

HOUSE BILL No. 4174

February 14, 1989, Introduced by Reps. Perry Bullard, Kosteva, Berman, Gubow, Leland and Krause and referred to the Committee on Judiciary.

A bill to provide for the execution of a declaration directing certain medical procedures be provided, withdrawn, or withheld under certain circumstances; to provide that certain actions be taken and certain actions not be taken with respect to a declaration; to provide for the revocation of a declaration; to exempt certain persons from penalties and liabilities; and to prescribe liabilities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan medical self-determination act".

3 Sec. 2. As used in this act:

4 (a) "Attending physician" means the physician who has
5 responsibility for the treatment and care of a declarant.

6 (b) "Declarant" means a person who has executed a
7 declaration.

1 (c) "Health facility" means a health facility or agency as
2 defined in section 20106 of the public health code, Act No. 368
3 of the Public Acts of 1978, being section 333.20106 of the
4 Michigan Compiled Laws.

5 (d) "Medical intervention" means any medicine, procedure, or
6 device a physician is not prohibited by law from prescribing,
7 administering, performing, or authorizing.

8 (e) "Permanently unconscious" means a state expected by the
9 attending physician to last indefinitely without improvement, in
10 which all awareness of self or environment beyond simple reflex
11 or reaction to noxious stimuli is absent.

12 (f) "Physician" means a person licensed in this state to
13 engage in the practice of medicine or osteopathic medicine and
14 surgery.

15 (g) "Terminally ill" means a state in which an incurable,
16 irreversible, and uncontrollable disease or condition will, in
17 the opinion of the attending physician, likely result in death
18 within 1 year.

19 Sec. 3. (1) A person 18 years of age or older who is of
20 sound mind may execute a declaration authorizing some or all
21 types of medical intervention, or directing the withholding or
22 withdrawal of some or all types of medical intervention, or both
23 authorizing some types of medical intervention and directing the
24 withholding or withdrawal of other types of medical
25 intervention.

1 (2) A declaration may include the designation of a
2 representative to ensure compliance with the terms of the
3 declaration.

4 (3) A declaration shall be in writing, dated, and executed
5 voluntarily. The declaration shall be signed by the declarant,
6 or in the declarant's presence at his or her direction. The dec-
7 laration shall be signed by 2 persons 18 years of age or older
8 who witnessed the signing of the declaration. At least 1 witness
9 shall not be the declarant's spouse, parent, child, sibling, or
10 devisee.

11 Sec. 4. A declaration shall take effect if all of the fol-
12 lowing occur:

13 (a) The attending physician has seen the declaration.

14 (b) The declarant has been determined by his or her attend-
15 ing physician and 1 other physician to be terminally ill or per-
16 manently unconscious.

17 (c) The declarant is unable to participate in medical treat-
18 ment decisions, in the opinion of the attending physician.

19 (d) The attending physician has no knowledge that the decla-
20 ration has been revoked.

21 Sec. 5. (1) A declarant may revoke a declaration at any
22 time and in any manner by which he or she is able to communicate
23 an intent to revoke the declaration. If the revocation is not in
24 writing, a person who observes a revocation of a declaration
25 shall describe the circumstances of the revocation in writing and
26 sign the writing.

1 (2) A revocation of a declaration is binding upon a
2 physician, a representative designated by a declarant, or a
3 health facility, upon actual notice of the revocation.

4 Sec. 6. (1) A physician or health facility that is provided
5 a copy of a declaration shall immediately make the declaration
6 part of the declarant's medical record.

7 (2) A physician or health facility that has notice of a
8 revocation shall immediately make the revocation part of the
9 declarant's medical record.

10 (3) Upon determining that a declarant is terminally ill, an
11 attending physician who has notice of a declaration shall record
12 in the declarant's medical record that the declarant is termi-
13 nally ill and shall attempt to communicate that determination to
14 the declarant.

15 (4) Upon determining that a declarant is terminally ill and
16 unable to participate in medical treatment decisions, an attend-
17 ing physician who has notice of a declaration shall record in the
18 declarant's medical record that the declarant is unable to par-
19 ticipate in medical treatment decisions, and shall attempt to
20 communicate to the declarant that the declaration is about to
21 take effect.

22 (5) Upon determining that a declarant is permanently uncon-
23 scious, an attending physician who has notice of a declaration
24 shall record in the declarant's medical record that the declarant
25 is permanently unconscious.

26 Sec. 7. An attending physician shall implement a
27 declaration when the declaration takes effect, or shall take all

1 reasonable steps to transfer the care and treatment of the
2 declarant to another physician or health facility willing to
3 comply with the terms of the declaration.

4 Sec. 8. A person or health facility shall not be subject to
5 civil or criminal liability for causing or participating in the
6 providing, withholding, or withdrawal of medical intervention
7 from a declarant in accordance with his or her declaration and
8 this act.

9 Sec. 9. A declarant or a declarant's representative,
10 spouse, parent, or child may bring an action for injunctive
11 relief to ensure compliance with the terms of a declaration.

12 Sec. 10. No person shall be required to execute a declara-
13 tion as a condition for insurance coverage, health care benefits
14 or services, or for any other reason.

15 Sec. 11. A life insurer shall not do any of the following
16 because of the execution or implementation of a declaration:

17 (a) Refuse to provide or continue coverage to the
18 declarant.

19 (b) Charge a declarant higher premiums.

20 (c) Offer a declarant different policy terms.

21 (d) Consider the terms of an existing policy to have been
22 breached or modified.

23 (e) Invoke any suicide or intentional death exemption.

24 Sec. 12. If the declaration satisfies the requirements of
25 this act, a declaration executed prior to the effective date of
26 this act is valid.

1 Sec. 13. The provisions of this act are cumulative and do
2 not impair or supersede any legal right that any person may have
3 to consent to or refuse medical intervention.

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