

2 State of Arkansas
3 90th General Assembly
4 Regular Session, 2015

A Bill

HOUSE BILL 1533

5
6 By: Representatives D. Ferguson, Broadway
7 By: Senator Irvin

8 Filed with: House Committee on Public Health, Welfare, and Labor
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10
11 AN ACT TO CREATE THE ARKANSAS PHYSICIAN ORDER FOR
12 LIFE-SUSTAINING TREATMENT ACT; TO PROVIDE FOR THE USE
13 OF A PHYSICIAN ORDER FOR LIFE-SUSTAINING TREATMENT
14 FORM; AND FOR OTHER PURPOSES.

Subtitle

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18 TO CREATE THE ARKANSAS PHYSICIAN ORDER
19 FOR LIFE-SUSTAINING TREATMENT ACT; AND TO
20 PROVIDE FOR THE USE OF A PHYSICIAN ORDER
21 FOR LIFE-SUSTAINING TREATMENT FORM.

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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code Title 20, Chapter 6, is amended to add an
27 additional subchapter to read as follows:

28 Subchapter 2 – Arkansas Physician Order for Life-Sustaining Treatment Act

29
30 20-6-201. Title.

31 This subchapter shall be known and may be cited as the “Arkansas
32 Physician Order for Life-Sustaining Treatment Act”.

33
34 20-6-202. Legislative findings.

35 The General Assembly finds that:

1 (1) The state has statutorily recognized the right of an adult
2 with decision-making capacity to plan ahead for healthcare decisions through
3 the execution of advance directives and other healthcare decision documents
4 and the designation of decision makers to ensure that the right to control
5 decisions about a person’s own health care is not lost if the patient loses
6 his or her decisions-making capacity and is no longer able to participate
7 actively in making healthcare decisions;

8 (2) The physician order for life-sustaining treatment form
9 complements an advance directive by converting a person’s wishes regarding
10 life-sustaining treatment into a medical order;

11 (3) The physician order for life-sustaining treatment form
12 contains signed, immediately actionable medical orders on a standardized
13 colored form that is recognized and honored across various healthcare
14 settings;

15 (4) Completing a physician order for life-sustaining treatment
16 form encourages communication and conversations between the patient and
17 healthcare professionals; and

18 (5) A physician order for life-sustaining treatment form can be
19 quickly understood by all healthcare professionals, including emergency care
20 providers.

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22 20-6-203. Definitions.

23 As used in this subchapter:

24 (1) “Advance directive” means the same as defined in § 20-6-102;

25 (2) "Authorized person" means a person who may consent or revoke
26 a healthcare decision on the patient’s behalf, including:

27 (A) A person authorized by law to consent on behalf of the
28 patient when the patient is incapable of making an informed decision; or

29 (B) In the case of a minor child, the parent or parents
30 having custody of the child, the child’s legal guardian, or another person as
31 otherwise provided by law;

32 (3) “Decision-making capacity” means a patient’s ability to
33 understand and appreciate the nature and consequences of a particular
34 healthcare decision, including the benefits and risks of the decision and
35 alternatives to any proposed healthcare decision, and to reach an informed
36 decision;

1 (4) "Emergency care" means the use of resuscitative measures and
2 other immediate treatment provided in response to a sudden, acute, and
3 unanticipated medical crisis in order to avoid injury, impairment, or death;

4 (5) "Emergency care provider" means an emergency medical
5 technician, paramedic, or member of a first aid, ambulance, or rescue squad;

6 (6) "Healthcare decision" means the same as defined in § 20-6-
7 102;

8 (7) "Healthcare institution" means the same as defined in § 20-
9 6-102;

10 (8) "Healthcare professional" means a person who is licensed,
11 certified, or otherwise authorized by the laws of this state to administer
12 health care in the ordinary course of the practice of his or her profession;

13 (9) "Life-sustaining treatment" means the use of any medical
14 device or procedure, artificially provided fluids and nutrition, drugs,
15 surgery, or therapy that uses mechanical or other artificial means to
16 sustain, restore, or supplant a vital bodily function and increase the
17 expected life span of a patient;

18 (10) "Physician order for life-sustaining treatment" means a
19 standardized printed document that:

20 (A) Is uniquely identifiable;

21 (B) Has a uniform color;

22 (C) Records the healthcare wishes of the patient; and

23 (D) Directs a healthcare professional regarding emergency
24 care and life-sustaining treatment; and

25 (11) "Resuscitative measures" means cardiopulmonary
26 resuscitation provided if a patient suffers a cardiac or respiratory arrest.

27
28 20-6-204. Physician order for life-sustaining treatment form.

29 The State Board of Health shall prescribe a standardized physician
30 order for life-sustaining treatment form that:

31 (1) Is uniquely identifiable;

32 (2) Has a uniform color;

33 (3) Indicates whether the patient has made an anatomical gift;

34 (4) Provides direction to healthcare professionals and emergency
35 care providers regarding the use of emergency care and life-sustaining
36 treatment by indicating the patient's preference;

1 (5) Is intended to be honored by all healthcare professionals
2 and emergency care providers who treat the patient across the full range of
3 possible healthcare settings, including without limitation the patient's
4 residence, a healthcare institution, or the scene of a medical emergency; and

5 (6) Includes other features and information as the board may
6 determine advisable.

7
8 20-6-205. Recommended usage for certain medical circumstances.

9 The physician shall complete the physician order for life-sustaining
10 treatment form based on the preferences and medical indications of the
11 patient if:

12 (1) The patient is diagnosed or has been diagnosed with a
13 terminal condition;

14 (2) The physician determines, for any reason, that the patient
15 has a life expectancy of less than one (1) year; or

16 (3) The patient requests a physician order for life-sustaining
17 treatment form.

18
19 20-6-206. Validity.

20 (a) A physician order for life-sustaining treatment form shall be
21 valid and completed if the physician order for life-sustaining treatment
22 form:

23 (1) Contains information indicating the patient's healthcare
24 preferences;

25 (2) Has been voluntarily signed by the patient or authorized
26 person; and

27 (3) Includes the signature of the patient's attending physician
28 and the date of signature.

29 (b) A physician order for life-sustaining treatment form shall be
30 presumed by a healthcare professional to be valid unless the healthcare
31 professional has knowledge to the contrary.

32
33 20-6-207. Healthcare professional responsibility.

34 (a) Subject to subsections (b) and (c) of this section, a healthcare
35 professional shall comply with a valid physician order for life-sustaining
36 treatment form of which the healthcare professional has actual knowledge,

1 regardless of whether the healthcare professional is employed by a healthcare
2 institution or other entity.

3 (b) A healthcare professional who is unwilling or unable to comply
4 with a physician order for life-sustaining treatment form shall take all
5 reasonable measures to transfer the patient to another healthcare institution
6 or healthcare professional.

7 (c) Emergency care and life-sustaining treatment shall not be withheld
8 or withdrawn pursuant to a physician order for life-sustaining treatment form
9 if the patient is pregnant and it is probable that the fetus will develop to
10 the point of live birth with the continued application of life-sustaining
11 treatment.

12
13 20-6-208. Revocation.

14 (a) A physician order for life-sustaining treatment form may be
15 revoked at any time and in any manner by:

16 (1) The patient, without regard to his or her age or physical
17 condition, who executed the physician order for life-sustaining treatment
18 form; or

19 (2) The authorized person.

20 (b) The revocation of the physician order for life-sustaining
21 treatment form shall be effective upon communication to the healthcare
22 professional by the patient, by an authorized person, or by a witness to the
23 communication.

24 (c) The healthcare professional shall document or cause to be
25 documented in the medical record of the patient that the physician order for
26 life-sustaining treatment form has been revoked.

27
28 20-6-209. Disagreement over decision-making capacity or interpretation
29 or application of physician order for life-sustaining treatment.

30 In the event of a disagreement among the patient, the attending
31 physician, and the authorized person concerning the decision-making capacity
32 or the appropriate interpretation or application of the physician order for
33 life-sustaining treatment, the parties may seek to resolve the disagreement
34 by procedures and practices established by the healthcare institution,
35 including without limitation consultation with the healthcare institution's

1 ethics committee or a person designated by the healthcare institution for the
2 purpose of dispute resolution.

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4 20-6-210. Conflicts with other healthcare decision documents.

5 (a) If a valid physician order for life-sustaining treatment form sets
6 forth a declaration, direction, or order preference that conflicts with a
7 declaration, direction, or order preference set forth in one (1) or more
8 other types of healthcare decision documents:

9 (1) The declaration, direction, or order preference in the
10 document executed most recently is valid; and

11 (2) Any other declaration, direction, or order preference that
12 does not conflict with another declaration, direction, or order preference
13 set forth in another document remains valid.

14 (b) If a valid physician order for life-sustaining treatment form
15 contains a preference to provide life-sustaining treatment to a patient who
16 also possesses a do-not-resuscitate identification, the healthcare
17 professional shall not provide life-resuscitating treatment if the do-not-
18 resuscitate identification is in the immediate possession of the patient when
19 the need for resuscitative measures arises.

20
21 20-6-211. Immunity from liability.

22 A healthcare professional is not guilty of unprofessional conduct or
23 subject to civil or criminal liability if:

24 (1) The healthcare professional withholds emergency care or
25 life-sustaining treatment in compliance with a physician order for life-
26 sustaining treatment form;

27 (2) The healthcare professional violates the physician order for
28 life-sustaining treatment form by acting in accordance with a declaration,
29 direction, or order preference set forth in one (1) or more advance
30 directives or other type of healthcare decision document and is reasonably
31 and in good faith unaware of the existence of the physician order for life-
32 sustaining treatment form or, reasonably and in good faith, believes that the
33 physician order for life-sustaining treatment form has been revoked; or

34 (3) The healthcare professional provides emergency care or life-
35 sustaining treatment:

1 (A) When the patient or authorized person has made an oral
2 or written request for emergency care or life-sustaining treatment; or

3 (B) When the patient or authorized person indicates a
4 desire to revoke the physician order for life-sustaining treatment form.

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6 20-6-212. Violations.

7 (a) It is unlawful for a person to:

8 (1) Willfully conceal, cancel, deface, or obliterate a physician
9 order for life-sustaining treatment form without the consent of the patient
10 or authorized person;

11 (2) Falsify or forge the physician order for life-sustaining
12 treatment form of another person;

13 (3) Willfully conceal or withhold personal knowledge of the
14 revocation of a physician order for life-sustaining treatment form of another
15 person with the intent to cause the withholding or withdrawal of emergency
16 care or life-sustaining treatment contrary to the wishes of the patient or
17 the authorized person;

18 (4) Require or prohibit the execution of a physician order for
19 life-sustaining treatment form as a condition of receiving health insurance
20 or healthcare services;

21 (5) Coerce or fraudulently induce another person to execute a
22 physician order for life-sustaining treatment form; or

23 (6) Willfully refuse to honor a physician order for life-
24 sustaining treatment form and willfully refuse to transfer the patient to
25 another healthcare institution or healthcare professional.

26 (b) A person who violates this subchapter is guilty of a Class C
27 misdemeanor.

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29 20-6-213. Reciprocity.

30 A physician order for life-sustaining treatment executed under the laws
31 of another state shall be honored and held as valid under this subchapter.

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33 20-6-214. Application.

34 (a) A death that results from withholding of emergency care or life-
35 sustaining treatment according to a physician order for life-sustaining

1 treatment form does not constitute a physician-assisted suicide under § 5-10-
2 106 or homicide under Arkansas Code Title 5, Chapter 10.

3 (b)(1) The execution of a physician order for life-sustaining
4 treatment form does not affect the sale, procurement, or issuance of a life
5 insurance policy or annuity policy.

6 (2) A life insurance policy or annuity policy shall not be
7 impaired or invalidated if emergency care or life-sustaining treatment is
8 withheld from an insured individual who has executed a physician order for
9 life-sustaining treatment form.

10 (c) This subchapter does not:

11 (1) Require a healthcare professional to take any action
12 contrary to reasonable medical standards;

13 (2) Affect the responsibility of a healthcare professional to
14 provide treatment for a patient's comfort or alleviation of pain; or

15 (3) Condone, authorize, or approve mercy killing, euthanasia, or
16 physician-assisted suicide.

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19 Referred by the Arkansas House of Representatives

20 Prepared by: VJF
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