

Regular Session, 2014

HOUSE BILL NO. 348

BY REPRESENTATIVE BADON

HEALTH: Prohibits termination of life-sustaining procedures for pregnant women

1 AN ACT

2 To enact R.S. 40:1299.58.10(F), 1299.63.1, 1299.64.6(E), and Part XXIV-D of Chapter 5
3 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.
4 40:1299.64.11 through 1299.64.13, relative to life-sustaining procedures; to provide
5 for definitions; to require life-sustaining procedures for pregnant women; to provide
6 for exceptions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 40:1299.58.10(F), 1299.63.1, 1299.64.6(E), and Part XXIV-D of
9 Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S.
10 40:1299.64.11 through 1299.64.13, are hereby enacted to read as follows:

11 §1299.58.10. General application

12 * * *

13 F. The provisions of this Part shall not apply to a pregnant woman unless
14 authorized by R.S. 40:1299.64.11 et seq.

15 * * *

16 §1299.63.1. General application

17 The provisions of this Part shall not apply to a pregnant woman unless
18 authorized by R.S. 40:1299.64.11 et seq.

19 * * *

1 §1299.64.6. General application

2 * * *

3 E. The provisions of this Part shall not apply to a pregnant woman unless
4 authorized by R.S. 40:1299.64.11 et seq.

5 * * *

6 PART XXIV-D. LIFE-SUSTAINING PROCEDURES FOR PREGNANT WOMEN

7 §1299.64.11. Definitions

8 In this Part, unless the context otherwise requires, the following definitions
9 are applicable:

10 (1) "End-stage medical condition" means an incurable and irreversible
11 medical condition in an advanced state caused by injury, disease, or physical illness
12 that will, in the opinion of the attending physician to a reasonable degree of medical
13 certainty, result in death, despite the introduction or continuation of medical
14 treatment.

15 (2) "Incompetent" means a condition in which an individual, despite being
16 provided appropriate medical information, communication supports, and technical
17 assistance, is documented by a healthcare provider to be one of the following:

18 (a) Unable to understand the potential material benefits, risks, and
19 alternatives involved in a specific proposed healthcare decision.

20 (b) Unable to make that healthcare decision on his own behalf.

21 (c) Unable to communicate that healthcare decision to any other person.

22 (3) "Life-sustaining procedure" means any medical procedure or intervention
23 that, when administered to an individual who has an end-stage medical condition or
24 is permanently unconscious, will serve only to prolong the process of dying or
25 maintain the individual in a state of permanent unconsciousness. The term includes
26 but is not limited to nutrition and hydration administered by gastric tube or
27 intravenously or any other artificial or invasive means.

28 (4) "Permanently unconscious" means a medical condition that has been
29 diagnosed in accordance with currently accepted medical standards and with

1 reasonable medical certainty as total and irreversible loss of consciousness and
2 capacity for interaction with the environment. The term includes but is not limited
3 to an irreversible vegetative state or irreversible coma.

4 §1299.64.12. Advanced directives; pregnancy; life-sustaining procedure required

5 A. Notwithstanding a contrary direction contained in an advanced healthcare
6 directive executed pursuant to R.S. 40:1299.58.1 et seq. or 1299.60 et seq., the
7 existence of a living will, a healthcare decision by a healthcare representative or
8 healthcare agent, or any other direction to the contrary, life-sustaining procedures
9 including but not limited to cardiopulmonary resuscitation, nutrition, and hydration
10 shall be provided to and shall not be withheld or withdrawn from a pregnant woman
11 who is incompetent and has an end-stage medical condition or who is permanently
12 unconscious.

13 B. The provisions of Subsection A of this Section shall not apply in any case
14 where, to a reasonable degree of medical certainty as certified on the pregnant
15 woman's medical record by the pregnant woman's attending physician and an
16 obstetrician who has examined the pregnant woman, the life-sustaining treatment,
17 nutrition, and hydration shall do any of the following:

18 (1) Not maintain the pregnant woman in such a way as to permit the
19 continuing development and live birth of the unborn child.

20 (2) Be physically harmful to the pregnant woman.

21 (3) Cause pain to the pregnant woman that cannot be alleviated by
22 medication.

23 §1299.64.13. Physician order for scope of treatment; pregnancy; life-sustaining
24 procedure required

25 A. Notwithstanding the existence of a physician order for scope of treatment
26 executed pursuant to R.S. 40:1299.64.1 et seq. or other direction to the contrary,
27 life-sustaining procedures including but not limited to cardiopulmonary resuscitation,
28 nutrition, and hydration shall be provided to and shall not be withheld or withdrawn

1 from a pregnant woman who is incompetent and has an end-stage medical condition
2 or who is permanently unconscious.

3 B. The provisions of Subsection A of this Section shall not apply in any case
4 where, to a reasonable degree of medical certainty as certified on the pregnant
5 woman's medical record by the pregnant woman's attending physician and an
6 obstetrician who has examined the pregnant woman, the life-sustaining treatment,
7 nutrition, and hydration shall do any of the following:

8 (1) Not maintain the pregnant woman in such a way as to permit the
9 continuing development and live birth of the unborn child.

10 (2) Be physically harmful to the pregnant woman.

11 (3) Cause pain to the pregnant woman that cannot be alleviated by
12 medication.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Badon

HB No. 348

Abstract: Prohibits the withholding or withdrawing of life-sustaining procedures from a pregnant woman.

Present law authorizes an individual to make an advanced healthcare directive pursuant to which life-sustaining procedures may be withheld or withdrawn in the event the individual is comatose, incompetent, or otherwise physically or mentally incapable of communication and the individual is diagnosed and certified as having a terminal and irreversible condition.

Proposed law retains present law but creates an exception for a pregnant woman unless authorized by proposed law.

Present law authorizes a member of the military to make an advanced health care directive pursuant to which life-sustaining procedures may be withheld or withdrawn in the event the individual is comatose, incompetent, or otherwise physically or mentally incapable of communication and the individual is diagnosed and certified as having a terminal and irreversible condition.

Proposed law retains present law but creates an exception for a pregnant woman unless authorized by proposed law.

Present law authorizes a physician to document, in a physician's order, the wishes of an individual diagnosed and certified as having a terminal and irreversible condition regarding which life-sustaining procedures may be withheld or withdrawn in the event the individual is comatose, incompetent, or otherwise physically or mentally incapable of communication.

Proposed law retains present law but creates an exception for a pregnant woman unless authorized by proposed law.

Proposed law defines "end-stage medical condition" as an incurable and irreversible medical condition in an advanced state caused by injury, disease, or physical illness that will, in the opinion of the attending physician to a reasonable degree of medical certainty, result in death, despite the introduction or continuation of medical treatment.

Proposed law defines "incompetent" as a condition in which an individual, despite being provided appropriate medical information, communication supports, and technical assistance, is documented by a healthcare provider to be one of the following:

- (1) Unable to understand the potential material benefits, risks, and alternatives involved in a specific proposed healthcare decision.
- (2) Unable to make that healthcare decision on his own behalf.
- (3) Unable to communicate that healthcare decision to any other person.

Proposed law defines "life-sustaining procedure" as any medical procedure or intervention that, when administered to an individual who has an end-stage medical condition or is permanently unconscious, will serve only to prolong the process of dying or maintain the individual in a state of permanent unconsciousness. The term includes but is not limited to nutrition and hydration administered by gastric tube or intravenously or any other artificial or invasive means.

Proposed law defines "permanently unconscious" as a medical condition that has been diagnosed in accordance with currently accepted medical standards and with reasonable medical certainty as total and irreversible loss of consciousness and capacity for interaction with the environment. The term includes but is not limited to an irreversible vegetative state or irreversible coma.

Proposed law requires, notwithstanding a contrary direction contained in an advanced health care directive, the existence of a living will, a healthcare decision by a healthcare representative or healthcare agent, or any other direction to the contrary, life-sustaining procedures including but not limited to cardiopulmonary resuscitation, nutrition, and hydration to be provided to, and not withheld or withdrawn from, a pregnant woman who is incompetent and has an end-stage medical condition or who is permanently unconscious.

Proposed law requires, notwithstanding the existence of a physician order for scope of treatment, or any other direction to the contrary, life-sustaining procedures including but not limited to cardiopulmonary resuscitation, nutrition, and hydration to be provided to, and not withheld or withdrawn from, a pregnant woman who is incompetent and has an end-stage medical condition or who is permanently unconscious.

Proposed law provides an exception to proposed law in any case where, to a reasonable degree of medical certainty as certified on the pregnant woman's medical record by the pregnant woman's attending physician and an obstetrician who has examined the pregnant woman, the life-sustaining treatment, nutrition, and hydration shall do any of the following:

- (1) Not maintain the pregnant woman in such a way as to permit the continuing development and live birth of the unborn child.
- (2) Be physically harmful to the pregnant woman.
- (3) Cause pain to the pregnant woman that cannot be alleviated by medication.

(Adds R.S. 40:1299.58.10(F), 1299.63.1, 1299.64.6(E), and 1299.64.11-1299.64.13)