

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

DRAFT
10.9.09

BILL 7

LLS NO. 10-0250.01 Jane Ritter

INTERIM COMMITTEE BILL

Hospice and Palliative Care in Colorado

SHORT TITLE: "CO Medical Treatment Act Updates"

DEADLINES: Finalize by: 02/01/10 File by: 02/03/10

A BILL FOR AN ACT

101 **CONCERNING UPDATES TO THE "COLORADO MEDICAL TREATMENT**
102 **DECISION ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Hospice and Palliative Care in Colorado. The bill repeals and reenacts the "Colorado Medical Treatment Decision Act". The term "artificial nourishment" replaces "artificial nutrition and hydration", the term "lacking decisional capacity" replaces "incompetent", and a new term, "persistent vegetative state", has been added in order to clarify different medical conditions under which the act shall be applied. The options available to the patient when he or she is in a terminal condition,

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

persistent vegetative state, or otherwise lacking decisional capacity are clarified. The bill removes from statute the legal form that the declaration as to medical or surgical treatment may take and makes further clarifications concerning the declaration. Any declaration executed in compliance with Colorado law at the time it was made shall continue to be an effective declaration, and any declaration executed in compliance with the laws of another state shall be considered effective in Colorado, granted that such declaration does not violate any Colorado law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 18 of title 15, Colorado Revised Statutes, is
3 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

4 **ARTICLE 18**

5 **Colorado Medical Treatment Decision Act**

6 **15-18-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "COLORADO MEDICAL TREATMENT DECISION ACT".

8 **15-18-102. Legislative declaration.** (1) THE GENERAL
9 ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

10 (a) COLORADO LAW HAS TRADITIONALLY RECOGNIZED THE RIGHT
11 OF AN ADULT TO ACCEPT OR REJECT MEDICAL OR SURGICAL TREATMENT;

12 (b) RECENT ADVANCES IN MEDICAL SCIENCE HAVE MADE IT
13 POSSIBLE TO PROLONG THE DYING PROCESS THROUGH THE USE OF
14 ARTIFICIAL, EXTRAORDINARY, EXTREME, OR RADICAL MEDICAL OR
15 SURGICAL PROCEDURES;

16 (c) THE USE OF SUCH MEDICAL OR SURGICAL PROCEDURES
17 INCREASINGLY INVOLVES PATIENTS WHO ARE IN A TERMINAL CONDITION,
18 A PERSISTENT VEGETATIVE STATE, OR OTHERWISE LACKING DECISIONAL
19 CAPACITY TO ACCEPT OR REJECT MEDICAL OR SURGICAL TREATMENT;

20 (d) THE TRADITIONAL RIGHT TO ACCEPT OR REJECT MEDICAL OR
21 SURGICAL TREATMENT SHOULD BE AVAILABLE TO AN ADULT WHILE HE OR

1 SHE HAS DECISIONAL CAPACITY, NOTWITHSTANDING THE FACT THAT SUCH
2 MEDICAL OR SURGICAL TREATMENT MAY BE OFFERED OR APPLIED WHEN
3 HE OR SHE IS SUFFERING FROM A TERMINAL CONDITION, IS IN A PERSISTENT
4 VEGETATIVE STATE, OR OTHERWISE LACKING DECISIONAL CAPACITY TO
5 ACCEPT OR REJECT MEDICAL OR SURGICAL TREATMENT;

6 (e) THIS ARTICLE AFFIRMS THE TRADITIONAL RIGHT TO ACCEPT OR
7 REJECT MEDICAL OR SURGICAL TREATMENT, AND CREATES A PROCEDURE
8 BY WHICH AN ADULT WITH DECISIONAL CAPACITY MAY MAKE SUCH
9 DECISIONS IN ADVANCE OF MEDICAL NEED;

10 (f) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT NOTHING IN
11 THIS ARTICLE SHALL HAVE THE EFFECT OF MODIFYING OR CHANGING
12 CURRENTLY PRACTICED MEDICAL ETHICS OR PROTOCOL WITH RESPECT TO
13 ANY PATIENT IN THE ABSENCE OF A DECLARATION AS PROVIDED FOR IN
14 SECTION 15-18-104;

15 (g) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT NOTHING
16 IN THIS ARTICLE SHALL REQUIRE ANY ADULT TO EXECUTE A DECLARATION.

17 **15-18-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
18 CONTEXT OTHERWISE REQUIRES:

19 (1) "ADULT" MEANS ANY PERSON EIGHTEEN YEARS OF AGE OR
20 OLDER.

21 (2) "ARTIFICIAL NOURISHMENT AND HYDRATION" MEANS
22 NOURISHMENT SUPPLIED THROUGH A TUBE INSERTED INTO THE STOMACH
23 OR INTESTINES OR NUTRIENTS INJECTED INTRAVENOUSLY INTO THE
24 BLOODSTREAM.

25 (3) "ATTENDING PHYSICIAN" MEANS THE PHYSICIAN, WHETHER
26 SELECTED BY OR ASSIGNED TO A PATIENT, WHO HAS PRIMARY
27 RESPONSIBILITY FOR THE TREATMENT AND CARE OF THE PATIENT.

1 (4) "COURT" MEANS THE DISTRICT COURT OF THE COUNTY IN
2 WHICH A DECLARANT HAVING A TERMINAL CONDITION IS LOCATED AT THE
3 TIME OF COMMENCEMENT OF A PROCEEDING PURSUANT TO THIS ARTICLE
4 OR, IF IN THE CITY AND COUNTY OF DENVER, THE PROBATE COURT.

5 (5) "DECISIONAL CAPACITY" MEANS THE ABILITY TO PROVIDE
6 INFORMED CONSENT TO OR REFUSAL OF MEDICAL TREATMENT OR THE
7 ABILITY TO MAKE AN INFORMED HEALTH CARE BENEFIT DECISION.

8 (6) "DECLARANT" MEANS AN ADULT POSSESSING DECISIONAL
9 CAPACITY WHO EXECUTES A DECLARATION.

10 (7) "DECLARATION" MEANS A WRITTEN DOCUMENT VOLUNTARILY
11 EXECUTED BY A DECLARANT IN ACCORDANCE WITH THE REQUIREMENTS OF
12 SECTION 15-18-104.

13 (8) "HOSPITAL" MEANS AN INSTITUTION HOLDING A LICENSE OR
14 CERTIFICATE OF COMPLIANCE AS A HOSPITAL ISSUED BY THE DEPARTMENT
15 OF PUBLIC HEALTH AND ENVIRONMENT AND INCLUDES HOSPITALS
16 OPERATED BY THE FEDERAL GOVERNMENT IN COLORADO.

17 (9) "LIFE-SUSTAINING PROCEDURE" MEANS ANY MEDICAL
18 PROCEDURE OR INTERVENTION THAT, IF ADMINISTERED TO A QUALIFIED
19 PATIENT, WOULD SERVE ONLY TO PROLONG THE DYING PROCESS, AND
20 SHALL NOT INCLUDE ANY MEDICAL PROCEDURE OR INTERVENTION FOR
21 NOURISHMENT OF THE QUALIFIED PATIENT OR CONSIDERED NECESSARY BY
22 THE ATTENDING PHYSICIAN TO PROVIDE COMFORT OR ALLEVIATE PAIN.
23 HOWEVER, ARTIFICIAL NOURISHMENT AND HYDRATION MAY BE
24 WITHDRAWN OR WITHHELD PURSUANT TO SECTION 15-18-104 (4).

25 (10) "PERSISTENT VEGETATIVE STATE" IS DEFINED BY REFERENCE
26 TO THE CRITERIA AND DEFINITIONS EMPLOYED BY PREVAILING COMMUNITY
27 MEDICAL STANDARDS OF PRACTICE.

1 (11) "PHYSICIAN" MEANS A PERSON DULY LICENSED UNDER THE
2 PROVISIONS OF ARTICLE 36 OF TITLE 12, C.R.S.

3 (12) "QUALIFIED PATIENT" MEANS A PATIENT WHO HAS EXECUTED
4 A DECLARATION IN ACCORDANCE WITH THIS ARTICLE AND WHO HAS BEEN
5 CERTIFIED BY THE ATTENDING PHYSICIAN AND ONE OTHER PHYSICIAN TO
6 BE IN A TERMINAL CONDITION OR PERSISTENT VEGETATIVE STATE.

7 (13) "TERMINAL CONDITION" MEANS AN INCURABLE OR
8 IRREVERSIBLE CONDITION FOR WHICH THE ADMINISTRATION OF
9 LIFE-SUSTAINING PROCEDURES WILL SERVE ONLY TO PROLONG THE DYING
10 PROCESS.

11 **15-18-104. Declaration as to medical treatment.** (1) ANY
12 ADULT WITH DECISIONAL CAPACITY MAY EXECUTE A DECLARATION
13 DIRECTING THAT LIFE-SUSTAINING PROCEDURES BE WITHHELD OR
14 WITHDRAWN IF, AT SOME FUTURE TIME, HE OR SHE IS IN A TERMINAL
15 CONDITION, IS IN A PERSISTENT VEGETATIVE STATE, OR OTHERWISE LACKS
16 DECISIONAL CAPACITY TO ACCEPT OR REJECT MEDICAL OR SURGICAL
17 TREATMENT. IT SHALL BE THE RESPONSIBILITY OF THE DECLARANT OR
18 SOMEONE ACTING FOR THE DECLARANT TO PROVIDE THE DECLARATION TO
19 THE ATTENDING PHYSICIAN FOR ENTRY IN THE DECLARANT'S MEDICAL
20 RECORD.

21 (2) IN THE CASE OF A DECLARATION OF A QUALIFIED PATIENT
22 KNOWN TO THE ATTENDING PHYSICIAN TO BE PREGNANT, A MEDICAL
23 EVALUATION SHALL BE MADE AS TO WHETHER THE FETUS IS VIABLE AND
24 COULD WITH A REASONABLE DEGREE OF MEDICAL CERTAINTY DEVELOP TO
25 LIVE BIRTH WITH CONTINUED APPLICATION OF LIFE-SUSTAINING
26 PROCEDURES. IF SUCH IS THE CASE, THE DECLARATION SHALL BE GIVEN NO
27 FORCE OR EFFECT.

1 (3) (a) THE DECLARATION MAY CONTAIN SEPARATE WRITTEN
2 STATEMENTS REGARDING THE DECLARANT'S PREFERENCE CONCERNING
3 LIFE-SUSTAINING PROCEDURES AND ARTIFICIAL NOURISHMENT AND
4 HYDRATION IF THE DECLARANT IS IN A TERMINAL CONDITION OR IS IN A
5 PERSISTENT VEGETATIVE STATE.

6 (b) THE DECLARANT MAY PROVIDE IN HIS OR HER DECLARATION
7 ONE OF THE FOLLOWING ACTIONS:

8 (I) THAT ARTIFICIAL NOURISHMENT AND HYDRATION NOT BE
9 CONTINUED;

10 (II) THAT ARTIFICIAL NOURISHMENT AND HYDRATION BE
11 CONTINUED FOR A SPECIFIED PERIOD; OR

12 (III) THAT ARTIFICIAL NOURISHMENT AND HYDRATION BE
13 CONTINUED.

14 (c) A DECLARATION EXECUTED PRIOR TO MARCH 29, 1989, MAY
15 BE AMENDED BY A CODICIL TO INCLUDE THE PROVISIONS OF THIS
16 SUBSECTION (3).

17 (4) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (3) OF
18 THIS SECTION AND SECTION 15-18-103 (9), WHEN AN ATTENDING
19 PHYSICIAN HAS DETERMINED THAT PAIN RESULTS FROM A
20 DISCONTINUANCE OF ARTIFICIAL NOURISHMENT AND HYDRATION, THE
21 PHYSICIAN MAY ORDER THAT NOURISHMENT AND HYDRATION BE
22 CONTINUED TO THE EXTENT NECESSARY TO PROVIDE COMFORT AND
23 ALLEVIATE PAIN.

24 (5) A DECLARATION EXECUTED BEFORE TWO WITNESSES BY ANY
25 ADULT WITH DECISIONAL CAPACITY SHALL BE LEGALLY EFFECTIVE FOR
26 THE PURPOSES OF THIS ARTICLE.

27 (6) ANY DECLARATION MADE PURSUANT TO THIS ARTICLE MAY

1 ALSO HAVE A DOCUMENT WITH A WRITTEN STATEMENT AS PROVIDED IN
2 SECTION 12-34-105 (a), C.R.S., OR A WRITTEN STATEMENT IN
3 SUBSTANTIALLY SIMILAR FORM, INDICATING A DECISION REGARDING
4 ORGAN AND TISSUE DONATION. SUCH A DOCUMENT SHALL BE EXECUTED
5 IN ACCORDANCE WITH THE PROVISIONS OF THE "REVISED UNIFORM
6 ANATOMICAL GIFT ACT", ARTICLE 34 OF TITLE 12, C.R.S.

7 (7) ANY DECLARATION MADE PURSUANT TO THIS ARTICLE MAY
8 ALSO BE COMBINED WITH A DOCUMENT OR WRITTEN STATEMENT
9 DESIGNATING AN AGENT UNDER A MEDICAL POWER OF ATTORNEY. SUCH
10 A DOCUMENT SHALL BE EXECUTED IN ACCORDANCE WITH THE PROVISIONS
11 OF PART 5 OF ARTICLE 14 OF THIS TITLE AND IN ACCORDANCE WITH THE
12 PROVISIONS OF THE "COLORADO PATIENT AUTONOMY ACT", SECTIONS
13 15-14-503 TO 15-14-509.

14 (8) ANY DECLARATION MADE PURSUANT TO THIS ARTICLE MAY
15 ALSO CONTAIN A WRITTEN STATEMENT DESIGNATING INDIVIDUALS TO
16 WHOM THE DECLARANT MAY GRANT THE AUTHORITY TO SPEAK WITH THE
17 ATTENDING PHYSICIAN, ANY OTHER TREATING PHYSICIAN, OR OTHER
18 MEDICAL PROFESSIONAL OF THE DECLARANT PRIOR TO FINAL
19 DETERMINATION AS TO THE WITHHOLDING OR WITHDRAWAL OF
20 LIFE-SUSTAINING PROCEDURES, INCLUDING ARTIFICIAL NOURISHMENT AND
21 HYDRATION. THE LISTING OF SUCH INDIVIDUALS IN THE DOCUMENT SHALL
22 BE CONSIDERED TO BE CONSISTENT WITH THE PRIVACY REQUIREMENTS OF
23 THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY
24 ACT OF 1996", 42 U.S.C. SEC. 1320d TO 1320d-8, AS AMENDED, REFERRED
25 TO IN THIS SECTION AS "HIPAA", REGARDING WAIVER OF
26 CONFIDENTIALITY. THIS SECTION SHALL CONTAIN LANGUAGE SUFFICIENT
27 TO CONSTITUTE A HIPAA RELEASE SO THAT MEDICAL PROFESSIONALS

1 MAY DISCUSS MEDICAL INFORMATION WITH THE PERSONS DESIGNATED BY
2 THE DECLARANT. THE LISTING OF NAMES IN SUCH A DOCUMENT SHALL
3 NOT CONSTITUTE APPOINTMENT OF ADDITIONAL AGENTS UNDER A
4 MEDICAL POWER OF ATTORNEY.

5 (9) ANY DECLARATION MADE PURSUANT TO THIS ARTICLE MAY
6 ALSO CONTAIN A WRITTEN STATEMENT PROVIDING INDIVIDUAL MEDICAL
7 DIRECTIVES FROM THE DECLARANT TO THE ATTENDING PHYSICIAN OR ANY
8 OTHER TREATING MEDICAL PERSONNEL.

9 **15-18-105. Inability of declarant to sign.** (1) IN THE EVENT
10 THAT THE DECLARANT IS PHYSICALLY UNABLE TO SIGN THE DECLARATION,
11 IT MAY BE SIGNED BY SOME OTHER PERSON IN THE DECLARANT'S PRESENCE
12 AND AT THE DECLARANT'S DIRECTION. THE OTHER PERSON SHALL NOT BE:

13 (a) THE ATTENDING PHYSICIAN OR ANY OTHER PHYSICIAN;

14 (b) AN EMPLOYEE OF THE ATTENDING PHYSICIAN OR HEALTH CARE
15 FACILITY IN WHICH THE DECLARANT IS A PATIENT;

16 (c) A PERSON WHO HAS A CLAIM AGAINST ANY PORTION OF THE
17 ESTATE OF THE DECLARANT AT HIS OR HER DEATH AT THE TIME THE
18 DECLARATION IS SIGNED; OR

19 (d) A PERSON WHO KNOWS OR BELIEVES THAT HE OR SHE IS
20 ENTITLED TO ANY PORTION OF THE ESTATE OF THE DECLARANT UPON THE
21 DECLARANT'S DEATH EITHER AS A BENEFICIARY OF A WILL IN EXISTENCE
22 AT THE TIME THE DECLARATION IS SIGNED OR AS AN HEIR AT LAW.

23 **15-18-106. Witnesses.** (1) THE DECLARATION SHALL BE SIGNED
24 BY THE DECLARANT IN THE PRESENCE OF TWO WITNESSES. THE WITNESSES
25 SHALL NOT INCLUDE ANY PERSON SPECIFIED IN SECTION 15-18-105.

26 (2) IF THE DECLARANT IS A PATIENT OR RESIDENT OF A HEALTH
27 CARE FACILITY, THE WITNESSES SHALL NOT BE PATIENTS OF THAT

1 FACILITY.

2 (3) THE DECLARATION MAY BE NOTARIZED. THE ABSENCE OF
3 NOTARIZATION SHALL HAVE NO IMPACT ON THE VALIDITY OF THE
4 DECLARATION.

5 **15-18-107. Withdrawal - withholding of life-sustaining**
6 **procedures.** IN THE EVENT THAT AN ATTENDING PHYSICIAN IS PRESENTED
7 WITH AN UNREVOKED DECLARATION EXECUTED BY A DECLARANT WHOM
8 THE PHYSICIAN BELIEVES HAS A TERMINAL CONDITION, IS IN A PERSISTENT
9 VEGETATIVE STATE, OR OTHERWISE LACKS DECISIONAL CAPACITY TO
10 ACCEPT OR REJECT MEDICAL OR SURGICAL TREATMENT, THE ATTENDING
11 PHYSICIAN SHALL ORDER THE DECLARANT TO BE EXAMINED BY ONE OTHER
12 PHYSICIAN. IF BOTH PHYSICIANS FIND THAT THE DECLARANT HAS A
13 TERMINAL CONDITION, IS IN A PERSISTENT VEGETATIVE STATE, OR
14 OTHERWISE LACKS DECISIONAL CAPACITY TO ACCEPT OR REJECT MEDICAL
15 OR SURGICAL TREATMENT, THEY SHALL CERTIFY SUCH FACT IN WRITING
16 AND ENTER SUCH IN THE QUALIFIED PATIENT'S MEDICAL RECORD OF THE
17 HOSPITAL IN WHICH THE WITHHOLDING OR WITHDRAWAL OF
18 LIFE-SUSTAINING PROCEDURES OR ARTIFICIAL NOURISHMENT AND
19 HYDRATION MAY OCCUR, TOGETHER WITH A COPY OF THE DECLARATION.
20 IF THE ATTENDING PHYSICIAN HAS ACTUAL KNOWLEDGE OF THE
21 WHEREABOUTS OF EITHER THE QUALIFIED PATIENT'S AGENT UNDER A
22 MEDICAL POWER OF ATTORNEY OR, WITHOUT REGARD TO ORDER, THE
23 PATIENT'S SPOUSE, A PERSON DESIGNATED UNDER THE "COLORADO
24 DESIGNATED BENEFICIARY AGREEMENT ACT", AS DESCRIBED IN ARTICLE
25 22 OF THIS TITLE, ANY OF HIS OR HER ADULT CHILDREN, A PARENT,
26 SIBLING, OR ANY OTHER PERSON DESIGNATED IN WRITING BY THE
27 QUALIFIED PATIENT, THE ATTENDING PHYSICIAN SHALL IMMEDIATELY

1 MAKE A REASONABLE EFFORT TO NOTIFY AT LEAST ONE OF SAID PERSONS
2 THAT A CERTIFICATE OF TERMINAL CONDITION HAS BEEN SIGNED. IF NO
3 ACTION TO CHALLENGE THE VALIDITY OF A DECLARATION HAS BEEN FILED
4 WITHIN FORTY-EIGHT HOURS AFTER THE CERTIFICATION IS MADE BY THE
5 PHYSICIANS, THE ATTENDING PHYSICIAN SHALL THEN WITHDRAW OR
6 WITHHOLD ALL LIFE-SUSTAINING PROCEDURES OR ARTIFICIAL
7 NOURISHMENT AND HYDRATION PURSUANT TO THE TERMS OF THE
8 DECLARATION.

9 **15-18-108. Determination of validity.** (1) ANY PERSON WHO IS
10 THE PARENT, ADULT CHILD, SPOUSE, DESIGNATED BENEFICIARY UNDER THE
11 "COLORADO DESIGNATED BENEFICIARY AGREEMENT ACT", ARTICLE 22
12 OF THIS TITLE, OR ATTORNEY-IN-FACT UNDER A DURABLE POWER OF
13 ATTORNEY OF THE QUALIFIED PATIENT MAY CHALLENGE THE VALIDITY OF
14 A DECLARATION IN THE APPROPRIATE COURT OF THE COUNTY IN WHICH
15 THE QUALIFIED PATIENT IS LOCATED. UPON THE FILING OF A PETITION TO
16 CHALLENGE THE VALIDITY OF A DECLARATION AND NOTIFICATION TO THE
17 ATTENDING PHYSICIAN, A TEMPORARY RESTRAINING ORDER SHALL BE
18 ISSUED UNTIL A FINAL DETERMINATION AS TO VALIDITY IS MADE.

19 (2) (a) IN PROCEEDINGS PURSUANT TO THIS SECTION, THE COURT
20 SHALL APPOINT A GUARDIAN AD LITEM FOR THE QUALIFIED PATIENT, AND
21 THE GUARDIAN AD LITEM SHALL TAKE SUCH ACTIONS AS HE OR SHE DEEMS
22 NECESSARY AND PRUDENT IN THE BEST INTERESTS OF THE QUALIFIED
23 PATIENT AND SHALL PRESENT TO THE COURT A REPORT OF HIS OR HER
24 ACTIONS, FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS.

25 (b) (I) UNLESS THE COURT, FOR GOOD CAUSE SHOWN, PROVIDES
26 FOR A DIFFERENT METHOD OR TIME OF NOTICE, THE PETITIONER, AT LEAST
27 FIVE DAYS PRIOR TO THE HEARING, SHALL CAUSE NOTICE OF THE TIME AND

1 PLACE OF HEARING TO BE GIVEN AS FOLLOWS:

2 (A) TO THE QUALIFIED PATIENT'S GUARDIAN OR CONSERVATOR, IF
3 ANY, AND THE COURT-APPOINTED GUARDIAN AD LITEM; AND

4 (B) TO THE QUALIFIED PATIENT'S SPOUSE OR BENEFICIARY UNDER
5 THE "COLORADO DESIGNATED BENEFICIARY AGREEMENT ACT", ARTICLE
6 22 OF THIS TITLE, IF THE IDENTITY AND WHEREABOUTS OF SUCH PERSON IS
7 KNOWN TO THE PETITIONER, OR OTHERWISE TO AN ADULT CHILD OR
8 PARENT OF THE QUALIFIED PATIENT.

9 (II) NOTICE AS REQUIRED IN THIS PARAGRAPH (b) SHALL BE MADE
10 IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL PROCEDURE.

11 (c) THE COURT MAY REQUIRE EVIDENCE, INCLUDING INDEPENDENT
12 MEDICAL EVIDENCE, AS IT DEEMS NECESSARY.

13 (3) UPON A DETERMINATION OF THE VALIDITY OF THE
14 DECLARATION, THE COURT SHALL ENTER ANY APPROPRIATE ORDER.

15 (4) ANY DECLARATION EXECUTED IN COMPLIANCE WITH THE
16 REQUIREMENTS OF COLORADO LAW IN EFFECT AT THE TIME THE
17 DECLARATION WAS MADE SHALL CONTINUE TO BE AN EFFECTIVE
18 DECLARATION AFTER THE EFFECTIVE DATE OF THIS ARTICLE, AS AMENDED.

19 (5) ANY DECLARATION EXECUTED IN COMPLIANCE WITH THE LAWS
20 OF THE STATE IN WHICH THE DECLARATION WAS EXECUTED SHALL BE
21 CONSIDERED EFFECTIVE FOR USE WITHIN THE STATE OF COLORADO TO THE
22 EXTENT THAT SUCH DECLARATION DOES NOT VIOLATE ANY LAWS OF THE
23 STATE OF COLORADO.

24 **15-18-109. Revocation of declaration.** A DECLARATION MAY BE
25 REVOKED BY THE DECLARANT ORALLY, IN WRITING, OR BY BURNING,
26 TEARING, CANCELLING, OBLITERATING, OR DESTROYING SAID
27 DECLARATION.

1 **15-18-110. Liability.** (1) WITH RESPECT TO ANY DECLARATION
2 THAT APPEARS ON ITS FACE TO HAVE BEEN EXECUTED IN ACCORDANCE
3 WITH THE REQUIREMENTS OF THIS ARTICLE:

4 (a) ANY PHYSICIAN MAY ACT IN COMPLIANCE WITH SUCH
5 DECLARATION IN THE ABSENCE OF ACTUAL NOTICE OF REVOCATION,
6 FRAUD, MISREPRESENTATION, OR IMPROPER EXECUTION;

7 (b) NO PHYSICIAN SIGNING A CERTIFICATE OF TERMINAL
8 CONDITION OR WITHHOLDING OR WITHDRAWING LIFE-SUSTAINING
9 PROCEDURES IN COMPLIANCE WITH A DECLARATION SHALL BE SUBJECT TO
10 CIVIL LIABILITY, CRIMINAL PENALTY, OR LICENSING SANCTIONS THEREFOR;

11 (c) A HOSPITAL OR PERSON ACTING UNDER THE DIRECTION OF A
12 PHYSICIAN AND PARTICIPATING IN THE WITHHOLDING OR WITHDRAWAL OF
13 LIFE-SUSTAINING PROCEDURES IN COMPLIANCE WITH A DECLARATION
14 SHALL NOT BE SUBJECT TO CIVIL LIABILITY, CRIMINAL PENALTY, OR
15 LICENSING SANCTIONS THEREFOR.

16 **15-18-111. Determination of suicide or homicide - effect of**
17 **declaration on insurance.** THE WITHHOLDING OR WITHDRAWAL OF
18 LIFE-SUSTAINING PROCEDURES FROM A QUALIFIED PATIENT PURSUANT TO
19 THIS ARTICLE SHALL NOT, FOR ANY PURPOSE, CONSTITUTE A SUICIDE OR A
20 HOMICIDE. THE EXISTENCE OF A DECLARATION SHALL NOT AFFECT,
21 IMPAIR, OR MODIFY ANY CONTRACT OF LIFE INSURANCE OR ANNUITY OR BE
22 THE BASIS FOR ANY DELAY IN ISSUING OR REFUSING TO ISSUE AN ANNUITY
23 OR POLICY OF LIFE INSURANCE OR ANY INCREASE OF THE PREMIUM
24 THEREFOR. NO INSURER OR PROVIDER OF HEALTH CARE SHALL REQUIRE
25 ANY PERSON TO EXECUTE A DECLARATION AS A CONDITION OF BEING
26 INSURED FOR OR RECEIVING HEALTH CARE SERVICES, NOR SHALL THE
27 FAILURE TO EXECUTE A DECLARATION BE THE BASIS FOR ANY INCREASED

1 OR ADDITIONAL PREMIUM FOR A CONTRACT OR POLICY FOR MEDICAL OR
2 HEALTH INSURANCE.

3 **15-18-112. Application of article.** (1) NOTHING IN THIS ARTICLE
4 SHALL BE CONSTRUED AS ALTERING OR AMENDING THE STANDARDS OF THE
5 PRACTICE OF MEDICINE OR ESTABLISHING ANY PRESUMPTION, ABSENT A
6 VALID DECLARATION, NOR AS CONDONING, AUTHORIZING, OR APPROVING
7 EUTHANASIA OR MERCY KILLING, NOR AS PERMITTING ANY AFFIRMATIVE
8 OR DELIBERATE ACT OR OMISSION TO END LIFE, EXCEPT TO PERMIT
9 NATURAL DEATH AS PROVIDED IN THIS ARTICLE. NOTHING IN THIS ARTICLE
10 SHALL REQUIRE THE PROVISION OR CONTINUATION OF MEDICAL
11 TREATMENT CONTRARY TO THE STANDARDS OF THE PRACTICE OF
12 MEDICINE.

13 (2) DIAGNOSIS OF PERSISTENT VEGETATIVE STATE IS PERFORMED
14 BY QUALIFIED MEDICAL PROFESSIONALS ACCORDING TO STANDARDS OF
15 THE PRACTICE OF MEDICINE. NOTHING IN THIS ARTICLE, INCLUDING THE
16 DEFINITION OF "PERSISTENT VEGETATIVE STATE" IN SECTION 15-18-103
17 (10) SHALL BE INTERPRETED TO DEFINE "PERSISTENT VEGETATIVE STATE"
18 IN CONTRADICTION OF STANDARDS OF THE PRACTICE OF MEDICINE.

19 (3) IN THE EVENT OF ANY CONFLICT BETWEEN THE PROVISIONS OF
20 THIS ARTICLE, OR A DECLARATION EXECUTED UNDER THIS ARTICLE, AND
21 THE PROVISIONS OF SECTION 15-14-501, THE PROVISIONS OF THIS ARTICLE
22 AND THE DECLARATION SHALL PREVAIL.

23 (4) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (3) OF
24 THIS SECTION, THE DECLARANT MAY INCLUDE WITHIN THE DECLARATION
25 OR WITHIN ANY POWER OF ATTORNEY EXECUTED BY THE DECLARANT A
26 WRITTEN STATEMENT TO THE EFFECT THAT THE AGENT UNDER POWER OF
27 ATTORNEY MAY OVERRIDE THE PROVISIONS OF THE DECLARATION.

1 **15-18-113. Penalties.** (1) ANY PERSON WHO WILLFULLY
2 CONCEALS, DEFACES, DAMAGES, OR DESTROYS A DECLARATION OF
3 ANOTHER WITHOUT THE KNOWLEDGE AND CONSENT OF THE DECLARANT
4 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED
5 IN SECTION 18-1.3-501, C.R.S.

6 (2) ANY PERSON WHO FALSIFIES OR FORGES A DECLARATION OF
7 ANOTHER COMMITS A CLASS 5 FELONY AND SHALL BE PUNISHED AS
8 PROVIDED IN SECTION 18-1.3-401, C.R.S.

9 (3) ANY PERSON WHO FALSIFIES OR FORGES A DECLARATION OF
10 ANOTHER, AND THE TERMS OF THE DECLARATION ARE CARRIED OUT
11 RESULTING IN THE DEATH OF THE PURPORTED DECLARANT, COMMITS A
12 CLASS 2 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION
13 18-1.3-401, C.R.S.

14 (4) ANY PERSON WHO WILLFULLY WITHHOLDS INFORMATION
15 CONCERNING THE REVOCATION OF THE DECLARATION OF ANOTHER
16 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED
17 IN SECTION 18-1.3-501, C.R.S.

18 (5) AN ATTENDING PHYSICIAN WHO REFUSES TO COMPLY WITH THE
19 TERMS OF A DECLARATION VALID ON ITS FACE SHALL TRANSFER THE CARE
20 OF THE DECLARANT TO ANOTHER PHYSICIAN WHO IS WILLING TO COMPLY
21 WITH THE DECLARATION. REFUSAL OF AN ATTENDING PHYSICIAN TO
22 COMPLY WITH A DECLARATION AND FAILURE TO TRANSFER THE CARE OF
23 THE DECLARANT TO ANOTHER PHYSICIAN SHALL CONSTITUTE
24 UNPROFESSIONAL CONDUCT AS DEFINED IN SECTION 12-36-117, C.R.S.

25 **SECTION 2. Act subject to petition - effective date.** This act
26 shall take effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part shall not take effect
5 unless approved by the people at the general election to be held in
6 November 2010 and shall take effect on the date of the official
7 declaration of the vote thereon by the governor.