

1 AN ACT relating to life-prolonging treatment for unemancipated minors.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) An order to withhold life-prolonging treatment as defined in KRS 311.621 or a*
6 *similar physician's order shall not be instituted, either orally or in writing, unless*
7 *at least one (1) parent or legal guardian of a patient who is an unemancipated*
8 *minor has first been informed of the physician's intent to institute this order and*
9 *a reasonable attempt has been made to inform the other parent if the other parent*
10 *is reasonably available and has custodial or visitation rights. The information*
11 *shall be:*

12 *(a) Provided both orally and in writing unless, in reasonable medical judgment,*
13 *the urgency of the decision requires reliance on only providing the*
14 *information orally; and*

15 *(b) Contemporaneously recorded in the unemancipated minor's medical*
16 *record, specifying by whom and to whom the information was given, the*
17 *date and time of its provision, and whether it was provided in writing as*
18 *well. When only one (1) parent has been informed, the nature of reasonable*
19 *attempts to inform the other parent or the reason why attempts were not*
20 *made shall also be contemporaneously recorded in the unemancipated*
21 *minor's medical record.*

22 *(2) Either parent of an unemancipated minor or the unemancipated minor's legal*
23 *guardian may refuse consent to an order to withhold life-prolonging treatment or*
24 *a similar physician's order for the unemancipated minor, either in writing or*
25 *orally. A refusal of consent shall be contemporaneously recorded in the*
26 *unemancipated minor's medical record. No order to withhold life-prolonging*
27 *treatment or similar physician's order shall be instituted either orally or in*

1 writing if there has been a refusal of consent except in accordance with a court
2 order issued pursuant to subsections (3) and (4) of this section.

3 (3) If the parents or legal guardian of an unemancipated minor are unable to agree
4 on whether to institute or revoke an order to withhold life-prolonging treatment
5 or a similar physician's order, either parent or the legal guardian may institute a
6 proceeding under subsection (4) of this section to resolve the conflict. Pending
7 the final determination of the proceedings, including any appeals, an order to
8 withhold life-prolonging treatment or a similar physician's order shall not be
9 implemented.

10 (4) A parent or legal guardian of an unemancipated minor may petition the Circuit
11 Court in the county in which the unemancipated minor resides or in which the
12 unemancipated minor is receiving treatment for an order enjoining a violation or
13 threatened violation of this section or to resolve a conflict. Upon receiving the
14 petition, the Circuit Court shall issue an order fixing the date, time, and place of
15 a hearing on the petition that is within seventy-two (72) hours and order that
16 notice of the hearing shall be given to the parents or legal guardian of the
17 unemancipated minor and other persons as the court directs. If the natural death
18 of the unemancipated minor is imminent, a preliminary hearing may be held
19 without notice. In the court's discretion, a hearing may be conducted in a
20 courtroom, a healthcare facility, or at some other suitable place.

21 (5) Upon the request of a patient, a healthcare facility or physician shall disclose in
22 writing any policies relating to a patient or the services a patient may receive
23 involving life-prolonging treatment, including any policies related to treatments
24 deemed non-beneficial, ineffective, futile, or inappropriate, within the healthcare
25 facility or by the physician. Nothing in this section shall require a healthcare
26 facility or physician to have a written policy relating to or involving life-
27 prolonging treatment.