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

Section 1. K.S.A. 58-629 is hereby amended to read as follows: 58-629. (a) A durable power of attorney for health care decisions may convey to the agent the authority to:

(1) Consent, refuse consent, or withdraw consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition, and to make decisions about organ donation, autopsy, and disposition of the body;

(2) make all necessary arrangements for the principal at any hospital, psychiatric hospital or psychiatric treatment facility, hospice, nursing home or similar institution; to employ or discharge health care personnel to include physicians, psychiatrists, psychologists, dentists, nurses, therapists or any other person who is licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care as the agent shall deem necessary for the physical, mental and emotional well being of the principal; and

(3) request, receive and review any information, verbal or written, regarding the principal's personal affairs or physical or mental health including medical and hospital records and to execute any releases of other documents that may be required in order to obtain such information.

(b) The powers of the agent herein shall be limited to the extent set out in writing in the durable power of attorney for health care decisions, and shall not include the power to revoke or invalidate a previously existing declaration by the principal in accordance with the natural death act. No agent powers conveyed pursuant to this section shall be effective until the occurrence of the principal's impairment as determined by the principal's attending physician, as defined in subsection (a) of K.S.A. 65-28,102, and amendments thereto, unless the durable power of attorney for health care decisions specifically provides otherwise. Nothing in this act shall be construed as prohibiting an agent from providing treatment by
spiritual means through prayer alone and care consistent therewith, in lieu
of medical care and treatment, in accordance with the tenets and practices
of any church or religious denomination of which the principal is a
member.

(c) In exercising the authority under the durable power of attorney for
health care decisions, the agent has a duty to act consistent with the
expressed desires of the principal.

(d) Neither the treating health care provider, as defined by subsection
(c) of K.S.A. 65-4921, and amendments thereto, nor an employee of the
treating health care provider, nor an employee, owner, director or officer of
a facility described in subsection (a)(2) in K.S.A. 58-629, and
amendments thereto, may be designated as the agent to make health care
decisions under a durable power of attorney for health care decisions
unless:

(1) Related to the principal by blood, marriage or adoption; or
(2) the principal and agent are members of the same community of
persons who are bound by vows to a religious life and who conduct or
assist in the conduct of religious services and actually and regularly
engage in religious, benevolent, charitable or educational ministrations or
the performance of health care services.

(e) A durable power of attorney for health care decisions shall be:

(1) Dated and signed in the presence of two witnesses at least 18
years of age neither of whom shall be the agent, related to the principal by
blood, marriage or adoption, entitled to any portion of the estate of the
principal according to the laws of intestate succession of this state or under
any will of the principal or codicil thereto, or directly financially
responsible for the principal's health care; or
(2) acknowledged before a notary public.

(f) Death of the principal shall not prohibit or invalidate acts of the
agent in arranging for organ donation, autopsy or disposition of body.

(g) Any person who in good faith acts pursuant to the terms of a
durable power of attorney for health care decisions without knowledge of
its invalidity shall be immune from liability that may be incurred or
imposed from such action.

(h) An attending physician or health facility that refuses to comply
with the directions of an agent pursuant to a durable power of attorney for
health care decisions shall effect the transfer of the principal to another
physician or health facility willing to comply with the directions of the
agent and pending such transfer shall provide continuing care to the
principal until such transfer is effected. Failure of an attending physician
to comply with the directions of an agent pursuant to a durable power of
attorney for health care decisions, effect the transfer of a principal or
provide continuing care to the principal until such transfer is effected
shall constitute unprofessional conduct as defined in K.S.A. 65-2837, and
amendments thereto. Further, any person may seek injunctive relief in a
court of competent jurisdiction to enjoin an attending physician or health
facility failing to comply with the directions of an agent pursuant to a
durable power of attorney for health care decisions, effect the transfer of a
principal or provide continuing care to a principal until such transfer is
effected.

(i) As used in this section:
(1) "Attending physician" means the physician selected by, or
assigned to, the patient who has primary responsibility for the treatment
and care of the patient.
(2) "Continuing care" means the provision of health care sufficient to
assure, to the extent possible in reasonable medical judgment, that no
material deterioration of the principal's condition is likely to occur
pending transfer of such principal to another physician or health facility.
(3) "Health facility" means the same as in K.S.A. 40-2,116, and
amendments thereto.
(4) "Physician" means a person licensed to practice medicine and
surgery by the state board of healing arts.

Sec. 2. K.S.A. 65-28,102 is hereby amended to read as follows: 65-
28,102. As used in this the natural death act:
(a) "Attending physician" means the physician selected by, or
assigned to, the patient who has primary responsibility for the treatment
and care of the patient.
(b) "Continuing care" means the provision of health care sufficient to
assure, to the extent possible in reasonable medical judgment, that no
material deterioration of the qualified patient's condition is likely to occur
pending transfer of such qualified patient to another physician or health
facility.
(þ) (c) "Declaration" means a witnessed document in writing,
voluntarily executed by the declarant in accordance with the requirements
of K.S.A. 65-28,103, and amendments thereto.
(d) "Health facility" means the same as in K.S.A. 40-2,116, and
amendments thereto.
(þ) (e) "Life-sustaining procedure" means any medical procedure or
intervention which, when applied to a qualified patient, would serve only
to prolong the dying process and where, in the judgment of the attending
physician, death will occur whether or not such procedure or intervention
is utilized. "Life-sustaining procedure" shall not include the
administration of medication or the performance of any medical procedure
deemed necessary to provide comfort care or to alleviate pain.
(þ) (f) "Physician" means a person licensed to practice medicine and
surgery by the state board of healing arts.
"Qualified patient" means a patient who has executed a declaration in accordance with this *natural death* act and who has been diagnosed and certified in writing to be afflicted with a terminal condition by two physicians who have personally examined the patient, one of whom shall be the attending physician.

Sec. 3. K.S.A. 2013 Supp. 65-28,107 is hereby amended to read as follows: 65-28,107. (a) An attending physician or health facility who refuses to comply with the declaration of a qualified patient pursuant to this *natural death* act shall effect the transfer of the qualified patient to another physician or health facility and pending such transfer shall provide continuing care to the qualified patient until such transfer is effected. Failure of an attending physician to comply with the declaration of a qualified patient and to effect the transfer of the qualified patient or provide continuing care to the qualified patient until such transfer is effected shall constitute unprofessional conduct as defined in K.S.A. 65-2837, and amendments thereto. Further, any person may seek injunctive relief in a court of competent jurisdiction to enjoin an attending physician or health facility failing to comply with the declaration of a qualified patient, effect the transfer of such qualified patient or provide continuing care to the qualified patient until such transfer is effected.

(b) Any person who willfully conceals, cancels, defaces, obliterates or damages the declaration of another without such declarant's consent or who falsifies or forges a revocation of the declaration of another shall be guilty of a class A person misdemeanor.

(c) Any person who falsifies or forges the declaration of another, or willfully conceals or withholds personal knowledge of the revocation of a declaration, with the intent to cause a withholding or withdrawal of life-sustaining procedures contrary to the wishes of the declarant, and thereby, because of such act, directly causes life-sustaining procedures to be withheld or withdrawn and death to be hastened, shall be guilty of a severity level 7, person felony.

Sec. 4. K.S.A. 2013 Supp. 65-28,108 is hereby amended to read as follows: 65-28,108. (a) The withholding or withdrawal of life-sustaining procedures from a qualified patient in accordance with the provisions of this *natural death* act shall not, for any purpose, constitute a suicide and shall not constitute the crime of assisting suicide as defined in K.S.A. 2013 Supp. 21-5407, and amendments thereto.

(b) The making of a declaration pursuant to K.S.A. 65-28,103, and amendments thereto, shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures from an insured.
qualified patient, notwithstanding any term of the policy to the contrary.

(c) No physician, medical care facility, or other health care provider, and no health care service plan, health maintenance organization, insurer issuing disability insurance, self-insured employee welfare benefit plan or nonprofit medical and hospital service corporation shall require any person to execute a declaration as a condition for being insured for, or receiving, health care services.

(d) (1) Except as provided in subsection (d)(2), nothing in this the natural death act shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of life-sustaining procedures in any lawful manner. In such respect the provisions of this the natural death act are cumulative.

(2) The provisions of subsection (d)(1) shall not be construed to authorize a violation of K.S.A. 65-28,107, and amendments thereto.

(e) This The natural death act shall create no presumption concerning the intention of an individual who has not executed a declaration to consent to the use or withholding of life-sustaining procedures in the event of a terminal condition.

New Sec. 5. The provisions of K.S.A. 65-28,101 et seq., and amendments thereto, shall be known and may be cited as the natural death act.


Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.