

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health Quality
2 Subcommittee
3 Representative Gonzalez offered the following:
4

5 **Amendment**

6 Remove lines 444-651 and insert:

7 STATUTES.

8
9 PURSUANT TO SECTION 765.104, FLORIDA STATUTES, I UNDERSTAND THAT
10 I MAY, AT ANY TIME WHILE I RETAIN MY CAPACITY, REVOKE OR AMEND
11 THIS DESIGNATION BY:

12 1) SIGNING A WRITTEN AND DATED INSTRUMENT WHICH EXPRESSES
13 MY INTENT TO AMEND OR REVOKE THIS DESIGNATION;

14 2) PHYSICALLY DESTROYING THIS DESIGNATION THROUGH MY OWN
15 ACTION OR BY THAT OF ANOTHER PERSON IN MY PRESENCE AND UNDER MY
16 DIRECTION;

Amendment No. 2

17 3) VERBALLY EXPRESSING MY INTENTION TO AMEND OR REVOKE THIS
18 DESIGNATION; OR

19 4) SIGNING A NEW DESIGNATION THAT IS MATERIALLY DIFFERENT
20 FROM THIS DESIGNATION.

21
22 MY HEALTH CARE SURROGATE'S AUTHORITY BECOMES EFFECTIVE WHEN MY
23 PRIMARY PHYSICIAN DETERMINES THAT I AM UNABLE TO MAKE MY OWN
24 HEALTH CARE DECISIONS UNLESS I INITIAL EITHER OR BOTH OF THE
25 FOLLOWING BOXES:

26
27 IF I INITIAL THIS BOX [....], MY HEALTH CARE SURROGATE'S
28 AUTHORITY TO RECEIVE MY HEALTH INFORMATION TAKES EFFECT
29 IMMEDIATELY.

30
31 IF I INITIAL THIS BOX [....], MY HEALTH CARE SURROGATE'S
32 AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR ME TAKES EFFECT
33 IMMEDIATELY.

34
35 SIGNATURES: Sign and date the form here:

36 ...(date)... ...(sign your name)...
37 ...(address)... ...(print your name)...
38 ...(city)... (state)...

39
40 SIGNATURES OF WITNESSES:

41 First witness Second witness
42 ...(print name)... ...(print name)...

Amendment No. 2

43 ... (address) (address) ...
 44 ... (city) ... (state) (city) ... (state) ...
 45 ... (signature of witness) (signature of witness) ...
 46 ... (date) (date) ...

47 ~~Name:..... (Last)..... (First)..... (Middle Initial).....~~

48 ~~In the event that I have been determined to be~~
 49 ~~incapacitated to provide informed consent for medical treatment~~
 50 ~~and surgical and diagnostic procedures, I wish to designate as~~
 51 ~~my surrogate for health care decisions:~~

52 ~~Name:.....~~

53 ~~Address:.....~~

54 ~~.....~~ ~~Zip Code:.....~~

55 ~~Phone:.....~~

57 ~~If my surrogate is unwilling or unable to perform his or~~
 58 ~~her duties, I wish to designate as my alternate surrogate:~~

59 ~~Name:.....~~

60 ~~Address:.....~~

61 ~~.....~~ ~~Zip Code:.....~~

62 ~~Phone:.....~~

64 ~~I fully understand that this designation will permit my~~
 65 ~~designee to make health care decisions and to provide, withhold,~~
 66 ~~or withdraw consent on my behalf; to apply for public benefits~~

Amendment No. 2

67 ~~to defray the cost of health care; and to authorize my admission~~
68 ~~to or transfer from a health care facility.~~

69 Additional instructions (optional):.....
70
71
72

73 ~~I further affirm that this designation is not being made as~~
74 ~~a condition of treatment or admission to a health care facility.~~
75 ~~I will notify and send a copy of this document to the following~~
76 ~~persons other than my surrogate, so they may know who my~~
77 ~~surrogate is.~~

78 Name:.....

79 Name:.....

80

81

82 Signed:.....

83 Date:.....

84

Witnesses: 1.——

85

 2.——

86

87 Section 10. Section 765.2035, Florida Statutes, is created
88 to read:

89 765.2035 Designation of a health care surrogate for a
90 minor.—

Amendment No. 2

91 (1) A natural guardian as defined in s. 744.301(1), legal
92 custodian, or legal guardian of the person of a minor may
93 designate a competent adult to serve as a surrogate to make
94 health care decisions for the minor. Such designation shall be
95 made by a written document signed by the minor's principal in
96 the presence of two subscribing adult witnesses. If a minor's
97 principal is unable to sign the instrument, the principal may,
98 in the presence of witnesses, direct that another person sign
99 the minor's principal's name as required by this subsection. An
100 exact copy of the instrument shall be provided to the surrogate.

101 (2) The person designated as surrogate may not act as
102 witness to the execution of the document designating the health
103 care surrogate.

104 (3) A document designating a health care surrogate may
105 also designate an alternate surrogate; however, such designation
106 must be explicit. The alternate surrogate may assume his or her
107 duties as surrogate if the original surrogate is not willing,
108 able, or reasonably available to perform his or her duties. The
109 minor's principal's failure to designate an alternate surrogate
110 does not invalidate the designation.

111 (4) If neither the designated surrogate or the designated
112 alternate surrogate is willing, able, or reasonably available to
113 make health care decisions for the minor on behalf of the
114 minor's principal and in accordance with the minor's principal's
115 instructions, s. 743.0645(2) shall apply as if no surrogate had
116 been designated.

Amendment No. 2

117 (5) A natural guardian as defined in s. 744.301(1), legal
118 custodian, or legal guardian of the person of a minor may
119 designate a separate surrogate to consent to mental health
120 treatment for the minor. However, unless the document
121 designating the health care surrogate expressly states
122 otherwise, the court shall assume that the health care surrogate
123 authorized to make health care decisions for a minor under this
124 chapter is also the minor's principal's choice to make decisions
125 regarding mental health treatment for the minor.

126 (6) Unless the document states a time of termination, the
127 designation shall remain in effect until revoked by the minor's
128 principal. An otherwise valid designation of a surrogate for a
129 minor shall not be invalid solely because it was made before the
130 birth of the minor.

131 (7) A written designation of a health care surrogate
132 executed pursuant to this section establishes a rebuttable
133 presumption of clear and convincing evidence of the minor's
134 principal's designation of the surrogate and becomes effective
135 pursuant to s. 743.0645(2) (a).

136 Section 11. Section 765.2038, Florida Statutes, is created
137 to read:

138 765.2038 Designation of health care surrogate for a minor;
139 suggested form.—A written designation of a health care surrogate
140 for a minor executed pursuant to this chapter may, but need to
141 be, in the following form:

142 DESIGNATION OF HEALTH CARE SURROGATE

Amendment No. 2

FOR MINOR

I/We, ... (name/names) ..., the [...] natural guardian(s) as defined in s. 744.301(1), Florida Statutes; [...] legal custodian(s); [...] legal guardian(s) [check one] of the following minor(s):

.....;
.....;
.....,

pursuant to s. 765.2035, Florida Statutes, designate the following person to act as my/our surrogate for health care decisions for such minor(s) in the event that I/we am/are not able or reasonably available to provide consent for medical treatment and surgical and diagnostic procedures:

Name: ... (name) ...
Address: ... (address) ...
Zip Code: ... (zip code) ...
Phone: ... (telephone) ...

If my/our designated health care surrogate for a minor is not willing, able, or reasonably available to perform his or her duties, I/we designate the following person as my/our alternate health care surrogate for a minor:

Amendment No. 2

169 Name: ... (name)...
170 Address: ... (address)...
171 Zip Code: ... (zip code)...
172 Phone: ... (telephone)...

173
174 I/We authorize and request all physicians, hospitals, or
175 other providers of medical services to follow the instructions
176 of my/our surrogate or alternate surrogate, as the case may be,
177 at any time and under any circumstances whatsoever, with regard
178 to medical treatment and surgical and diagnostic procedures for
179 a minor, provided the medical care and treatment of any minor is
180 on the advice of a licensed physician.

181
182 I/We fully understand that this designation will permit
183 my/our designee to make health care decisions for a minor and to
184 provide, withhold, or withdraw consent on my/our behalf, to
185 apply for public benefits to defray the cost of health care, and
186 to authorize the admission or transfer of a minor to or from a
187 health care facility.

188
189 I/We will notify and send a copy of this document to the
190 following person(s) other than my/our surrogate, so that they
191 may know the identity of my/our surrogate:

192
193 Name: ... (name)...
194 Name: ... (name)...

Amendment No. 2

195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220

Signed: ... (signature)...

Date: ... (date)...

WITNESSES:

1. ... (witness)...

2. ... (witness)...

Section 12. Section 765.204, Florida Statutes, is amended to read:

765.204 Capacity of principal; procedure.-

(1) A principal is presumed to be capable of making health care decisions for herself or himself unless she or he is determined to be incapacitated. Incapacity may not be inferred from the person's voluntary or involuntary hospitalization for mental illness or from her or his intellectual disability.

(2) If a principal's capacity to make health care decisions for herself or himself or provide informed consent is in question, the primary or attending physician shall evaluate the principal's capacity and, if the evaluating physician concludes that the principal lacks capacity, enter that evaluation in the principal's medical record. If the evaluating ~~attending~~ physician has a question as to whether the principal lacks capacity, another physician shall also evaluate the principal's capacity, and if the second physician agrees that the principal lacks the capacity to make health care decisions or provide informed consent, the health care facility shall

Amendment No. 2

221 enter both physician's evaluations in the principal's medical
222 record. If the principal has designated a health care surrogate
223 or has delegated authority to make health care decisions to an
224 attorney in fact under a durable power of attorney, the health
225 care facility shall notify such surrogate or attorney in fact in
226 writing that her or his authority under the instrument has
227 commenced, as provided in chapter 709 or s. 765.203. If an
228 attending physician determines the principal lacks capacity, the
229 hospital in which the attending physician made such a
230 determination shall notify the principal's primary physician of
231 the determination.