

ASSEMBLY, No. 194

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman WEINBERG

1 AN ACT concerning the withholding of life-sustaining treatment and
2 supplementing Titles 26 and 45 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. As used in sections 1 through 5 of P.L. , c. (C.)
8 (pending before the Legislature as this bill):

9 "Advanced life support" means an advanced level of pre-hospital,
10 interhospital and emergency service care which includes basic life
11 support functions, cardiac monitoring, cardiac defibrillation,
12 telemetered electrocardiography, administration of antiarrhythmic
13 agents, intravenous therapy, administration of specific medications,
14 drugs and solutions, use of adjunctive ventilation devices, trauma care
15 and other techniques and procedures authorized in writing by the
16 commissioner pursuant to regulation and P.L.1984, c.146 (C.26:2K-7
17 et seq.).

18 "Basic life support" means a basic level of pre-hospital care which
19 includes patient stabilization, airway clearance, cardiopulmonary
20 resuscitation, hemorrhage control, initial wound care and fracture
21 stabilization, and other techniques and procedures authorized by the
22 commissioner.

23 "Cardiopulmonary resuscitation" means cardiac compression,
24 endotracheal intubation and other advanced airway management,
25 artificial ventilation, defibrillation and other related procedures as
26 stipulated by the commissioner.

27 "Commissioner" means the Commissioner of Health.

28 "Do not resuscitate order" means a physician's written order not to
29 attempt cardiopulmonary resuscitation in the event the patient suffers
30 a cardiac or respiratory arrest.

31 "Emergency medical services personnel" means persons trained and
32 certified or licensed to provide emergency medical care, whether on a
33 paid or voluntary basis, as part of a basic life support or advanced life
34 support pre-hospital emergency care service.

35 "Life-sustaining treatment" means the use of any medical device or

1 procedure, artificially provided fluids and nutrition, drugs, surgery or
2 therapy that uses mechanical or other artificial means to sustain,
3 restore or supplant a vital bodily function, and thereby increase the
4 expected life span of a patient.

5 "Pre-hospital care" means the provision of emergency medical care
6 or transportation by trained and certified or licensed emergency
7 medical services personnel at the scene of an emergency and while
8 transporting sick or injured persons to a medical care facility or
9 provider.

10 "Terminal condition" means the terminal stage of an irreversibly
11 fatal illness, disease or condition. A determination of a specific life
12 expectancy is not required as a precondition for a diagnosis of a
13 "terminal condition," but a prognosis of a life expectancy of six months
14 or less, with or without the provision of life-sustaining treatment,
15 based upon reasonable medical certainty, shall be deemed to constitute
16 a terminal condition.

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18 2. Emergency medical services personnel may withhold
19 cardiopulmonary resuscitation or any other life-sustaining treatment
20 from a patient in the event of cardiac or respiratory arrest if evidence
21 of a do not resuscitate order is presented on a form and in a manner to
22 be prescribed by the commissioner.

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24 3. Emergency medical services personnel, a licensed physician,
25 hospital or its board of trustees, officer or member of the medical staff,
26 nurse or other employee of the hospital, or officer or member of a first
27 aid, ambulance or rescue squad, who has not engaged in negligent or
28 unprofessional conduct, shall not be liable for any civil or criminal
29 damages as a result of the withholding or withdrawal of
30 cardiopulmonary resuscitation or other life-sustaining treatment from
31 a patient in accordance with the provisions of this act and any rules
32 and regulations adopted by the commissioner.

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34 4. Nothing in this act shall be construed to permit the withholding
35 of medication, intravenous fluids, oxygen or other therapies, or the
36 nonperformance of any medical procedure, deemed necessary to
37 provide comfort care to a patient or to alleviate the patient's pain.

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39 5. The commissioner, pursuant to the "Administrative Procedure
40 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall adopt rules and
41 regulations to effectuate the purposes of sections 1 through 4 of
42 P.L. , c. (C.)(pending before the Legislature as this
43 bill).

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45 6. As used in sections 6 through 10 of P.L. , c. (C.)
46 (pending before the Legislature as this bill):

1 "Board" means the New Jersey Board of Nursing.

2 "Cardiopulmonary resuscitation" means cardiac compression,
3 endotracheal intubation and other advanced airway management,
4 artificial ventilation, defibrillation and other related procedures as
5 stipulated by the board.

6 "Life-sustaining treatment" means the use of any medical device or
7 procedure, artificially provided fluids and nutrition, drugs, surgery or
8 therapy that uses mechanical or other artificial means to sustain,
9 restore or supplant a vital bodily function, and thereby increase the
10 expected life span of a patient.

11 "Terminal condition" means the terminal stage of an irreversibly
12 fatal illness, disease or condition. A determination of a specific life
13 expectancy is not required as a precondition for a diagnosis of a
14 "terminal condition," but a prognosis of a life expectancy of six months
15 or less, with or without the provision of life-sustaining treatment,
16 based upon reasonable medical certainty, shall be deemed to constitute
17 a terminal condition.

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19 7. A visiting or home care nurse licensed by the board may
20 withhold cardiopulmonary resuscitation or any other life-sustaining
21 treatment from a patient in the event of cardiac or respiratory arrest
22 if evidence of a written order not to resuscitate by the attending
23 physician is presented on a form and in a manner to be prescribed by
24 the board.

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26 8. A visiting or home care nurse, licensed physician, or employee
27 of an agency, firm or other entity providing visiting or home care nurse
28 services, who has not engaged in negligent or unprofessional conduct,
29 shall not be liable for any civil or criminal damages as a result of the
30 withholding or withdrawal of cardiopulmonary resuscitation or other
31 life-sustaining treatment from a patient in accordance with the
32 provisions of this act and any rules and regulations adopted by the
33 board.

34

35 9. Nothing in this act shall be construed to permit the withholding
36 of medication, intravenous fluids, oxygen or other therapies, or the
37 nonperformance of any medical procedure, deemed necessary to
38 provide comfort care to a patient or to alleviate the patient's pain.

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40 10. The board, pursuant to the "Administrative Procedure Act,"
41 P.L.1968, c.410 (C.52:14B-1 et seq.) shall adopt rules and regulations
42 to effectuate the purposes of sections 6 through 9 of P.L. , c.
43 (C.)(pending before the Legislature as this bill).

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45 11. This act shall take effect immediately.

STATEMENT

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3 This bill would permit emergency medical services personnel to
4 withhold or withdraw cardiopulmonary resuscitation or other
5 life-sustaining treatment from a patient in an out-of-hospital setting,
6 either at the scene of an emergency or while transporting the patient
7 to a medical care facility or provider, based upon a physician's written
8 do not resuscitate order. Evidence of this order shall be presented to
9 the emergency medical services personnel on a form and in a manner
10 to be prescribed by the Commissioner of Health.

11 The bill would also permit a visiting or home care nurse licensed by
12 the New Jersey Board of Nursing to withhold or withdraw
13 cardiopulmonary resuscitation or other life-sustaining treatment from
14 a patient in the home, based upon a physician's written do not
15 resuscitate order. Evidence of this order shall be presented to the
16 nurse on a form and in a manner to be prescribed by the board.

17 This bill is intended to complement the "New Jersey Advance
18 Directives for Health Care Act," P.L.1991, c.201 (C.26:2H-53 et seq.)
19 which provides for "living wills" by which patients may specify the
20 circumstances under which extraordinary means should be used to
21 prolong their lives, but applies only to patients in hospitals and other
22 health care facilities.

23 To date, seven states (Arizona, Colorado, Florida, Montana, New
24 York, Rhode Island and Virginia) have enacted statutes which allow
25 persons to refuse emergency resuscitation in out-of-hospital settings.

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31 Permits withholding or withdrawal of life-sustaining treatment under
certain circumstances.