



Model Futile Care Legislation

(a) If an attending physician refuses to comply with a patient's advance directive or a health care or treatment decision made by or on behalf of a patient, requesting the provision of life-sustaining care or treatment, including artificially administered nutrition and hydration, the physician's refusal shall be reviewed by the ethics or medical committee of the health care facility in which the patient is admitted. The committee shall affirm the physician's decision only if the provision of such care or treatment will, to a reasonable medical certainty:

(1) cause the patient substantial and intractable physical pain, that will continue for an indefinite period of time, and there are no reasonable grounds to believe the patient would wish such painful care or treatment to commence or continue; or

(2) cause the patient life-threatening ancillary complications, and no care or treatment less likely to cause such complications is available; or

(3) be altogether useless in prolonging the patient's life since death from an underlying terminal condition is inevitable and imminent. In the case of artificially administered nutrition and hydration, such care is altogether useless in prolonging life if the patient is incurably unable to assimilate nutrients or fluids or is likely to die from an underlying terminal condition before death from starvation or dehydration occurs.

The committee may affirm the physician's decision to withhold life-sustaining care or treatment from a patient that cannot be provided without denying the same care or treatment to another patient and may not affirm a decision to withhold or withdraw such care or treatment if the patient is pregnant. The patient shall be given all necessary life-sustaining care and treatment during the review process, including the provision of artificially administered nutrition and hydration, along with care and treatment to enhance pain relief and minimize suffering, unless the provision of any such care or treatment poses an immediate threat to the life of the patient.

(b) If the patient's advance directive or a health care or treatment decision made by or on behalf of the patient is requesting life-sustaining care or treatment that the attending physician has decided and the ethics or medical committee has affirmed is medically inappropriate, the

patient shall be given all necessary life-sustaining care and treatment pending transfer to another physician or health care facility willing to comply with such directive or care or treatment decision, including the provision of artificially administered nutrition and hydration, along with care and treatment to enhance pain relief and minimize suffering, unless the provision of any such care or treatment poses an immediate threat to the life of the patient. Except for the provision of artificially administered nutrition and hydration, along with care and treatment to enhance pain relief and minimize suffering, the attending physician, any other physician responsible for the care of the patient, and the health care facility are not obligated to provide life-sustaining care or treatment after the 21st calendar day after the written decision of the committee is provided to the patient or the patient's surrogate unless ordered to do so under Subsection (c). If the committee does not affirm the attending physician's refusal to provide life-sustaining care or treatment, all necessary care and treatment, including the provision of artificially administered nutrition and hydration, along with care and treatment to enhance pain relief and minimize suffering, unless the provision of any such care or treatment poses an immediate threat to the life of the patient, shall be provided to the patient until the transfer of the patient to another physician within the health care facility willing to comply with the patient's advance directive or health care or treatment decision is completed.

(c) The patient or the patient's surrogate may submit a motion for extension of time to affect a transfer under subsection (b) in any court authorized by the law of the state in which the health care facility is located. In such proceeding, the court may extend the time period provided under that Subsection in the exercise of its sound discretion. If the court finds, by a preponderance of the evidence, that the ethics or medical committee affirmed the attending physician's refusal to comply with the patient's advance directive or a health care or treatment decision made by or on behalf of the patient, requesting the provision of life-sustaining care or treatment, without satisfying the requirements of Subsection (a), it shall extend the time period for providing all necessary life sustaining care and treatment until the transfer of the patient to another physician or health care facility willing to comply with the directive or care or treatment decision is completed.

**Distributed by the
National catholic Partnership on Disability**

415 Michigan Avenue, NE Suite 95
Washington, DC 20017

202-529-2933; 202-529-2934 (tty); 202-529-4678 (fax)
www.ncpd.org