



## Ohio Revised Code Section 1337.15 Immunity.

Effective: July 22, 1998

Legislation: Senate Bill 66 - 122nd General Assembly

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(A) Subject to division (H) of this section, an attending physician of a principal is not subject to criminal prosecution or professional disciplinary action and is not liable in damages in a tort or other civil action for actions taken in good faith and in reliance on a health care decision when all of the following are satisfied:

(1) The decision is made by an attorney in fact under a durable power of attorney for health care after the attorney in fact receives information sufficient to satisfy the requirements of informed consent or refusal or withdrawal of informed consent, and the attending physician, in good faith, believes that the attorney in fact is authorized to make the decision.

(2) The attending physician, in good faith, believes that the decision is consistent with the desires of the principal, or the attorney in fact informs the attending physician that the desires of the principal are unknown and the attending physician, in good faith, believes that the desires of the principal are unknown and that the decision is in the best interest of the principal.

(3) The attending physician determines, in good faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, that the principal has lost the capacity to make informed health care decisions for the principal.

(4) If the decision is to withhold or withdraw life-sustaining treatment, the attending physician attempts, in good faith, to determine the desires of the principal to the extent that the principal is able to convey them and places a report of the attempt in the health care records of the principal.

(5) If the decision is to withhold or withdraw life-sustaining treatment, the attending physician determines, in good faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, that both of the following apply:

(a) The principal is in a terminal condition or in a permanently unconscious state.



(b) There is no reasonable possibility that the principal will regain the capacity to make informed health care decisions for the principal.

(6) If the decision pertains to a principal who is pregnant and if the withholding or withdrawal of health care would terminate the pregnancy, the attending physician makes, in good faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, a determination whether or not the pregnancy or health care involved would pose a substantial risk to the life of the principal or a determination whether or not the fetus would be born alive.

(7) If the decision pertains to the provision of nutrition or hydration to a principal who is in a terminal condition or in a permanently unconscious state, the attending physician determines, in good faith, 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, or alleviate pain of, the principal.

(8) If the decision pertains to the provision of nutrition or hydration to a principal who is in a permanently unconscious state, the attending physician determines, in good faith, that the principal authorized the attorney in fact to refuse or withdraw informed consent to the provision of nutrition or hydration to the principal when the principal is in a permanently unconscious state by complying with the requirements of divisions (E)(2)(a) and (b) of section 1337.13 of the Revised Code.

(B)(1) Notwithstanding the health care decision of the attorney in fact, subject to division (H) of this section, an attending physician of a principal is not subject to criminal prosecution or professional disciplinary action and is not liable in damages in a tort or other civil action for providing or for failing to withdraw life-sustaining treatment.

(2) Subject to division (H) of this section, an attending physician who is carrying out in good faith and in a manner consistent with divisions (C) and (E) of section 1337.13 of the Revised Code the responsibility to provide comfort care to a principal in a terminal condition or in a permanently unconscious state is not subject to criminal prosecution or professional disciplinary action and is not liable in damages in a tort or other civil action for prescribing, dispensing, administering, or causing to be administered any particular medical procedure, treatment, intervention, or other measure to the



principal, including, but not limited to, prescribing, personally furnishing, administering, or causing to be administered by judicious titration or in another manner any form of medication, for the purpose of diminishing the principal's pain or discomfort and not for the purpose of postponing or causing the principal's death, even though the medical procedure, treatment, intervention, or other measure may appear to hasten or increase the risk of the principal's death.

(C) Subject to division (H) of this section, a consulting physician is not subject to criminal prosecution or professional disciplinary action and is not liable in damages in a tort or other civil action as follows:

(1) If the health care decision involved is one other than the health care decision described in division (C)(2), (3), or (4) of this section, the consulting physician made a determination, in good faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, in conjunction with the attending physician of a principal.

(2) If the decision is to withhold or withdraw life-sustaining treatment, the consulting physician determines, in good faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, after examining the principal, that the principal is in a terminal condition or in a permanently unconscious state.

(3) If the health care decision involved pertains to a principal who is pregnant and if the withholding or withdrawal of health care would terminate the pregnancy, the consulting physician makes, in good faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards, a determination whether or not the pregnancy or health care involved would pose a substantial risk to the life of the principal or a determination whether or not the fetus would be born alive.

(4) If the decision pertains to the provision of nutrition or hydration to a principal who is in a terminal condition or in a permanently unconscious state, the consulting physician determines, in good faith, 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, or alleviate pain of, the principal.



(D) Subject to division (H) of this section, a person is not subject to criminal prosecution or professional disciplinary action and is not liable in damages in a tort or other civil action for actions taken, in good faith, while relying on a durable power of attorney for health care if the person does not have actual knowledge of either of the following facts:

(1) The durable power of attorney has been revoked pursuant to section 1337.14 of the Revised Code.

(2) The durable power of attorney does not substantially comply with sections 1337.11 to 1337.17 of the Revised Code.

(E)(1) Subject to division (H) of this section, a consulting physician, an employee or agent of any health care facility or the attending physician of a principal, and health care personnel acting under the direction of the attending physician of a principal are not subject to criminal prosecution or professional disciplinary action and are not liable in damages in a tort or other civil action for any action described in division (A), (B), (C), or (D) of this section that was undertaken, in good faith, pursuant to the direction of the attending physician of the principal.

(2) Subject to division (H) of this section, health care personnel who are acting under the direction of the principal's attending physician and who carry out the responsibility to provide comfort care to a principal in a terminal condition or in a permanently unconscious state in good faith and in a manner consistent with divisions (C) and (E) of section 1337.13 of the Revised Code are not subject to criminal prosecution or professional disciplinary action and are not liable in damages in a tort or other civil action for dispensing, administering, or causing to be administered any particular medical procedure, treatment, intervention, or other measure to the principal, including, but not limited to, personally furnishing, administering, or causing to be administered by judicious titration or in another manner any form of medication, for the purpose of diminishing the principal's pain or discomfort and not for the purpose of postponing or causing the principal's death, even though the medical procedure, treatment, intervention, or other measure may appear to hasten or increase the risk of the principal's death.

(F) Subject to division (H) of this section, a health care facility is not subject to criminal prosecution or professional disciplinary action and is not liable in damages in a tort or other civil action for any



action that properly was undertaken pursuant to division (A), (B), (C), (D), or (E) of this section.

(G) Subject to division (H) of this section, an attorney in fact is not subject to criminal prosecution or professional disciplinary action and is not liable in damages in a tort or other civil action for health care decisions made in good faith while acting pursuant to the attorney in fact's authority under a durable power of attorney for health care.

(H)(1) Sections 1337.11 to 1337.17 of the Revised Code and a durable power of attorney for health care do not affect or limit any potential tort or other civil liability of an attending or consulting physician, an employee or agent of a health care facility or an attending physician, health care personnel acting under the direction of an attending physician, a health care facility, an attorney in fact, or any other person, including, but not limited to, liability associated with a medical claim, that satisfies both of the following:

(a) The liability arises out of a negligent action or omission in connection with the medical diagnosis, care, or treatment of a principal under a durable power of attorney for health care or arises out of any deviation from reasonable medical standards.

(b) The liability is based on the fact that the negligent action or omission, or the deviation, as described in division (H)(1)(a) of this section caused or contributed to the principal under the durable power of attorney for health care having a terminal condition or being in a permanently unconscious state, or otherwise caused or contributed to any injury to or the wrongful death of the principal.

(2) Sections 1337.11 to 1337.17 of the Revised Code and a durable power of attorney for health care do not grant an immunity from criminal or civil liability or from professional disciplinary action to health care personnel for actions that are outside the scope of their authority.