

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 452

Introduced by Avery, 28.

Read first time January 20, 2009

Committee: Health and Human Services

A BILL

- 1 FOR AN ACT relating to health care; to adopt the Advance Directives
- 2 Identification Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 10 of this act shall be known
2 and may be cited as the Advance Directives Identification Act.

3 Sec. 2. For purposes of the Advance Directives
4 Identification Act:

5 (1) Adult means a person eighteen years of age or older;

6 (2) Cardiopulmonary resuscitation means measures to
7 restore cardiac function or to support breathing in the event of
8 respiratory or cardiac arrest or malfunction and includes, but is
9 not limited to, chest compression, delivering electric shock to the
10 chest, or manual or mechanical methods to assist breathing;

11 (3) Cardiopulmonary resuscitation advance directive
12 means an advance directive pertaining to the administration of
13 cardiopulmonary resuscitation;

14 (4) Department means the Department of Health and Human
15 Services;

16 (5) Emergency medical services personnel means any
17 out-of-hospital emergency medical care provider licensed under the
18 Uniform Credentialing Act;

19 (6) Health care facility has the definition found in
20 section 71-413;

21 (7) Health care provider means an individual licensed
22 or certified under the Uniform Credentialing Act, a health care
23 facility, or a treatment facility; and

24 (8) Treatment facility has the definition found in
25 section 71-914.

1 Sec. 3. Any adult who has the decisional capacity to
2 provide informed consent to or refusal of medical treatment or
3 any other person who is, pursuant to the laws of this state or
4 any other state, authorized to make medical treatment decisions on
5 behalf of a person who lacks such decisional capacity may execute a
6 cardiopulmonary resuscitation advance directive.

7 Sec. 4. (1) On or before January 1, 2010, the
8 department may adopt and promulgate rules and regulations for the
9 implementation of cardiopulmonary resuscitation advance directives
10 by emergency medical services personnel, including, but not
11 limited to, uniform methods for rapid identification, including,
12 but not limited to, bracelets, of persons who have executed
13 a cardiopulmonary resuscitation advance directive, controlled
14 distribution of the methods of identifying persons who have
15 executed a cardiopulmonary resuscitation advance directive, and
16 the information described in subsection (2) of this section. This
17 subsection does not restrict any other manner in which a person may
18 make a cardiopulmonary resuscitation advance directive.

19 (2) The rules and regulations shall, at a minimum,
20 require the following information concerning the person who is the
21 subject of a cardiopulmonary resuscitation advance directive:

22 (a) The person's name, date of birth, and gender;

23 (b) The person's eye and hair color;

24 (c) The person's race or ethnic background;

25 (d) In the case of a cardiopulmonary resuscitation

1 advance directive, the name of any hospice program in which
2 the person is enrolled;

3 (e) The name, address, and telephone number of the
4 person's attending physician;

5 (f) The signature or mark of the person executing
6 or, if applicable, the signature of a person authorized by the
7 Advance Directives Identification Act to execute a cardiopulmonary
8 resuscitation advance directive;

9 (g) The date on which the cardiopulmonary resuscitation
10 advance directive was signed; and

11 (h) The terms of the advance directive concerning
12 the administration or refusal of cardiopulmonary resuscitation,
13 countersigned by the person's attending physician.

14 (3) The department may develop and disseminate forms for
15 executing a cardiopulmonary resuscitation advance directive which
16 meet the requirements of the Advance Directives Identification Act.

17 Sec. 5. (1) Emergency medical services personnel
18 and health care providers shall comply with a cardiopulmonary
19 resuscitation advance directive that is apparent and immediately
20 available. Any emergency medical services personnel, health care
21 provider, or other person who, in good faith, complies with a
22 cardiopulmonary resuscitation advance directive which is perceived
23 to be valid shall not be subject to criminal prosecution, civil
24 liability, or professional disciplinary action.

25 (2) Nothing in the Advance Directives Identification Act

1 limits the liability of any emergency medical services personnel or
2 health care provider for a negligent act or omission in connection
3 with the medical diagnosis, treatment, or care of the person
4 executing a cardiopulmonary resuscitation advance directive.

5 (3) Compliance by emergency medical services personnel or
6 health care providers with a cardiopulmonary resuscitation advance
7 directive does not affect the criminal prosecution of any person
8 otherwise charged with the commission of a criminal act.

9 (4) In the absence of a cardiopulmonary resuscitation
10 advance directive, a person's consent to cardiopulmonary
11 resuscitation shall be presumed.

12 Sec. 6. A cardiopulmonary resuscitation advance directive
13 for any person who is admitted to a health care facility shall
14 be implemented as a physician's order concerning resuscitation as
15 directed by the person in the cardiopulmonary resuscitation advance
16 directive, pending further physician orders.

17 Sec. 7. Neither the execution of nor the failure to
18 execute a cardiopulmonary resuscitation advance directive shall
19 affect, impair, or modify any contract of life or health insurance
20 or annuity, be the basis for any delay in issuing or refusing to
21 issue an annuity or policy of life or health insurance, or be the
22 basis for any increase of a premium therefor.

23 Sec. 8. A cardiopulmonary resuscitation advance directive
24 may be revoked at any time by the person who is the subject of
25 the directive or by any other person who is, pursuant to the

1 laws of this state or any other state, authorized to make medical
2 treatment decisions on behalf of the person who is the subject of
3 the directive.

4 Sec. 9. The Advance Directives Identification Act does
5 not confer any new rights regarding the provision or rejection of
6 any specific medical treatment and does not alter any existing laws
7 concerning homicide, suicide, or assisted suicide. The act does
8 not condone, authorize, or approve homicide, suicide, or assisted
9 suicide.

10 Sec. 10. Nothing in the Rights of the Terminally Ill
11 Act or sections 30-3401 to 30-3432 shall be construed to prohibit
12 executing or carrying out a cardiopulmonary resuscitation advance
13 directive pursuant to the Advance Directives Identification Act.

14 Nothing in the Rights of the Terminally Ill Act or
15 sections 30-3401 to 30-3432 shall be construed to alter the
16 terms of a cardiopulmonary resuscitation advance directive executed
17 pursuant to the Advance Directives Identification Act.