

HOUSE BILL No. 4391

February 26, 1991, Introduced by Reps. Perry Bullard, Gubow, Dolan, Jondahl, Richard A. Young, Wozniak, Munsell, Saunders, Sparks, Dobronski, Kosteva. Anthony, Power, Profit and Nye 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A bill to provide for the execution of a declaration directing certain medical procedures be provided, withdrawn, or withheld under certain circumstances; to provide that certain actions be taken and certain actions not be taken with respect to a declaration; to provide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 that a physician is not prohibited by law from prescrib-
7 ing, administering, performing, or authorizing.

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

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

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

20 Sec. 3. (1) A person 18 years of age or older who is of
21 sound mind may execute a declaration to authorize 1 or more types
22 or all types of medical intervention, or to authorize the with-
23 holding or withdrawal of 1 or more types or all types of medical
24 intervention, or to authorize 1 or more types of medical inter-
25 vention and the withholding or withdrawal of 1 or more types of
26 medical intervention.

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

8 Sec. 4. A valid declaration is to be implemented after all
9 of the following occur:

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

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

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

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

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

24 (2) A revocation of a declaration is binding upon a physi-
25 cian or a health facility upon actual notice of the revocation.

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

4 (2) A physician or health facility that has notice of a
5 revocation of a declaration shall immediately make the revocation
6 part of the declarant's medical record and note the revocation on
7 the declaration.

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

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

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

24 Sec. 7. An attending physician shall implement a declara-
25 tion under section 4, or shall take all reasonable steps to
26 transfer the care and treatment of the declarant to another

1 physician or health facility willing to comply with the terms of
2 the declaration.

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

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

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

14 Sec. 11. A health facility shall not deny admission to an
15 individual because he or she executed a declaration.

16 Sec. 12. A life insurer shall not do any of the following
17 because of the execution or implementation of a declaration:

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

20 (b) Charge a declarant higher premiums.

21 (c) Offer a declarant different policy terms.

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

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

25 Sec. 13. If the declaration satisfies the requirements of
26 this act, a declaration executed prior to the effective date of
27 this act is valid.

1 Sec. 14. The provisions of this act are cumulative and do
2 not impair or supersede a legal right that a person may have to
3 consent to or refuse medical intervention.