

NORTH CAROLINA GENERAL ASSEMBLY  
1981 SESSION

CHAPTER 848  
HOUSE BILL 1191

AN ACT REGARDING THE DECLARANT'S AND WITNESSES' CERTIFICATES TO A  
"LIVING WILL".

The General Assembly of North Carolina enacts:

**Section 1.** G.S. 90-321(c)(3) is rewritten to read:

"(3) Which has been signed by the declarant in the presence of two witnesses who believe the declarant to be of sound mind and who state that they (i) are not related within the third degree to the declarant or to the declarant's spouse, (ii) do not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon his death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it then provides, (iii) are not the attending physician, or an employee of the attending physician, or an employee of a health facility in which the declarant is a patient, or an employee of a nursing home or any group-care home in which the declarant resides, and (iv) do not have a claim against any portion of the estate of the declarant at the time of the declaration; and".

**Sec. 2.** G.S. 90-321(d) is amended by rewriting the form "Declaration Of A Desire For A Natural Death" to read:

" Declaration Of A Desire For A Natural Death

I, \_\_\_\_\_, being of sound mind, desire that my life not be prolonged by extraordinary means if my condition is determined to be terminal and incurable. I am aware and understand that this writing authorizes a physician to withhold or discontinue extraordinary means.

This the \_\_\_\_\_ day of \_\_\_\_\_

Signature \_\_\_\_\_

I hereby state that the declarant, \_\_\_\_\_, being of sound mind signed the above declaration in my presence and that I am not related to the declarant by blood or marriage and that I do not know or have a reasonable expectation that I would be entitled to any portion of the estate of the declarant under any existing will or codicil of the declarant or as an heir under the Intestate Succession Act if the declarant died on this date without a will. I also state that I am not the declarant's attending physician or an employee of the declarant's attending physician, or an employee of a health facility in which the declarant is a patient or an employee of a nursing home or any group-care home where the declarant resides. I further state that I do not now have any claim against the declarant.

Witness \_\_\_\_\_  
Witness \_\_\_\_\_, "

**Sec. 3.** G.S. 90-321(d) is further amended by rewriting the first "Certificate" to read:

" 'Certificate

I, \_\_\_\_\_, Clerk (Assistant Clerk) of Superior Court or Notary Public (circle one as appropriate) for \_\_\_\_\_ County hereby certify that \_\_\_\_\_, the declarant, appeared before me and swore to me and to the witnesses in my presence that this

instrument is his Declaration Of A Desire For A Natural Death, and that he had willingly and voluntarily made and executed it as his free act and deed for the purposes expressed in it.

I further certify that \_\_\_\_\_ and \_\_\_\_\_, witnesses, appeared before me and swore that they witnessed \_\_\_\_\_, declarant, sign the attached declaration, believing him to be of sound mind; and also swore that at the time they witnessed the declaration (i) they were not related within the third degree to the declarant or to the declarant's spouse, and (ii) they did not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon the declarant's death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it provides at that time, and (iii) they were not a physician attending the declarant or an employee of an attending physician or an employee of a health facility in which the declarant was a patient or an employee of a nursing home or any group-care home in which the declarant resided, and (iv) they did not have a claim against the declarant. I further certify that I am satisfied as to the genuineness and due execution of the declaration.

This the \_\_\_\_\_ day of \_\_\_\_\_

Clerk (Assistant Clerk) of Superior  
Court or Notary Public (circle one  
as appropriate) for the County of  
\_\_\_\_\_

**Sec. 4.** This act does not affect the validity of any "Declaration Of A Desire For A Natural Death" executed prior to the effective date of this act.

**Sec. 5.** G.S. 90-322 is amended as follows:

In the first sentence of subsection (a) by inserting after the word "state" the words "or is mentally incapacitated".

In subsection (a)(3) by inserting after the word "person" the words "could be restored by extraordinary means or a vital function of the person", and by inserting after the words "may be" and before the word "discontinued", the words "withheld or".

In subsection (b) in the third line by inserting, after the words "may be" and before the word "discontinued", the words "withheld or".

In subsection (d), in the first line, by inserting after the first word "the" and before the word "discontinuance", the words "withholding or".

**Sec. 6.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.