



# SENATE BILL No. 944

December 8, 1993, Introduced by Senators Berryman, Koivisto and Pollack and referred to the Committee on Health Policy and Senior Citizens

A bill to provide for the execution of a declaration directing certain medical procedures be provided, withdrawn, or withheld under certain circumstances to provide that certain actions be taken and certain actions not be taken with respect to a declaration to provide for the revocation of a declaration to exempt certain persons from penalties and liabilities and to prescribe liabilities

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1       Sec 1    This act shall be known and may be cited as the  
2 "Michigan medical self-determination act"

3       Sec 2    As used in this act

4       (a) "Attending physician" means the physician who has  
5 responsibility for the treatment and care of a declarant

6       (b) "Declarant" means an individual who has executed a  
7 declaration

1 (c) "Health facility" means a health facility or agency as  
2 defined in section 20106 of the public health code, Act No 368  
3 of the Public Acts of 1978, being section 333 20106 of the  
4 Michigan Compiled Laws

5 (d) "Medical intervention" means medicine, a procedure, or a  
6 device that a physician is not prohibited by law from prescrib-  
7 ing, administering, performing, or authorizing

8 (e) "Permanently unconscious" means a state in which all  
9 awareness of self or environment beyond simple reflex or reaction  
10 to noxious stimuli is absent, which state is expected, in the  
11 opinion of the attending physician, to last indefinitely without  
12 improvement

13 (f) "Physician" means a person licensed in this state to  
14 engage in the practice of medicine or osteopathic medicine and  
15 surgery

16 (g) "Terminally ill" means a state in which an incurable,  
17 irreversible, and uncontrollable disease or condition will in  
18 the opinion of the attending physician, likely result in death  
19 within 1 year

20 Sec 3 (1) An individual 18 years of age or older who is  
21 of sound mind may execute a declaration to authorize 1 or more  
22 types or all types of medical intervention, to authorize the  
23 withholding or withdrawal of 1 or more types or all types of med-  
24 ical intervention, or to authorize 1 or more types of medical  
25 intervention and the withholding or withdrawal of 1 or more types  
26 of medical intervention

1       (2) A declaration executed under this section shall be  
2 written, dated, and executed voluntarily   The declaration shall  
3 be signed by the declarant, or in the declarant's presence at his  
4 or her direction   The declaration shall be signed by 2 persons  
5 18 years of age or older who witness the signing of the  
6 declaration   At least 1 witness shall not be the declarant's  
7 spouse, parent, child, sibling, or devisee

8       Sec 4   A valid declaration shall be implemented after all  
9 of the following occur

10       (a) The attending physician knows the declaration exists

11       (b) The declarant has been determined by his or her attend-  
12 ing physician and 1 other physician to be terminally ill or per-  
13 manently unconscious

14       (c) In the opinion of the attending physician, the declarant  
15 is unable to participate in medical treatment decisions

16       (d) The attending physician has no knowledge that the decla-  
17 ration has been revoked

18       Sec 5   (1) A declarant may revoke a declaration at any  
19 time and in any manner by which he or she is able to communicate  
20 an intent to revoke the declaration   If the revocation is not in  
21 writing, an individual who observes a revocation of a declaration  
22 shall describe the circumstances of the revocation in writing and  
23 sign the writing

24       (2) A revocation of a declaration is binding upon a physici-  
25 an or a health facility upon actual notice of the revocation

26       Sec 6   (1) A physician or health facility that is provided  
27 a copy of a declaration shall immediately make the declaration

1 part of the declarant's medical record A physician or health  
2 facility that has notice of a revocation of a declaration shall  
3 immediately make the revocation part of the declarant's medical  
4 record and note the revocation on the declaration

5 (2) Upon determining that a declarant is terminally ill, an  
6 attending physician who has notice of a declaration shall record  
7 in the declarant's medical record that the declarant is termi-  
8 nally ill and shall attempt to communicate that determination to  
9 the declarant Upon determining that a declarant is permanently  
10 unconscious, an attending physician who has notice of a declara-  
11 tion shall record in the declarant's medical record that the  
12 declarant is permanently unconscious

13 (3) Upon determining that a declarant is terminally ill and  
14 unable to participate in medical treatment decisions an attend-  
15 ing physician who has notice of a declaration shall record in the  
16 declarant's medical record that the declarant is unable to par-  
17 ticipate in medical treatment decisions and shall attempt to  
18 communicate to the declarant that the declaration is about to  
19 take effect

20 Sec 7 An attending physician shall implement a declara-  
21 tion as provided in section 4, or shall take all reasonable steps  
22 to transfer the care and treatment of the declarant to another  
23 physician or health facility willing to comply with the terms of  
24 the declaration

25 Sec 8 A person or health facility is not subject to civil  
26 or criminal liability for causing, or participating in, the  
27 provision of medical intervention to, or the withholding or

1 withdrawal of medical intervention from, a declarant in  
2 accordance with the declarant's declaration and with this act

3       Sec 9    A declarant or a declarant's spouse, parent, child,  
4 or friend may bring an action for injunctive relief to ensure  
5 compliance with the terms of a declaration

6       Sec 10   (1) An individual shall not be required to execute  
7 a declaration as a condition for insurance coverage, for health  
8 care benefits or services, or for any other reason

9       (2) A health facility shall not deny admission to an indi-  
10 vidual because he or she executes a declaration

11       (3) A life insurer shall not do any of the following because  
12 of the execution or implementation of a declaration

13       (a) Refuse to provide or continue coverage to the  
14 declarant

15       (b) Charge a declarant higher premiums

16       (c) Offer a declarant different policy terms

17       (d) Consider the terms of an existing policy to have been  
18 breached or modified

19       (e) Invoke a suicide or intentional death exemption

20       Sec 11   If the declaration satisfies the requirements of  
21 this act, a declaration executed prior to the effective date of  
22 this act is valid

23       Sec 12   The provisions of this act are cumulative and do  
24 not impair or supersede a legal right that a person has to con-  
25 sent to or refuse medical intervention