



SENATE BILL No. 78

January 17, 1995, Introduced by Senator BERRYMAN
and referred to the Committee on Health Policy
and Senior Citizens.

A bill to provide for the execution of a declaration directing certain medical procedures be provided, withdrawn, or withheld under certain circumstances; to provide that certain actions be taken and certain actions not be taken with respect to a declaration; to provide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 prohibit certain persons and organizations from requiring the execution of such a declaration as a condition of receiving coverage, benefits, or services; to prohibit certain actions by certain insurers; 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:

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

3 (b) "Declarant" means an individual who has executed a
4 declaration.

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

9 (d) "Medical intervention" means medicine, a procedure, or a
10 device that a physician is not prohibited by law from prescrib-
11 ing, administering, performing, or authorizing.

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

17 (f) "Physician" means a person licensed or otherwise autho-
18 rized under article 15 of Act No. 368 of the Public Acts of 1978,
19 being sections 333.16101 to 333.18838 of the Michigan Compiled
20 Laws, to engage in the practice of medicine or osteopathic medi-
21 cine and surgery.

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

26 Sec. 3. (1) An individual 18 years of age or older who is
27 of sound mind may execute a declaration to authorize 1 or more

1 types or all types of medical intervention, to authorize the
2 withholding or withdrawal of 1 or more types or all types of med-
3 ical intervention, or to authorize 1 or more types of medical
4 intervention and the withholding or withdrawal of 1 or more types
5 of medical intervention.

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

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

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

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

19 (c) In the opinion of the attending physician, the declarant
20 is unable to participate in medical treatment decisions.

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

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

1 shall describe the circumstances of the revocation in writing and
2 sign the writing.

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

5 Sec. 6. (1) A physician or health facility that is provided
6 a copy of a declaration shall immediately make the declaration
7 part of the declarant's medical record. A physician or health
8 facility that has notice of a revocation of a declaration shall
9 immediately make the revocation part of the declarant's medical
10 record and note the revocation on the declaration.

11 (2) Upon determining that a declarant is terminally ill, an
12 attending physician who has notice of a declaration shall record
13 in the declarant's medical record that the declarant is termi-
14 nally ill and shall attempt to communicate that determination to
15 the declarant. Upon determining that a declarant is permanently
16 unconscious, an attending physician who has notice of a declara-
17 tion shall record in the declarant's medical record that the
18 declarant is permanently unconscious.

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

26 Sec. 7. An attending physician shall implement a
27 declaration as provided in section 4, 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 is not subject to civil
5 or criminal liability for causing, or participating in, the pro-
6 vision of medical intervention to, or the withholding or with-
7 drawal of medical intervention from, a declarant in accordance
8 with the declarant's declaration and with this act.

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

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

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

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

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

21 (b) Charge a declarant higher premiums.

22 (c) Offer a declarant different policy terms.

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

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

1 Sec. 11. If the declaration satisfies the requirements of
2 this act, a declaration executed before the effective date of
3 this act is valid.

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