

Simon's Law—Certain Physician Orders for Minors; Sub. for SB 85

Sub. for SB 85 creates Simon's Law. Specifically, the bill addresses instituting do-not-resuscitate (DNR) and similar physician's orders, petitions to enjoin violations of the bill and resolve parental disagreements, required disclosure of policies by facilities and physicians, and law concerning emergency health care.

Instituting Do-Not-Resuscitate Orders, Similar Orders

The bill provides that a DNR or similar physician's order cannot be instituted for an unemancipated minor unless at least one parent or legal guardian of the minor has been informed, orally and in writing, of the intent to institute the order. A reasonable attempt to inform the other parent must be made if the other parent is reasonably available and has custodial or visitation rights. The information need not be provided in writing if, in reasonable medical judgment, the urgency of the decision requires reliance on providing the information orally.

The bill provides that either parent or the unemancipated minor's guardian may refuse consent for a DNR or similar order, either orally or in writing. Further, the bill provides that no DNR or similar order can be instituted, orally or in writing, if there is a refusal of consent.

The bill requires the following information to be contemporaneously recorded in the patient's medical record:

- By whom and to whom the information was given;
- Date and time information was provided;
- Whether the information was provided in writing;
- The nature of attempts to inform the other parent or the reason for not attempting to notify the other parent if only one parent has been informed; and
- Any refusal of consent to a DNR or similar order by parents or legal guardians.

Petitions to Enjoin Violations of Bill, Parental Disagreement

The bill allows either parent to petition the district court of the county in which the patient resides or is receiving treatment for an order enjoining violations or threatened violations of the provisions of the bill or to resolve a dispute over whether to institute or revoke a DNR or similar order. Upon receiving such a petition, the district court must issue an order fixing the date, time, and place of hearing on the petition. Notice of the hearing will be given at the district court's direction. A preliminary hearing can be held without notice if the court determines it necessary to prevent imminent danger to the child's life. The hearing can be conducted in a courtroom, treatment facility, or some other suitable place at the court's discretion.

If the parents of a minor patient disagree on whether to institute or revoke a DNR or similar order, the district court must resolve the conflict based on a presumption in favor of providing cardio-pulmonary resuscitation. Additionally, in the event the parents of a minor patient disagree, a DNR or similar order cannot be implemented until there is a final determination of the court proceedings, including any appeals.

Disclosure of Policies by Facilities and Physicians

The bill provides that, upon request of patients, prospective patients, residents, and prospective residents, health care facilities, nursing homes, and physicians must disclose, in writing, certain policies of the facility or agency, including those relating to:

- A patient or resident;
- The services a patient or resident may receive involving resuscitation or life-sustaining measures; and
- Treatments deemed non-beneficial, ineffective, futile, or inappropriate.

The bill specifies there is no requirement that a health care facility, nursing home, or physician have a written policy relating to or involving resuscitation, life-sustaining, or non-beneficial treatment for unemancipated minor patients or adult patients, residents, or wards.

Relationship to Other Law Concerning Emergency Health Care

The provisions of the bill cannot be construed to alter or supersede law concerning emergency care by health care providers.