

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 956

An Act to amend and reenact §§ 54.1-2982 and 54.1-2987.1 of the Code of Virginia, relating to Emergency Medical Services Do Not Resuscitate Orders.

[S 352]

Approved May 20, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2982 and 54.1-2987.1 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2982. Definitions.

As used in this article:

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983, or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983.

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983, to make health care decisions for him.

"Attending physician" means the primary physician who has responsibility for the treatment and care of the patient.

"Declarant" means an adult who makes an advance directive, as defined in this article, while capable of making and communicating an informed decision.

"Emergency Medical Services Do Not Resuscitate Order" means a written physician's order in a form approved by the Board of Health which authorizes qualified emergency medical service personnel *or hospital emergency department health care providers* to withhold cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest. For purposes of this article, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation and related procedures. Emergency Medical Services Do Not Resuscitate Orders shall not authorize the withholding of other medical interventions, such as intravenous fluids, oxygen or other therapies deemed necessary to provide comfort care or to alleviate pain.

"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, mental retardation, or any other mental or physical disorder which precludes communication or impairs judgment and which has been diagnosed and certified in writing by his attending physician and a second physician or licensed clinical psychologist after personal examination of such patient, to make an informed decision about providing, withholding or withdrawing a specific medical treatment or course of treatment because he is unable to understand the nature, extent or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision.

"Life-prolonging procedure" means any medical procedure, treatment or intervention which (i) utilizes mechanical or other artificial means to sustain, restore or supplant a spontaneous vital function, or is otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition and (ii) when applied to a patient in a terminal condition, would serve only to prolong the dying process. The term includes artificially administered hydration and nutrition. However, nothing in this act shall prohibit the administration of medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain, including the administration of excess dosages of pain relieving medications in accordance with § 54.1-3408.1. For purposes of §§ 54.1-2988, 54.1-2989, and 54.1-2991, the term also shall include cardiopulmonary resuscitation by emergency medical services personnel.

"Persistent vegetative state" means a condition caused by injury, disease or illness in which a patient has suffered a loss of consciousness, with no behavioral evidence of self-awareness or awareness of surroundings in a learned manner, other than reflex activity of muscles and nerves for low level conditioned response, and from which, to a reasonable degree of medical probability, there can be no recovery.

"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the treatment is to be rendered or withheld.

"Qualified patient" means a patient who has made an advance directive in accordance with this article and either (i) has been diagnosed and certified in writing by the attending physician and a second physician or licensed clinical psychologist after personal examination to be incapable of making an

informed decision about providing, withholding or withdrawing a specific medical treatment or course of treatment, in accordance with § 54.1-2986, or (ii) has been diagnosed and certified in writing by the attending physician to be afflicted with a terminal condition.

"Terminal condition" means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state.

"Witness" means a person who is not a spouse or blood relative of the patient. Employees of health care facilities and physician's offices, who act in good faith, shall be permitted to serve as witnesses for purposes of this article.

§ 54.1-2987.1. Authorization to follow Emergency Medical Services Do Not Resuscitate Orders in the pre-hospital setting.

Qualified emergency medical services personnel *or hospital emergency department health care providers* shall be authorized to follow Emergency Medical Services Do Not Resuscitate Orders pertaining to ~~adult~~ *qualified* patients in the pre-hospital *or hospital emergency department* setting in accordance with regulations promulgated by the Board of Health, if the order available to such personnel is in a form approved by the Board of Health.

For the purposes of this section, an Emergency Medical Services Do Not Resuscitate Order may be issued for qualified patients who are individuals diagnosed to be afflicted with terminal conditions or patients for whom attending physicians have issued Do Not Resuscitate Orders.

This section shall not authorize emergency medical personnel *or hospital emergency department health care providers* to follow an Emergency Medical Services Do Not Resuscitate Order for any patient who is able to, and does, express to such *emergency medical services personnel or hospital emergency department health care providers* the desire to be resuscitated prior to cardiac or respiratory arrest.

Nothing in this section or the definition of Emergency Medical Services Do Not Resuscitate Orders provided in § 54.1-2982 shall be construed to limit the issuance of or the authorization of physicians and those persons designated in § 54.1-2901 to follow Do Not Resuscitate Orders other than Emergency Medical Services Do Not Resuscitate Orders.