

Advanced Pregnancy Directive Bill

House Committees Senate Committees Health & Human Services

A BILL FOR AN ACT CONCERNING THE CREATION OF AN ADVANCED PREGNANCY DIRECTIVE TO AUTHORIZE CONTINUATION OF SOMATIC SUPPORT FOR A PREGNANT PATIENT WHO IS INCAPACITATED AND NOT EXPECTED TO RECOVER WHEN A FETUS IS POTENTIALLY VIABLE.

Bill Summary: The bill creates an optional "Advanced Pregnancy Directive" that allows a pregnant patient to document their medical decision to receive continued life-sustaining treatment solely for the purpose of sustaining a pregnancy in the event the patient becomes incapacitated and is not expected to regain decision-making capacity. A health-care provider must offer the directive to a pregnant patient receiving prenatal care and, if completed, must include the directive in the patient's medical record. The directive becomes operative only if the patient lacks decisional capacity and a treating physician determines recovery is not expected and the fetus may reasonably attain a gestational age of viability with the woman's life sustaining care.

HOUSE SPONSORSHIP Keltie,

SENATE SPONSORSHIP (None),

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add 25-3-135 as follows:

25-3-135. Advanced pregnancy directive – continuation of somatic support – definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Advanced pregnancy directive" means a written, signed, and dated document voluntarily executed by a pregnant patient indicating the patient's informed decision to receive medical treatment necessary to sustain cardiopulmonary function for the purpose of allowing fetal development if the patient becomes incapacitated and is not expected to regain decision-making capacity.

(b) "Incapacitated" has the same meaning as set forth in section 15-18.5-103 (6), C.R.S.

(c) "Viable" means a stage of fetal development at which, in the reasonable medical judgment of the attending physician, the fetus has a substantial likelihood of continued development within the uterus with somatic support until such time delivery can occur with a reasonable probability of neonatal survival with standard neonatal care.

(d) "Somatic support" means mechanical ventilation, artificial nutrition and hydration, circulatory support, medications, and other medical interventions necessary to maintain organ perfusion and oxygenation of a pregnant patient.

(2) Offer of directive. A health-care provider who provides prenatal care shall inform a pregnant patient of the option to execute an advanced pregnancy directive. Execution of the directive is voluntary and may not be required as a condition of care or treatment.

(3) Requirements of directive. An advanced pregnancy directive must:

(a) Be signed by the patient or the patient's legally authorized representative at the patient's direction;

(b) Be witnessed by two adults who are not the patient's health-care provider and not entitled to any portion of the patient's estate;

(c) Include acknowledgement that the patient understands: (I) The directive authorizes continuation of life-sustaining treatment solely to sustain a pregnancy; (II) The patient may remain permanently unconscious or deceased by neurologic criteria during treatment; (III) Medical risks to the patient's body may occur; and (IV) The directive may be revoked at any time while the patient retains decisional capacity.

(4) Medical effect. If a patient becomes incapacitated and the attending physician determines, to a reasonable degree of medical certainty, that recovery of decision-making capacity is not expected, and the fetus is viable, providers shall provide and continue somatic support consistent with the directive for the purpose of maintaining maternal organ function until, in reasonable medical judgment, delivery may occur with a reasonable probability of neonatal survival, unless such treatment becomes medically ineffective or contraindicated for fetal survival.

(5) Relationship to advance directives. An advanced pregnancy directive supplements and does not replace a medical durable power of attorney or living will executed pursuant to article 18.5 of title 15. If a conflict exists, the advanced pregnancy directive governs decisions regarding continuation of treatment solely for fetal gestation.

(6) Revocation. A patient may revoke the directive at any time and in any manner communicating intent to revoke while capable of informed decision-making.

(7) Immunity. A health-care provider acting in good faith reliance on an advanced pregnancy directive is not subject to civil or criminal liability or professional discipline.

(8) No obligation absent directive. Nothing in this section requires a provider to initiate or continue somatic support in the absence of a valid advanced pregnancy directive.

SECTION 2. Act subject to petition – effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election next occurring after the expiration of the ninety-day period.

