

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 7.
HUMAN HEALTH CARE AND SAFETY.

CHAPTER 6.
DEATH.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 6. DEATH.

TABLE OF CONTENTS

Subchapter I. Determination of Death.

- § 7-601. Standard.

Subchapter II. Natural Death.

- § 7-621. Definitions.
- § 7-622. Declaration--Execution; form.
- § 7-623. Declaration--Restrictions.
- § 7-624. Declaration--Revocation.
- § 7-625. Physician's duty to confirm terminal condition.
- § 7-626. Competency and intent of declarant.
- § 7-627. Extent of medical liability; transfer of patient; criminal offenses.
- § 7-628. Exclusion of suicide; effect of declaration upon issuance.
- § 7-629. Preservation of existing rights.
- § 7-630. Effect of subchapter.

CHAPTER 6. DEATH.

SUBCHAPTER I. DETERMINATION OF DEATH.

Refs & Annos

Jurisdiction	Laws	Effective Date	Statutory Citation
Alabama	2000 Act No. 710	7-1-2000	Code 1975, §§ 22-31-1, 22-31-2.
Arkansas	1985, No. 386		A.C.A. § 20-17-101.
California	L.1982, c. 810	9-7-1982 [FN*]	West's Ann.Cal.Health & Safety Code, § 7180.
Colorado	1981, p. 778, § 1		West's C.R.S.A. § 12-36-136.
Delaware	65 Del.Laws, c. 237	2-5-1986	24 Del.C. § 1760.
District of Columbia	1982, D.C.Law 4-68	2-25-1982 [FN*]	D.C. Official Code, 2001 Ed. § 7-601.
Georgia	1982, pp. 723, 749		O.C.G.A. § 31-10-16.
Idaho	1981, c. 258		I.C. § 54-1819.
Indiana	1986, S.B.282	3-3-1986	West's A.I.C. 1-1-4-3.
Kansas	1984, c. 345	7-1-1984	K.S.A. 77-204 to 77-206.
Maine	1983, c. 33	3-7-1983 [FN*]	22 M.R.S.A. §§ 2811 to 2813.
Maryland	1982, c. 327	7-1-1982	Code, Health-General, § 5-202.
Michigan	1992, P.A. 90	6-4-1992 [FN*]	M.C.L.A. §§ 333.1031 to 333.1034.
Minnesota	1989, c. 93	5-9-1989 [FN*]	M.S.A. § 145.135.
Mississippi	1981, c. 410	3-24-1981	Code 1972, §§ 41-36-1, 41-36-3.
Missouri	1982, H.B. 1223	8-13-1982	V.A.M.S. § 194.005.
Montana	L.1983, c. 86		MCA § 50-22-101.
Nebraska	1992, LB 906	7-15-1992	R.R.S. 1943, §§ 71-7201 to 71-7203.
Nevada	1985, c. 62	3-30-1985 [FN*]	N.R.S. 451.007.
New Hampshire	1986, c. 191:1	7-1-1987	RSA 141-D:1 to 141-D:2.
New Mexico	1993, c. 174	7-1-1993	NMSA 1978 § 12-2-4.
North Dakota	1989, c. 308	7-12-1989	NDCC 23-06.3-01, 23-06.3-02.
Ohio	1982, S. 98	3-15-1982	R.C. § 2108.40.
Oklahoma	1986, c. 262	9-11-1986	63 Okl.St.Ann. §§ 3121 to 3123.
Oregon	1987, c. 517	7-8-1987 [FN*]	ORS 432.300.
Pennsylvania	Act 1982, No. 323	2-15-1983	35 P.S. §§ 10201 to 10203.
Rhode Island	1982, c. 411		Gen.Laws 1956, § 23-4-16.
South Carolina	1984, No. 339		Code 1976, §§ 44-43-450, 44-43-460.
South Dakota	1990, c. 273		SDCL 34-25-18.1.
Utah	1989, c. 276	4-24-1989	U.C.A.1953, 26-34-1, 26-34-2.
Vermont	1981, No. 62	4-30-1981	18 V.S.A. § 5218.
Virgin Islands	1993, Act No. 5894, § 2	10-13-1993	19 V.I.C. § 869.
West Virginia	1989, c. 206		Code, 16-10-1 to 16-10-4.
Wyoming	1985, c. 223	5-23-1985	Wyo.Stat.Ann. §§ 35-19-101 to 35-19-103.

[FN*] Date of approval.

§ 7-601. STANDARD.

An individual who has sustained either: (1) irreversible cessation of circulatory and respiratory functions; or (2) irreversible cessation of all functions of the entire brain, including the brain stem; is dead. A determination of death must be made in accordance with accepted medical standards.

(Feb. 25, 1982, D.C. Law 4-68, § 2, 28 DCR 5045.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2401.

Legislative History of Laws

Law 4-68, the "Uniform Determination of Death Act of 1981," was introduced in Council and assigned Bill No. 4-206, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on September 29, 1981, and October 13, 1981, respectively. Signed by the Mayor on November 9, 1981, it was assigned Act No. 4-114 and transmitted to both Houses of Congress for its review.

Uniform Law

This section is based upon § 1 of the Uniform Determination of Death Act. See 12A Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

SUBCHAPTER II. NATURAL DEATH.

§ 7-621. DEFINITIONS.

For the purposes of this subchapter, the term:

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

(2) "Declaration" means a witnessed document in writing, voluntarily executed by the declarant in accordance with the requirements of § 7-622.

(2A) "Domestic partnership" shall have the same meaning as provided in § 32- 701(4).

(3) "Life-sustaining procedure" means any medical procedure or intervention, which, when applied to a qualified patient, would serve only to artificially prolong the dying process and where, in the judgment of the attending physician and a second physician, death will occur whether or not such procedure or intervention is utilized. The term "life-sustaining procedure" shall not include the administration of medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.

(4) "Physician" means a person authorized to practice medicine in the District of Columbia.

(5) "Qualified patient" means a patient who has executed a declaration in accordance with this subchapter and who has been diagnosed and certified in writing to have a terminal condition by 2 physicians who have personally examined the patient, one of whom shall be the attending physician.

(6) "Terminal condition" means an incurable condition caused by injury, disease, or illness, which, regardless of the application of life-sustaining procedures, would, within reasonable medical judgment, produce death, and where the application of life-sustaining procedures serve only to postpone the moment of death of the patient.

(Feb. 25, 1982, D.C. Law 4-69, § 2, 28 DCR 5047; Apr. 24, 2007, D.C. Law 16-305, § 24, 53 DCR 6198; Sept. 12, 2008, D.C. Law 17-231, § 16(a), 55 DCR 6758.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2421.

Effect of Amendments

D.C. Law 16-305, in par. (5), substituted "have" for "be afflicted with".

D.C. Law 17-231 added par. (2A).

Law 4-69, the "Natural Death Act of 1981," was introduced in Council and assigned Bill No. 4-204, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on September 29, 1981, and October 13, 1981, respectively. Signed by the Mayor on November 9, 1981, it was assigned Act No. 4-115 and transmitted to both Houses of Congress for its review.

For Law 16-305, see notes following § 7-531.01.

Law 17-231, the "Omnibus Domestic Partnership Equality Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-135, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on June 6, 2008, it was assigned Act No. 17-403 and transmitted to both Houses of Congress for its review. D.C. Law 17-231 became effective on September 12, 2008.

§ 7-622. DECLARATION--EXECUTION; FORM.

(a) Any persons 18 years of age or older may execute a declaration directing the withholding or withdrawal of life-sustaining procedures from themselves should they be in a terminal condition. The declaration made pursuant to this subchapter shall be:

- (1) In writing;
- (2) Signed by the person making the declaration or by another person in the declarant's presence at the declarant's express direction;
- (3) Dated; and
- (4) Signed in the presence of 2 or more witnesses at least 18 years of age.

In addition, a witness shall not be:

- (A) The person who signed the declaration on behalf of and at the direction of the declarant;
- (B) Related to the declarant by blood, marriage, or domestic partnership;
- (C) Entitled to any portion of the estate of the declarant according to the laws of intestate succession of the District of Columbia or under any will of the declarant or codicil thereto;
- (D) Directly financially responsible for declarant's medical care; or
- (E) The attending physician, an employee of the attending physician, or an employee of the health facility in which the declarant is a patient.

(b) It shall be the responsibility of the declarant to provide for notification to his or her attending physician of the existence of the declaration. An attending physician, when presented with the declaration, shall make the declaration or a copy of the declaration a part of the declarant's medical records.

(c) The declaration shall be substantially in the following form, but in addition may include other specific directions not inconsistent with other provisions of this subchapter. 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, and to this end the directions in the declaration are severable.

Declaration

Declaration made this ... day of (month, year).

I,, being of sound mind, willfully and voluntarily make known my desires that my dying shall not be artificially prolonged under the circumstances set forth below, do declare:

If at any time I should have an incurable injury, disease, or illness certified to be a terminal condition by 2 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 or to alleviate pain.

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 physician(s) 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

Address

I believe the declarant to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am at least 18 years of age and am not related to the declarant by blood, marriage, or domestic partnership, entitled to any portion of the estate of the declarant according to the laws of intestate succession of the District of Columbia or under any will of the declarant or codicil thereto, or directly financially responsible for declarant's medical care. I am not the declarant's attending physician, an employee of the attending physician, or an employee of the health facility in which the declarant is a patient.

Witness

Witness

(Feb. 25, 1982, D.C. Law 4-69, § 3, 28 DCR 5047; Sept. 12, 2008, D.C. Law 17-231, § 16(b), 55 DCR 6758.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2422.

Effect of Amendments

D.C. Law 17-231 substituted "blood, marriage, or domestic partnership" for "blood or marriage".

Legislative History of Laws

For legislative history of D.C. Law 4-69, see Historical and Statutory Notes following § 7-621.

For Law 17-231, see notes following § 7-621.

§ 7-623. DECLARATION--RESTRICTIONS.

A declaration shall have no effect if the declarant is a patient in an intermediate care or skilled care facility as defined in the Health Care Facilities Regulation, enacted June 14, 1974 (Reg. 74-15; 20 DCR 1423) at the time the declaration is executed unless 1 of the 2 witnesses to the directive is a patient advocate or ombudsman. The patient advocate or ombudsman shall have the same qualifications as a witness under § 7-622.

(Feb. 25, 1982, D.C. Law 4-69, § 4, 28 DCR 5047.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2423.

Legislative History of Laws

For legislative history of D.C. Law 4-69, see Historical and Statutory Notes following § 7-621.

§ 7-624. DECLARATION--REVOCATION.

(a) A declaration may be revoked at any time only by the declarant or at the express direction of the declarant, without regard to the declarant's mental state by any of the following methods:

- (1) By being obliterated, burnt, torn, or otherwise destroyed or defaced by the declarant or by some person in the declarant's presence and at his or her direction;
- (2) By a written revocation of the declaration signed and dated by the declarant or person acting at the direction of the declarant. Such revocation shall become effective only upon communication of the revocation to the attending physician by the declarant or by a person acting on behalf of the declarant. The attending physician shall record in the patient's medical record the time and date when he or she receives notification of the written revocation; or
- (3) By a verbal expression of the intent to revoke the declaration, in the presence of a witness 18 years or older who signs and dates a writing confirming that such expression of intent was made. Any verbal revocation shall become effective only upon communication of the revocation to the attending physician by the declarant or by a person acting on behalf of the declarant. The attending physician shall record, in the patient's medical record, the time, date, and place of when he or she receives notification of the revocation.

(b) There shall be no criminal or civil liability on the part of any person for failure to act upon a revocation made pursuant to this section unless that person has actual knowledge of the revocation.

(Feb. 25, 1982, D.C. Law 4-69, § 5, 28 DCR 5047.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2424.

Legislative History of Laws

For legislative history of D.C. Law 4-69, see Historical and Statutory Notes following § 7-621.

§ 7-625. PHYSICIAN'S DUTY TO CONFIRM TERMINAL CONDITION.

(a) An attending physician who has been notified of the existence of a declaration executed under this subchapter, without delay after the diagnosis of a terminal condition of the declarant, shall take the necessary steps to provide for written certification and confirmation of the declarant's terminal condition, so that the declarant may be deemed to be a qualified patient under this subchapter.

(b) Once written certification and confirmation of the declarant's terminal condition is made a person becomes a qualified patient under this subchapter only if the attending physician verbally or in writing informs the patient of his or her terminal condition and documents such communication in the patient's medical record. If the patient is diagnosed as unable to comprehend verbal or written communications, such patient shall become a qualified patient as defined in § 7-621, immediately upon written certification and confirmation of his or her terminal condition by the attending physician.

(c) An attending physician who does not comply with this section shall be considered to have committed an act of unprofessional conduct under § 3-2926.

(Feb. 25, 1982, D.C. Law 4-69, § 6, 28 DCR 5047.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2425.

Legislative History of Laws

For legislative history of D.C. Law 4-69, see Historical and Statutory Notes following § 7-621.

References in Text

Section 3-2926 referred to in subsection (c), was repealed by § 1104(e) of D.C. Law 6-99, effective March 25, 1986.

§ 7-626. COMPETENCY AND INTENT OF DECLARANT.

(a) The desires of a qualified patient shall at all times supersede the effect of the declaration.

(b) 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 § 7-622 is presumed to be valid. For the purpose of this subchapter, a physician or health 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 incompetency.

(Feb. 25, 1982, D.C. Law 4-69, § 7, 28 DCR 5047.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2426.

Legislative History of Laws

For legislative history of D.C. Law 4-69, see Historical and Statutory Notes following § 7-621.

§ 7-627. EXTENT OF MEDICAL LIABILITY; TRANSFER OF PATIENT; CRIMINAL OFFENSES.

(a) No physician, licensed health care professional, health facility, or employee thereof who in good faith and pursuant to reasonable medical standards causes or participates in the withholding or withdrawing of

life-sustaining procedures from a qualified patient pursuant to a declaration made in accordance with this subchapter shall, as a result thereof, be subject to criminal or civil liability, or be found to have committed an act of unprofessional conduct.

(b) An attending physician who cannot comply with the declaration of a qualified patient pursuant to this subchapter shall, in conjunction with the next of kin of the patient or other responsible individual, effect the transfer of the qualified patient to another physician who will honor the declaration of the qualified patient. Transfer under these circumstances shall not constitute abandonment. Failure of an attending physician to effect the transfer of the qualified patient according to this section, in the event he or she cannot comply with the directive, shall constitute unprofessional conduct as defined in § 3-2926.

(c) Any person who willfully conceals, cancels, defaces, obliterates, or damages the declaration of another without the declarant's consent or who falsifies or forges a revocation of the declaration of another shall commit an offense, and upon conviction shall be fined an amount not to exceed \$5,000 or be imprisoned for a period not to exceed 3 years, or both.

(d) Any person who falsifies or forges the declaration of another, or willfully conceals or withholds personal knowledge of the revocation of a declaration, with the intent to cause a withholding or withdrawal of life-sustaining procedures, contrary to the wishes of the declarant, and thereby, because of such act, directly causes life-sustaining procedures to be withheld or withdrawn and death to be hastened, shall be subject to prosecution for unlawful homicide pursuant to § 22-2101.

(Feb. 25, 1982, D.C. Law 4-69, § 8, 28 DCR 5047.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2427.

Legislative History of Laws

For legislative history of D.C. Law 4-69, see Historical and Statutory Notes following § 7-621.

References in Text

Section 3-2926, referred to in subsection (b), was repealed by § 1104(e) of D.C. Law 6-99, effective March 25, 1986.

§ 7-628. EXCLUSION OF SUICIDE; EFFECT OF DECLARATION UPON ISSUANCE.

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

(b) The making of a declaration pursuant to § 7-622 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 care provider, and no health care service plan, health maintenance organization, insurer issuing disability insurance, self-insured employee welfare benefit plan, nonprofit medical service corporation, or mutual nonprofit hospital service corporation shall require any person to execute a declaration as a condition for being insured for, or receiving, health care services.

(Feb. 25, 1982, D.C. Law 4-69, § 9, 28 DCR 5047.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2428.

Legislative History of Laws

For legislative history of D.C. Law 4-69, see Historical and Statutory Notes following § 7-621.

§ 7-629. PRESERVATION OF EXISTING RIGHTS.

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

(b) This subchapter 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.

(Feb. 25, 1982, D.C. Law 4-69, § 10, 28 DCR 5047.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2429.

Legislative History of Laws

For legislative history of D.C. Law 4-69, see Historical and Statutory Notes following § 7-621.

§ 7-630. EFFECT OF SUBCHAPTER.

Nothing in this subchapter shall be construed to condone, authorize, or approve mercy-killing or to permit any affirmative or deliberate act or omission to end a human life other than to permit the natural process of dying as provided in this subchapter.

(Feb. 25, 1982, D.C. Law 4-69, § 11, 28 DCR 5047.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 6-2430.

Temporary Addition of Section

For temporary (225 day) additions, see §§ 2 to 4 of Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Temporary Act of 2001 (D.C. Law 14-70, February 27, 2002, law notification 49 DCR 2280).

Emergency Act Amendments

For temporary (90 day) provisions for mandatory autopsies and unusual incident reports, see § 2 of Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-25, April 2, 2001, 48 DCR 3320).

For temporary (90 day) provisions for mandatory autopsies and unusual reports, see § 2 of Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Emergency Amendment Act of 2001 (D.C. Act 14- 151, October 23, 2001, 48 DCR 10204).

For temporary (90 day) provisions for mandatory autopsies and unusual incident reports, see §§ 2 to 5 of Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Congressional Review Emergency Act of 2002 (D.C. Act 14-261, January 30, 2002, 49 DCR 1437).

Legislative History of Laws

For legislative history of D.C. Law 4-69, see Historical and Statutory Notes following § 7-621.