

# HOUSE BILL No. 5453

January 28, 1992, Introduced by Reps. Perry Bullard, Dolan, Gilmer, Dobronski, Dresch, McNutt, Bender, Emerson, Gubow, Berman, Barns, Saunders, Joe Young, Jr., Munsell and Jondahl and referred to the Committee on Judiciary.

A bill to provide for the execution of a do-not-resuscitate declaration; 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 restrict certain acts by life insurers; and to exempt certain persons from penalties and 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 do-not-resuscitate procedures act".

3       Sec. 2. As used in this act:

4       (a) "Attending physician" means that term as defined in  
5 section 20102 of the public health code, Act No. 368 of the  
6 Public Acts of 1978, being section 333.20102 of the Michigan  
7 Compiled Laws.

1 (b) "Declarant" means an individual who makes a declaration  
2 pursuant to section 3.

3 (c) "Declaration" means a declaration created under  
4 section 3.

5 (d) "Emergency medical technician" means that term as  
6 defined in section 20904 of Act No. 368 of the Public Acts of  
7 1978, being section 333.20904 of the Michigan Compiled Laws.

8 (e) "Emergency medical technician specialist" means that  
9 term as defined in section 20904 of Act No. 368 of the Public  
10 Acts of 1978.

11 (f) "Fire fighter" means that term as defined in section 1  
12 of the fire prevention code, Act No. 207 of the Public Acts of  
13 1941, being section 29.1 of the Michigan Compiled Laws.

14 (g) "Health facility" means a health facility or agency as  
15 that term is defined in section 20106 of the public health code,  
16 Act No. 368 of the Public Acts of 1978, being section 333.20106  
17 of the Michigan Compiled Laws.

18 (h) "Hospital" means that term as defined in section 20106  
19 of the public health code, Act No. 368 of the Public Acts of  
20 1978, being section 333.20106 of the Michigan Compiled Laws.

21 (i) "Medical first responder" means that term as defined in  
22 section 20906 of the public health code, Act No. 368 of the  
23 Public Acts of 1978, being section 333.20906 of the Michigan  
24 Compiled Laws.

25 (j) "Nurse" means a licensed practical nurse or a registered  
26 professional nurse as those terms are defined in part 172 of Act

1 No. 368 of the Public Acts of 1978, being sections 333.17201 to  
2 333.17242 of the Michigan Compiled Laws.

3 (k) "Organization" means a company, corporation, firm, part-  
4 nership, association, trust, or governmental agency.

5 (l) "Paramedic" means that term as defined in section 20908  
6 of Act No. 368 of the Public Acts of 1978, being  
7 section 333.20908 of the Michigan Compiled Laws.

8 (m) "Patient" means a person admitted to a hospital.

9 (n) "Physician" means a person licensed under part 170 or  
10 part 175 of the public health code, Act No. 368 of the Public  
11 Acts of 1978, being sections 333.17001 to 333.17088 and 333.17501  
12 to 333.17556 of the Michigan Compiled Laws.

13 (o) "Police officer" means that term as defined in  
14 section 42 of the Michigan vehicle code, Act No. 300 of the  
15 Public Acts of 1949, being section 257.42 of the Michigan  
16 Compiled Laws.

17 (p) "Vital signs" means a pulse and evidence of  
18 respiration.

19 Sec. 3. An individual 18 years of age or older and of sound  
20 mind may voluntarily execute a declaration that prohibits imple-  
21 mentation of resuscitation measures upon him or her if he or she  
22 suffers cessation of both spontaneous respiration and  
23 circulation. The declaration shall be in writing, dated, and  
24 signed by each of the following persons:

25 (a) The declarant.

26 (b) The declarant's attending physician, if any.

1 (c) Two witnesses who are 18 years of age or older, and who  
 2 are not the declarant's spouse, parent, child, grandchild,  
 3 sibling, presumptive heir, an employee of a health facility who  
 4 provides direct patient care for or has responsibility for the  
 5 declarant, or an employee of a home for the aged where the  
 6 declarant resides.

7 Sec. 4. A declaration executed pursuant to section 3 shall  
 8 read as follows:

9 **"DO-NOT-RESUSCITATE DECLARATION"**

10 I, \_\_\_\_\_, have discussed my medical condition,  
 11 (name of declarant)  
 12 the treatment options, and likelihood of recovery with my  
 13 physician, \_\_\_\_\_. Based on  
 14 (name of attending physician, if any.)  
 15 this information, I request that in the event my heart and  
 16 breathing should stop, no person shall attempt to resuscitate  
 17 me.

18 Unless revoked by me, this declaration is effective for  
 19 6 months from the date of my signature.

20 Being of sound mind, I voluntarily execute this declaration,  
 21 and I understand its full import. This declaration expires on  
 22 \_\_\_\_\_.  
 23 (Date that is 6 months after the date of declarant's signature)

24 \_\_\_\_\_  
 25 (Declarant's signature and date)

26 \_\_\_\_\_  
 27 (Type or print declarant's full name, address, and date)

28 \_\_\_\_\_  
 29 (Attending physician's signature, if any)

\_\_\_\_\_  
 (Date)

30 \_\_\_\_\_  
 31 (Type or print attending physician's full  
 32 name and address)

WITNESSES

1

2 The person who has executed this declaration appears to be  
 3 of sound mind, and under no duress, influence of fraud, or undue  
 4 influence.

5

6 \_\_\_\_\_ (Witness signature) (Date) \_\_\_\_\_ (Witness signature) (Date)

7

8 \_\_\_\_\_ (Type or print witness's name (Type or print witness's name  
 9 and address) and address)"

10 Sec. 5. A physician who signs a declaration shall immedi-  
 11 ately make a copy of the executed declaration part of the  
 12 declarant's medical record.

13 Sec. 6. If a person or organization interested in the wel-  
 14 fare of a declarant has reason to believe that a declaration has  
 15 been executed contrary to the wishes of the declarant, the inter-  
 16 ested person or organization may petition the probate court to  
 17 have the declaration and the conditions of its execution  
 18 reviewed.

19 Sec. 7. (1) A declarant may revoke a declaration at any  
 20 time and in any manner by which he or she is able to communicate  
 21 an intent to revoke the declaration. If the revocation is not in  
 22 writing, a person who observes the revocation shall describe the  
 23 circumstances of the revocation in writing and sign the writing.

24 (2) A physician who receives notice of a revocation of a  
 25 declaration shall immediately make the revocation, including, if  
 26 available, the written description of the circumstances of the  
 27 revocation required by subsection (1), part of the declarant's  
 28 medical record.

1 (3) Revocation of a declaration is binding upon a person at  
2 the time that person receives actual notice of the revocation.

3 Sec. 8. (1) If a paramedic, emergency medical technician,  
4 emergency medical technician specialist, a physician, nurse,  
5 police officer, fire fighter, first responder, respiratory care  
6 practitioner, or an individual employed by an ambulance operation  
7 or an advanced or limited advanced mobile emergency care service  
8 is shown upon his or her arrival at the location of an individual  
9 a declaration, he or she shall examine the individual and deter-  
10 mine the presence or absence of vital signs. If he or she deter-  
11 mines that the individual has no vital signs and if he or she has  
12 no reason to doubt that the individual is the declarant, he or  
13 she shall refrain from any attempt to resuscitate the person.

14 (2) Within 90 days after the effective date of this act, a  
15 hospital shall develop and distribute to each patient 18 years of  
16 age or older a written statement upon that patient's admission  
17 that identifies each of the following:

18 (a) The patient's right under this act to direct in advance  
19 that resuscitation measures be withheld from him or her if that  
20 patient suffers cessation of both spontaneous respiration and  
21 circulation.

22 (b) The hospital's policy for implementing a direction made  
23 pursuant to subdivision (a).

24 (c) The hospital's policies governing resuscitation of  
25 patients whose wishes relating to resuscitation are unknown.

26 Sec. 9. A person or organization is not subject to civil or  
27 criminal liability for any of the following acts:

1 (a) Refraining from implementation of resuscitation  
2 procedures in accordance with this act.

3 (b) Implementing resuscitation procedures upon a declarant,  
4 if that person or organization did not receive notice of the  
5 declarant's declaration or direction.

6 (c) Implementing resuscitation procedures upon an individual  
7 if the person or organization has reason to doubt the validity of  
8 that individual's declaration.

9 Sec. 10. A person or organization shall not require an  
10 individual to execute a declaration or otherwise direct that  
11 resuscitation measures be withheld from that individual as a con-  
12 dition for life or health insurance coverage, admittance to a  
13 health care facility, receiving health care benefits or services,  
14 or for any other reason.

15 Sec. 11. A person or organization shall not deny life or  
16 health insurance coverage, admittance to a health facility, or  
17 health care benefits or services to an individual because that  
18 individual has executed a declaration or otherwise directed that  
19 resuscitative measures be withheld from him or her if that indi-  
20 vidual suffers cessation of both spontaneous respiration and  
21 circulation.

22 Sec. 12. (1) The provisions of this act are cumulative and  
23 do not impair or supersede any legal right that a person may have  
24 to consent to or refuse medical treatment.

25 (2) This act does not create a presumption concerning the  
26 intention of a person executing a declaration to consent to or

1 refuse medical treatment in circumstances other than the  
2 cessation of both spontaneous circulation and respiration.

3       (3) This act does not create a presumption concerning the  
4 intent of a person who has not executed a declaration to consent  
5 to or refuse any type of medical treatment.

6       Sec. 13. This act shall take effect December 1, 1992.