



HOUSE BILL No. 4978

August 17, 1993, Introduced by Reps. Wallace, Dobronski, Yokich, Martin, Joe Young, Jr., Willard, Bender, Gubow, Dobb, Stallworth, Rivers, Jondahl, Dolan and Profit and referred to the Committee on Public Health.

A bill to provide for the execution of a declaration directing certain medical procedures be provided, withdrawn, or withheld under certain circumstances; to provide that certain actions be taken and certain actions not be taken with respect to a declaration; to provide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 an individual 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 medicine, a procedure, or a
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 state is expected, in the
11 opinion of 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) An individual 18 years of age or older who is
21 of sound mind may execute a declaration to authorize 1 or more
22 types or all types of medical intervention, to authorize the
23 withholding or withdrawal of 1 or more types or all types of med-
24 ical intervention, or to authorize 1 or more types of medical
25 intervention and the withholding or withdrawal of 1 or more types
26 of medical intervention.

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

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

10 (a) The attending physician knows the declaration exists.

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) In the opinion of the attending physician, the declarant
15 is unable to participate in medical treatment decisions.

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, an individual 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.

26 Sec. 6. (1) A physician or health facility that is provided
27 a copy of a declaration shall immediately make the declaration

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

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

13 (3) 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 Sec. 7. An attending physician shall implement a declara-
21 tion as provided in section 4, or shall take all reasonable steps
22 to transfer the care and treatment of the declarant to another
23 physician or health facility willing to comply with the terms of
24 the declaration.

25 Sec. 8. A person or health facility is not subject to civil
26 or criminal liability for causing, or participating in, the
27 provision of medical intervention to, or the withholding or

1 withdrawal of medical intervention from, a declarant in
2 accordance with the declarant's declaration and with this act.

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

6 Sec. 10. (1) An individual shall not be required to execute
7 a declaration as a condition for insurance coverage, for health
8 care benefits or services, or for any other reason.

9 (2) A health facility shall not deny admission to an indi-
10 vidual because he or she executes a declaration.

11 (3) A life insurer shall not do any of the following because
12 of the execution or implementation of a declaration:

13 (a) Refuse to provide or continue coverage to the
14 declarant.

15 (b) Charge a declarant higher premiums.

16 (c) Offer a declarant different policy terms.

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

19 (e) Invoke a suicide or intentional death exemption.

20 Sec. 11. If the declaration satisfies the requirements of
21 this act, a declaration executed prior to the effective date of
22 this act is valid.

23 Sec. 12. The provisions of this act are cumulative and do
24 not impair or supersede a legal right that a person has to con-
25 sent to or refuse medical intervention.