2023 Kansas Statutes

38-150.   Physician care of a minor; disclosure of do-not-resuscitate order; refusal of consent; dispute resolution. (a) This section shall be known and may be cited as Simon's law.

(b)   A do-not-resuscitate order or similar physician's order shall not be instituted, either orally or in writing, unless at least one parent or legal guardian of a patient or resident who is an unemancipated minor or prospective patient or resident who is an unemancipated minor has first been informed of the physician's intent to institute such an order and a reasonable attempt has been made to inform the other parent if the other parent is reasonably available and has custodial or visitation rights. Such information must be provided both orally and in writing unless, in reasonable medical judgment, the urgency of the decision requires reliance on only providing the information orally. The provision of such information must be contemporaneously recorded in the patient's medical record, specifying by whom and to whom the information was given, the date and time of its provision, and whether it was provided in writing as well. When only one parent has been informed, the nature of reasonable attempts to inform the other parent or the reason why such attempts were not made must also be contemporaneously recorded in the patient's medical record.

(c)   Either parent of an unemancipated minor or the unemancipated minor's guardian may refuse consent for a do-not-resuscitate order or similar physician's order for the unemancipated minor, either in writing or orally. Any such refusal of consent must be contemporaneously recorded in the patient's medical record. No do-not-resuscitate order or similar physician's order shall be instituted either orally or in writing if there has been such a refusal of consent except in accordance with a court order issued pursuant to subsection (d).

(d)   If the parents of a minor patient are unable to agree on whether to institute or revoke a do-not-resuscitate order or similar physician's order, either parent may institute a proceeding under subsection (e) to resolve the conflict based on a presumption in favor of the provision of cardio-pulmonary resuscitation. Pending the final determination of such proceedings, including any appeals, a do-not-resuscitate order or similar physician's order shall not be implemented.

(e)   A parent or guardian may petition a district court of the county in which the patient resides or in which the patient is receiving treatment for an order enjoining a violation or threatened violation of this section or to resolve a conflict. Upon receiving such a petition, the district court shall issue an order fixing the date, time and place of a hearing on the petition and order that notice of the hearing shall be given to such persons as the court shall direct. A preliminary hearing may be held without notice if the court determines that holding that hearing without notice is necessary to prevent imminent danger to the child's life. In the court's discretion, a hearing may be conducted in a courtroom, a treatment facility or at some other suitable place.

(f)   Upon the request of a patient or resident or a prospective patient or resident, a healthcare facility, nursing home or physician shall disclose in writing any policies relating to a patient or resident or the services a patient or resident may receive involving resuscitation or life-sustaining measures, including any policies related to treatments deemed non-beneficial, ineffective, futile or inappropriate, within the healthcare facility or agency. Nothing in this section shall require a healthcare facility, nursing home or physician to 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.

(g)   Nothing in this section may be construed to alter or supersede the provisions of K.S.A. 65-2891, and amendments thereto, relating to emergency care by health care providers.

History: L. 2017, ch. 30, § 1; July 1.