

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Wood offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 441-653 and insert:

5 While I have decisionmaking capacity, my wishes are controlling
6 and my physicians and health care providers must clearly
7 communicate to me the treatment plan or any change to the
8 treatment plan prior to its implementation.

9
10 To the extent I am capable of understanding, my health care
11 surrogate shall keep me reasonably informed of all decisions
12 that he or she has made on my behalf and matters concerning me.
13

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14 THIS HEALTH CARE SURROGATE DESIGNATION IS NOT AFFECTED BY MY
15 SUBSEQUENT INCAPACITY EXCEPT AS PROVIDED IN CHAPTER 765, FLORIDA
16 STATUTES.

17
18 PURSUANT TO SECTION 765.104, FLORIDA STATUTES, I UNDERSTAND THAT
19 I MAY, AT ANY TIME WHILE I RETAIN MY CAPACITY, REVOKE OR AMEND
20 THIS DESIGNATION BY:

21 (1) SIGNING A WRITTEN AND DATED INSTRUMENT WHICH EXPRESSES
22 MY INTENT TO AMEND OR REVOKE THIS DESIGNATION;

23 (2) PHYSICALLY DESTROYING THIS DESIGNATION THROUGH MY OWN
24 ACTION OR BY THAT OF ANOTHER PERSON IN MY PRESENCE AND UNDER MY
25 DIRECTION;

26 (3) VERBALLY EXPRESSING MY INTENTION TO AMEND OR REVOKE
27 THIS DESIGNATION; OR

28 (4) SIGNING A NEW DESIGNATION THAT IS MATERIALLY DIFFERENT
29 FROM THIS DESIGNATION.

30
31 MY HEALTH CARE SURROGATE'S AUTHORITY BECOMES EFFECTIVE WHEN MY
32 PRIMARY PHYSICIAN DETERMINES THAT I AM UNABLE TO MAKE MY OWN
33 HEALTH CARE DECISIONS UNLESS I INITIAL EITHER OR BOTH OF THE
34 FOLLOWING BOXES:

35
36 IF I INITIAL THIS BOX [....], MY HEALTH CARE SURROGATE'S
37 AUTHORITY TO RECEIVE MY HEALTH INFORMATION TAKES EFFECT
38 IMMEDIATELY.

39

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40 IF I INITIAL THIS BOX [....], MY HEALTH CARE SURROGATE'S
 41 AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR ME TAKES EFFECT
 42 IMMEDIATELY. PURSUANT TO SECTION 765.204(3), FLORIDA STATUTES,
 43 ANY INSTRUCTIONS OR HEALTH CARE DECISIONS I MAKE, EITHER
 44 VERBALLY OR IN WRITING, WHILE I POSSESS CAPACITY SHALL SUPERCEDE
 45 ANY INSTRUCTIONS OR HEALTH CARE DECISIONS MADE BY MY SURROGATE
 46 THAT ARE IN MATERIAL CONFLICT WITH THOSE MADE BY ME.

47
48 SIGNATURES: Sign and date the form here:

49 ...(date)... ...(sign your name)...
 50 ...(address)... ...(print your name)...
 51 ...(city)... ...(state)...

52
53 SIGNATURES OF WITNESSES:

54 <u>First witness</u>	<u>Second witness</u>
55 <u>...(print name)...</u>	<u>...(print name)...</u>
56 <u>...(address)...</u>	<u>...(address)...</u>
57 <u>...(city)... ...(state)...</u>	<u>...(city)... ...(state)...</u>
58 <u>...(signature of witness)...</u>	<u>...(signature of witness)...</u>
59 <u>...(date)...</u>	<u>...(date)...</u>

60 Name:.....(Last).....(First).....(Middle Initial).....

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

65 Name:.....

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66 Address:.....

67

..... Zip Code:.....

68

69 Phone:.....

70 If my surrogate is unwilling or unable to perform his or
71 her duties, I wish to designate as my alternate surrogate:

72 Name:.....

73 Address:.....

74

..... Zip Code:.....

75

76 Phone:.....

77 I fully understand that this designation will permit my
78 designee to make health care decisions and to provide, withhold,
79 or withdraw consent on my behalf; to apply for public benefits
80 to defray the cost of health care; and to authorize my admission
81 to or transfer from a health care facility.

82 Additional instructions (optional):.....

83

84

85

86 I further affirm that this designation is not being made as
87 a condition of treatment or admission to a health care facility.

88 I will notify and send a copy of this document to the following

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89 ~~persons other than my surrogate, so they may know who my~~
90 ~~surrogate is.~~

91 Name:.....

92 Name:.....

93

94

95 Signed:.....

96 Date:.....

97

Witnesses: 1.——

98

 2.——

99

100 Section 10. Section 765.2035, Florida Statutes, is created
101 to read:

102 765.2035 Designation of a health care surrogate for a
103 minor.-

104 (1) A natural guardian as defined in s. 744.301(1), legal
105 custodian, or legal guardian of the person of a minor may
106 designate a competent adult to serve as a surrogate to make
107 health care decisions for the minor. Such designation shall be
108 made by a written document signed by the minor's principal in
109 the presence of two subscribing adult witnesses. If a minor's
110 principal is unable to sign the instrument, the principal may,
111 in the presence of witnesses, direct that another person sign

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112 the minor's principal's name as required by this subsection. An
113 exact copy of the instrument shall be provided to the surrogate.

114 (2) The person designated as surrogate may not act as
115 witness to the execution of the document designating the health
116 care surrogate.

117 (3) A document designating a health care surrogate may
118 also designate an alternate surrogate; however, such designation
119 must be explicit. The alternate surrogate may assume his or her
120 duties as surrogate if the original surrogate is not willing,
121 able, or reasonably available to perform his or her duties. The
122 minor's principal's failure to designate an alternate surrogate
123 does not invalidate the designation.

124 (4) If neither the designated surrogate or the designated
125 alternate surrogate is willing, able, or reasonably available to
126 make health care decisions for the minor on behalf of the
127 minor's principal and in accordance with the minor's principal's
128 instructions, s. 743.0645(2) shall apply as if no surrogate had
129 been designated.

130 (5) A natural guardian as defined in s. 744.301(1), legal
131 custodian, or legal guardian of the person of a minor may
132 designate a separate surrogate to consent to mental health
133 treatment for the minor. However, unless the document
134 designating the health care surrogate expressly states
135 otherwise, the court shall assume that the health care surrogate
136 authorized to make health care decisions for a minor under this

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137 chapter is also the minor's principal's choice to make decisions
138 regarding mental health treatment for the minor.

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

144 (7) A written designation of a health care surrogate
145 executed pursuant to this section establishes a rebuttable
146 presumption of clear and convincing evidence of the minor's
147 principal's designation of the surrogate and becomes effective
148 pursuant to s. 743.0645(2)(a).

149 Section 11. Section 765.2038, Florida Statutes, is created
150 to read:

151 765.2038 Designation of health care surrogate for a minor;
152 suggested form.—A written designation of a health care surrogate
153 for a minor executed pursuant to this chapter may, but need to
154 be, in the following form:

155 DESIGNATION OF HEALTH CARE SURROGATE
156 FOR MINOR

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

161
162;

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163;

164,

165
166 pursuant to s. 765.2035, Florida Statutes, designate the
167 following person to act as my/our surrogate for health care
168 decisions for such minor(s) in the event that I/we am/are not
169 able or reasonably available to provide consent for medical
170 treatment and surgical and diagnostic procedures:

171
172 Name: ... (name)...

173 Address: ... (address)...

174 Zip Code: ... (zip code)...

175 Phone: ... (telephone)...

176
177 If my/our designated health care surrogate for a minor is
178 not willing, able, or reasonably available to perform his or her
179 duties, I/we designate the following person as my/our alternate
180 health care surrogate for a minor:

181
182 Name: ... (name)...

183 Address: ... (address)...

184 Zip Code: ... (zip code)...

185 Phone: ... (telephone)...

186
187 I/We authorize and request all physicians, hospitals, or
188 other providers of medical services to follow the instructions

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189 of my/our surrogate or alternate surrogate, as the case may be,
190 at any time and under any circumstances whatsoever, with regard
191 to medical treatment and surgical and diagnostic procedures for
192 a minor, provided the medical care and treatment of any minor is
193 on the advice of a licensed physician.

194
195 I/We fully understand that this designation will permit
196 my/our designee to make health care decisions for a minor and to
197 provide, withhold, or withdraw consent on my/our behalf, to
198 apply for public benefits to defray the cost of health care, and
199 to authorize the admission or transfer of a minor to or from a
200 health care facility.

201
202 I/We will notify and send a copy of this document to the
203 following person(s) other than my/our surrogate, so that they
204 may know the identity of my/our surrogate:

205
206 Name: ... (name)...

207 Name: ... (name)...

208

209 Signed: ... (signature)...

210 Date: ... (date)...

211

212 WITNESSES:

213 1. ... (witness)...

214 2. ... (witness)...

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

217 765.204 Capacity of principal; procedure.-

218 (1) A principal is presumed to be capable of making health
219 care decisions for herself or himself unless she or he is
220 determined to be incapacitated. While a principal has
221 decisionmaking capacity, the principal's wishes are controlling.
222 Each physician or health care provider must clearly communicate
223 to a principal with decisionmaking capacity the treatment plan
224 and any change to the treatment plan prior to implementation of
225 the plan or the change to the plan. Incapacity may not be
226 inferred from the person's voluntary or involuntary
227 hospitalization for mental illness or from her or his
228 intellectual disability.

229
230 -----

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

231 Remove line 42 and insert:
232 minor; amending s. 765.204, F.S.; specifying that a
233 principal's wishes are controlling while he or she has
234 decisionmaking capacity; providing a duty for
235 providers to communicate to such a principal;
236 conforming
237

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