

# HB26-1085: Advanced Pregnancy Directive

## Continuation of Somatic Support for Incapacitated Pregnant Patients

The original concept focused on a “Do Not Abort” form.

The amendment replaces that language entirely and instead:

- Changes the form title name to an **Advanced Pregnancy Directive**
- Allows the directive in Colorado’s advance directive statute (Title 15)
- Establishes clear medical standards for when it applies
- Medically defines viability and somatic support in statute
- Adds formal execution, witnessing, revocation, and immunity provisions and adds language protecting medical providers from liability if directive is not offered

The bill now provides a structured, legally recognized framework aligned with existing advance directive law.

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### **What HB26-1085 Does Now**

HB26-1085 allows a pregnant patient to voluntarily execute an **Advanced Pregnancy Directive** stating their informed decision and wishes to save their baby including to receive life-sustaining treatment (somatic support) if:

- They become incapacitated,
- They are not expected to regain decision-making capacity, and
- The fetus is determined to be viable.

When those conditions are met, providers must continue somatic support to maintain maternal organ function until:

- Delivery can occur with a reasonable probability of neonatal survival, or
- Treatment becomes medically ineffective or contraindicated.

The directive is completely voluntary and may be revoked at any time while the patient retains capacity.

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## **Key Components Added by the Amendment**

### Defined Medical Standards

The amendment defines:

- **Somatic support** (ventilation, artificial nutrition/hydration, circulatory support, medications, and other interventions necessary to maintain organ function)
- **Viable** (based on the reasonable medical judgment of the attending physician)
- **Incapacitated** (cross-referenced to existing Colorado law)

## **Formal Execution Requirements**

To be valid, the directive must:

- Be written, signed, and dated
- Be witnessed by two adults (not the provider and not beneficiaries of the patient's estate)
- Include acknowledgment of medical risks and potential permanent unconsciousness or neurologic death
- Clearly state that it may be revoked at any time while the patient retains capacity

## **Relationship to Other Advance Directives**

The Advanced Pregnancy Directive:

- Supplements - **but does not replace** - a medical durable power of attorney
- Governs specifically in cases involving continuation of treatment solely for fetal gestation if a conflict exists

## **Provider Protections**

The amendment adds:

- Civil, criminal, and professional immunity for providers acting in good faith
  - No liability for failing to offer the directive
  - No requirement to initiate somatic support without a valid directive
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