

# HOUSE BILL No. 1561

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-36-7; 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 written 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.

**Effective:** July 1, 2017.

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January 23, 2017, read first time and referred to Committee on Public Health.

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First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

# HOUSE BILL No. 1561

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, 2017]: **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, 2017]: 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, 2017]:

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

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



- 1 medication to the individual.
- 2 **Sec. 2. As used in this chapter, "terminal illness" means a**
- 3 **disease or illness:**
- 4 (1) from which there can be no recovery; and
- 5 (2) that reasonable medical judgment indicates will result in
- 6 death within six (6) months of the diagnosis.
- 7 **Sec. 3. (a) An individual who:**
- 8 (1) is at least eighteen (18) years of age;
- 9 (2) is an Indiana resident;
- 10 (3) is competent;
- 11 (4) is diagnosed, by a physician licensed under IC 25-22.5,
- 12 with a terminal illness that is confirmed by a consulting
- 13 physician; and
- 14 (5) has voluntarily expressed to the attending physician a wish
- 15 to die;
- 16 may make a written request in accordance with this chapter for
- 17 medication that the patient may self-administer to end the patient's
- 18 life.
- 19 (b) The written request for medication described in subsection
- 20 (a) must meet the following requirements:
- 21 (1) Be on a form issued by the state department, as set forth
- 22 in subsection (e).
- 23 (2) Be attested to and signed by the patient.
- 24 (3) Be witnessed by at least two (2) individuals who, in the
- 25 presence of the patient, attest that, to the best of the
- 26 individuals' knowledge, the patient is competent, is acting
- 27 voluntarily, and is not being coerced to sign the request.
- 28 (c) A witness described in subsection (b)(3) may not be any of
- 29 the following:
- 30 (1) A relative of the patient by blood, marriage, or adoption.
- 31 (2) An heir to any part of the patient's estate, by will or law,
- 32 upon the death of the patient.
- 33 (3) An owner, operator, or employee of a health care facility
- 34 where the patient is receiving medical treatment or is a
- 35 resident.
- 36 (4) The patient's attending physician at the time the request
- 37 is signed.
- 38 (d) After a patient makes a written request under this section,
- 39 and after the fifteen (15) day waiting period required under section
- 40 4(b) of this chapter, if the patient still wants to obtain medication
- 41 to end the patient's life, the patient must make a second written
- 42 request to obtain the medication.



1 (e) The state department shall prepare and make available a  
2 form described in subsection (b)(1) that states the following,  
3 subject to subsection (f):

4 **REQUEST FOR MEDICATION TO END MY LIFE**

5 I, \_\_\_\_\_ (insert patient's name), am an  
6 adult of sound mind.

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

12 I have been fully informed of my diagnosis, prognosis, the  
13 nature of medication to be prescribed, and the potential  
14 associated risks, the expected result, and the feasible  
15 alternatives, including comfort care, hospice care, and pain  
16 control.

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

21 **INITIAL ONE:**

22 \_\_\_ I have informed my family of my decision and taken my  
23 family's opinion into consideration.

24 \_\_\_ I have decided not to inform my family of my decision.

25 \_\_\_ I have no family to inform of my decision.

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

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

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

35 Signed: \_\_\_\_\_

36 Dated: \_\_\_\_\_

37 **DECLARATION OF WITNESSES**

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

41 **Witness 1      Witness 2**  
42 **Initials          Initials**



1 \_\_\_\_\_      \_\_\_\_\_      Is personally known to me or  
 2 \_\_\_\_\_      \_\_\_\_\_      has provided proof of identity  
 3 \_\_\_\_\_      \_\_\_\_\_      Signed this request in my  
 4 \_\_\_\_\_      \_\_\_\_\_      presence on the date of the  
 5 \_\_\_\_\_      \_\_\_\_\_      person's signature  
 6 \_\_\_\_\_      \_\_\_\_\_      Appears to be of sound mind  
 7 \_\_\_\_\_      \_\_\_\_\_      and not under duress or undue  
 8 \_\_\_\_\_      \_\_\_\_\_      influence  
 9 \_\_\_\_\_      \_\_\_\_\_      Is not a patient for whom I am  
 10 \_\_\_\_\_      \_\_\_\_\_      the attending physician

11 Witness 1: \_\_\_\_\_  
 12 Printed Name      Signature      Date

13 Witness 2: \_\_\_\_\_  
 14 Printed Name      Signature      Date

15 (f) The state department may make changes to the form set  
 16 forth in subsection (e).

17 Sec. 4. (a) For a patient who has made a first written request  
 18 under this chapter, the attending physician shall do the following:

- 19 (1) Make an initial determination of whether the patient:
  - 20 (A) has a terminal illness;
  - 21 (B) is competent; and
  - 22 (C) has made the request voluntarily.
- 23 (2) Refer the patient to counseling if, after examining the  
 24 patient, the attending physician considers it necessary.
- 25 (3) Refer the patient to a consulting physician for medical  
 26 confirmation:
  - 27 (A) of the terminal illness diagnosis;
  - 28 (B) of the patient's competency; and
  - 29 (C) that the patient is voluntarily making a request under  
 30 this chapter.
- 31 (4) Request and obtain proof of the patient's Indiana  
 32 residency.
- 33 (5) Inform the patient of the following to ensure that the  
 34 patient is making an informed decision:
  - 35 (A) The patient's diagnosis.
  - 36 (B) The patient's prognosis.
  - 37 (C) The potential risks to taking the medication requested  
 38 in accordance with this chapter.
  - 39 (D) The probable result of taking the medication to be  
 40 prescribed.
  - 41 (E) The feasible alternatives to the medication, including  
 42 comfort care, hospice care, and pain control.



- 1           **(6) Recommend that the patient notify next of kin.**  
 2           **(7) Counsel the patient:**  
 3               **(A) about the importance of having another individual**  
 4               **present when the patient takes the medication prescribed**  
 5               **under this chapter; and**  
 6               **(B) not to take the medication in a public place.**  
 7           **(8) Inform the patient that the patient may rescind the request**  
 8           **for medication at any time and in any manner.**  
 9           **(9) Offer the patient an opportunity to rescind the request at**  
 10           **the end of the fifteen (15) day waiting period under subsection**  
 11           **(b).**  
 12           **(10) Verify immediately before writing the prescription for**  
 13           **the medication under this chapter that the patient is making**  
 14           **an informed decision.**  
 15           **(11) Complete the medical record documentation required by**  
 16           **section 8 of this chapter.**  
 17           **(12) Ensure that the requirements of this chapter have been**  
 18           **met.**  
 19           **(13) Either:**  
 20               **(A) dispense any medication necessary to facilitate the**  
 21               **desired effect and minimize the patient's discomfort if the**  
 22               **attending physician is qualified to dispense the medication;**  
 23               **or**  
 24               **(B) with the patient's written consent, prescribe the**  
 25               **medication, contact a pharmacist to inform the pharmacist**  
 26               **of the prescription, and transfer the prescription to the**  
 27               **pharmacist for dispensing of the medication to the patient.**  
 28               **A prescription under this clause may not be dispensed by**  
 29               **mail or other form of courier.**  
 30           **(b) An attending physician may not prescribe medication under**  
 31           **this chapter until at least fifteen (15) days have elapsed between the**  
 32           **patient's first written request and the patient's second written**  
 33           **request for the medication.**  
 34           **(c) After the fifteen (15) day waiting period under subsection**  
 35           **(b), the attending physician shall ask the patient whether the**  
 36           **patient wants to rescind the first written request. If the patient:**  
 37               **(1) denies the request to rescind;**  
 38               **(2) provides a second written request for the medication; and**  
 39               **(3) meets the requirements of this chapter;**  
 40           **the attending physician may prescribe or dispense the medication**  
 41           **after meeting the requirements of this chapter.**  
 42           **(d) The attending physician may sign the patient's death**



1 certification. The individual who signs the patient's death  
 2 certification shall list the underlying terminal illness as the cause  
 3 of death.

4 (e) After dispensing or writing a prescription for medication  
 5 under this chapter, the attending physician shall file a copy of the  
 6 dispensing or prescription with the state department in a manner  
 7 prescribed by the state department not later than thirty (30) days  
 8 after the death of the patient.

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

12 (1) Examine the patient and the patient's medical records.

13 (2) Confirm the attending physician's terminal illness  
 14 diagnosis.

15 (3) Determine that the patient is competent and making a  
 16 voluntary informed decision to request the medication under  
 17 this chapter.

18 Sec. 6. (a) If either the attending physician or the consulting  
 19 physician determines that the patient is suffering from depression  
 20 or another psychological disorder that is causing impaired  
 21 judgment, the physician shall refer the patient for counseling under  
 22 section 4 of this chapter.

23 (b) Medication may not be prescribed under this chapter until  
 24 the individual performing the counseling under subsection (a)  
 25 determines that the patient is competent and not suffering from  
 26 depression or another psychological disorder that is causing  
 27 impaired judgment.

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

32 Sec. 8. The attending physician shall maintain the following in  
 33 the patient's medical record:

34 (1) All written requests made by the patient for medication to  
 35 end the patient's life.

36 (2) The attending physician's diagnosis and the patient's  
 37 prognosis.

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

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



1           **(5) Documentation that the attending physician offered the**  
2           **patient the opportunity to rescind the written request.**

3           **(6) A statement by the attending physician that all of the**  
4           **requirements under this chapter have been met, including a**  
5           **notation of the medication prescribed.**

6           **Sec. 9. (a) After June 30, 2017, the sale, issuance, or**  
7           **procurement of a life insurance policy, an accident and sickness**  
8           **insurance policy, or an annuity may not be conditioned upon or**  
9           **affected by a person making a request or taking medication if the**  
10           **requirements of this chapter are met.**

11           **(b) After June 30, 2017, any provision in a contract, will, or**  
12           **other agreement that limits a patient's ability to make a request**  
13           **under this chapter is void.**

14           **Sec. 10. (a) Nothing in this chapter authorizes a person to end a**  
15           **patient's life by lethal injection, mercy killing, or active euthanasia.**  
16           **Actions taken in accordance with this chapter do not, for any**  
17           **purpose, constitute neglect, suicide, assisted suicide, mercy killing,**  
18           **or homicide under any law.**

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

21           **Sec. 11. (a) The state department shall review all records**  
22           **submitted to the state department under section 4(e) of this**  
23           **chapter. The state department may request more information from**  
24           **an attending physician submitting a record under this chapter. The**  
25           **attending physician shall respond to the state department's request**  
26           **for more information in the manner prescribed by the state**  
27           **department.**

28           **(b) The state department shall adopt rules under IC 4-22-2**  
29           **concerning the following:**

30           **(1) The procedure for submitting records to comply with this**  
31           **chapter.**

32           **(2) The safe disposal by a patient of unused medication**  
33           **obtained under this chapter**

34           **(c) Not later than February 1 of each year, the state department**  
35           **shall generate and make available to the public an annual**  
36           **statistical report of the records collected under this section. The**  
37           **report may not disclose any personally identifiable information of**  
38           **the patients whose medical records were submitted.**

39           **Sec. 12. (a) A health care provider who in good faith provides**  
40           **assistance in the completion of a request for medication under this**  
41           **chapter is immune from professional, civil, and criminal liability**  
42           **arising from the assistance.**





1 (b) Except as provided in subsection (d), a professional  
 2 organization or association or a health care provider may not  
 3 subject a person to censure, discipline, suspension, loss of license,  
 4 loss of privileges, loss of membership, or other penalty for  
 5 participating or refusing to participate in good faith compliance  
 6 with this chapter.

7 (c) A health care provider may not be required to participate in  
 8 the dispensing or prescribing of medication under this chapter to  
 9 a patient who meets the requirements of this chapter. If a health  
 10 care provider is unwilling or unable to carry out a patient's request  
 11 under this chapter, the health care provider shall transfer, upon  
 12 the patient's request, a copy of the patient's relevant medical  
 13 records to the subsequent health care provider.

14 (d) A health care provider may prohibit another health care  
 15 provider from participating under this chapter on the prohibiting  
 16 health care provider's premises if the prohibiting health care  
 17 provider has given notice of the prohibition to health care  
 18 providers with privileges to practice on the prohibiting health care  
 19 provider's premises. This subsection does not prohibit a health  
 20 care provider from providing other health care services to the  
 21 patient. The prohibiting health care provider may sanction a health  
 22 care provider described in this subsection for participating under  
 23 this chapter in violation of the prohibition.

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

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

33 **Sec. 14.** This chapter is severable as provided in IC 1-1-1-8(b).

34 SECTION 4. IC 34-30-2-75.7 IS ADDED TO THE INDIANA  
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2017]: **Sec. 75.7. IC 16-36-7-12 (Concerning**  
 37 **a health care provider providing assistance to a patient who is**  
 38 **terminally ill).**

39 SECTION 5. IC 35-52-16-27.5 IS ADDED TO THE INDIANA  
 40 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 41 [EFFECTIVE JULY 1, 2017]: **Sec. 27.5. IC 16-36-7-13 defines a**  
 42 **crime concerning medical aid in dying.**

