

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 79

Representative Boose

Cosponsors: Representatives Adams, J., Becker, Blair, Grossman

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A B I L L

To amend sections 2133.08, 2133.09, and 2133.12 of 1
the Revised Code to provide that an individual's 2
statutory priority to decide whether or not to 3
withhold or withdraw life-sustaining treatment for 4
the individual's relative is forfeited if the 5
individual is charged with felonious assault or 6
aggravated assault resulting in the relative being 7
in a terminal condition from the physical harm 8
suffered. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2133.08, 2133.09, and 2133.12 of the 10
Revised Code be amended to read as follows: 11

Sec. 2133.08. (A)(1) If written consent to the withholding or 12
withdrawal of life-sustaining treatment, witnessed by two 13
individuals who satisfy the witness eligibility criteria set forth 14
in division (B)(1) of section 2133.02 of the Revised Code, is 15
given by the appropriate individual or individuals as specified in 16
division (B) of this section to the attending physician of a 17
patient who is an adult, and if all of the following apply in 18
connection with the patient, then, subject to section 2133.09 of 19

the Revised Code, the patient's attending physician may withhold 20
or withdraw the life-sustaining treatment: 21

(a) The attending physician and one other physician who 22
examines the patient determine, in good faith, to a reasonable 23
degree of medical certainty, and in accordance with reasonable 24
medical standards, that the patient is in a terminal condition or 25
the patient currently is and for at least the immediately 26
preceding twelve months has been in a permanently unconscious 27
state, and the attending physician additionally determines, in 28
good faith, to a reasonable degree of medical certainty, and in 29
accordance with reasonable medical standards, that the patient no 30
longer is able to make informed decisions regarding the 31
administration of life-sustaining treatment and that there is no 32
reasonable possibility that the patient will regain the capacity 33
to make those informed decisions. 34

(b) The patient does not have a declaration that addresses 35
the patient's intent should the patient be determined to be in a 36
terminal condition or in a permanently unconscious state, 37
whichever applies, or a durable power of attorney for health care, 38
or has a document that purports to be such a declaration or 39
durable power of attorney for health care but that document is not 40
legally effective. 41

(c) The consent of the appropriate individual or individuals 42
is given after consultation with the patient's attending physician 43
and after receipt of information from the patient's attending 44
physician or a consulting physician that is sufficient to satisfy 45
the requirements of informed consent. 46

(d) The appropriate individual or individuals who give a 47
consent are of sound mind and voluntarily give the consent. 48

(e) If a consent would be given under division (B)(3) of this 49
section, the attending physician made a good faith effort, and 50

used reasonable diligence, to notify the patient's adult children 51
who are available within a reasonable period of time for 52
consultation as described in division (A)(1)(c) of this section. 53

(2) The consulting physician under division (A)(1)(a) of this 54
section associated with a patient allegedly in a permanently 55
unconscious state shall be a physician who, by virtue of advanced 56
education or training, of a practice limited to particular 57
diseases, illnesses, injuries, therapies, or branches of medicine 58
or surgery or osteopathic medicine and surgery, of certification 59
as a specialist in a particular branch of medicine or surgery or 60
osteopathic medicine and surgery, or of experience acquired in the 61
practice of medicine or surgery or osteopathic medicine and 62
surgery, is qualified to determine whether the patient currently 63
is and for at least the immediately preceding twelve months has 64
been in a permanently unconscious state. 65

(B) For purposes of division (A) of this section and subject 66
to division (C)(2) of this section, a consent to withhold or 67
withdraw life-sustaining treatment may be given by the appropriate 68
individual or individuals, in accordance with the following 69
descending order of priority: 70

(1) If any, the guardian of the patient. This division does 71
not permit or require, and shall not be construed as permitting or 72
requiring, the appointment of a guardian for the patient. 73

(2) The patient's spouse; 74

(3) An adult child of the patient or, if there is more than 75
one adult child, a majority of the patient's adult children who 76
are available within a reasonable period of time for consultation 77
with the patient's attending physician; 78

(4) The patient's parents; 79

(5) An adult sibling of the patient or, if there is more than 80
one adult sibling, a majority of the patient's adult siblings who 81

are available within a reasonable period of time for that 82
consultation; 83

(6) The nearest adult who is not described in divisions 84
(B)(1) to (5) of this section, who is related to the patient by 85
blood or adoption, and who is available within a reasonable period 86
of time for that consultation. 87

(C)(1) If an appropriate individual or class of individuals 88
entitled to decide under division (B) of this section whether or 89
not to consent to the withholding or withdrawal of life-sustaining 90
treatment for a patient is not available within a reasonable 91
period of time for the consultation and competent to so decide, or 92
declines to so decide, then the next priority individual or class 93
of individuals specified in that division is authorized to make 94
the decision. However, an equal division in a priority class of 95
individuals under that division does not authorize the next class 96
of individuals specified in that division to make the decision. If 97
an equal division in a priority class of individuals under that 98
division occurs, no written consent to the withholding or 99
withdrawal of life-sustaining treatment from the patient can be 100
given pursuant to this section. 101

(2)(a) If an appropriate individual entitled to decide under 102
division (B) of this section whether or not to consent to the 103
withholding or withdrawal of life-sustaining treatment for a 104
patient who is in a terminal condition has been charged with the 105
offense of felonious assault under section 2903.11 of the Revised 106
Code or the offense of aggravated assault under section 2903.12 of 107
the Revised Code against the patient and the serious physical harm 108
or physical harm suffered by the patient as a result of the 109
offense directly caused the patient to be in a terminal condition, 110
the individual is not competent to so decide, and the next 111
priority individual or class of individuals specified in that 112
division is authorized to make the decision. 113

(b) If a member of a class of individuals entitled to decide 114
under division (B) of this section whether or not to consent to 115
the withholding or withdrawal of life-sustaining treatment for a 116
patient who is in a terminal condition has been charged with the 117
offense of felonious assault under section 2903.11 of the Revised 118
Code or the offense of aggravated assault under section 2903.12 of 119
the Revised Code against the patient and the serious physical harm 120
or physical harm suffered by the patient as a result of the 121
offense directly caused the patient to be in a terminal condition, 122
that member is not competent to so decide, and the other members 123
of the class of individuals are authorized to make the decision. 124

(D)(1) A decision to consent pursuant to this section to the 125
use or continuation, or the withholding or withdrawal, of 126
life-sustaining treatment for a patient shall be made in good 127
faith. 128

(2) Except as provided in division (D)(4) of this section, if 129
the patient previously expressed an intention with respect to the 130
use or continuation, or the withholding or withdrawal, of 131
life-sustaining treatment should the patient subsequently be in a 132
terminal condition or in a permanently unconscious state, 133
whichever applies, and no longer able to make informed decisions 134
regarding the administration of life-sustaining treatment, a 135
consent given pursuant to this section shall be valid only if it 136
is consistent with that previously expressed intention. 137

(3) Except as provided in division (D)(4) of this section, if 138
the patient did not previously express an intention with respect 139
to the use or continuation, or the withholding or withdrawal, of 140
life-sustaining treatment should the patient subsequently be in a 141
terminal condition or in a permanently unconscious state, 142
whichever applies, and no longer able to make informed decisions 143
regarding the administration of life-sustaining treatment, a 144
consent given pursuant to this section shall be valid only if it 145

is consistent with the type of informed consent decision that the patient would have made if the patient previously had expressed an intention with respect to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment should the patient subsequently be in a terminal condition or in a permanently unconscious state, whichever applies, and no longer able to make informed decisions regarding the administration of life-sustaining treatment, as inferred from the lifestyle and character of the patient, and from any other evidence of the desires of the patient, prior to the patient's becoming no longer able to make informed decisions regarding the administration of life-sustaining treatment. The Rules of Evidence shall not be binding for purposes of this division.

(4)(a) The attending physician of the patient, and other health care personnel acting under the direction of the attending physician, who do not have actual knowledge of a previously expressed intention as described in division (D)(2) of this section or who do not have actual knowledge that the patient would have made a different type of informed consent decision under the circumstances described in division (D)(3) of this section, may rely on a consent given in accordance with this section unless a probate court decides differently under division (E) of this section.

(b) The immunity conferred by division (C)(1) of section 2133.11 of the Revised Code is not forfeited by an individual who gives a consent to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment for a patient under division (B) of this section if the individual gives the consent in good faith and without actual knowledge, at the time of giving the consent, of either a contrary previously expressed intention of the patient, or a previously expressed intention of the patient, as described in division (D)(2) of this section, that is

revealed to the individual subsequent to the time of giving the 178
consent. 179

(E)(1) Within forty-eight hours after a priority individual 180
or class of individuals gives a consent pursuant to this section 181
to the use or continuation, or the withholding or withdrawal, of 182
life-sustaining treatment and communicates the consent to the 183
patient's attending physician, any individual described in 184
divisions (B)(1) to (5) of this section, except an individual who 185
is not competent to give consent under division (C)(2) of this 186
section, who objects to the application of this section to the 187
patient shall advise the attending physician of the grounds for 188
the objection. If an objection is so communicated to the attending 189
physician, then, within two business days after that 190
communication, the objecting individual shall file a complaint 191
against the priority individual or class of individuals, the 192
patient's attending physician, and the consulting physician 193
associated with the determination that the patient is in a 194
terminal condition or that the patient currently is and for at 195
least the immediately preceding twelve months has been in a 196
permanently unconscious state, in the probate court of the county 197
in which the patient is located for the issuance of an order 198
reversing the consent of the priority individual or class of 199
individuals. If the objecting individual fails to so file a 200
complaint, the individual's objections shall be considered to be 201
void. 202

A probate court in which a complaint is filed in accordance 203
with this division shall conduct a hearing on the complaint after 204
a copy of the complaint and a notice of the hearing have been 205
served upon the defendants. The clerk of the probate court in 206
which the complaint is filed shall cause the complaint and the 207
notice of the hearing to be so served in accordance with the Rules 208
of Civil Procedure, which service shall be made, if possible, 209

within three days after the filing of the complaint. The hearing 210
shall be conducted at the earliest possible time, but no later 211
than the third business day after the service has been completed. 212
Immediately following the hearing, the court shall enter on its 213
journal its determination whether the decision of the priority 214
individual or class of individuals to consent to the use or 215
continuation, or the withholding or withdrawal, of life-sustaining 216
treatment in connection with the patient will be confirmed or 217
reversed. 218

(2) If the decision of the priority individual or class of 219
individuals was to consent to the use or continuation of 220
life-sustaining treatment in connection with the patient, the 221
court only may reverse that consent if the objecting individual 222
establishes, by clear and convincing evidence and, if applicable, 223
to a reasonable degree of medical certainty and in accordance with 224
reasonable medical standards, one or more of the following: 225

(a) The patient is able to make informed decisions regarding 226
the administration of life-sustaining treatment. 227

(b) The patient has a legally effective declaration that 228
addresses the patient's intent should the patient be determined to 229
be in a terminal condition or in a permanently unconscious state, 230
whichever applies, or a legally effective durable power of 231
attorney for health care. 232

(c) The decision to use or continue life-sustaining treatment 233
is not consistent with the previously expressed intention of the 234
patient as described in division (D)(2) of this section. 235

(d) The decision to use or continue life-sustaining treatment 236
is not consistent with the type of informed consent decision that 237
the patient would have made if the patient previously had 238
expressed an intention with respect to the use or continuation, or 239
the withholding or withdrawal, of life-sustaining treatment should 240

the patient subsequently be in a terminal condition or in a 241
permanently unconscious state, whichever applies, and no longer 242
able to make informed decisions regarding the administration of 243
life-sustaining treatment as described in division (D)(3) of this 244
section. 245

(e) The decision of the priority individual or class of 246
individuals was not made after consultation with the patient's 247
attending physician and after receipt of information from the 248
patient's attending physician or a consulting physician that is 249
sufficient to satisfy the requirements of informed consent. 250

(f) The priority individual, or any member of the priority 251
class of individuals, who made the decision to use or continue 252
life-sustaining treatment was not of sound mind or did not 253
voluntarily make the decision. 254

(g) If the decision of a priority class of individuals under 255
division (B)(3) of this section is involved, the patient's 256
attending physician did not make a good faith effort, and use 257
reasonable diligence, to notify the patient's adult children who 258
were available within a reasonable period of time for consultation 259
as described in division (A)(1)(c) of this section. 260

(h) The decision of the priority individual or class of 261
individuals otherwise was made in a manner that does not comply 262
with this section. 263

(3) If the decision of the priority individual or class of 264
individuals was to consent to the withholding or withdrawal of 265
life-sustaining treatment in connection with the patient, the 266
court only may reverse that consent if the objecting individual 267
establishes, by a preponderance of the evidence and, if 268
applicable, to a reasonable degree of medical certainty and in 269
accordance with reasonable medical standards, one or more of the 270
following: 271

(a) The patient is not in a terminal condition, the patient 272
is not in a permanently unconscious state, or the patient has not 273
been in a permanently unconscious state for at least the 274
immediately preceding twelve months. 275

(b) The patient is able to make informed decisions regarding 276
the administration of life-sustaining treatment. 277

(c) There is a reasonable possibility that the patient will 278
regain the capacity to make informed decisions regarding the 279
administration of life-sustaining treatment. 280

(d) The patient has a legally effective declaration that 281
addresses the patient's intent should the patient be determined to 282
be in a terminal condition or in a permanently unconscious state, 283
whichever applies, or a legally effective durable power of 284
attorney for health care. 285

(e) The decision to withhold or withdraw life-sustaining 286
treatment is not consistent with the previously expressed 287
intention of the patient as described in division (D)(2) of this 288
section. 289

(f) The decision to withhold or withdraw life-sustaining 290
treatment is not consistent with the type of informed consent 291
decision that the patient would have made if the patient 292
previously had expressed an intention with respect to the use or 293
continuation, or the withholding or withdrawal, of life-sustaining 294
treatment should the patient subsequently be in a terminal 295
condition or in a permanently unconscious state, whichever 296
applies, and no longer able to make informed decisions regarding 297
the administration of life-sustaining treatment as described in 298
division (D)(3) of this section. 299

(g) The decision of the priority individual or class of 300
individuals was not made after consultation with the patient's 301
attending physician and after receipt of information from the 302

patient's attending physician or a consulting physician that is 303
sufficient to satisfy the requirements of informed consent. 304

(h) The priority individual, or any member of the priority 305
class of individuals, who made the decision to withhold or 306
withdraw life-sustaining treatment was not of sound mind or did 307
not voluntarily make the decision. 308

(i) If the decision of a priority class of individuals under 309
division (B)(3) of this section is involved, the patient's 310
attending physician did not make a good faith effort, and use 311
reasonable diligence, to notify the patient's adult children who 312
were available within a reasonable period of time for consultation 313
as described in division (A)(1)(c) of this section. 314

(j) The decision of the priority individual or class of 315
individuals otherwise was made in a manner that does not comply 316
with this section. 317

(4) Notwithstanding any contrary provision of the Revised 318
Code or of the Rules of Civil Procedure, the state and persons 319
other than individuals described in divisions (B)(1) to (5) of 320
this section are prohibited from filing a complaint under division 321
(E) of this section and from joining or being joined as parties to 322
a hearing conducted under division (E) of this section, including 323
joining by way of intervention. 324

(F) A valid consent given in accordance with this section 325
supersedes any general consent to treatment form signed by or on 326
behalf of the patient prior to, upon, or after the patient's 327
admission to a health care facility to the extent there is a 328
conflict between the consent and the form. 329

(G) Life-sustaining treatment shall not be withheld or 330
withdrawn from a patient pursuant to a consent given in accordance 331
with this section if the patient is pregnant and if the 332
withholding or withdrawal of the treatment would terminate the 333

pregnancy, unless the patient's attending physician and one other 334
physician who has examined the patient determine, to a reasonable 335
degree of medical certainty and in accordance with reasonable 336
medical standards, that the fetus would not be born alive. 337

Sec. 2133.09. (A) The attending physician of a patient who is 338
an adult and who currently is and for at least the immediately 339
preceding twelve months has been in a permanently unconscious 340
state may withhold or withdraw nutrition and hydration in 341
connection with the patient only if all of the following apply: 342

(1) Written consent to the withholding or withdrawal of 343
life-sustaining treatment in connection with the patient has been 344
given by an appropriate individual or individuals in accordance 345
with section 2133.08 of the Revised Code, and divisions (A)(1)(a) 346
to (e) and (2) of that section have been satisfied. 347

(2) A probate court has not reversed the consent to the 348
withholding or withdrawal of life-sustaining treatment in 349
connection with the patient pursuant to division (E) of section 350
2133.08 of the Revised Code. 351

(3) The attending physician of the patient and one other 352
physician as described in division (A)(2) of section 2133.08 of 353
the Revised Code who examines the patient determine, in good 354
faith, to a reasonable degree of medical certainty, and in 355
accordance with reasonable medical standards, that nutrition and 356
hydration will not or no longer will provide comfort or alleviate 357
pain in connection with the patient. 358

(4) Written consent to the withholding or withdrawal of 359
nutrition and hydration in connection with the patient, witnessed 360
by two individuals who satisfy the witness eligibility criteria 361
set forth in division (B)(1) of section 2133.02 of the Revised 362
Code, is given to the attending physician of the patient by an 363
appropriate individual or individuals ~~as specified~~ described in 364

~~division~~ divisions (B)(1) to (6) of section 2133.08 of the Revised Code. 365
366

(5) The written consent to the withholding or withdrawal of 367
the nutrition and hydration in connection with the patient is 368
given in accordance with division (B) of this section. 369

(6) The probate court of the county in which the patient is 370
located issues an order to withhold or withdraw the nutrition and 371
hydration in connection with the patient pursuant to division (C) 372
of this section. 373

(B)(1) A decision to consent pursuant to this section to the 374
withholding or withdrawal of nutrition and hydration in connection 375
with a patient shall be made in good faith. 376

(2) Except as provided in division (B)(4) of this section, if 377
the patient previously expressed an intention with respect to the 378
use or continuation, or the withholding or withdrawal, of 379
nutrition and hydration should the patient subsequently be in a 380
permanently unconscious state and no longer able to make informed 381
decisions regarding the administration of nutrition and hydration, 382
a consent given pursuant to this section shall be valid only if it 383
is consistent with that previously expressed intention. 384

(3) Except as provided in division (B)(4) of this section, if 385
the patient did not previously express an intention with respect 386
to the use or continuation, or the withholding or withdrawal, of 387
nutrition and hydration should the patient subsequently be in a 388
permanently unconscious state and no longer able to make informed 389
decisions regarding the administration of nutrition and hydration, 390
a consent given pursuant to this section shall be valid only if it 391
is consistent with the type of informed consent decision that the 392
patient would have made if the patient previously had expressed an 393
intention with respect to the use or continuation, or the 394
withholding or withdrawal, of nutrition and hydration should the 395

patient subsequently be in a permanently unconscious state and no 396
longer able to make informed decisions regarding the 397
administration of nutrition and hydration, as inferred from the 398
lifestyle and character of the patient, and from any other 399
evidence of the desires of the patient, prior to the patient's 400
becoming no longer able to make informed decisions regarding the 401
administration of nutrition and hydration. The Rules of Evidence 402
shall not be binding for purposes of this division. 403

(4)(a) The attending physician of the patient, and other 404
health care personnel acting under the direction of the attending 405
physician, who do not have actual knowledge of a previously 406
expressed intention as described in division (B)(2) of this 407
section or who do not have actual knowledge that the patient would 408
have made a different type of informed consent decision under the 409
circumstances described in division (B)(3) of this section, may 410
rely on a consent given in accordance with this section unless a 411
probate court decides differently under division (C) of this 412
section. 413

(b) The immunity conferred by division (C)(2) of section 414
2133.11 of the Revised Code is not forfeited by an individual who 415
gives a consent to the withholding or withdrawal of nutrition and 416
hydration in connection with a patient under division (A)(4) of 417
this section if the individual gives the consent in good faith and 418
without actual knowledge, at the time of giving the consent, of 419
either a contrary previously expressed intention of the patient, 420
or a previously expressed intention of the patient, as described 421
in division (B)(2) of this section, that is revealed to the 422
individual subsequent to the time of giving the consent. 423

(C)(1) Prior to the withholding or withdrawal of nutrition 424
and hydration in connection with a patient pursuant to this 425
section, the priority individual or class of individuals that 426
consented to the withholding or withdrawal of the nutrition and 427

hydration shall apply to the probate court of the county in which 428
the patient is located for the issuance of an order that 429
authorizes the attending physician of the patient to commence the 430
withholding or withdrawal of the nutrition and hydration in 431
connection with the patient. Upon the filing of the application, 432
the clerk of the probate court shall schedule a hearing on it and 433
cause a copy of it and a notice of the hearing to be served in 434
accordance with the Rules of Civil Procedure upon the applicant, 435
the attending physician, the consulting physician associated with 436
the determination that nutrition and hydration will not or no 437
longer will provide comfort or alleviate pain in connection with 438
the patient, and the individuals described in divisions (B)(1) to 439
(5) of section 2133.08 of the Revised Code who are not applicants, 440
which service shall be made, if possible, within three days after 441
the filing of the application. The hearing shall be conducted at 442
the earliest possible time, but no sooner than the thirtieth 443
business day, and no later than the sixtieth business day, after 444
the service has been completed. 445

At the hearing, any individual described in divisions (B)(1) 446
to (5) of section 2133.08 of the Revised Code who is not an 447
applicant and who disagrees with the decision of the priority 448
individual or class of individuals to consent to the withholding 449
or withdrawal of nutrition and hydration in connection with the 450
patient shall be permitted to testify and present evidence 451
relative to the use or continuation of nutrition and hydration in 452
connection with the patient. Immediately following the hearing, 453
the court shall enter on its journal its determination whether the 454
requested order will be issued. 455

(2) The court shall issue an order that authorizes the 456
patient's attending physician to commence the withholding or 457
withdrawal of nutrition and hydration in connection with the 458
patient only if the applicants establish, by clear and convincing 459

evidence, to a reasonable degree of medical certainty, and in 460
accordance with reasonable medical standards, all of the 461
following: 462

(a) The patient currently is and for at least the immediately 463
preceding twelve months has been in a permanently unconscious 464
state. 465

(b) The patient no longer is able to make informed decisions 466
regarding the administration of life-sustaining treatment. 467

(c) There is no reasonable possibility that the patient will 468
regain the capacity to make informed decisions regarding the 469
administration of life-sustaining treatment. 470

(d) The conditions specified in divisions (A)(1) to (4) of 471
this section have been satisfied. 472

(e) The decision to withhold or withdraw nutrition and 473
hydration in connection with the patient is consistent with the 474
previously expressed intention of the patient as described in 475
division (B)(2) of this section or is consistent with the type of 476
informed consent decision that the patient would have made if the 477
patient previously had expressed an intention with respect to the 478
use or continuation, or the withholding or withdrawal, of 479
nutrition and hydration should the patient subsequently be in a 480
permanently unconscious state and no longer able to make informed 481
decisions regarding the administration of nutrition and hydration 482
as described in division (B)(3) of this section. 483

(3) Notwithstanding any contrary provision of the Revised 484
Code or of the Rules of Civil Procedure, the state and persons 485
other than individuals described in division (A)(4) of this 486
section or in divisions (B)(1) to (5) of section 2133.08 of the 487
Revised Code and other than the attending physician and consulting 488
physician associated with the determination that nutrition and 489
hydration will not or no longer will provide comfort or alleviate 490

pain in connection with the patient are prohibited from filing an 491
application under this division and from joining or being joined 492
as parties to a hearing conducted under this division, including 493
joining by way of intervention. 494

(D) A valid consent given in accordance with this section 495
supersedes any general consent to treatment form signed by or on 496
behalf of the patient prior to, upon, or after the patient's 497
admission to a health care facility to the extent there is a 498
conflict between the consent and the form. 499

Sec. 2133.12. (A) The death of a qualified patient or other 500
patient resulting from the withholding or withdrawal of 501
life-sustaining treatment in accordance with sections 2133.01 to 502
2133.15 of the Revised Code does not constitute for any purpose a 503
suicide, aggravated murder, murder, or any other homicide offense. 504

(B)(1) The execution of a declaration shall not do either of 505
the following: 506

(a) Affect the sale, procurement, issuance, or renewal of any 507
policy of life insurance or annuity, notwithstanding any term of a 508
policy or annuity to the contrary; 509

(b) Be deemed to modify or invalidate the terms of any policy 510
of life insurance or annuity that is in effect on October 10, 511
1991. 512

(2) Notwithstanding any term of a policy of life insurance or 513
annuity to the contrary, the withholding or withdrawal of 514
life-sustaining treatment from an insured, qualified patient or 515
other patient in accordance with sections 2133.01 to 2133.15 of 516
the Revised Code shall not impair or invalidate any policy of life 517
insurance or annuity. 518

(3) Notwithstanding any term of a policy or plan to the 519
contrary, the use or continuation, or the withholding or 520

withdrawal, of life-sustaining treatment from an insured, 521
qualified patient or other patient in accordance with sections 522
2133.01 to 2133.15 of the Revised Code shall not impair or 523
invalidate any policy of health insurance or any health care 524
benefit plan. 525

(4) No physician, health care facility, other health care 526
provider, person authorized to engage in the business of insurance 527
in this state under Title XXXIX of the Revised Code, health 528
insuring corporation, other health care plan, legal entity that is 529
self-insured and provides benefits to its employees or members, or 530
other person shall require any individual to execute or refrain 531
from executing a declaration, or shall require an individual to 532
revoke or refrain from revoking a declaration, as a condition of 533
being insured or of receiving health care benefits or services. 534

(C)(1) Sections 2133.01 to 2133.15 of the Revised Code do not 535
create any presumption concerning the intention of an individual 536
who has revoked or has not executed a declaration with respect to 537
the use or continuation, or the withholding or withdrawal, of 538
life-sustaining treatment if the individual should be in a 539
terminal condition or in a permanently unconscious state at any 540
time. 541

(2) Sections 2133.01 to 2133.15 of the Revised Code do not 542
affect the right of a qualified patient or other patient to make 543
informed decisions regarding the use or continuation, or the 544
withholding or withdrawal, of life-sustaining treatment as long as 545
the qualified patient or other patient is able to make those 546
decisions. 547

(3) Sections 2133.01 to 2133.15 of the Revised Code do not 548
require a physician, other health care personnel, or a health care 549
facility to take action that is contrary to reasonable medical 550
standards. 551

(4) Sections 2133.01 to 2133.15 of the Revised Code and, if 552
applicable, a declaration do not affect or limit the authority of 553
a physician or a health care facility to provide or not to provide 554
life-sustaining treatment to a person in accordance with 555
reasonable medical standards applicable in an emergency situation. 556

(D) Nothing in sections 2133.01 to 2133.15 of the Revised 557
Code condones, authorizes, or approves of mercy killing, assisted 558
suicide, or euthanasia. 559

(E)(1) Sections 2133.01 to 2133.15 of the Revised Code do not 560
affect the responsibility of the attending physician of a 561
qualified patient or other patient, or other health care personnel 562
acting under the direction of the patient's attending physician, 563
to provide comfort care to the patient. Nothing in sections 564
2133.01 to 2133.15 of the Revised Code precludes the attending 565
physician of a qualified patient or other patient who carries out 566
the responsibility to provide comfort care to the patient in good 567
faith and while acting within the scope of the attending 568
physician's authority from prescribing, dispensing, administering, 569
or causing to be administered any particular medical procedure, 570
treatment, intervention, or other measure to the patient, 571
including, but not limited to, prescribing, personally furnishing, 572
administering, or causing to be administered by judicious 573
titration or in another manner any form of medication, for the 574
purpose of diminishing the qualified patient's or other patient's 575
pain or discomfort and not for the purpose of postponing or 576
causing the qualified patient's or other patient's death, even 577
though the medical procedure, treatment, intervention, or other 578
measure may appear to hasten or increase the risk of the patient's 579
death. Nothing in sections 2133.01 to 2133.15 of the Revised Code 580
precludes health care personnel acting under the direction of the 581
patient's attending physician who carry out the responsibility to 582
provide comfort care to the patient in good faith and while acting 583

within the scope of their authority from dispensing, 584
administering, or causing to be administered any particular 585
medical procedure, treatment, intervention, or other measure to 586
the patient, including, but not limited to, personally furnishing, 587
administering, or causing to be administered by judicious 588
titration or in another manner any form of medication, for the 589
purpose of diminishing the qualified patient's or other patient's 590
pain or discomfort and not for the purpose of postponing or 591
causing the qualified patient's or other patient's death, even 592
though the medical procedure, treatment, intervention, or other 593
measure may appear to hasten or increase the risk of the patient's 594
death. 595

(2)(a) If, at any time, a person described in division 596
(A)(2)(a)(i) of section 2133.05 of the Revised Code or the 597
individual or a majority of the individuals in either of the first 598
two classes of individuals that pertain to a declarant in the 599
descending order of priority set forth in division (A)(2)(a)(ii) 600
of section 2133.05 of the Revised Code believes in good faith that 601
both of the following circumstances apply, the person or the 602
individual or majority of individuals in either of the first two 603
classes of individuals may commence an action in the probate court 604
of the county in which a declarant who is in a terminal condition 605
or permanently unconscious state is located for the issuance of an 606
order mandating the use or continuation of comfort care in 607
connection with the declarant in a manner that is consistent with 608
division (E)(1) of this section: 609

(i) Comfort care is not being used or continued in connection 610
with the declarant. 611

(ii) The withholding or withdrawal of the comfort care is 612
contrary to division (E)(1) of this section. 613

(b) If a declarant did not designate in the declarant's 614
declaration a person as described in division (A)(2)(a)(i) of 615

section 2133.05 of the Revised Code and if, at any time, a 616
priority individual or any member of a priority class of 617
individuals under division (A)(2)(a)(ii) of section 2133.05 of the 618
Revised Code or, at any time, the individual or a majority of the 619
individuals in the next class of individuals that pertains to the 620
declarant in the descending order of priority set forth in that 621
division believes in good faith that both of the following 622
circumstances apply, the priority individual, the member of the 623
priority class of individuals, or the individual or majority of 624
individuals in the next class of individuals that pertains to the 625
declarant may commence an action in the probate court of the 626
county in which a declarant who is in a terminal condition or 627
permanently unconscious state is located for the issuance of an 628
order mandating the use or continuation of comfort care in 629
connection with the declarant in a manner that is consistent with 630
division (E)(1) of this section: 631

(i) Comfort care is not being used or continued in connection 632
with the declarant. 633

(ii) The withholding or withdrawal of the comfort care is 634
contrary to division (E)(1) of this section. 635

(c) If, at any time, a priority individual or any member of a 636
priority class of individuals ~~under division~~ described in 637
divisions (B)(1) to (5) of section 2133.08 of the Revised Code or, 638
at any time, the individual or a majority of the individuals in 639
the next class of individuals that pertains to the patient in the 640
descending order of priority set forth in ~~that division~~ those 641
divisions believes in good faith that both of the following 642
circumstances apply, the priority individual, the member of the 643
priority class of individuals, or the individual or majority of 644
individuals in the next class of individuals that pertains to the 645
patient may commence an action in the probate court of the county 646
in which a patient as described in division (A) of section 2133.08 647

of the Revised Code is located for the issuance of an order 648
mandating the use or continuation of comfort care in connection 649
with the patient in a manner that is consistent with division 650
(E)(1) of this section: 651

(i) Comfort care is not being used or continued in connection 652
with the patient. 653

(ii) The withholding or withdrawal of the comfort care is 654
contrary to division (E)(1) of this section. 655

Section 2. That existing sections 2133.08, 2133.09, and 656
2133.12 of the Revised Code are hereby repealed. 657

Section 3. Section 2133.12 of the Revised Code is presented 658
in this act as a composite of the section as amended by both Sub. 659
H.B. 354 and Am. Sub. S.B. 66 of the 122nd General Assembly. The 660
General Assembly, applying the principle stated in division (B) of 661
section 1.52 of the Revised Code that amendments are to be 662
harmonized if reasonably capable of simultaneous operation, finds 663
that the composite is the resulting version of the section in 664
effect prior to the effective date of the section as presented in 665
this act. 666