



Ohio Revised Code

Section 2133.03 When declaration operative.

Effective: July 9, 1998

Legislation: House Bill 354 - 122nd General Assembly

(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 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. 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. Division (B)(2) of this section does not apply if the declarant revokes the declaration pursuant to section 2133.04 of the Revised Code.