

1 SB153
2 204590-2
3 By Senator Livingston
4 RFD: Healthcare
5 First Read: 06-FEB-20

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to end-of-life care for qualified minors;
12 to amend Section 22-8A-7, Code of Alabama 1975; to add Section
13 22-8A-18 to the Code of Alabama 1975; to prohibit any health
14 care facility or health care professional from instituting a
15 do not attempt resuscitation order, or similar physician's
16 order, without the written or oral consent of at least one
17 parent or legal guardian of a qualified minor patient or
18 resident unless certain conditions apply.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 22-8A-7, Code of Alabama 1975, is
21 amended to read as follows:

22 "§22-8A-7.

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

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

15 "(c) No physician, licensed health care
16 professional, medical care facility, other health care
17 provider, or any employee thereof who in good faith and
18 pursuant to reasonable medical standards issues or follows a
19 portable physician DNAR order entered in the medical record
20 pursuant to this chapter or causes or participates in the
21 providing, withholding, or withdrawing of life-sustaining
22 treatment or artificially provided nutrition and hydration
23 from a patient pursuant to a living will or designated proxy
24 made in accordance with this chapter or pursuant to the
25 directions of a duly designated surrogate appointed in
26 accordance with this chapter, in the absence of actual
27 knowledge of the revocation thereof, shall, as a result

1 thereof, be subject to criminal or civil liability, or be
2 found to have committed an act of unprofessional conduct.

3 "(d) Any health care provider or health care
4 facility acting within the applicable standard of care who is
5 signing, executing, ordering, or attempting to follow the
6 directives of an Order for PPEL Care, or an order issued under
7 Section 22-8A-18, either of which is in compliance with this
8 chapter shall not be subject to criminal or civil liability
9 and shall not be found to have committed an act of
10 unprofessional conduct. Nothing in this chapter shall be
11 construed to establish a standard of care for physicians or
12 otherwise modify, amend, or supersede any provision of the
13 Alabama Medical Liability Act of 1987, the Alabama Medical
14 Liability Act of 1996, or any amendment or judicial
15 interpretation thereof. A health care provider or health care
16 facility that does not know, or could not reasonably know,
17 that a physician's Order for PPEL Care, or an order issued
18 under Section 22-8A-18, exists may not be civilly or
19 criminally liable for actions taken to assist a qualified
20 minor subject to a physician's Order for PPEL Care or an order
21 issued under Section 22-8A-18."

22 Section 2. Section 22-8A-18 is added to the Code of
23 Alabama 1975, to read as follows:

24 §22-8A-18

25 (a) This section shall be known and may be cited as
26 Simon's Law.

1 (b) (1) Unless an Order for Pediatric Palliative and
2 End of Life (PPEL) Care has been executed by the
3 representative of a qualified minor and entered into the
4 record by the attending physician of the qualified minor in
5 accordance with this chapter, a Do Not Attempt Resuscitation
6 (DNAR) Order, or similar physician's order, shall not be
7 instituted, either orally or in writing, for a qualified minor
8 until both of the following occur:

9 a. At least one parent or legal guardian of the
10 qualified minor is first informed of the physician's intent to
11 institute the order.

12 b. A reasonable attempt is made to inform the other
13 parent if the other parent is reasonably available and has
14 custodial or visitation rights.

15 (2) A physician, hospital, facility, or the designee
16 of any of the aforementioned shall provide information
17 regarding the intent to institute a DNAR order, or similar
18 physician's order, pursuant to this subsection both orally and
19 in writing unless, in the physician's reasonable medical
20 judgment, the urgency of the decision requires reliance on
21 only providing the information orally. The physician,
22 hospital, facility, or the designee of any of the
23 aforementioned shall contemporaneously record the provision of
24 information in the patient's medical record, and specify by
25 whom and to whom the information was given. When only one
26 parent has been informed, the physician, hospital, facility or
27 a designee of any of the aforementioned shall

1 contemporaneously record, within the patient's medical record,
2 the attempts to inform the other parent or the reason why such
3 attempts were not made.

4 (c) Either parent of a qualified minor or the
5 qualified minor's guardian may refuse consent for a DNAR order
6 or similar physician's order for the qualified minor, either
7 in writing or orally. Any refusal of consent shall be
8 contemporaneously recorded in the patient's medical record. No
9 DNAR order, or similar physician's order, shall be instituted
10 either orally or in writing if there has been a timely refusal
11 of consent except in accordance with a court order issued
12 pursuant to subsection (d).

13 (d) If the parents or guardian of a qualified minor
14 patient are unable to agree on whether to institute or revoke
15 a DNAR order or similar physician's order, either a parent or
16 guardian may institute a proceeding under subsection (e) to
17 resolve the conflict based on a presumption in favor of the
18 provision of cardiopulmonary resuscitation. Pending the final
19 determination of the proceedings, including any appeals, a
20 DNAR order or similar physician's order shall not be
21 implemented.

22 (e) A parent, guardian, physician, hospital or other
23 facility may petition a circuit court of the county in which
24 the patient resides, or in which the patient is receiving
25 treatment, for an order enjoining a violation or threatened
26 violation of this section or to resolve a conflict or
27 perceived conflict. Upon receiving the petition, the circuit

1 court shall issue an order fixing the date, time, and place of
2 a hearing on the petition and ordering that notice of the
3 hearing shall be provided. A preliminary hearing may be held
4 without notice if the court determines that holding that
5 hearing without notice is necessary to prevent imminent danger
6 to the life of the qualified minor. In the court's discretion,
7 a hearing may be conducted in a courtroom, a treatment
8 facility, or at some other suitable place.

9 (f) Upon the request of a patient, resident,
10 prospective patient, or prospective resident, a health care
11 facility, nursing home, or physician shall disclose in writing
12 any policies relating to a patient or resident or the services
13 a patient or resident may receive involving resuscitation or
14 life-sustaining measures, including any policies related to
15 treatments deemed non-beneficial, ineffective, futile, or
16 inappropriate, within the health care facility or nursing
17 home. Nothing in this section shall require a health care
18 facility, nursing home, or physician to have a written policy
19 relating to or involving resuscitation, life-sustaining
20 treatment, or non-beneficial treatment for qualified minor
21 patients or adult patients, residents, or wards.

22 (g) Nothing in this act shall affect the rights of
23 individuals or obligations of providers under the Federal
24 Patient Self Determination Act, 42 U.S.C. §§ 1395cc(f);
25 1396a(w).

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Healthcare..... 06-FEB-20

Read for the second time and placed on the calen-
dar 1 amendment..... 20-FEB-20

Read for the third time and passed as amended 20-FEB-20

Patrick Harris,
Secretary.