

**SENATE BILL NO. 365**

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR CRAFT

Introduced: 1/22/92  
Referred: HES, Judiciary

**A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to living wills and do not resuscitate orders; and providing for an  
2 effective date."

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

4 \* Section 1. AS 18.12 is amended by adding new sections to read:

5 Sec. 18.12.035. DO NOT RESUSCITATE ORDERS AND PROTOCOLS. (a) An  
6 attending physician may issue a do not resuscitate order for a patient of the physician. The  
7 physician shall document the grounds for the order in the patient's medical file.

8 (b) The Department of Health and Social Services shall, by regulation, adopt a do not  
9 resuscitate protocol that sets out a standardized method of procedure for the withholding of  
10 cardiopulmonary resuscitation by physicians and other health care providers. The regulations  
11 may not be adopted unless they have been approved by the State Medical Board.

12 (c) A health care provider other than a physician shall comply with the do not resuscitate  
13 protocol adopted under (b) of this section when presented with any of the following: DNR  
14 identification, an oral do not resuscitate order issued directly by a physician, or a written do not

1 resuscitate order entered on a form prescribed by the Department of Health and Social Services.

2 Sec. 18.12.037. LIVING WILL AND DNR IDENTIFICATION. The Department of  
3 Health and Social Services shall develop standardized designs for DNR identification cards,  
4 forms, necklaces, and bracelets that signify, when carried or worn, that the possessor has  
5 executed a declaration under this chapter or is a patient for whom a physician has issued a do  
6 not resuscitate order.

7 \* Sec. 2. AS 18.12.040(a) is amended to read:

8 (a) A qualified patient or a patient for whom a physician has issued a do not  
9 resuscitate order has the right to make decisions regarding use of cardiopulmonary  
10 resuscitation and other life-sustaining procedures as long as the patient is able to do so. If a  
11 qualified patient or patient for whom a physician has issued a do not resuscitate order is not  
12 able to make these decisions, the declaration or do not resuscitate protocol governs decisions  
13 regarding use of cardiopulmonary resuscitation and other life-sustaining procedures.

14 \* Sec. 3. AS 18.12.050(b) is amended to read:

15 (b) If the policies of a health care facility preclude compliance with the declaration of  
16 a qualified patient under this chapter or a do not resuscitate order issued by an attending  
17 physician, or the facility is unwilling to accept DNR identification as evidence of the  
18 existence of a declaration or do not resuscitate order, that facility shall take all reasonable  
19 steps to notify the patient or, if the patient is not able to make treatment decisions, the patient's  
20 guardian, of the facility's policy and shall take all reasonable steps to effect the transfer of the  
21 patient to the patient's home or to a facility where the provisions of this chapter can be carried  
22 out.

23 \* Sec. 4. AS 18.12.060(a) is amended to read:

24 (a) In the absence of actual notice of the revocation of a declaration or do not  
25 resuscitate order, as applicable, the following, while acting in accordance with the do not  
26 resuscitate protocol adopted under AS 18.12.035 or with the other requirements of this  
27 chapter, are not subject to civil or criminal liability or guilty of unprofessional conduct:

28 (1) a physician who causes the withholding or withdrawal of life-sustaining  
29 procedures from a qualified patient or the withholding or withdrawal of cardiopulmonary  
30 resuscitation from a patient for whom a do not resuscitate order has been issued or who  
31 possesses DNR identification;

1 (2) a person who participates in the withholding or withdrawal of  
2 cardiopulmonary resuscitation or other life-sustaining procedures under the direction or with  
3 the authorization of a physician or upon discovery of DNR identification upon a person;

4 (3) persons who cause or participate in providing cardiopulmonary  
5 resuscitation or other life-sustaining procedures after an oral or written request  
6 communicated to them by a person who possesses DNR identification;

7 (4) the health care facility in which the providing, withholding, or withdrawal  
8 occurs.

9 \* Sec. 5. AS 18.12.070 is amended to read:

10 Sec. 18.12.070. PENALTIES. (a) An attending physician who fails to comply with a  
11 do not resuscitate order or the declaration of a qualified patient or to make the necessary  
12 arrangements to effect a transfer under AS 18.12.050 has no right to compensation for medical  
13 services provided to a [QUALIFIED] patient after withholding or withdrawal should have been  
14 effective or after transfer should have occurred and may be liable to the [QUALIFIED] patient  
15 and to the heirs of the [QUALIFIED] patient for a civil penalty not to exceed \$1,000.00 plus the  
16 actual costs associated with the failure to comply with the order or declaration, and this shall  
17 be the exclusive remedy at law for damages.

18 (b) A person who wilfully conceals, cancels, defaces, obliterates, or damages the DNR  
19 identification or declaration of another person without the other's [DECLARANT'S] consent  
20 or who falsifies or forges a revocation of the DNR identification or declaration of another  
21 person may be civilly liable to the other person [QUALIFIED PATIENT] and to the heirs of  
22 the other person [QUALIFIED PATIENT].

23 \* Sec. 6. AS 18.12.080(a) is amended to read:

24 (a) Death resulting from the withholding or withdrawal of cardiopulmonary  
25 resuscitation or other life-sustaining procedures under a do not resuscitate order or protocol,  
26 under a declaration, or upon discovery of DNR identification on a person and in accordance  
27 with this chapter does not, for any purpose, constitute a suicide or homicide.

28 \* Sec. 7. AS 18.12.080(b) is amended to read:

29 (b) The issuing of a do not resuscitate order, the possession of DNR identification,  
30 or the making of a declaration under AS 18.12.010 does not affect in any manner the sale,  
31 procurement, or issuance of a policy of life insurance, nor does it modify the terms of an existing

1 policy of life insurance. A policy of life insurance is not legally impaired or invalidated in any  
2 manner by the withholding or withdrawal of life-sustaining procedures from an insured qualified  
3 patient or the withholding or withdrawal of cardiopulmonary resuscitation from an insured  
4 patient who possesses DNR identification or for whom a do not resuscitate order has been  
5 issued, notwithstanding any term of the policy to the contrary.

6 \* Sec. 8. AS 18.12.080(c) is amended to read:

7 (c) A physician, health care facility, or other health care provider, and a health care  
8 service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or  
9 nonprofit hospital plan, may not require a person to execute a declaration, obtain a do not  
10 resuscitate order from a physician, or possess DNR identification as a condition for being  
11 insured for, or receiving, health care services.

12 \* Sec. 9. AS 18.12.080(d) is amended to read:

13 (d) This chapter creates no presumption concerning the intention or intended treatment  
14 of an individual who does not have DNR identification, has not executed a declaration, or for  
15 whom a do not resuscitate order has not been issued with respect to the use, withholding, or  
16 withdrawal of cardiopulmonary resuscitation or other life-sustaining procedures [IN THE  
17 EVENT OF A TERMINAL CONDITION].

18 \* Sec. 10. AS 18.12.080(e) is amended to read:

19 (e) Nothing in this chapter increases or decreases the right of a patient to make decisions  
20 regarding use of cardiopulmonary resuscitation or other life-sustaining procedures as long as  
21 the patient is able to do so, or impairs or supersedes any right or responsibility that a person has  
22 to effect the withholding or withdrawal of medical care in a lawful manner. In that respect, the  
23 provisions of this chapter are cumulative.

24 \* Sec. 11. AS 18.12.090 is amended to read:

25 Sec. 18.12.090. RECOGNITION OF DECLARATIONS AND ORDERS EXECUTED  
26 OR ISSUED IN OTHER STATES. A declaration, do not resuscitate order, or DNR  
27 identification executed, issued, or authorized in another state or a territory or possession of the  
28 United States in compliance with the law of that jurisdiction is effective for purposes of this  
29 chapter.

30 \* Sec. 12. AS 18.12.100 is amended by adding new paragraphs to read:

31 (8) "cardiopulmonary resuscitation" means cardiopulmonary resuscitation or a

1 component of cardiopulmonary resuscitation;

2 (9) "DNR identification" means identification substantially similar to that  
3 approved under AS 18.12.037;

4 (10) "do not resuscitate order" means a directive from a licensed physician that  
5 emergency cardiopulmonary resuscitation should not be administered to a particular person;

6 (11) "do not resuscitate protocol" means the protocol developed under  
7 AS 18.12.035(b).

8 \* Sec. 13. The commissioner of health and social services shall promptly begin the procedure to  
9 adopt regulations implementing AS 18.12.035 and 18.12.037, enacted by sec. 1 of this Act, so that the  
10 regulations can take effect as soon as practicable.

11 \* Sec. 14. AS 18.12.035(b) and 18.12.037, enacted by sec. 1 of this Act, and sec. 13 of this Act take  
12 effect immediately under AS 01.70.070(c).

13 \* Sec. 15. Except as provided in sec. 14 of this Act, this Act takes effect on the effective date of the  
14 regulations adopted under AS 18.12.035 or 18.12.037, enacted by sec. 1 of this Act, whichever is later.  
15 The commissioner of health and social services shall notify the revisor of statutes and the lieutenant  
16 governor of that date.