

SB 363

SENATE FINANCE COMMITTEE REPORT

DATE: 5/4/92

FURTHER:

DATE TURNED INTO OFFICE: _____

The Finance Committee considered SENATE BILL NO. 365

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

DIED

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

DO PASS:

1. _____
Co-Chair: Signature/Recommendation

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

OTHER RECOMMENDATIONS:

2. _____
Co-Chair: Signature/Recommendation

FISCAL NOTI

No. 1
 Bill Version: SB 365
 (S) Publish Date: 2-18-92

STATE OF ALASKA
 1992 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected Health & Social Services
 Title: Living wills and do not resuscitate orders BRU: State Health Services
 Component: Public Health Administration
 Sponsor: Craft
 Requestor: HES COMPONENT SERIAL NO. 0-60-40602-292

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING	FY93	FY94	FY95	FY96	FY97	FY98	
PERSONAL SERVICES							
TRAVEL	1.0						
CONTRACTUAL	9.3						
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING	10.3	0.0	0.0	0.0	0.0	0.0	
CAPITAL							
REVENUE							

FUNDING:		(Thousands of Dollars)					
GENERAL FUND	10.3						
FEDERAL FUNDS							
OTHER							
TOTAL	10.3	0.0	0.0	0.0	0.0	0.0	

POSITIONS:		(Thousands of Dollars)					
FULL-TIME							
PART-TIME							
TEMPORARY							

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

The department would need to contract out the writing of the regulations which are mandated by SB 365. A contract for 3 months of writing and walking the regulations through the adoption procedure would cost \$6.0. Additional costs associated with the adoption procedure are as follows:
 Printing - \$0.5, Mailings - \$0.3, Advertising \$1.5, 2 Teleconferences @ \$7.0

Prepared by: Peter M. Nakamura, MD, MPH *PMN* Phone: 465-3090
 Division: Public Health Date: 1/29/92
 Approved by Commissioner: Theodore A. Mala, MD, MPH *Theodore Mala* Date: 30 Jan 1992
 Agency: Department of Health and Social Services

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor

OMB
 Changes in CS SB 365 (SUD)
 have no fiscal impact. This
 fiscal note is appropriate.

Changes in CS SB 365 (HES)
 have no fiscal impact. This
 fiscal note is appropriate.

14 Feb 92 *M. Fouse*
 date Comte Aide (initial)

(Rev 12/91) 5/4/92 *62 JTC*
 date Comte Aide (initial)

Page 1 of 1

CS FOR SENATE BILL NO. 365 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/4/92
Referred: Finance

Sponsor(s): SENATOR CRAFT

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 must include standardized procedures for implementing a do not resuscitate order issued in a
12 jurisdiction outside of this state. The regulations may not be adopted unless they have been
13 approved by the State Medical Board.

14 (c) A health care provider other than a physician shall comply with the do not resuscitate

1 protocol adopted under (b) of this section when presented with any of the following: DNR
2 identification, an oral do not resuscitate order issued directly by a physician, or a written do not
3 resuscitate order entered on a form prescribed by the Department of Health and Social Services.

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

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

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

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

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

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

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

30 (1) a physician who causes the withholding or withdrawal of life-sustaining
31 procedures from a qualified patient or the withholding or withdrawal of cardiopulmonary

1 resuscitation from a patient for whom a do not resuscitate order has been issued or who
2 possesses DNR identification;

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

6 (3) the health care facility in which the withholding or withdrawal occurs.

7 * Sec. 5. AS 18.12.060 is amended by adding a new subsection to read:

8 (c) A person who causes or participates in the providing of cardiopulmonary resuscitation
9 or other life-sustaining procedures after an oral or written request to do so communicated to the
10 person by another who possesses DNR identification is not subject to civil or criminal liability
11 for failing to honor the intent of the DNR identification nor is the person guilty of unprofessional
12 conduct for that action. The health care facility in which actions described in this subsection are
13 undertaken is also not subject to civil or criminal liability for the failure to honor the intent of
14 DNR identification.

15 * Sec. 6. AS 18.12.070 is amended to read:

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

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

29 * Sec. 7. AS 18.12.080(a) is amended to read:

30 (a) Death resulting from the withholding or withdrawal of cardiopulmonary
31 resuscitation or other life-sustaining procedures under a do not resuscitate order or protocol,

1 under a declaration, or upon discovery of DNR identification on a person and in accordance
2 with this chapter does not, for any purpose, constitute a suicide or homicide.

3 * Sec. 8. AS 18.12.080(b) is amended to read:

4 (b) The issuing of a do not resuscitate order, the possession of DNR identification,
5 or the making of a declaration under AS 18.12.010 does not affect in any manner the sale,
6 procurement, or issuance of a policy of life insurance, nor does it modify the terms of an existing
7 policy of life insurance. A policy of life insurance is not legally impaired or invalidated in any
8 manner by the withholding or withdrawal of life-sustaining procedures from an insured qualified
9 patient or the withholding or withdrawal of cardiopulmonary resuscitation from an insured
10 patient who possesses DNR identification or for whom a do not resuscitate order has been
11 issued, notwithstanding any term of the policy to the contrary.

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

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

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

19 (d) This chapter creates no presumption concerning the intention or intended treatment
20 of an individual who does not have DNR identification, has not executed a declaration, or for
21 whom a do not resuscitate order has not been issued with respect to the use, withholding, or
22 withdrawal of cardiopulmonary resuscitation or the use, withholding, or withdrawal of other
23 life-sustaining procedures in the event of a terminal condition.

24 * Sec. 11. AS 18.12.080(e) is amended to read:

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

30 * Sec. 12. AS 18.12.090 is amended to read:

31 Sec. 18.12.090. RECOGNITION OF DECLARATIONS AND ORDERS EXECUTED

1 OR ISSUED IN OTHER STATES. A declaration, do not resuscitate order, or DNR
2 identification executed, issued, or authorized in another state or a territory or possession of the
3 United States in compliance with the law of that jurisdiction is effective for purposes of this
4 chapter.

5 * Sec. 13. AS 18.12.100 is amended by adding new paragraphs to read:

6 (8) "cardiopulmonary resuscitation" means cardiopulmonary resuscitation or a
7 component of cardiopulmonary resuscitation;

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

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

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

14 * Sec. 14. The commissioner of health and social services shall promptly begin the procedure to
15 adopt regulations implementing AS 18.12.035 and 18.12.037, enacted by sec. 1 of this Act, so that the
16 regulations can take effect as soon as practicable.

17 * Sec. 15. AS 18.12.035(b) and 18.12.037, enacted by sec. 1 of this Act, and sec. 14 of this Act take
18 effect immediately under AS 01.10.070(c).

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

CS FOR SENATE BILL NO. 365 (HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/18/92
 Referred: Judiciary

Sponsor(s): SENATOR CRAFT

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."

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

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 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:

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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) the health care facility in which the withholding or withdrawal occurs.

5 * Sec. 5. AS 18.12.060 is amended by adding a new subsection to read:

6 (c) A person who causes or participates in the providing of cardiopulmonary resuscitation
7 or other life-sustaining procedures after an oral or written request to do so communicated to the
8 person by another who possesses DNR identification is not subject to civil or criminal liability
9 for failing to honor the intent of the DNR identification nor is the person guilty of unprofessional
10 conduct for that action. The health care facility in which actions described in this subsection are
11 undertaken is also not subject to civil or criminal liability for the failure to honor the intent of
12 DNR identification.

13 * Sec. 6. AS 18.12.070 is amended to read:

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

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

27 * Sec. 7. AS 18.12.080(a) is amended to read:

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

1 * Sec. 8. AS 18.12.080(b) is amended to read:

2 (b) The issuing of a do not resuscitate order, the possession of DNR identification,
3 or the making of a declaration under AS 18.12.010 does not affect in any manner the sale,
4 procurement, or issuance of a policy of life insurance, nor does it modify the terms of an existing
5 policy of life insurance. A policy of life insurance is not legally impaired or invalidated in any
6 manner by the withholding or withdrawal of life-sustaining procedures from an insured qualified
7 patient or the withholding or withdrawal of cardiopulmonary resuscitation from an insured
8 patient who possesses DNR identification or for whom a do not resuscitate order has been
9 issued, notwithstanding any term of the policy to the contrary.

10 * Sec. 9. AS 18.12.080(c) is amended to read:

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

16 * Sec. 10. AS 18.12.080(d) is amended to read:

17 (d) This chapter creates no presumption concerning the intention or intended treatment
18 of an individual who does not have DNR identification, has not executed a declaration, or for
19 whom a do not resuscitate order has not been issued with respect to the use, withholding, or
20 withdrawal of cardiopulmonary resuscitation or the use, withholding, or withdrawal of other
21 life-sustaining procedures in the event of a terminal condition.

22 * Sec. 11. AS 18.12.080(e) is amended to read:

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

28 * Sec. 12. AS 18.12.090 is amended to read:

29 Sec. 18.12.090. RECOGNITION OF DECLARATIONS AND ORDERS EXECUTED
30 OR ISSUED IN OTHER STATES. A declaration, do not resuscitate order, or DNR
31 identification executed, issued, or authorized in another state or a territory or possession of the

1 United States in compliance with the law of that jurisdiction is effective for purposes of this
2 chapter.

3 * Sec. 13. AS 18.12.100 is amended by adding new paragraphs to read:

4 (8) "cardiopulmonary resuscitation" means cardiopulmonary resuscitation or a
5 component of cardiopulmonary resuscitation;

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

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

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

12 * Sec. 14. The commissioner of health and social services shall promptly begin the procedure to
13 adopt regulations implementing AS 18.12.035 and 18.12.037, enacted by sec. 1 of this Act, so that the
14 regulations can take effect as soon as practicable.

15 * Sec. 15. AS 18.12.035(b) and 18.12.037, enacted by sec. 1 of this Act, and sec. 14 of this Act take
16 effect immediately under AS 01.10.070(c).

17 * Sec. 16. Except as provided in sec. 15 of this Act, this Act takes effect on the effective date of the
18 regulations adopted under AS 18.12.035 or 18.12.037, enacted by sec. 1 of this Act, whichever is later.

19 The commissioner of health and social services shall notify the revisor of statutes and the lieutenant
20 governor of that date.

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

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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.

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4 forms, necklaces, and bracelets that signify, when carried or worn, that the possessor has
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6 not resuscitate order.

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

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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
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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
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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.

POSITION PAPER

SENATE BILL NO. 365

A Bill for an Act entitled: "An Act relating to living wills and do not resuscitate orders; and providing for an effective date."

ANALYSIS


SB 365 complements current statutes on the rights of the terminally ill by adding specific recognition of do not resuscitate (DNR) orders to the existing legislation on the rights of the terminally ill to make a declaration relating to the use of life-sustaining procedures. A new section (18.12.035), allows attending physicians to issue do not resuscitate orders, requires the Department of Health and Social Services, with the approval of the State Medical Board, to issue regulations adopting a standardized protocol governing the withholding of cardiopulmonary resuscitation by physicians and other health care providers, and establishes the requirements under which health care providers other than physicians must comply with do not resuscitate orders. Section 18.12.037 requires the Department of Health and Social Services to develop standardized designs for DNR identification cards, forms, necklaces, and bracelets to indicate that the possessor has executed a living will or that a DNR order has been issued by a physician. Other provisions of the Bill amend existing statutory provisions by including DNRs along with living wills in areas such as immunities for health care providers acting under the provisions of living wills and DNR orders, penalties, etc.

Do not resuscitate orders are issued only in the case of terminal illness. Existing statutes on living wills appear to apply only to physicians, persons participating in the withholding or withdrawal of life-sustaining procedures from a qualified patient under the direction of with the authorization of a physician, and health care facilities in which the withholding or withdrawal occurs. Under existing practice, emergency response providers (EMT's and paramedics) are required to institute cardiopulmonary resuscitation on site even if the sick person has a living will. A properly executed DNR order and procedural protocol recognized by all concerned parties would help to avoid futile and unwanted interventions. Similarly, within health care institutions, DNR orders are necessary in the absence of a living will when attempts at resuscitation serve only to prolong the process of dying.

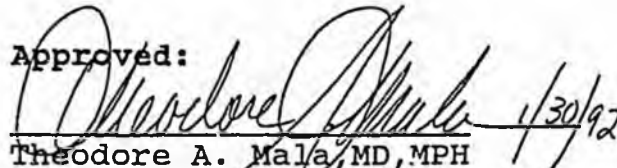
POSITION

The Department of Health and Social Services supports enactment of:SB 365.

Recommended:


Peter M. Nakamura, MD, MPH
Director
Division of Public Health

Approved:

 1/30/92
Theodore A. Mala, MD, MPH
Commissioner
Health and Social Services

POSITION PAPER
OFFICE OF THE ALASKA DEPARTMENT OF HEALTH & SOCIAL SERVICES