

By Senator McKay

26-200-98

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A bill to be entitled
An act relating to life-prolonging techniques;
amending s. 401.45, F.S., providing additional
grounds for withholding or withdrawing
life-prolonging techniques from a patient by a
medical technician or paramedic; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 401.45, Florida Statutes, is
amended to read:

401.45 Denial of emergency treatment; civil
liability.--

(1)(a) Except as provided in subsection (3), a person
may not be denied needed prehospital treatment or transport
from any licensee for an emergency medical condition.

(b) A person may not be denied treatment for any
emergency medical condition that will deteriorate from a
failure to provide such treatment at any general hospital
licensed under chapter 395 or at any specialty hospital that
has an emergency room.

(2) A hospital or its employees or any physician or
dentist responding to an apparent need for emergency treatment
under this section is not liable in any action arising out of
a refusal to render emergency treatment or care if reasonable
care is exercised in determining the condition of the person
and in determining the appropriateness of the facilities and
the qualifications and availability of personnel to render
such treatment.

1 (3)(a) Resuscitation or life-prolonging techniques may
2 be withheld or withdrawn from a patient by an emergency
3 medical technician or paramedic if:

4 1. Evidence of an order not to resuscitate by the
5 patient's physician is presented to the emergency medical
6 technician or paramedic in a manner provided by rule of the
7 department;

8 2. Evidence of a living will expressing the patient's
9 wish not to receive life-prolonging procedures as provided in
10 s. 765.304 is presented to the emergency medical technician or
11 paramedic; or

12 3. Evidence of the patient's wish not to receive
13 life-prolonging procedures as expressed by a designated
14 healthcare surrogate as provided in s. 765.305 is presented to
15 the emergency medical technician or paramedic.

16 (b) Any licensee, physician, medical director, or
17 emergency medical technician or paramedic who acts under the
18 direction of a medical director is not subject to criminal
19 prosecution or civil liability, and has not engaged in
20 negligent or unprofessional conduct, as a result of the
21 withholding or withdrawal of resuscitation or life-prolonging
22 techniques from a patient pursuant to this subsection and
23 rules adopted by the department.

24 (4) Any licensee or emergency medical technician or
25 paramedic who in good faith provides emergency medical care or
26 treatment within the scope of their employment and pursuant to
27 oral or written instructions of a medical director shall be
28 deemed to be providing emergency medical care or treatment for
29 the purposes of s. 768.13(2)(b).

30 Section 2. This act shall take effect July 1, 1998.

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SENATE SUMMARY

Provides that life-prolonging techniques may be withheld or withdrawn from a patient by an emergency medical technician or paramedic if evidence of a living will expressing the patient's wish not to receive life-prolonging procedures or evidence of such wish as expressed by a designated health care surrogate is presented to the emergency medical technician or paramedic.