

Original sponsors: H. Beirne and Gruening

Offered: 4/13/76
Referred: Judiciary

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR 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 terminal 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 consciousness or a state of health that is

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2 death would be imminent, I desire that the mechanisms be withdrawn so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

6 SIGNED _____

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

9 WITNESS _____

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

12 WITNESS _____

13 (b) The declaration must be filed with the local office of the
14 bureau of vital statistics in the judicial district where the declarant
15 resides.

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

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

25 SIGNED _____

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

28 WITNESS _____

29 _____ is personally known to me and I believe him/her

1 to be of sound mind.

2 WITNESS _____

3 (b) A revocation shall be filed in the local office of the bureau
4 of vital statistics in the judicial district where the declaration was
5 filed.

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

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

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

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

1 (c) No physician or medical facility has a duty to participate in
2 the withdrawal of life-sustaining mechanisms authorized by this chapter,
3 but a physician or medical facility not honoring a patient's authorization
4 has a duty to make arrangements to transfer the patient to another
5 physician or medical facility that will give effect to an authorization
6 made in accordance with this chapter.

7 (d) No physician participating in a decision to withdraw life-
8 sustaining mechanisms from a declarant may participate in transplanting
9 the vital organs of the declarant to another person.

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

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

18 (b) An authorization of withdrawal of life-sustaining mechanisms
19 or the actual withdrawal of life-sustaining mechanisms made or performed
20 under the provisions of this chapter may not modify in any manner the
21 terms of a life insurance policy.

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

27 Sec. 13.55.090. DEFINITIONS. In this chapter

- 28 (1) "physician" means a person licensed under AS 08.64;
29 (2) "withdrawal of life-sustaining mechanisms" means cessation

1 of use of extraordinary techniques and applications, including mechanical
2 devices which prolong life through artificial means.

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