness that will, within reasonable medical judgment, result in death within six (6) months.

Sec. 3. (a) An individual who:
   (1) is at least eighteen (18) years of age;
   (2) is an Indiana resident;
   (3) is capable;
   (4) is diagnosed, by a physician licensed under IC 25-22.5, with a terminal illness that is confirmed by a consulting physician; and
   (5) has voluntarily expressed to the attending physician a wish to receive medical aid in dying;

may make a written request in accordance with this chapter for medication that the patient may self-administer to end the patient's life.

(b) The written request for medication described in subsection (a) must meet the following requirements:
   (1) Be on a form issued by the state department, as set forth in subsection (e).
   (2) Be attested to and signed by the patient.
   (3) Be witnessed by at least two (2) individuals who, in the presence of the patient, attest that, to the best of the individuals' knowledge, the patient is competent, is acting voluntarily, and is not being coerced to sign the request.

(c) At least one (1) of the witnesses described in subsection (b)(3) may not be any of the following:
   (1) A relative of the patient by blood, marriage, or adoption.
   (2) An heir to any part of the patient's estate, by will or law, upon the death of the patient.
   (3) An owner, operator, or employee of a health care facility where the patient is receiving medical treatment or is a resident.
   (4) The patient's attending physician at the time the request is signed.

(d) After a patient makes a written request under this section, and after the fifteen (15) day waiting period required under section 4(b) of this chapter, if the patient still wants to obtain medication to end the patient's life, the patient must affirm the request to obtain the medication.

(e) The state department shall prepare and make available a form described in subsection (b)(1) that states the following:
REQUEST FOR MEDICATION TO END MY LIFE

I, _____________________ (insert patient's name), am an adult of sound mind.

I have been diagnosed with and am suffering from __________ (insert the name of the terminal illness), which my attending physician has determined is a terminal disease and which has been medically confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed, and the potential associated risks, the expected result, and the feasible alternative, concurrent, or additional treatment opportunities, including comfort care, hospice care, and pain control.

I request that my attending physician prescribe medication that I may self-administer to end my life in a humane and dignified manner and that the attending physician contact a pharmacist to fill the prescription.

I understand that I have the right to rescind this request at any time.

I understand the full import of this request, and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three (3) hours, my death may take longer, and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full responsibility for my actions.

Signed: __________
Dated: _____________

DECLARATION OF WITNESSES

By initialing and signing below on or after the date the person named above signs, I declare that the person making and signing the above request:

Witness 1 Witness 2
Initials Initials

Is personally known to me or has provided proof of identity

Signed this request in my presence on the date of the person's signature

Appears to be of sound mind and not under duress or undue influence
Sec. 4. (a) For a patient who has made a request under this chapter, the attending physician shall do the following:

1. Make an initial determination of whether the patient:
   (A) has a terminal illness;
   (B) is competent; and
   (C) has made the request voluntarily.

2. Refer the patient to counseling if, after examining the patient, the attending physician considers it necessary.

3. Refer the patient to a consulting physician for medical confirmation:
   (A) of the terminal illness diagnosis;
   (B) of the patient’s competency; and
   (C) that the patient is voluntarily making a request under this chapter.

4. Request and obtain proof of the patient’s Indiana residency.

5. Inform the patient of the following to ensure that the patient is making an informed decision:
   (A) The patient’s diagnosis.
   (B) The patient’s prognosis.
   (C) The potential risks to taking the medication requested in accordance with this chapter.
   (D) The probable result of taking the medication to be prescribed.
   (E) The feasible alternative, concurrent, or additional treatment opportunities to the medication, including:
      (i) alternative treatments, and the risks and benefits of each alternative;
      (ii) comfort care;
      (iii) hospice care; and
      (iv) pain control.

6. Recommend that the patient notify next of kin.

7. Counsel the patient:
   (A) about the importance of having another individual present when the patient takes the medication prescribed under this chapter; and
(B) not to take the medication in a public place.

(8) Inform the patient that the patient may rescind the request for medication at any time and in any manner.

(9) Offer the patient an opportunity to rescind the request at the end of the fifteen (15) day waiting period under subsection (b).

(10) Verify immediately before writing the prescription for the medication under this chapter that the patient is making an informed decision.

(11) Complete the medical record documentation required by section 8 of this chapter.

(12) Ensure that the requirements of this chapter have been met.

(13) Either:

(A) dispense any medication necessary to facilitate the desired effect and minimize the patient's discomfort if the attending physician is qualified to dispense the medication; or

(B) prescribe the medication, contact a pharmacist to inform the pharmacist of the prescription, and transfer the prescription to the pharmacist for dispensing of the medication to the patient.

(b) An attending physician may not prescribe medication under this chapter until at least fifteen (15) days have elapsed between the patient's request and the patient's affirmation of the request for the medication.

(c) After the fifteen (15) day waiting period under subsection (b), the attending physician shall ask the patient whether the patient wants to rescind the written request. If the patient:

(1) denies the request to rescind;

(2) affirms the request for the medication; and

(3) meets the requirements of this chapter;

the attending physician may prescribe or dispense the medication after meeting the requirements of this chapter.

(d) The attending physician may sign the patient's death certification. The individual who signs the patient's death certification shall list the underlying terminal illness as the cause of death.

(e) Not later than thirty (30) days after dispensing or writing a prescription for medication under this chapter, the attending physician shall file a copy of the record of the dispensing or prescription with the state department in a manner prescribed by...
the state department. The dispensing record must include the following:

(1) The patient's name and date of birth.
(2) The prescribing physician's name and phone number.
(3) The dispensing provider's name and phone number.
(4) The medication dispensed and the quantity.
(5) The date the prescription was written.
(6) The date the medication was dispensed.

(f) Not later than thirty (30) days after a qualified patient's death, if known to the attending physician, the attending physician shall file with the department an attending physician follow-up form. The attending physician follow-up form must include the following:

(1) The patient's name and date of birth.
(2) The prescribing physician's name and phone number.
(3) The date of the patient's death.
(4) The patient's terminal illness.
(5) A notation of whether the patient died following self-administration of the medical aid in dying medication or of other causes.

Sec. 5. Before a patient may obtain a prescription for medication under this chapter, a consulting physician must do the following:

(1) Examine the patient and the patient's medical records.
(2) Confirm the attending physician's terminal illness diagnosis.
(3) Determine that the patient is competent and making a voluntary informed decision to request the medication under this chapter.

Sec. 6. (a) If either the attending physician or the consulting physician determines that the patient is suffering from any condition that is causing impaired judgment, the physician shall refer the patient for counseling under section 4 of this chapter.

(b) Medication may not be prescribed under this chapter until the individual performing the counseling under subsection (a) determines that the patient is competent and not suffering from a condition that is causing impaired judgment.

Sec. 7. A request for medication under this chapter may not be refused because a patient declines or is unable to notify the patient's next of kin as recommended by the attending physician under section 4(a)(6) of this chapter.

Sec. 8. The attending physician shall maintain the following in
the patient's medical record:
    (1) All written requests and notations documenting all oral
requests made by the patient for medication to end the
patient's life.
    (2) The attending physician's diagnosis and the patient's
prognosis.
    (3) The attending physician's determination that the patient
is competent, acting voluntarily in making a request under
this chapter, and making an informed decision.
    (4) Documentation of any counseling under section 6 of this
chapter and the results of the counseling.
    (5) Documentation that the attending physician offered the
patient the opportunity to rescind the written request.
    (6) A statement by the attending physician that all of the
requirements under this chapter have been met, including a
notation of the medication prescribed.

Sec. 9. (a) After June 30, 2019, the sale, issuance, or
procurement of a life insurance policy, an accident and sickness
insurance policy, or an annuity may not be conditioned upon or
affected by a person making a request or taking medication if the
requirements of this chapter are met.
    (b) After June 30, 2019, any provision in a contract, will, or
other agreement that limits a patient's ability to make a request
under this chapter is void.

Sec. 10. (a) Nothing in this chapter authorizes a person to end a
patient's life by lethal injection, mercy killing, or active euthanasia.
Actions taken in accordance with this chapter do not, for any
purpose, constitute neglect, suicide, assisted suicide, mercy killing,
or homicide under any law.
    (b) Nothing in this chapter shall be interpreted to lower a health
care provider's standard of care.
    (c) Nothing in this chapter shall be interpreted to lower the
requirements of informed health care consent under this article.

Sec. 11. (a) The state department shall review all records
submitted to the state department under section 4(e) of this
chapter. The records submitted to the state department under
section 4(e) of this chapter are not public records and may not be
inspected by the public. Only the report described in subsection (c)
is a public record.
    (b) The state department shall adopt rules under IC 4-22-2
concerning the procedure for submitting records to comply with
this chapter.
(c) Not later than February 1 of each year, the state department shall generate and make available to the public an annual statistical report of the records collected under this section. The report may not disclose any personally identifiable information of the providers or the patients whose medical records were submitted.

Sec. 12. (a) An individual or a health care provider who in good faith provides medical care in compliance with this chapter, including:
   (1) writing or dispensing a prescription for medication under this chapter; or
   (2) being present when a qualified individual self-administers the medication under this chapter;
   is immune from professional, civil, and criminal liability arising from the provision of care.
   (b) Except as provided in subsection (d), a professional organization or association or a health care provider may not subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for:
   (1) participating or refusing to participate in good faith compliance with this chapter; or
   (2) providing scientific and accurate information concerning medical aid in dying medication.
   (c) A health care provider may not be required to participate in the dispensing or prescribing of medication under this chapter to a patient who meets the requirements of this chapter. If a health care provider is unwilling or unable to carry out a patient's request under this chapter, the health care provider shall transfer, upon the patient's request, a copy of the patient's relevant medical records to the subsequent health care provider.
   (d) A health care provider may prohibit another health care provider from participating under this chapter on the prohibiting health care provider's premises if the prohibiting health care provider has given notice of the prohibition to health care providers with privileges to practice on the prohibiting health care provider's premises. This subsection does not prohibit a health care provider from providing other health care services to the patient. The prohibiting health care provider may sanction a health care provider described in this subsection for participating under this chapter in violation of the prohibition.
   (e) A health care facility may not prohibit a health care provider from providing services consistent with the applicable standard of
medical care, including:

(1) informing and providing information concerning medical aid in dying;
(2) being present when a qualified individual self-administers the medication, if requested by the qualified individual or representative; and
(3) referring the patient to another physician.

(f) A request by an individual to provide medication under this chapter does not solely constitute neglect or elder abuse under any law and may not be the sole basis for the appointment of a guardian or conservator of an individual.

(g) This section does not limit civil or criminal liability for negligence, recklessness, or intentional misconduct.

Sec. 13. (a) A person who, without authorization of the patient, willfully alters, forges, conceals, or destroys a request for medication or a rescission of a request for medication under this chapter with the intent or effect of causing the patient's death commits a Level 1 felony.

(b) A person who knowingly or intentionally coerces or exerts undue influence on a patient to request medication to end the patient's life or to destroy a rescission of a request for medication under this chapter commits a Level 1 felony.

Sec. 14. If the services of a health care interpreter are used for an individual requesting medication under this chapter, the interpreter:

(1) must meet any standards of practice in providing the health care interpreter services established by:
   (A) federal law;
   (B) state law; or
   (C) the National Council on Interpreting in Health Care, or any successor entity;
(2) may not be related to the individual by blood, marriage, or adoption; and
(3) may not be entitled to any part of the individual's estate upon death.

Sec. 15. This chapter is severable as provided in IC 1-1-1-8(b).

SECTION 4. IC 27-2-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 25. Nonapplication of Suicide Clause
Sec. 1. As used in this chapter, "life insurance policy" means any policy of insurance, whether issued on an individual or group
basis, that:

(1) is issued in Indiana or issued for delivery in Indiana; and
(2) provides for the payment of benefits upon the death of the insured individual.

Sec. 2. For the purposes of this chapter, an individual is an "insured individual" if a life insurance policy provides for the payment of benefits upon the death of the individual, regardless of whether the payment of benefits is subject to certain conditions or exclusions.

Sec. 3. As used in this chapter, "suicide clause" means a provision of a life insurance policy under which the payment of benefits may be denied if the death of the insured individual is the result of suicide.

Sec. 4. (a) An insurer shall not deny payment of benefits under a life insurance policy based upon a suicide clause in the life insurance policy if the death of the insured individual is the result of medical aid in dying as provided in IC 16-36-7.

(b) Subsection (a) applies regardless of the length of time that passes between the issuance of the policy and the death of the insured individual.

SECTION 5. IC 34-30-2-75.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 75.7. IC 16-36-7-12 (Concerning an individual or health care provider providing assistance to a patient who is terminally ill).

SECTION 6. IC 35-52-16-27.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 27.5. IC 16-36-7-13 defines crimes concerning medical aid in dying.