

1 HB194  
2 192624-3  
3 By Representative Weaver  
4 RFD: Health  
5 First Read: 11-JAN-18

1  
2 ENROLLED, An Act,

3           Relating to terminally ill minors; to amend Sections  
4 22-8A-2, 22-8A-3, and 22-8A-7, Code of Alabama 1975; to add  
5 Sections 22-8A-15 to 22-8A-17, inclusive, to the Code of  
6 Alabama 1975; to create the Alex Hoover Act; to authorize the  
7 parent or legal guardian of a terminally ill or injured minor  
8 to execute, in consultation with the minor's attending  
9 physician, a directive for the medical treatment and  
10 palliative care to be provided to a terminally ill or injured  
11 minor; to require the Department of Public Health, by rule and  
12 in conjunction with a task force, to establish a form for an  
13 Order for Pediatric Palliative and End of Life (PPEL) Care to  
14 be used by medical professionals outlining medical care  
15 provided to terminally ill minors in certain circumstances; to  
16 provide immunity to health care providers who provide,  
17 withhold, or withdraw medical treatment pursuant to an Order  
18 for PPEL Care; and to establish a temporary task force to work  
19 in consultation with the Department of Public Health to  
20 establish an Order for Pediatric Palliative and End of Life  
21 (PPEL) Care form.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23           Section 1. This act shall be known and may be cited  
24 as the Alex Hoover Act.

1           Section 2. Sections 22-8A-2, 22-8A-3, and 22-8A-7 of  
2 the Code of Alabama 1975, are amended to read as follows:

3           "§22-8A-2.

4           "The Legislature finds that competent adult persons  
5 have the right to control the decisions relating to the  
6 rendering of their own medical care, including, without  
7 limitation, the decision to have medical procedures,  
8 life-sustaining treatment, and artificially provided nutrition  
9 and hydration provided, withheld, or withdrawn in instances of  
10 terminal conditions and permanent unconsciousness. In order  
11 that the rights of individuals may be respected even after  
12 they are no longer able to participate actively in decisions  
13 about themselves, the Legislature hereby declares that the  
14 laws of this state shall recognize the right of a competent  
15 adult person to make a written declaration instructing his or  
16 her physician to provide, withhold, or withdraw  
17 life-sustaining treatment and artificially provided nutrition  
18 and hydration or designate by lawful written form a health  
19 care proxy to make decisions on behalf of the adult person  
20 concerning the providing, withholding, or withdrawing of  
21 life-sustaining treatment and artificially provided nutrition  
22 and hydration in instances of terminal conditions and  
23 permanent unconsciousness. The Legislature further desires to  
24 provide for the appointment of surrogate decision-makers in  
25 instances where the individual has not made such a designation

1 and to allow a health care provider to follow certain portable  
2 physician orders and orders for pediatric and palliative and  
3 end of life care as provided for in this chapter.

4 "§22-8A-3.

5 "As used in this chapter, the following terms shall  
6 have the following meanings, respectively, unless the context  
7 clearly indicates otherwise:

8 "(1) ADULT. Any person 19 years of age or over.

9 "(2) ARTIFICIALLY PROVIDED NUTRITION AND HYDRATION.

10 A medical treatment consisting of the administration of food  
11 and water through a tube or intravenous line, where the  
12 recipient is not required to chew or swallow voluntarily.  
13 Artificially provided nutrition and hydration does not include  
14 assisted feeding, such as spoon or bottle feeding.

15 "(3) ADVANCE DIRECTIVE FOR HEALTH CARE. A writing  
16 executed in accordance with Section 22-8A-4 which may include  
17 a living will, the appointment of a health care proxy, or both  
18 such living will and appointment of a health care proxy.

19 "(4) ATTENDING PHYSICIAN. The physician selected by,  
20 or assigned to, the patient who has primary responsibility for  
21 the treatment and care of the patient.

22 "(5) CARDIOPULMONARY CESSATION. A lack of pulse or  
23 respiration.

24 "(6) COMPETENT ADULT. An adult who is alert, capable  
25 of understanding a lay description of medical procedures and

1 able to appreciate the consequences of providing, withholding,  
2 or withdrawing medical procedures.

3 "(7) DO NOT ATTEMPT RESUSCITATION (DNAR) ORDER. A  
4 physician's order that resuscitative measures not be provided  
5 to a person under a physician's care in the event the person  
6 is found with cardiopulmonary cessation. A do not attempt  
7 resuscitation order would include, without limitation,  
8 physician orders written as "do not resuscitate," "do not  
9 allow resuscitation," "do not allow resuscitative measures,"  
10 "DNAR," "DNR," "allow natural death," or "AND." A do not  
11 attempt resuscitation order must be entered with the consent  
12 of the person, if the person is competent; or in accordance  
13 with instructions in an advance directive if the person is not  
14 competent or is no longer able to understand, appreciate, and  
15 direct his or her medical treatment and has no hope of  
16 regaining that ability; or with the consent of a health care  
17 proxy or surrogate functioning under the provisions in this  
18 chapter; or instructions by an attorney in fact under a  
19 durable power of attorney that duly grants powers to the  
20 attorney in fact to make those decisions described in Section  
21 22-8A-4(b) (1) .

22 "(8) HEALTH CARE PROVIDER. A person who is licensed,  
23 certified, registered, or otherwise authorized by the law of  
24 this state to administer or provide health care in the

1 ordinary course of business or in the practice of a  
2 profession.

3 "(9) HEALTH CARE PROXY. Any person designated to act  
4 on behalf of an individual pursuant to Section 22-8A-4.

5 "(10) LIFE-SUSTAINING TREATMENT. Any medical  
6 treatment, procedure, or intervention that, in the judgment of  
7 the attending physician, when applied to the patient, would  
8 serve only to prolong the dying process where the patient has  
9 a terminal illness or injury, or would serve only to maintain  
10 the patient in a condition of permanent unconsciousness. These  
11 procedures shall include, but are not limited to, assisted  
12 ventilation, cardiopulmonary resuscitation, renal dialysis,  
13 surgical procedures, blood transfusions, and the  
14 administration of drugs and antibiotics. Life-sustaining  
15 treatment shall not include the administration of medication  
16 or the performance of any medical treatment where, in the  
17 opinion of the attending physician, the medication or  
18 treatment is necessary to provide comfort or to alleviate  
19 pain.

20 "(11) LIVING WILL. A witnessed document in writing,  
21 voluntarily executed by the declarant, that gives directions  
22 and may appoint a health care proxy, in accordance with the  
23 requirements of Section 22-8A-4.

24 "(12) ORDER FOR PEDIATRIC PALLIATIVE AND END OF LIFE  
25 (PPEL) CARE. A directive that, once executed by the

1 representative of a qualified minor and entered into the  
 2 record by the attending physician of the qualified minor in  
 3 accordance with Section 22-8A-15, becomes the medical order  
 4 for all health care providers with respect to the extent of  
 5 use of emergency medical equipment and treatment, medication,  
 6 and any other technological or medical interventions available  
 7 to provide palliative and supportive care to the qualified  
 8 minor.

9           "~~(12)~~ (13) PERMANENT UNCONSCIOUSNESS. A condition  
 10 that, to a reasonable degree of medical certainty:

11           "a. Will last permanently, without improvement; and

12           "b. In which cognitive thought, sensation,  
 13 purposeful action, social interaction, and awareness of self  
 14 and environment are absent; and

15           "c. Which condition has existed for a period of time  
 16 sufficient, in accordance with applicable professional  
 17 standards, to make such a diagnosis; and

18           "d. Which condition is confirmed by a physician who  
 19 is qualified and experienced in making such a diagnosis.

20           "~~(13)~~ (14) PERSON. An individual, corporation,  
 21 business trust, estate, trust, partnership, association, joint  
 22 venture, government, governmental subdivision or agency, or  
 23 any other legal or commercial entity.

24           "~~(14)~~ (15) PHYSICIAN. A person licensed to practice  
 25 medicine and osteopathy in the State of Alabama.

1           "~~(15)~~ (16) PORTABLE PHYSICIAN DNAR ORDER. A DNAR  
2 order entered in the medical record by a physician using the  
3 required form designated by the State Board of Health and  
4 substantiated by completion of all sections of the form.

5           "(17) QUALIFIED MINOR. An individual ranging in age  
6 from birth until the age of 19 who has been diagnosed as a  
7 terminally ill or injured patient and whose diagnosis has been  
8 confirmed by at least one additional physician who is not the  
9 patient's attending physician.

10           "(18) REPRESENTATIVE OF A QUALIFIED MINOR. Any of  
11 the following:

12           "a. A parent of a qualified minor whose medical  
13 decision making rights have not been restricted.

14           "b. A legal guardian of a qualified minor.

15           "c. A person acting as a parent, as the term is  
16 defined in Section 30-3B-102, of a qualified minor.

17           "~~(16)~~ (19) RESUSCITATIVE MEASURES. Those measures  
18 used to restore or support cardiac or respiratory function in  
19 the event of cardiopulmonary cessation.

20           "~~(17)~~ (20) SURROGATE. Any person appointed to act on  
21 behalf of an individual pursuant to Section 22-8A-11.

22           "~~(18)~~ (21) TERMINALLY ILL OR INJURED PATIENT. A  
23 patient whose death is imminent or whose condition, to a  
24 reasonable degree of medical certainty, is hopeless unless he  
25 or she is artificially supported through the use of



1 life-sustaining procedures and which condition is confirmed by  
2 a physician who is qualified and experienced in making such a  
3 diagnosis.

4 "§22-8A-7.

5 "(a) A competent adult may make decisions regarding  
6 life-sustaining treatment and artificially provided nutrition  
7 and hydration so long as that individual is able to do so. The  
8 desires of an individual shall at all times supersede the  
9 effect of an advance directive for health care.

10 "(b) If the individual is not competent at the time  
11 of the decision to provide, withhold, or withdraw  
12 life-sustaining treatment or artificially provided nutrition  
13 and hydration, a living will executed in accordance with  
14 Section 22-8A-4(a) or a proxy designation executed in  
15 accordance with Section 22-8A-4(b) is presumed to be valid.  
16 For the purpose of this chapter, a health care provider may  
17 presume in the absence of actual notice to the contrary that  
18 an individual who executed an advance directive for health  
19 care was competent when it was executed. The fact of an  
20 individual's having executed an advance directive for health  
21 care shall not be considered as an indication of a declarant's  
22 mental incompetency. Advanced age of itself shall not be a bar  
23 to a determination of competency.

24 "(c) No physician, licensed health care  
25 professional, medical care facility, other health care

1 provider, or any employee thereof who in good faith and  
2 pursuant to reasonable medical standards issues or follows a  
3 portable physician DNAR order entered in the medical record  
4 pursuant to this chapter or causes or participates in the  
5 providing, withholding, or withdrawing of life-sustaining  
6 treatment or artificially provided nutrition and hydration  
7 from a patient pursuant to a living will or designated proxy  
8 made in accordance with this chapter or pursuant to the  
9 directions of a duly designated surrogate appointed in  
10 accordance with this chapter, in the absence of actual  
11 knowledge of the revocation thereof, shall, as a result  
12 thereof, be subject to criminal or civil liability, or be  
13 found to have committed an act of unprofessional conduct.

14 "(d) Any health care provider or health care  
15 facility acting within the applicable standard of care who is  
16 signing, executing, ordering, or attempting to follow the  
17 directives of an Order for PPEL Care in compliance with this  
18 chapter shall not be subject to criminal or civil liability  
19 and shall not be found to have committed an act of  
20 unprofessional conduct. Nothing in this chapter shall be  
21 construed to establish a standard of care for physicians or  
22 otherwise modify, amend, or supersede any provision of the  
23 Alabama Medical Liability Act of 1987, the Alabama Medical  
24 Liability Act of 1996, or any amendment or judicial  
25 interpretation thereof. A health care provider or health care

1 facility that does not know, or could not reasonably know,  
2 that a physician's Order for PPEL Care exists may not be  
3 civilly or criminally liable for actions taken to assist a  
4 qualified minor subject to a physician's Order for PPEL Care."

5 Section 3. Sections 22-8A-15 and 22-8A-16 are added  
6 to the Code of Alabama 1975, to read as follows:

7 §22-8A-15.

8 (a) The representative of a qualified minor may  
9 execute a directive with respect to the extent of medical  
10 treatment, medication, and other interventions available to  
11 provide palliative and supportive care to the qualified minor  
12 by completing and signing an Order for PPEL Care form. Once  
13 completed and signed by the representative, the attending  
14 physician may complete and sign the executed directive and  
15 enter the directive into the medical record of the qualified  
16 minor. Once properly entered and received into the medical  
17 record, the directive is deemed a valid Order for PPEL Care;  
18 provided, however, it is the intent of this section to  
19 recognize the desires as reflected in communications,  
20 including verbal or written statements of a qualified minor  
21 and of the representative of a qualified minor with respect to  
22 the extent of medical treatment, medication, and other  
23 interventions available to provide palliative and supportive  
24 care to the qualified minor. The desires, as reflected in  
25 communications, including verbal or written statements, of a

1 qualified minor and representative of a qualified minor shall  
2 at all times supersede an Order for PPEL Care.

3 (b) The Department of Public Health, in consultation  
4 with the task force created pursuant to Section 22-8A-16,  
5 shall adopt rules not later than March 31, 2019, establishing  
6 the Order for PPEL Care form.

7 (c) The Department of Public Health may adopt rules  
8 to implement this section.

9 §22-8A-16.

10 (a) A task force is created to serve under the  
11 supervision of the Alabama Department of Public Health, to  
12 establish the Order for PPEL Care form. The task force shall  
13 include all of the following representatives:

14 (1) One representative of urban emergency medical  
15 services, appointed by the Governor.

16 (2) One representative of rural emergency medical  
17 services, appointed by the Governor.

18 (3) One pediatrician caring for medically complex  
19 children in an urban area, appointed by the Governor.

20 (4) One pediatrician caring for medically complex  
21 children in a rural area, appointed by the Governor.

22 (5) Two pediatric specialists from any of the  
23 following disciplines, appointed by the Governor: Oncology,  
24 cardiology, neurology, or pulmonology.

1           (6) One pediatric ethicist, appointed by the  
2 Governor.

3           (7) One nurse, appointed by the Alabama Board of  
4 Nursing.

5           (8) The Director for School Nurses of the State  
6 Department of Education, or his or her designee.

7           (9) The Director of Child Care Facilities of the  
8 Department of Human Resources, or his or her designee.

9           (10) The State Health Officer, or his or her  
10 designee.

11           (11) One pediatric certified registered nurse  
12 practitioner, appointed by the Governor.

13           (12) Two social workers, appointed by the Governor.

14           (13) One representative of the Alabama Hospital  
15 Association, appointed by the association.

16           (14) One representative of Children's Hospital of  
17 Alabama, appointed by the hospital.

18           (15) One representative of Children's and Women's  
19 Hospital at the University of South Alabama, appointed by the  
20 hospital.

21           (16) One representative of the Alabama State  
22 Advisory Council on Palliative Care and Quality of Life,  
23 appointed by the organization.

24           (17) One representative of the Medical Association  
25 of the State of Alabama, appointed by the association.

1           (18) One representative of the Alabama Association  
2 of School Nurses, appointed by the association.

3           (19) Two hospital chaplains, appointed by the  
4 Governor.

5           (20) One pediatric palliative care physician,  
6 appointed by the Governor.

7           (21) One physician who practices hospital emergency  
8 medicine, appointed by the Governor.

9           (22) One emergency medicine physician who practices  
10 at one of the Alabama licensed pediatric specialty hospitals,  
11 appointed by the Governor.

12           (23) Two parents with minor children, appointed by  
13 the President Pro Tempore of the Senate.

14           (24) Two parents with minor children, appointed by  
15 the Speaker of the House of Representatives.

16           (b) The appointing authorities shall coordinate  
17 their appointments to assure the task force membership is  
18 inclusive and reflects the racial, gender, geographic, urban,  
19 rural, and economic diversity of the state.

20           (c) The State Health Officer, or his or her  
21 designee, shall serve as chair of the task force.

22           (d) The first meeting of the task force shall be  
23 held not later than June 1, 2018, at which time the task force  
24 may appoint or elect a vice chair.

1           (e) The task force shall automatically terminate on  
 2 the date the rules establishing the Order for PPEL Care form  
 3 are adopted.

4           Section 4. Section 22-8A-17 is added to the Code of  
 5 Alabama 1975, to read as follows:

6           §22-8A-17.

7           (a) An Order for Pediatric Palliative and End of  
 8 Life (PPEL) Care shall only apply in the school setting if the  
 9 order is included as part of a Palliative and End of Life  
 10 Individual Health Plan executed pursuant to Chapter 30B of  
 11 Title 16.

12           (b) The attending physician of a qualified minor  
 13 shall have no supervisory authority over a school's execution  
 14 of a Palliative and End of Life Individual Health Plan. Any  
 15 health care provider or health care facility acting within the  
 16 applicable standard of care with regard to a Palliative and  
 17 End of Life Individual Health Plan is not subject to criminal  
 18 or civil liability and may not be found to have committed an  
 19 act of unprofessional conduct. Nothing in this act or any  
 20 related act involving Orders for PPEL Care shall be construed  
 21 to establish a standard of care for physicians or otherwise  
 22 modify, amend, or supersede any provisions of the Alabama  
 23 Medical Liability Act of 1987, the Alabama Medical Liability  
 24 Act of 1996, or any amendment or judicial interpretation  
 25 thereof.

1           Section 5. Section 22-8A-17 is added to the Code of  
2 Alabama 1975, to read as follows:

3           §22-8A-17.

4           An Order for Pediatric Palliative and End of Life  
5 Care shall not apply in the school setting.

6           Section 6. This act shall become effective  
7 immediately following its passage and approval by the  
8 Governor, or its otherwise becoming law, except Section 4 only  
9 becomes effective upon the passage of HB202 of the 2018  
10 Regular Session, relating to Palliative and End of Life  
11 Individual Health Plans, and Section 5 only becomes effective  
12 if HB202 of the 2018 Regular Session is not enacted into law.



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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 27-FEB-18, as amended.

Jeff Woodard  
Clerk

Senate	<hr/> 21-MAR-18 <hr/>	Amended and Passed
House	<hr/> 22-MAR-18 <hr/>	Concurred in Sen- ate Amendment