

STATEMENT
Kansas Attorney General Opinion Pertaining to
Transportable Physician Orders for Patient Preferences



On January 13, 2015, the Kansas Attorney General (AG) provided an opinion regarding two questions related to TPOPP (Transportable Physician Orders for Patient Preferences). TPOPP is designed to ensure that seriously ill or frail patients can choose the treatments they want or do not want and that their wishes are documented and honored.

The Center for Practical Bioethics appreciates the AG's support for the Center's position on both questions addressed in the opinion. To be responsive to the needs of those who work with the Center in its statewide efforts to advance TPOPP, we provide the following discussion of the AG's opinion and its meaning:

- 1) **Do Not Resuscitate Directives as distinct from Physician Orders** -- The Opinion supports the Center's position that the law governing Out of Hospital patient directives is distinct and separate from the law governing physician orders. TPOPP is a Physician Order and not a directive. The TPOPP form addresses three distinct medical treatment areas all of which are within the scope of practice of any licensed physician, including resuscitation status. For decades Kansas physicians have written do not resuscitate orders for patients outside the hospital setting. As the AG's opinion states "... a DNR order is not required by Kansas law to be in a particular form." The TPOPP order simply provides a medical order for treatment beyond resuscitation thereby ensuring that patient preferences and values are incorporated into physician orders beyond attempts at resuscitation.
- 2) **Legal obligations of Guardians** — Regarding the responsibilities of Guardians, i.e. those adjudicated to be responsible for the person of another, the AG's opinion aligns with TPOPP training guidance. Simply, the Guardian must comply fully with the duties assigned them under Kansas law. Use of the TPOPP form does not relieve either the physician or the adjudicated Guardian of their duties under current law. The Center has maintained since TPOPP's inception that any representative signing the form on behalf of a patient who is unable to sign must comply with any and all fiduciary and legal obligation. We include these duties and obligations in our training presentations offered to individuals, families and healthcare providers, organization and institutions.

Finally we would like to express our gratitude to the hundreds of individuals who have, since 2008, volunteered their time and talents to advancing this person-centered care initiative. Throughout Kansas, staff members at hospitals, primary care and long-term care settings, hospice providers, home health agencies and first responders have also collaborated in their respective communities. The goal has been and continues to be a community-based standard of care response to honor the values, wishes and preferences of those living with advanced illness.

We are committed and eagerly anticipate the day when Kansans will see TPOPP integrated flawlessly into the everyday fabric of care provided to all those whose lives are touched by a loved one experiencing the final stages of illness.

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