
DIGEST

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HB 459 Reengrossed

2022 Regular Session

Charles Owen

Abstract: Enacts the Life-Sustaining Care Act which establishes a duty for healthcare providers and institutions to provide life-sustaining care in certain instances.

Proposed law provides that its purpose is to ensure the continued provision of healthcare procedures or services when a healthcare provider or healthcare institution declines to honor a request by a patient, or a person who may consent to medical treatment on behalf of the patient, for the provision or continuation of life-sustaining care until a transfer can be effected, and to make reasonable efforts to assist in the transfer of the patient to a willing provider or institution.

Proposed law defines "life-sustaining care" as any medical procedure or intervention which, in reasonable medical judgment, has the possibility of sustaining the life of the patient.

Proposed law stipulates that if a patient, a person who may consent to medical treatment on behalf of the patient in accordance with present law (R.S. 40:1159.4), or an advance directive of a patient directs the provision or opposes the withdrawal of a life-sustaining procedure, a healthcare provider or institution shall ensure the provision or continuation of the directed life-sustaining care.

Proposed law authorizes healthcare providers and institutions that are unwilling to provide a directed life-sustaining procedure to transfer the patient to another healthcare provider or healthcare institution capable of and willing to provide the procedure. Provides for the process by which such a transfer may be effected.

Proposed law provides that if the patient, his advance directive, or an individual who has authority to consent on his behalf is in conflict with the healthcare provider or healthcare institution treating the patient regarding whether life-sustaining care for the patient should be continued, the patient or individual who has authority to consent on his behalf shall, within 30 days of that person and the provider or institution mutually acknowledging the conflict, identify a healthcare provider or healthcare institution that is capable of and willing to provide life-sustaining care for the patient.

Proposed law requires that if no willing provider or institution is identified and the conflict over life-sustaining care for the patient remains unresolved after the expiration of the 30-day period afforded in proposed law, the provider or institution treating the patient shall pursue a legal remedy in a court of law.

Proposed law stipulates that nothing therein shall be construed to supersede a properly signed and executed living will, advance directive, declaration concerning life-sustaining procedures, or

physician order for scope of treatment form prepared in accordance with applicable provisions of present law.

Proposed law provides that compliance with proposed law shall not create, or be construed or interpreted to create, a new cause of action or to create a standard of care, obligation, or duty that provides a basis for a cause of action.

Proposed law prohibits health coverage plans from denying coverage for the provision or continuation of a directed life-sustaining procedure or service delivered in accordance with proposed law. Provides that for purposes of proposed law, "health coverage plan" means any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, contract, or other agreement with a health maintenance organization or a preferred provider organization, health and accident insurance policy, or any other insurance contract of this type in this state.

Proposed law stipulates that when services provided to a patient for the provision or continuation of a directed life-sustaining procedure are not covered by any public or private health insurance coverage, payment for the services provided in accordance with proposed law shall remain the obligation of the patient.

(Adds R.S. 22:1054.2 and R.S. 40:1152.1-1152.6)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Provide within the La. Insurance Code (Title 22 of present law) that no health coverage plan shall deny coverage for the provision or continuation of a directed life-sustaining procedure or service provided in accordance with proposed law.
2. Revise legislative findings and purpose language provided in proposed law.
3. Revise the definitions of "legal representative" and "life-sustaining procedure" provided in proposed law.
4. Revise proposed law pertaining to transfer of patients in instances in which a healthcare provider or healthcare institution is unwilling to provide a directed life-sustaining procedure pursuant to proposed law.
5. Stipulate that when services provided to a patient for the provision or continuation of a directed life-sustaining procedure are not covered by any public or private health insurance coverage, payment for the services provided in accordance with proposed law shall remain the obligation of the patient.

6. Stipulate that nothing in proposed law shall be construed to supersede a properly signed and executed living will, advance directive, declaration concerning life-sustaining procedures, or physician order for scope of treatment form prepared in accordance with applicable provisions of present law.
7. Provide that compliance with proposed law shall not create, or be construed or interpreted to create, a new cause of action or to create a standard of care, obligation, or duty that provides a basis for a cause of action.
8. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Delete the defined term "legal representative" from proposed law and replace instances of the term with references to "an individual who has authority to consent on behalf of a patient" in accordance with present law relative to medical consent (R.S. 40:1159.4).
2. Provide that if the patient, his advance directive, or an individual who has authority to consent on his behalf is in conflict with the healthcare provider or healthcare institution treating the patient regarding whether life-sustaining care for the patient should be continued, the patient or individual who has authority to consent on his behalf shall, within 30 days of that person and the provider or institution mutually acknowledging the conflict, identify a healthcare provider or healthcare institution that is capable of and willing to provide life-sustaining care for the patient.
3. Require that if no willing provider or institution is identified and the conflict over life-sustaining care for the patient remains unresolved after the expiration of the 30 period, the provider or institution treating the patient shall pursue a legal remedy in a court of law.