

By Senators Lee, Bronson, Sebesta, Cowin, Webster, Laurent, Grant and Childers

12-922-99

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A bill to be entitled
An act relating to health care; amending ss.
765.106, 765.305, F.S.; requiring a health care
provider or facility to provide certain
treatment if it refuses to comply with a
patient's declaration or treatment decision;
providing an effective date.

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

Section 1. Section 765.106, Florida Statutes, is
amended to read:

765.106 Preservation of existing rights.--The
provisions of this chapter are cumulative to the existing law
regarding an individual's right to consent, or refuse to
consent, to medical treatment and do not impair any existing
rights or responsibilities that ~~which~~ a health care provider,
a patient, including a minor, competent or incompetent person,
or a patient's family may have under the common law, Federal
Constitution, State Constitution, or statutes of this state.
However, this section does not authorize any violation of s.
765.308.

Section 2. Section 765.308, Florida Statutes, is
amended to read:

765.308 Transfer of a patient.--

(1) A health care provider or facility that refuses to
comply with the declaration of a patient, or the treatment
decision of his or her surrogate, shall make reasonable
efforts to transfer the patient to another health care
provider or facility that will comply with the declaration or
treatment decision. This chapter does not require a health

1 care provider or facility to commit any act which is contrary
2 to the provider's or facility's moral or ethical beliefs
3 concerning life-prolonging procedures, if the patient:

4 (a) Is not in an emergency condition, and

5 (b) Has received written information upon admission
6 informing the patient of the policies of the health care
7 provider or facility regarding such moral or ethical beliefs.

8 (2) A health care provider or facility that is
9 unwilling to carry out the wishes of the patient because of
10 moral or ethical beliefs must within 7 days either:

11 (a) Transfer the patient to another health care
12 provider or facility. The health care provider or facility
13 shall pay the costs for transporting the patient to another
14 health care provider or facility; or

15 (b) If the patient has not been transferred, carry out
16 the wishes of the patient or the patient's surrogate, unless
17 the provisions of s. 765.105 apply.

18 (3) If the failure to comply with a declaration or
19 treatment decision would in reasonable medical judgment likely
20 result in the death of the patient, a health care provider or
21 facility that is unwilling to comply must provide treatment
22 that in reasonable medical judgment is necessary to prevent
23 the death of the patient pending completion of the transfer of
24 the patient to a provider or facility willing to comply. This
25 subsection does not require the provision of treatment that
26 the provider or facility is physically or legally unable to
27 provide or is physically or legally unable to provide without
28 denying the same treatment to another patient.

29 Section 3. This act shall take effect July 1, 1999.
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SENATE SUMMARY

Provides that if a health provider or facility refuses to comply with a patient's declaration regarding treatment decisions and such refusal would likely result in the patient's death, the provider or facility must provide treatment that in reasonable medical judgment is necessary to prevent the patient's death until he can be transferred to a provider or facility that is willing to comply with the patient's treatment decision.