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The following Act was passed by Parliament on 2nd May 1996 and assented to by the President on 17th May 1996:—

ADVANCE MEDICAL DIRECTIVE ACT 1996

(No. 16 of 1996)

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REPUBLIC OF SINGAPORE

No. 16 of 1996.

I assent.



ONG TENG CHEONG,
President
17th May 1996.

An Act to provide for, and give legal effect to, advance directives to medical practitioners against artificial prolongation of the dying process and for matters connected therewith.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1.—(1) This Act may be cited as the Advance Medical Directive Act 1996 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) This Act shall not apply to any act done or any directive or instrument made or executed before the commencement of this Act.

Interpretation

2. In this Act, unless the context otherwise requires —

“directive” means an advance medical directive made under section 3;

“Director” means the Director of Medical Services;

“extraordinary life-sustaining treatment” means any medical procedure or measure which, when administered to a terminally ill patient, will only prolong the process of dying when death is imminent, but excludes palliative care;

“medical practitioner” means a person who is registered, or deemed to be registered, as a medical practitioner under the Medical Registration Act (Cap. 174);

“palliative care” includes —

(a) the provision of reasonable medical procedures for the relief of pain, suffering or discomfort; and

(b) the reasonable provision of food and water;

“patient” means any person (whether or not he is undergoing any medical treatment, care or therapy) of sound mind who has attained the age of 21 years and who has made or desires to make a directive in accordance with this Act;

“recovery”, in relation to a terminal illness, includes a remission of symptoms or effects of the illness;

“register” means the register of advance medical directives established under section 6;

“Registrar” means the Registrar of Advance Medical Directives appointed under section 6 and shall include a Deputy Registrar and an Assistant Registrar;

“specialist” means a medical practitioner who possesses such postgraduate medical qualifications as the Director may recognise for the purposes of this Act;

“terminal illness” means an incurable condition caused by injury or disease from which there is no reasonable prospect of a temporary or permanent recovery where —

- (a) death would within reasonable medical judgment be imminent regardless of the application of extraordinary life-sustaining treatment; and
- (b) the application of extraordinary life-sustaining treatment would only serve to postpone the moment of death of the patient.

Power to make advance medical directive

3.—(1) A person of sound mind who has attained the age of 21 years and who desires not to be subjected to extraordinary life-sustaining treatment in the event of his suffering from a terminal illness, may at any time make an advance medical directive in the prescribed form.

(2) Subject to subsection (3), the directive must be witnessed by 2 witnesses present at the same time one of whom shall be the patient’s family medical practitioner or any other practitioner of his choice; and the other shall be a person who has attained the age of 21 years.

(3) A witness shall be a person who to the best of his knowledge —

- (a) is not a beneficiary under the patient’s will or any policy of insurance;
- (b) has no interest under any instrument under which the patient is the donor, settlor or grantor;
- (c) would not be entitled to an interest in the estate of the patient on the patient’s death intestate;

- (d) would not be entitled to an interest in the moneys of the patient held in the Central Provident Fund or other provident fund on the death of that patient; and
- (e) has not registered an objection under section 10(1).

Duty of witness

4. Before witnessing the execution of the directive on the prescribed form, a witness who is a medical practitioner shall take reasonable steps in the circumstances to ensure that the patient —

- (a) is of sound mind ;
- (b) has attained the age of 21 years;
- (c) has made the directive voluntarily and without inducement or compulsion; and
- (d) has been informed of the nature and consequences of making the directive.

Registration of directives

5.—(1) Any person who has made a directive in accordance with section 3 shall register his directive with the Registrar.

(2) Upon receipt of the directive registered under subsection (1), the Registrar shall issue to the person who made the directive an acknowledgement in the prescribed form.

(3) No person shall act on a directive if it has not been registered in accordance with this section.

Registry of directives and objections

6.—(1) The Director shall cause a register of advance medical directives to be established and maintained for the purposes of this Act and which shall comprise —

- (a) all directives registered under section 5;
- (b) all revocations of directives registered under section 7;
- (c) all objections of medical practitioners registered under section 10(1).

(2) The Minister shall appoint a Registrar, a Deputy Registrar and an Assistant Registrar of Advance Medical Directives and such other officers and employees as he may consider necessary for the purposes of this Act.

(3) The register shall be kept confidential and shall not be disclosed to any person except to the following:

- (a) the person who made the directive or such other person as he may in writing authorise;
- (b) the Registrar and other persons appointed to maintain and administer the register;
- (c) the medical practitioner responsible for the treatment of the person who made the directive only if a certificate in respect of that person has been forwarded to the Registrar in accordance with section 9(1).

(4) Any person who wilfully destroys, mutilates or makes any unauthorised alteration or manipulation in the register shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

Revocation of directive

7.—(1) Any patient who has made a directive may in the presence of at least one witness revoke the directive —

- (a) in writing ;
- (b) orally; or
- (c) in any other way in which the patient can communicate.

(2) As far as may be practicable, the revocation shall be registered with the Registrar.

(3) Where a revocation is made in accordance with subsection (1), the patient (if practicable) and each witness shall notify the Registrar in writing of the revocation with full particulars of the name, address and telephone number of the patient and of the witness and the time, date and place where the revocation was made.

(4) It shall be the duty of any other person who has witnessed a revocation, whether made in writing, orally or in any other way in which the patient can communicate, to inform the Registrar of that fact.

(5) Upon receipt of the notice of revocation (if there is more than one notice, the first notice), the Registrar shall issue to that person an acknowledgement in the prescribed form and shall mark the directive as a revoked directive in the register.

Panel of specialists

8.—(1) The Minister shall appoint a panel of not less than 20 specialist who have each not less than 10 years' experience in medical practice.

(2) The Minister shall, in appointing the members of the panel, have regard to the need to appoint specialists who possess the requisite skills, knowledge and qualifications in diagnosing terminal illness.

(3) Every member of the panel shall, except where his appointment is revoked by the Minister under subsection (4) or he resigns during the period of his appointment, be appointed for a period of 3 years or for such shorter period as the Minister may, in any case, determine and shall be eligible for reappointment.

(4) The Minister may at any time revoke the appointment of a member of the panel on the ground of his unfitness to continue in office or incapacity to perform the duties thereof.

Certification of terminal illness

9.—(1) Where a medical practitioner, who is responsible for the treatment of any person, has reason to believe that that person —

- (a) is suffering from a terminal illness;
- (b) requires extraordinary life-sustaining treatment; and
- (c) is unconscious or incapable of exercising rational judgment,

the medical practitioner shall —

- (i) determine and certify in the prescribed form that that person is suffering from a terminal illness and the reasons for the determination; and
- (ii) forward the certificate to the Registrar with a request that a search of the register be conducted in order to ascertain whether that person has made a directive which is in force.

(2) Upon receipt of a request made under subsection (1), the Registrar shall cause a search of the register to be conducted in order to ascertain whether that person has made a directive which is in force and shall thereafter inform the medical practitioner accordingly.

(3) Where the Registrar informs the medical practitioner responsible for the treatment of the person who has been certified to be terminally ill that the patient has made a directive which is in force, that medical practitioner shall obtain the opinion in the prescribed form of 2 other medical practitioners as to whether they agree with the determination that the patient is terminally ill.

(4) Where the medical practitioner responsible for the treatment of the patient —

- (a) is not a specialist, the 2 other medical practitioners referred to in subsection (3) shall both be specialists;
- (b) is a specialist, at least one of the 2 other medical practitioners referred to in subsection (3) shall be a specialist.

(5) Where the opinions of the 2 medical practitioners referred to in subsection (3) are not unanimously in agreement that the patient is terminally ill, the issue shall be referred for determination to a committee of 3 specialists (referred to in this section as the committee) appointed by the Director from among the panel of specialists referred to in section 8.

(6) A patient shall, on reference to the committee, be determined to be terminally ill only on the unanimous decision of the committee.

(7) If the committee is unable to reach a unanimous decision, the patient shall be presumed not to be terminally ill.

(8) The committee's determination shall be recorded in the prescribed form and sent to the medical practitioner responsible for the treatment of the patient.

(9) No medical practitioner shall certify or participate in the determination or certification that the patient is terminally ill if the medical practitioner —

- (a) is a beneficiary under the patient's will or any policy of insurance;
- (b) has an interest under any instrument under which the patient is the donor, settlor or grantor;
- (c) would be entitled to an interest in the moneys of the patient held in the Central Provident Fund or other provident fund on the death of that patient; or
- (d) has registered an objection under section 10(1).

Duty of medical practitioner

10.—(1) A medical practitioner or any person who acts under the instructions of a medical practitioner, who for any reason objects to acting on a directive shall register his objection in the prescribed form to this effect and register it with the Registrar and such objection may be revoked by notifying the Registrar in the prescribed form.

(2) Where a person who has made a directive in accordance with section 3 has been determined in accordance with section 9 to be suffering from a terminal illness, it shall be the duty of that medical practitioner responsible for his treatment (unless he has registered his objection under subsection (1)) to act in accordance with the directive unless there is reasonable ground to believe —

- (a) that a notice of revocation under section 7 has been received by the registry or such revocation has been sent to the registry;
- (b) that the person has, whether in writing, orally or in any other way, communicated to any medical practitioner his intention to revoke the directive; or

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- (c) that the person was not, at the time of making the directive, capable of understanding the nature and consequences of the directive.
- (3) Before a medical practitioner acts in accordance with a directive, he shall —
- (a) ascertain from the Registrar that the directive has been registered under section 5 and is in force;
 - (b) ensure that the patient has been certified to be terminally ill in accordance with section 9; and
 - (c) as far as may be practicable determine and certify in writing whether the patient is pregnant with a foetus which will probably develop to the point of live birth.
- (4) No medical practitioner shall act in accordance with a directive if the medical practitioner —
- (a) is a beneficiary under the patient's will or any policy of insurance;
 - (b) has an interest under any instrument under which the patient is the donor, settlor or grantor; or
 - (c) would be entitled to an interest in the moneys of the patient held in the Central Provident Fund or other provident fund on the death of that patient.
- (5) Where a medical practitioner has registered his objection under subsection (1) or is disqualified under subsection (4), he shall, in the circumstances referred to in subsection (2), take all reasonable steps as soon as practicable for the care of the patient to be transferred to another medical practitioner who has not registered such an objection.
- (6) Extraordinary life-sustaining treatment shall not be withheld or withdrawn pursuant to this section from a patient known to the medical practitioner to be pregnant so long as it is probable that the foetus will develop to the point of live birth with continued application of extraordinary life-sustaining treatment.

Advance directive not to affect palliative care

11. This Act shall not apply to palliative care and does not affect any right, power or duty which a medical practitioner or any other person has in relation to palliative care.

Patient's rights to make informed decisions on his treatment not affected

12.—(1) Section 3 or 10 shall not derogate from any duty of a medical practitioner to inform a patient who is conscious and capable of exercising a rational judgment of all the various forms of treatment that may be available in his particular case so that the patient may make an informed judgment as to whether a particular form of treatment should, or should not, be undertaken.

(2) This Act shall not affect the right of a patient to make decisions in relation to the use of extraordinary life-sustaining treatment, so long as he is able to do so.

Act not to affect other rights

13.—(1) This Act shall not affect the right of any person to refuse medical or surgical treatment.

(2) This Act (other than section 20) shall not affect the legal consequences (if any) of —

- (a) taking, or refraining from taking, therapeutic or palliative measures (not being extraordinary life-sustaining treatment) in the case of a patient who is suffering from a terminal illness (whether or not he has made a directive); or
- (b) taking, or refraining from taking, extraordinary life-sustaining treatment in the case of a patient who has not made a directive or has revoked a directive made by him.

Penalty for obtaining directive by fraud, forging directive or concealing revocation

14.—(1) Any person who —

- (a) by any deception, fraud, mis-statement, unconscionable conduct or undue influence, procures or obtains, directly or indirectly, the execution by another person of a directive;
- (b) falsifies or forges the directive of another person; or
- (c) wilfully conceals or withholds personal knowledge of a revocation of a directive,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) Any person who —

- (a) is a beneficiary under the will or any policy of insurance of another person;
- (b) has an interest under any instrument under which another person is the donor, settlor or grantor;
- (c) would be entitled to an interest in the estate of another person on the death intestate of that person; or
- (d) would be entitled to an interest in the moneys of another person held in the Central Provident Fund or other provident fund on the death of that person,

and who is guilty of an offence under subsection (1) (whether or not he has been convicted of such an offence) shall forfeit any interest under the will, policy, instrument, intestacy or memorandum executed under the Central Provident Fund Act (Cap. 36), as the case may be.

(3) Where a person is charged for an offence under subsection (1), no person shall act on a directive unless it is ascertained that the directive has been validly and voluntarily made in accordance with the provisions of this Act.

(4) Where a person is convicted of an offence under subsection (1), the directive shall be deemed to be revoked and shall have no effect.

Offence to enquire whether directive made

15.—(1) Except in the circumstances specified in subsection (2), no person who has or who will be likely to have the medical care of any patient (whether or not he has made or intends to make a directive) shall ask or otherwise enquire of the patient as to whether or not the patient has made or intends to make a directive.

(2) Nothing in subsection (1) shall affect the duty or right of a medical practitioner responsible for the care of a patient to discuss and explore with his patient the concept of directives and the objects and provisions of this Act and the regulations made thereunder where such discussions are —

- (a) consistent with good medical practice;
- (b) held in the context of the relationship between a medical practitioner and his patient; and
- (c) in furtherance of the purposes of public education.

(3) Except where a patient has been determined in accordance with section 9 to be suffering from a terminal illness, all information relating to the patient's making of a directive, or of the patient's intention to make a directive communicated by the patient to the medical practitioner or other medical worker having the care of the patient shall be kept confidential by the medical practitioner or other medical worker.

(4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both.

Offence to require directive as condition for insurance or medical care

16.—(1) Any person who requires or prohibits the making of a directive as a condition for being insured for, or receiving medical or health care services shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both.

(2) Any condition of a policy of insurance referred to in subsection (1) shall be void to the extent that it requires or prohibits the making of a directive.

Act permits only natural death and not euthanasia or abetment of suicide

17.—(1) Nothing in this Act shall authorise an act that causes or accelerates death as distinct from an act that permits the dying process to take its natural course.

(2) For the avoidance of doubt, it is hereby declared that nothing in this Act shall condone, authorise or approve abetment of suicide, mercy killing or euthanasia.

Act not to affect insurance policies

18.—(1) The making of a directive shall not affect the sale, procurement or issuance of a policy of insurance or any of the terms thereof.

(2) Except in the circumstances as provided in section 14(2), a policy of insurance shall not be avoided, invalidated or otherwise affected by the withholding or withdrawal of extraordinary life-sustaining treatment from an insured person in accordance with this Act.

Protection of medical practitioners and other persons acting in good faith and without negligence

19.—(1) A medical practitioner shall not be subject to civil or criminal liability or discipline for professional misconduct or a decision made by him in good faith and without negligence as to whether —

- (a) a patient is, or is not, suffering from a terminal illness;
- (b) a patient has revoked, or intended to revoke, a directive;
- (c) a patient was, or was not, at the time of making a directive, capable of understanding the nature and consequences of the directive; or
- (d) a directive was valid.

(2) A person acting under the instructions of a medical practitioner shall not be subject to civil or criminal liability or discipline for professional misconduct for giving effect to a directive in the absence of knowledge of revocation or intended revocation of the directive.

Certain aspects of causation of death

20.—(1) For the purposes of the laws of Singapore, the non-application of extraordinary life-sustaining treatment to, or the withdrawal of extraordinary life-sustaining treatment from, a person suffering from a terminal illness shall not constitute a cause of death where the non-application or withdrawal was as a result of and in compliance with a directive validly made in accordance with this Act by the person.

(2) This section shall not relieve a medical practitioner from the consequences of a negligent decision to whether or not a patient is suffering from a terminal illness.

Composition of offences

21.—(1) The Director or any person authorised by him may, in his discretion, compound any offence under this Act or any regulations made thereunder which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed the offence a sum not exceeding \$1,000.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of such offence.

(3) The Minister may make regulations to prescribe the offences which may be compounded.

Regulations

22. The Minister may make regulations to prescribe anything which is required to be prescribed by this Act and generally to give effect to the provisions of this Act.
