



SENATOR FRED DYSON

January 18, 2012

Senator Bettye Davis
State Capitol Room 30
Juneau, Alaska 99801

Re: AS 13.52 Alaska Health Care Decisions Act – Do Not Resuscitate (DNR) Orders & End of Life Decisions

Dear Senator Davis,

Thank you for your valuable support as a co-sponsor of the attached bill amending AS 13.52 *Alaska Health Care Decisions Act*. Ambiguities in the current law concerning the rights of patients and their surrogates to refuse or invalidate a DNR order have resulted in unnecessary distress of Alaskan residents facing critical end of life decisions.

In August 2011 my office was contacted by a recently discharged Anchorage area hospital patient and his wife, Mervin and Margery Mullins. The couple stated that a physician at the hospital put a Do-Not-Resuscitate order on Mervin, who has brain cancer, but doing much better than the prognosis. The DNR order was issued against the expressed wishes of both Mervin and Margery. When they protested, the physician told them that a DNR order is issued at the sole direction of a physician for his/her patient. Margery met with the hospital Chief Ethicist who confirmed their attending physician was correct. According to the Mullins, they were also told that the Durable Power of Attorney held by Margery “did not matter” because the decision was the physician’s to make.

I had several conversations with the hospital Chief Operating Officer and Chief Medical Officer. They stated there is ambiguity in the law as to what a hospital (health care facility) can do with respect to overruling a DNR order placed on a patient by a physician. I explained my view - that the presumption of the law is in favor of life and of the patient’s rights on end of life decisions, stated as such in AS.13.52.120(a) *In the absence of evidence to the contrary of the patient’s intent, this chapter establishes a presumption in favor of life, consistent with the best interest of the patient*. The Chief Medical Officer agreed and directed that the DNR order be removed from Mr. Mervin Mullins.

I asked Legislative Legal to advise me on what the law actually says in AS 13.52 with respect to DNR orders and end of life decisions, and their opinion on whether the law adequately protects the patient (or his/her agent) right to overrule a physician’s decision to issue a DNR order. I have attached to this correspondence the memos from Legal, dated October 28, 2011, and December 30, 2011.

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