

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 R.S. 22:1054.2 and Subpart A-1 of Part I of Subchapter A of Chapter 5-D of Title
3 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1152.1
4 through 1152.6, relative to medical care and treatment; to enact certain requirements
5 for healthcare providers and institutions relative to life-sustaining procedures; to
6 provide relative to insurance coverage of such procedures; to provide for
7 construction; to provide a limitation of liability; to provide for definitions; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 22:1054.2 is hereby enacted to read as follows:

11 §1054.2. Requirement for access to coverage for life-sustaining procedures

12 A. No health coverage plan shall deny coverage for the provision or
13 continuation of a directed life-sustaining procedure or service provided in accordance
14 with the Life-Sustaining Care Act, R.S. 40:1152.1 et seq.

15 B. For purposes of this Section, "health coverage plan" means any hospital,
16 health, or medical expense insurance policy, hospital or medical service contract,
17 employee welfare benefit plan, contract, or other agreement with a health
18 maintenance organization or a preferred provider organization, health and accident
19 insurance policy, or any other insurance contract of this type in this state.

1 Section 2. Subpart A-1 of Part I of Subchapter A of Chapter 5-D of Title 40 of the
2 Louisiana Revised Statutes of 1950, comprised of R.S. 40:1152.1 through 1152.6, is hereby
3 enacted to read as follows:

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

5 §1152.1. Short title

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

8 §1152.2. Legislative findings; purpose

9 The legislature hereby finds and declares that any patient whose desire for
10 life-sustaining care is refused by a healthcare provider would benefit from laws
11 providing for the continuance of life-sustaining care pending a transfer to a willing
12 provider or institution. The purpose of this Subpart is to ensure the continued
13 provision of healthcare procedures or services when a healthcare provider or
14 healthcare institution declines to honor a request by a patient, or the patient's legal
15 representative, for the provision or continuation of life-sustaining care until a transfer
16 can be effected, and to make reasonable efforts to assist in the transfer of the patient
17 to a willing provider or institution.

18 §1152.3. Definitions

19 As used in this Subpart, the following terms have the meaning ascribed in this
20 Section:

21 (1) "Healthcare institution" means any public or private organization,
22 corporation, partnership, sole proprietorship, association, agency, network, joint
23 venture, or other entity that is involved in providing healthcare services, including
24 but not limited to hospitals, clinics, medical centers, ambulatory surgical centers,
25 private physician's offices, nursing homes, or other institutions or locations wherein
26 healthcare services are provided to any person.

27 (2) "Healthcare provider" means any individual who may be asked to
28 participate in any way in a healthcare service, including, but not limited to a
29 physician, physician assistant, nurse, nurse aide, medical assistant, hospital

1 employee, clinic employee, nursing home employee, or any other person who
2 furnishes or assists in the furnishing of healthcare services.

3 (3) "Legal representative" means a person authorized by Louisiana law to
4 consent to medical treatment on behalf of the patient.

5 (4) "Life-sustaining procedure" means any medical procedure or intervention
6 which, in reasonable medical judgment, has the possibility of sustaining the life of
7 the patient.

8 §1152.4. Provision of life-sustaining procedures

9 A. If a patient, a legal representative of a patient, or an advance directive of
10 a patient directs the provision or opposes the withdrawal of a life-sustaining
11 procedure, a healthcare provider or healthcare institution shall ensure the provision
12 or continuation of the directed life-sustaining procedure.

13 B. A healthcare provider or healthcare institution that is unwilling to provide
14 a directed life-sustaining procedure pursuant to Subsection A of this Section may
15 transfer the patient to another healthcare provider or healthcare institution capable
16 of and willing to provide the procedure. Upon the identification of a capable and
17 willing healthcare provider or healthcare institution by the patient or his legal
18 representative, the unwilling healthcare provider or healthcare institution shall make
19 a reasonable and good faith attempt to transfer the patient to the willing healthcare
20 provider or healthcare institution identified by the patient or his legal representative.
21 However, the unwilling healthcare provider or healthcare institution shall make a
22 good faith effort to ensure the provision or continuation of the directed
23 life-sustaining procedure. Any transfer of a patient pursuant to the provisions of this
24 Subsection shall be conducted promptly upon agreement by the receiving healthcare
25 provider or healthcare institution to admit the patient.

26 C. In any instance in which the services provided to a patient for the
27 provision or continuation of a directed life-sustaining procedure are not covered by
28 any public or private health insurance coverage, payment for the services provided
29 in accordance with this Subpart shall remain the obligation of the patient.

1 §1152.5. Advance directives and other declarations and orders not affected
2 Nothing in this Subpart shall be construed to supersede a properly signed and
3 executed living will, advance directive, declaration concerning life-sustaining
4 procedures, or physician order for scope of treatment form prepared in accordance
5 with Subpart A, B, or C of this Part or any other applicable provisions of law.

6 §1152.6. Limitation of liability
7 Compliance with this Subpart shall not create, or be construed or interpreted
8 to create, a new cause of action or to create a standard of care, obligation, or duty
9 that provides a basis for a cause of action.

10 Section 3. Any provision of this Act held to be invalid or unenforceable by its terms,
11 or as applied to any person or circumstance, shall be construed so as to give it the maximum
12 effect permitted by law, unless such holding is one of utter invalidity or unenforceability,
13 in which event such provision shall be deemed severable in accordance with R.S. 24:175,
14 and shall not affect the remainder hereof or the application of such provision to other persons
15 not similarly situated or to other, dissimilar circumstances.

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)]

HB 459 Engrossed

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 ensure the continued provision of healthcare procedures or services when a healthcare provider or healthcare institution declines to honor a request by a patient, or the patient's legal representative, for the provision or continuation of life-sustaining care until a transfer can be effected, and to make reasonable efforts to assist in the transfer of the patient to a willing provider or institution.

Proposed law defines "life-sustaining care" as any medical procedure or intervention which, in reasonable medical judgment, has the possibility of sustaining the life of the 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 a life-sustaining procedure, 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 a directed life-sustaining procedure to transfer the patient to another healthcare provider or

healthcare institution capable of and willing to provide the procedure. Provides for the process by which such a transfer may be effected.

Proposed law stipulates that nothing therein shall be construed to supersede a properly signed and executed living will, advance directive, declaration concerning life-sustaining procedures, or physician order for scope of treatment form prepared in accordance with applicable provisions of present law.

Proposed law provides that compliance with proposed law shall not create, or be construed or interpreted to create, a new cause of action or to create a standard of care, obligation, or duty that provides a basis for a cause of action.

Proposed law prohibits health coverage plans from denying coverage for the provision or continuation of a directed life-sustaining procedure or service delivered in accordance with proposed law. Provides that for purposes of proposed law, "health coverage plan" means any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, contract, or other agreement with a health maintenance organization or a preferred provider organization, health and accident insurance policy, or any other insurance contract of this type in this state.

Proposed law stipulates that when services provided to a patient for the provision or continuation of a directed life-sustaining procedure are not covered by any public or private health insurance coverage, payment for the services provided in accordance with proposed law shall remain the obligation of the patient.

(Adds R.S. 22:1054.2 and R.S. 40:1152.1-1152.6)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Provide within the La. Insurance Code (Title 22 of present law) that no health coverage plan shall deny coverage for the provision or continuation of a directed life-sustaining procedure or service provided in accordance with proposed law.
2. Revise legislative findings and purpose language provided in proposed law.
3. Revise the definitions of "legal representative" and "life-sustaining procedure" provided in proposed law.
4. Revise proposed law pertaining to transfer of patients in instances in which a healthcare provider or healthcare institution is unwilling to provide a directed life-sustaining procedure pursuant to proposed law.
5. Stipulate that when services provided to a patient for the provision or continuation of a directed life-sustaining procedure are not covered by any public or private health insurance coverage, payment for the services provided in accordance with proposed law shall remain the obligation of the patient.
6. Stipulate that nothing in proposed law shall be construed to supersede a properly signed and executed living will, advance directive, declaration concerning life-sustaining procedures, or physician order for scope of treatment form prepared in accordance with applicable provisions of present law.

7. Provide that compliance with proposed law shall not create, or be construed or interpreted to create, a new cause of action or to create a standard of care, obligation, or duty that provides a basis for a cause of action.
8. Make technical changes.