

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 5, 2010
Date

Committee on Health and Human Services.

After consideration on the merits, the Committee recommends the following:

HB10-1025 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 2, line 14, strike "ARTIFICIAL, EXTRAORDINARY,
2 EXTREME, OR RADICAL".

3 Page 2, strike lines 17 and 18 and substitute "INCREASINGLY INVOLVES
4 PATIENTS WHO HAVE A TERMINAL CONDITION OR ARE IN A PERSISTENT
5 VEGETATIVE STATE, AND LACK DECISIONAL".

6 Page 3, strike lines 4 and 5 and substitute "HE OR SHE HAS A TERMINAL
7 CONDITION OR IS IN A PERSISTENT VEGETATIVE STATE, AND LACKS
8 DECISIONAL CAPACITY TO".

9 Page 3, strike lines 22 through 25 and substitute:

10 "(2) "ADVANCED PRACTICE NURSE" MEANS A NURSE WHO IS
11 INCLUDED IN THE ADVANCED PRACTICE REGISTRY PURSUANT TO SECTION
12 12-38-111.5, C.R.S.

13 (3) "ARTIFICIAL NUTRITION AND HYDRATION" MEANS:

14 (a) NUTRITION OR HYDRATION SUPPLIED THROUGH A TUBE
15 INSERTED INTO THE STOMACH OR INTESTINES; OR

16 (b) NUTRIENTS OR FLUIDS INJECTED INTRAVENOUSLY INTO THE
17 BLOODSTREAM."

- 1 Renumber succeeding subsections accordingly.
- 2 Page 4, line 3, after "CONDITION insert "OR IN A PERSISTENT VEGETATIVE
3 STATE".
- 4 Page 4, line 23, after "PHYSICIAN" insert "OR ADVANCED PRACTICE
5 NURSE".
- 6 Page 4, strike lines 24 and 25.
- 7 Page 5, strike lines 6 and 7 and substitute "CERTIFIED BY HIS OR HER
8 ATTENDING PHYSICIAN AND ONE OTHER PHYSICIAN TO HAVE A TERMINAL
9 CONDITION OR BE IN A PERSISTENT VEGETATIVE STATE."
- 10 Page 5, strike lines 15 and 16 and substitute "WITHDRAWN IF, AT SOME
11 FUTURE TIME, HE OR SHE HAS A TERMINAL CONDITION OR IS IN A
12 PERSISTENT VEGETATIVE STATE, AND LACKS".
- 13 Page 5, strike lines 24 through 27 and substitute "EVALUATION SHALL BE
14 MADE AS TO WHETHER THE FETUS IS VIABLE. IF THE FETUS IS VIABLE, THE
15 DECLARATION SHALL BE GIVEN NO".
- 16 Page 6, line 1, strike "EFFECT." and substitute "EFFECT UNTIL THE PATIENT
17 IS NO LONGER PREGNANT."
- 18 Page 6, line 2, strike "THE" and substitute "A".
- 19 Page 6, line 4, strike "NOURISHMENT" and substitute "NUTRITION".
- 20 Page 6, line 5, strike "IS IN" and substitute "HAS".
- 21 Page 6, line 9, strike "NOURISHMENT" and substitute "NUTRITION".
- 22 Page 6, line 11, strike "NOURISHMENT" and substitute "NUTRITION".
- 23 Page 6, line 13, strike "NOURISHMENT" and substitute "NUTRITION".
- 24 Page 6, strike lines 15 through 17.
- 25 Page 6, line 20, after "PHYSICIAN" insert "OR ADVANCED PRACTICE
26 NURSE".

1 Page 6, line 21, strike "NOURISHMENT" and substitute "NUTRITION".

2 Page 6, line 22, after "PHYSICIAN" insert "OR ADVANCED PRACTICE
3 NURSE" and strike "NOURISHMENT" and substitute "ARTIFICIAL
4 NUTRITION".

5 Page 7, strike lines 1 and 2 and substitute:

6 "(6) A DECLARATION EXECUTED PURSUANT TO THIS ARTICLE MAY
7 INCLUDE A DOCUMENT WITH A WRITTEN STATEMENT AS PROVIDED IN".

8 Page 7, strike lines 7 through 9 and substitute "ANATOMICAL GIFT ACT",
9 PART 1 OF ARTICLE 34 OF TITLE 12, C.R.S.

10 (7) A DECLARATION EXECUTED PURSUANT TO THIS ARTICLE MAY
11 INCLUDE A DOCUMENT OR WRITTEN STATEMENT".

12 Page 7, strike lines 15 through 22 and substitute:

13 "(8) A DECLARATION EXECUTED PURSUANT TO THIS ARTICLE MAY
14 INCLUDE A WRITTEN STATEMENT IN WHICH THE DECLARANT DESIGNATES
15 INDIVIDUALS WITH WHOM THE DECLARANT'S ATTENDING PHYSICIAN, ANY
16 OTHER TREATING PHYSICIAN, OR ANOTHER MEDICAL PROFESSIONAL MAY
17 SPEAK CONCERNING THE DECLARANT'S MEDICAL CONDITION PRIOR TO A
18 FINAL DETERMINATION AS TO THE WITHHOLDING OR WITHDRAWAL OF
19 LIFE-SUSTAINING PROCEDURES, INCLUDING ARTIFICIAL NUTRITION AND
20 HYDRATION. THE DESIGNATION OF SUCH INDIVIDUALS IN THE DOCUMENT
21 SHALL".

22 Page 7, strike line 27 and substitute "CONFIDENTIALITY".

23 Page 8, strike lines 1 through 5.

24 Page 8, strike lines 6 and 7 and substitute:

25 "(9) A DECLARATION EXECUTED PURSUANT TO THIS ARTICLE MAY
26 INCLUDE A WRITTEN STATEMENT PROVIDING INDIVIDUAL MEDICAL".

27 Page 8, line 24, strike "THE" and substitute "EXCEPT AS OTHERWISE
28 PROVIDED IN SECTION 15-18-105, A".

- 1 Page 8, strike line 27.
- 2 Page 9, strike lines 1 through 4 and substitute:
- 3 "(2) A DECLARATION MAY BE NOTARIZED. THE ABSENCE OF
4 NOTARIZATION SHALL HAVE NO IMPACT ON THE VALIDITY OF A".
- 5 Page 9, strike lines 9 and 10 and substitute "THE PHYSICIAN BELIEVES HAS
6 A TERMINAL CONDITION OR IS IN A PERSISTENT VEGETATIVE STATE, AND
7 LACKS DECISIONAL CAPACITY TO".
- 8 Page 9, strike line 14 and substitute "TERMINAL CONDITION OR IS IN A
9 PERSISTENT VEGETATIVE STATE, AND".
- 10 Page 9, line 15, strike "OTHERWISE".
- 11 Page 9, line 19, strike "NOURISHMENT" and substitute "NUTRITION".
- 12 Page 10, line 3, strike "OF TERMINAL CONDITION".
- 13 Page 10, line 8, strike "NOURISHMENT" and substitute "NUTRITION".
- 14 Page 11, after line 15 insert:
- 15 "(4) IF THE COURT DETERMINES THAT ANY PROCEEDINGS
16 PURSUANT TO THIS SECTION OR ANY PLEADINGS FILED IN SUCH
17 PROCEEDINGS WERE BROUGHT, DEFENDED, OR FILED IN BAD FAITH, THE
18 COURT MAY ASSESS THE FEES AND COSTS, INCLUDING REASONABLE
19 ATTORNEY FEES, INCURRED BY THE AFFECTED PARTIES IN RESPONDING TO
20 THE PROCEEDINGS OR PLEADINGS, AGAINST A PARTY THAT BROUGHT OR
21 DEFENDED THE PROCEEDINGS OR FILED THE PLEADINGS IN BAD FAITH.
22 NOTHING IN THIS SECTION IS INTENDED TO LIMIT ANY OTHER REMEDY,
23 SANCTION, OR SURCHARGE PROVIDED BY LAW. ".
- 24 Renumber succeeding subsections accordingly.
- 25 Page 12, line 5, after "PHYSICIAN" insert "OR ADVANCED PRACTICE
26 NURSE".
- 27 Page 12, strike lines 8 through 11 and substitute:

1 "(b) A PHYSICIAN WHO SIGNS A CERTIFICATE WITHHOLDING OR
2 WITHDRAWING LIFE-SUSTAINING PROCEDURES IN COMPLIANCE WITH A
3 DECLARATION SHALL NOT BE SUBJECT TO CIVIL LIABILITY, CRIMINAL
4 PENALTY, OR LICENSING SANCTIONS THEREFOR; AND".

5 Page 13, line 6, after "MEDICINE" insert "OR NURSING".

6 Page 13, strike lines 14 through 18 and substitute:

7 "(2) A DIAGNOSIS OF PERSISTENT VEGETATIVE STATE SHALL BE
8 PERFORMED BY A QUALIFIED MEDICAL PROFESSIONAL ACCORDING TO
9 STANDARDS OF THE PRACTICE OF MEDICINE. NOTHING IN THIS ARTICLE
10 SHALL BE INTERPRETED TO DEFINE "PERSISTENT VEGETATIVE STATE".

11 Page 13, line 25, strike "THE DECLARANT" and substitute "A DECLARANT".

12 Page 14, strike line 2 and substitute:

13 "**15-18-113. Penalties - refusal -transfer.** (1) A PERSON WHO
14 WILLFULLY CONCEALS, DEFACES, DAMAGES, OR DESTROYS A
15 DECLARATION OF ANOTHER PERSON, WITHOUT THE KNOWLEDGE AND
16 CONSENT OF THE DECLARANT, COMMITS A CLASS 1 MISDEMEANOR AND
17 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

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

21 (3) IF A PERSON FALSIFIES OR FORGES A DECLARATION OF ANOTHER
22 PERSON AND THE TERMS OF THE DECLARATION ARE CARRIED OUT,
23 RESULTING IN THE DEATH OF THE PURPORTED DECLARANT, THE PERSON
24 COMMITS A CLASS 2 FELONY AND SHALL BE PUNISHED AS PROVIDED IN
25 SECTION 18-1.3-401, C.R.S.

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

30 (5) AN ATTENDING PHYSICIAN OR ADVANCED PRACTICE NURSE
31 WHO".

- 1 Page 14, strike line 9 and substitute "SECTION 12-36-117, C.R.S., OR
- 2 GROUNDS FOR DISCIPLINE PURSUANT TO SECTION 12-38-117, C.R.S."

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