

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
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As Engrossed: H4/12/21
A Bill

HOUSE BILL 1686

By: Representative M. Gray

By: Senator B. Davis

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS PHYSICIAN ORDER FOR
LIFE-SUSTAINING TREATMENT ACT; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE ARKANSAS PHYSICIAN ORDER FOR
LIFE-SUSTAINING TREATMENT ACT.

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

SECTION 1. Arkansas Code §§ 20-6-303 and 20-6-304 are amended to read
as follows:

20-6-303. Definitions.

As used in this subchapter:

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

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

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



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

(B) "Healthcare facility" includes without limitation:

- (i) An ambulatory surgical facility;
- (ii) A home health agency;
- (iii) A hospice;
- (iv) A hospital;
- (v) An infirmary;
- (vi) A long-term care facility;
- (vii) An assisted living facility;
- (viii) A mental health center;
- (ix) An outpatient facility;
- (x) A rehabilitation facility; and
- (xi) A residential treatment facility;

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

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

services;

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

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

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

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

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

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

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

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

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

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

(1) Is signed and dated by:

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

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

(2) Includes:

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

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

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

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

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

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

(c)(1) The physician order for life-sustaining treatment form shall be completed by a ~~physician~~ supervising healthcare provider or physician extender based upon current patient intentions and medical indications.

(2) During the process of completing the physician order for life-sustaining treatment form, the ~~physician may~~ supervising healthcare

provider or physician extender should:

(A) Explain:

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

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

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

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

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

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

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

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

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

~~(1) The~~ the document executed most recently by the patient shall take precedence regarding the medical decision or treatment preference at issue; ~~or~~

~~(2) If both the advance directive and the physician order for life-sustaining treatment form were executed by the legal representative of~~

~~the patient, the advance directive shall take precedence regarding the medical decision or treatment preference at issue.~~

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

/s/M. Gray