

Introduced: 2/12/76
Referred: Health, Education &
Social Services and Judiciary

1 IN THE HOUSE

BY H. BEIRNE AND GRUENING

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2 HOUSE BILL NO. 744

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing freedom of choice of certain medical
7 procedures; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 13 is amended by adding a new chapter to read:

10 CHAPTER 55. WITHDRAWAL OF LIFE-SUSTAINING MECHANISMS.

11 Sec. 13.55.010. STATEMENT OF PURPOSE. The purpose of this chapter
12 is to allow a person to authorize the withdrawal of life-sustaining
13 mechanisms from his body under circumstances provided in sec. 50 of this
14 chapter.

15 Sec. 13.55.020. PERSONS WHO MAY AUTHORIZE WITHDRAWAL OF LIFE-
16 SUSTAINING MECHANISMS. A person who is 19 years of age or older and
17 mentally competent may authorize withdrawal of life-sustaining mechanisms.

18 Sec. 13.55.030. FORM OF AUTHORIZATION. (a) The authorization for
19 withdrawal of life-sustaining mechanisms must be a declaration signed by
20 at least two persons who witnessed the execution of the declaration by
21 the declarant and in substantially the following form:

22 DECLARATION made on _____ (date)
23 by _____ (person's name)
24 of _____ (city and borough of residence)
25 I, _____, being of sound mind declare
26 that if at any time I should suffer a serious physical condition which
27 causes me severe distress or unconsciousness, and my physician, with the
28 concurrence of two other physicians, believes that there is no expecta-
29 tion of my regaining health, and but for the use of life-sustaining

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1 mechanisms my death would be imminent, I desire that the mechanisms be
2 withdrawn so that I may die naturally. I further declare that this
3 declaration shall be honored by my family and my physician as the final
4 expression of my desires concerning the manner in which I die.

5 SIGNED _____

6 _____ is personally known to me and I believe
7 him/her to be of sound mind.

8 WITNESS _____

9 _____ is personally known to me and I believe
10 him/her to be of sound mind.

11 WITNESS _____

12 (b) The declaration must be filed with the superior court in the
13 judicial district where the declarant resides.

14 Sec. 13.55.040. REVOCATION OF DECLARATION. (a) A declaration
15 executed under sec. 30 of this chapter may be revoked by a revocation
16 signed by the declarant and at least two persons who witnessed the
17 declarant's execution of the revocation and in substantially the follow-
18 ing form:

19 On _____ (date) I, _____ (person's
20 name), of _____ (city and borough of residence),
21 being of sound mind revoke the declaration made on _____
22 (date declaration made) regarding the manner in which I die.

SIGNED _____

25 _____ is personally known to me and I believe him/her
26 to be of sound mind.

27 WITNESS _____

28 _____ is personally known to me and I believe him/her
29 to be of sound mind.

WITNESS _____

1 (b) A revocation shall be filed in the superior court in the
2 judicial district where the declaration was filed.

3 (c) If a declarant wishes to revoke the authorization of life-
4 sustaining mechanisms but is unable physically to execute a revocation
5 as provided in this section, a clear expression by the declarant, oral
6 or otherwise, of the declarant's wish to revoke the authorization is
7 effective as a revocation of the authorization.

8 Sec. 13.55.050. CIRCUMSTANCES FOR WITHDRAWAL OF LIFE-SUSTAINING
9 MECHANISMS. A declaration executed and filed in the manner required by
10 this chapter may be honored when the declarant suffers a serious physi-
11 cal condition causing severe distress or unconsciousness and the de-
12 clarant's physician and two other physicians concur that there is no
13 expectation that the declarant will regain health and that but for the
14 use of life-sustaining mechanisms the declarant would immediately die.

15 Sec. 13.55.060. WITHDRAWAL OF LIFE-SUSTAINING MECHANISMS. (a)
16 Before withdrawing life-sustaining mechanisms from a patient, the
17 physician in charge must be satisfied that the patient has authorized
18 the action as provided in this chapter, the conditions of the authori-
19 zation are met, and all steps proposed to be taken under it are in
20 accord with the patient's last known wishes.

21 (b) Before withdrawing life-sustaining mechanisms from a mentally
22 incompetent patient or one who is incapable of communication, the physi-
23 cian in charge shall ascertain that the patient authorized the action as
24 provided in this chapter, and the conditions of the authorization are
25 met.

26 (c) No physician or medical facility is under a duty to partici-
27 pate in the withdrawal of life-sustaining mechanisms authorized by this
28 chapter, but a physician or medical facility not honoring a patient's
29 authorization has a duty to make arrangements to transfer the patient to

1 another physician or medical facility that will give effect to an
2 authorization made in accordance with this chapter.

3 Sec. 13.55.070. PHYSICIAN IMMUNITY. A physician who in good faith
4 and in accordance with the provisions of this chapter causes withdrawal
5 of life-sustaining mechanisms is not guilty of a criminal offense or
6 subject to civil liability for his action, and is not in breach of a
7 professional oath, affirmation, or standard of care.

8 Sec. 13.55.080. EFFECT OF DECLARATION ON LIFE INSURANCE. (a) The
9 authorization of withdrawal of life-sustaining mechanisms under the pro-
10 visions of this chapter may not for any purpose be considered suicide.

11 (b) An authorization of withdrawal of life-sustaining mechanisms
12 or the actual withdrawal of life-sustaining mechanisms made or performed
13 under the provisions of this chapter may not modify in any manner the
14 terms of a life insurance policy.

15 (c) No provision of a life insurance policy purporting to re-
16 strict, limit, negate or alter in any manner the benefits, conditions or
17 terms of the policy on account of an authorization of withdrawal of
18 life-sustaining mechanisms or the actual withdrawal of life-sustaining
19 mechanisms under the provisions of this chapter is valid.

20 Sec. 13.55.090. DEFINITIONS. In this chapter

21 (1) "physician" means a person licensed under AS 08.14;

22 (2) "withdrawal of life-sustaining mechanisms" means cessa-
23 tion of use of extraordinary techniques and applications, including
24 mechanical devices and drugs, which prolong life through artificial
25 means.

26 * Sec. 2. This Act takes effect July 1, 1976.