

Introduced: 1/21/83
Referred: Health, Education &
- Social Services and Judiciary

1 IN THE HOUSE

BY CLOCKSIN AND GOLL

2

HOUSE BILL NO. 107

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the right to a natural death."

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

8 * Section 1. PURPOSE. The legislature finds that adult persons have the
9 fundamental right to control the decisions relating to the rendering of
10 their own medical care, including the decision to have life-sustaining
11 procedures withheld or withdrawn in instances of a terminal condition. In
12 order that the rights of patients may be respected even after they are no
13 longer able to participate actively in decisions about themselves, the
14 legislature declares that the laws of the state recognize the right of an
15 adult person to make a written declaration instructing the attending physi-
16 cian of the person to withhold or withdraw life-sustaining procedures in
17 the event of a terminal condition.

18 * Sec. 2. AS 18 is amended by adding a new chapter to read:

19

CHAPTER 12. RIGHT TO A NATURAL DEATH.

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Sec. 18.12.010. EXECUTION OF DECLARATION. (a) An adult person

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may execute a declaration directing the withholding or withdrawal of

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life-sustaining procedures in the event of a terminal condition. The

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declaration shall be signed by the declarant in the presence of two

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subscribing witnesses, no more than one of whom may be

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(1) related to the declarant by blood or marriage;

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(2) entitled to a portion of the estate of the declarant

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under a will or codicil of the declarant;

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(3) a claimant against a portion of the estate of the

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declarant; or

1 executed. The declaration may not be considered an indication of the
2 mental incompetency of a declarant. Age of itself is not a bar to a
3 determination of competency.

4 (d) In the absence of actual notice of the revocation of the
5 declaration, the following persons, when acting in accordance with the
6 requirements of this chapter, are not subject to civil liability
7 unless negligent and are not guilty of a criminal act of unprofes-
8 sional conduct:

9 (1) a physician who or a health facility that withholds or
10 withdraws life-sustaining procedures from a qualified patient;

11 (2) a licensed health professional, acting under the direc-
12 tion of a physician, who participates in the withholding or withdrawal
13 of life-sustaining procedures from a qualified patient.

14 Sec. 18.12.050. PENALTIES. (a) An attending physician who
15 fails to comply with the declaration of a qualified patient or to make
16 the necessary arrangements to effect the transfer is civilly liable to
17 the qualified patient and to the heirs of the qualified patient.

18 (b) A person who wilfully conceals, cancels, defaces, obliter-
19 ates, or damages the declaration of another without the declarant's
20 consent or who falsifies or forges a revocation of the declaration of
21 another is civilly liable to the qualified patient and to the heirs of
22 the qualified patient.

23 (c) A person who falsifies or forges the declaration of another
24 person or wilfully conceals or withholds personal knowledge of a
25 revocation under AS 18.12.020, with the intent to cause a withholding
26 or withdrawal of life-sustaining procedures contrary to the wishes of
27 the person or declarant and thereby directly causes life-sustaining
28 procedures to be withheld or withdrawn and death to be hastened vio-
29 lates AS 11.41.100.

1 Sec. 18.12.060. ACTS UNDER THIS CHAPTER NOT SUICIDE. The with-
2 holding or withdrawal of life-sustaining procedures from a qualified
3 patient in accordance with the provisions of this chapter does not,
4 for any purpose, constitute a suicide.

5 Sec. 18.12.070. EFFECTS ON LIFE INSURANCE. The making of a
6 declaration under AS 18.12.010 does not affect in any manner a life
7 insurance policy nor does it modify the terms of an existing life
8 insurance policy. A life insurance policy is not legally impaired or
9 invalidated in any manner by the withholding or withdrawal of life-
10 sustaining procedures from an insured qualified patient, notwithstand-
11 ing a term of the policy to the contrary.

12 Sec. 18.12.080. DECLARATION MAY NOT BE MADE A CONDITION FOR
13 INSURANCE OR HEALTH CARE SERVICES. A physician, health facility, or
14 other health provider, and health care service plan, insurer issuing
15 disability insurance, self-insured employee welfare benefit plan, or
16 non-profit hospital plan may not require a person to execute a decla-
17 ration as a condition for being insured for or receiving health care
18 services.

19 Sec. 18.12.090. EXISTING RIGHTS OR RESPONSIBILITIES. This
20 chapter does not impair or supercede a legal right or legal respon-
21 sibility that a person may have to withhold or withdraw life-sustain-
22 ing procedures in a lawful manner.

23 Sec. 18.12.100. PRESUMPTION FROM FAILURE TO EXECUTE A DECLARA-
24 TION. This chapter does not create a presumption concerning the
25 intention of an individual who has not executed a declaration to
26 consent to the use or withholding of life-sustaining procedures in the
27 event of a terminal condition.

28 Sec. 18.12.110. SEVERABILITY. If a provision of this chapter or
29 its application to an individual or circumstances is held invalid, the

1 executed. The declaration may not be considered an indication of the
2 mental incompetency of a declarant. Age of itself is not a bar to a
3 determination of competency.

4 (d) In the absence of actual notice of the revocation of the
5 declaration, the following persons, when acting in accordance with the
6 requirements of this chapter, are not subject to civil liability
7 unless negligent and are not guilty of a criminal act of unprofes-
8 sional conduct:

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26 consent to the use or withholding of life-sustaining procedures in the
27 event of a terminal condition.

28 Sec. 18.12.110. SEVERABILITY. If a provision of this chapter or
29 its application to an individual or circumstances is held invalid, the

1 invalidity does not affect other provisions or applications of this
2 chapter that can be given effect without the invalid provision or
3 application.

4 Sec. 18.12.120. DEFINITIONS. In this chapter

5 (1) "attending physician" means the physician selected by
6 or assigned to the patient who has primary responsibility for the
7 treatment and care of the patient;

8 (2) "declaration" means a witnessed document in writing,
9 voluntarily executed by the declarant under AS 18.12.010;

10 (3) "life-sustaining procedure"

11 (A) means a medical procedure or intervention that,
12 when applied to a qualified patient, would serve only to prolong
13 the dying process where, in the judgment of the attending physi-
14 cian, death will occur whether or not these procedures are used;

15 (B) does not include the administration of medication
16 or the performance of a medical procedure considered necessary to
17 provide for the comfort of a qualified patient;

18 (4) "qualified patient" means a patient who has executed a
19 declaration under AS 18.12.010 and who has been diagnosed and certi-
20 fied in writing to be afflicted with a terminal condition by two
21 physicians who have personally examined the patient, one of whom is
22 the attending physician.