

1 HB194
2 191536-2
3 By Representative Weaver
4 RFD: Health
5 First Read: 11-JAN-18

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

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

5 "§22-8A-2.

6 "(a) The Legislature finds that competent adult
7 persons have the right to control the decisions relating to
8 the rendering of their own medical care, including, without
9 limitation, the decision to have medical procedures,
10 life-sustaining treatment, and artificially provided nutrition
11 and hydration provided, withheld, or withdrawn in instances of
12 terminal conditions and permanent unconsciousness. In order
13 that the rights of individuals may be respected even after
14 they are no longer able to participate actively in decisions
15 about themselves, the Legislature hereby declares that the
16 laws of this state shall recognize the right of a competent
17 adult person to make a written declaration instructing ~~his or~~
18 ~~her physician~~ a health care provider to provide, withhold, or
19 withdraw life-sustaining treatment and artificially provided
20 nutrition and hydration or designate by lawful written form a
21 health care proxy to make decisions on behalf of the adult
22 person concerning the providing, withholding, or withdrawing
23 of life-sustaining treatment and artificially provided
24 nutrition and hydration in instances of terminal conditions
25 and permanent unconsciousness. The Legislature ~~further~~ desires
26 to provide for the appointment of surrogate decision-makers in

1 instances where the individual has not made such a
2 designation.

3 "(b) The Legislature further declares that parents
4 and legal guardians of terminally ill minors have the right to
5 control the decisions relating to the medical and palliative
6 care of their minor child, including, without limitation, the
7 decision to have medical procedures, life-sustaining
8 treatment, and artificially provided nutrition and hydration
9 provided, withheld, or withdrawn.

10 "(c) and It is the intent of this chapter to allow a
11 health care provider to follow certain portable physician
12 orders for adults and terminally ill minors, as provided for
13 in this chapter.

14 "§22-8A-3.

15 "As used in this chapter, the following terms shall
16 have the following meanings, respectively, unless the context
17 clearly indicates otherwise:

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

19 "(2) ARTIFICIALLY PROVIDED NUTRITION AND HYDRATION.

20 A medical treatment consisting of the administration of food
21 and water through a tube or intravenous line, where the
22 recipient is not required to chew or swallow voluntarily.
23 Artificially provided nutrition and hydration does not include
24 assisted feeding, such as spoon or bottle feeding.

25 "(3) ADVANCE DIRECTIVE FOR HEALTH CARE. A writing
26 executed in accordance with Section 22-8A-4 which may include

1 a living will, the appointment of a health care proxy, or both
2 such living will and appointment of a health care proxy.

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

6 "(5) CARDIOPULMONARY CESSATION. A lack of pulse or
7 respiration.

8 "(6) COMPETENT ADULT. An adult who is alert, capable
9 of understanding a lay description of medical procedures and
10 able to appreciate the consequences of providing, withholding,
11 or withdrawing medical procedures.

12 "(7) DO NOT ATTEMPT RESUSCITATION (DNAR) ORDER. A
13 physician's order that resuscitative measures not be provided
14 to a person under a physician's care in the event the person
15 is found with cardiopulmonary cessation. A do not attempt
16 resuscitation order would include, without limitation,
17 physician orders written as "do not resuscitate," "do not
18 allow resuscitation," "do not allow resuscitative measures,"
19 "DNAR," "DNR," "allow natural death," or "AND." A do not
20 attempt resuscitation order must be entered with the consent
21 of the person, if the person is competent; or in accordance
22 with instructions in an advance directive if the person is not
23 competent or is no longer able to understand, appreciate, and
24 direct his or her medical treatment and has no hope of
25 regaining that ability; or with the consent of a health care
26 proxy or surrogate functioning under the provisions in this
27 chapter; or instructions by an attorney in fact under a

1 durable power of attorney that duly grants powers to the
2 attorney in fact to make those decisions described in Section
3 22-8A-4(b)(1).

4 "(8) HEALTH CARE PROVIDER. A person who is licensed,
5 certified, registered, or otherwise authorized by the law of
6 this state to administer or provide health care in the
7 ordinary course of business or in the practice of a
8 profession.

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

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

26 "(11) LIVING WILL. A witnessed document in writing,
27 voluntarily executed by the declarant, that gives directions

1 and may appoint a health care proxy, in accordance with the
2 requirements of Section 22-8A-4.

3 "(12) ORDER FOR PEDIATRIC PALLIATIVE AND END OF LIFE
4 (PPEL) CARE. A form signed by the attending physician of a
5 qualified minor in consultation with the representative of the
6 qualified minor, which when executed becomes the medical order
7 for all health care providers with respect to the extent of
8 use of emergency medical equipment and treatment, medication,
9 and any other technological or medical interventions available
10 to provide palliative and supportive care to the qualified
11 minor.

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

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

15 "b. In which cognitive thought, sensation,
16 purposeful action, social interaction, and awareness of self
17 and environment are absent; and

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

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

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

1 "~~(14)~~ (15) PHYSICIAN. A person licensed to practice
2 medicine and osteopathy in the State of Alabama.

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

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

12 "(18) REPRESENTATIVE OF A QUALIFIED MINOR. Any of
13 the following with regard to a qualified minor:

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

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

17 "c. A person acting as a parent, as the term is
18 defined in Section 30-3B-102.

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

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

24 "~~(18)~~ (21) TERMINALLY ILL OR INJURED PATIENT. A
25 patient whose death is imminent or whose condition, to a
26 reasonable degree of medical certainty, is hopeless unless he
27 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 Section 3. Sections 22-8A-15 and 22-8A-16 are added
5 to the Code of Alabama 1975, to read as follows:

6 §22-8A-15.

7 (a) A representative of a qualified minor shall have
8 reasonable legal rights, duties, responsibilities, and
9 obligations to act on behalf of the qualified minor. It is the
10 intent of this section to recognize the desires of a qualified
11 minor and of the representative of the qualified minor with
12 respect to the extent of medical treatment, medication, and
13 other interventions available to provide palliative and
14 supportive care to the qualified minor. A representative of a
15 qualified minor may request of the qualified minor's attending
16 physician that an Order for Pediatric Palliative and End of
17 Life (PPEL) Care be executed to carry out these desires.

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

22 (c) The desires of a representative of a qualified
23 minor shall at all times supersede the effect of an Order for
24 PPEL Care executed in accordance with this section.

25 (d) Any health care provider or health care facility
26 acting within the applicable standard of care who is
27 attempting to follow the directives of an executed Order for

1 PPEL Care in compliance with this chapter is not subject to
2 criminal or civil liability and may not be found to have
3 committed an act of unprofessional conduct. Nothing in this
4 chapter shall be construed to establish a standard of care for
5 physicians or otherwise modify, amend, or supersede any
6 provision of the Alabama Medical Liability Act of 1987, the
7 Alabama Medical Liability Act of 1996, or any amendment or
8 judicial interpretation thereof. A health care provider or
9 health care facility who does not know, or could not
10 reasonably know, that an executed Order for PPEL Care exists
11 is not civilly or criminally liable for actions taken to
12 assist a qualified minor subject to an executed Order for PPEL
13 Care.

14 §22-8A-16.

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

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

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

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

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

1 (5) Two pediatric specialists from any of the
2 following disciplines, appointed by the Governor: Oncology,
3 cardiology, neurology, or pulmonology.

4 (6) One pediatric ethicist, appointed by the
5 Governor.

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

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

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

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

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

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

17 (13) One representative of the Alabama Hospital
18 Association, appointed by the association.

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

21 (15) One representative of Children's and Women's
22 Hospital at the University of South Alabama, appointed by the
23 hospital.

24 (16) One representative of the Alabama State
25 Advisory Council on Palliative Care and Quality of Life,
26 appointed by the organization.

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

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

5 (19) Two hospital chaplains, appointed by the
6 Governor.

7 (20) One pediatric palliative care physician,
8 appointed by the Governor.

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

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

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

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

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

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

24 (d) The first meeting of the task force shall be
25 held not later than June 1, 2018, at which time the task force
26 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 An Order for Pediatric Palliative and End of Life
8 (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 Section 5. Section 22-8A-17 is added to the Code of
13 Alabama 1975, to read as follows:

14 §22-8A-17.

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

17 Section 6. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law, except Section 4 only
20 becomes effective upon the passage of HB202 of the 2018
21 Regular Session, relating to Palliative and End of Life
22 Individual Health Plans, and Section 5 only becomes effective
23 if HB202 of the 2018 Regular Session is not enacted into law.

1
2
3
4
5
6
7
8
9
10
11
12
13

14
15
16
17

House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Health 11-JAN-18

Read for the second time and placed
on the calendar 1 amendment 25-JAN-18

Read for the third time and passed
as amended..... 27-FEB-18

Yeas 97, Nays 0, Abstains 0

Jeff Woodard
Clerk