
HOUSE BILL 2853

State of Washington

55th Legislature

1998 Regular Session

By Representatives Dyer, Cody, Murray, Zellinsky, Skinner, Costa, Ballasiotes, Cooke, Wood, Gardner, Mitchell and Anderson

Read first time 01/21/98. Referred to Committee on Health Care.

1 AN ACT Relating to recognizing and regulating the right of patients
2 to their choice of end-of-life care; amending RCW 70.122.020 and
3 70.122.030; adding a new chapter to Title 70 RCW; and prescribing
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and
7 cited as the end-of-life care act.

8 NEW SECTION. **Sec. 2.** LEGISLATIVE FINDINGS. The legislature finds
9 that the historical, cultural, and legal traditions of our nation and
10 of the state of Washington support and encourage the privacy of the
11 physician-patient relationship, and the tradition of informed consent
12 arising from the patient's right of self-determination.

13 The legislature further finds that modern medicine affords patients
14 choices of end-of-life care that may include home care, hospice care,
15 psychological and social counseling, palliative care, and a request to
16 withhold cardiopulmonary resuscitation.

17 The legislature further finds that a dying patient or a patient in
18 a permanent state of unconsciousness and his or her attending physician

1 and other assisting health care providers may be uniquely confronted by
2 circumstances in which curative treatment is no longer the goal but,
3 instead, the relief of pain or suffering may predominate over all other
4 considerations in order to achieve a dignified and serene death.

5 The legislature further finds that under such circumstances, a
6 range of palliative care may be administered to a qualified patient
7 even when the administration of medications to relieve pain or
8 suffering may cause unconsciousness and may have the double effect of
9 hastening death, so long as the patient chooses to receive it with that
10 understanding.

11 The legislature further finds that although palliative sedation is
12 a widely accepted ethical medical practice and is not unlawful in the
13 state of Washington when consented to by an informed patient or an
14 authorized representative, many physicians still under-prescribe
15 controlled substances to relieve pain or suffering, fearing civil,
16 criminal, or professional liability.

17 The legislature further finds that while the privacy of the
18 physician-patient relationship and the patient's right to self-
19 determination are protected, the state has an obligation to regulate
20 end-of-life care in such a manner as to prevent abuse, to ensure that
21 a qualified patient's choice of end-of-life care is voluntary,
22 informed, and exercised by a patient with decisional capacity or in a
23 legally executed health care directive or by an authorized
24 representative who validly holds the person's durable power of attorney
25 for health care, and to protect practitioners who prescribe,
26 administer, or dispense controlled substances at the request of the
27 patient in order to manage or relieve pain or suffering in good-faith
28 compliance with the requirements of this chapter.

29 The legislature hereby declares that a qualified patient has the
30 right to make voluntary and informed choices of care including a
31 request for home care, hospice care, psychological and social
32 counseling, palliative care, as well as a voluntary revocable recorded
33 request for withholding cardiopulmonary resuscitation and/or for
34 palliative sedation that may have the double effect of hastening death.

35 The legislature further declares that physicians, physician's
36 assistants, nurses, pharmacists, and health care institutions have the
37 right to participate voluntarily in end-of-life care in good-faith
38 compliance with the requirements of this chapter without being subject
39 to civil, criminal, or professional liability.

1 The legislature further declares that a withholding of
2 cardiopulmonary resuscitation in good-faith compliance with the
3 requirements of this chapter, or a hastened death resulting from
4 palliative sedation administered or delivered in good-faith compliance
5 with the requirements of this chapter, is not assisted suicide,
6 euthanasia, or mercy killing.

7 NEW SECTION. **Sec. 3.** DEFINITIONS. Unless the context clearly
8 requires otherwise, the definitions in this section apply throughout
9 this chapter.

10 (1) "Attending physician" means a person licensed under chapter
11 18.71 or 18.57 RCW who is selected by, or assigned to, the patient and
12 who has primary responsibility for the treatment and care of the
13 patient, and:

14 (a) Is not related to the qualified patient by blood, marriage, or
15 adoption;

16 (b) Does not hold power of attorney for the qualified patient;

17 (c) Is not entitled to any portion of the estate of the qualified
18 patient upon his or her death by operation of then existing law or
19 codicil of the qualified patient;

20 (d) Has no creditor's claim against the qualified patient, outside
21 of a claim for professional services rendered to the qualified patient,
22 nor anticipates making such a claim against any portion of the estate
23 of the qualified patient upon his or her death.

24 (2) "Cardiopulmonary resuscitation" means measures to restore
25 cardiac function or to support breathing in the event of cardiac or
26 respiratory arrest or malfunction. These measures include cardiac
27 compression, endotracheal intubation or other advanced airway
28 management, artificial ventilation, defibrillation, administration of
29 cardiac resuscitation medications, and related procedures.

30 (3) "Directive" means a written document voluntarily executed by
31 the declarer generally consistent with the guidelines of RCW
32 70.122.030.

33 (4) "Do not attempt resuscitation identification" means a
34 standardized identification card, form, necklace, or bracelet of
35 uniform size and design, approved by the department of social and
36 health services, that signifies:

37 (a) That the possessor has executed a health care directive that
38 specifically addresses the cardiopulmonary resuscitation option of

1 health care as provided in RCW 70.122.030, and that has not been
2 revoked; or

3 (b) That the possessor has executed a recorded request as provided
4 by section 15 of this act; and

5 (c) That the possessor's attending physician has issued an
6 emergency medical services do not attempt resuscitation order at the
7 possessor's request and has documented the grounds for the order in the
8 possessor's medical file.

9 (5) "Double effect" means the process by which medication primarily
10 intended to relieve the pain or suffering of a qualified patient may
11 result in the known potential secondary effect of hastening death.

12 (6) "Health care facility" means a facility or agency licensed,
13 certified, or otherwise authorized by the state of Washington to
14 administer health care in the ordinary course of business.

15 (7) "Pain" means an unpleasant physical sensation that is caused by
16 injury, disease, or other abnormal condition, and that is experienced
17 in varying degrees of severity most reliably indicated by the patient
18 himself or herself.

19 (8) "Palliative care" means care, including the administration of
20 medication, intended to relieve pain or suffering.

21 (9) "Palliative sedation" means aggressive palliative care, even
22 when sufficient dosage of medications to relieve pain or suffering may
23 cause unconsciousness and may have the double effect of hastening
24 death, so long as the patient chooses to receive it with that
25 understanding.

26 (10) "Permanent unconscious condition" means an incurable and
27 irreversible condition in which the patient is medically assessed
28 within reasonable medical judgment as having no reasonable probability
29 of recovery from an irreversible coma or a persistent vegetative state.

30 (11) "Physician" means a person licensed under chapter 18.71 or
31 18.57 RCW.

32 (12) "Qualified patient" means an adult person who is a patient
33 diagnosed in writing to have a terminal condition by the patient's
34 attending physician, who has personally examined the patient, or a
35 patient who is diagnosed, in writing, to be in a permanent unconscious
36 condition in accordance with accepted medical standards by two
37 physicians, one of whom is the patient's attending physician, and both
38 of whom have personally examined the patient.

1 (13) "Recorded request" means a voluntary revocable written or
2 videotape recorded statement meeting the requirements of section 6 of
3 this act, and in substantially the same form set forth in section 15 of
4 this act if the recorded request is in writing.

5 (14) "Suffering" means physical or psychological distress, with or
6 without pain, as a result of a patient's medical condition. Symptoms
7 of suffering are most reliably indicated by the patient himself or
8 herself and may include, but are not limited to, agonized breathing,
9 agitated delirium or confusion, persistent vomiting, extreme fear, or
10 panic.

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

17 NEW SECTION. **Sec. 4.** CARDIOPULMONARY RESUSCITATION. (1) Every
18 patient is presumed to consent to the administration of cardiopulmonary
19 resuscitation in the event of cardiac or respiratory arrest, unless
20 there is a request for an order not to attempt resuscitation. This
21 presumption of consent does not mean that every patient shall be
22 administered cardiopulmonary resuscitation, but rather every patient
23 agrees to its administration unless such an administration is medically
24 futile.

25 (2) A qualified patient with decision-making capacity may request
26 orally or in writing an order not to attempt resuscitation and to its
27 implementation at a present or future date, regardless of that person's
28 mental or physical condition on that future date.

29 (3) In the event a qualified patient lacking decision-making
30 capacity has made an earlier do not attempt resuscitation directive
31 executed pursuant to section 15 of this act or RCW 70.122.030 and not
32 previously revoked, or a request for a do not attempt resuscitation
33 order has been made by the qualified patient's authorized
34 representative who validly holds the patient's durable power of
35 attorney for health care, such directive or request shall authorize
36 issuance of an order not to attempt resuscitation.

37 (4) The department of health, no later than one year after the
38 effective date of this act, shall adopt rules and protocols for the

1 implementation of cardiopulmonary resuscitation directives or orders
2 for emergency medical personnel. The protocols adopted shall include
3 uniform methods for rapid identification of persons who have executed
4 a do not attempt resuscitation directive or for whom a do not attempt
5 resuscitation order has been authorized. These methods shall include
6 distribution of uniform do not attempt resuscitation forms and
7 identification bracelets, necklaces, and cards.

8 (5) The visible presence of a do not attempt resuscitation
9 identification bracelet, necklace, or card on one's person is
10 conclusive evidence that the person has executed a valid
11 cardiopulmonary directive or has a valid do not attempt resuscitation
12 order issued on the person's behalf. Responding emergency medical
13 personnel shall honor the do not attempt resuscitation identification
14 bracelet, necklace, or card as a valid do not attempt resuscitation
15 order form.

16 NEW SECTION. **Sec. 5.** PALLIATION OF PAIN OR SUFFERING. (1) A
17 patient or the patient's authorized representative who validly holds
18 the patient's durable power of attorney for health care may orally or
19 in writing request medication intended to relieve pain or suffering.

20 (2) Upon such a request, and notwithstanding any other provision of
21 law, an attending physician may prescribe, administer, or dispense a
22 controlled substance in any dosage the attending physician deems
23 medically indicated for the management or relief of pain or suffering.

24 (3) In prescribing or administering a controlled substance for the
25 management or relief of pain or suffering, the attending physician
26 shall observe department of health guidelines for the management of
27 pain.

28 NEW SECTION. **Sec. 6.** PALLIATIVE SEDATION. (1) A qualified
29 patient or the qualified patient's authorized representative who
30 validly holds the patient's durable power of attorney for health care
31 may voluntarily execute a revocable recorded request for palliative
32 sedation to relieve pain or suffering, if:

33 (a) The request is repeated without self-contradiction on two
34 separate occasions at least twenty-four hours apart, the second of
35 which must constitute the recorded request and must comply with all
36 requirements of this section; and

1 (b) The signing or videotape recording of the request is witnessed
2 by two other adults who, at the time of witnessing, meet the following
3 requirements:

4 (i) Are not related to the qualified patient by blood, marriage, or
5 adoption;

6 (ii) Are not entitled to any portion of the estate of the qualified
7 patient upon his or her death by operation of law in effect at the time
8 of witnessing or under any will or codicil in effect at the time of
9 witnessing;

10 (iii) Have no creditor's claim against the qualified patient, nor
11 anticipate making such a claim against any portion of the estate of the
12 qualified patient upon his or her death; or

13 (iv) Are not the attending physician or an employee of the
14 attending physician.

15 (2) The recorded request may include the withdrawal or withholding
16 of artificial nutrition and hydration if the patient or the qualified
17 patient's authorized representative who validly holds the patient's
18 durable power of attorney for health care so chooses.

19 (3) A completed and witnessed recorded request shall be delivered
20 to the qualified patient's attending physician, who shall file the
21 recorded request in the qualified patient's medical records. If the
22 qualified patient is an inpatient at a health care facility, a copy of
23 the recorded request shall also be delivered to the health care
24 facility, where it shall become a part of the qualified patient's
25 permanent record.

26 (4) In the event of a conflict between the qualified patient's
27 recorded request and the qualified patient's lawful attorney-in-fact
28 for health care or the qualified patient's lawful health care
29 surrogate, the qualified patient's recorded request shall prevail.

30 (5) An attending physician who receives a recorded request from a
31 qualified patient or from the qualified patient's authorized
32 representative who validly holds the patient's durable power of
33 attorney for health care shall make a personal examination of the
34 qualified patient, including an evaluation of the patient's decision-
35 making capacity, assuring that the request is not the result of
36 impaired judgment or mental illness, and a review of the qualified
37 patient's medical records, and shall apply independent reasonable
38 medical judgment as to whether the qualified patient has a terminal
39 condition. The attending physician shall engage in a consultation with

1 the qualified patient or the patient's authorized representative who
2 validly holds the patient's durable power of attorney for health care
3 for the purpose of:

4 (a) Explaining the qualified patient's medical diagnosis and
5 prognosis;

6 (b) Reviewing the feasible alternatives to palliative sedation,
7 including other methods of pain control, hospice care, home care, and
8 counseling, and the possible effects of such alternatives on the
9 qualified patient; and

10 (c) Describing the nature, risks, and probable result of palliative
11 sedation.

12 (6) If the attending physician finds that the qualified patient
13 suffers from a terminal condition and that the patient's request is not
14 the result of impaired judgment or mental illness, the recorded request
15 for palliative sedation shall be granted and the attending physician
16 may provide palliative sedation for the qualified patient.

17 (7) In the event a qualified patient lacking decision-making
18 capacity has made an earlier palliative sedation directive pursuant to
19 RCW 70.122.030 and not previously revoked, such directive shall
20 authorize palliative sedation and the attending physician may provide
21 palliative sedation for the qualified patient.

22 (8) Before providing palliative sedation to a qualified patient,
23 the attending physician shall: (a) Review thoroughly the qualified
24 patient's recorded request or advance directive and medical record; (b)
25 take reasonable steps to ensure that the requirements of this chapter
26 have been met; and (c) determine that the recorded request or the
27 advance directive is in accord with the consistently expressed desires
28 of the patient. Absent knowledge to the contrary, there is a
29 rebuttable presumption that the recorded request or advance directive
30 complies with this chapter and is valid.

31 (9) A recorded request may be revoked at any time by the qualified
32 patient, without regard to his or her mental state or competency, or by
33 the qualified patient's authorized representative who validly holds the
34 patient's durable power of attorney for health care, by being canceled,
35 defaced, obliterated, burned, torn, or otherwise destroyed by or at the
36 direction of the qualified patient, or by oral expression or assertive
37 conduct by the qualified patient of the patient's intent to revoke the
38 recorded request. The time, date, and place of the revocation shall be

1 confirmed by the attending physician and recorded by the physician in
2 the patient's medical record.

3 (10) There is no criminal, civil, or administrative liability on
4 the part of any person, firm, or organization for following a recorded
5 request that has been revoked unless that person, firm, or organization
6 had actual knowledge, or should reasonably have had knowledge, of the
7 revocation.

8 NEW SECTION. **Sec. 7.** NO COMPULSION. A physician or health care
9 professional is not required to provide or participate in any end-of-
10 life care specified in this chapter to which he or she is opposed.

11 NEW SECTION. **Sec. 8.** TRANSFER OF PATIENT. If a physician
12 declines to provide or a health care facility declines to participate
13 in the qualified patient's choice of end-of-life care specified in this
14 chapter, the physician or health care facility shall assist the patient
15 in transferring his or her care, as soon as reasonably possible, to
16 another physician or health care facility to enable the patient to
17 receive his or her choice of end-of-life care. A copy of the patient's
18 relevant medical records shall be transferred to the new physician or
19 health care facility.

20 NEW SECTION. **Sec. 9.** FAMILY NOTIFICATION. A patient requesting
21 end-of-life care specified under this chapter shall be encouraged to
22 notify next of kin of the request. A patient who declines or cannot
23 supply family details may not, for that reason, be denied his or her
24 request.

25 NEW SECTION. **Sec. 10.** PROTECTION OF HEALTH CARE PROFESSIONALS.
26 (1) A physician, health care professional, health care facility, or
27 employee of a health care facility, who, acting in good-faith
28 compliance with the requirements of this chapter, participates in, or
29 is present at, adherence to a do not attempt resuscitation order at the
30 time of cardiac or respiratory arrest of a qualified patient is not
31 subject to civil, criminal, or administrative liability.

32 (2) A physician, health care professional, health care facility,
33 employee of a health care facility, or licensed pharmacist, who, acting
34 in good-faith compliance with the requirements of this chapter,
35 participates in, or is present at, the palliative sedation of a

1 qualified patient is not subject to civil, criminal, or administrative
2 liability for the double effect of hastened death of the qualified
3 patient.

4 (3) A health care facility is not barred under this section from
5 disciplining an employee who acted contrary to the written policy of
6 the health care facility and in furtherance of a patient's voluntary
7 request.

8 NEW SECTION. **Sec. 11.** INSURANCE. (1) An insurer doing business
9 in the state of Washington shall not cancel, refuse to insure, refuse
10 to renew, reassess the risk of an insured, or raise premiums on the
11 basis of whether or not the insured has considered or completed a do
12 not attempt resuscitation directive or a health care directive or
13 recorded request for palliative sedation. An insurer may not require
14 or request the insured to disclose whether he or she has executed a do
15 not attempt resuscitation directive or a health care directive or
16 recorded request for palliative sedation.

17 (2) The making of a do not attempt resuscitation directive pursuant
18 to section 4 of this act and/or the making of a health care directive
19 or recorded request for palliative sedation pursuant to section 6 of
20 this act does not restrict, inhibit, or impair in any manner the sale,
21 procurement, issuance, or rates of any policy of life, health, or
22 disability insurance. A policy of life, health, or disability
23 insurance may not be legally impaired or invalidated in any manner by
24 the provision of end-of-life care to an insured qualified patient under
25 this chapter.

26 (3) A physician, health care facility, insurer, self-insured
27 employee benefit plan, or nonprofit hospital service plan may not
28 require any person to execute or prohibit any person from executing a
29 do not attempt resuscitation directive, or a health care directive or
30 recorded request, as a condition for receiving insurance coverage or
31 health care services. Violation of this subsection is a misdemeanor.

32 (4) A life insurer in the state of Washington may not refuse to pay
33 sums due upon death of an insured because the insured received
34 palliative sedation in accordance with this chapter.

35 (5) An insurer doing business in the state of Washington may not
36 exclude from coverage any fair and reasonable fees charged for
37 palliative care.

1 (6) This section does not change existing law regarding the
2 availability of insurance coverage to a person deemed to have a
3 preexisting condition.

4 NEW SECTION. **Sec. 12.** UNLAWFUL ACTS. (1) Any person who unduly
5 influences another to execute a do not attempt resuscitation clause or
6 palliative sedation clause of a health care directive, a do not attempt
7 resuscitation directive, or a recorded request for palliative sedation,
8 including through persuasion that the patient is a financial,
9 emotional, or other burden to his or her family, other persons, or the
10 state, is guilty of a misdemeanor; or, if death occurs as a result of
11 such undue influence, is guilty of a felony.

12 (2) Any person who fraudulently influences another to execute a do
13 not attempt resuscitation clause or palliative sedation clause of a
14 health care directive, a do not attempt resuscitation directive, or a
15 recorded request for palliative sedation is guilty of a misdemeanor;
16 or, if death occurs as a result of such undue influence, is guilty of
17 a felony.

18 (3) Any person who thwarts, conceals, cancels, defaces,
19 obliterates, or damages the do not attempt resuscitation clause or
20 palliative sedation clause of a health care directive, a do not attempt
21 resuscitation directive, or a recorded request for palliative sedation
22 is guilty of a misdemeanor.

23 (4) Any person who falsifies or forges the do not attempt
24 resuscitation clause or palliative sedation clause of a health care
25 directive, a do not attempt resuscitation directive, or a recorded
26 request for palliative sedation of another, or willfully conceals or
27 withholds personal knowledge of a revocation as provided in section
28 6(9) of this act, with the intent to hasten death contrary to the
29 wishes of the qualified patient, and thereby directly causes hastening
30 of death, is guilty of the crime of murder.

31 NEW SECTION. **Sec. 13.** OTHER RIGHTS. (1) This chapter does not
32 impair or supersede any right that any person may have to seek judicial
33 redress for any violations of this chapter.

34 (2) This chapter does not impair or supersede any right or legal
35 responsibility that any person may have regarding the withholding or
36 withdrawal of life-sustaining procedures in any lawful manner.

1 (3) This chapter does not impair or supersede any right or legal
2 responsibility that any person may have as a result of a validly
3 executed durable power of attorney.

4 NEW SECTION. **Sec. 14.** RECOGNITION OF DO NOT ATTEMPT RESUSCITATION
5 DIRECTIVE OR RECORDED REQUEST EXECUTED IN ANOTHER STATE. A do not
6 attempt resuscitation directive or an advance directive or recorded
7 request for palliative sedation that has been executed in another state
8 in compliance with the law of that state and that substantially
9 complies with this chapter is valid for the purpose of this chapter.

10 NEW SECTION. **Sec. 15.** FORM OF DO NOT ATTEMPT RESUSCITATION
11 DIRECTIVE. A written do not attempt resuscitation directive by a
12 qualified patient under this chapter or by the qualified patient's
13 authorized representative who validly holds the patient's durable power
14 of attorney for health care must contain substantially the following
15 form, or, if orally given, shall be in substantially the following
16 words:

17 DO NOT ATTEMPT RESUSCITATION DIRECTIVE

18 (side one)

19 In the event of cardiac or respiratory arrest, I [the patient] wish[es]
20 to be allowed to die naturally, and I [he or she] therefore refuse[s]
21 any resuscitation measures including cardiac compression, endotracheal
22 intubation and other advanced airway management, artificial
23 ventilation, defibrillation, administration of advanced cardiac life
24 support drugs, and related emergency procedures.

25 Patient [Surrogate]: Date:

26 (Signature or mark)

27 Attach recent photograph here or provide all of the following
28 information below:

29 Date of Birth Sex

30 Eye Color Hair Color Race

31 Any Other Distinguishing Marks

32 Name and telephone number of patient's physician

33

34 Name and telephone number of lawful health care surrogate

35

36 (side two)

1 I have explained this form and its consequences to the signer and
2 obtained assurance that the signer understands that death may result
3 from any refused care listed above.

4 Date:
5 (Licensed health care provider)

6 I was present when this was signed (or marked). The patient then
7 appeared to be of sound mind and free from duress.

8 Date:
9 (Witness)

10 FORM OF RECORDED REQUEST. A written recorded request for palliative
11 sedation by a qualified patient under this chapter or by the qualified
12 patient's authorized representative who validly holds the patient's
13 durable power of attorney for health care shall be in substantially the
14 following form, or, if videotape recorded must contain substantially
15 the following words:

16 VOLUNTARY REQUEST BY A QUALIFIED PATIENT FOR PALLIATIVE SEDATION

17 This recorded request is made on19 . . . I,
18, being a mentally competent adult eighteen
19 years of age or older, do voluntarily make known my desire that my pain
20 or suffering be relieved by the full range of palliative care
21 available, including palliative sedation, even when sufficient dosage
22 of medications to relieve my pain or suffering may cause
23 unconsciousness and may have the double effect of hastening my death.

24 [Optional] I hereby voluntarily request that upon my receiving
25 palliative sedation, artificial nutrition and hydration be withheld and
26 any necessary additional comfort care be provided until I die
27 peacefully, in a painless, humane, and dignified manner.

28 I understand that I have a condition that qualifies me for
29 palliative sedation under the End-of-life Care Act, and I ask my
30 attending physician to prescribe or deliver medication appropriate for
31 this purpose. I trust and hope that he or she will comply. If he or
32 she declines, which is his or her right, then I urge that he or she
33 assist in transferring my care to a colleague who will comply.

34 This recorded request shall remain valid until revoked by me and
35 only me. I may revoke this request at any time.

36 It is solely my option, and not my physician's, to inform my family
37 of my intentions.

1 I have given full consideration to other options for end-of-life
2 care that have been discussed with me by my attending physician and I
3 understand the full import of this recorded request. I accept the
4 moral and legal responsibility for receiving palliative sedation.

5 Signed: Date:

6 (Patient's signature or mark)

7 City and State of Residence

8 NOTICE - This recorded request is not valid unless it is signed by two
9 qualified witnesses who are present when you sign or acknowledge your
10 signature. The witnesses must not be related to you by blood,
11 marriage, or adoption; they must not be entitled to any part of your
12 estate, or, at the time of execution of the recorded request, have any
13 claim against any portion of your estate; and they must not include
14 your attending physician or an employee of your attending physician.

15 If you have attached any additional pages to this form, you must
16 sign and date each of the additional pages at the same time you date
17 and sign this recorded request.

18 STATEMENT OF WITNESSES
19 TO VOLUNTARY RECORDED REQUEST

20 I declare under penalty of perjury under the laws of the state of
21 Washington that the person who signed or acknowledged this document is
22 personally known to me (or proved to me on the basis of satisfactory
23 evidence to be the qualified patient or lawful surrogate of the
24 qualified patient of this recorded request); that he or she signed or
25 acknowledged this recorded request in my presence; that he or she
26 appears to be of sound mind and under no duress, fraud, or undue
27 influence; that I am not the attending physician or an employee of the
28 attending physician.

29 I further declare under penalty of perjury under the laws of the
30 state of Washington that I am not related to the qualified patient by
31 blood, marriage, or adoption; and, to the best of my knowledge, I am
32 not entitled to any part of the estate of the qualified patient upon
33 the death of the qualified patient under a will now existing or by
34 operation of law; and have no claim nor anticipate making a claim
35 against any portion of the estate of the qualified patient upon his or
36 her death.

37 Dated:

1 Witness's Signature:
2 Print Name:
3 Residence Address:
4 Dated:
5 Witness's Signature:
6 Print Name:
7 Residence Address:

8 **Sec. 16.** RCW 70.122.020 and 1992 c 98 s 2 are each amended to read
9 as follows:

10 Unless the context clearly requires otherwise, the definitions
11 contained in this section shall apply throughout this chapter.

12 (1) "Adult person" means a person who has attained the age of
13 majority as defined in RCW 26.28.010 and 26.28.015, and who has the
14 capacity to make health care decisions.

15 (2) "Attending physician" means the physician selected by, or
16 assigned to, the patient who has primary responsibility for the
17 treatment and care of the patient.

18 (3) "Cardiopulmonary resuscitation" means measures to restore
19 cardiac function or to support breathing in the event of cardiac or
20 respiratory arrest or malfunction. These measures include cardiac
21 compression, endotracheal intubation or other advanced airway
22 management, artificial ventilation, defibrillation, administration of
23 cardiac resuscitation medications, and related procedures.

24 (4) "Directive" means a written document voluntarily executed by
25 the declarer generally consistent with the guidelines of RCW
26 70.122.030.

27 ~~((+4))~~ (5) "Double effect" means the process by which medication
28 primarily intended to relieve the pain or suffering of a qualified
29 patient may result in the known potential secondary effect of hastening
30 death.

31 (6) "Health facility" means a hospital as defined in RCW
32 70.41.020(2) or a nursing home as defined in RCW 18.51.010, a home
33 health agency or hospice agency as defined in RCW 70.126.010, or a
34 boarding home as defined in RCW 18.20.020.

35 ~~((+5))~~ (7) "Life-sustaining treatment" means any medical or
36 surgical intervention that uses mechanical or other artificial means,
37 including artificially provided nutrition and hydration, to sustain,
38 restore, or replace a vital function, which, when applied to a

1 qualified patient, would serve only to prolong the process of dying.
2 "Life-sustaining treatment" shall not include the administration of
3 medication or the performance of any medical or surgical intervention
4 deemed necessary solely to alleviate pain or suffering.

5 ~~((+6))~~ (8) "Pain" means an unpleasant physical sensation that is
6 caused by injury, disease, or other abnormal condition, and that is
7 experienced in varying degrees of severity most reliably indicated by
8 the patient himself or herself.

9 (9) "Palliative care" means care, including the administration of
10 medication, intended to relieve pain or suffering.

11 (10) "Palliative sedation" means aggressive palliative care even
12 when sufficient dosage of medications to relieve pain or suffering may
13 cause unconsciousness and may have the double effect of hastening
14 death, so long as the patient chooses to receive it with that
15 understanding.

16 (11) "Permanent unconscious condition" means an incurable and
17 irreversible condition in which the patient is medically assessed
18 within reasonable medical judgment as having no reasonable probability
19 of recovery from an irreversible coma or a persistent vegetative state.

20 ~~((+7))~~ (12) "Physician" means a person licensed under chapters
21 18.71 or 18.57 RCW.

22 ~~((+8))~~ (13) "Qualified patient" means an adult person who is a
23 patient diagnosed in writing to have a terminal condition by the
24 patient's attending physician, who has personally examined the patient,
25 or a patient who is diagnosed in writing to be in a permanent
26 unconscious condition in accordance with accepted medical standards by
27 two physicians, one of whom is the patient's attending physician, and
28 both of whom have personally examined the patient.

29 ~~((+9))~~ (14) "Suffering" means physical or psychological distress,
30 with or without pain, as a result of a patient's medical condition.
31 Symptoms of suffering are most reliably indicated by the patient
32 himself or herself and may include, but are not limited to, agonized
33 breathing, agitated delirium or confusion, persistent vomiting, extreme
34 fear, or panic.

35 (15) "Terminal condition" means an incurable and irreversible
36 condition caused by injury, disease, or illness, that, within
37 reasonable medical judgment, will cause death within a reasonable
38 period of time in accordance with accepted medical standards, and where

1 the application of life-sustaining treatment serves only to prolong the
2 process of dying.

3 **Sec. 17.** RCW 70.122.030 and 1992 c 98 s 3 are each amended to read
4 as follows:

5 (1) Any adult person may execute a directive directing the
6 withholding or withdrawal of life-sustaining treatment and the
7 administration of aggressive palliative care for the relief of pain or
8 suffering in a terminal condition or permanent unconscious condition.
9 The directive shall be signed by the declarer in the presence of two
10 witnesses not related to the declarer by blood or marriage and who
11 would not be entitled to any portion of the estate of the declarer upon
12 declarer's decease under any will of the declarer or codicil thereto
13 then existing or, at the time of the directive, by operation of law
14 then existing. In addition, a witness to a directive shall not be the
15 attending physician, an employee of the attending physician or a health
16 facility in which the declarer is a patient, or any person who has a
17 claim against any portion of the estate of the declarer upon declarer's
18 decease at the time of the execution of the directive. The directive,
19 or a copy thereof, shall be made part of the patient's medical records
20 retained by the attending physician, a copy of which shall be forwarded
21 by the custodian of the records to the health facility when the
22 withholding or withdrawal of life-support treatment or the
23 administration of aggressive palliative care is contemplated. The
24 directive may be in the following form, but in addition may include
25 other specific directions:

26 Health Care Directive

27 Directive made this day of (month, year).

28 I, having the capacity to make health care decisions,
29 willfully, and voluntarily make known my desire that my dying shall not
30 be artificially prolonged, and my pain or suffering shall be relieved,
31 under the circumstances set forth below, and do hereby declare that:

32 (a) If at any time I should be diagnosed in writing to be in a
33 terminal condition by the attending physician, or in a permanent
34 unconscious condition by two physicians, and where the application of
35 life-sustaining treatment would serve only to artificially prolong the
36 process of my dying, I direct that such treatment be withheld or
37 withdrawn, and that I be permitted to die naturally. I further direct

1 that if I indicate by word or physical expression that I am
2 experiencing pain or suffering as a result of my medical condition,
3 palliative care be administered that will relieve my pain or suffering
4 even if such palliative care may have the double effect of hastening my
5 death. I understand by using this form that a terminal condition means
6 an incurable and irreversible condition caused by injury, disease, or
7 illness, that would within reasonable medical judgment cause death
8 within a reasonable period of time in accordance with accepted medical
9 standards, and where the application of life-sustaining treatment would
10 serve only to prolong the process of dying. I further understand in
11 using this form that a permanent unconscious condition means an
12 incurable and irreversible condition in which I am medically assessed
13 within reasonable medical judgment as having no reasonable probability
14 of recovery from an irreversible coma or a persistent vegetative state.

15 (b) In the absence of my ability to give directions regarding the
16 use of such life-sustaining treatment and the administration of such
17 palliative care, it is my intention that this directive shall be
18 honored by my family and physician(s) as the final expression of my
19 legal right to refuse medical or surgical treatment and my right to
20 request the full range of palliative care available, including
21 palliative sedation, to relieve pain or suffering and I accept the
22 consequences of such refusal and request. If another person is
23 appointed to make these decisions for me, whether through a durable
24 power of attorney or otherwise, I request that the person be guided by
25 this directive and any other clear expressions of my desires.

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

28 I DO want to have artificially provided nutrition and hydration.

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

31 (d) If I am diagnosed to be in a terminal condition or in a
32 permanent unconscious condition and by word or expression I indicate
33 that I am experiencing pain or suffering as a result of my medical
34 condition (check one):

35 I DO want the full range of palliative care available, including
36 palliative sedation, even when sufficient dosage of medications to
37 relieve my pain or suffering may cause unconsciousness and may have the
38 double effect of hastening my death.

39 I DO NOT want palliative sedation.

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

3 I DO want cardiopulmonary resuscitation attempted in the event of
4 cardiac or respiratory arrest.

5 I DO NOT want cardiopulmonary resuscitation attempted in the event
6 of cardiac or respiratory arrest.

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

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

13 ((+f)) (h) I understand that before I sign this directive, I can
14 add to or delete from or otherwise change the wording of this directive
15 and that I may add to or delete from this directive at any time and
16 that any changes shall be consistent with Washington state law or
17 federal constitutional law to be legally valid.

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

21 Signed

22 City, County, and State of Residence

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

25 Witness

26 Witness

27 (2) Prior to withholding or withdrawing life-sustaining treatment,
28 implementing a do not attempt resuscitation order, or administering
29 palliative sedation, the diagnosis of a terminal condition by the
30 attending physician or the diagnosis of a permanent unconscious state
31 by two physicians shall be entered in writing and made a permanent part
32 of the patient's medical records.

33 (3) A directive executed in another political jurisdiction is valid
34 to the extent permitted by Washington state law and federal
35 constitutional law.

1 NEW SECTION. **Sec. 18.** CODIFICATION. Sections 1 through 15 and 19
2 of this act constitute a new chapter in Title 70 RCW.

3 NEW SECTION. **Sec. 19.** CAPTIONS NOT LAWS. Captions as used in
4 this act constitute no part of the law.

5 NEW SECTION. **Sec. 20.** SEVERABILITY. If any provision of this act
6 or its application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

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