

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2870. Construction of a Chapter, Characterization of Death Resulting from Decisions Made in Accordance with Chapter; Effect of Declaration on Life Insurance or Annuities; Deliberate Acts or Omissions to End Life.

(a) Death resulting from the withholding or withdrawal of a life-sustaining treatment in accordance with this chapter does not constitute, for any purpose, a suicide or homicide.

(b) The making of a declaration pursuant to 3 CMC § 2862 does not affect in any manner of the sale, procurement, or issuance of any policy of life insurance or annuity, nor does it affect, impair, or modify the terms of an existing policy of life insurance or annuity. A policy of life insurance or annuity is not legally impaired or invalidated by the withholding or withdrawal of life sustaining treatment from an insured, notwithstanding any term to the contrary.

(c) A person may not prohibit or require the execution of a declaration as a condition for being insured for, or receiving, health care services.

(d) This chapter creates no presumption concerning the intention of an individual who has revoked or has not executed a declaration with respect to the use, withholding, or withdrawal of life-sustaining treatment in the event of a terminal condition or permanent unconscious condition.

(e) This chapter does not affect the right of a patient to make decisions regarding use of life-sustaining treatment, so long as the patient is able to do so, or impair or supersede a right or responsibility that a person has to effect the withholding or withdrawal of medical treatment.

(f) This chapter does not require any physician or other health care provider to take any action contrary to reasonable medical standards.

(g) This chapter does not condone, authorize, or approve mercy killing or assisted suicide or permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

(h) The rights granted by this chapter are in addition to, and not in derogation of, rights under any statutory or case law.

(i) A person shall be considered dead if, in the opinion of a physician, based on ordinary standards of current medical practice, the person has experienced irreversible cessation of spontaneous respiratory and circulatory function. Death occurs when the irreversible cessation of said functions first occurs. A registered nurse may pronounce death if the patient's anticipated death has been certified pursuant to 3 CMC § 2876.

(j) In the event that artificial means of support preclude a determination that respiratory and circulatory functions have ceased, a person shall be considered dead if, in the opinion of the attending physician and one other physician, based on ordinary standards of medical practice, the person has experienced irreversible cessation of all function of the brain, including brain stem. The opinions of the physicians shall be evidenced by signed statements. Death will have occurred at the time when the irreversible cessation of all functions of the entire brain,

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including the brain stem, first occurred. Death shall be pronounced before artificial means of support are withdrawn and before any vital organ is removed for purposes of transplantation.

Source: PL 17-35 § 3(2810) (March 23, 2011), modified.

Commission Comment: The Commission changed references to agree with renumbered provisions and changed occurrences of “this Act” to “this chapter” pursuant to 1 CMC 3806(c) and (d), respectively. To correct manifest errors pursuant to 1 CMC 3806(g), the Commission changed the following: “effect of declaration of life” to “effect of declaration on life” in the title of this section; “permanent conscious condition” to “permanent unconscious condition” in subsection (d); and “persona” to “person” in subsection (j).