

Bill No. CS for SB 268

Amendment No.      Barcode 450570

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Carlton moved the following amendment:

**Senate Amendment (with title amendment)**

On page 12, before line 1,

insert:

Section 10. Subsection (4) is added to section 765.104, Florida Statutes, to read:

765.104 Amendment or revocation.--

(4) Any patient for whom a medical proxy has been recognized under s. 765.401 and for whom any previous legal disability that precluded the patient's ability to consent is removed may amend or revoke the recognition of the medical proxy and any uncompleted decision made by that proxy. The amendment or revocation takes effect when it is communicated to the proxy, the health care provider, or the health care facility in writing or, if communicated orally, in the presence of a third person.

Section 11. Subsection (1) of section 765.401, Florida Statutes, is amended to read:

765.401 The proxy.--

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1           (1) If an incapacitated or developmentally disabled  
2 ~~the~~ patient has not executed an advance directive, or  
3 designated a surrogate to execute an advance directive, or the  
4 designated or alternate surrogate is no longer available to  
5 make health care decisions, health care decisions may be made  
6 for the patient by any of the following individuals, in the  
7 following order of priority, if no individual in a prior class  
8 is reasonably available, willing, or competent to act:

9           (a) The judicially appointed guardian of the patient,  
10 or the guardian advocate of the person having a developmental  
11 disability as defined in s. 393.063, who has been authorized  
12 to consent to medical treatment, if such guardian has  
13 previously been appointed; however, this paragraph shall not  
14 be construed to require such appointment before a treatment  
15 decision can be made under this subsection;

16           (b) The patient's spouse;

17           (c) An adult child of the patient, or if the patient  
18 has more than one adult child, a majority of the adult  
19 children who are reasonably available for consultation;

20           (d) A parent of the patient;

21           (e) The adult sibling of the patient or, if the  
22 patient has more than one sibling, a majority of the adult  
23 siblings who are reasonably available for consultation.

24           (f) An adult relative of the patient who has exhibited  
25 special care and concern for the patient and who has  
26 maintained regular contact with the patient and who is  
27 familiar with the patient's activities, health, and religious  
28 or moral beliefs; or

29           (g) A close friend of the patient.

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31 (Redesignate subsequent sections.)

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 2, line 7, after the semicolon,

4

5 insert:

6 amending s. 765.104, F.S.; authorizing a  
7 patient whose legal disability is removed to  
8 amend or revoke the recognition of a medical  
9 proxy and any uncompleted decision made by that  
10 proxy; specifying when the amendment or  
11 revocation takes effect; amending s. 765.401,  
12 F.S.; authorizing a guardian advocate of a  
13 person having a developmental disability to  
14 make health care decisions on behalf of an  
15 incapacitated patient;

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