



## Ohio Revised Code

### Section 2135.04 When declaration becomes operative.

Effective: October 29, 2003

Legislation: House Bill NO72 - 125th General Assembly

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(A) A declaration becomes operative when both of the following apply:

(1) The declaration is communicated to a mental health treatment provider of the declarant.

(2) The designated physician or a psychiatrist, and one other mental health treatment provider, who examine the declarant determine that the declarant does not have the capacity to consent to mental health treatment decisions. At least one of the two persons who make this determination shall not currently be involved in the declarant's treatment at the time of the determination. If a designated physician is named in the declaration and is not one of the two persons who make this determination, then the psychiatrist who makes the determination in lieu of the designated physician shall make a good faith effort to consult with the designated physician as soon as practicable.

(B) A mental health treatment provider for a declarant or a health care facility providing services to a declarant shall make a declaration part of the declarant's medical record and shall note in that record when the declaration is operative.

(C) A mental health treatment provider for a declarant or a health care facility providing services to a declarant shall act in accordance with an operative declaration of the declarant consistent with reasonable medical practice, the availability of treatments requested, and applicable law. The mental health treatment provider or the health care facility shall continue to act in accordance with an operative declaration until the declarant has the capacity to consent to mental health treatment decisions.

(D) An operative declaration of a declarant supersedes any general consent to treatment form signed by 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 declarant signs the form after the execution of the declaration. To the extent that the provisions of a declarant's declaration and a general consent to treatment form signed by the declarant do not conflict, both documents shall



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DOCUMENT #259544

govern the use or continuation, or the withholding or withdrawal, of mental health treatment for the declarant. This division does not apply if a declarant revokes a declaration after the declarant signs a general consent to treatment form.