

Subject Life-sustaining treatment for unemancipated minor patients

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Overview

This bill establishes requirements for a health care provider to implement an order for life-sustaining treatment for an unemancipated minor patient. It also provides for an unemancipated minor patient's transfer to another facility, provides for revocation of prior consent to an order withholding life-sustaining treatment, establishes a cause of action for a violation of this section, specifies a health care provider who violates this section may be subject to license suspension or revocation, specifies circumstances in which life-sustaining treatment is not required, and requires health care providers, upon request, to disclose their policy regarding providing life-sustaining treatment.

Summary

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| 1 | <p>Life-sustaining treatment for unemancipated minors.</p> <p>Adds § 144.609. Specifies requirements for a health care provider to implement an order to withhold life-sustaining treatment for an unemancipated minor patient. Provides for an unemancipated minor patient's transfer to another facility and permits revocation of a prior consent to an order to withhold life-sustaining treatment. Establishes a cause of action for a violation of this section, authorizes revocation or suspension of a provider's license in certain circumstances, specifies when life-sustaining treatment is not required, and requires disclosure of certain policies.</p> |
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Subd. 1. Short title. Provides this section may be cited as Simon's Law.

Subd. 2. Definitions. Defines terms for this section: order not to resuscitate, reasonable medical judgment, and unemancipated minor.

Subd. 3. Order not to resuscitate; notice. Prohibits an order not to resuscitate, an order to withhold artificial life-sustaining treatment, an order to withhold artificially administered nutrition and hydration, or a similar order from being implemented for an unemancipated minor patient unless the health care

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provider provides notice to at least one parent or a legal guardian of the minor. Requires the notice to be provided orally and in writing unless circumstances require the notice to be provided orally only. Prohibits an order specified in this subdivision from being implemented until at least 48 hours after notice is provided, unless a parent or legal guardian agrees to implementation of the order.

Subd. 4. Exception. Provides subdivision 3 does not apply if a health care provider, after 72 hours of effort, is not able to notify at least one parent or guardian of the unemancipated minor patient of an intent to implement an order specified in subdivision 3.

Subd. 5. Transfer process. Para. (a) provides within 48 hours after receiving notice of an intent to implement an order specified in subdivision 3, a parent or guardian of an unemancipated minor patient may ask for the minor to be transferred to another facility or discharged.

Para. (b) provides that during the 72-hour period while the provider is attempting to contact a minor's parent or guardian, during the 48-hour period after the parent or guardian receives notice of the intent to implement an order specified in subdivision 3, and for 15 days after a parent or guardian requests a transfer of the minor, the health care facility where the minor is a patient must continue must provide life-sustaining treatment to the minor.

Para. (c) prohibits a health care provider from interfering with efforts of an unemancipated minor's parent or guardian to transfer the minor or obtain other medical opinions or from hindering necessary procedures for the minor, and requires the provider to provide a parent or guardian with immediate access to the minor's medical records upon request.

Para. (d) prohibits a health care provider from delaying or hindering a minor's parent or legal guardian, unless the minor has sustained irreversible circulatory and respiratory function or all functions of the entire brain. States there is a presumption that continuation of life is in the minor's best interest.

Para. (e) provides if transfer of the minor cannot be made within 15 days after a request to transfer, an order specified in subdivision 3 may be implemented.

Para. (f) states this section does not limit rights in the health care bill of rights.

Subd. 6. Revocation of prior consent; court authority. Para. (a) allows a parent or guardian who formerly consented to an order for life-sustaining treatment to revoke consent orally or in writing, and specifies the revocation supersedes the

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prior consent. Lists information that must be included in the minor's medical record regarding the revocation of consent.

Para. (b) prohibits a court from withdrawing life-sustaining procedures from a minor over a parent's or guardian's objection except in certain circumstances.

Para. (c) requires a juvenile or family court to appoint a guardian ad litem for a child under juvenile court jurisdiction before issuing an order to withhold treatment that would result in the death of the child. Prohibits the Department of Children, Youth, and Families from being appointed as a guardian for a child to make medical decisions to withhold treatment that would result in a child's death, and allows a parent or guardian to revoke consent to medical decisions made by a court if custody of a child under juvenile or family court jurisdiction is returned to a parent or guardian.

Para. (d) provides a relative caregiver has the same authority as a parent or guardian regarding a minor patient or resident, as long as the patient or resident is not under the jurisdiction of juvenile or family court.

Subd. 7. Cause of action. Allows a parent and certain other relatives of an unemancipated minor patient to bring an action against a person responsible for providing notice to a parent or guardian under subdivision 3, if the unemancipated minor patient dies or is injured from implementation of a do-not-resuscitate order and if a parent's or guardian's rights under this section were violated or delayed.

Subd. 8. Mandatory reporting of violations. Requires a health care practitioner or an employee of a health clinic or facility to report a violation of this section to an appropriate state law enforcement agency. Provides a health professional who violates this section may be subject to license revocation or suspension. Specifies a parent or guardian is not liable for actions of a health care provider who violated this section.

Subd. 9. Limitations on treatment. Specifies this section must not be construed to:

- require a health care facility or provider to provide or continue treatment that would create a greater risk of hastening or causing a patient's death, would be potentially harmful, or would cause pain, suffering, or injury to the patient; or
- require a provider to continue CPR or manual ventilation not likely to benefit the patient.

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Subd. 10. Policy disclosures. Requires a health care provider to disclose to a parent or guardian of a current or prospective minor patient or resident, the provider's policies regarding resuscitation or life-sustaining measures. Provides this section does not require a provider to have written policies regarding resuscitation or life-sustaining measures.

Subd. 11. Severability. Provides if any provision of this section or its application is found to be unconstitutional, that provision is severable and the remainder of the section must remain in effect.



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