House Engrossed

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HOUSE BILL 2122

AN ACT

AMENDING TITLE 36, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-418; RELATING TO HEALTH CARE INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 36, chapter 4, article 1, Arizona Revised Statutes, is amended by adding section 36-418, to read:

36-418. Do-not-resuscitate orders; minors; parental consent; conflict; hearing; definition

A. FOR A CHILD WHO IS NOT UNDER JUVENILE COURT JURISDICTION PURSUANT TO SECTION 8-202, A HEALTH CARE FACILITY, NURSING HOME, PHYSICIAN OR NURSE MAY NOT IMPLEMENT A DO-NOT-RESUSCITATE ORDER OR A SIMILAR PHYSICIAN'S ORDER THAT IS GIVEN EITHER ORALLY OR IN WRITING WITHOUT THE WRITTEN OR ORAL CONSENT OF BOTH PARENTS, UNLESS ONE PARENT HAS SOLE LEGAL DECISION-MAKING, OR THE GUARDIAN OF THE PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE AND WHO IS NOT EMANCIPATED. IF THE PARENTS, OR PARENT IF ONE PARENT HAS SOLE LEGAL DECISION-MAKING, OR GUARDIAN ORALLY CONSENTS TO IMPLEMENT A DO-NOT-RESUSCITATE ORDER OR A SIMILAR PHYSICIAN'S ORDER, TWO WITNESSES OTHER THAN THE PARENTS, OR PARENT IF ONE PARENT HAS SOLE LEGAL DECISION-MAKING, GUARDIAN OR PHYSICIAN SHALL BE PRESENT AND WILLING TO ATTEST TO THE CONSENT GIVEN BY THE GUARDIAN OF THE PATIENT OR BOTH PARENTS, UNLESS ONE PARENT HAS SOLE LEGAL DECISION-MAKING, OF THE PATIENT. THE CONSENT SHALL BE IMMEDIATELY RECORDED IN THE PATIENT'S MEDICAL RECORD SPECIFYING WHO PROVIDED THE CONSENT, TO WHOM THE CONSENT WAS PROVIDED, THE NAMES OF THE WITNESSES AND THE DATE AND TIME THE CONSENT WAS GRANTED.

B. EITHER PARENT OR THE GUARDIAN OF THE PATIENT WHO GRANTED THE ORIGINAL CONSENT UNDER SUBSECTION A OF THIS SECTION MAY REVOKE THE PRIOR CONSENT ORALLY OR IN WRITING. THE REVOCATION OF PRIOR CONSENT TAKES PRECEDENCE OVER ANY PRIOR CONSENT TO IMPLEMENT A DO-NOT-RESUSCITATE ORDER OR A SIMILAR PHYSICIAN'S ORDER. THE REVOCATION SHALL BE IMMEDIATELY RECORDED IN THE PATIENT'S MEDICAL RECORD SPECIFYING WHO PROVIDED THE REVOCATION, TO WHOM THE REVOCATION WAS PROVIDED, THE NAMES OF THE WITNESSES AND THE DATE AND TIME THE REVOCATION WAS OBTAINED.

C. IF THE PARENTS OF A MINOR PATIENT ARE UNABLE TO AGREE ON WHETHER TO IMPLEMENT OR REVOKE A DO-NOT-RESUSCITATE ORDER OR A SIMILAR PHYSICIAN'S ORDER, EITHER PARENT MAY INSTITUTE A PROCEEDING UNDER SUBSECTION D OF THIS SECTION TO RESOLVE THE CONFLICT BASED ON A PRESUMPTION IN FAVOR OF PROVIDING CARDIOPULMONARY RESUSCITATION. PENDING THE FINAL DETERMINATION OF THE PROCEEDINGS, INCLUDING ANY APPEALS, A DO-NOT-RESUSCITATE ORDER OR SIMILAR PHYSICIAN'S ORDER MAY NOT BE IMPLEMENTED.

D. A PARENT OR GUARDIAN MAY PETITION A SUPERIOR COURT IN THE COUNTY IN WHICH THE PATIENT RESIDES OR IN WHICH THE PATIENT IS RECEIVING TREATMENT FOR AN ORDER ENJOINING A VIOLATION OR THREATENED VIOLATION OF THIS SECTION OR TO RESOLVE A CONFLICT. ON RECEIVING A PETITION, THE SUPERIOR COURT SHALL ISSUE AN ORDER FIXING THE DATE, TIME AND PLACE OF A HEARING ON THE PETITION AND ORDER THAT NOTICE OF THE HEARING BE GIVEN TO THE INTERESTED PARTIES. A PRELIMINARY HEARING MAY BE HELD WITHOUT NOTICE IF THE COURT DETERMINES THAT HOLDING THAT HEARING WITHOUT NOTICE IS NECESSARY TO PREVENT IMMINENT DANGER TO THE CHILD'S LIFE. IN THE COURT'S

DISCRETION, A HEARING MAY BE CONDUCTED IN A COURTROOM, IN A HEALTH CARE FACILITY OR AT SOME OTHER SUITABLE PLACE.

E. FOR A CHILD WHO IS UNDER JUVENILE COURT JURISDICTION PURSUANT TO SECTION 8-202, A JUVENILE COURT MAY ISSUE AN END-OF-LIFE MEDICAL DECISION ORDER, A PHYSICIAN'S ORDER OR ANY OTHER MEDICAL DECISION ORDER, OR MAY APPOINT A GUARDIAN FOR THE CHILD FOR THAT PURPOSE. THE COURT MAY NOT APPOINT THE DEPARTMENT OF CHILD SAFETY AS GUARDIAN FOR A CHILD TO MAKE END-OF-LIFE MEDICAL DECISIONS, INCLUDING DO-NOT-RESUSCITATE ORDERS. IF A CHILD UNDER JUVENILE COURT JURISDICTION PURSUANT TO SECTION 8-202 IS RETURNED TO THE CUSTODY OF THE GUARDIAN OR PARENT, THE GUARDIAN OR PARENT MAY REVOKE THE CONSENT FOR THE END-OF-LIFE MEDICAL DECISION ORDER OR SIMILAR PHYSICIAN'S ORDERS ORDERED BY THE COURT FOR THE CHILD, INCLUDING DO-NOT-RESUSCITATE ORDERS. REVOCATION MAY BE GIVEN ORALLY OR IN WRITING AND SHALL BE IMMEDIATELY RECORDED IN THE PATIENT'S MEDICAL RECORD SPECIFYING WHO PROVIDED THE REVOCATION, TO WHOM THE REVOCATION WAS PROVIDED, WHICH PARENT OR GUARDIAN REVOKED CONSENT, THE NAMES OF THE WITNESSES AND THE DATE AND TIME THE REVOCATION WAS OBTAINED.

F. ON REQUEST OF A PATIENT OR RESIDENT OR A PROSPECTIVE PATIENT OR RESIDENT, A HEALTH CARE FACILITY, NURSING HOME, NURSE OR PHYSICIAN SHALL DISCLOSE IN WRITING ANY POLICIES RELATING TO A PATIENT OR RESIDENT OR THE SERVICES A PATIENT OR RESIDENT MAY RECEIVE INVOLVING RESUSCITATION OR LIFE-SUSTAINING MEASURES, INCLUDING ANY POLICIES RELATED TO TREATMENTS DEEMED NONBENEFICIAL, INEFFECTIVE, FUTILE OR INAPPROPRIATE, WITHIN THE HEALTH CARE FACILITY OR NURSING HOME. THIS SUBSECTION DOES NOT REQUIRE A HEALTH CARE FACILITY, NURSING HOME OR PHYSICIAN TO HAVE A WRITTEN POLICY RELATING TO OR INVOLVING RESUSCITATION, LIFE-SUSTAINING MEASURES OR NONBENEFICIAL TREATMENT FOR UNEMANCIPATED MINOR PATIENTS OR ADULT PATIENTS OR RESIDENTS.

G. FOR THE PURPOSES OF THIS SECTION, "END-OF-LIFE MEDICAL DECISION ORDER" MEANS A DECISION THAT IS ISSUED BY A JUVENILE COURT PERTAINING TO LIFE-SUSTAINING TREATMENT, INCLUDING A DO-NOT-RESUSCITATE ORDER, AND THAT IS PROVIDED ON BEHALF OF AND IN THE BEST INTERESTS OF A CHILD WHO IS UNDER JUVENILE COURT JURISDICTION PURSUANT TO SECTION 8-202.

Sec. 2. Short title

This act may be cited and known as "Simon's Law".