

S.74

An act relating to modifications to Vermont's patient choice at end of life laws

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 5281 is amended to read:

§ 5281. DEFINITIONS

As used in this chapter:

\* \* \*

(11) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(12) "Telemedicine" means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

Sec. 2. 18 V.S.A. § 5283 is amended to read:

§ 5283. REQUIREMENTS FOR PRESCRIPTION AND

DOCUMENTATION; IMMUNITY

(a) A physician shall not be subject to any civil or criminal liability or professional disciplinary action if the physician prescribes to a patient with a terminal condition medication to be self-administered for the purpose of

hastening the patient's death and the physician affirms by documenting in the patient's medical record that all of the following occurred:

(1) The patient made an oral request to the physician in the physician's physical presence or by telemedicine, if the physician determines the use of telemedicine to be clinically appropriate, for medication to be self-administered for the purpose of hastening the patient's death.

(2) ~~Not~~ Not fewer than 15 days after the first oral request, the patient made a second oral request to the physician in the physician's physical presence or by telemedicine, if the physician determines the use of telemedicine to be clinically appropriate, for medication to be self-administered for the purpose of hastening the patient's death.

\* \* \*

(5) The physician determined that the patient:

(A) was suffering a terminal condition, based on the physician's ~~physical examination of the patient and~~ review of the patient's relevant medical records and a physician's physical examination of the patient;

(B) was capable;

(C) was making an informed decision;

(D) had made a voluntary request for medication to hasten ~~his or her~~ the patient's own death; and

(E) was a Vermont resident.

(6) The physician informed the patient in person or by telemedicine, both verbally and in writing, of all the following:

\* \* \*

(12) The physician wrote the prescription ~~no fewer than 48 hours~~ after the last to occur of the following events:

(A) the patient's written request for medication to hasten ~~his or her~~ the patient's own death;

(B) the patient's second oral request; ~~or~~ and

(C) the physician's offering the patient an opportunity to rescind the request.

(13) The physician either:

(A) dispensed the medication directly, provided that at the time the physician dispensed the medication, ~~he or she~~ the physician was licensed to dispense medication in Vermont, had a current Drug Enforcement Administration certificate, and complied with any applicable administrative rules; or

\* \* \*

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

(A) the date, time, and wording of all oral requests of the patient for medication to hasten ~~his or her~~ the patient's own death;

(B) all written requests by the patient for medication to hasten ~~his or her~~ the patient's own death;

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

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

(E) the physician's attestation that the patient was enrolled in hospice care at the time of the patient's oral and written requests for medication to hasten ~~his or her~~ the patient's own death or that the physician informed the patient of all feasible end-of-life services;

\* \* \*

Sec. 3. 18 V.S.A. § 5285 is amended to read:

§ 5285. LIMITATIONS ON ACTIONS

\* \* \*

(c) No physician, nurse, pharmacist, or other person licensed, certified, or otherwise authorized by law to deliver health care services in this State shall be subject to civil or criminal liability or professional disciplinary action for acting in good faith compliance with the provisions of this chapter.

(d) Except as otherwise provided in this section and sections 5283, 5289, and 5290 of this title, nothing in this chapter shall be construed to limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.