

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

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SENATE
S. B. No. 2004

RECEIVED BY: Qui

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Adult persons have the fundamental right to decide their own health care, including the decision to have life-sustaining treatment withheld or withdrawn in instances of a terminal condition or permanent unconscious condition.

Modern medical technology has made possible the artificial prolongation of human life beyond natural limits. Such prolongation of the process of dying for persons with a terminal condition or permanent unconscious condition may cause loss of patient dignity, and unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the patient. Physicians and nurses should not withhold or unreasonably diminish pain medication for patients in a terminal condition where the primary intent of providing such medication is to alleviate pain and maintain or increase the patient's comfort.

There exists considerable uncertainty in the medical and legal professions as to the legality of terminating the use or application of life-sustaining treatment where the patient having the capacity to make health care decisions has voluntarily evidenced a desire that such treatment be withheld or withdrawn.

In the interest of protecting individual autonomy, and in recognition of the dignity and privacy which patients have a right to expect, our laws should recognize the right of an adult person to make a written directive instructing such person's physician to withhold or withdraw life-sustaining treatment in the event of a terminal condition or permanent unconscious condition. A person's right to control his or her health care may be exercised by an authorized representative who validly holds the person's durable power of attorney for health care.


MIRIAM DEFENSOR SANTIAGO

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

5 MAY 18 11:46

SENATE
S. B. No. 2009

RECEIVED BY: Bills

Introduced by Senator Miriam Defensor Santiago

AN ACT

RECOGNIZING THE FUNDAMENTAL RIGHT OF ADULT PERSONS TO DECIDE THEIR OWN HEALTH CARE, INCLUDING THE DECISION TO HAVE LIFE-SUSTAINING TREATMENT WITHHELD OR WITHDRAWN IN INSTANCES OF A TERMINAL CONDITION OR PERMANENT UNCONSCIOUS CONDITION

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Title.* – This Act shall be known as the “Natural Death Act of 2005.”

SECTION 2. *Declaration of Policy.* – It is the policy of the State to value the dignity of every person and guarantees full respect for human rights.

SECTION 3. *Definition of Terms.* – For purposes of this Act:

(a) “Adult person” means a person who has attained the age of majority, and who has the capacity to make health care decisions.

(b) “Attending physician” means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

(c) “Directive” means a written document voluntarily executed by the declarer generally consistent with the guidelines of this Act.

(d) “Health facility” means a hospital or a nursing home, a home health agency or hospice agency, or a boarding home.

(e) “Life-sustaining treatment” means any medical or surgical intervention that uses mechanical or other artificial means, including artificially provided nutrition and hydration, to sustain, restore, or replace a vital function, which, when applied to a qualified patient, would serve only to prolong the process of dying. “Life-sustaining

treatment” shall not include the administration of medication or the performance of any medical or surgical intervention deemed necessary to alleviate pain.

(f) “Physician” is a person licensed by the Professional Regulation Commission to practice medicine.

(g) “Permanent unconscious condition” means an incurable and irreversible condition in which the patient is medically assessed within reasonable medical judgment as having no reasonable probability of recovery from an irreversible coma or a persistent vegetative state.

(h) “Qualified patient” means an adult person who is a patient diagnosed in writing to have a terminal condition by the patient’s attending physician, who has personally examined the patient, or a patient who is diagnosed in writing to be in a permanent unconscious condition in accordance with accepted medical standards by two physicians, one of whom is the patient’s attending physician, and both of whom have personally examined the patient.

(i) “Terminal condition” means an incurable and irreversible condition caused by injury, disease, or illness, that, within reasonable medical judgment, will cause death within a reasonable period of time in accordance with accepted medical standards, and where the application of life-sustaining treatment serves only to prolong the process of dying.

SECTION 4. *Directive to Withhold or Withdraw Life-Sustaining Treatment.* –

(1) Any person of legal age and sound mind may execute a directive directing the withholding or withdrawal of life-sustaining treatment in a terminal condition or permanent unconscious condition. The directive shall be signed by the declarer in the presence of two witnesses who:

(a) are not related to the declarer by blood or marriage;

(b) would not be entitled to any portion of the estate of the declarer upon declarer’s decease under any will of the declarer or codicil thereto then existing or, at the time of the directive, by operation of law then existing;

(c) shall not be the attending physician;

(d) shall not be an employee of the attending physician or a health facility in which the declarer is a patient; or

(e) have no claim against any portion of the estate of the declarer upon declarer's decease at the time of the execution of the directive.

(2) The directive shall be duly notarized.

(3) The directive, or a copy thereof, shall be made part of the patient's medical records retained by the attending physician, a copy of which shall be forwarded by the custodian of the records to the health facility when the withholding or withdrawal of life-support treatment is contemplated. The directive may be in the following form, but in addition may include other specific directions:

HEALTH CARE DIRECTIVE

Directive made this ____ day of _____ (month, year).

I _____, having the capacity to make health care decisions, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, and do hereby declare that:

(a) If at any time I should be diagnosed in writing to be in a terminal condition by the attending physician, or in a permanent unconscious condition by two physicians, and where the application of life-sustaining treatment would serve only to artificially prolong the process of my dying, I direct that such treatment be withheld or withdrawn, and that I be permitted to die naturally. I understand by using this form that a terminal condition means an incurable and irreversible condition caused by injury, disease, or illness, that would within reasonable medical judgment cause death within a reasonable period of time in accordance with accepted medical standards, and where the application of life-sustaining treatment would serve only to prolong the process of dying. I further understand in using this form that a permanent unconscious condition means an incurable and irreversible condition in which I am medically assessed within reasonable medical judgment as having no reasonable probability of recovery from an irreversible coma or a persistent vegetative state.

(b) In the absence of my ability to give directions regarding the use of such life-sustaining treatment, it is my intention that this directive shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of such refusal. If another person is appointed to make these decisions for me, whether through a durable power of attorney or otherwise, I request that the person be guided by this directive and any other clear expressions of my desires.

(c) If I am diagnosed to be in a terminal condition or in a permanent unconscious condition (check one):

I DO want to have artificially provided nutrition and hydration.

I DO NOT want to have artificially provided nutrition and hydration.

(d) If I have been diagnosed as pregnant and that diagnosis is known to my physician, this directive shall have no force or effect during the course of my pregnancy.

(e) I understand the full import of this directive and I am emotionally and mentally capable to make the health care decisions contained in this directive.

(f) I understand that before I sign this directive, I can add to or delete from or otherwise change the wording of this directive and that I may add to or delete from this directive at any time and that any changes shall be consistent with Philippine law to be legally valid.

(g) It is my wish that every part of this directive be fully implemented. If, for any reason, any part is held invalid, it is my wish that the remainder of my directive be implemented.

Signed.....
Residence Address.....
.....
.....

The declarer has been personally known to me and I believe him or her to be capable of making health care decisions.

Witness.....

Witness.....

(ACKNOWLEDGMENT)

(3) Prior to withholding or withdrawing life-sustaining treatment, the diagnosis of a terminal condition by the attending physician or the diagnosis of a permanent unconscious state by two physicians shall be entered in writing and made a permanent part of the patient's medical records.

(4) A directive executed in another political jurisdiction is valid to the extent permitted by Philippine law.

SECTION 5. *Revocation of Directive.* -

(1) A directive may be revoked at any time by the declarer, without regard to declarer's mental state or competency, by any of the following methods:

(a) By being canceled, defaced, obliterated, burned, torn, or otherwise destroyed by the declarer or by some person in declarer's presence and by declarer's direction.

(b) By a written revocation of the declarer expressing declarer's intent to revoke, signed, and dated by the declarer. Such revocation shall become effective only upon communication to the attending physician by the declarer or by a

person acting on behalf of the declarer. The attending physician shall record in the patient's medical record the time and date when said physician received notification of the written revocation.

(c) By a verbal expression by the declarer of declarer's intent to revoke the directive. Such revocation shall become effective only upon communication to the attending physician by the declarer or by a person acting on behalf of the declarer. The attending physician shall record in the patient's medical record the time, date, and place of the revocation and the time, date, and place, if different, of when said physician received notification of the revocation.

(2) There shall be no criminal or civil liability on the part of any person for failure to act upon a revocation made pursuant to this section unless that person has actual or constructive knowledge of the revocation.

(3) If the declarer becomes comatose or is rendered incapable of communicating with the attending physician, the directive shall remain in effect for the duration of the comatose condition or until such time as the declarer's condition renders declarer able to communicate with the attending physician.

SECTION 6. *Liability of Health Care Provider or Facility.* – Any physician or health care provider acting under the direction of a physician, or health facility and its personnel who participate in good faith in the withholding or withdrawal of life-sustaining treatment from a qualified patient in accordance with the requirements of this chapter, shall be immune from legal liability, including civil, criminal, or professional conduct sanctions, unless otherwise negligent.

SECTION 7. *Procedures by Physician.* – Prior to the withholding or withdrawal of life-sustaining treatment from a qualified patient pursuant to the directive, the attending physician shall make a reasonable effort to determine that the directive complies with Section 4 of this Act, and, if the patient is capable of making health care decisions, that the directive and all steps proposed by the attending physician to be undertaken are currently in accord with the desires of the qualified patient.

SECTION 8. *Effects of Carrying out Directive.* –

(1) *On Insurance.* –

(a) The withholding or withdrawal of life-sustaining treatment from a qualified patient pursuant to the patient's directive in accordance with the provisions of this chapter shall not, for any purpose, constitute a suicide or a homicide.

(b) The making of a directive pursuant to Section 4 shall not restrict, inhibit, or impair in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining treatment from an insured qualified patient, notwithstanding any term of the policy to the contrary.

(c) No physician, health facility, or other health provider, and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital service plan, shall require any person to execute a directive as a condition for being insured for, or receiving, health care services.

(2) *On Cause of Death.* – The act of withholding or withdrawing life-sustaining treatment, when done pursuant to a directive described in Section 4 and which results in the death of the declarer, shall not be construed to be an intervening force or to affect the chain of proximate cause between the conduct of anyone that placed the declarer in a terminal condition or a permanent unconscious condition and the death of the declarer.

SECTION 9. *Criminal Conduct, Penalties.* –

(1) Any person who willfully conceals, cancels, defaces, obliterates, or damages the directive of another without such declarer's consent is guilty of a gross misdemeanor.

(2) Any person who falsifies or forges the directive of another, or willfully conceals or withholds personal knowledge of a revocation, as provided in Section 4, with the intent to cause a withholding or withdrawal of life-sustaining treatment contrary to the wishes of the declarer, and thereby, because of any such act, directly causes life-

sustaining treatment to be withheld or withdrawn and death to thereby be hastened, shall be subject to prosecution for murder as defined in Article 248 of the Penal Code.

SECTION 10. *Mercy Killing or Physician-Assisted Suicide Not Authorized.* – Nothing in this Act shall be construed to condone, authorize, or approve mercy killing or physician-assisted suicide, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

SECTION 11. *Discharge So That Patient May Die At Home.* – If a qualified patient capable of making health care decisions indicates that he or she wishes to die at home, the patient shall be discharged as soon as reasonably possible. The health care provider or facility has an obligation to explain the medical risks of an immediate discharge to the qualified patient. If the provider or facility complies with the obligation to explain the medical risks of an immediate discharge to a qualified patient, there shall be no civil or criminal liability for claims arising from such discharge.

SECTION 12. *Directive's Validity Assumed.* – Any person or health facility may assume that a directive complies with this Act and is valid.

SECTION 13. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

SECTION 14. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 15. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,