

# Right to Die Laws

## Principal Provisions of MODEL BILL

*The following is a summary of the provisions of a Model Bill drafted in a Yale Legislative Services project, undertaken with the sponsorship of the Society for the Right to Die. It was introduced in 1979 in Connecticut and Massachusetts.*

- The bill recognizes that adult persons have the right to control decisions relating to their own medical care, including the decision to have life-sustaining procedures withheld or withdrawn in the event of a terminal condition.
- Dying patients may be unable to participate actively in decisions about their medical care. To protect their rights the bill gives legal recognition to a written declaration, executed in advance, instructing the physician to withhold or withdraw treatment in the event of a terminal condition. A declaration form is included in the bill.
- The bill requires confirmation of a terminal condition by two physicians.
- A declaration may be executed at any time by a competent adult on his or her own behalf. The bill includes witnessing requirements. A copy of the witnessed document is to be made part of the patient's medical record.
- As a safeguard, there is ample provision for easy revocation by the individual who executes a declaration.
- Any physician who acts in accordance with a patient's declaration is protected from civil and criminal liability as are health professionals acting under the physician's direction. An attending physician who refuses to comply with the declaration of a qualified patient is obliged to effect the transfer of the patient to another physician who will effectuate the declaration.
- The bill specifically protects all existing rights of a person who has not executed a declaration. It also provides that no presumption shall be created concerning the intention of an individual who has not executed a declaration.
- Other provisions protect life and health insurance policies.
- Penalties are provided for violations of the Act.

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## **CONNECTICUT**

### **H.B. 5222**

*Based on a Model Bill drafted in a Yale Legislative Services Project at Yale University School of Law. Introduced by Representative William Rogers et al on 1/3/79. Reached House floor on petition of 77 legislators after unfavorable report by Public Health Committee. Passed House (9044) on 5/17/79. Substitution of bill for Public Health Committee report failed in Senate (18-18, with deciding vote cast by Lieut. Governor).*

### **An Act Concerning a Right to a Natural Death**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

#### **Section 1.** As used in this act:

(a) "Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient;

(b) "Declaration" means a witnessed document in writing, voluntarily executed by the declarant in accordance with Section 2 of this act;

(c) "Life-sustaining procedure" means any medical procedure or intervention which, when applied to a qualified patient, would serve only to prolong the dying process and where, in the Judgment of the attending physician, death will occur whether or not such procedures are utilized. Life-sustaining procedure shall not include the administration of medication or the performance of any medical procedure deemed necessary to provide comfort care; and

(d) "Qualified patient" means a patient who, when of sound mind, has executed a declaration in accordance with this act and who has been diagnosed and certified in writing to be afflicted with a terminal condition by two physicians who have personally examined the patient, one of whom shall be the attending physician.

#### **Section 2.**

(a) Any adult person may execute a declaration directing the withholding or withdrawal of life-sustaining procedures in a terminal condition. The declaration shall be signed by the declarant in the presence of two subscribing witnesses who are not (1) related to the declarant by blood or marriage, (2) entitled to any portion of the estate of the declarant under any will of declarant or codicil thereto then existing or, at the time of the declaration, by operation of law then existing, (3) a claimant against any portion of the estate of the declarant at the time of his decease at the time of the execution of the declaration, or (4) directly financially responsible for the declarant's medical care. It shall be the responsibility of declarant to provide for notification to his attending physician of the existence of the declaration. An attending physician who is so notified shall make the declaration, or a copy of the declaration, a part of the declarant's medical records;

(b) The declaration shall be substantially in the following form, but may include other specific directions. Should any of the other specific directions be held to be invalid, such invalidity shall not affect other directions of the declaration which can be given effect without the invalid direction.

**DECLARATION**

Declaration, made this-----day of-----  
(month year). I, -----, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness certified to be a terminal condition by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized and where the application of life-sustaining procedures would serve only to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family and physicians as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.

Signed-----

City, County and State of Residence-----

The declarant has been personally known to me and I believe him or her to be of sound mind.

Witness-----

Witness-----

**Section 3.**

A declaration may be revoked at any time by the declarant, without regard to his or her mental state or competency, by any of the following methods: (1) By being cancelled, defaced, obliterated, or burnt, torn or otherwise destroyed by the declarant or

by some person in his or her presence and by his or her direction; (2) by a written revocation of the declarant expressing his or her intent to revoke, signed and dated by the declarant; (3) by a verbal expression by the declarant of his or her intent to revoke the declaration. Such oral revocation shall become effective upon communication to the attending physician by the declarant or by a person who is reasonably believed to be acting on behalf of the declarant. The attending physician shall record in the patient's medical record the time, date and place of an oral or written revocation and the time, date and place, if different, of when he or she received notification of such revocation.

#### **Section 4.**

An attending physician who has been notified of the existence of a declaration executed under this act shall, without delay after the diagnosis of a terminal condition of the declarant, take the necessary steps to provide for written certification and confirmation of the declarant's terminal condition, so that declarant may be deemed to be a qualified patient, as defined in subsection (d) of Section 1 of this act. An attending physician who fails to comply with this Section shall be deemed to have refused to comply with the declaration and shall be liable as specified in subsection (a) of Section 6 of this act.

#### **Section 5.**

The desires of a qualified patient who is competent shall at all times supercede the effect of the declaration. If the qualified patient is incompetent at the time of the decision to withhold or withdraw life-sustaining procedures, a declaration executed in accordance with Section 2 of this act is presumed to be valid. For the purpose of this act, a physician or health care facility may presume in the absence of actual notice to the contrary that an individual who executed a declaration was of sound mind when it was executed. The fact of an individual's having executed a declaration shall not be considered as an indication of a declarant's mental incompetence and age of itself shall not be a bar to a determination of competency. In the absence of actual notice of the revocation of the declaration, none of the following, when acting in accordance with this act, shall be subject to civil liability there from, unless negligent, or shall be guilty of any criminal act or of unprofessional conduct: (1) A physician or health facility which causes the withholding or withdrawal of life-sustaining procedures from a qualified patient; (2) a licensed health professional, acting under the direction of a physician, who participates in the withholding or withdrawal of life-sustaining procedures.

#### **Section 6.**

(a) An attending physician who refuses to comply with the declaration of a qualified patient pursuant to this act shall make the necessary arrangements to effect the transfer of the qualified patient to another physician who will effectuate the declaration of the qualified patient. An attending physician who fails to comply with the declaration of a

qualified patient or to make the necessary arrangements to effect the transfer shall be civilly liable.

(b) Any person who willfully conceals, cancels, defaces, obliterates or damages the declaration of another without such declarant's consent or who falsifies or forges a revocation of the declaration of another shall be civilly liable.

(c) Any person who falsifies or forges the declaration of another, or willfully conceals or withhold; personal knowledge of a revocation completed in accordance with Section 3 of this act, with the intent to cause a withholding or withdrawal of life-sustaining procedures contrary to the wishes of the declarant, shall be subject to criminal prosecution.

## **Section 7.**

(a) The withholding or withdrawal of life-sustaining procedures from a qualified patient in accordance with the provisions of this act shall not, for any purpose, constitute a suicide.

(b) The making of a declaration pursuant to Section 2 of this act, shall not affect in any manner the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures from an insured qualified patient, notwithstanding any term of the policy to the contrary.

(c) No physician, health facility, or other health provider, and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan, shall require any person to execute a declaration as a condition for being insured for, or receiving, health care services.

(d) Nothing in this act shall impair or supercede any legal right or legal responsibility which any person may have to affect the withholding or withdrawal of life-sustaining procedures in any lawful manner. In such respect the provisions of this act are cumulative.

(e) This act shall create no presumption concerning the intention of an individual who has not executed a declaration to consent to the use or withholding of life-sustaining procedures in the event of a terminal condition.