

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2275 Session of
1982

INTRODUCED BY PISTELLA, SPENCER, BERSON, HOFFEL, KUKOVICH AND
SWAIM, FEBRUARY 24, 1982

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 24, 1982

AN ACT

1 Providing a procedure whereby a person may provide in advance
2 for the withholding or withdrawal of medical care in the
3 event the person should suffer a terminal illness or mortal
4 injury, and providing penalties.

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18 The General Assembly finds that adult persons have the

1 fundamental right to control the decisions relating to the
2 rendering of their own medical care, including the decision to
3 have life-sustaining procedures withheld or withdrawn in
4 instances of a terminal condition.

5 The General Assembly further finds that modern medical
6 technology has made possible the artificial prolongation of
7 human life beyond natural limits.

8 The General Assembly further finds that, in the interest of
9 protecting individual autonomy, such prolongation of life for
10 persons with a terminal condition may cause loss of patient
11 dignity and unnecessary pain and suffering, while providing
12 nothing medically necessary or beneficial to the patient.

13 The General Assembly further finds that there exists
14 considerable uncertainty in the medical and legal professions as
15 to the legality of terminating the use or application of life-
16 sustaining procedures where the patient has voluntarily and in
17 sound mind evidenced a desire that such procedures be withheld
18 or withdrawn.

19 In recognition of the dignity and privacy which patients have
20 a right to expect, the General Assembly hereby declares that the
21 laws of the Commonwealth of Pennsylvania shall recognize the
22 right of an adult person to make a written directive instructing
23 his physician to withhold or withdraw life-sustaining procedures
24 in the event of a terminal condition.

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 Section 1. Short title.

28 This act shall be known and may be cited as the "Natural
29 Death Act."

30 Section 2. Definitions.

1 The following words and phrases when used in this act shall
2 have, unless the context clearly indicates otherwise, the
3 meanings given to them in this section:

4 "Attending physician." The physician selected by, or
5 assigned to, the patient who has primary responsibility for the
6 treatment and care of the patient.

7 "Directive." A written document voluntarily executed by the
8 declarant in accordance with the requirements of section 3. The
9 directive, or a copy of the directive, shall be made part of the
10 patient's medical records.

11 "Life-sustaining procedure." Any medical procedure or
12 intervention which utilizes mechanical or other artificial means
13 to sustain, restore or supplant a vital function, which, when
14 applied to a qualified patient, would serve only to artificially
15 prolong the moment of death and where, in the judgment of the
16 attending physician, death is imminent whether or not such
17 procedures are utilized. "Life-sustaining procedure" shall not
18 include the administration of medication or the performance of
19 any medical procedure deemed necessary to alleviate pain.

20 "Qualified patient." A patient diagnosed and certified in
21 writing to be afflicted with a terminal condition by two
22 physicians, one of whom shall be the attending physician, who
23 have personally examined the patient.

24 "Terminal condition." An incurable condition caused by
25 injury, disease or illness, which, regardless of the application
26 of life-sustaining procedures, would, within reasonable medical
27 judgment, produce death and where the application of life-
28 sustaining procedures serve only to postpone the moment of death
29 of the patient.

30 Section 3. Execution of directive.

1 Any adult person may execute a directive directing the
2 withholding or withdrawal of life-sustaining procedures in a
3 terminal condition. The directive shall be signed by the
4 declarant in the presence of two witnesses not related to the
5 declarant by blood or marriage and who would not be entitled to
6 any portion of the estate of the declarant upon his decease
7 under any will of the declarant or codicil thereto then existing
8 or, at the time of the directive, by operation of law then
9 existing. In addition, a witness to a directive shall not be the
10 attending physician, an employee of the attending physician or a
11 health facility in which the declarant is a patient, or any
12 person who has a claim against any portion of the estate of the
13 declarant upon his decease at the time of the execution of the
14 directive. The directive shall be in the following form:

15 DIRECTIVE TO PHYSICIANS

16 Directive made this day of (Month, Year).

17 I , being of sound mind, willfully and voluntarily
18 make known my desire that my life shall not be artificially
19 prolonged under the circumstances set forth below, do hereby
20 declare:

21 (1) If at any time I should have an incurable injury,
22 disease or illness certified to be a terminal condition by
23 two physicians, and where the application of life-sustaining
24 procedures would serve only to artificially prolong the
25 moment of my death and where my physician determines that my
26 death is imminent whether or not life-sustaining procedures
27 are utilized, I direct that such procedures be withheld or
28 withdrawn, and that I be permitted to die naturally.

29 (2) In the absence of my ability to give directions
30 regarding the use of such life-sustaining procedures, it is

1 my intention that this directive shall be honored by my
2 family and physician(s) as the final expression of my legal
3 right to refuse medical or surgical treatment and accept the
4 consequences of such refusal.

5 (3) If I have been diagnosed as pregnant and that
6 diagnosis is known to my physician, this directive shall have
7 no force or effect during the course of my pregnancy.

8 (4) I have been diagnosed and notified at least 14 days
9 ago as having a terminal condition by _____, whose
10 address is _____, and whose telephone number is _____
11 . I understand that if I have not filled in the physician's
12 name and address, it shall be presumed that I did not have a
13 terminal condition when I made out this directive.

14 (5) This directive shall have no force or effect five
15 years from the date filled in above.

16 (6) I understand the full import of this directive and I
17 am emotionally and mentally competent to make this directive.

18 Signed _____

19 City, county and State of Residence _____

20 The declarant has been personally known to me and I believe him
21 or her to be of sound mind.

22 Witness _____

23 Witness _____

24 Section 4. Revocation.

25 (a) Methods.--A directive may be revoked at any time by the
26 declarant, without regard to his mental state or competency, by
27 any of the following methods:

28 (1) By being canceled, defaced, obliterated, burnt, torn
29 or otherwise destroyed by the declarant or by some person in
30 his presence and by his direction.

1 (2) By a written revocation of the declarant expressing
2 his intent to revoke, signed and dated by the declarant. Such
3 revocation shall become effective only upon communication to
4 the attending physician by the declarant or by a person
5 acting on behalf of the declarant. The attending physician
6 shall record in the patient's medical record the time and
7 date when he received notification of the written revocation.

8 (3) By a verbal expression by the declarant of his
9 intent to revoke the directive. Such revocation shall become
10 effective only upon communication to the attending physician
11 by the declarant or by a person acting on behalf of the
12 declarant. The attending physician shall record in the
13 patient's medical record the time, date and place of the
14 revocation and the time, date and place, if different, of
15 when he received notification of the revocation.

16 (b) Effect upon criminal or civil liability.--There shall be
17 no criminal or civil liability on the part of any person for
18 failure to act upon a revocation made pursuant to this section
19 unless that person has actual knowledge of the revocation.

20 Section 5. Effectiveness of directives.

21 A directive shall be effective for five years from the date
22 of execution thereof unless sooner revoked in a manner
23 prescribed in section 4. Nothing in this act shall be construed
24 to prevent a declarant from reexecuting a directive at any time
25 in accordance with the formalities of section 3, including
26 reexecution subsequent to a diagnosis of a terminal condition.
27 If the declarant has executed more than one directive, such time
28 shall be determined from the date of execution of the last
29 directive known to the attending physician. If the declarant
30 becomes comatose or is rendering incapable of communicating with

1 the attending physician, the directive shall remain in effect
2 for the duration of the comatose condition or until such time as
3 the declarant's condition renders him or her able to communicate
4 with the attending physician.

5 Section 6. Liability.

6 No physician or health facility which, acting in accordance
7 with the requirements of this act, causes the withholding or
8 withdrawal of life-sustaining procedures from a qualified
9 patient, shall be subject to civil liability therefrom. No
10 licensed health professional, acting under the direction of a
11 physician, who participates in the withholding or withdrawal of
12 life-sustaining procedures in accordance with the provisions of
13 this chapter shall be subject to any civil liability. No
14 physician or licensed health professional acting under the
15 direction of a physician, who participates in the withholding or
16 withdrawal of life-sustaining procedures in accordance with the
17 provisions of this chapter shall be guilty of any criminal act
18 or of unprofessional conduct.

19 Section 7. Procedure.

20 (a) Compliance with act and desires of patient.--Prior to
21 effecting a withholding or withdrawal of life-sustaining
22 procedures from a qualified patient pursuant to the directive,
23 the attending physician shall determine that the directive
24 complies with section 3 and, if the patient is mentally
25 competent, that the directive and all steps proposed by the
26 attending physician to be undertaken are in accord with the
27 desires of the qualified patient.

28 (b) Presumption.--If the declarant was a qualified patient
29 at least 14 days prior to executing or reexecuting the
30 directive, the directive shall be conclusively presumed, unless

1 revoked, to be the directions of the patient regarding the
2 withholding or withdrawal of life-sustaining procedures.

3 (c) Effect of failure to carry out directive.--No physician
4 and no licensed health professional acting under the direction
5 of a physician, shall be criminally or civilly liable for
6 failing to effectuate the directive of the qualified patient
7 pursuant to this subsection. A failure by a physician to
8 effectuate the directive of a qualified patient pursuant to this
9 division shall constitute unprofessional conduct if the
10 physician refuses to make the necessary arrangements, or fails
11 to take the necessary steps, to effect the transfer of the
12 qualified patient to another physician who will effectuate the
13 directive of the qualified patient.

14 (d) Effect of declarant becoming qualified patient.--If the
15 declarant becomes a qualified patient subsequent to executing
16 the directive, and has not subsequently reexecuted the
17 directive, the attending physician may give weight to the
18 directive as evidence of the patient's directions regarding the
19 withholding or withdrawal of life-sustaining procedures and may
20 consider other factors, such as information from the affected
21 family or the nature of the patient's illness, injury or
22 disease, in determining whether the totality of circumstances
23 known to the attending physician justify effectuating the
24 directive. No physician and no licensed health professional
25 acting under the direction of a physician shall be criminally or
26 civilly liable for failing to effectuate the directive of the
27 qualified patient pursuant to this subsection.

28 Section 8. Construction.

29 (a) Suicide.--The withholding or withdrawal of life-
30 sustaining procedures from a qualified patient in accordance

1 with the provisions of this chapter shall not, for any purpose,
2 constitute a suicide.

3 (b) Life insurance.--The making of a directive pursuant to
4 section 3 shall not restrict, inhibit or impair in any manner
5 the sale, procurement or issuance of any policy of life
6 insurance, nor shall it be deemed to modify the terms of an
7 existing policy of life insurance. No policy of life insurance
8 shall be legally impaired or invalidated in any manner by the
9 withholding or withdrawal of life-sustaining procedures from an
10 insured qualified patient, notwithstanding any term of the
11 policy to the contrary.

12 (c) Directive optional.--No physician, health facility or
13 other health provider, and no health care service plan, insurer
14 issuing disability insurance, self-insured employee welfare
15 benefit plan or nonprofit hospital service plan shall require
16 any person to execute a directive as a condition for being
17 insured for or receiving health care services.

18 Section 9. Effect upon legal rights or responsibilities.

19 Nothing in this act shall impair or supersede any legal right
20 or legal responsibility which any person may have to effect the
21 withholding or withdrawal of life-sustaining procedures in any
22 lawful manner. In such respect the provisions of this act are
23 cumulative.

24 Section 10. Deliberate acts or omissions not authorized.

25 Nothing in this act shall be construed to condone, authorize
26 or approve mercy killing, or to permit any affirmative or
27 deliberate act or omission to end life other than to permit the
28 natural process of dying as provided in this act.

29 Section 11. Penalties.

30 Any person who willfully conceals, cancels, defaces,

1 obliterates or damages the directive of another without such
2 declarant's consent shall be guilty of a misdemeanor. Any person
3 who, except where justified or excused by law, falsifies or
4 forges the directive of another, or willfully conceals or
5 withholds personal knowledge of a revocation as provided in
6 section 5, with the intent to cause a withholding or withdrawal
7 of life-sustaining procedures contrary to the wishes of the
8 declarant and thereby, because of any such act, directly causes
9 life-sustaining procedures to be withheld or withdrawn and death
10 to thereby be hastened, shall be subject to prosecution for
11 criminal homicide as provided in Chapter 25 of the Crimes Code.
12 Section 12. Effective date.
13 This act shall take effect in 60 days.