

State of Wisconsin



1995 Assembly Bill 658

Date of enactment: **April 4, 1996**
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1995 WISCONSIN ACT 200

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

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Chapter 154 (title) of the statutes is amended to read:

CHAPTER 154
NATURAL DEATH DECLARATION TO
PHYSICIANS AND DO-NOT-RESUSCITATE
ORDERS

SECTION 2. Subchapter I (title) of chapter 154 [precedes 154.01] of the statutes is created to read:

CHAPTER 154
SUBCHAPTER I
DEFINITIONS

SECTION 3. 154.01 (2) of the statutes is renumbered 154.02 (1).

SECTION 4. 154.01 (2m) of the statutes is renumbered 154.02 (2).

SECTION 5. 154.01 (6) of the statutes is renumbered 154.02 (3).

SECTION 6. 154.02 (intro.) of the statutes is created to read:

154.02 Definitions. (intro.) In this subchapter:

SECTION 7. Subchapter II (title) of chapter 154 [precedes 154.02] of the statutes is created to read:

CHAPTER 154
SUBCHAPTER II
DECLARATION TO PHYSICIANS

SECTION 8. 154.07 (1) (a) 1. of the statutes is amended to read:

154.07 (1) (a) 1. Participating in the withholding or withdrawal of life-sustaining procedures or feeding tubes under this ~~chapter~~ subchapter.

SECTION 9. 154.07 (1) (b) 1. of the statutes is amended to read:

154.07 (1) (b) 1. No person who acts in good faith as a witness to a declaration under this ~~chapter~~ subchapter may be held civilly or criminally liable for participating in the withholding or withdrawal of life-sustaining procedures or feeding tubes under this ~~chapter~~ subchapter.

SECTION 10. 154.07 (2) of the statutes is amended to read:

154.07 (2) EFFECT OF DECLARATION. The desires of a qualified patient who is competent supersede the effect of the declaration at all times. If a qualified patient is incompetent at the time of the decision to withhold or with-

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

draw life-sustaining procedures or feeding tubes a declaration executed under this ~~chapter~~ subchapter is presumed to be valid. The declaration of a qualified patient who is diagnosed as pregnant by the attending physician has no effect during the course of the qualified patient's pregnancy. For the purposes of this ~~chapter~~ subchapter, a physician or inpatient health care facility may presume in the absence of actual notice to the contrary that a person who executed a declaration was of sound mind at the time.

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

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

SECTION 12b. 154.11 (4) of the statutes is renumbered 154.11 (4) (intro.) and amended to read:

154.11 (4) **OTHER RIGHTS.** (intro.) This ~~chapter~~ subchapter does not impair or supersede any of the following:

(a) A person's legal right to withhold or withdraw life-sustaining procedures or feeding tubes.

SECTION 12c. 154.11 (4) (b) of the statutes is created to read:

154.11 (4) (b) The right of any person who does not have a declaration in effect to receive life-sustaining procedures or feeding tubes.

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

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

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

154.11 (6) **CONSTRUCTION.** Nothing in this ~~chapter~~ subchapter condones, authorizes or permits any affirmative or deliberate act to end life other than to permit the natural process of dying.

SECTION 15. Subchapter III of chapter 154 [precedes 154.17] of the statutes is created to read:

CHAPTER 154
SUBCHAPTER III

DO-NOT-RESUSCITATE ORDERS

154.17 Definitions. In this subchapter:

(1) "Do-not-resuscitate bracelet" means a standardized identification bracelet of uniform size, color, and design, approved by the department, that bears the inscription "Do Not Resuscitate" and signifies that the wearer is a qualified patient who has obtained a do-not-resuscitate

order and that the wearer has not revoked the request for the order.

(2) "Do-not-resuscitate order" means a written order issued under the requirements of this subchapter that directs emergency medical technicians, first responders and emergency health care facilities personnel not to attempt cardiopulmonary resuscitation on a person for whom the order is issued if that person suffers cardiac or respiratory arrest.

(3) "Emergency medical technician" has the meaning given under s. 146.50 (1) (e).

(3m) "First responder" has the meaning given under s. 146.53 (1) (d).

(4) "Qualified patient" means a person who has attained the age of 18 and to whom any of the following conditions applies:

(a) The person has a terminal condition.

(b) The person has a medical 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.

(c) The person has a medical condition such that, were the person to suffer cardiac or pulmonary failure, resuscitation of that person would cause significant physical pain or harm that would outweigh the possibility that resuscitation would successfully restore cardiac or respiratory function for an indefinite period of time.

(5) "Resuscitation" means cardiopulmonary resuscitation or any component of cardiopulmonary resuscitation, including cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of cardiac resuscitation medications and related procedures. "Resuscitation" does not include the Heimlich maneuver or similar procedure used to expel an obstruction from the throat.

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

(a) The patient is a qualified patient.

(b) The patient requests the order.

(c) The order is in writing.

(d) The patient signs the order.

(e) The physician does not know the patient to be pregnant.

(2) (a) Upon issuing the do-not-resuscitate order, the attending physician, or a person directed by the attending physician, shall provide the patient with written information about the resuscitation procedures that the patient has chosen to forego and the methods by which the patient may revoke the do-not-resuscitate order.

(b) After providing the information under par. (a), the attending physician, or the person directed by the attending physician, shall affix to the wrist of the patient a do-not-resuscitate bracelet and document in the patient's medical record the medical condition that qualifies the patient for the do-not-resuscitate order.

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

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

1. The patient has revoked the order under s. 154.21.
2. The do-not-resuscitate bracelet appears to have been tampered with or removed.
3. The emergency medical technician, first responder or member of the emergency health care facility knows that the patient is pregnant.

154.21 Revocation of do-not-resuscitate order.

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

(a) The patient expresses to an emergency medical technician, first responder or to a person who serves as a member of an emergency health care facility's personnel the desire to be resuscitated. The emergency medical technician, first responder or the member of the emergency health care facility shall promptly remove the do-not-resuscitate bracelet.

(b) The patient defaces, burns, cuts or otherwise destroys the do-not-resuscitate bracelet.

(c) The patient removes the do-not-resuscitate bracelet or another person, at the patient's request, removes the do-not-resuscitate bracelet.

(2) **RECORDING THE REVOCATION.** The attending physician shall be notified as soon as practicable of the patient's revocation and shall record in the patient's medical record the time, date and place of the revocation, if known, and the time, date and place, if different, that he or she was notified of the revocation. A revocation under sub. (1) is effective regardless of when the attending physician has been notified of that revocation.

154.23 Liability. No physician, emergency medical technician, first responder, health care professional or emergency health care facility may be held criminally or civilly liable, or charged with unprofessional conduct, for any of the following:

(1) Under the directive of a do-not-resuscitate order, withholding or withdrawing, or causing to be withheld or withdrawn, resuscitation from a patient.

(2) Failing to act upon the revocation of a do-not-resuscitate order unless the person or facility had actual knowledge of the revocation.

(3) Failing to comply with a do-not-resuscitate order if the person or facility did not have actual knowledge of the do-not-resuscitate order or if the person or facility in good faith believed that the order had been revoked.

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

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

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

(4) **OTHER RIGHTS.** This subchapter does not impair or supersede any of the following:

(a) A person's right to withhold or withdraw resuscitation.

(b) The right of any person who does not have a do-not-resuscitate order in effect to receive resuscitation.

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

(6) **VALID DO-NOT-RESUSCITATE BRACELET.** A do-not-resuscitate bracelet that has not been removed, altered or tampered with in any way shall be presumed valid, unless the patient expresses to the emergency medical technician, first responder or emergency health care facility personnel the desire to be resuscitated.

(6m) **DESIRE OF THE PATIENT.** The desire of a patient to be resuscitated supersedes the effect of that patient's do-not-resuscitate order at all times.

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

154.27 Specifications and distribution of do-not-resuscitate bracelet. The department shall establish by rule a uniform standard for the size, color, and design of all do-not-resuscitate bracelets. The rules shall require that the do-not-resuscitate bracelets include the inscription "Do Not Resuscitate"; the name, address, date of birth and gender of the patient; and the name, business telephone number and signature of the attending physician issuing the order.

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

(2) Any person who, with the intent to cause the withholding or withdrawal of resuscitation contrary to the wishes of any patient, falsifies, forges or transfers a do-not-resuscitate bracelet to that patient or conceals the revocation under s. 154.21 of a do-not-resuscitate order or any responsible person who withholds personal knowledge of a revocation under s. 154.21 shall be fined not more than \$10,000 or imprisoned for not more than 10 years or both.

(3) Any person who directly or indirectly coerces, threatens or intimidates an individual so as to cause the individual to sign or issue a do-not-resuscitate order shall be fined not more than \$500 or imprisoned for not more than 30 days or both.

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

155.20 (5) The health care agent shall act in good faith consistently with the desires of the principal as ex-

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

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

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