

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

HOUSE BILL 1686

5 By: Representative M. Gray  
6 By: Senator B. Davis  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS PHYSICIAN ORDER FOR  
10 LIFE-SUSTAINING TREATMENT ACT; AND FOR OTHER  
11 PURPOSES.  
12  
13

## Subtitle

14 TO AMEND THE ARKANSAS PHYSICIAN ORDER FOR  
15 LIFE-SUSTAINING TREATMENT ACT.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code §§ 20-6-303 and 20-6-304 are amended to read  
22 as follows:

23 20-6-303. Definitions.

24 As used in this subchapter:

25 (1) "Advance directive" means an individual instruction or a  
26 written statement that anticipates and directs the provision of health care  
27 for an individual, including without limitation a living will or a durable  
28 power of attorney for health care;

29 (2) "Advanced practice registered nurse" means a nurse who is  
30 licensed and certified by the Arkansas State Board of Nursing as an advanced  
31 practice registered nurse;

32 ~~(1)(A)~~(3)(A) "Healthcare facility" means an institution,  
33 building, agency, or a portion of an institution, building, or agency that is  
34 used, operated, or designed to provide healthcare services, medical  
35 treatment, nursing care, rehabilitative care, or preventative care to an  
36 individual, regardless of whether the institution, building, or agency is a



1 private organization, a public organization, a nonprofit organization, or a  
 2 for-profit organization.

3 (B) "Healthcare facility" includes without limitation:

- 4 (i) An ambulatory surgical facility;
- 5 (ii) A home health agency;
- 6 (iii) A hospice;
- 7 (iv) A hospital;
- 8 (v) An infirmary;
- 9 (vi) A long-term care facility;
- 10 (vii) An assisted living facility;
- 11 (viii) A mental health center;
- 12 (ix) An outpatient facility;
- 13 (x) A rehabilitation facility; and
- 14 (xi) A residential treatment facility;

15 ~~(2)~~(4) "Healthcare provider" means an individual who is  
 16 licensed, certified, or otherwise authorized or permitted by the laws of this  
 17 state to administer health care in the ordinary course of business or in the  
 18 practice of a profession, including without limitation:

- 19 (A) An emergency medical care provider; and
- 20 (B) An individual providing home and community-based

21 services;

22 ~~(3)~~(5) "Legal representative" means the same as a person  
 23 authorized to consent on the principal's behalf under § 20-6-102;

24 ~~(4)~~(6) "Patient" means an individual who has a life-threatening  
 25 critical medical condition or a terminal illness and for whom a ~~physician~~  
 26 supervising healthcare provider or physician extender has determined that a  
 27 physician order for life-sustaining treatment is consistent with the  
 28 individual's goals of care;

29 ~~(5)~~(7) "Physician" means an individual who is licensed to  
 30 practice medicine or osteopathic medicine in this state; ~~and~~

31 (8) "Physician assistant" means a person who is licensed and  
 32 registered by the Arkansas State Medical Board as a physician assistant;

33 (9) "Physician extender" means a physician assistant or advanced  
 34 practice registered nurse who is properly licensed in this state;

35 ~~(6)~~(10) "Physician order for life-sustaining treatment" means a  
 36 document containing orders by a ~~physician~~ supervising healthcare provider or

1 physician extender regarding life-sustaining treatment and medical  
 2 interventions in accordance with the wishes of a patient, or if the wishes of  
 3 the patient are not reasonably known and cannot with reasonable diligence be  
 4 ascertained, in accordance with the best interest of the patient;

5 (11) "Supervising healthcare provider" means a physician or  
 6 other authorized independent healthcare provider who has undertaken primary  
 7 responsibility for an individual's health care; and

8 (12) "Terminal illness" means an incurable and irreversible  
 9 condition that, without the administration of life-sustaining treatment,  
 10 will, in the opinion of the supervising healthcare provider or physician  
 11 extended, result in death within a relatively short time.

12  
 13 20-6-304. Physician order for life-sustaining treatment form.

14 (a) The State Board of Health shall prescribe a standardized physician  
 15 order for life-sustaining treatment form that:

16 (1) Is signed and dated by:

17 (A) The patient or the legal representative of the  
 18 patient; and

19 (B) The ~~physician~~ supervising healthcare provider or  
 20 physician extender of the patient;

21 (2) Includes:

22 (A) The name and date of birth of the patient; and

23 (B) The intentions of the patient regarding care,  
 24 including without limitation the administration of cardiopulmonary  
 25 resuscitation and the level of medical interventions in the event of a  
 26 medical emergency; and

27 (3) Is easily distinguishable to facilitate recognition by  
 28 healthcare providers and healthcare facilities.

29 (b) A legal representative may sign a physician order for life-  
 30 sustaining treatment form on behalf of a patient who lacks capacity to do so,  
 31 guided by:

32 (1) The express or implied intentions of the patient; or

33 (2) If the intentions of the patient are unknown and cannot be  
 34 reasonably determined, the best interest of the patient given the overall  
 35 medical condition and prognosis of the patient.

36 (c)(1) The physician order for life-sustaining treatment form shall be

1 completed by a ~~physician~~ supervising healthcare provider or physician  
 2 extender based upon current patient intentions and medical indications.

3 (2) During the process of completing the physician order for  
 4 life-sustaining treatment form, the ~~physician may~~ supervising healthcare  
 5 provider or physician extender should:

6 (A) Explain:

7 (i) The physician order for life-sustaining  
 8 treatment form; and

9 (ii) The medical interventions and procedures  
 10 offered by the life-sustaining treatment form; and

11 (B) Inform the patient or the legal representative of the  
 12 patient about the difference between an advance directive and the physician  
 13 order for life-sustaining treatment form.

14 (d) This subchapter does not authorize a ~~physician~~ supervising  
 15 healthcare provider or physician extender to unilaterally create a physician  
 16 order for life-sustaining treatment on behalf of an individual.

17 (e) A supervising healthcare provider or physician extender who is  
 18 acting in good faith and in accordance with generally accepted healthcare  
 19 standards applicable to the healthcare provider or healthcare institution is  
 20 not subject to civil or criminal liability or discipline for the creation of  
 21 a physician order for life-sustaining treatment.

22  
 23 SECTION 2. Arkansas Code § 20-6-307 is amended to read as follows:  
 24 20-6-307. Relationship with advance directives.

25 (a)~~(1)~~ ~~A physician order for life-sustaining treatment form is not~~  
 26 ~~intended to replace an advance directive.~~

27 ~~(2)~~ In executing a physician order for life-sustaining treatment  
 28 form, a patient, the legal representative of the patient when applicable, and  
 29 the ~~physician~~ supervising healthcare provider or physician extender shall  
 30 make a good-faith effort to locate and incorporate treatment preferences  
 31 documented in a previously executed advance directive, ~~when appropriate and~~  
 32 ~~desired by the patient~~ to the extent that it is in the best interests of the  
 33 patient.

34 (b) In the event of a conflict with a physician order for life-  
 35 sustaining treatment form and an advance directive, ~~either:~~

36 ~~(1)~~ ~~The~~ the document executed most recently by the patient shall

1 take precedence regarding the medical decision or treatment preference at  
2 issue; ~~or~~

3 ~~(2) If both the advance directive and the physician order for~~  
4 ~~life-sustaining treatment form were executed by the legal representative of~~  
5 ~~the patient, the advance directive shall take precedence regarding the~~  
6 ~~medical decision or treatment preference at issue.~~

7 (c) ~~This section does not prohibit or require the execution,~~  
8 ~~revocation, or modification of an advance directive~~ If a conflict exists  
9 between the most recently executed document and an advance directive, the  
10 most recent document shall take precedence regarding the medical decision or  
11 treatment preference at issue.