

AN ACT

To amend sections 1337.12, 2133.01, 2133.02, 2133.03, 2133.07, 2133.10, 2133.12, 2133.13, 2133.14, 2133.15, 3721.17, 4506.07, 4507.06, and 4507.51 and to enact sections 2133.21, 2133.211, and 2133.22 to 2133.26 of the Revised Code and to amend Section 3 of Am. Sub. S.B. 1 of the 119th General Assembly relative to "do not resuscitate" identifications, orders, and protocols and the award of punitive damages for violation of the rights of a nursing home resident.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1337.12, 2133.01, 2133.02, 2133.03, 2133.07, 2133.10, 2133.12, 2133.13, 2133.14, 2133.15, 3721.17, 4506.07, 4507.06, and 4507.51 be amended and sections 2133.21, 2133.211, 2133.22, 2133.23, 2133.24, 2133.25, and 2133.26 of the Revised Code be enacted to read as follows:

Sec. 1337.12. (A)(1) An adult who is of sound mind voluntarily may create a valid durable power of attorney for health care by executing a durable power of attorney, in accordance with division (B) of section 1337.09 of the Revised Code, that authorizes an attorney in fact as described in division (A)(2) of this section to make health care decisions for the principal at any time that the attending physician of the principal determines that ~~he~~ the principal has lost the capacity to make informed health care decisions for ~~himself~~ the principal. Except as otherwise provided in divisions (B) to (F) of section 1337.13 of the Revised Code, the authorization may include the right to give informed consent, to refuse to give informed consent, or to withdraw informed consent; to any health care that is being or could be provided to the principal. Additionally, to be valid, a durable power of attorney for health care shall satisfy both of the following:

- (a) It shall be signed by the principal and state the date of its execution.
- (b) It shall be witnessed in accordance with division (B) of this section

or be acknowledged by the principal in accordance with division (C) of this section.

(2) Except as otherwise provided in this division, a durable power of attorney for health care may designate any competent adult as the attorney in fact. The attending physician of the principal and an administrator of any nursing home in which the principal is receiving care shall not be designated as an attorney in fact in, or act as an attorney in fact pursuant to, a durable power of attorney for health care. An employee or agent of the attending physician of the principal and an employee or agent of any health care facility in which the principal is being treated shall not be designated as an attorney in fact in, or act as an attorney in fact pursuant to, a durable power of attorney for health care, except that these limitations do not preclude a principal from designating either type of employee or agent as ~~his~~ the principal's attorney in fact if the individual is a competent adult and related to the principal by blood, marriage, or adoption, or if the individual is a competent adult and the principal and the individual are members of the same religious order.

(3) A durable power of attorney for health care shall not expire, unless the principal specifies an expiration date in the instrument. However, when a durable power of attorney contains an expiration date, if the principal lacks the capacity to make informed health care decisions for ~~himself~~ the principal on the expiration date, the instrument shall continue in effect until the principal regains the capacity to make informed health care decisions for ~~himself~~ the principal.

(B) If witnessed for purposes of division (A)(1)(b) of this section, a durable power of attorney for health care shall be witnessed by at least two individuals who are adults and who are not ineligible to be witnesses under this division. Any person who is related to the principal by blood, marriage, or adoption, any person who is designated as the attorney in fact in the instrument, the attending physician of the principal, and the administrator of any nursing home in which the principal is receiving care are ineligible to be witnesses.

The witnessing of a durable power of attorney for health care shall involve the principal signing, or acknowledging ~~his~~ the principal's signature on, the instrument in the presence of each witness. Then, each witness shall subscribe ~~his~~ the witness's signature on the durable power of attorney for health care and, by doing so, attest to ~~his~~ the witness's belief that the principal appears to be of sound mind and not under or subject to duress, fraud, or undue influence.

(C) If acknowledged for purposes of division (A)(1)(b) of this section, a

durable power of attorney for health care shall be acknowledged before a notary public, who shall make the certification described in section 147.53 of the Revised Code and also shall attest that the principal appears to be of sound mind and not under or subject to duress, fraud, or undue influence.

(D)(1) If a principal has both a valid durable power of attorney for health care and a valid declaration, division (B) of section 2133.03 of the Revised Code applies. If a principal has both a valid durable power of attorney for health care and a DNR identification that is based upon a valid declaration and if the declaration supersedes the durable power of attorney for health care under division (B) of SECTION 2133.03 of the Revised Code, the DNR IDENTIFICATION supersedes the durable power of attorney for health care to the extent of any conflict between the two. A valid durable power of attorney for health care supersedes any DNR IDENTIFICATION that is based upon a do-not-resuscitate order that a physician issued for the principal WHICH IS INCONSISTENT WITH THE DURABLE POWER OF ATTORNEY FOR HEALTH CARE OR A VALID DECISION BY THE ATTORNEY IN FACT UNDER A DURABLE POWER OF ATTORNEY.

(2) As used in division (D) of this section:

(a) "Declaration" has the same meaning as in section 2133.01 Of the Revised Code.

(b) "Do-not-resuscitate order" and "DNR identification" have the same meanings as in section 2133.21 Of the Revised Code.

Sec. 2133.01. Unless the context otherwise requires, as used in ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code:

(A) "Adult" means an individual who is eighteen years of age or older.

(B) "Attending physician" means the physician to whom a declarant or other patient, or the family of a declarant or other patient, has assigned primary responsibility for the treatment or care of the declarant or other patient, or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(C) "Comfort care" means any of the following:

(1) Nutrition when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;

(2) Hydration when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;

(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a declarant

or other patient, but not to postpone the declarant's or other patient's death.

(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a declarant or other patient, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of this chapter, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

(E) "Declarant" means any adult who has executed a declaration in accordance with section 2133.02 of the Revised Code.

(F) "Declaration" means a written document executed in accordance with section 2133.02 of the Revised Code.

(G) "Durable power of attorney for health care" means a document created pursuant to sections 1337.11 to 1337.17 of the Revised Code.

(H) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.

(I) "Health care facility" means any of the following:

(1) A hospital;

(2) A hospice care program or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;

(3) A nursing home or residential care facility, as defined in section 3721.01 Of the Revised Code;

(4) A home health agency and any residential facility where a person is receiving care under the direction of a home health agency;

(5) An intermediate care facility for the mentally retarded.

(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.

(K) "Home health agency" has the same meaning as in section 3701.88 of the Revised Code.

(L) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.

(M) "Hospital" has the same meanings as in sections 2108.01, 3701.01, and 5122.01 of the Revised Code.

(N) "Hydration" means fluids that are artificially or technologically administered.

(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.

(P) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a qualified patient or other patient, will serve principally to prolong the process of dying.

(R) "Nurse" means a person who is licensed to practice nursing as a registered nurse or to practice practical nursing as a licensed practical nurse pursuant to Chapter 4723. of the Revised Code.

(S) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(T) "Nutrition" means sustenance that is artificially or technologically administered.

(U) "Permanently unconscious state" means a state of permanent unconsciousness in a declarant or other patient that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, is characterized by both of the following:

(1) Irreversible unawareness of one's being and environment.

(2) Total loss of cerebral cortical functioning, resulting in the declarant or other patient having no capacity to experience pain or suffering.

(V) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.

(W) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(X) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(Y) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.

(Z) "Qualified patient" means an adult who has executed a declaration and has been determined to be in a terminal condition or in a permanently unconscious state.

(AA) "Terminal condition" means an irreversible, incurable, and

untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, both of the following apply:

(1) There can be no recovery.

(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

(BB) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for breach of a contract or another agreement between persons.

Sec. 2133.02. (A)(1) An adult who is of sound mind voluntarily may execute at any time a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment. The declaration shall be signed by the declarant or by another individual at the direction of the declarant, state the date of its execution, and either be witnessed as described in division (B)(1) of this section or be acknowledged by the declarant in accordance with division (B)(2) of this section. The declaration may include a designation by the declarant of one or more persons who are to be notified by the declarant's attending physician at any time that life-sustaining treatment would be withheld or withdrawn pursuant to the declaration. The declaration may include a specific authorization for the use or continuation or the withholding or withdrawal of CPR, but the failure to include a specific authorization for the withholding or withdrawal of CPR does not preclude the withholding or withdrawal of CPR in accordance with sections 2133.01 to 2133.15 or sections 2133.21 to 2133.26 Of the Revised Code.

(2) Depending upon whether the declarant intends ~~his~~ THE declaration to apply when ~~he~~ the declarant is in a terminal condition, in a permanently unconscious state, or in either a terminal condition or a permanently unconscious state, ~~his~~ the declarant's declaration shall use either or both of the terms "terminal condition" and "permanently unconscious state;" and shall define or otherwise explain those terms in capital letters and in a manner that is substantially consistent with the provisions of section 2133.01 of the Revised Code.

(3)(a) If a declarant who has authorized the withholding or withdrawal of life-sustaining treatment intends that ~~his~~ the declarant's attending physician withhold or withdraw nutrition or hydration when ~~he~~ the declarant is in a permanently unconscious state and when the nutrition and hydration will not or no longer will serve to provide comfort to ~~him~~ the declarant or

eviate ~~his~~ the declarant's pain, then the declarant shall authorize ~~his~~ the declarant's attending physician to withhold or withdraw nutrition or hydration when ~~he~~ the declarant is in the permanently unconscious state by doing both of the following in the declaration:

(i) Including a statement in capital letters that ~~his~~ the declarant's attending physician may withhold or withdraw nutrition and hydration if ~~he~~ the declarant is in a permanently unconscious state and if ~~his~~ the declarant's attending physician and at least one other physician who has examined ~~him~~ the declarant determine, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, that nutrition or hydration will not or no longer will serve to provide comfort to ~~him~~ the declarant or alleviate ~~his~~ the declarant's pain, or checking or otherwise marking a box or line that is adjacent to a similar statement on a printed form of a declaration;

(ii) Placing ~~his~~ the declarant's initials or signature underneath or adjacent to the statement, check, or other mark described in division (A)(3)(a)(i) of this section.

(b) Division (A)(3)(a) of this section does not apply, ~~and shall not be construed as applying,~~ to the extent that a declaration authorizes the withholding or withdrawal of life-sustaining treatment when a declarant is in a terminal condition. The provisions of division (E) of section 2133.12 of the Revised Code pertaining to comfort care shall apply to a declarant in a terminal condition.

(B)(1) If witnessed for purposes of division (A) of this section, a declaration shall be witnessed by two individuals as described in this division in whose presence the declarant, or another individual at the direction of the declarant, signed the declaration. The witnesses to a declaration shall be adults who are not related to the declarant by blood, marriage, or adoption, who are not the attending physician of the declarant, and who are not the administrator of any nursing home in which the declarant is receiving care. Each witness shall subscribe ~~his~~ the witness' signature on the declaration and, by doing so, attest to ~~his~~ the witness' belief that the declarant appears to be of sound mind and not under or subject to duress, fraud, or undue influence.

(2) If acknowledged for purposes of division (A) of this section, a declaration shall be acknowledged before a notary public, who shall make the certification described in section 147.53 of the Revised Code and also shall attest that the declarant appears to be of sound mind and not under or subject to duress, fraud, or undue influence.

(C) An attending physician, or other health care personnel acting under the direction of an attending physician, who is furnished a copy of a

declaration shall make it a part of the declarant's medical record and, when section 2133.05 of the Revised Code is applicable, also shall comply with that section.

(D)(1) Subject to division (D)(2) of this section, an attending physician of a declarant or a health care facility in which a declarant is confined may refuse to comply or allow compliance with the declarant's declaration on the basis of a matter of conscience or on another basis. An employee or agent of an attending physician of a declarant or of a health care facility in which a declarant is confined may refuse to comply with the declarant's declaration on the basis of a matter of conscience.

(2) If an attending physician of a declarant or a health care facility in which a declarant is confined is not willing or not able to comply or allow compliance with the declarant's declaration, the physician or facility promptly shall so advise the declarant and comply with the provisions of section 2133.10 of the Revised Code, or, if the declaration has become operative as described in division (A) of section 2133.03 of the Revised Code, shall comply with the provisions of section 2133.10 of the Revised Code.

(E) As used in this section, "CPR" has the same meaning as in section 2133.21 Of the Revised Code.

Sec. 2133.03. (A)(1) A declaration becomes operative when it is communicated to the attending physician of the declarant, the attending physician and one other physician who examines the declarant determine that the declarant is in a terminal condition or in a permanently unconscious state, whichever is addressed in the declaration, the applicable requirements of divisions (A)(2) and (3) of this section are satisfied, and the attending physician determines that the declarant no longer is able to make informed decisions regarding the administration of life-sustaining treatment. When the declaration becomes operative, the attending physician and health care facilities shall act in accordance with its provisions or comply with the provisions of section 2133.10 of the Revised Code.

(2) In order for a declaration to become operative in connection with a declarant who is in a permanently unconscious state, the consulting physician associated with the determination that the declarant is in the permanently unconscious state shall be a physician who, by virtue of advanced education or training, of a practice limited to particular diseases, illnesses, injuries, therapies, or branches of medicine or surgery or osteopathic medicine and surgery, of certification as a specialist in a particular branch of medicine or surgery or osteopathic medicine and surgery, or of experience acquired in the practice of medicine or surgery or

osteopathic medicine and surgery, is qualified to determine whether the declarant is in a permanently unconscious state.

(3) In order for a declaration to become operative in connection with a declarant who is in a terminal condition or in a permanently unconscious state, the attending physician of the declarant shall determine, in good faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, that there is no reasonable possibility that the declarant will regain the capacity to make informed decisions regarding the administration of life-sustaining treatment.

(B)(1)(a) A declaration supersedes any general consent to treatment form signed by or on behalf of the declarant prior to, upon, or after ~~his~~ the declarant's admission to a health care facility to the extent there is a conflict between the declaration and the form, even if the form is signed after the execution of the declaration. To the extent that the provisions of a declaration and a general consent to treatment form do not conflict, both documents shall govern the use or continuation, or the withholding or withdrawal, of life-sustaining treatment and other medical or nursing procedures, treatments, interventions, or other measures in connection with the declarant. ~~This division~~ division (B)(1)(a) of this section does not apply if a declaration is revoked pursuant to section 2133.04 of the Revised Code after the signing of a general consent to treatment form.

(b) A declaration supersedes a DNR identification, as defined in section 2133.21 Of the Revised Code, of the declarant that is based upon a prior, inconsistent declaration of the declarant or that is based upon a do-not-resuscitate order, as defined in section 2133.21 Of the Revised Code, that a physician has issued for the declarant and that is inconsistent with the declaration.

(2) If a declarant has both a valid durable power of attorney for health care and a valid declaration, the declaration supersedes the durable power of attorney for health care to the extent that the provisions of the documents would conflict if the declarant should be in a terminal condition or in a permanently unconscious state. ~~This division~~ Division (B)(2) of this section does not apply if the declarant revokes ~~his~~ the declaration pursuant to section 2133.04 of the Revised Code.

Sec. 2133.07. A printed form of a declaration may be sold or otherwise distributed in this state for use by adults who are not advised by an attorney. By use of ~~such~~ a printed form of that nature, a declarant may authorize the use or continuation, or the withholding or withdrawal, of life-sustaining treatment should ~~he~~ the declarant be in a terminal condition, a permanently unconscious state, or either a terminal condition or a permanently

cious state, may authorize the withholding or withdrawal of nutrition or hydration should ~~he~~ the declarant be in a permanently unconscious state as described in division (A)(3)(a) of section 2133.02 of the Revised Code, and may designate one or more persons who are to be notified by ~~his~~ the declarant's attending physician at any time that life-sustaining treatment would be withheld or withdrawn pursuant to the declaration. The printed form shall not be used as an instrument for granting any other type of authority or for making any other type of designation, except that the printed form may be used as a DNR identification if the declarant specifies on the form that the declarant wishes to use it as a DNR identification.

As used in this section, "DNR identification" has the same meaning as in section 2133.21 Of the Revised Code.

Sec. 2133.10. (A) An attending physician who, or a health care facility in which a qualified patient or other patient is confined that, is not willing or ~~IS~~ not able to comply or allow compliance with a declaration of a qualified patient, with a consent given in accordance with section 2133.08 or 2133.09 of the Revised Code, with any probate court order issued pursuant to section 2133.05, 2133.08, or 2133.09 of the Revised Code, or with any other applicable provision of ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code shall not prevent or attempt to prevent, or unreasonably delay or attempt to unreasonably delay, the transfer of the qualified patient or other patient to the care of a physician who, or a health care facility that, is willing and able to so comply or allow compliance.

(B) If a declaration provides for the use or continuation of life-sustaining treatment should its declarant subsequently be in a terminal condition or in a permanently unconscious state, if a consent decision of a priority individual or class of individuals under section 2133.08 of the Revised Code is to use or continue life-sustaining treatment in connection with a patient described in that section, or if a probate court issues a reevaluation order pursuant to section 2133.05 or 2133.08 of the Revised Code that is intended to result in the use or continuation of life-sustaining treatment in connection with a qualified patient or other patient, then the attending physician of the qualified patient or other patient who, or health care facility in which the qualified patient or other patient is confined that, is not willing or is not able to comply or allow compliance with the declaration, consent decision, or reevaluation order shall use or continue the life-sustaining treatment or cause it to be used or continued until a transfer as described in division (A) of this section is made.

Sec. 2133.12. (A) The death of a qualified patient or other patient resulting from the withholding or withdrawal of life-sustaining treatment in

accordance with ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code does not constitute for any purpose a suicide, aggravated murder, murder, or any other homicide offense ~~for any purpose~~.

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

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

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

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

(3) Notwithstanding any term of a policy or plan to the contrary, the use or continuation, or the withholding or withdrawal, of life-sustaining treatment from an insured, qualified patient or other patient in accordance with ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code shall not impair or invalidate any policy of health insurance or any health care benefit plan.

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

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

(2) ~~This chapter does~~ Sections 2133.01 to 2133.15 Of the Revised Code do not affect the right of a qualified patient or other patient to make informed decisions regarding the use or continuation, or the withholding or withdrawal, of life-sustaining treatment as long as the qualified patient or other patient is able to make those decisions.

(3) ~~This chapter does~~ Sections 2133.01 to 2133.15 Of the Revised Code do not require a physician, other health care personnel, or a health care facility to take action that is contrary to reasonable medical standards.

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

(D) Nothing in ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code condones, authorizes, or approves of mercy killing, assisted suicide, or euthanasia.

(E)(1) ~~This chapter does~~ Sections 2133.01 to 2133.15 Of the Revised Code do not affect the responsibility of the attending physician of a qualified patient or other patient, or other health care personnel acting under the direction of the patient's attending physician, to provide comfort care to the patient. Nothing in ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code precludes the attending physician of a qualified patient or other patient who carries out the responsibility to provide comfort care to the patient in good faith and while acting within the scope of the attending physician's authority from prescribing, dispensing, administering, or causing to be administered any particular medical procedure, treatment, intervention, or other measure to the patient, including, but not limited to, prescribing, dispensing, administering, or causing to be administered by judicious titration or in another manner any form of medication, for the purpose of diminishing the qualified patient's or other patient's pain or discomfort and not for the purpose of postponing or causing the qualified patient's or other patient's death, even though the medical procedure, treatment, intervention, or other measure may appear to hasten or increase the risk of the patient's death. Nothing in ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code precludes health care personnel acting under the direction of the patient's attending physician who carry out the responsibility to provide comfort care to the patient in good faith and while acting within the scope of their authority from dispensing, administering, or causing to be administered any particular medical procedure, treatment, intervention, or other measure to the patient, including, but not limited to, dispensing, administering, or causing to be administered by judicious titration or in another manner any form of medication, for the purpose of diminishing the qualified patient's or other patient's pain or discomfort and not for the purpose of postponing or causing the qualified patient's or other patient's death, even though the medical procedure, treatment, intervention, or other measure may appear to

hasten or increase the risk of the patient's death.

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

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

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

(b) If a declarant did not designate in the declarant's declaration a person as described in division (A)(2)(a)(i) of section 2133.05 of the Revised Code and if, at any time, a priority individual or any member of a priority class of individuals under division (A)(2)(a)(ii) of section 2133.05 of the Revised Code or, at any time, the individual or a majority of the individuals in the next class of individuals that pertains to the declarant in the descending order of priority set forth in that division believes in good faith that both of the following circumstances apply, the priority individual, the member of the priority class of individuals, or the individual or majority of individuals in the next class of individuals that pertains to the declarant may commence an action in the probate court of the county in which a declarant who is in a terminal condition or permanently unconscious state is located for the issuance of an order mandating the use or continuation of comfort care in connection with the declarant in a manner that is consistent with division (E)(1) of this section:

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

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

(c) If, at any time, a priority individual or any member of a priority class of individuals under division (B) of section 2133.08 of the Revised Code or, at any time, the individual or a majority of the individuals in the next class of individuals that pertains to the patient in the descending order of priority

set forth in that division believes in good faith that both of the following circumstances apply, the priority individual, the member of the priority class of individuals, or the individual or majority of individuals in the next class of individuals that pertains to the patient may commence an action in the probate court of the county in which a patient as described in division (A) of section 2133.08 of the Revised Code is located for the issuance of an order mandating the use or continuation of comfort care in connection with the patient in a manner that is consistent with division (E)(1) of this section:

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

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

Sec. 2133.13. In the absence of actual knowledge to the contrary and if acting in good faith, an attending or consulting physician, other health care personnel, and health care facilities may assume that a declaration complies with ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code and is valid.

Sec. 2133.14. A declaration executed under the law of another state in compliance with that law or in substantial compliance with ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code shall be considered to be valid for purposes of ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code.

Sec. 2133.15. (A) ~~This chapter shall~~ Sections 2133.01 to 2133.15 Of the Revised Code apply to any written document that was executed anywhere prior to ~~the effective date of this section~~ OCTOBER 10, 1991, that voluntarily was so executed by an adult who was of sound mind, that was signed by the adult or by another individual at the direction of the adult, that was or was not witnessed or acknowledged before a notary public as described in division (B) of section 2133.02 of the Revised Code, and that specifies the adult's intention with respect to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment if ~~he~~ the adult is at any time in a terminal condition, in a permanently unconscious state, or in either a terminal condition or a permanently unconscious state, if ~~he~~ the adult is at that time no longer able to make informed decisions regarding the administration of life-sustaining treatment, and if at that time there is no reasonable possibility that ~~he~~ the adult will regain the capacity to make those informed decisions. The document shall be considered to be a declaration, shall be given effect as if it had been executed on or after ~~the effective date of this section~~ OCTOBER 10, 1991, in accordance with ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code, and, except as

otherwise provided in division (B) of this section, shall be subject to all provisions of ~~this chapter~~ sections 2133.01 to 2133.15 Of the Revised Code pertaining to declarations.

(B)(1) If a declaration as described in division (A) of this section does not state that, or does not contain a checked or marked box or line adjacent to a statement indicating that, the declarant authorizes ~~his~~ the declarant's attending physician to withhold or withdraw nutrition or hydration when ~~he~~ the declarant is in a permanently unconscious state and when ~~his~~ the declarant's attending physician and at least one other physician who has examined ~~him~~ the declarant determine, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, that nutrition or hydration will not or no longer will serve to provide comfort to ~~him~~ the declarant or alleviate ~~his~~ the declarant's pain, then, if the declaration becomes operative under section 2133.03 of the Revised Code because the declarant is in a permanently unconscious state, the attending physician of the declarant shall apply to the probate court of the county in which the declarant is located for the issuance of an order whether or not the attending physician is required to provide the declarant with nutrition and hydration for as long as the declarant is in the permanently unconscious state. Upon the filing of the application, the clerk of the probate court shall schedule a hearing on it and cause a copy of it and a notice of the hearing to be served in accordance with the Rules of Civil Procedure upon the attending physician and the individuals described in divisions (B)(1) to (5) of section 2133.08 of the Revised Code, which service shall be made, if possible, within three days after the filing of the application. The hearing shall be conducted at the earliest possible time, but no sooner than the thirtieth business day, and no later than the sixtieth business day, after ~~such~~ that service has been completed.

(2) At the hearing, the attending physician and any individual described in divisions (B)(1) to (5) of section 2133.08 of the Revised Code shall be permitted to testify and present evidence relative to the use or continuation, or the withholding or withdrawal, of nutrition and hydration for as long as the declarant is in the permanently unconscious state. Immediately following the hearing, the court shall enter on its journal its determination, based on the evidence presented by all of the parties at the hearing on the application and subject to division (B)(3) of this section, whether or not the attending physician is required to provide the declarant with nutrition and hydration for as long as ~~he~~ the declarant is in the permanently unconscious state.

(3) The court shall issue an order that authorizes the declarant's

attending physician to commence the withholding or withdrawal of nutrition and hydration in connection with the ~~declarant~~ DECLARANT only if the applicant establishes, by clear and convincing evidence, that the order would be consistent with one of the following:

(a) The declarant's previously expressed intention with respect to the use or continuation, or the withholding or withdrawal, of nutrition and hydration should ~~be the declarant~~ subsequently be in a permanently unconscious state and no longer able to make informed decisions regarding the administration of nutrition and hydration;

(b) In the absence of ~~such~~ a previously expressed intention of that nature, the type of informed consent decision that the declarant would have made if ~~he the declarant~~ had expressed ~~his the declarant's~~ intention with respect to the use or continuation, or the withholding or withdrawal, of nutrition and hydration should ~~be the declarant~~ subsequently be in a permanently unconscious state and no longer able to make informed decisions regarding the administration of nutrition and hydration, as inferred from the lifestyle and character of the declarant, and from any other evidence of the declarant's desires, prior to ~~his the declarant~~ becoming no longer able to make informed decisions regarding the administration of nutrition and hydration. The Rules of Evidence shall not be binding for purposes of this division.

(4) Notwithstanding any contrary provision of the Revised Code or of the Rules of Civil Procedure, the state and persons other than individuals described in divisions (B)(1) to (5) of section 2133.08 of the Revised Code and other than the attending physician of the declarant are prohibited from filing an application under ~~this division (B) of this section~~ and from joining or being joined as parties to a hearing conducted under ~~this division (B) of this section~~, including joining by way of intervention.

Sec. 2133.21. As used in SECTIONS 2133.21 to 2133.26 of the Revised Code, unless the context clearly requires otherwise:

(A) "Attending physician" means the physician to whom a person, or the family of a person, has assigned primary responsibility for the treatment or care of the person or, if the person or the person's family has not assigned that responsibility, the physician who has accepted that responsibility.

(B) "Declaration," "health care facility," "life-sustaining treatment," "physician," "professional disciplinary action," and "tort action" have the same meanings as in section 2133.01 Of the Revised Code.

(C) "DNR identification" means a standardized identification card, form, necklace, or bracelet that is of uniform size and design, that has been approved by the department of health pursuant to section 2133.25 of the

Revised Code, and that signifies either of the following:

(1) That the person who is named on and possesses the card, form, necklace, or bracelet has executed a declaration that authorizes the withholding or withdrawal of CPR and that has not been revoked pursuant to section 2133.04 of the Revised Code;

(2) That the attending physician of the person who is named on and possesses the card, form, necklace, or bracelet has issued a current do-not-resuscitate order, in accordance with the do-not-resuscitate protocol adopted by the department of health pursuant to section 2133.25 Of the Revised Code, for that person and has documented the grounds for the order in that person's medical record.

(D) "Do-not-resuscitate order" means a directive issued by a physician that identifies a person and specifies that CPR should not be administered to the person so identified.

(E) "Do-not-resuscitate protocol" means the standardized method of procedure for the withholding of CPR by PHYSICIANS, emergency medical service personnel, and health care facilities that is adopted in the rules of the department of health pursuant to section 2133.25 of the Revised Code.

(F) "Emergency medical services personnel" means paid or volunteer firefighters, law enforcement officers, first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical TECHNICIANS, or other emergency services personnel acting within the ordinary course of their profession.

(G) "CPR" means cardiopulmonary resuscitation or a component of cardiopulmonary resuscitation, but it does not include clearing a person's airway for a purpose other than as a component of CPR.

Sec. 2133.211. A PERSON WHO HOLDS A CERTIFICATE OF AUTHORITY TO PRACTICE AS A CERTIFIED NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST ISSUED UNDER section 4723.42 OF THE REVISED CODE MAY TAKE ANY ACTION THAT MAY BE TAKEN BY AN ATTENDING PHYSICIAN UNDER SECTIONS 2133.21 TO 2133.26 OF THE REVISED CODE AND HAS THE IMMUNITY PROVIDED BY SECTION 2133.22 OF THE REVISED CODE IF THE ACTION IS TAKEN PURSUANT TO A STANDARD CARE ARRANGEMENT WITH A COLLABORATING PHYSICIAN.

Sec. 2133.22. (A)(1) None of the following are subject to criminal PROSECUTION, to liability in damages in a tort or other civil action for injury, death, or loss to person or property, or to professional disciplinary

ACTION arising out of or relating to the withholding or withdrawal of CPR from a person after DNR identification is discovered in the person's possession AND REASONABLE EFFORTS HAVE BEEN MADE TO DETERMINE THAT THE PERSON IN POSSESSION OF THE DNR IDENTIFICATION IS THE PERSON NAMED ON THE DNR IDENTIFICATION:

(a) A physician who causes the withholding or withdrawal of CPR from the person possessing the DNR identification;

(b) A person who participates under the direction of or with the authorization of a physician in the withholding or withdrawal of CPR from the person possessing the DNR identification;

(c) Any emergency medical services personnel who cause or participate in the withholding or withdrawal of CPR from the person possessing the DNR identification.

(2) None of the following are subject to criminal PROSECUTION, to liability in damages in a tort or other civil action for injury, death, or loss to person or property, or to professional disciplinary action arising out of or relating to the withholding or withdrawal of CPR from a person in a health care facility after DNR identification is discovered in the person's possession AND REASONABLE EFFORTS HAVE BEEN MADE TO DETERMINE THAT THE PERSON IN POSSESSION OF THE DNR IDENTIFICATION IS THE PERSON NAMED ON THE DNR IDENTIFICATION or a do-not-resuscitate order is issued for the person:

(a) The health care facility or the administrator of the health care facility;

(b) A PHYSICIAN who causes the withholding or withdrawal of cpr from the person possessing the dnr identification or for whom the do-not-resuscitate order has been issued;

(c) Any person who works for the health care facility as an employee, contractor, or volunteer and who participates under the direction of or with the authorization of a physician in the withholding or withdrawal of cpr from the person possessing the dnr identification;

(d) Any person who works for the health care facility as an employee, contractor, or volunteer and who participates under the direction of or with the authorization of a physician in the withholding or withdrawal of cpr from the person for whom the do-not-resuscitate order has been issued.

(3) If, after DNR identification is discovered in the possession of a person, the person makes an oral or written request to receive CPR, any person who provides CPR pursuant to the request, any health care facility in which CPR is provided, and the administrator of any health care facility in

which CPR is provided are not subject to criminal prosecution as a result of the provision of the CPR, are not liable in damages in a tort or other civil action for injury, death, or loss to person or property that arises out of or is related to the provision of the CPR, and are not subject to professional disciplinary action as a result of the provision of the CPR.

(B) Divisions (A)(1), (A)(2), and (C) of this section do not apply when CPR is withheld or withdrawn from a person who possesses DNR identification or for whom a do-not-resuscitate order has been issued unless the WITHHOLDING or withdrawal is in ACCORDANCE with the do-not-resuscitate protocol.

(C) Any emergency medical services personnel who comply with a do-not-resuscitate order issued by a physician and any individuals who work for a health care facility as employees, contractors, or volunteers and who comply with a do-not-resuscitate order issued by a physician are not subject to liability in damages in a civil action for injury, death, or loss to person or property that arises out of or is related to compliance with the order, are not subject to criminal prosecution as a result of compliance with the order, and are not subject to professional disciplinary action as a result of compliance with the order.

In an emergency situation, emergency medical services personnel and emergency department personnel are not required to search a person to determine if the person possesses DNR identification. If a person possesses DNR identification, if emergency medical services personnel or emergency department personnel provide CPR to the person in an emergency situation, and if, at that time, the personnel do not know and do not have reasonable cause to believe that the person possesses DNR identification, the emergency medical services personnel and emergency department personnel are not subject to criminal prosecution as a result of the provision of the CPR, are not liable in damages in a tort or other civil action for injury, death, or loss to person or property that arises out of or is related to the provision of the CPR, and are not subject to professional disciplinary action as a result of the provision of the CPR.

(D) NOTHING IN SECTIONS 2133.21 TO 2133.26 OF THE REVISED CODE OR THE DO-NOT-RESUSCITATE PROTOCOL GRANTS IMMUNITY TO A PHYSICIAN FOR ISSUING A DO-NOT-RESUSCITATE ORDER THAT IS CONTRARY TO REASONABLE MEDICAL STANDARDS OR THAT THE PHYSICIAN KNOWS OR HAS REASON TO KNOW IS CONTRARY TO THE WISHES OF THE PATIENT OR OF A PERSON WHO IS LAWFULLY AUTHORIZED TO MAKE INFORMED MEDICAL DECISIONS ON

THE PATIENT'S BEHALF.

Sec. 2133.23. (A) If emergency medical services personnel, other than physicians, are presented with DNR IDENTIFICATION possessed by a person or are presented with a written do-not-resuscitate order for a person or if a physician directly issues to emergency medical services personnel, other than physicians, an oral do-not-resuscitate order for a person, the emergency medical services personnel shall comply with the do-not-resuscitate protocol for the person. If an oral do-not-resuscitate order is issued by a physician who is not present at the scene, the emergency medical services personnel shall verify the physician's identity.

(B) If a person possesses DNR identification and if the person's attending physician or the health care facility in which the person is located is unwilling or unable to comply with the do-not-resuscitate protocol for the person, the attending physician or the health care facility shall not prevent or attempt to prevent, or unreasonably delay or attempt to delay, the transfer of the person to a different physician who will follow THE protocol or to a different health care facility in which the protocol will be followed.

(C) If a person who possesses dnr identification or for whom a current do-not-RESUSCITATE order has been issued is being transferred from one health care facility to another, before or at the time of the transfer, the transferring health care facility shall notify the receiving health care facility and the persons transporting the person of the existence of the DNR identification or the order. If a current do-not-resuscitate order was issued orally, it shall be reduced to writing before the time of the transfer. The DNR identification or the order shall accompany the person to the receiving health care facility and shall remain in effect unless it is revoked or unless, in the case of a do-not-resuscitate order, the order no longer is current.

Sec. 2133.24. (A) The death of a person resulting from the withholding or withdrawal of CPR for the person pursuant to the do-not-resuscitate protocol and in the circumstances described in section 2133.22 Of the Revised Code or in accordance with division (A) of section 2133.23 Of the Revised Code does not constitute for any purpose a suicide, aggravated murder, murder, or any other homicide.

(B)(1) If a person possesses DNR IDENTIFICATION or if a current do-not-resuscitate order has been issued for a person, the possession or order shall not do either of the following:

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

(b) Be deemed to modify in any manner or invalidate the terms of any

policy of life insurance or annuity that is in effect on the effective date of this section.

(2) Notwithstanding any term of a policy of life insurance or annuity to the contrary, the withholding or withdrawal of CPR from a person who is insured or covered under the policy or annuity and who possesses DNR identification or for whom a current do-not-resuscitate order has been issued, in accordance with sections 2133.21 to 2133.26 of the Revised Code, shall not impair or invalidate any policy of life insurance or annuity.

(3) Notwithstanding any term of a policy or plan to the contrary, neither of the following shall impair or invalidate any policy of health insurance or other health care benefit plan:

(a) The withholding or withdrawal in accordance with sections 2133.21 to 2133.26 Of the Revised Code of CPR from a person who is insured or covered under the policy or plan and who possesses DNR identification or for whom a current do-not-resuscitate order has been issued;

(b) The provision in accordance with sections 2133.21 to 2133.26 Of the Revised Code of CPR to a person of the nature described in division (B)(3)(a) of this section.

(4) No physician, health care facility, other health care provider, person authorized to engage in the business of insurance in this state under Title XXXIX of the Revised Code, health insuring corporation, other health care benefit plan, legal entity that is self-insured and provides benefits to its employees or members, or other person shall require an individual to possess DNR identification, or shall require an individual to revoke or refrain from possessing DNR identification, as a condition of being insured or of receiving health care benefits or services.

(C)(1) Sections 2133.21 to 2133.26 of the Revised Code do not create any presumption concerning the intent of an individual who does not possess DNR identification with respect to the use, withholding, or withdrawal of CPR.

(2) Sections 2133.21 to 2133.26 of the Revised Code do not affect the right of a person to make informed decisions regarding the use, withholding, or withdrawal of CPR for the person as long as the person is able to make those decisions.

(3) Sections 2133.21 to 2133.26 of the Revised Code are in addition to and independent of, and do not limit, impair, or supersede, any right or RESPONSIBILITY that a person has to effect the withholding or withdrawal of life-sustaining treatment to another pursuant to sections 2133.01 to 2133.15 of the Revised Code or in any other lawful manner.

(D) Nothing in sections 2133.21 to 2133.26 of the Revised Code

condones, authorizes, or approves of mercy killing, assisted SUICIDE, or euthanasia.

Sec. 2133.25. (A) The department of health, by rule adopted pursuant to Chapter 119. of the Revised Code, shall adopt a standardized method of procedure for the withholding of CPR by physicians, emergency medical services personnel, and health care facilities in accordance with sections 2133.21 to 2133.26 Of the Revised Code. The standardized method shall specify criteria for determining when a do-not-resuscitate order issued by a physician is current. The standardized method so adopted shall be the "do-not-resuscitate protocol" for purposes of sections 2133.21 to 2133.26 Of the Revised Code. The department also shall approve one or more standard forms of DNR identification to be used throughout this state.

(B) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code for the administration of sections 2133.21 to 2133.26 of the Revised Code.

(C) The department of health shall appoint an advisory committee to advise the department in the development of rules under this section. The advisory committee shall include, but shall not be limited to, representatives of each of the following organizations:

- (1) The association for hospitals and health systems (OHA);
- (2) The Ohio state medical association;
- (3) The Ohio chapter of the American college of emergency physicians;
- (4) The Ohio hospice organization;
- (5) The Ohio council for home care;
- (6) The Ohio health care association;
- (7) The Ohio ambulance association;
- (8) The Ohio medical directors association;
- (9) The Ohio association of emergency medical services;
- (10) The bioethics network of Ohio;
- (11) THE OHIO NURSES ASSOCIATION;
- (12) THE OHIO ACADEMY OF NURSING HOMES;
- (13) THE OHIO ASSOCIATION OF PROFESSIONAL FIREFIGHTERS;
- (14) THE DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES;
- (15) THE OHIO OSTEOPATHIC ASSOCIATION;
- (16) The association of Ohio philanthropic homes, housing and services for the aging;
- (17) The catholic conference of Ohio;
- (18) The department of aging;

- (19) The department of mental health;
- (20) The Ohio private residential association;
- (21) The northern Ohio fire fighters association.

Sec. 2133.26. (A)(1) No physician shall purposely prevent or attempt to prevent, or delay or unreasonably attempt to delay, the transfer of a patient in violation of division (B) of section 2133.23 of the Revised Code.

(2) No person shall purposely conceal, cancel, deface, or obliterate the DNR IDENTIFICATION of another person without the consent of the other person.

(3) No person shall purposely falsify or forge a revocation of a declaration that is the basis of the DNR identification of another person or purposely falsify or forge an order of a physician that purports to supersede a do-not-resuscitate order issued for another person.

(4) No person shall purposely falsify or forge the DNR identification of another person with the intent to cause the use, withholding, or withdrawal of CPR for the other person.

(5) No person who has personal knowledge that another person has revoked a declaration that is the basis of the other person's DNR identification or personal knowledge that a physician has issued an order that supersedes a do-not-resuscitate order that the physician issued for another person shall purposely conceal or WITHHOLD that personal knowledge with the intent to cause the use, withholding, or withdrawal of CPR for the other person.

(B)(1) Whoever violates division (A)(1) or (5) of this section is guilty of a misdemeanor of the third degree.

(2) Whoever violates division (A)(2), (3), or (4) of this section is guilty of a misdemeanor of the first degree.

Sec. 3721.17. (A) Any resident who believes that ~~his~~ the resident's rights under sections 3721.10 to 3721.17 of the Revised Code have been violated may file a grievance under procedures adopted pursuant to division (A)(2) of section 3721.12 of the Revised Code.

When the grievance committee determines a violation of sections 3721.10 to 3721.17 of the Revised Code has occurred, it shall notify the administrator of the home. If the violation cannot be corrected within ten days, or if ten days have elapsed without correction of the violation, the grievance committee shall refer the matter to the department of health.

(B) Any person who believes that a resident's rights under sections 3721.10 to 3721.17 of the Revised Code have been violated may report or cause reports to be made of the information directly to the department of health. No person who files a report is liable for civil damages resulting

from the report.

(C)(1) Within thirty days of receiving a complaint under this section, the department of health shall investigate any complaint referred to it by a home's grievance committee and any complaint from any source that alleges that the home provided substantially less than adequate care or treatment, or substantially unsafe conditions, or, within seven days of receiving a complaint, refer it to the attorney general, if ~~he~~ the attorney general agrees to investigate within thirty days.

(2) Within thirty days of receiving a complaint under this section, the department of health may investigate any alleged violation of sections 3721.10 to 3721.17 of the Revised Code, or of rules, policies, or procedures adopted pursuant to those sections, not covered by division (C)(1) of this section, or it may, within seven days of receiving a complaint, refer the complaint to the grievance committee at the home where the alleged violation occurred, or to the attorney general if ~~he~~ the attorney general agrees to investigate within thirty days.

(D) If, after an investigation, the department of health finds probable cause to believe that a violation of sections 3721.10 to 3721.17 of the Revised Code, or of rules, policies, or procedures adopted pursuant to those sections, has occurred at a home that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, it shall cite one or more findings or deficiencies under sections 5111.35 to 5111.62 of the Revised Code. If the home is not so certified, the department shall hold an adjudicative hearing within thirty days under Chapter 119. of the Revised Code.

(E) Upon a finding at an adjudicative hearing under division (D) of this section that a violation of sections 3721.10 to 3721.17 of the Revised Code, or of rules, policies, or procedures adopted pursuant thereto, has occurred, the department of health shall make an order for compliance, set a reasonable time for compliance, and assess a fine pursuant to division (F) of this section. The fine shall be paid to the general revenue fund only if compliance with the order is not shown to have been made within the reasonable time set in the order. The department of health may issue an order prohibiting the continuation of any violation of sections 3721.10 to 3721.17 of the Revised Code.

Findings at the hearings conducted under this section may be appealed pursuant to Chapter 119. of the Revised Code, except that an appeal may be made to the court of common pleas of the county in which the home is located.

The department of health shall initiate proceedings in court to collect

any fine assessed under this section which is unpaid thirty days after the violator's final appeal is exhausted.

(F) Any home found, pursuant to an adjudication hearing under division (D) of this section, to have violated sections 3721.10 to 3721.17 of the Revised Code, or rules, policies, or procedures adopted pursuant to those sections may be fined not less than one hundred nor more than five hundred dollars for a first offense. For each subsequent offense, the home may be fined not less than two hundred nor more than one thousand dollars.

A violation of sections 3721.10 to 3721.17 of the Revised Code is a separate offense for each day of the violation and for each resident who claims the violation.

(G) No home or employee of a home shall retaliate against any person who:

(1) Exercises any right set forth in sections 3721.10 to 3721.17 of the Revised Code, including, but not limited to, filing a complaint with the home's grievance committee or reporting an alleged violation to the department of health;

(2) Appears as a witness in any hearing conducted under this section and section 3721.16 of the Revised Code;

(3) Files a civil action alleging a violation of sections 3721.10 to 3721.17 of the Revised Code, or notifies a county prosecuting attorney or the attorney general of a possible violation of sections 3721.10 to 3721.17 of the Revised Code.

If, under the procedures outlined in this section, a home or its employee is found to have retaliated, the violator may be fined up to one thousand dollars.

(H) When legal action is indicated, any evidence of criminal activity found in an investigation under division (C) of this section shall be given to the prosecuting attorney in the county in which the home is located for investigation.

(I)(1) Any resident whose rights under sections 3721.10 to 3721.17 of the Revised Code are violated has a cause of action against any person or home committing the violation. The action may be commenced by the resident or by his the resident's sponsor on his behalf of the resident. ~~The court may award actual and punitive damages for violation of the rights. The~~

(2)(a) If compensatory damages are awarded for a violation of the resident's rights, section 2315.21 Of the Revised Code, except divisions (E)(1) and (2) of that section, shall apply to an award of punitive or exemplary damages for the violation.

(b) The court may award to the prevailing party reasonable attorney's

fees limited to the work reasonably performed.

(3) Division (I)(2)(a) of this section shall be considered to be purely remedial in operation and shall be applied in a remedial manner in any civil action in which this section is relevant, whether the action is pending in court or commenced on or after the effective date of this amendment.

Sec. 4506.07. (A) Every application for a commercial driver's license, restricted commercial driver's license, or a commercial driver's temporary instruction permit, or a duplicate of such a license, shall be made upon a form approved and furnished by the registrar of motor vehicles. Except as provided in section 4506.24 of the Revised Code in regard to a restricted commercial driver's license, the application shall be signed by the applicant and shall contain the following information:

(1) The applicant's name, date of birth, social security account number, sex, general description including height, weight, and color of hair and eyes, current residence, duration of residence in this state, country of citizenship, and occupation;

(2) Whether the applicant previously has been licensed to operate a commercial motor vehicle or any other type of motor vehicle in another state or a foreign jurisdiction and, if so, when, by what state, and whether the license or driving privileges currently are suspended or revoked in any jurisdiction, or the applicant otherwise has been disqualified from operating a commercial motor vehicle, or is subject to an out-of-service order issued under this chapter or any similar law of another state or a foreign jurisdiction and, if so, the date of, locations involved, and reason for the suspension, revocation, disqualification, or out-of-service order;

(3) Whether the applicant is afflicted with or suffering from any physical or mental disability or disease that prevents ~~him~~ the applicant from exercising reasonable and ordinary control over a motor vehicle while operating it upon a highway or is or has been subject to any condition resulting in episodic impairment of consciousness or loss of muscular control and, if so, the nature and extent of the disability, disease, or condition, and the names and addresses of the physicians attending ~~him~~ the applicant;

(4) Whether the applicant has obtained a medical examiner's certificate as required by this chapter;

(5) Whether the applicant has pending a citation for violation of any motor vehicle law or ordinance except a parking violation and, if so, a description of the citation, the court having jurisdiction of the offense, and the date when the offense occurred;

(6) Whether the applicant wishes to certify willingness to make an

anatomical donation under section 2108.04 of the Revised Code, which shall be given no consideration in the issuance of a license;

(7) On and after May 1, 1993, whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to ~~Chapter 2133.~~ sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether ~~he~~ the applicant wishes ~~his~~ THE license issued to indicate that ~~he~~ the applicant has executed the instrument.

(B) Every applicant shall certify, on a form approved and furnished by the registrar, all of the following:

(1) That the motor vehicle in which the applicant intends to take the driving skills test is representative of the type of motor vehicle that the applicant expects to operate as a driver;

(2) That the applicant is not subject to any disqualification or out-of-service order, or license suspension, revocation, or cancellation, under the laws of this state, of another state, or of a foreign jurisdiction and does not have more than one driver's license issued by this or another state or a foreign jurisdiction;

(3) Any additional information, certification, or evidence that the registrar requires by rule in order to ensure that the issuance of a commercial driver's license to the applicant is in compliance with the law of this state and with federal law.

(C) Every applicant shall execute a form, approved and furnished by the registrar, under which the applicant consents to the release by the registrar of information from the applicant's driving record.

(D) The registrar or a deputy registrar ~~shall~~, in accordance with section 3503.11 of the Revised Code, SHALL register as an elector any applicant for a commercial driver's license or for a renewal or duplicate of such a license under this chapter, if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue ~~him~~ the applicant a license or a renewal or duplicate.

(E) The registrar or a deputy registrar ~~shall~~, in accordance with section 3503.11 of the Revised Code, SHALL offer the opportunity of completing a notice of change of residence or change of name to any applicant for a commercial driver's license or for a renewal or duplicate of such a license who is a resident of this state, if the applicant is a registered elector who has changed ~~his~~ the applicant's residence or name and has not filed such a

notice.

Sec. 4507.06. (A)(1) Every application for a driver's license or motorcycle operator's license or endorsement, or duplicate of any such license or endorsement, shall be made upon the approved form furnished by the registrar of motor vehicles and shall be signed by the applicant.

Every application shall state the following:

(a) The applicant's name, date of birth, social security number if such has been assigned, sex, general description, including height, weight, color of hair, and eyes, residence address, including county of residence, duration of residence in this state, and country of citizenship;

(b) Whether the applicant previously has been licensed as an operator, chauffeur, driver, commercial driver, or motorcycle operator and, if so, when, by what state, and whether such license is suspended or revoked at the present time and, if so, the date of and reason for the suspension or revocation;

(c) Whether the applicant is now or ever has been afflicted with epilepsy, or whether the applicant now is suffering from any physical or mental disability or disease and, if so, the nature and extent of the disability or disease, giving the names and addresses of physicians then or previously in attendance upon the applicant;

(d) Whether an applicant for a duplicate driver's license, or duplicate license containing a motorcycle operator endorsement has pending a citation for violation of any motor vehicle law or ordinance, a description of any such citation pending, and the date of the citation;

(e) Whether the applicant wishes to certify willingness to make an anatomical gift under section 2108.04 of the Revised Code, which shall be given no consideration in the issuance of a license or endorsement;

(f) On and after May 1, 1993, whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to ~~Chapter 2133.~~ sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether the applicant wishes the applicant's license to indicate that the applicant has executed the instrument.

(2) Every applicant for a driver's license shall be photographed in color at the time the application for the license is made. The application shall state any additional information that the registrar requires.

(B) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall register as an elector any person who

applies for a driver's license or motorcycle operator's license or endorsement under division (A) of this section, or for a renewal or duplicate of the license or endorsement, if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue the applicant a license or endorsement, or a renewal or duplicate.

(C) The registrar or a deputy registrar, in accordance with section 3503.11 of the Revised Code, shall offer the opportunity of completing a notice of change of residence or change of name to any applicant for a driver's license or endorsement under division (A) of this section, or for a renewal or duplicate of the license or endorsement, if the applicant is a registered elector who has changed the applicant's residence or name and has not filed such a notice.

Sec. 4507.51. (A)(1) Every application for an identification card or duplicate shall be made on a form furnished by the registrar of motor vehicles, shall be signed by the applicant, and by ~~his~~ the applicant's parent or guardian if the applicant is under eighteen years of age, and shall contain the following information pertaining to the applicant: name, date of birth, sex, general description including the applicant's height, weight, hair color, and eye color, address, and at the option of the applicant, ~~his~~ the applicant's social security number, ~~his~~ the applicant's blood type, or ~~his~~ the applicant's social security number and ~~his~~ the applicant's blood type. The application form shall state that an applicant is not required to furnish ~~his~~ the applicant's social security number or ~~his~~ the applicant's blood type. The application shall also state whether an applicant wishes to certify willingness to make an anatomical gift under section 2108.04 of the Revised Code and shall include information about the requirements of that section that apply to persons who are less than eighteen years of age. The statement regarding willingness to make such a donation shall be given no consideration in the decision of whether to issue an identification card. Each applicant shall be photographed in color at the time of making application.

(2) On and after May 1, 1993, the application also shall state whether the applicant has executed a valid durable power of attorney for health care pursuant to sections 1337.11 to 1337.17 of the Revised Code or has executed a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment pursuant to ~~Chapter 2133.~~ sections 2133.01 to 2133.15 of the Revised Code and, if the applicant has executed either type of instrument, whether ~~he~~ the applicant wishes ~~his~~ THE identification card ISSUED to indicate that ~~he~~ the applicant has executed the instrument.

(3) The registrar or deputy registrar, in accordance with section 3503.11 of the Revised Code, shall register as an elector any person who applies for an identification card or duplicate if the applicant is eligible and wishes to be registered as an elector. The decision of an applicant whether to register as an elector shall be given no consideration in the decision of whether to issue ~~him~~ the applicant an identification card or duplicate.

(B) The application for an identification card or duplicate shall be filed in the office of the registrar or deputy registrar. Each applicant shall present documentary evidence as required by the registrar of ~~his~~ the applicant's age and identity. Each applicant who did not enter his or her social security number on his or her application form, upon request, shall furnish the registrar or the deputy registrar with the applicant's social security number, if such a number has been assigned to the applicant, for purposes of determining whether a driver's or commercial driver's license has been issued under the same social security number. The registrar or deputy registrar shall not maintain the social security number as a part of the record or enter it on the application form. The applicant shall swear that all information given is true.

All applications for an identification card or duplicate shall be filed in duplicate, and if submitted to a deputy registrar, a copy shall be forwarded to the registrar. The registrar shall prescribe rules for the manner in which a deputy registrar is to file and maintain applications and other records. The registrar shall maintain a suitable, indexed record of all applications denied and cards issued or canceled.

SECTION 2. That existing sections 1337.12, 2133.01, 2133.02, 2133.03, 2133.07, 2133.10, 2133.12, 2133.13, 2133.14, 2133.15, 3721.17, 4506.07, 4507.06, and 4507.51 of the Revised Code are hereby repealed.

SECTION 3. That Section 3 of Am. Sub. S.B. 1 of the 119th General Assembly be amended to read as follows:

"Sec. 3. Chapter 2133. of the Revised Code, as ~~enacted~~ amended by this act, shall be entitled the Modified Uniform Rights of the Terminally Ill Act and the DNR Identification and Do-Not-Resuscitate Order Law."

SECTION 4. That existing Section 3 of Am. Sub. S.B. 1 of the 119th General Assembly is hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____