

HOUSE BILL No. 2211

By Committee on Health and Human Services

1-27

9 AN ACT concerning ambulances; relating to carrying explanations of le-
10 gal documents.

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

13 Section 1. (a) Every ambulance in the state is required to have on
14 board at all times a brochure or other document containing the expla-
15 nations of legal documents included in subsection (b).

16 (b) The emergency medical services board shall prepare a brochure
17 or other document containing the following information:

18 “Legal documents that may be presented to attendants on the scene:
19 Durable power of attorney for health care decisions (DPOAHCD),
20 K.S.A. 58-625, and amendments thereto.

21 What is it? A DPOAHCD is a legal document in which the patient
22 designates an agent to make health care decisions, including the decision
23 to consent to or refuse to consent to emergency care. K.S.A. 58-625, and
24 amendment thereto.

25 The attendant should review the DPOAHCD document to determine
26 whether the agent has the right to consent or refuse to consent to
27 treatment.

28 The document will tell the attendant when the agent can make health
29 care decisions. Most DPOAHCDs are not effective until the patient is
30 “impaired”, as determined by the patient’s attending physician. However,
31 some DPOAHCDs are effective regardless of whether the patient is im-
32 paired. K.S.A. 58-625 and K.S.A 2004 Supp. 58-629(b), and amendments
33 thereto.

34 The agent has a duty to act in a manner consistent with the expressed
35 desires of the patient. If the patient is not under a legal guardianship and
36 appears to be mentally capable of making health care decisions, the at-
37 attendant should follow the patient’s wishes. K.S.A. 2004 Supp. 58-629(c),
38 and amendments thereto.

39 If the attendant follows the DPOAHCD and the document is found to
40 be invalid (i.e. not dated and witnessed by two appropriate witnesses,
41 etc.), the attendant will still be immune from legal liability as a result of
42 following the DPOAHCD. K.S.A. 2004 Supp. 58-629(g), and amend-
43 ments thereto.

1 Power of attorney (POA), K.S.A. 2004 Supp. 58-650, and amendments
2 thereto.

3 What is it? A POA is a legal document in which a person designates an
4 agent to make certain decisions on the person's behalf, usually financial.
5 However, sometimes a POA may authorize an agent to make certain med-
6 ical decisions.

7 The attendant should review the document to determine whether the
8 agent can make decisions regarding the right to consent or refuse to
9 consent to treatment.

10 If the document gives the agent right to make medical decisions, the
11 attendant will need to determine when the power is effective. POAs can
12 be effective when the patient is no longer capable of making decisions or
13 when the patient is still capable. A durable POA continues regardless of
14 the patient's disability. A nondurable POA ceases when the patient can
15 no longer make decisions regarding health care.

16 The agent has a duty to communicate with the patient and follow the
17 patient's instructions "to the extent reasonably possible under the circum-
18 stances." K.S.A. 2004 Supp. 58-656(b), and amendment thereto. If the
19 patient is not under a legal guardianship and appears to be mentally ca-
20 pable of making decisions, the attendant should follow the patient's
21 wishes.

22 A DPOAHCD generally supercedes a POA. When faced with both a
23 POA and a DPOAHCD, an attendant should follow a DPOAHCD. K.S.A.
24 2004 Supp. 58-654(g)(2), and amendments thereto.

25 Attendants who act under a POA may be immune from liability. K.S.A.
26 2004 Supp. 58-658, and amendments thereto.

27 Living will, K.S.A. 65-28,101, and amendments thereto.

28 What is it? A living will is a legal document that applies only to patients
29 who have a terminal illness, as certified by two physicians. A living will
30 directs medical personnel to withhold or withdraw life-sustaining
31 procedures.

32 This document becomes effective when the patient is no longer capable
33 of making medical care decisions. If the patient is capable, the patient's
34 desires supercede the living will.

35 A living will applies only to life sustaining procedures - not routine
36 medical care such as splinting broken limbs.

37 Guardianship, K.S.A. 2004 Supp. 59-3051, and amendments thereto.

38 What is it? A guardianship is established for a person who lacks the
39 capacity to meet his or her essential needs for physical health. If a court
40 has appointed a person to be the guardian of the patient, the guardian
41 should give the attendant a court order to this effect.

42 A guardian makes medical decisions for the patient but the guardian
43 has to take into account the "expressed desires and personal values of the

1 ward to the extent known to the guardian” in making those decisions.
2 K.S.A. 2004 Supp. 59-3075(a)(2), and amendments thereto.

3 A guardian can consent or refuse to consent to treatment. K.S.A. 2004
4 Supp. 59-3075(b)(3), and amendments thereto. However, a guardian can-
5 not consent to withholding life-saving or life-sustaining medical care un-
6 less the patient has executed a living will or a DPOAHCD.

7 Do not resuscitate orders/directives (DNR), K.S.A. 65-4941, and
8 amendments thereto.

9 What is it? A DNR directs health care providers not to initiate any
10 procedure to restart breathing or heart function if breathing or heart
11 function fails. K.S.A. 65-4942, and amendments thereto.

12 There is no civil or criminal liability if health care provider withholds
13 CPR pursuant to DNR. K.S.A. 65-4944, and amendments thereto.”

14 (c) This section shall be part of and supplemental to the emergency
15 medical services act.

16 Sec. 2. This act shall take effect and be in force from and after its
17 publication in the statute book.