

109TH CONGRESS
1ST SESSION

H. RES. 217

Supporting the rights of individuals to make medical decisions as guaranteed by the Fourteenth Amendment of the Constitution and encouraging all Americans to set forth their wishes in living wills that designate health care surrogates and in other advance directives.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2005

Mr. WEXLER (for himself and Ms. GINNY BROWN-WAITE of Florida) submitted the following resolution; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Supporting the rights of individuals to make medical decisions as guaranteed by the Fourteenth Amendment of the Constitution and encouraging all Americans to set forth their wishes in living wills that designate health care surrogates and in other advance directives.

Whereas individuals have an inalienable right to make medical decisions regarding their treatment as included in their right to self-determination under the Fourteenth Amendment of the Constitution;

Whereas living wills and other advance directives are voluntary statements that allow individuals to specify the

types of medical treatment that they would request or refuse if an illness or an accident leaves them incapable of making decisions on these matters, including, as applicable, end-of-life medical decisions such as the time and under what conditions an agreement or power of attorney takes effect; the identification of a health care surrogate; the extent to which cross-consultation should occur; decisions about artificially administered nutrition or hydration; being kept alive on a respirator or being given cardiopulmonary resuscitation for cardiac arrest; and the circumstances when revocation may be possible;

Whereas it is advisable that a living will designate a health care surrogate, which is someone who is authorized to make decisions that are in accordance with the requests of an individual if an illness or an accident leaves that individual incapable of making decisions on these matters;

Whereas it is important for individuals in good health to discuss end-of-life medical treatment with their spouses, other family members, physicians, nurses, and clergy, and to communicate openly on these issues in an effort to ameliorate the many difficult decisions that must be made in cases where the patient is unable to communicate his or her wishes due to incapacitation;

Whereas the amendments made by section 4206 of Public Law 101–508, commonly referred to as the Patient Self-Determination Act of 1990, encourage individuals to specify their wishes in advance and requires health care agencies receiving Medicare and Medicaid reimbursement to recognize living wills and the power of attorney for health care as advance directives;

Whereas State and Federal court decisions have established the right of an incompetent or comatose patient to have his or her medical wishes respected, as long as those wishes are known;

Whereas section 1044c of title 10, United States Code, provides that, in the case of members of the Armed Forces and their dependents, an advance medical directive, including a living will, lawfully prepared by an attorney has full effect in all 50 States, the District of Columbia, the commonwealth of Puerto Rico, and the possessions and territories of the United States; and

Whereas living wills that designate health care surrogates and other advance directives establish clear and convincing evidence of what treatment is best in keeping with the wishes of an individual with respect to health care choices and personal and religious beliefs, when that individual can no longer communicate those wishes: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) reaffirms the rights of individuals to make
3 medical decisions as guaranteed under the Four-
4 teenth Amendment to the Constitution;

5 (2) recognizes the importance and benefits to
6 all Americans, regardless of age, of having living
7 wills that designate health care surrogates or of
8 using other advance directives to express their wish-
9 es and values regarding their medical care; and

10 (3) encourages all Americans to set forth their
11 health care wishes in living wills that designate

1 health care surrogates or in other advance directives
2 and to talk to their families and loved ones about
3 the types of medical treatment that the individuals
4 prefer whenever they are incapable of making in-
5 formed health care decisions.

