

SENATE BILL No. 437

By Committee on Federal and State Affairs

2-10

1 AN ACT concerning healthcare; ~~dealing with~~ **relating to** withholding life-  
2 sustaining treatment of certain persons **from patients under 18 years of**  
3 **age; permission requirements and exceptions; dispute resolution.**  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) This act shall be known and may be cited as "Simon's  
7 law."

8 (b) *As used in this section:*

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

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

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

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

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

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

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

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

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

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

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

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

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