HOUSE BILL NO. 968

INTRODUCED BY BROOKE

IN THE HOUSE

FEBRUARY	21,	1991	INTRODUCED	AND	REFERRED	то	COMMITTEE
			ON JUDICIAN	RY.			

FEBRUARY 22, 1991 FIRST READING.

FEBRUARY 23, 1991 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 25, 1991 PRINTING REPORT.

ON MOTION, TAKEN FROM SECOND READING AND REREFERRED TO THE COMMITTEE ON APPROPRIATIONS.

MARCH 25, 1991 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 26, 1991 PRINTING REPORT.

MARCH 28, 1991 SECOND READING, DO PASS AS AMENDED.

ENGROSSING REPORT.

ON MOTION, RULES SUSPENDED. BILL PLACED ON THIRD READING THIS DAY.

THIRD READING, PASSED. AYES, 77; NOES, 21.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 28, 1991 INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY.

FIRST READING.

APRIL 9, 1991 COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

APRIL 11, 1991 SECOND READING, CONCURRED IN.

APRIL 12, 1991 THIRD READING, CONCURRED IN. AYES, 32; NOES, 17. RETURNED TO HOUSE.

IN THE HOUSE

APRIL 13, 1991

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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INTRODUCED BY BRANKE BILL NO. 768 1 2 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE 5 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT A 6 STANDARD MEANS OF IDENTIFICATION FOR PERSONS FOR WHOM A MEDICAL ORDER NOT TO PERFORM CARDIOPULMONARY RESUSCITATION 7 8 ORDER TO PREVENT THE APPLICATION EXISTS IN OF LIFE-SUSTAINING PROCEDURES; PROVIDING FOR CIVIL AND CRIMINAL 9 10 IMMUNITY FOR HEALTH CARE PROFESSIONALS WITHHOLDING LIFE-SUSTAINING PROCEDURES PURSUANT TO A DO NOT RESUSCITATE 11 12 ORDER OR TO PERSONS POSSESSING THE IDENTIFICATION; REQUIRING THE TRANSFER TO ANOTHER CAREGIVER UNDER CERTAIN 13 14 CIRCUMSTANCES OF PATIENTS POSSESSING THE STANDARD IDENTIFICATION; REQUIRING EMERGENCY MEDICAL PERSONNEL OTHER 15 16 THAN PHYSICIANS TO COMPLY WITH DO NOT RESUSCITATE ORDERS; 17 PROVIDING FOR THE EFFECT ON INSURANCE POLICIES; REQUIRING 18 THE DEPARTMENT TO ADOPT RULES; PROVIDING PENALTIES; AND 19 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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STATEMENT OF INTENT

A statement of intent is required for this bill because [section 5] grants the department of health and environmental sciences authority to adopt rules implementing the bill. It is intended that the rules adopt by reference

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1 the board of medical examiners' do not resuscitate protocol address, among other things, a standard form of 2 and statewide do not resuscitate identification, a form for a do 3 not resuscitate order, training for emergency medical 4 services personnel to inform them of the provisions of the 5 6 bill and its implementing rules, and standards that 7 emergency medical personnel shall follow when presented with 8 do not resuscitate identification. It is also the intent of 9 the legislature that the do not resuscitate identification 10 adopted pursuant to this bill may be identical to that 11 adopted pursuant to Title 50, chapter 9, and that the rules 12 adopted pursuant to this bill may be correlated and 13 intermingled with the rules adopted pursuant to 50-9-110. 14 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 16 NEW SECTION. Section 1. Definitions. As used in 17 [sections 1 through 6], unless the context clearly requires 18 otherwise, the following definitions apply: 19 (1) "Attending physician" has the meaning provided in 50-9-102. 20 (2) "Board" means the state board of medical examiners. 21 22 (3) "Department" means the department of health and 23 environmental sciences. 24 (4) "DNR identification" means а standardized 25 identification card, form, necklace, or bracelet of uniform

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size and design, approved by the department, that signifies
that the possessor has executed a declaration, as provided
in 50-9-103, that has not been revoked or that the
possessor's attending physician has issued a do not
resuscitate order for the possessor and has documented the
grounds for the order in the possessor's medical file.

7 (5) "Do not resuscitate order" means a directive from a
8 licensed physician that emergency life-sustaining procedures
9 should not be administered to a particular person.

10 (6) "Do not resuscitate protocol" means a standardized 11 method of procedure, approved by the board and adopted in 12 the rules of the department, for the withholding of 13 emergency life-sustaining procedures by physicians and 14 emergency medical services personnel.

15 (7) "Emergency medical services personnel" has the 16 meaning provided in 50-9-102.

17 (8) "Health care facility" has the meaning provided in18 50-5-101.

(9) "Life-sustaining procedure" means cardiopulmonary
 resuscitation or a component of cardiopulmonary
 resuscitation.

(10) "Physician" means a person licensed under Title 37,chapter 3, to practice medicine in this state.

24 (11) "Terminal condition" has the meaning provided in 25 50-9-102.

are not subject to civil or criminal liability and are not 2 3 guilty of unprofessional conduct upon discovery of DNR 4 identification upon a person in a terminal condition: 5 (a) a physician who causes the withholding or 6 withdrawal of life-sustaining procedure from that person; 7 (b) a person who participates in the withholding or 8 withdrawal of life-sustaining procedures under the direction 9 or with the authorization of a physician; 10 (c) emergency medical services personnel who cause or 11 participate in the withholding or withdrawal of 12 life-sustaining procedures from that person; 13 (d) a health care facility in which withholding or 14 withdrawal of life-sustaining procedures from that person 15 occurs: 16 (e) physicians, persons under the direction or 17 authorization of a physician, emergency medical services 18 personnel, or health care facilities listed in subsections (1)(a) through (1)(d) that provide life-sustaining 19 20 procedures pursuant to an oral or written request 21 communicated to them by a person with a terminal condition

NEW SECTION. Section 2. Immunities. (1) The following

22 who possesses DNR identification.

(2) The provisions of subsections (1)(a) through (1)(d)
apply when a life-sustaining procedure is withheld or
withdrawn in accordance with the do not resuscitate

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1 protocol.

2 (3) Emergency medical services personnel who follow a 3 do not resuscitate order are not subject to civil or 4 criminal liability and are not guilty of unprofessional 5 conduct.

NEW SECTION. Section 3. Adherance 6 to do not resuscitate protocol -- transfer of patients. (1) Emergency 7 medical services personnel other than physicians shall 8 comply with the do not resuscitate protocol when presented 9 10 with either do not resuscitate identification, an oral do not resuscitate order issued directly by a physician, or a 11 written do not resuscitate order entered on a form 12 13 prescribed by the department.

14 (2) An attending physician or a health care facility
15 unwilling or unable to comply with the do not resuscitate
16 protocol shall take all reasonable steps to transfer a
17 person with a terminal condition possessing DNR
18 identification to another physician or to a health care
19 facility in which the do not resuscitate protocol will be
20 followed.

21 <u>NEW SECTION.</u> Section 4. Effect on insurance --22 patient's decision. (1) Death resulting from the withholding 23 or withdrawal of emergency life-sustaining procedures 24 pursuant to the do, not resuscitate protocol and in 25 accordance with [sections 1 through 6] is not, for any purpose, a suicide or homicide.

(2) The possession of DNR identification pursuant to 2 [sections 1 through 6] does not affect in any manner the 3 sale, procurement, or issuance of any policy of life 4 insurance, nor does it modify the terms of an existing 5 policy of life insurance. A policy of life insurance is not 6 7 legally impaired or invalidated in any manner by the 8 withholding or withdrawal of emergency life-sustaining procedures from an insured person possessing DNR 9 10 identification, notwithstanding any term of the policy to the contrary. 11

12 (3) A physician, health care facility, or other health 13 care provider and a health care service plan, insurer 14 issuing disability insurance, self-insured employee welfare 15 benefit plan, or nonprofit hospital plan may not require a 16 person to possess DNR identification as a condition for 17 being insured for or receiving health care services.

18 (4) [Sections 1 through 6] do not create a presumption 19 concerning the intention of an individual who does not 20 possess DNR identification with respect to the use, 21 withholding, or withdrawal of emergency life-sustaining 22 procedures.

(5) [Sections 1 though 6] do not increase or decrease
the right of a patient to make decisions regarding the use
of emergency life-sustaining procedures if the patient is

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able to do so, nor do [sections 1 through 6] impair or
 supersede any right or responsibility that a person has to
 effect the withholding or withdrawal of medical care in any
 lawful manner. In that respect, the provisions of [sections
 1 through 6] are cumulative.

6 (6) [Sections 1 through 6] do not authorize or approve7 mercy killing.

8 <u>NEW SECTION.</u> Section 5. Rulemaking authority. (1) Upon 9 the adoption of a do not resuscitate protocol by the board, 10 the department may adopt a standard form of DNR 11 identification to be used statewide.

12 (2) The department shall adopt rules to administer the13 provisions of [sections 1 through 6].

NEW SECTION. Section 6. Penalties. (1) A physician who willfully fails to transfer a patient in accordance with [section 3] is guilty of a misdemeanor punishable by a fine not to exceed \$500 or imprisonment in the county jail for a term not to exceed 1 year, or both.

19 (2) A person who purposely conceals, cancels, defaces, 20 or obliterates the DNR identification of another without the 21 consent of the possessor or who falsifies or forges a 22 revocation of the DNR identification of another is guilty of 23 a misdemeanor punishable by a fine not to exceed \$500 or 24 imprisonment in the county jail for a term not to exceed 1 25 year, or both. 1 (3) A person who falsifies or forges the DNR 2 identification of another or purposely conceals or withholds 3 personal knowledge of a revocation of DNR identification 4 with the intent to cause the use, withholding, or withdrawal 5 of life-sustaining procedures is guilty of a misdemeanor 6 punishable by a fine not to exceed \$500 or imprisonment in 7 the county jail for a term not to exceed 1 year, or both.

8 <u>NEW SECTION.</u> Section 7. Effective date. [This act] is

9 effective on passage and approval.

-End-

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STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0968, second reading copy.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill authorizing the Department of Health and Environmental Sciences to adopt a standard means of identification for persons for whom a medical order not to perform cardiopulmonary resuscitation exists in order to prevent the application of lifesustaining procedures; providing for civil and criminal immunity for health care professionals withholding life-sustaining procedures pursuant to a "do not resuscitate" order or to persons possessing the identification; requiring the transfer to another caregiver under certain circumstances of patients possessing the standard identification; requiring emergency medical personnel other than physicians to comply with "do not resuscitate" orders; providing for the effect on insurance policies; and requiring the department to adopt rules and providing penalties.

ASSUMPTIONS:

1. The department will prepare and adopt rules and implement other provisions of the proposed bill within the \$1,000 appropriation provided.

FISCAL IMPACT:

No additional.

ROD. SUNDSTED, BUDGET DIRECTOR Office of Budget and Program Planning

VIVIAN M. BROOKE, PRIMARY SPONSOR

Fiscal Note for <u>HB0968</u>, second reading copy

DATE

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HB 0968/02 APPROVED BY COMMITTEE DN JUDICIARY

1 HOUSE BILL NO. 968 INTRODUCED BY BROOKE 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE 4 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT A 5 STANDARD MEANS OF IDENTIFICATION FOR PERSONS FOR WHOM A 6 MEDICAL ORDER NOT TO PERFORM CARDIOPULMONARY RESUSCITATION 7 ORDER TO PREVENT THE APPLICATION OF EXISTS IN 8 LIFE-SUSTAINING PROCEDURES: PROVIDING FOR CIVIL AND CRIMINAL 9 HEALTH CARE PROFESSIONALS WITHHOLDING 10 IMMUNITY FOR PROCEDURES PURSUANT TO A DO NOT RESUSCITATE 11 LIFE-SUSTAINING ORDER OR TO PERSONS POSSESSING THE IDENTIFICATION; 12 TRANSFER TO ANOTHER CAREGIVER UNDER CERTAIN 13 REQUIRING THE POSSESSING THE STANDARD CIRCUMSTANCES OF PATIENTS 14 IDENTIFICATION: REQUIRING EMERGENCY MEDICAL PERSONNEL OTHER 15 THAN PHYSICIANS TO COMPLY WITH DO NOT RESUSCITATE ORDERS; 16 17 PROVIDING FOR THE EFFECT ON INSURANCE POLICIES; REQUIRING RULES; PROVIDING PENALTIES: 18 THE DEPARTMENT TO ADOPT 19 PROVIDING FOR AN APPROPRIATION; AND PROVIDING AN IMMEDIATE 20 EFFECTIVE DATE."

21 22

STATEMENT OF INTENT

A statement of intent is required for this bill because
[section 5] grants the department of health and
environmental sciences authority to adopt rules implementing



1 the bill. It is intended that the rules adopt by reference 2 the board of medical examiners' do not resuscitate protocol 3 and address, among other things, a standard form of 4 statewide do not resuscitate identification, a form for a do 5 not resuscitate order, training for emergency medical 6 services personnel to inform them of the provisions of the 7 bill and its implementing rules, and standards that 8 emergency medical personnel shall follow when presented with 9 do not resuscitate identification. It is also the intent of 10 the legislature that the do not resuscitate identification 11 adopted pursuant to this bill may be identical to that 12 adopted pursuant to Title 50, chapter 9, and that the rules 13 adopted pursuant to this bill may be correlated and 14 intermingled with the rules adopted pursuant to 50-9-110. 15 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 6], unless the context clearly requires otherwise, the following definitions apply:

20 (1) "Attending physician" has the meaning provided in 21 50-9-102.

22 (2) "Board" means the state board of medical examiners.

23 (3) "Department" means the department of health and 24 environmental sciences.

25 (4) "DNR identification" means a standardized

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ciences. identification" means

1 identification card, form, necklace, <u>TATTOO</u>, or bracelet of 2 uniform size and design, approved by the department, that 3 signifies that the possessor has executed a declaration, as 4 provided in 50-9-103, that has not been revoked or that the 5 possessor's attending physician has issued a do not 6 resuscitate order for the possessor and has documented the 7 grounds for the order in the possessor's medical file.

8 (5) "Do not resuscitate order" means a directive from a
9 licensed physician that emergency life-sustaining procedures
10 should not be administered to a particular person.

11 (6) "Do not resuscitate protocol" means a standardized 12 method of procedure, approved by the board and adopted in 13 the rules of the department, for the withholding of 14 emergency life-sustaining procedures by physicians and 15 emergency medical services personnel.

16 (7) "Emergency medical services personnel" has the 17 meaning provided in 50-9-102.

18 (8) "Health care facility" has the meaning provided in 19 50-5-101.

20 (9) "Life-sustaining procedure" means cardiopulmonary 21 resuscitation or a component of cardiopulmonary 22 resuscitation.

(10) "Physician" means a person licensed under Title 37,chapter 3, to practice medicine in this state.

25 (11) "Terminal condition" has the meaning provided in

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1 50-9-102.

NEW SECTION. Section 2. Immunities. (1) The following
are not subject to civil or criminal liability and are not
guilty of unprofessional conduct upon discovery of DNR
identification upon a person in a terminal condition:

6 (a) a physician who causes the withholding or
7 withdrawal of life-sustaining procedure from that person;

8 (b) a person who participates in the withholding or
9 withdrawal of life-sustaining procedures under the direction
10 or with the authorization of a physician;

11 (c) emergency medical services personnel who cause or 12 participate in the withholding or withdrawal of 13 life-sustaining procedures from that person;

14 (d) a health care facility in which withholding or
15 withdrawal of life-sustaining procedures from that person
16 occurs;

17 (e) physicians, persons under the direction or 18 authorization of a physician, emergency medical services 19 personnel, or health care facilities listed in subsections 20 (l)(a) through (l)(d) that provide life-sustaining 21 procedures pursuant to an oral or written request 22 communicated to them by a person with a terminal condition 23 who possesses DNR identification.

24 (2) The provisions of subsections (1)(a) through (1)(d)25 apply when a life-sustaining procedure is withheld or

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1 withdrawn in accordance with the do not resuscitate
2 protocol.

3 (3) Emergency medical services personnel who follow a 4 do not resuscitate order are not subject to civil or 5 criminal liability and are not guilty of unprofessional 6 conduct.

NEW SECTION. Section 3. Adherence 7 to đo not 8 resuscitate protocol -- transfer of patients. (1) Emergency medical services personnel other than physicians shall 9 comply with the do not resuscitate protocol when presented 10 with either do not resuscitate identification, an oral do 11 12 not resuscitate order issued directly by a physician, or a 13 written do not resuscitate order entered on a form 14 prescribed by the department.

(2) An attending physician or a health care facility 15 16 unwilling or unable to comply with the do not resuscitate 17 protocol shall take all reasonable steps to transfer a 18 person with a terminal condition possessing DNR 19 identification to another physician or to a health care 20 facility in which the do not resuscitate protocol will be 21 followed.

22 <u>NEW SECTION.</u> Section 4. Effect on insurance --23 patient's decision. (1) Death resulting from the withholding 24 or withdrawal of emergency life-sustaining procedures 25 pursuant to the do not resuscitate protocol and in 1 accordance with [sections 1 through 6] is not, for any 2 purpose, a suicide or homicide.

(2) The possession of DNR identification pursuant to 3 Δ [sections 1 through 6] does not affect in any manner the 5 sale, procurement, or issuance of any policy of life insurance, nor does it modify the terms of an existing 6 policy of life insurance. A policy of life insurance is not 7 legally impaired or invalidated in any manner by the 8 withholding or withdrawal of emergency life-sustaining 9 procedures from an insured person possessing DNR 10 identification, notwithstanding any term of the policy to 11 the contrary. 12

13 (3) A physician, health care facility, or other health 14 care provider and a health care service plan, insurer 15 issuing disability insurance, self-insured employee welfare 16 benefit plan, or nonprofit hospital plan may not require a 17 person to possess DNR identification as a condition for 18 being insured for or receiving health care services.

(4) [Sections 1 through 6] do not create a presumption
concerning the intention of an individual who does not
possess DNR identification with respect to the use,
withholding, or withdrawal of emergency life-sustaining
procedures.

24 (5) [Sections 1 though 6] do not increase or decrease25 the right of a patient to make decisions regarding the use

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of emergency life-sustaining procedures if the patient is able to do so, nor do [sections 1 through 6] impair or supersede any right or responsibility that a person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect, the provisions of [sections 1 through 6] are cumulative.

7 (6) [Sections 1 through 6] do not authorize or approve 8 mercy killing.

<u>NEW SECTION.</u> Section 5. Rulemaking authority. (1) Upon
the adoption of a do not resuscitate protocol by the board,
the department may adopt a standard form of DNR
identification to be used statewide.

13 (2) The department shall adopt rules to administer the14 provisions of [sections 1 through 6].

NEW SECTION. Section 6. Penalties. (1) A physician who willfully fails to transfer a patient in accordance with (section 3) is guilty of a misdemeanor punishable by a fine not to exceed \$500 or imprisonment in the county jail for a term not to exceed 1 year, or both.

(2) A person who purposely conceals, cancels, defaces,
or obliterates the DNR identification of another without the
consent of the possessor or who falsifies or forges a
revocation of the DNR identification of another is guilty of
a misdemeanor punishable by a fine not to exceed \$500 or
imprisonment in the county jail for a term not to exceed 1

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1 year, or both.

2 (3) A person who falsifies or forges DNR the identification of another or purposely conceals or withholds 3 personal knowledge of a revocation of DNR identification 4 5 with the intent to cause the use, withholding, or withdrawal of life-sustaining procedures is guilty of a misdemeanor 6 7 punishable by a fine not to exceed \$500 or imprisonment in 8 the county jail for a term not to exceed 1 year, or both. NEW SECTION. SECTION 7. APPROPRIATION. 9 THERE IS 10 APPROPRIATED TO THE DEPARTMENT OF HEALTH THE SUM OF \$1,000 FOR THE 2 FISCAL YEARS BEGINNING JULY 1, 1991, TO BE USED TO 11 12 PUBLISH AND DISSEMINATE EDUCATIONAL MATERIALS RELATING TO 13 [THIS ACT] FOR PHYSICIANS, HEALTH CARE FACILITIES, EMERGENCY 14 MEDICAL SERVICES PERSONNEL, AND OTHERS. 15 NEW SECTION. Section 8. Effective date. [This act] is 16 effective on passage and approval.

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52nd Legislature

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RE-REFERRED AND APPROVED BY COMMITTEE ON APPROPRIATIONS

1 HOUSE BILL NO. 968 INTRODUCED BY BROOKE 2

"AN ACT AUTHORIZING THE 4 A BILL FOR AN ACT ENTITLED: DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT A 5 6 STANDARD MEANS OF IDENTIFICATION FOR PERSONS FOR WHOM A 7 MEDICAL ORDER NOT TO PERFORM CARDIOPULMONARY RESUSCITATION PREVENT THE APPLICATION 8 EXISTS IN ORDER TO OF LIFE-SUSTAINING PROCEDURES: PROVIDING FOR CIVIL AND CRIMINAL 9 CARE PROFESSIONALS 10 IMMUNITY FOR HEALTH WITHHOLDING PROCEDURES PURSUANT TO A DO NOT RESUSCITATE 11 LIFE-SUSTAINING 12 ORDER OR TO PERSONS POSSESSING THE IDENTIFICATION: TRANSFER TO ANOTHER CAREGIVER UNDER CERTAIN 13 REQUIRING THE 14 CIRCUMSTANCES OF PATIENTS POSSESSING THE STANDARD REQUIRING EMERGENCY MEDICAL PERSONNEL OTHER 15 IDENTIFICATION: 16 THAN PHYSICIANS TO COMPLY WITH DO NOT RESUSCITATE ORDERS; 17 PROVIDING FOR THE EFFECT ON INSURANCE POLICIES: REQUIRING 18 THE DEPARTMENT TO ADOPT RULES: PROVIDING PENALTIES; PROVIDING -- FOR -- AN-APPROPRIATION; AND PROVIDING AN IMMEDIATE 19 20 EFFECTIVE DATE."

21 22

STATEMENT OF INTENT

23 A statement of intent is required for this bill because [section 5] grants the department of health and 24 25 environmental sciences authority to adopt rules implementing



the bill. It is intended that the rules adopt by reference 1 2 the board of medical examiners' do not resuscitate protocol 3 address, among other things, a standard form of and statewide do not resuscitate identification, a form for a do 4 5 resuscitate order, training for emergency medical not services personnel to inform them of the provisions of the 6 7 bi11 and its implementing rules, and standards that 8 emergency medical personnel shall follow when presented with 9 do not resuscitate identification. It is also the intent of 10 the legislature that the do not resuscitate identification 11 adopted pursuant to this bill may be identical to that 12 adopted pursuant to Title 50, chapter 9, and that the rules 13 adopted pursuant to this bill may be correlated and 14 intermingled with the rules adopted pursuant to 50-9-110. 15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. Section 1. Definitions. As used in 18 [sections 1 through 6], unless the context clearly requires 19 otherwise, the following definitions apply:

20 (1) "Attending physician" has the meaning provided in 21 50-9-102.

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identification card, form, necklace, <u>TATTOO</u>, or bracelet of uniform size and design, approved by the department, that signifies that the possessor has executed a declaration, as provided in 50-9-103, that has not been revoked or that the possessor's attending physician has issued a do not resuscitate order for the possessor and has documented the grounds for the order in the possessor's medical file.

8 (5) "Do not resuscitate order" means a directive from a
9 licensed physician that emergency life-sustaining procedures
10 should not be administered to a particular person.

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(9) "Life-sustaining procedure" means cardiopulmonary
 resuscitation or a component of cardiopulmonary
 resuscitation.

(10) "Physician" means a person licensed under Title 37,
chapter 3, to practice medicine in this state.

25 (11) "Terminal condition" has the meaning provided in

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1 50-9-102.

NEW SECTION. Section 2. Immunities. (1) The following 2 are not subject to civil or criminal liability and are not 3 quilty of unprofessional conduct upon discovery of DNR 4 identification upon a person in a terminal condition: 5 (a) a physician who causes the withholding or 6 withdrawal of life-sustaining procedure from that person; 7 (b) a person who participates in the withholding or 8 withdrawal of life-sustaining procedures under the direction 9 or with the authorization of a physician; 10 (c) emergency medical services personnel who cause or 11 participate in the withholding or withdrawal of 12 life-sustaining procedures from that person; 13 (d) a health care facility in which withholding or 14 withdrawal of life-sustaining procedures from that person 15 16 occurs: direction or under the (e) physicians, persons 17 authorization of a physician, emergency medical services 18 or health care facilities listed in subsections personnel, 19 through (1)(d) that provide life-sustaining 20 (1)(a)procedures pursuant to an oral or written request 21 communicated to them by a person with a terminal condition 22 who possesses DNR identification. 23 (2) The provisions of subsections (1)(a) through (1)(d) 24 apply when a life-sustaining procedure is withheld or 25

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withdrawn in accordance with the do not resuscitate
 protocol.

3 (3) Emergency medical services personnel who follow a 4 do not resuscitate order are not subject to civil or 5 criminal liability and are not guilty of unprofessional 6 conduct.

NEW SECTION. Section 3. Adherence 7 to do not resuscitate protocol -- transfer of patients. (1) Emergency 8 medical services personnel other than physicians shall 9 comply with the do not resuscitate protocol when presented 10 11 with either do not resuscitate identification, an oral do not resuscitate order issued directly by a physician, or a 12 written do not resuscitate order entered on a form 13 prescribed by the department. 14

(2) An attending physician or a health care facility 15 unwilling or unable to comply with the do not resuscitate 16 17 protocol shall take all reasonable steps to transfer a with a terminal condition possessing DNR 18 person 19 identification to another physician or to a health care 20 facility in which the do not resuscitate protocol will be followed. 21

22 <u>NEW SECTION.</u> Section 4. Effect on insurance --23 patient's decision. (1) Death resulting from the withholding 24 or withdrawal of emergency life-sustaining procedures 25 pursuant to the do not resuscitate protocol and in accordance with [sections 1 through 6] is not, for any
 purpose, a suicide or homicide.

3 (2) The possession of DNR identification pursuant to 4 [sections 1 through 6] does not affect in any manner the 5 sale, procurement, or issuance of any policy of life 6 insurance, nor does it modify the terms of an existing 7 policy of life insurance. A policy of life insurance is not legally impaired or invalidated in any manner by the 8 9 withholding or withdrawal of emergency life-sustaining procedures from an insured person possessing DNR 10 identification, notwithstanding any term of the policy to 11 12 the contrary.

13 (3) A physician, health care facility, or other health
14 care provider and a health care service plan, insurer
15 issuing disability insurance, self-insured employee welfare
16 benefit plan, or nonprofit hospital plan may not require a
17 person to possess DNR identification as a condition for
18 being insured for or receiving health care services.

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concerning the intention of an individual who does not
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(5) [Sections 1 though 6] do not increase or decreasethe right of a patient to make decisions regarding the use

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of emergency life-sustaining procedures if the patient is able to do so, nor do [sections 1 through 6] impair or supersede any right or responsibility that a person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect, the provisions of [sections 1 through 6] are cumulative.

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9 <u>NEW SECTION.</u> Section 5. Rulemaking authority. (1) Upon 10 the adoption of a do not resuscitate protocol by the board, 11 the department may adopt a standard form of DNR 12 identification to be used statewide.

13 (2) The department shall adopt rules to administer the14 provisions of [sections 1 through 6].

NEW SECTION. Section 6. Penalties. (1) A physician who willfully fails to transfer a patient in accordance with (section 3) is guilty of a misdemeanor punishable by a fine not to exceed \$500 or imprisonment in the county jail for a term not to exceed 1 year, or both.

(2) A person who purposely conceals, cancels, defaces,
or obliterates the DNR identification of another without the
consent of the possessor or who falsifies or forges a
revocation of the DNR identification of another is guilty of
a misdemeanor punishable by a fine not to exceed \$500 or
imprisonment in the county jail for a term not to exceed 1

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1 year, or both.

DNR (3) A person who falsifies or forges the 2 identification of another or purposely conceals or withholds 3 personal knowledge of a revocation of DNR identification 4 with the intent to cause the use, withholding, or withdrawal 5 of life-sustaining procedures is guilty of a misdemeanor 6 punishable by a fine not to exceed \$500 or imprisonment in 7 the county jail for a term not to exceed 1 year, or both. 8 NEW-SECTION----SECTION-7.--APPROPRIATION-----THERD------IS 9 APPROPRIATED--TO--THE-DEPARTMENT-OF-HEALTH-THE-SUM-OF-\$17888 10 FOR-THE-2-FISCAL-YEARS-BEGINNING-JULY-17-19917-TO-BR-USED-TO 11 PUBLISH-AND-DISSEMINATE-EBUCATIONAL--MATERIALS--RELATING--TO 12 {THIS-ACT}-FOR-PHYSICIANS,-HEALTH-CARE-FACILITIES,-EMERGENCY 13 MEDICAL-SERVICES-PERSONNEL-AND-OTHERS-14 NEW SECTION. Section 7. Effective date. [This act] is 15 effective on passage and approval. 16

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1	HOUSE BILL NO. 968	
2	INTRODUCED BY BROOKE	1 the bill. It is intended that the rules adopt by reference
-	INTRODUCED BY BROOKE	2 the board of medical examiners' do not resuscitate protocol
4		3 and address, among other things, a standard form of
	A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE	4 statewide do not resuscitate identification, a form for a do
5	DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT A	5 not resuscitate order, training for emergency medical
6	STANDARD MEANS OF IDENTIFICATION FOR PERSONS FOR WHOM A	6 services personnel to inform them of the provisions of the
7	MEDICAL ORDER NOT TO PERFORM CARDIOPULMONARY RESUSCITATION	
8	EXISTS IN ORDER TO PREVENT THE APPLICATION OF	
9	LIFE-SUSTAINING PROCEDURES; PROVIDING FOR CIVIL AND CRIMINAL	8 emergency medical personnel shall follow when presented with
10	IMMUNITY FOR HEALTH CARE PROFESSIONALS WITHHOLDING	9 do not resuscitate identification. It is also the intent of
11	LIFE-SUSTAINING PROCEDURES PURSUANT TO A DO NOT RESUSCITATE	10 the legislature that the do not resuscitate identification
12	ORDER OR TO PERSONS POSSESSING THE IDENTIFICATION;	ll adopted pursuant to this bill may be identical to that
13	REQUIRING THE TRANSFER TO ANOTHER CAREGIVER UNDER CERTAIN	12 adopted pursuant to Title 50, chapter 9, and that the rules
14		13 adopted pursuant to this bill may be correlated and
		14 intermingled with the rules adopted pursuant to 50-9-110.
15	IDENTIFICATION; REQUIRING EMERGENCY MEDICAL PERSONNEL OTHER	15
16	THAN PHYSICIANS TO COMPLY WITH DO NOT RESUSCITATE ORDERS;	16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17	PROVIDING FOR THE EFFECT ON INSURANCE POLICIES; REQUIRING	17 NEW SECTION. Section 1. Definitions. As used in
18	THE DEPARTMENT TO ADOPT RULES; PROVIDING PENALTIES;	1/ MEM SECTION, SECTION , DETINICIONS. RS USED IN
19	PROVIDING FORAN-APPROPRIATION? AND PROVIDING AN IMMEDIATE	<pre>18 [sections 1 through 6], unless the context clearly requires</pre>
20	EFFECTIVE DATE."	19 otherwise, the following definitions apply:
2 1		20 (1) "Attending physician" has the meaning provided in
22	STATEMENT OF INTENT	21 50-9-102.
23	A statement of intent is required for this bill because	22 (2) "Board" means the state board of medical examiners.
24	[section 5] grants the department of health and	23 (3) "Department" means the department of health and
25		24 environmental sciences.
23	environmental sciences authority to adopt rules implementing	25 (4) "DNR identification" means a standardized
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1 identification card, form, necklace, PATTOO, or bracelet of 2 uniform size and design, approved by the department, that 3 signifies that the possessor has executed a declaration, as 4 provided in 50-9-103, that has not been revoked or that the 5 possessor's attending physician has issued a do not resuscitate order for the possessor and has documented the б 7 grounds for the order in the possessor's medical file.

8 (5) "Do not resuscitate order" means a directive from a 9 licensed physician that emergency life-sustaining procedures 10 should not be administered to a particular person.

11 (6) "Do not resuscitate protocol" means a standardized 12 method of procedure, approved by the board and adopted in the rules of the department, for the withholding 13 of emergency life-sustaining procedures by physicians and 14 emergency medical services personnel. 15

16 (7) "Emergency medical services personnel" has the 17 meaning provided in 50-9-102.

(8) "Health care facility" has the meaning provided in 18 50-5-101. 19

(9) "Life-sustaining procedure" means cardiopulmonary 20 cardiopulmonary 21 resuscitation or a component of 22 resuscitation.

(10) "Physician" means a person licensed under Title 37, 23 chapter 3, to practice medicine in this state. 24

(11)-"Terminal--condition"--has--the-meaning-provided-in 25

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NEW SECTION. Section 2. Immunities. (1) The following 2 are not subject to civil or criminal liability and are not 3 quilty of unprofessional conduct upon discovery of DNR 4 identification upon a person in-a-terminal-condition: 5

(a) a physician who causes the withholding or 6 withdrawal of life-sustaining procedure from that person; 7

(b) a person who participates in the withholding or 8 withdrawal of life-sustaining procedures under the direction 9 or with the authorization of a physician; 10

(c) emergency medical services personnel who cause or 11 participate in the withholding or withdrawal of 12 life-sustaining procedures from that person; 13

(d) a health care facility in which withholding or 14 withdrawal of life-sustaining procedures from that person 15 16 occurs:

(e) physicians, persons under the direction or 17 authorization of a physician, emergency medical services 18 personnel, or health care facilities tisted-in-subsections 19 fl)ta)---through---(1)(d) that provide life-sustaining 20 procedures pursuant to an oral or written request 21 communicated to them by a person with-a-terminal-condition 22 23 who possesses DNR identification.

(2) The provisions of subsections (1)(a) through (1)(d) 24 apply when a life-sustaining procedure is withheld or 25

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withdrawn in accordance with the do not resuscitate
 protocol.

3 (3) Emergency medical services personnel who follow a 4 do not resuscitate order <u>FROM A LICENSED PHYSICIAN</u> are not 5 subject to civil or criminal liability and are not guilty of 6 unprofessional conduct.

NEW SECTION. Section 3. Adherence 7 to do not resuscitate protocol -- transfer of patients. (1) Emergency 8 medical services personnel other than physicians shall 9 10 comply with the do not resuscitate protocol when presented with either do not resuscitate identification, an oral do 11 not resuscitate order issued directly by a physician, or a 12 written do not resuscitate order entered on a form 13 14 prescribed by the department.

15 (2) An attending physician or a health care facility 16 unwilling or unable to comply with the do not resuscitate 17 protocol shall take all reasonable steps to transfer a 18 person with---a---terminal---condition possessing DNR 19 identification to another physician or to a health care 20 facility in which the do not resuscitate protocol will be 21 followed.

22 <u>NEW SECTION.</u> Section 4. Effect on insurance --23 patient's decision. (1) Death resulting from the withholding 24 or withdrawal of emergency life-sustaining procedures 25 pursuant to the do not resuscitate protocol and in accordance with [sections 1 through 6] is not, for any

2 purpose, a suicide or homicide.

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(2) The possession of DNR identification pursuant to З [sections 1 through 6] does not affect in any manner the 4 sale, procurement, or issuance of any policy of life 5 insurance, nor does it modify the terms of an existing 6 policy of life insurance. A policy of life insurance is not 7 legally impaired or invalidated in any manner by the 8 withholding or withdrawal of emergency life-sustaining Q. procedures from an insured person possessing DNR 10 identification, notwithstanding any term of the policy to 11 the contrary. 12

(3) A physician, health care facility, or other health
care provider and a health care service plan, insurer
issuing disability insurance, self-insured employee welfare
benefit plan, or nonprofit hospital plan may not require a
person to possess DNR identification as a condition for
being insured for or receiving health care services.

19 (4) [Sections 1 through 6] do not create a presumption
20 concerning the intention of an individual who does not
21 possess DNR identification with respect to the use,
22 withholding, or withdrawal of emergency life-sustaining
23 procedures.

(5) [Sections 1 though 6] do not increase or decrease
the right of a patient to make decisions regarding the use

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of emergency life-sustaining procedures if the patient is able to do so, nor do [sections 1 through 6] impair or supersede any right or responsibility that a person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect, the provisions of [sections 1 through 6] are cumulative.

7 (6) {Sections 1 through 6} do not authorize or approve 8 mercy killing.

NEW SECTION. Section 5. Rulemaking authority. (1) Upon
the adoption of a do not resuscitate protocol by the board,
the department may adopt a standard form of DNR
identification to be used statewide.

13 (2) The department shall adopt rules to administer the14 provisions of [sections 1 through 6].

NEW SECTION. Section 6. Penalties. (1) A physician who willfully fails to transfer a patient in accordance with (section 3) is guilty of a misdemeanor punishable by a fine not to exceed \$500 or imprisonment in the county jail for a term not to exceed 1 year, or both.

(2) A person who purposely conceals, cancels, defaces,
or obliterates the DNR identification of another without the
consent of the possessor or who falsifies or forges a
revocation of the DNR identification of another is guilty of
a misdemeanor punishable by a fine not to exceed \$500 or
imprisonment in the county jail for a term not to exceed 1

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1 year, or both.

2	(3) A person who falsifies or forges the DNR
3	identification of another or purposely conceals or withholds
4	personal knowledge of a revocation of DNR identification
5	with the intent to cause the use, withholding, or withdrawal
6	of life-sustaining procedures is guilty of a misdemeanor
7	punishable by a fine not to exceed \$500 or imprisonment in
8	the county jail for a term not to exceed 1 year, or both.
9	NEW SECTION. SECTION 7. APPROPRIATION. THERE IS
10	арргоргіатер-тө-тне-рерагтмент-ор-нельтн -тне-sumор\$1 7000
11	POR-THE-2-PISCAL-YEARS-BEGINNING-JULY-17-19917-TO-BB-USED-TO
12	<u>PublishAndDisseminateEducational-Materials-Relating-to</u>
13	<u>{THIS-ACT}-POR-PHYSICIANS7-HEADTH-CARE-PACIDITIES7-EMERGENCY</u>
14	MEDICAL-SERVICES-PERSONNEL7-AND-OTHERST
15	NEW SECTION. Section 7. Effective date. [This act] is
16	effective on passage and approval.

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2 INTRODUCED BY BROOKE 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE 5 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT A 6 STANDARD MEANS OF IDENTIFICATION FOR PERSONS FOR WHOM A 7 MEDICAL ORDER NOT TO PERFORM CARDIOPULMONARY RESUSCITATION 8 EXISTS IN ORDER TO PREVENT THE APPLICATION OF 9 LIFE-SUSTAINING PROCEDURES; PROVIDING FOR CIVIL AND CRIMINAL 10 IMMUNITY FOR HEALTH CARE PROFESSIONALS WITHHOLDING 11 LIFE-SUSTAINING PROCEDURES PURSUANT TO A DO NOT RESUSCITATE 12 ORDER OR TO PERSONS POSSESSING THE IDENTIFICATION; 13 REQUIRING THE TRANSFER TO ANOTHER CAREGIVER UNDER CERTAIN 14 CIRCUMSTANCES OF PATIENTS POSSESSING THE STANDARD 15 IDENTIFICATION; REQUIRING EMERGENCY MEDICAL PERSONNEL OTHER 16 THAN PHYSICIANS TO COMPLY WITH DO NOT RESUSCITATE ORDERS; 17 PROVIDING FOR THE EFFECT ON INSURANCE POLICIES; REQUIRING 18 THE DEPARTMENT TO ADOPT RULES; PROVIDING PENALTIES; 19 PROVIBING--FOR--AN-APPROPRIATION; AND PROVIDING AN IMMEDIATE 20 EFFECTIVE DATE."

HOUSE BILL NO. 968

21 22

STATEMENT OF INTENT

A statement of intent is required for this bill because
(section 5) grants the department of health and
environmental sciences authority to adopt rules implementing

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1	the bill. It is intended that the rules adopt by reference
2	the board of medical examiners' do not resuscitate protocol
3	and address, among other things, a standard form of
4	statewide do not resuscitate identification, a form for a do
5	not resuscitate order, training for emergency medical
6	services personnel to inform them of the provisions of the
7	bill and its implementing rules, and standards that
8	emergency medical personnel shall follow when presented with
9	do not resuscitate identification. It is also the intent of
10	the legislature that the do not resuscitate identification
11	adopted pursuant to this bill may be identical to that
12	adopted pursuant to Title 50, chapter 9, and that the rules
13	adopted pursuant to this bill may be correlated and
14	intermingled with the rules adopted pursuant to 50-9-110.
15	
16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17	NEW SECTION. Section 1. Definitions. As used in
18	[sections 1 through 6], unless the context clearly requires
19	otherwise, the following definitions apply:
20	 "Attending physician" has the meaning provided in
21	50-9-102.
22	(2) "Board" means the state board of medical examiners.
23	(3) "Department" means the department of health and
24	environmental sciences.
25	(4) "DNR identification" means a standardized

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REFERENCE BILL

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1 identification card, form, necklace, TATTOOT or bracelet of 2 uniform size and design, approved by the department, that 3 signifies that the possessor has executed a declaration, as 4 provided in 50-9-103, that has not been revoked or that the 5 possessor's attending physician has issued a do not 6 resuscitate order for the possessor and has documented the 7 grounds for the order in the possessor's medical file.

8 (5) "Do not resuscitate order" means a directive from a
9 licensed physician that emergency life-sustaining procedures
10 should not be administered to a particular person.

11 (6) "Do not resuscitate protocol" means a standardized 12 method of procedure, approved by the board and adopted in 13 the rules of the department, for the withholding of 14 emergency life-sustaining procedures by physicians and 15 emergency medical services personnel.

16 (7) "Emergency medical services personnel" has the 17 meaning provided in 50-9-102.

18 (8) "Health care facility" has the meaning provided in 19 50-5-101.

(9) "Life-sustaining procedure" means cardiopulmonary
 resuscitation or a component of cardiopulmonary
 resuscitation.

(10) "Physician" means a person licensed under Title 37,
chapter 3, to practice medicine in this state.

25 (11)-"Terminal--condition"--has--the-meaning-provided-in

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guilty of unprofessional conduct upon discovery of DNR
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(a) a physician who causes the withholding or

6 (a) a physician who causes the withholding or
7 withdrawal of life-sustaining procedure from that person;

8 (b) a person who participates in the withholding or
9 withdrawal of life-sustaining procedures under the direction
10 or with the authorization of a physician;

11 (c) emergency medical services personnel who cause or 12 participate in the withholding or withdrawal of 13 life-sustaining procedures from that person;

14 (d) a health care facility in which withholding or
15 withdrawal of life-sustaining procedures from that person
16 occurs;

17 (e) physicians, persons under the direction or 18 authorization of a physician, emergency medical services 19 personnel, or health care facilities listed-in-subsections (1)(a)---through---(1)(d) that provide life-sustaining 20 21 procedures pursuant to an oral or written request 22 communicated to them by a person with-a-terminal-condition 23 who possesses DNR identification.

24 (2) The provisions of subsections (1)(a) through (1)(d)
25 apply when a life-sustaining procedure is withheld or

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3 (3) Emergency medical services personnel who follow a 4 do not resuscitate order FROM A LICENSED PHYSICIAN are not 5 subject to civil or criminal liability and are not guilty of 6 unprofessional conduct.

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22 <u>NEW SECTION.</u> Section 4. Effect on insurance -23 patient's decision. (1) Death resulting from the withholding
24 or withdrawal of emergency life-sustaining procedures
25 pursuant to the do not resuscitate protocol and in

accordance with [sections 1 through 6] is not, for any 1 purpose, a suicide or homicide. 2 (2) The possession of DNR identification pursuant to 3 [sections 1 through 6] does not affect in any manner the 4 sale, procurement, or issuance of any policy of life 5 insurance, nor does it modify the terms of an existing 6 policy of life insurance. A policy of life insurance is not 7 legally impaired or invalidated in any manner by the 8 withholding or withdrawal of emergency life-sustaining 9 procedures from an insured person possessing DNR 10 identification, notwithstanding any term of the policy to 11 the contrary. 12 (3) A physician, health care facility, or other health 13

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care provider and a health care service plan, insurer 14 issuing disability insurance, self-insured employee welfare 15 benefit plan, or nonprofit hospital plan may not require a 16 person to possess DNR identification as a condition for 17 being insured for or receiving health care services. 18 (4) [Sections 1 through 6] do not create a presumption 19 concerning the intention of an individual who does not 20 possess DNR identification with respect to the use, 21

22 withholding, or withdrawal of emergency life-sustaining 23 procedures.

(5) [Sections 1 though 6] do not increase or decrease
 the right of a patient to make decisions regarding the use

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of emergency life-sustaining procedures if the patient is able to do so, nor do [sections 1 through 6] impair or supersede any right or responsibility that a person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect, the provisions of [sections 1 through 6] are cumulative.

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1	year, or both.
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3	identification of another or purposely conceals or withholds
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10	APPROPRIATED-TO-THE-DEPARTMENT-OP-HEALTH-THE-SUMOP\$17000
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13	{THIS-ACT}-POR-PHYSICIANS7-HEALTH-CARB-PACILITIES7-EMERGENCY
14	MEDICAL-SERVICES-PERSONNEL7-AND-OTHERS-
15	NEW SECTION. Section 7. Effective date. [This act] is
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