

HB

442

ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4

ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

(907) 465-3744
FAX (907) 465-2273

DATE: April 13, 2006

TO: Senator Fred Dyson, Chair
Health, Education & Social Services Committee

FROM: Representative Bruce Weyhrauch



SUBJECT: CS HB 442(JUD) Health Care Decisions

I am writing to request a hearing on CS HB 442(JUD), Health Care Decisions, at your earliest convenience.

I have attached a copy of the bill, as well as a sponsor statement, sectional analysis, and fiscal notes.

If you have any questions, please contact Jacqueline Tupou at 6597.

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REPRESENTATIVE BRUCE WEYHRAUCH



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Sponsor Statement for House Bill 442

Passage of the Health Care Decisions Act ("Alaska Act") in 2004, was an important step forward in modernizing and improving Alaska's health care laws for the terminally ill, their families, and loved ones. House Bill 442 makes minor changes to the Alaska Act in order to provide clearer direction to those implementing health care decisions.

Current law imposes a duty of investigation upon doctors when carrying out the health care directives of their patients. House Bill 442 amends the current statute to conform the language in the Alaska Act to Uniform Act language, thus requiring a doctor to act in "good faith" when time is often critical for their patients. The bill also substitutes the word "physician" for "attending physician", to clarify the intent that all physicians treating a patient adhere to the patient's advanced health care directives. Finally, House Bill 442 clarifies when CPR may be used, addresses the validity of orders from other jurisdictions, and indicates under what circumstances a Do Not Resuscitate order may be revoked.

The Health Care Decisions Act has been beneficial and important for all Alaskans in letting terminally ill patients have their wishes heard. House Bill 442 helps caregivers carry out those wishes.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 13, 2006

SUBJECT: CSHB 442(JUD) am - relating to health care decisions
(Work Order No. 24-LS1618\Y.A)

TO: Representative Bruce Weyhrauch
Attn: Ginny

FROM: ^{TD} Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Amends AS 13.52.010(k) to state that an advance health care directive is valid under AS 13.52 if it complies with AS 13.52, no matter where or when it was signed or communicated.

Section 2. Adds a new subsection to AS 13.52.010. The new subsection states that an individual instruction that is valid under AS 13.52 is still valid even if it is contained in a writing with a noncomplying durable power of attorney for health care.

Section 3. Amends AS 13.52.020(c) to substitute "physician" for "attending physician" with regard to whom an individual may communicate a revocation of an advance health care directive.

Section 4. Amends AS 13.52.060(d) to add a new exception to the subsection's requirement that a health care provider, health care institution, or health care facility comply with individual instructions and certain health care decisions made by persons other than the patient. The new exception is found at bill sec. 5.

Section 5. Adds new subsections to AS 13.52.060. New subsection (i) allows a health care provider to perform resuscitative measures, even if there is a DNR order, if the condition is caused by complications from medical services being provided by the provider. New subsection (j) establishes an exception to (i) for emergency services in the field.

Section 6. Amends AS 13.52.065(a) to remove the limitation that the physician who may issue a DNR order be the attending physician.

Representative Bruce Weyhrauch

April 13, 2006

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Section 7. Rewrites AS 13.52.065(f) to indicate under what circumstance a DNR order may be made ineffective and revoked.

Section 8. Amends AS 13.52.080(a) to impose a good faith requirement to the test for when a health care provider or a health care institution is not subject to liability or discipline for engaging in certain acts. Also, requires a good faith belief rather than reasonable belief in three of the identified acts. Adds a situation where the provider will not be liable under the main test in the subsection for causing or providing life-sustaining procedures.

Section 9. Amends AS 13.52.080 to add a provision regarding when providers are not subject to civil or criminal liability or discipline when a DNR order prevents the use of life-sustaining procedures.

Section 10. Amends the spanned reference in AS 13.52.140 to include the statutes that govern guardians.

Section 11. Amends AS 13.52.150 to change the conditions for when a DNR order or identification from another U.S. state, a territory, or a possession is considered valid and to establish a presumption of compliance.

Section 12. Amends the definition of "capacity" in AS 13.52.390(7) to include the ability to make and effectively communicate health care decisions.

Section 13. Provides that a DNR order made under former AS 18.12 continues to be effective under AS 13.52 unless it is made ineffective (for example, revoked) under AS 13.52.

Section 14. Directs the regulations attorney to make certain specified changes to the regulations relating to DNR protocol and identification.

Section 15. Makes bill sections 1 - 13 retroactive.

Section 16. Gives this Act an immediate effective date.

If I may be of further assistance, please advise.

TLB:med

06-307.med

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 442(HES)
 (H) Publish Date: 3/3/06
 Dept. Affected: Health & Social Services
 RDU Public Health
 Component Community Health/EMS Services

Revision Date/Time (Note if correction): _____

Title RELATING TO HEALTH CARE DIRECTIVES

Sponsor WEYHRAUCH

Requester HOUSE (HES)

Component No. 2078

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill follows up on a comprehensive advance directives measure passed by the Legislature and signed into law in 2004. HB442 amends current law in several areas including the validity of health care directives from other states, clarifying which physicians can issue or revoke health care directives on behalf of a patient, and revising provisions regarding do not resuscitate orders.

Though EMTs and other first responders in Alaska will have to be aware of changes enacted in this bill, there is no additional fiscal impact on the Department of Health and Social Services.

Prepared by: Richard Mandsager, M.D.

Division: Public Health

Phone 465-3092

Date/Time 02/17/2006

Approved by: Karleen Jackson, Commissioner

Agency: Department of Health and Social Services

Date 02/17/2006



April 21, 2006

The Honorable Fred Dyson, Chair
Senate Health, Education and Social Services Committee
Alaska State Capitol, Room 121
Juneau, AK 99801-1182

RE: HB 442-- (Weyhrauch)--Support

Dear Chair Dyson:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the Senate Health, Education and Social Services Committee to support HB 442, authored by Representative Bruce Weyhrauch and co-sponsored by Representative Nancy Dahlstrom.

In 2004, Representative Weyhrauch authored HB 25 which was a comprehensive effort to allow Alaskans to use more "consumer-friendly" documents for living wills and advance directives. HB 442 builds upon those statutes for some language clarification, when CPR may be used, health directives from other states and specifies circumstances when a DNR order may be revoked.

HB 442 builds logically on work that has already been done by the Legislature and will be of assistance to all Alaskans as they clarify what their health care wishes are.

AARP recommends an "AYE" vote on HB 442.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Marie Darlin".

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Gary Wilken
Senator Lyda Green
Senator Kim Elton
Senator Donny Olson
Representative Bruce Weyhrauch

SENATE COMMITTEE REPORT

DATE: 4/12/06

FURTHER: Judiciary

DATE TURNED
IN TO OFFICE: 4.28.06

Health, Education & Social Services Committee considered CS FOR HOUSE BILL NO. 442(JUD) am

HB 442 HEALTH CARE DECISIONS

"An Act relating to the validity of advance health care directives, individual health care instructions, and do not resuscitate orders; relating to the revocation of advance health care directives; relating to do not resuscitate orders; relating to resuscitative measures; relating to the liability and discipline of health care providers, institutions, and facilities; relating to proceedings for judicial relief; relating to an individual's capacity for making health care decisions; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	2/17			X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO R.O.	AMEND
<i>K. V. G. S.</i>	✓			
<i>Gary Miller</i>	✓			
<i>Linda Green</i>	✓			
<i>Thomas C. ...</i>	✓			
CHAIR: <i>Linda Green</i>	✓			