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H.298

Introduced by Representatives Gamache of Swanton, Canfield of Fair Haven,
Donahue of Northfield, Gage of Rutland City, Hebert of
Vernon, Morrissey of Bennington, Rosenquist of Georgia,
Savage of Swanton, Strong of Albany, and Viens of Newport
City

Referred to Committee on

Date:

Subject: Health; patient choice at end of life; adult protective services;
vulnerable adults

Statement of purpose of bill as introduced: This bill proposes to require a
physician to consult with the Adult Protective Services program prior to
writing a prescription for certain patients with a terminal condition for
medication to be self-administered to hasten death. It would also provide the
physician with information about investigative reports of abuse, neglect, or
exploitation of a vulnerable adult and access to information from the Adult
Protective Services Registry.

An act relating to requiring an Adult Protective Services consultation prior
to issuing certain prescriptions

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

2 Sec. 1. 18 V.S.A. § 5283 is amended to read:

3 § 5283. REQUIREMENTS FOR PRESCRIPTION AND
4 DOCUMENTATION; IMMUNITY

5 (a) A physician shall not be subject to any civil or criminal liability or
6 professional disciplinary action if the physician prescribes to a patient with a
7 terminal condition medication to be self-administered for the purpose of
8 hastening the patient's death and the physician affirms by documenting in the
9 patient's medical record that all of the following occurred:

10 * * *

11 (9) The physician either verified that the patient was not a vulnerable
12 adult, as defined in 33 V.S.A. § 6902, or consulted the Adult Protective
13 Services program in the Department of Disabilities, Aging, and Independent
14 Living to determine whether the patient had been the victim of a substantiated
15 report of abuse, neglect, or exploitation and whether there were any pending
16 allegations against the patient's family or caregivers. If the physician found
17 that the patient was the victim of a substantiated report of abuse, neglect, or
18 exploitation or that there were pending allegations against the patient's family
19 or caregivers, the physician documented the steps taken in consultation with
20 the Adult Protective Services program to ensure that the patient was requesting
21 medication pursuant to this chapter of the patient's own free will and that no

1 person was exerting pressure or undue influence on the patient to request the
2 medication.

3 (10) If applicable, the physician consulted with the patient's primary
4 care physician with the patient's consent.

5 ~~(10)~~(11) The physician informed the patient that the patient may rescind
6 the request at any time and in any manner and offered the patient an
7 opportunity to rescind after the patient's second oral request.

8 ~~(11)~~(12) The physician ensured that all required steps were carried out
9 in accordance with this section and confirmed, immediately prior to writing the
10 prescription for medication, that the patient was making an informed decision.

11 ~~(12)~~(13) The physician wrote the prescription no fewer than 48 hours
12 after the last to occur of the following events:

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

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

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

18 ~~(13)~~(14) The physician either:

19 (A) dispensed the medication directly, provided that at the time the
20 physician dispensed the medication, he or she was licensed to dispense

1 medication in Vermont, had a current Drug Enforcement Administration
2 certificate, and complied with any applicable administrative rules; or

3 (B) with the patient's written consent:

4 (i) contacted a pharmacist and informed the pharmacist of the
5 prescription; and

6 (ii) delivered the written prescription personally or by mail or
7 facsimile to the pharmacist, who dispensed the medication to the patient, the
8 physician, or an expressly identified agent of the patient.

9 ~~(14)~~(15) The physician recorded and filed the following in the patient's
10 medical record:

11 (A) the date, time, and wording of all oral requests of the patient for
12 medication to hasten his or her death;

13 (B) all written requests by the patient for medication to hasten his or
14 her death;

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

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

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

5 (F) the physician's verification that the patient either did not have
6 impaired judgment or that the physician referred the patient for an evaluation
7 and the person conducting the evaluation has determined that the patient did
8 not have impaired judgment;

9 (G) a report of the outcome and determinations made during any
10 evaluation which the patient may have received;

11 (H) the date, time, and wording of the physician's offer to the patient
12 to rescind the request for medication at the time of the patient's second oral
13 request; and

14 (I) a note by the physician indicating that all requirements under this
15 section were satisfied and describing all of the steps taken to carry out the
16 request, including a notation of the medication prescribed.

17 ~~(15)~~(16) After writing the prescription, the physician promptly filed a
18 report with the Department of Health documenting completion of all of the
19 requirements under this section.

20 (b) This section shall not be construed to limit civil or criminal liability for
21 gross negligence, recklessness, or intentional misconduct.

1 Sec. 2. 33 V.S.A. § 6911 is amended to read:

2 § 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

3 (a)(1) Information obtained through reports and investigations, including
4 the identity of the reporter, shall remain confidential and shall not be released
5 absent a court order, except as follows:

6 (A)(i) The investigative report shall be disclosed only to:

7 (I) the Commissioner or person designated to receive such
8 records;

9 (II) persons assigned by the Commissioner to investigate
10 reports;

11 (III) the person reported to have abused, neglected, or exploited
12 a vulnerable adult;

13 (IV) the vulnerable adult or his or her representative;

14 (V) the Office of Professional Regulation when deemed
15 appropriate by the Commissioner;

16 (VI) the Secretary of Education when deemed appropriate by
17 the Commissioner;

18 (VII) the Commissioner for Children and Families or designee
19 for purposes of review of expungement petitions filed pursuant to section
20 4916c of this title;

1 (VIII) the Commissioner of Financial Regulation when deemed
2 appropriate by the Commissioner for an investigation related to financial
3 exploitation;

4 (IX) a law enforcement agency; the State's Attorney, or the
5 Office of the Attorney General, when the Department believes there may be
6 grounds for criminal prosecution or civil enforcement action, or in the course
7 of a criminal or a civil investigation; and

8 (X) a physician whom a patient with a terminal condition has
9 requested to prescribe medication to be self-administered to hasten death, in
10 accordance with 18 V.S.A. chapter 113.

11 (ii) When disclosing information pursuant to this subdivision (A),
12 reasonable efforts shall be made to limit the information to the minimum
13 necessary to accomplish the intended purpose of the disclosure, and no other
14 information, including the identity of the reporter, shall be released absent a
15 court order.

16 * * *

17 (c) The Commissioner or designee may disclose Registry information
18 only to:

19 * * *

