



1995 ASSEMBLY BILL 658

November 3, 1995 - Introduced by Representatives HUBER, UNDERHEIM, KRUG, KLUSMAN, MEYER, HAHN, NOTESTEIN, SKINDRUD, CULLEN, ROBSON, LA FAVE, WILDER, BOYLE, PLACHE, HANSON, GRONEMUS, R. YOUNG, BALDWIN, SPRINGER and WASSERMAN, cosponsored by Senators HUELSMAN, BRESKE, ROSENZWEIG, RUDE, BURKE, CHVALA, RISSER, WINEKE, DECKER and SHIBILSKI. Referred to Committee on Health.

1 **AN ACT to renumber** 154.01 (2), 154.01 (2m) and 154.01 (6); **to amend** chapter
2 154 (title), 154.07 (1) (a) 1., 154.07 (1) (b) 1., 154.07 (2), 154.11 (1), 154.11 (4),
3 154.11 (5), 154.11 (6), 155.20 (5) and 155.70 (3); and **to create** subchapter I
4 (title) of chapter 154 [precedes 154.01], 154.02 (intro.), subchapter II (title) of
5 chapter 154 [precedes 154.02] and subchapter III of chapter 154 [precedes
6 154.17] of the statutes; **relating to:** do-not-resuscitate orders in certain
7 hospital and nonhospital situations, granting rule-making authority and
8 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill allows a person who has attained the age of 18 to request from his or her attending physician a do-not-resuscitate order that directs emergency medical technicians and emergency health care facilities personnel not to attempt cardiopulmonary resuscitation (CPR) if that person suffers cardiac or respiratory arrest. A person may not obtain a do-not-resuscitate order unless at least one of the following conditions applies:

1. The person has a terminal condition.
2. The person has a condition such that, were the person to suffer cardiac or pulmonary failure, resuscitation would be unsuccessful in restoring cardiac or respiratory function or the person would experience repeated cardiac or pulmonary failure within a short period before death occurs.
3. The person has a condition such that, were the person to suffer cardiac or pulmonary failure, resuscitation of the person would impose an extraordinary burden on that person in light of that person's medical condition and the expected outcome of resuscitation.

1 154.07 (2) EFFECT OF DECLARATION. The desires of a qualified patient who is
2 competent supersede the effect of the declaration at all times. If a qualified patient
3 is incompetent at the time of the decision to withhold or withdraw life-sustaining
4 procedures or feeding tubes a declaration executed under this ~~chapter~~ subchapter is
5 presumed to be valid. The declaration of a qualified patient who is diagnosed as
6 pregnant by the attending physician has no effect during the course of the qualified
7 patient's pregnancy. For the purposes of this ~~chapter~~ subchapter, a physician or
8 inpatient health care facility may presume in the absence of actual notice to the
9 contrary that a person who executed a declaration was of sound mind at the time.

10 **SECTION 11.** 154.11 (1) of the statutes is amended to read:

11 154.11 (1) SUICIDE. The withholding or withdrawal of life-sustaining
12 procedures or feeding tubes from a qualified patient under this ~~chapter~~ subchapter
13 does not, for any purpose, constitute suicide. Execution of a declaration under this
14 ~~chapter~~ subchapter does not, for any purpose, constitute attempted suicide.

15 **SECTION 12.** 154.11 (4) of the statutes is amended to read:

16 154.11 (4) OTHER RIGHTS. This ~~chapter~~ subchapter does not impair or supersede
17 any person's legal right to withhold or withdraw life-sustaining procedures or
18 feeding tubes.

19 **SECTION 13.** 154.11 (5) of the statutes is amended to read:

20 154.11 (5) INTENT. Failure to execute a declaration under this ~~chapter~~
21 subchapter creates no presumption that the person consents to the use or
22 withholding of life-sustaining procedures or feeding tubes in the event that the
23 person suffers from a terminal condition or is in a persistent vegetative state.

24 **SECTION 14.** 154.11 (6) of the statutes is amended to read:

1 (b) The person has a condition such that, were the person to suffer cardiac or
2 pulmonary failure, resuscitation would be unsuccessful in restoring cardiac or
3 respiratory function or the person would experience repeated cardiac or pulmonary
4 failure within a short period before death occurs.

5 (c) The person has a condition such that, were the person to suffer cardiac or
6 pulmonary failure, resuscitation of that person would impose an extraordinary
7 burden on that person in light of that person's medical condition and the expected
8 outcome of resuscitation for that person.

9 (5) "Resuscitation" means cardiopulmonary resuscitation or any component of
10 cardiopulmonary resuscitation, including cardiac compression, endotracheal
11 intubation and other advanced airway management, artificial ventilation,
12 defibrillation, administration of cardiac resuscitation medications and related
13 procedures.

14 **154.19 Do-not-resuscitate order.** (1) No person except an attending
15 physician may issue a do-not-resuscitate order. An attending physician may issue
16 a do-not-resuscitate order to a patient only if all of the following apply:

17 (a) The patient is a qualified patient.

18 (b) The patient requests the order.

19 (c) The order is in writing.

20 (d) The patient signs the order.

21 (2) Upon issuing the do-not-resuscitate order, the attending physician, or a
22 person directed by the attending physician, shall issue and affix to the wrist of the
23 patient a do-not-resuscitate bracelet and document in the patient's medical record
24 the medical condition that qualifies the patient for the do-not-resuscitate order.

1 **(3)** (a) Except as provided in par. (b), emergency medical technicians and
2 emergency health care facilities personnel shall follow do-not-resuscitate orders.
3 The procedures used in following a do-not-resuscitate order shall be in accordance
4 with any procedures established by the department by rule.

5 (b) Paragraph (a) does not apply under any of the following conditions:

6 1. The patient has revoked the order under 154.21.

7 2. The do-not-resuscitate bracelet appears to have been tampered with or
8 removed.

9 **154.21 Revocation of do-not-resuscitate order. (1) METHOD OF**
10 **REVOCATION.** A patient may revoke a do-not-resuscitate order at any time by any of
11 the following methods:

12 (a) Prior to cardiac or respiratory arrest, the patient expresses to an emergency
13 medical technician or to a person who serves as a member of an emergency health
14 care facility's personnel the desire to be resuscitated. The emergency medical
15 technician or the member of the emergency health care facility shall promptly
16 remove the do-not-resuscitate bracelet.

17 (b) Prior to cardiac or respiratory arrest, the patient defaces, burns, cuts or
18 otherwise destroys the do-not-resuscitate bracelet.

19 (c) The patient removes the do-not-resuscitate bracelet or requests his or her
20 attending physician to remove the do-not-resuscitate bracelet.

21 **(2) RECORDING THE REVOCATION.** The attending physician shall be notified as
22 soon as practicable of the patient's revocation and shall record in the patient's
23 medical record the time, date and place of the revocation, if known, and the time, date
24 and place, if different, that he or she was notified of the revocation. A revocation

1 under sub. (1) is effective regardless of when the attending physician has been
2 notified of that revocation.

3 **154.23 Liability.** No physician, emergency medical technician, health care
4 professional or emergency health care facility acting under the directive of a
5 do-not-resuscitate order may be held criminally or civilly liable, or charged with
6 unprofessional conduct, for any of the following:

7 (1) Withholding or withdrawing, or causing to be withheld or withdrawn,
8 resuscitation from a patient.

9 (2) Failing to act upon a revocation unless the person or facility had actual
10 knowledge of the revocation.

11 (3) Failing to comply with a do-not-resuscitate order if the person or facility
12 in good faith believed that the order had been revoked.

13 **154.25 General provisions.** (1) SUICIDE. Under this subchapter, the
14 withholding or withdrawing of resuscitation from a patient wearing a valid
15 do-not-resuscitate bracelet does not, for any purpose, constitute suicide.
16 Requesting a do-not-resuscitate order under this subchapter does not, for any
17 purpose, constitute suicide.

18 (2) LIFE INSURANCE. Requesting a do-not-resuscitate order under s. 154.19
19 may not be used to impair in any manner the procurement of any policy of life
20 insurance, and may not be used to modify the terms of an existing policy of life
21 insurance. No policy of life insurance may be impaired in any manner by the
22 withholding or withdrawal of resuscitation from a qualified patient.

23 (3) HEALTH INSURANCE. No person may be required to request a
24 do-not-resuscitate order as a condition prior to being insured for, or receiving,
25 health care services.

1 (4) OTHER RIGHTS. This subchapter does not impair or supersede any person's
2 legal right to withhold or withdraw resuscitation.

3 (5) INTENT. Failure to request a do-not-resuscitate order creates no
4 presumption that the person consents to the use or withholding of resuscitation in
5 the event that the person suffers from a condition that renders the person a qualified
6 patient.

7 (6) VALID DO-NOT-RESUSCITATE BRACELET. A do-not-resuscitate bracelet that has
8 not been removed, altered or tampered with in any way shall be presumed valid.

9 (7) CONSTRUCTION. Nothing in this subchapter condones, authorizes or permits
10 any affirmative or deliberate act to end life other than to permit the natural process
11 of dying.

12 **154.27 Specifications and distribution of do-not-resuscitate bracelet.**

13 The department shall establish by rule a uniform standard for the size and design
14 of all do-not-resuscitate bracelets. The rules shall require that the
15 do-not-resuscitate bracelets include the inscription "D-N-R"; the name, address,
16 date of birth and gender of the patient; and the name, business telephone number
17 and signature of the attending physician issuing the order.

18 **154.29 Penalties. (1)** Any person who willfully conceals, defaces or damages
19 the do-not-resuscitate bracelet of another person without that person's consent may
20 be fined not more than \$500 or imprisoned for not more than 30 days or both.

21 **(2)** Any person who, with the intent to cause the withholding or withdrawal of
22 resuscitation contrary to the wishes of any patient, falsifies, forges or transfers a
23 do-not-resuscitate bracelet to that patient or conceals the revocation under s. 154.21
24 of a do-not-resuscitate order or any responsible person who withholds personal

1 knowledge of a revocation under s. 154.21 shall be fined not more than \$10,000 or
2 imprisoned for not more than 10 years or both.

3 **SECTION 16.** 155.20 (5) of the statutes is amended to read:

4 155.20 (5) The health care agent shall act in good faith consistently with the
5 desires of the principal as expressed in the power of attorney for health care
6 instrument or as otherwise specifically directed by the principal to the health care
7 agent at any time. The health care agent shall act in good faith consistently with any
8 valid declaration executed by the principal under subch. II of ch. 154, except that the
9 provisions of a principal's valid power of attorney for health care instrument
10 supersede any directly conflicting provisions of a valid declaration executed by the
11 principal under subch. II of ch. 154. In the absence of a specific directive by the
12 principal or if the principal's desires are unknown, the health care agent shall, in
13 good faith, act in the best interests of the principal in exercising his or her authority.

14 **SECTION 17.** 155.70 (3) of the statutes is amended to read:

15 155.70 (3) This chapter does not apply to the provisions of a valid declaration
16 executed under subch. II of ch. 154, except that the provisions of a principal's valid
17 power of attorney for health care instrument supersede any directly conflicting
18 provisions of a valid declaration executed under subch. II of ch. 154 for a declarant
19 who is that principal.

20 (END)