

2022 Regular Session

HOUSE BILL NO. 459

BY REPRESENTATIVES CHARLES OWEN, AMEDEE, AND HORTON

HEALTH CARE: Enacts the Life-Sustaining Care Act

1 AN ACT

2 To enact Subpart A-1 of Part I of Subchapter A of Chapter 5-D of Title 40 of the Louisiana  
3 Revised Statutes of 1950, to be comprised of R.S. 40:1152.1 through 1152.4, relative  
4 to medical care and treatment; to enact certain requirements for healthcare providers  
5 and institutions relative to life-sustaining care; to establish a duty to provide  
6 life-sustaining care in certain instances; to authorize the transfer of patients to  
7 healthcare providers and institutions willing to provide life-sustaining care; to  
8 provide for definitions; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Subpart A-1 of Part I of Subchapter A of Chapter 5-D of Title 40 of the  
11 Louisiana Revised Statutes of 1950, comprised of R.S. 40:1152.1 through 1152.4, is hereby  
12 enacted to read as follows:

13 SUBPART A-1. THE LIFE-SUSTAINING CARE ACT

14 §1152.1. Short title

15 This Subpart shall be known and may be cited as the "Life-Sustaining Care  
16 Act".

17 §1152.2. Legislative findings; purpose

18 A. The legislature hereby finds and declares all of the following:

19 (1) Services that were once considered to be basic humane care have been  
20 redefined as "medical treatment" and, therefore, may be rejected by individuals in

1 their advance planning documents or by their surrogates when they are incapacitated.  
2 For example, food and water supplied through a feeding tube has been redefined by  
3 some in the medical community as "medical treatment", with the term "artificial  
4 nutrition" coined to analogize the process to treatment of a condition rather than care  
5 for a human being.

6 (2) In some circumstances, life-sustaining care may be withheld or  
7 withdrawn at the discretion of healthcare providers or healthcare institutions.

8 (3) The American Medical Association, which defines "life-sustaining  
9 treatment" as including but not limited to mechanical ventilation, renal dialysis,  
10 chemotherapy, antibiotics, artificial nutrition, and artificial hydration, has stated that  
11 even if a patient is not terminally ill or permanently unconscious, it is not unethical  
12 to discontinue all means of life-sustaining medical treatment in accordance with a  
13 proper substituted judgment or best interests analysis.

14 (4) Patients whose desire for life-sustaining care is refused by a healthcare  
15 provider benefit from laws requiring the provision of life-sustaining care pending  
16 transfer to a willing provider or institution.

17 B. The purpose of this Subpart is to require any healthcare provider or  
18 institution that declines to honor a request by a patient, or the legal representative of  
19 a patient, for the provision or continuation of life-sustaining care to provide  
20 continuing life-sustaining care to the patient until a transfer can be effected, and to  
21 make reasonable efforts to assist in the transfer of the patient to a willing healthcare  
22 provider or healthcare institution.

### 23 §1152.3. Definitions

24 As used in this Subpart, the following terms have the meaning ascribed in this  
25 Section:

26 (1) "Healthcare institution" means any public or private organization,  
27 corporation, partnership, sole proprietorship, association, agency, network, joint  
28 venture, or other entity that is involved in providing healthcare services, including  
29 but not limited to hospitals, clinics, medical centers, ambulatory surgical centers,

1 private physician's offices, nursing homes, or other institutions or locations wherein  
2 healthcare services are provided to any person.

3 (2) "Healthcare provider" means any individual who may be asked to  
4 participate in any way in a healthcare service, including, but not limited to a  
5 physician, physician assistant, nurse, nurse aide, medical assistant, hospital  
6 employee, clinic employee, nursing home employee, or any other person who  
7 furnishes or assists in the furnishing of healthcare services.

8 (3) "Legal representative" means a legal guardian or a legally appointed  
9 substitute decision-maker who is authorized to act on behalf of a patient.

10 (4) "Life-sustaining care" means health care including but not limited to  
11 mechanical ventilation, renal dialysis, chemotherapy, antibiotics, and nutrition and  
12 hydration that, in reasonable medical judgment, has a significant possibility of  
13 sustaining the life of a patient.

14 §1152.4. Duty to provide life-sustaining care

15 A. If a patient, a legal representative of a patient, or an advance directive of  
16 a patient directs the provision or opposes the withdrawal of life-sustaining care that,  
17 in reasonable medical judgment, has a significant possibility of sustaining the life of  
18 a patient, a healthcare provider or healthcare institution shall ensure the provision or  
19 continuation of the directed life-sustaining care.

20 B. A healthcare provider or healthcare institution that is unwilling to provide  
21 directed life-sustaining care pursuant to Subsection A of this Section may transfer  
22 the patient to another healthcare provider or healthcare institution capable of and  
23 willing to provide the directed life-sustaining care; however, the unwilling provider  
24 or institution shall ensure the provision of the directed life-sustaining care until the  
25 patient is transferred. Any transfer of a patient pursuant to the provisions of this  
26 Subsection shall be conducted promptly upon agreement by the receiving provider  
27 or institution to admit the patient.

28 Section 2. Any provision of this Act held to be invalid or unenforceable by its terms,  
29 or as applied to any person or circumstance, shall be construed so as to give it the maximum

1 effect permitted by law, unless such holding is one of utter invalidity or unenforceability,  
2 in which event such provision shall be deemed severable in accordance with R.S. 24:175,  
3 and shall not affect the remainder hereof or the application of such provision to other persons  
4 not similarly situated or to other, dissimilar circumstances.

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## 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)]

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HB 459 Original

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 require any healthcare provider or institution that declines to honor a request by a patient, or the legal representative of a patient, for the provision or continuation of life-sustaining care to provide continuing life-sustaining care to the patient until a transfer can be effected, and to make reasonable efforts to assist in the transfer of the patient to a willing healthcare provider or healthcare institution.

Proposed law defines "life-sustaining care" as health care including, but not limited to, mechanical ventilation, renal dialysis, chemotherapy, antibiotics, and nutrition and hydration that, in reasonable medical judgment, has a significant possibility of sustaining the life of a patient.

Proposed law stipulates that if a patient, a legal representative of a patient, or an advance directive of a patient directs the provision or opposes the withdrawal of life-sustaining care that, in reasonable medical judgment, has a significant possibility of sustaining the life of a patient, 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 life-sustaining care to transfer a patient to another healthcare provider or institution capable of and willing to provide such care. Requires, however, that the unwilling provider or institution ensure the provision of life-sustaining care until the patient is transferred. Requires further that any transfer of a patient pursuant to the provisions of proposed law shall be conducted promptly upon agreement by the receiving provider or institution to admit the patient.

(Adds R.S. 40:1152.1-1152.4)