



**House
Legislative
Analysis
Section**

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"LIVING WILL" DOCUMENT

House Bill 4391

Sponsor: Rep. Perry Bullard

Committee: Judiciary

Complete to 9-17-91

A SUMMARY OF HOUSE BILL 4391 AS INTRODUCED 2-26-91

The bill would create the Michigan Medical Self-Determination Act. A person 18 years of age or older who was of sound mind could execute a declaration authorizing the administration and/or withholding of medical intervention. A declaration would have to be: executed voluntarily, in writing, dated, and signed by the person making it or at the direction of the person and in his or her presence. It also would have to be signed by two adult witnesses, at least one of whom would have to be someone other than a close relative of the person. No one could require a declaration to be executed for any reason, including for health care benefits or insurance. A declaration executed prior to the bill's effective date would be valid if it met the bill's requirements. The bill would not impair or supersede a legal right that a person may have to consent to or refuse medical intervention.

Implementation. A valid declaration would be implemented after the attending physician had seen the declaration and had determined that the person was terminally ill or permanently unconscious, and unable to participate in medical treatment decisions. The determination of terminal illness or permanent unconsciousness would have to be confirmed by another physician. A physician would have to attempt to communicate his or her findings to the patient upon determining the person to be terminally ill, and upon determining that the person was terminally ill and unable to participate in treatment decisions and the declaration was about to take effect. An attending physician would have to either implement a declaration or take all reasonable steps to transfer the person to another physician or health facility willing to comply with the declaration.

Revocation. A person could revoke his or her declaration at any time and by any manner, but if the revocation was not in writing, someone witnessing the revocation would have to sign a written description of the circumstances of the revocation. A physician or health facility would be bound by a revocation upon receiving notice of it.

Medical records. A physician or health facility that was given a copy of a declaration would immediately make the declaration part of the person's medical record; a revocation would be noted on the declaration and also made part of the record. Medical determinations of terminal illness, inability to participate in medical treatment decisions, and permanent unconsciousness also would be added to a declarant's medical record.

Hospital admission. A health facility could not deny admission to an individual because he or she executed a declaration.

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Liability. A person or health facility would not be subject to civil or criminal liability for providing or withholding medical intervention in accordance with a declaration and the bill.

Injunctive relief. A declarant, immediate family member, or friend could seek a court order to ensure compliance with a declaration.

Insurance. A life insurer could not do any of the following because of the execution or implementation of a declaration: refuse coverage, raise premiums, offer different policy terms, consider a policy to have been breached or modified, or invoke a suicide exemption.

Definitions. "Terminally ill" would mean a state in which an incurable, irreversible, and uncontrollable disease or condition will, in the opinion of the attending physician, likely result in death within one year. "Permanently unconscious" would mean a state in which all awareness of self or environment beyond simple reflex or reaction to noxious stimuli is absent which is expected, in the opinion of the attending physician, to last indefinitely without improvement.