

## Living Wills in the Military

1. PURPOSE: To provide information on recent legislation on advance medical directives prepared by legal assistance attorneys.

2. FACTS:

a. On February 10, 1996, President Clinton signed the "National Defense Authorization Act for Fiscal Year 1996." Section 749 of the Act requires states to recognize advance medical directives that are prepared by attorneys who are authorized to provide legal assistance for individuals who are eligible to receive legal assistance to the same extent as an advance medical directive "prepared and executed in accordance with the laws of the state concerned." This section will be codified at 10 U.S.C § 1044c.

b. Advance medical directives are those written declarations that either provide for the "withdrawal or withholding of life-prolonging procedures," whenever the declarant has a terminal physical condition or is in a persistent vegetative state, or "authorize another person to make health care decisions" for the (now incompetent) individual who made the written declaration.

c. The law does not require states to enforce advance medical directives when that state does not otherwise recognize them.

d. The advance medical directive should contain the following statement in bold type (this will be included in an interim change to AR 27-3):

This is a **MILITARY ADVANCE MEDICAL DIRECTIVE** prepared pursuant to Title 10, United States Code, Section 1044c. It was prepared by an attorney who was authorized to provide legal assistance for an individual who was eligible to receive legal assistance. Federal law exempts this advance medical directive from any requirement of form, substance, formality, or recording that is provided for advance medical directives under the laws of a State. Federal law specifies that this advance medical directive shall be given the same legal effect as an advance medical directive prepared and executed in accordance with the laws of the State concerned.