

As Amended by Senate Committee

Session of 2016

SENATE BILL No. 437

By Committee on Federal and State Affairs

2-10

1 AN ACT concerning healthcare; dealing with *relating to* withholding life-
2 sustaining treatment of certain persons *from patients under 18 years of*
3 *age; permission requirements and exceptions; dispute resolution.*

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5 *Be it enacted by the Legislature of the State of Kansas:*
6 Section 1. (a) This act shall be known and may be cited as "Simon's
7 law."

8 (b) *As used in this section:*
9 (1) *Procedures, food, medication or nutrition are "life-sustaining"*
10 *if, in reasonable medical judgment, the withdrawal or withholding of*
11 *such procedures, food, medication or nutrition would result in or hasten*
12 *the death of the patient.*

13 (2) *"Reasonable medical judgment" means a medical judgment*
14 *that would be made by a reasonably prudent physician who is*
15 *knowledgeable about the case and the treatment possibilities with respect*
16 *to the medical conditions involved.*

17 (c) Upon the request of a patient or resident or a prospective patient
18 or resident, a healthcare facility, nursing home or physician shall disclose
19 in writing any policies relating to a patient or resident or the services a
20 patient or resident may receive involving life-sustaining or non-beneficial
21 treatment, *including any policies related to healthcare deemed futile,*
22 *inappropriate or non-beneficial*, within the healthcare facility or agency.

23 (d) No healthcare facility, nursing home, physician, nurse or
24 medical staff shall withhold life-sustaining procedures, food, medication or
25 nutrition, nor place any restrictions on life-sustaining procedures
26 including, but not limited to, food, medication or nutrition for any patient,
27 resident or ward under 18 years of age without the written permission of at
28 least one parent or legal guardian of the patient or ward.

29 (e) No do-not-resuscitate order or similar physician's order shall
30 be instituted either orally or in writing without the written permission of at
31 least one parent or legal guardian of the patient or resident under 18 years
32 of age or prospective patient or resident under 18 years of age.

33 (f) *Permission previously given under subsection (d) or (e) may be*
34 *revoked in writing by the legal guardian or either parent of the patient.*
35 *If the parents are unable to agree to withhold life-sustaining procedures,*
36 *food, medication, nutrition or resuscitation, either parent may petition a*

1 *district court of the county in which the patient resides or in which the
2 patient is receiving treatment to resolve the conflict based on a
3 presumption in favor of the provision of life-sustaining procedures,
4 food, medication, nutrition and resuscitation, unless there is clear and
5 convincing evidence that such provision is contrary to the best interests
6 of the child. Upon receiving such a petition, the district court shall issue
7 an order fixing the date, time and place of the trial on the petition and
8 order that notice of the trial shall be given to such persons as the court
9 shall direct. The trial may be held forthwith and without notice if the
10 court determines that holding a trial forthwith and without notice is in
11 the best interests of the petitioner. In the court's discretion, a trial may
12 be conducted in a courtroom, a treatment facility or at some other
13 suitable place. Pending the final outcome of such proceedings, including
14 any appeals, no permission under subsection (d) or (e) may be
15 implemented.*

16 (i) *Subject to subsection (h), the requirements for written
17 permission in subsections (d) and (e) shall not apply if providing
18 resuscitation or food, medication or nutrition would be:*

19 (1) *Futile because, in reasonable medical judgment, withholding
20 resuscitation or food, medication or nutrition would not cause or hasten
21 the death of the patient; or*

22 (2) *medically inappropriate because, in reasonable medical
23 judgment, providing resuscitation or food, medication or nutrition would
24 create a greater risk of causing or hastening the death of the patient
25 than withholding resuscitation or food, medication or nutrition.*

26 (h) *Subsection (g) may be implemented, so long as a reasonably
27 diligent effort has been made to contact at least one parent or legal
28 guardian who, if contacted, has been informed of the planned
29 withholding of food, medication or nutrition or do-not-resuscitate order,
30 and the healthcare provider has cooperated with the parent or legal
31 guardian's efforts to obtain other medical opinions or a transfer of the
32 patient to a provider selected by the parent or guardian, if so requested.*

33 (e) (i) *Nothing in this act shall require a healthcare facility, nursing
34 home or physician to have a written policy relating to or involving life-
35 sustaining or non-beneficial treatment for patients under 18 years of age or
36 adult patients, residents or wards.*

37 Sec. 2. This act shall take effect and be in force from and after its
38 publication in the statute book.