

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 10-0250.01 Richard Sweetman

HOUSE BILL 10-1025

HOUSE SPONSORSHIP

Roberts, Riesberg, Soper, Tyler

SENATE SPONSORSHIP

Newell, Tochtrop, Williams

House Committees

Health and Human Services

Senate Committees

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 reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unam ended
February 18, 2010

HOUSE
Am ended 2nd Reading
February 17, 2010

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 HAS A TERMINAL CONDITION OR IS IN A PERSISTENT VEGETATIVE
4 STATE, AND LACKS DECISIONAL CAPACITY TO ACCEPT OR REJECT MEDICAL
5 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) "ADVANCED PRACTICE NURSE" MEANS A NURSE WHO IS
22 INCLUDED IN THE ADVANCED PRACTICE REGISTRY PURSUANT TO SECTION
23 12-38-111.5, C.R.S.

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

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

27 (b) NUTRIENTS OR FLUIDS INJECTED INTRAVENOUSLY INTO THE

1 BLOODSTREAM.

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

5 (5) "COURT" MEANS THE DISTRICT COURT OF THE COUNTY IN
6 WHICH A DECLARANT HAVING A TERMINAL CONDITION OR IN A PERSISTENT
7 VEGETATIVE STATE IS LOCATED AT THE TIME OF COMMENCEMENT OF A
8 PROCEEDING PURSUANT TO THIS ARTICLE OR, IF IN THE CITY AND COUNTY
9 OF DENVER, THE PROBATE COURT.

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

13 (7) "DECLARANT" MEANS AN ADULT POSSESSING DECISIONAL
14 CAPACITY WHO EXECUTES A DECLARATION.

15 (8) "DECLARATION" MEANS A WRITTEN DOCUMENT VOLUNTARILY
16 EXECUTED BY A DECLARANT IN ACCORDANCE WITH THE REQUIREMENTS OF
17 SECTION 15-18-104.

18 (9) "HOSPITAL" MEANS AN INSTITUTION HOLDING A LICENSE OR
19 CERTIFICATE OF COMPLIANCE AS A HOSPITAL ISSUED BY THE DEPARTMENT
20 OF PUBLIC HEALTH AND ENVIRONMENT AND INCLUDES HOSPITALS
21 OPERATED BY THE FEDERAL GOVERNMENT IN COLORADO.

22 (10) "LIFE-SUSTAINING PROCEDURE" MEANS ANY MEDICAL
23 PROCEDURE OR INTERVENTION THAT, IF ADMINISTERED TO A QUALIFIED
24 PATIENT, WOULD SERVE ONLY TO PROLONG THE DYING PROCESS, AND
25 SHALL NOT INCLUDE ANY MEDICAL PROCEDURE OR INTERVENTION FOR
26 NOURISHMENT OF THE QUALIFIED PATIENT OR CONSIDERED NECESSARY BY
27 THE ATTENDING PHYSICIAN OR ADVANCED PRACTICE NURSE TO PROVIDE

1 COMFORT OR ALLEVIATE PAIN. [REDACTED]

2 (11) "PERSISTENT VEGETATIVE STATE" IS DEFINED BY REFERENCE
3 TO THE CRITERIA AND DEFINITIONS EMPLOYED BY PREVAILING COMMUNITY
4 MEDICAL STANDARDS OF PRACTICE.

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

7 (13) "QUALIFIED PATIENT" MEANS A PATIENT WHO HAS EXECUTED
8 A DECLARATION IN ACCORDANCE WITH THIS ARTICLE AND WHO HAS BEEN
9 CERTIFIED BY HIS OR HER ATTENDING PHYSICIAN AND ONE OTHER
10 PHYSICIAN TO HAVE A TERMINAL CONDITION OR BE IN A PERSISTENT
11 VEGETATIVE STATE.

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

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

26 (2) IN THE CASE OF A DECLARATION OF A QUALIFIED PATIENT
27 KNOWN TO THE ATTENDING PHYSICIAN TO BE PREGNANT, A MEDICAL

1 EVALUATION SHALL BE MADE AS TO WHETHER THE FETUS IS VIABLE. IF
2 THE FETUS IS VIABLE, THE DECLARATION SHALL BE GIVEN NO FORCE OR
3 EFFECT UNTIL THE PATIENT IS NO LONGER PREGNANT.

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

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

11 (I) THAT ARTIFICIAL NUTRITION AND HYDRATION NOT BE
12 CONTINUED;

13 (II) THAT ARTIFICIAL NUTRITION AND HYDRATION BE CONTINUED
14 FOR A SPECIFIED PERIOD; OR

15 (III) THAT ARTIFICIAL NUTRITION AND HYDRATION BE CONTINUED.

16
17 (4) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (3) OF
18 THIS SECTION AND SECTION 15-18-103 (9), WHEN AN ATTENDING
19 PHYSICIAN OR ADVANCED PRACTICE NURSE HAS DETERMINED THAT PAIN
20 RESULTS FROM A DISCONTINUANCE OF ARTIFICIAL NUTRITION AND
21 HYDRATION, THE PHYSICIAN OR ADVANCED PRACTICE NURSE MAY ORDER
22 THAT ARTIFICIAL NUTRITION AND HYDRATION BE CONTINUED TO THE
23 EXTENT NECESSARY TO PROVIDE COMFORT AND 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) A DECLARATION EXECUTED PURSUANT TO THIS ARTICLE MAY

1 INCLUDE 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", PART 1 OF ARTICLE 34 OF TITLE 12, C.R.S.

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

14 (8) A DECLARATION EXECUTED PURSUANT TO THIS ARTICLE MAY
15 INCLUDE A WRITTEN STATEMENT IN WHICH THE DECLARANT DESIGNATES
16 INDIVIDUALS WITH WHOM THE DECLARANT'S ATTENDING PHYSICIAN, ANY
17 OTHER TREATING PHYSICIAN, OR ANOTHER MEDICAL PROFESSIONAL MAY
18 SPEAK CONCERNING THE DECLARANT'S MEDICAL CONDITION PRIOR TO A
19 FINAL DETERMINATION AS TO THE WITHHOLDING OR WITHDRAWAL OF
20 LIFE-SUSTAINING PROCEDURES, INCLUDING ARTIFICIAL NUTRITION AND
21 HYDRATION. THE DESIGNATION OF SUCH INDIVIDUALS IN THE DOCUMENT
22 SHALL BE CONSIDERED TO BE CONSISTENT WITH THE PRIVACY
23 REQUIREMENTS OF THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
24 ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SEC. 1320d TO 1320d-8, AS
25 AMENDED, REFERRED TO IN THIS SECTION AS "HIPAA", REGARDING
26 WAIVER OF CONFIDENTIALITY.

27 (9) A DECLARATION EXECUTED PURSUANT TO THIS ARTICLE MAY

1 INCLUDE A WRITTEN STATEMENT PROVIDING INDIVIDUAL MEDICAL
2 DIRECTIVES FROM THE DECLARANT TO THE ATTENDING PHYSICIAN OR ANY
3 OTHER TREATING MEDICAL PERSONNEL.

4 **15-18-105. Inability of declarant to sign.** (1) IN THE EVENT
5 THAT THE DECLARANT IS PHYSICALLY UNABLE TO SIGN THE DECLARATION,
6 IT MAY BE SIGNED BY SOME OTHER PERSON IN THE DECLARANT'S PRESENCE
7 AND AT THE DECLARANT'S DIRECTION. THE OTHER PERSON SHALL NOT BE:

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

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

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

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

18 **15-18-106. Witnesses.** (1) EXCEPT AS OTHERWISE PROVIDED IN
19 SECTION 15-18-105, A DECLARATION SHALL BE SIGNED BY THE
20 DECLARANT IN THE PRESENCE OF TWO WITNESSES. THE WITNESSES SHALL
21 NOT INCLUDE ANY PERSON SPECIFIED IN SECTION 15-18-105.

22 [REDACTED]
23 (2) A DECLARATION MAY BE NOTARIZED. THE ABSENCE OF
24 NOTARIZATION SHALL HAVE NO IMPACT ON THE VALIDITY OF A
25 DECLARATION.

26 **15-18-107. Withdrawal - withholding of life-sustaining**
27 **procedures.** IN THE EVENT THAT AN ATTENDING PHYSICIAN IS PRESENTED

1 WITH AN UNREVOKED DECLARATION EXECUTED BY A DECLARANT WHOM
2 THE PHYSICIAN BELIEVES HAS A TERMINAL CONDITION OR IS IN A
3 PERSISTENT VEGETATIVE STATE, AND LACKS DECISIONAL CAPACITY TO
4 ACCEPT OR REJECT MEDICAL OR SURGICAL TREATMENT, THE ATTENDING
5 PHYSICIAN SHALL ORDER THE DECLARANT TO BE EXAMINED BY ONE OTHER
6 PHYSICIAN. IF BOTH PHYSICIANS FIND THAT THE DECLARANT HAS A
7 TERMINAL CONDITION OR IS IN A PERSISTENT VEGETATIVE STATE, AND
8 LACKS DECISIONAL CAPACITY TO ACCEPT OR REJECT MEDICAL OR
9 SURGICAL TREATMENT, THEY SHALL CERTIFY SUCH FACT IN WRITING AND
10 ENTER SUCH IN THE QUALIFIED PATIENT'S MEDICAL RECORD OF THE
11 HOSPITAL IN WHICH THE WITHHOLDING OR WITHDRAWAL OF
12 LIFE-SUSTAINING PROCEDURES OR ARTIFICIAL NUTRITION AND HYDRATION
13 MAY OCCUR, TOGETHER WITH A COPY OF THE DECLARATION. IF THE
14 ATTENDING PHYSICIAN HAS ACTUAL KNOWLEDGE OF THE WHEREABOUTS
15 OF EITHER THE QUALIFIED PATIENT'S AGENT UNDER A MEDICAL POWER OF
16 ATTORNEY OR, WITHOUT REGARD TO ORDER, THE PATIENT'S SPOUSE, A
17 PERSON DESIGNATED UNDER THE "COLORADO DESIGNATED BENEFICIARY
18 AGREEMENT ACT", AS DESCRIBED IN ARTICLE 22 OF THIS TITLE, ANY OF
19 HIS OR HER ADULT CHILDREN, A PARENT, SIBLING, OR ANY OTHER PERSON
20 DESIGNATED IN WRITING BY THE QUALIFIED PATIENT, THE ATTENDING
21 PHYSICIAN SHALL IMMEDIATELY MAKE A REASONABLE EFFORT TO NOTIFY
22 AT LEAST ONE OF SAID PERSONS THAT A CERTIFICATE HAS BEEN
23 SIGNED. IF NO ACTION TO CHALLENGE THE VALIDITY OF A DECLARATION
24 HAS BEEN FILED WITHIN FORTY-EIGHT HOURS AFTER THE CERTIFICATION
25 IS MADE BY THE PHYSICIANS, THE ATTENDING PHYSICIAN SHALL THEN
26 WITHDRAW OR WITHHOLD ALL LIFE-SUSTAINING PROCEDURES OR
27 ARTIFICIAL NUTRITION AND HYDRATION PURSUANT TO THE TERMS OF THE

1 DECLARATION.

2 **15-18-108. Determination of validity.** (1) ANY PERSON WHO IS
3 THE PARENT, ADULT CHILD, SPOUSE, DESIGNATED BENEFICIARY UNDER THE
4 "COLORADO DESIGNATED BENEFICIARY AGREEMENT ACT", ARTICLE 22
5 OF THIS TITLE, OR ATTORNEY-IN-FACT UNDER A DURABLE POWER OF
6 ATTORNEY OF THE QUALIFIED PATIENT MAY CHALLENGE THE VALIDITY OF
7 A DECLARATION IN THE APPROPRIATE COURT OF THE COUNTY IN WHICH
8 THE QUALIFIED PATIENT IS LOCATED. UPON THE FILING OF A PETITION TO
9 CHALLENGE THE VALIDITY OF A DECLARATION AND NOTIFICATION TO THE
10 ATTENDING PHYSICIAN, A TEMPORARY RESTRAINING ORDER SHALL BE
11 ISSUED UNTIL A FINAL DETERMINATION AS TO VALIDITY IS MADE.

12 (2) (a) IN PROCEEDINGS PURSUANT TO THIS SECTION, THE COURT
13 SHALL APPOINT A GUARDIAN AD LITEM FOR THE QUALIFIED PATIENT, AND
14 THE GUARDIAN AD LITEM SHALL TAKE SUCH ACTIONS AS HE OR SHE DEEMS
15 NECESSARY AND PRUDENT IN THE BEST INTERESTS OF THE QUALIFIED
16 PATIENT AND SHALL PRESENT TO THE COURT A REPORT OF HIS OR HER
17 ACTIONS, FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS.

18 (b) (I) UNLESS THE COURT, FOR GOOD CAUSE SHOWN, PROVIDES
19 FOR A DIFFERENT METHOD OR TIME OF NOTICE, THE PETITIONER, AT LEAST
20 FIVE DAYS PRIOR TO THE HEARING, SHALL CAUSE NOTICE OF THE TIME AND
21 PLACE OF HEARING TO BE GIVEN AS FOLLOWS:

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

24 (B) TO THE QUALIFIED PATIENT'S SPOUSE OR BENEFICIARY UNDER
25 THE "COLORADO DESIGNATED BENEFICIARY AGREEMENT ACT", ARTICLE
26 22 OF THIS TITLE, IF THE IDENTITY AND WHEREABOUTS OF SUCH PERSON IS
27 KNOWN TO THE PETITIONER, OR OTHERWISE TO AN ADULT CHILD OR

1 PARENT OF THE QUALIFIED PATIENT.

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

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

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

8 (4) IF THE COURT DETERMINES THAT ANY PROCEEDINGS PURSUANT
9 TO THIS SECTION OR ANY PLEADINGS FILED IN SUCH PROCEEDINGS WERE
10 BROUGHT, DEFENDED, OR FILED IN BAD FAITH, THE COURT MAY ASSESS THE
11 FEES AND COSTS, INCLUDING REASONABLE ATTORNEY FEES, INCURRED BY
12 THE AFFECTED PARTIES IN RESPONDING TO THE PROCEEDINGS OR
13 PLEADINGS, AGAINST A PARTY THAT BROUGHT OR DEFENDED THE
14 PROCEEDINGS OR FILED THE PLEADINGS IN BAD FAITH. NOTHING IN THIS
15 SECTION IS INTENDED TO LIMIT ANY OTHER REMEDY, SANCTION, OR
16 SURCHARGE PROVIDED BY LAW.

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

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

26 **15-18-109. Revocation of declaration.** A DECLARATION MAY BE
27 REVOKED BY THE DECLARANT ORALLY, IN WRITING, OR BY BURNING,

1 TEARING, CANCELLING, OBLITERATING, OR DESTROYING SAID
2 DECLARATION.

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

6 (a) ANY PHYSICIAN OR ADVANCED PRACTICE NURSE MAY ACT IN
7 COMPLIANCE WITH SUCH DECLARATION IN THE ABSENCE OF ACTUAL
8 NOTICE OF REVOCATION, FRAUD, MISREPRESENTATION, OR IMPROPER
9 EXECUTION;

10 (b) A PHYSICIAN WHO SIGNS A CERTIFICATE WITHHOLDING OR
11 WITHDRAWING LIFE-SUSTAINING PROCEDURES IN COMPLIANCE WITH A
12 DECLARATION SHALL NOT BE SUBJECT TO CIVIL LIABILITY, CRIMINAL
13 PENALTY, OR LICENSING SANCTIONS THEREFOR;

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

19 (d) AN ADVANCED PRACTICE NURSE WHO WITHHOLDS OR
20 WITHDRAWS LIFE-SUSTAINING PROCEDURES IN COMPLIANCE WITH A
21 DECLARATION SHALL NOT BE SUBJECT TO CIVIL LIABILITY, CRIMINAL
22 PENALTY, OR LICENSING SANCTIONS THEREFOR.

23 **15-18-111. Determination of suicide or homicide - effect of**
24 **declaration on insurance.** THE WITHHOLDING OR WITHDRAWAL OF
25 LIFE-SUSTAINING PROCEDURES FROM A QUALIFIED PATIENT PURSUANT TO
26 THIS ARTICLE SHALL NOT, FOR ANY PURPOSE, CONSTITUTE A SUICIDE OR A
27 HOMICIDE. THE EXISTENCE OF A DECLARATION SHALL NOT AFFECT,

1 IMPAIR, OR MODIFY ANY CONTRACT OF LIFE INSURANCE OR ANNUITY OR BE
2 THE BASIS FOR ANY DELAY IN ISSUING OR REFUSING TO ISSUE AN ANNUITY
3 OR POLICY OF LIFE INSURANCE OR ANY INCREASE OF THE PREMIUM
4 THEREFOR. NO INSURER OR PROVIDER OF HEALTH CARE SHALL REQUIRE
5 ANY PERSON TO EXECUTE A DECLARATION AS A CONDITION OF BEING
6 INSURED FOR OR RECEIVING HEALTH CARE SERVICES, NOR SHALL THE
7 FAILURE TO EXECUTE A DECLARATION BE THE BASIS FOR ANY INCREASED
8 OR ADDITIONAL PREMIUM FOR A CONTRACT OR POLICY FOR MEDICAL OR
9 HEALTH INSURANCE.

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

20 (2) A DIAGNOSIS OF PERSISTENT VEGETATIVE STATE SHALL BE
21 PERFORMED BY A QUALIFIED MEDICAL PROFESSIONAL ACCORDING TO
22 STANDARDS OF THE PRACTICE OF MEDICINE. NOTHING IN THIS ARTICLE
23 SHALL BE INTERPRETED TO DEFINE "PERSISTENT VEGETATIVE STATE" IN
24 CONTRADICTION OF STANDARDS OF THE PRACTICE OF MEDICINE.

25 (3) IN THE EVENT OF ANY CONFLICT BETWEEN THE PROVISIONS OF
26 THIS ARTICLE, OR A DECLARATION EXECUTED UNDER THIS ARTICLE, AND
27 THE PROVISIONS OF SECTION 15-14-501, THE PROVISIONS OF THIS ARTICLE

1 AND THE DECLARATION SHALL PREVAIL.

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

7 **15-18-113. Penalties - refusal -transfer.** (1) A PERSON WHO
8 WILLFULLY CONCEALS, DEFACES, DAMAGES, OR DESTROYS A
9 DECLARATION OF ANOTHER PERSON, WITHOUT THE KNOWLEDGE AND
10 CONSENT OF THE DECLARANT, COMMITS A CLASS 1 MISDEMEANOR AND
11 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

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

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

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

24 (5) AN ATTENDING PHYSICIAN OR ADVANCED PRACTICE NURSE
25 WHO REFUSES TO COMPLY WITH THE TERMS OF A DECLARATION VALID ON
26 ITS FACE SHALL TRANSFER THE CARE OF THE DECLARANT TO ANOTHER
27 PHYSICIAN OR ADVANCED PRACTICE NURSE WHO IS WILLING TO COMPLY

1 WITH THE DECLARATION. REFUSAL OF AN ATTENDING PHYSICIAN OR
2 ADVANCED PRACTICE NURSE TO COMPLY WITH A DECLARATION AND
3 FAILURE TO TRANSFER THE CARE OF THE DECLARANT TO ANOTHER
4 PHYSICIAN OR ADVANCED PRACTICE NURSE SHALL CONSTITUTE
5 UNPROFESSIONAL CONDUCT AS DEFINED IN SECTION 12-36-117, C.R.S., OR
6 GROUNDS FOR DISCIPLINE PURSUANT TO SECTION 12-38-117, C.R.S.
7 REFUSES TO COMPLY WITH THE TERMS OF A DECLARATION VALID ON ITS
8 FACE SHALL TRANSFER THE CARE OF THE DECLARANT TO ANOTHER
9 PHYSICIAN WHO IS WILLING TO COMPLY WITH THE DECLARATION.
10 REFUSAL OF AN ATTENDING PHYSICIAN TO COMPLY WITH A DECLARATION
11 AND FAILURE TO TRANSFER THE CARE OF THE DECLARANT TO ANOTHER
12 PHYSICIAN SHALL CONSTITUTE UNPROFESSIONAL CONDUCT AS DEFINED IN
13 SECTION 12-36-117, C.R.S.

14 **SECTION 2. Act subject to petition - effective date.** This act
15 shall take effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly (August
17 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within such period, then the act, item, section, or part shall not take effect
21 unless approved by the people at the general election to be held in
22 November 2010 and shall take effect on the date of the official
23 declaration of the vote thereon by the governor.