

HOUSE BILL No. 1184

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.

Pierce

January 8, 2019, read first time and referred to Committee on Public Health.



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.

HOUSE BILL No. 1184

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

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

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

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

12 SECTION 3. IC 16-36-7 IS ADDED TO THE INDIANA CODE AS
13 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2019]:

15 **Chapter 7. Medical Aid in Dying**

16 **Sec. 1. As used in this chapter, "self-administer" means the**
17 **voluntary affirmative conscious physical act by an individual to**



- 1 take the medication into the individual's body.
- 2 **Sec. 2. As used in this chapter, "terminal illness" means an**
 3 **incurable and irreversible illness that will, within reasonable**
 4 **medical judgment, result in death within six (6) months.**
- 5 **Sec. 3. (a) An individual who:**
 6 **(1) is at least eighteen (18) years of age;**
 7 **(2) is an Indiana resident;**
 8 **(3) is capable;**
 9 **(4) is diagnosed, by a physician licensed under IC 25-22.5,**
 10 **with a terminal illness that is confirmed by a consulting**
 11 **physician; and**
 12 **(5) has voluntarily expressed to the attending physician a wish**
 13 **to receive medical aid in dying;**
 14 **may make a written request in accordance with this chapter for**
 15 **medication that the patient may self-administer to end the patient's**
 16 **life.**
- 17 **(b) The written request for medication described in subsection**
 18 **(a) must meet the following requirements:**
 19 **(1) Be on a form issued by the state department, as set forth**
 20 **in subsection (e).**
 21 **(2) Be attested to and signed by the patient.**
 22 **(3) Be witnessed by at least two (2) individuals who, in the**
 23 **presence of the patient, attest that, to the best of the**
 24 **individuals' knowledge, the patient is competent, is acting**
 25 **voluntarily, and is not being coerced to sign the request.**
- 26 **(c) At least one (1) of the witnesses described in subsection (b)(3)**
 27 **may not be any of the following:**
 28 **(1) A relative of the patient by blood, marriage, or adoption.**
 29 **(2) An heir to any part of the patient's estate, by will or law,**
 30 **upon the death of the patient.**
 31 **(3) An owner, operator, or employee of a health care facility**
 32 **where the patient is receiving medical treatment or is a**
 33 **resident.**
 34 **(4) The patient's attending physician at the time the request**
 35 **is signed.**
- 36 **(d) After a patient makes a written request under this section,**
 37 **and after the fifteen (15) day waiting period required under section**
 38 **4(b) of this chapter, if the patient still wants to obtain medication**
 39 **to end the patient's life, the patient must affirm the request to**
 40 **obtain the medication.**
- 41 **(e) The state department shall prepare and make available a**
 42 **form described in subsection (b)(1) that states the following:**



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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**



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_____ Is not a patient for whom I am
the attending physician

Witness 1: _____
Printed Name Signature Date

Witness 2: _____
Printed Name Signature Date

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**



- 1 **(B) not to take the medication in a public place.**
2 **(8) Inform the patient that the patient may rescind the request**
3 **for medication at any time and in any manner.**
4 **(9) Offer the patient an opportunity to rescind the request at**
5 **the end of the fifteen (15) day waiting period under subsection**
6 **(b).**
7 **(10) Verify immediately before writing the prescription for**
8 **the medication under this chapter that the patient is making**
9 **an informed decision.**
10 **(11) Complete the medical record documentation required by**
11 **section 8 of this chapter.**
12 **(12) Ensure that the requirements of this chapter have been**
13 **met.**
14 **(13) Either:**
15 **(A) dispense any medication necessary to facilitate the**
16 **desired effect and minimize the patient's discomfort if the**
17 **attending physician is qualified to dispense the medication;**
18 **or**
19 **(B) prescribe the medication, contact a pharmacist to**
20 **inform the pharmacist of the prescription, and transfer the**
21 **prescription to the pharmacist for dispensing of the**
22 **medication to the patient.**
23 **(b) An attending physician may not prescribe medication under**
24 **this chapter until at least fifteen (15) days have elapsed between the**
25 **patient's request and the patient's affirmation of the request for**
26 **the medication.**
27 **(c) After the fifteen (15) day waiting period under subsection**
28 **(b), the attending physician shall ask the patient whether the**
29 **patient wants to rescind the written request. If the patient:**
30 **(1) denies the request to rescind;**
31 **(2) affirms the request for the medication; and**
32 **(3) meets the requirements of this chapter;**
33 **the attending physician may prescribe or dispense the medication**
34 **after meeting the requirements of this chapter.**
35 **(d) The attending physician may sign the patient's death**
36 **certification. The individual who signs the patient's death**
37 **certification shall list the underlying terminal illness as the cause**
38 **of death.**
39 **(e) Not later than thirty (30) days after dispensing or writing a**
40 **prescription for medication under this chapter, the attending**
41 **physician shall file a copy of the record of the dispensing or**
42 **prescription with the state department in a manner prescribed by**



1 the state department. The dispensing record must include the
2 following:

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

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

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

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

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

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

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

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

42 **Sec. 8.** The attending physician shall maintain the following in



1 the patient's medical record:

2 (1) All written requests and notations documenting all oral
3 requests made by the patient for medication to end the
4 patient's life.

5 (2) The attending physician's diagnosis and the patient's
6 prognosis.

7 (3) The attending physician's determination that the patient
8 is competent, acting voluntarily in making a request under
9 this chapter, and making an informed decision.

10 (4) Documentation of any counseling under section 6 of this
11 chapter and the results of the counseling.

12 (5) Documentation that the attending physician offered the
13 patient the opportunity to rescind the written request.

14 (6) A statement by the attending physician that all of the
15 requirements under this chapter have been met, including a
16 notation of the medication prescribed.

17 Sec. 9. (a) After June 30, 2019, the sale, issuance, or
18 procurement of a life insurance policy, an accident and sickness
19 insurance policy, or an annuity may not be conditioned upon or
20 affected by a person making a request or taking medication if the
21 requirements of this chapter are met.

22 (b) After June 30, 2019, any provision in a contract, will, or
23 other agreement that limits a patient's ability to make a request
24 under this chapter is void.

25 Sec. 10. (a) Nothing in this chapter authorizes a person to end a
26 patient's life by lethal injection, mercy killing, or active euthanasia.
27 Actions taken in accordance with this chapter do not, for any
28 purpose, constitute neglect, suicide, assisted suicide, mercy killing,
29 or homicide under any law.

30 (b) Nothing in this chapter shall be interpreted to lower a health
31 care provider's standard of care.

32 (c) Nothing in this chapter shall be interpreted to lower the
33 requirements of informed health care consent under this article.

34 Sec. 11. (a) The state department shall review all records
35 submitted to the state department under section 4(e) of this
36 chapter. The records submitted to the state department under
37 section 4(e) of this chapter are not public records and may not be
38 inspected by the public. Only the report described in subsection (c)
39 is a public record.

40 (b) The state department shall adopt rules under IC 4-22-2
41 concerning the procedure for submitting records to comply with
42 this chapter.



1 (c) Not later than February 1 of each year, the state department
 2 shall generate and make available to the public an annual
 3 statistical report of the records collected under this section. The
 4 report may not disclose any personally identifiable information of
 5 the providers or the patients whose medical records were
 6 submitted.

7 Sec. 12. (a) An individual or a health care provider who in good
 8 faith provides medical care in compliance with this chapter,
 9 including:

10 (1) writing or dispensing a prescription for medication under
 11 this chapter; or

12 (2) being present when a qualified individual self-administers
 13 the medication under this chapter;

14 is immune from professional, civil, and criminal liability arising
 15 from the provision of care.

16 (b) Except as provided in subsection (d), a professional
 17 organization or association or a health care provider may not
 18 subject a person to censure, discipline, suspension, loss of license,
 19 loss of privileges, loss of membership, or other penalty for:

20 (1) participating or refusing to participate in good faith
 21 compliance with this chapter; or

22 (2) providing scientific and accurate information concerning
 23 medical aid in dying medication.

24 (c) A health care provider may not be required to participate in
 25 the dispensing or prescribing of medication under this chapter to
 26 a patient who meets the requirements of this chapter. If a health
 27 care provider is unwilling or unable to carry out a patient's request
 28 under this chapter, the health care provider shall transfer, upon
 29 the patient's request, a copy of the patient's relevant medical
 30 records to the subsequent health care provider.

31 (d) A health care provider may prohibit another health care
 32 provider from participating under this chapter on the prohibiting
 33 health care provider's premises if the prohibiting health care
 34 provider has given notice of the prohibition to health care
 35 providers with privileges to practice on the prohibiting health care
 36 provider's premises. This subsection does not prohibit a health
 37 care provider from providing other health care services to the
 38 patient. The prohibiting health care provider may sanction a health
 39 care provider described in this subsection for participating under
 40 this chapter in violation of the prohibition.

41 (e) A health care facility may not prohibit a health care provider
 42 from providing services consistent with the applicable standard of



1 **medical care, including:**

2 **(1) informing and providing information concerning medical**
3 **aid in dying;**

4 **(2) being present when a qualified individual self-administers**
5 **the medication, if requested by the qualified individual or**
6 **representative; and**

7 **(3) referring the patient to another physician.**

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

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

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

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

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

26 **(1) must meet any standards of practice in providing the**
27 **health care interpreter services established by:**

28 **(A) federal law;**

29 **(B) state law; or**

30 **(C) the National Council on Interpreting in Health Care,**
31 **or any successor entity;**

32 **(2) may not be related to the individual by blood, marriage, or**
33 **adoption; and**

34 **(3) may not be entitled to any part of the individual's estate**
35 **upon death.**

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

37 **SECTION 4. IC 27-2-25 IS ADDED TO THE INDIANA CODE AS**
38 **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**
39 **1, 2019]:**

40 **Chapter 25. Nonapplication of Suicide Clause**

41 **Sec. 1. As used in this chapter, "life insurance policy" means**
42 **any policy of insurance, whether issued on an individual or group**



1 basis, that:
 2 (1) is issued in Indiana or issued for delivery in Indiana; and
 3 (2) provides for the payment of benefits upon the death of the
 4 insured individual.

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

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

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

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

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

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

