

**311.635 Exemptions from criminal prosecution and civil liability -- Exceptions --
Presumption of voluntary and valid execution.**

- (1) A health care facility, physician, or other person acting under the direction of a physician shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the withholding or the withdrawal of life-prolonging treatment or artificially provided nutrition and hydration from a patient in a terminal condition in accordance with an advance directive executed pursuant to KRS 311.621 to 311.643. A person who authorizes the withholding or withdrawal of life-prolonging treatment or artificially provided nutrition and hydration from a patient in a terminal condition in accordance with an advance directive shall not be subject to criminal prosecution or civil liability for the action.
- (2) An independent investigation of a surrogate's authority shall not be necessary unless a person is in possession of information as to the surrogate's disqualification. No surrogate, responsible party, physician, or health care facility acting in good faith, shall be subject to criminal or civil liability for giving instructions as a surrogate, making a health care decision as a responsible party under KRS 311.621 to 311.643, or carrying out, or refusing to carry out pursuant to KRS 311.633, the surrogate's or responsible party's instructions or acting in reliance on the grantor's designation of a surrogate or a health care decision by a responsible party under KRS 311.621 to 311.643.
- (3) The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person:
 - (a) Authorizing or effectuating the withholding or withdrawal of life-prolonging treatment;
 - (b) Giving instructions as a surrogate;
 - (c) Making a health care decision as a responsible party under KRS 311.621 to 311.643;
 - (d) Carrying out, or refusing to carry out, the surrogate's or responsible party's instructions; or
 - (e) Acting in reliance on the grantor's designation of a surrogate or a health care decision by a responsible party under KRS 311.621 to 311.643, did not, in good faith, comply with the provisions of KRS 311.621 to 311.643.
- (4) An advance directive made in accordance with KRS 311.621 to 311.629 shall be presumed to have been made voluntarily and validly executed unless the attending physician or health care facility has actual knowledge to the contrary.

Effective: July 15, 1994

History: Created 1994 Ky. Acts ch. 235, sec. 8, effective July 15, 1994.