

1 HB224  
2 210100-5  
3 By Representative Ledbetter  
4 RFD: Health  
5 First Read: 02-FEB-21  
6 PFD: 01/29/2021

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2 ENROLLED, An Act,

3           Relating to end-of-life care for qualified minors;  
4 to amend Section 22-8A-7, Code of Alabama 1975; to add Section  
5 22-8A-18 to the Code of Alabama 1975; to prohibit any health  
6 care facility or health care professional from instituting a  
7 Do Not Attempt Resuscitation order without the written or oral  
8 consent of at least one parent or representative of a  
9 qualified minor unless certain conditions apply.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13           "§22-8A-7.

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

19           "(b) If the individual is not competent at the time  
20 of the decision to provide, withhold, or withdraw  
21 life-sustaining treatment or artificially provided nutrition  
22 and hydration, a living will executed in accordance with  
23 Section 22-8A-4(a) or a proxy designation executed in  
24 accordance with Section 22-8A-4(b) is presumed to be valid.  
25 For the purpose of this chapter, a health care provider may

1 presume in the absence of actual notice to the contrary that  
2 an individual who executed an advance directive for health  
3 care was competent when it was executed. The fact of an  
4 individual's having executed an advance directive for health  
5 care shall not be considered as an indication of a declarant's  
6 mental incompetency. Advanced age of itself shall not be a bar  
7 to a determination of competency.

8 "(c) No physician, licensed health care  
9 professional, ~~medical~~ health care facility, other health care  
10 provider, or any employee thereof who in good faith and  
11 pursuant to reasonable medical standards issues or follows a  
12 portable physician DNAR order entered in the medical record  
13 pursuant to this chapter or causes or participates in the  
14 providing, withholding, or withdrawing of life-sustaining  
15 treatment or artificially provided nutrition and hydration  
16 from a patient pursuant to a living will or designated proxy  
17 made in accordance with this chapter or pursuant to the  
18 directions of a duly designated surrogate appointed in  
19 accordance with this chapter, in the absence of actual  
20 knowledge of the revocation thereof, shall, as a result  
21 thereof, be subject to criminal or civil liability, or be  
22 found to have committed an act of unprofessional conduct.

23 "(d) Any health care provider or health care  
24 facility acting within the applicable standard of care who is  
25 signing, executing, ordering, or attempting to follow the

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

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

19 §22-8A-18

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

22 (b) (1) Unless an Order for Pediatric Palliative and  
23 End of Life (PPEL) Care has been executed by the  
24 representative of a qualified minor and entered into the  
25 medical record of the qualified minor by the attending

1 physician of the qualified minor in accordance with this  
2 chapter, a Do Not Attempt Resuscitation (DNAR) order, whether  
3 oral or in writing, shall not be instituted for a qualified  
4 minor until both of the following occur:

5 a. Consent is obtained from the representative of  
6 the qualified minor for a DNAR order.

7 b. A reasonable attempt is made to inform one or the  
8 other parent of the consent by the representative of the  
9 qualified minor.

10 (2) An attending physician, health care facility, or  
11 the designee of any of the aforementioned shall provide  
12 information regarding the intent to institute a DNAR order in  
13 writing or orally. The attending physician, health care  
14 facility, or the designee of any of the aforementioned shall  
15 contemporaneously record the provision of information in the  
16 medical record of the qualified minor, and specify by whom and  
17 to whom the information was given. When the representative of  
18 the qualified minor has been informed, the attending  
19 physician, health care facility, or the designee of any of the  
20 aforementioned shall contemporaneously record, within the  
21 medical record of the qualified minor, information regarding  
22 the attempts to inform one or the other parent of the  
23 decision.

24 (c) The qualified minor's representative may refuse  
25 consent for a PPEL order or a DNAR order for the qualified

1 minor, either in writing or orally. Any refusal of consent  
2 shall be contemporaneously recorded in the medical record of  
3 the qualified minor. No DNAR order shall be instituted if  
4 there has been a timely refusal of consent, except when a PPEL  
5 order or DNAR order is consented to at a later date or in  
6 accordance with a court order issued pursuant to subsection  
7 (d).

8 (d) If the parents or representative of a qualified  
9 minor are unable to agree on whether to institute or revoke a  
10 DNAR order, either a parent or representative may institute a  
11 proceeding under subsection (e) to resolve the conflict based  
12 on a presumption in favor of the provision of cardiopulmonary  
13 resuscitation. Pending the final determination of the  
14 proceedings, including any appeals, a DNAR order shall not be  
15 implemented.

16 (e) A representative of a qualified minor, attending  
17 physician, or health care facility may petition a circuit  
18 court of the county in which the qualified minor resides, or  
19 in which the qualified minor is receiving treatment, for an  
20 order enjoining a violation or threatened violation of this  
21 chapter or to resolve a conflict or perceived conflict. Upon  
22 receiving the petition, the circuit court shall issue an order  
23 fixing the date, time, and place of a hearing on the petition  
24 and ordering that notice of the hearing shall be provided. A  
25 preliminary hearing may be held without notice if the court

1 determines that holding that hearing without notice is  
2 necessary to prevent imminent danger to the life of the  
3 qualified minor. In the court's discretion, a hearing may be  
4 conducted in a courtroom, a treatment facility, or at some  
5 other suitable place.

6 (f) Upon the request of a qualified minor or the  
7 representative of a qualified minor, a health care facility or  
8 attending physician shall disclose in writing any policies  
9 relating to services a qualified minor may receive involving  
10 PPEL orders, DNAR orders, or life-sustaining measures within  
11 the health care facility. Nothing in this section shall  
12 require a health care facility or attending physician to have  
13 a written policy relating to or involving PPEL orders, DNAR  
14 orders, or life-sustaining treatment.

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

18 Section 3. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or its otherwise becoming 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 30-MAR-21, as amended.

Jeff Woodard  
Clerk

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Senate	17-MAY-21	Passed
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