

CHAPTER 127

(HB 385)

AN ACT relating to personal representatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 395.605 is amended to read as follows:

- (1) Upon the sworn application of any fiduciary, that the fiduciary is the sole beneficiary of any estate, the court may dispense with the requirements of this chapter regarding periodic or final settlement of fiduciaries' accounts and may dispense with the requirements of a surety for the fiduciary and shall accept from the fiduciary an informal settlement. The informal settlement shall be made, under oath, by the fiduciary and shall state that the estate was solvent; that all legal claims and debts have been paid, or if not paid, the manner in which the claims and debts have been provided for; that, *for final settlement*, the requirements of the inheritance, estate or similar death statutes have been met and the tax paid, if due and payable; that all court costs have been paid; the name of the attorney(s), if any, representing the fiduciary, and the amount of the attorney's fee, and that the beneficiary has received his or her share. An informal settlement may be filed at any time after expiration of six (6) months from the fiduciary's appointment. Upon the filing of the informal *final* settlement, the court may enter an order discharging the fiduciary, and his or her surety, if any. When a settlement is effected in the informal manner, no notice to any person shall be required nor shall the court be compelled to inquire into detailed items of income or disbursements.
- (2) If a proposed periodic or final settlement of a fiduciary is accompanied by a verified waiver executed by all of the beneficiaries of an estate, and none of the beneficiaries is under a disability, the court shall accept from the fiduciary an informal settlement which meets the requirements of subsection (1) of this section. Said beneficiaries may request an accounting of the assets of the estate prior to execution of the waiver. No verified waiver need be obtained from a nonresiduary legatee who has received and receipted for his or her legacy, the canceled check or signed receipt attached to the proposed settlement being sufficient evidence of satisfaction. The court may require the fiduciary to execute bond with or without surety to insure the application of the estate assets to the debts of the decedent.
- (3) In the event that one (1) or more of the beneficiaries of the estate is under a disability, the court may allow the filing of an informal settlement if the court is of the opinion that the best interests of the person under the disability would be served.

➔Section 2. KRS 311.625 is amended to read as follows:

- (1) A living will directive made pursuant to KRS 311.623 shall be substantially in the following form, and may include other specific directions which are in accordance with accepted medical practice and not specifically prohibited by any other statute. If any other specific directions are held by a court of appropriate jurisdiction to be invalid, that invalidity shall not affect the directive.

"Living Will Directive

My wishes regarding life-prolonging treatment and artificially provided nutrition and hydration to be provided to me if I no longer have decisional capacity, have a terminal condition, or become permanently unconscious have been indicated by checking and initialing the appropriate lines below. By checking and initialing the appropriate lines, I specifically:

.... Designate as my health care surrogate(s) to make health care decisions for me in accordance with this directive when I no longer have decisional capacity. If refuses or is not able to act for me, I designate as my health care surrogate(s).

Any prior designation is revoked.

If I do not designate a surrogate, the following are my directions to my attending physician. If I have designated a surrogate, my surrogate shall comply with my wishes as indicated below:

.... Direct that treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain.

.... DO NOT authorize that life-prolonging treatment be withheld or withdrawn.

.... Authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... DO NOT authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... Authorize my surrogate, designated above, to withhold or withdraw artificially provided nourishment or fluids, or other treatment if the surrogate determines that withholding or withdrawing is in my best interest; but I do not mandate that withholding or withdrawing.

.... Authorize the giving of all or any part of my body upon death for any purpose specified in KRS 311.1929.

.... DO NOT authorize the giving of all or any part of my body upon death.

In the absence of my ability to give directions regarding the use of life-prolonging treatment and artificially provided nutrition and hydration, it is my intention that this directive shall be honored by my attending physician, my family, and any surrogate designated pursuant to this directive as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of the refusal.

If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.

I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

Signed this day of, 19...

Signature and address of the grantor.

In our joint presence, the grantor, who is of sound mind and eighteen (18) years of age, or older, voluntarily dated and signed this writing or directed it to be dated and signed for the grantor.

Signature and address of witness.

Signature and address of witness.

OR

STATE OF KENTUCKY)

.....County)

Before me, the undersigned authority, came the grantor who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be signed and dated as above.

Done this day of, 19...

Signature of Notary Public or other officer.

Date commission expires:.....

Execution of this document restricts withholding and withdrawing of some medical procedures. Consult Kentucky Revised Statutes or your attorney."

(2) An advance directive shall be in writing, dated, and signed by the grantor, or at the grantor's direction, and either witnessed by two (2) or more adults in the presence of the grantor and in the presence of each other, or acknowledged before a notary public or other person authorized to administer oaths. None of the following shall be a witness to or serve as a notary public or other person authorized to administer oaths in regard to any advance directive made under this section:

- (a) A blood relative of the grantor;
- (b) A beneficiary of the grantor under descent and distribution statutes of the Commonwealth;
- (c) An employee of a health care facility in which the grantor is a patient, unless the employee serves as a notary public;
- (d) An attending physician of the grantor; or
- (e) Any person directly financially responsible for the grantor's health care.

- (3) A person designated as a surrogate pursuant to an advance directive may resign at any time by giving written notice to the grantor; to the immediate successor surrogate, if any; to the attending physician; and to any health care facility which is then waiting for the surrogate to make a health care decision.
- (4) An employee, owner, director, or officer of a health care facility where the grantor is a resident or patient shall not be designated or act as surrogate unless related to the grantor within the fourth degree of consanguinity or affinity or a member of the same religious *or fraternal* order.

Signed by Governor April 5, 2013.