



## Ohio Revised Code Section 2133.11 Immunities.

Effective: July 22, 1998

Legislation: Senate Bill 66 - 122nd General Assembly

---

(A) Subject to division (D) of this section, an attending physician, consulting physician, health care facility, and health care personnel acting under the direction of an attending physician are not subject to criminal prosecution, are not liable in damages in a tort or other civil action, and are not subject to professional disciplinary action for any of the following:

(1) Giving effect to a declaration, if the physician, facility, or personnel gives effect to the declaration in good faith and does not have actual knowledge that the declaration has been revoked or does not substantially comply with this chapter;

(2) Giving effect to a consent under the circumstances described in section 2133.08 of the Revised Code, if the physician, facility, or personnel gives effect to the consent in good faith and does not have actual knowledge that the consent is invalid under that section and if a probate court has not issued an order reversing the consent pursuant to division (E) of that section;

(3) Giving effect to a consent under the circumstances described in section 2133.09 of the Revised Code, if the physician, facility, or personnel gives effect to the consent in good faith and does not have actual knowledge that the consent is invalid under that section and if the appropriate probate court has issued an order authorizing the withholding or withdrawal of nutrition and hydration in connection with the patient in question;

(4) Refusing to or not being 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 a probate court order issued pursuant to section 2133.05, 2133.08, or 2133.09 of the Revised Code, or with another applicable provision of this chapter, if the refusal or inability to comply or allow compliance is in good faith, provided that, in the case of an attending physician or health care facility, whichever of the following apply are satisfied:

(a) The attending physician or health care facility does 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 the declaration of the qualified patient provided for the use or continuation of life-sustaining treatment should the declarant subsequently be in a terminal condition or in a permanently unconscious state, if the consent decision of a priority individual or class of individuals under section 2133.08 of the Revised Code was to use or continue life-sustaining treatment in connection with the patient described in that section, or if the probate court issued a reevaluation order pursuant to section 2133.05 or 2133.08 of the Revised Code that was intended to result in the use or continuation of life-sustaining treatment in connection with the qualified patient or other patient, the attending physician or health care facility used or continued the life-sustaining treatment or caused it to be used or continued until a transfer as described in division (A)(4)(a) of this section was made.

(5) Making determinations other than those described in division (B) of this section, or otherwise acting under this chapter, if the determinations or other actions are made in good faith and in accordance with reasonable medical standards;

(6) Prescribing, dispensing, administering, or causing to be administered any particular medical procedure, treatment, intervention, or other measure to a qualified patient or other patient, 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 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, if the attending physician so prescribing, dispensing, administering, or causing to be administered or the health care personnel acting under the direction of the attending physician so dispensing, administering, or causing to be administered are carrying out in good faith the responsibility to provide comfort care described in division (E)(1) of section 2133.12 of the Revised Code.

(B) Subject to division (D) of this section, an attending or consulting physician is not subject to criminal prosecution, is not liable in damages in a tort or other civil action, and is not subject to professional disciplinary action if the physician makes any of the following determinations in good



faith, to a reasonable degree of medical certainty, and in accordance with reasonable medical standards:

- (1) A determination that a declarant or a patient as described in section 2133.08 of the Revised Code is in a terminal condition;
- (2) A determination that a declarant is in a permanently unconscious state;
- (3) A determination that a patient as described in section 2133.08 of the Revised Code currently is and for at least the immediately preceding twelve months has been in a permanently unconscious state;
- (4) A determination that a declarant or a patient as described in section 2133.08 of the Revised Code no longer is able to make informed decisions regarding the administration of life-sustaining treatment;
- (5) A determination that there is no reasonable possibility that a declarant or a patient as described in section 2133.08 of the Revised Code will regain the capacity to make informed decisions regarding the administration of life-sustaining treatment;
- (6) A determination that nutrition or hydration will not or no longer will provide comfort or alleviate pain in connection with a patient as described in section 2133.09 of the Revised Code.

(C)(1) Subject to division (D) of this section, an individual who is authorized to give a consent to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment under division (B) of section 2133.08 of the Revised Code and who makes the decision in good faith is not subject to criminal prosecution, is not liable in damages in a tort or other civil action, and is not subject to professional disciplinary action in connection with that decision.

(2) Subject to division (D) of this section, an individual who is authorized to give a consent to the withholding or withdrawal of nutrition and hydration in connection with a patient under division (A)(4) of section 2133.09 of the Revised Code and who gives the consent in good faith is not subject to criminal prosecution, is not liable in damages in a tort or other civil action, and is not subject to



professional disciplinary action in connection with that consent.

(D) This section does 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.