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3 SUBSTITUTE FOR HB224
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8 SYNOPSIS: This bill would prohibit any health care
9 facility or health care professional from
10 instituting a Do Not Attempt Resuscitation order
11 without the written or oral consent of at least one
12 parent or representative of a qualified minor
13 patient unless certain conditions apply.
14

15 A BILL
16 TO BE ENTITLED
17 AN ACT
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19 Relating to end-of-life care for qualified minors;
20 to amend Section 22-8A-7, Code of Alabama 1975; to add Section
21 22-8A-18 to the Code of Alabama 1975; to prohibit any health
22 care facility or health care professional from instituting a
23 Do Not Attempt Resuscitation order without the written or oral
24 consent of at least one parent or representative of a
25 qualified minor unless certain conditions apply.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§22-8A-7.

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

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

23 "(c) No physician, licensed health care
24 professional, ~~medical~~ health care facility, other health care
25 provider, or any employee thereof who in good faith and
26 pursuant to reasonable medical standards issues or follows a
27 portable physician DNAR order entered in the medical record

1 pursuant to this chapter or causes or participates in the
2 providing, withholding, or withdrawing of life-sustaining
3 treatment or artificially provided nutrition and hydration
4 from a patient pursuant to a living will or designated proxy
5 made in accordance with this chapter or pursuant to the
6 directions of a duly designated surrogate appointed in
7 accordance with this chapter, in the absence of actual
8 knowledge of the revocation thereof, shall, as a result
9 thereof, be subject to criminal or civil liability, or be
10 found to have committed an act of unprofessional conduct.

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

1 to a physician's Order for PPEL Care or a DNAR order issued
2 under Section 22-8A-18."

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

5 §22-8A-18

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

8 (b) (1) Unless an Order for Pediatric Palliative and
9 End of Life (PPEL) Care has been executed by the
10 representative of a qualified minor and entered into the
11 medical record of the qualified minor by the attending
12 physician of the qualified minor in accordance with this
13 chapter, a Do Not Attempt Resuscitation (DNAR) order, whether
14 oral or in writing, shall not be instituted for a qualified
15 minor until both of the following occur:

16 a. Consent is obtained from the representative of
17 the qualified minor for a DNAR order.

18 b. A reasonable attempt is made to inform one or the
19 other parent of the consent by the representative of the
20 qualified minor.

21 (2) An attending physician, health care facility, or
22 the designee of any of the aforementioned shall provide
23 information regarding the intent to institute a DNAR order in
24 writing or orally. The attending physician, health care
25 facility, or the designee of any of the aforementioned shall
26 contemporaneously record the provision of information in the
27 medical record of the qualified minor, and specify by whom and

1 to whom the information was given. When the representative of
2 the qualified minor has been informed, the attending
3 physician, health care facility, or the designee of any of the
4 aforementioned shall contemporaneously record, within the
5 medical record of the qualified minor, information regarding
6 the attempts to inform one or the other parent of the
7 decision.

8 (c) The qualified minor's representative may refuse
9 consent for a PPEL order or a DNAR order for the qualified
10 minor, either in writing or orally. Any refusal of consent
11 shall be contemporaneously recorded in the medical record of
12 the qualified minor. No DNAR order shall be instituted if
13 there has been a timely refusal of consent, except when a PPEL
14 order or DNAR order is consented to at a later date or in
15 accordance with a court order issued pursuant to subsection
16 (d).

17 (d) If the parents or representative of a qualified
18 minor are unable to agree on whether to institute or revoke a
19 DNAR order, either a parent or representative may institute a
20 proceeding under subsection (e) to resolve the conflict based
21 on a presumption in favor of the provision of cardiopulmonary
22 resuscitation. Pending the final determination of the
23 proceedings, including any appeals, a DNAR order shall not be
24 implemented.

25 (e) A representative of a qualified minor, attending
26 physician, or health care facility may petition a circuit
27 court of the county in which the qualified minor resides, or

1 in which the qualified minor is receiving treatment, for an
2 order enjoining a violation or threatened violation of this
3 chapter or to resolve a conflict or perceived conflict. Upon
4 receiving the petition, the circuit court shall issue an order
5 fixing the date, time, and place of a hearing on the petition
6 and ordering that notice of the hearing shall be provided. A
7 preliminary hearing may be held without notice if the court
8 determines that holding that hearing without notice is
9 necessary to prevent imminent danger to the life of the
10 qualified minor. In the court's discretion, a hearing may be
11 conducted in a courtroom, a treatment facility, or at some
12 other suitable place.

13 (f) Upon the request of a qualified minor or the
14 representative of a qualified minor, a health care facility or
15 attending physician shall disclose in writing any policies
16 relating to services a qualified minor may receive involving
17 PPEL orders, DNAR orders, or life-sustaining measures within
18 the health care facility. Nothing in this section shall
19 require a health care facility or attending physician to have
20 a written policy relating to or involving PPEL orders, DNAR
21 orders, or life-sustaining treatment.

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

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

