

By the Committee on Health Care and Senator McKay

317-2059A-98

1                                   A bill to be entitled  
2           An act relating to life-prolonging techniques;  
3           amending s. 401.45, F.S., providing additional  
4           grounds for withholding or withdrawing  
5           life-prolonging techniques from a patient by a  
6           medical technician or paramedic; authorizing  
7           the Department of Health to adopt rules  
8           governing additional grounds for the  
9           withholding or withdrawing of resuscitation or  
10          life-prolonging techniques from a patient by an  
11          emergency medical technician or paramedic;  
12          revising immunity from administrative action,  
13          criminal prosecution, or civil liability for  
14          the withholding or withdrawing of resuscitation  
15          or life-prolonging techniques; providing an  
16          effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20           Section 1. Section 401.45, Florida Statutes, is  
21 amended to read:

22           401.45 Denial of emergency treatment; civil  
23 liability.--

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

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

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

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10 be withheld or withdrawn from a patient by an emergency  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

12           1. Evidence of an order not to resuscitate by the  
13 patient's physician is presented to the emergency medical  
14 technician or paramedic in a manner provided by rule of the  
15 department; or

16           2. Evidence of a living will is presented to the  
17 emergency medical technician or paramedic which identifies the  
18 patient and that separately and specifically in enhanced bold  
19 letters provides a declaration of the patient's wishes that  
20 resuscitation efforts not be initiated by an emergency medical  
21 technician or paramedic if the patient suffers respiratory or  
22 cardiac arrest. Such declaration, included in the patient's  
23 living will, must comply with rules of the department and must  
24 include the patient's full legal name, typed or printed; must  
25 be dated with an effective date that predates the date that  
26 the emergency medical assistance is requested; must include  
27 written verification by the patient's attending physician, in  
28 consultation with a second physician, both of whom are  
29 licensed under chapter 458 or chapter 459, that the patient  
30 has a terminal condition pursuant to chapter 765; must be  
31 signed and dated by the patient, if competent, or, if the

1 patient is incompetent, by the patient's health care surrogate  
2 or legal guardian pursuant to chapter 765; must be signed and  
3 dated by at least two witnesses, neither of whom may be the  
4 patient's physician or consulting physician for purposes of  
5 determining the patient's terminal condition, the patient's  
6 health care surrogate, or any employee or agent of a facility  
7 licensed under chapter 393 or chapter 400 under whose care the  
8 patient is in at the time of the emergency medical services  
9 response. The department shall adopt rules to administer this  
10 subparagraph.

11 (b) Any emergency medical technician or paramedic who  
12 acts under the direction of a medical director, or any  
13 licensee, physician, or medical director, or emergency medical  
14 technician or paramedic who acts under the direction of a  
15 medical director is not subject to criminal prosecution or  
16 civil liability, and is not subject to disciplinary action  
17 under chapter 401, chapter 455, chapter 458, or chapter 459  
18 has not engaged in negligent or unprofessional conduct, as a  
19 result of acting in good faith to withhold or withdraw the  
20 withholding or withdrawal of resuscitation or life-prolonging  
21 techniques from a patient pursuant to this subsection and  
22 rules adopted by the department.

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

29 Section 2. This act shall take effect July 1, 1998.  
30  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1078

The committee substitute 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 is presented to the emergency medical technician or paramedic and the declaration of the living will complies with specified procedures which include: a declaration of the patient's wishes that resuscitation efforts not be initiated in the event the patient suffers respiratory or cardiac arrest; the patient's full legal name, typed or printed; an effective date which predates the date emergency medical assistance is requested; under procedures specified in ch. 765, F.S., written verification that the patient has a terminal condition by the patient's attending physician, in consultation with a second physician, both of whom are licensed medical or osteopathic physicians; signed and dated by the patient, if competent, or if the patient is incompetent, by the patient's health care surrogate or legal guardian pursuant to the requirements of ch. 765, F.S.; and signed and dated by at least two witnesses.

The committee substitute requires the Department of Health to adopt administrative rules governing the additional grounds for withholding or withdrawing resuscitation or life-prolonging techniques from a patient. The committee substitute revises immunity from administrative action, criminal prosecution, or civil liability for withholding or withdrawing of resuscitation or life-prolonging techniques.