

2 SHB 1481 - S AMD TO HC COMM AMD (S-4349.4/92)
3 By Senators L. Smith, Craswell and Rasmussen

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5 On page 1, at the beginning of the amendment, strike the entire
6 amendment and title amendment and insert the following:

7 "Sec. 1. RCW 70.122.020 and 1979 c 112 s 3 are each amended to
8 read as follows:

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

11 (1) "Attending physician" means the physician selected by, or
12 assigned to, the patient who has primary responsibility for the
13 treatment and care of the patient.

14 (2) "Directive" means a written document voluntarily executed by
15 the declarer in accordance with the requirements of RCW 70.122.030.

16 (3) "Health facility" means a hospital as defined in RCW
17 (~~(70.38.020(7))~~) 70.41.020(2) or a nursing home as defined in RCW
18 (~~(70.38.020(8))~~) 18.51.010, a home health agency or hospice agency as
19 defined in RCW 70.126.010, or a boarding home as defined in RCW
20 18.20.020.

21 (4) "Life-sustaining procedure" means any medical or surgical
22 procedure or intervention, including artificially provided nutrition or
23 hydration, which utilizes mechanical or other artificial means to
24 sustain, restore, or supplant a vital function, which, when applied to
25 a qualified patient, would serve only to artificially prolong the
26 moment of death and where, in the judgment of the attending physician,
27 death is imminent whether or not such procedures are utilized. "Life-
28 sustaining procedure" shall not include the administration of

1 medication or the performance of any medical procedure deemed necessary
2 to alleviate pain.

3 (5) "Physician" means a person licensed under chapters 18.71 or
4 18.57 RCW.

5 (6) "Qualified patient" means a patient diagnosed and certified in
6 writing to be afflicted with a terminal condition by two physicians one
7 of whom shall be the attending physician, who have personally examined
8 the patient.

9 (7) "Terminal condition" means an incurable condition caused by
10 injury, disease, or illness, which, regardless of the application of
11 life-sustaining procedures, would, within reasonable medical judgment,
12 produce death, and where the application of life-sustaining procedures
13 serve only to postpone the moment of death of the patient.

14 (8) "Adult person" means a person attaining the age of majority as
15 defined in RCW 26.28.010 and 26.28.015."

16 **"Sec. 2.** RCW 70.122.030 and 1979 c 112 s 4 are each amended to
17 read as follows:

18 (1) Any adult person may execute a directive directing the
19 withholding or withdrawal of life-sustaining procedures in a terminal
20 condition. The directive shall be signed by the declarer in the
21 presence of two witnesses not related to the declarer by blood or
22 marriage and who would not be entitled to any portion of the estate of
23 the declarer upon declarer's decease under any will of the declarer or
24 codicil thereto then existing or, at the time of the directive, by
25 operation of law then existing. In addition, a witness to a directive
26 shall not be the attending physician, an employee of the attending
27 physician or a health facility in which the declarer is a patient, or
28 any person who has a claim against any portion of the estate of the
29 declarer upon declarer's decease at the time of the execution of the

1 directive. The directive, or a copy thereof, shall be made part of the
2 patient's medical records retained by the attending physician, a copy
3 of which shall be forwarded to the health facility upon the withdrawal
4 of life-sustaining procedures. The directive shall be essentially in
5 the following form, but in addition may include other specific
6 directions:

7 DIRECTIVE TO PHYSICIANS

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

9 I, being of sound mind, willfully, and voluntarily make
10 known my desire that my life shall not be artificially prolonged under
11 the circumstances set forth below, and do hereby declare that:

12 (a) If at any time I should have an incurable injury, disease, or
13 illness certified to be a terminal condition by two physicians, and
14 where the application of life-sustaining procedures would serve only to
15 artificially prolong the moment of my death and where my physician
16 determines that my death is imminent whether or not life-sustaining
17 procedures are utilized, I direct that such procedures be withheld or
18 withdrawn, and that I be permitted to die naturally.

19 (b) In the absence of my ability to give directions regarding the
20 use of such life-sustaining procedures, it is my intention that this
21 directive shall be honored by my family and physician(s) as the final
22 expression of my legal right to refuse medical or surgical treatment
23 and I accept the consequences from such refusal.

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

27 (d) If I am certified to be in a terminal condition and it is
28 determined that my death is imminent then: (Check only one, and
29 initial)

1 _____ I DO want to receive artificially provided nutrition or
2 hydration.

3 _____ I DO NOT want to receive artificially provided nutrition or
4 hydration.

5 (e) I understand the full import of this directive and I am
6 emotionally and mentally competent to make this directive.

7 Signed.....
8 City, County, and State of Residence

9 The declarer has been personally known to me and I believe him or her
10 to be of sound mind.

11 Witness.....
12 Witness.....

13 (2) Prior to effectuating a directive the diagnosis of a terminal
14 condition by two physicians shall be verified in writing, attached to
15 the directive, and made a permanent part of the patient's medical
16 records."

17 "**Sec. 3.** RCW 70.122.060 and 1979 c 112 s 7 are each amended to
18 read as follows:

19 (1) Prior to effectuating a withholding or withdrawal of life-
20 sustaining procedures from a qualified patient pursuant to the
21 directive, the attending physician shall make a reasonable effort to
22 determine that the directive complies with RCW 70.122.030 and, if the
23 patient is mentally competent, that the directive and all steps
24 proposed by the attending physician to be undertaken are currently in
25 accord with the desires of the qualified patient.

26 (2) The attending physician or health facility shall inform a
27 patient or patient's authorized representative of the existence of any

1 policy or practice of not withholding or withdrawing life-sustaining
2 procedures that would preclude the honoring of the patient's directive
3 at the time the physician or facility becomes aware of the existence of
4 such a directive. If the patient, after being informed of such policy
5 or practice of not withholding or withdrawing life-sustaining
6 procedures, chooses to retain the physician or facility, the physician
7 or facility with the patient or the patient's representative shall
8 prepare a written plan to be filed with the patient's directive that
9 sets forth the physician's or facilities' intended actions should the
10 patient's medical status change so that the directive would become
11 operative. The physician or facility under this subsection has no
12 obligation to honor the patient's directive to withhold or withdraw
13 life-sustaining procedures if they have complied with the requirements
14 of this subsection, including compliance with the written plan required
15 under this subsection.

16 (3) The directive shall be conclusively presumed, unless revoked,
17 to be the directions of the patient regarding the withholding or
18 withdrawal of life-sustaining procedures. No physician, ~~((and no~~
19 ~~licensed))~~ health facility, or health personnel acting in good faith
20 ~~((under the direction of a physician,))~~ with the directive or in
21 accordance with the written plan in subsection (2) of this section
22 shall be criminally or civilly liable for failing to effectuate the
23 directive of the qualified patient pursuant to this subsection. ((If
24 ~~the physician refuses to effectuate the directive, such physician shall~~
25 ~~make a good faith effort to transfer the qualified patient to another~~
26 ~~physician who will effectuate the directive of the qualified patient.))~~

27 (4) No nurse, physician, or other health care practitioner may be
28 required by law or contract in any circumstances to participate in the
29 withholding or withdrawal of life-sustaining treatment if such person
30 objects to so doing. No person may be discriminated against in

1 employment or professional privileges because of the person's
2 participation or refusal to participate in the withholding or
3 withdrawal of life-sustaining treatment."

4 "NEW SECTION. Sec. 4. Any determination of imminent death
5 shall be confirmed unanimously in writing by a panel of three
6 physicians before a person is a qualified patient. The panel shall not
7 include any physician making the original determination."

8 "NEW SECTION. Sec. 5. If a qualified patient is mentally
9 competent and requests in writing that he or she wishes to die at home,
10 or a physician certifies in writing that the patient is mentally
11 competent and has clearly indicated that he or she wishes to die at
12 home, the patient shall be discharged as soon as possible. The
13 physician, health care provider, or facility has an obligation to
14 explain the medical risks of an immediate discharge to the qualified
15 patient. If the physician, health care provider, or facility complies
16 with the obligation to explain the medical risks of an immediate
17 discharge to a qualified patient, there shall be no civil or criminal
18 liability for claims arising from such discharge."

19 "NEW SECTION. Sec. 6. Any physician, health care provider
20 acting under the direction of a physician, or health facility and its
21 personnel who participate in good faith in the withholding or
22 withdrawal of life-sustaining procedures from a qualified patient in
23 accordance with the requirements of this chapter, shall be immune from
24 civil liability or professional conduct sanctions unless otherwise
25 negligent.

26 A physician, health facility, or health personnel, who withholds or
27 withdraws life-sustaining procedures from a qualified patient who has

1 indicated in their directive they want to receive such treatment shall
2 not be immune from criminal or civil liability for failing to
3 effectuate the directive of the qualified patient pursuant to this
4 chapter.

5 No physician, health facility, or health personnel, acting in good
6 faith and who otherwise complies with the requirements of this chapter,
7 who provides life-sustaining procedures to a person who is under their
8 immediate and temporary care shall be criminally or civilly liable for
9 failing to effectuate the directive of the qualified patient pursuant
10 to this chapter."

11 "NEW SECTION. Sec. 7. Nothing in this chapter shall be
12 construed to limit or expand the right of any person, other than an
13 adult person who has executed a valid directive pursuant to the
14 provisions of this chapter, to direct that life-sustaining procedures
15 be withheld or withdrawn from any person."

16 "NEW SECTION. Sec. 8. RCW 70.122.050 and 1979 c 112 s 6 are
17 each repealed."

18 "NEW SECTION. Sec. 9. Sections 4 through 7 of this act are
19 each added to chapter 70.122 RCW."

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23 On page 1, line 1 of the title, after "act;" strike the remainder
24 of the title and insert "amending RCW 70.122.020, 70.122.030, and
25 70.122.060; adding new sections to chapter 70.122 RCW; and repealing
26 RCW 70.122.050."