

By Senator Latvala

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1 A bill to be entitled
2 An act relating to behavioral health care services;
3 amending s. 394.453, F.S.; revising legislative intent
4 and providing legislative findings for the Florida
5 Mental Health Act; amending ss. 394.66 and 397.305,
6 F.S.; revising legislative intent with respect to
7 mental health and substance abuse treatment services;
8 amending s. 394.9082, F.S.; requiring behavioral
9 health managing entities to coordinate service
10 delivery plans with their respective counties or
11 circuits; providing responsibilities of county
12 governments for designation of receiving facilities
13 for the examination and assessment of persons with
14 mental health or substance use disorders; authorizing
15 the Department of Children and Families to monitor and
16 enforce compliance with ch. 394, F.S., relating to
17 mental health; requiring managing entities to
18 coordinate the development of a certain local plan;
19 requiring managing entities to provide certain
20 technical assistance; requiring managing entities to
21 develop and implement transportation plans; requiring
22 local law enforcement agencies, local governments, and
23 certain providers to review and approve transportation
24 plans; providing departmental authority for final
25 approval of such plans; amending s. 397.675, F.S.;
26 revising criteria for involuntary admission for
27 assessment, stabilization, and treatment of persons
28 with substance use or mental health disorders;
29 amending s. 397.6793, F.S.; specifying professionals
30 authorized to execute a certificate for emergency
31 admission; providing criteria for emergency admission;
32 amending s. 397.681, F.S.; prohibiting a court from

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33 charging a fee for the filing of a petition for
34 involuntary assessment and stabilization; amending s.
35 397.6811, F.S.; revising who may file a petition for
36 involuntary assessment and stabilization; amending s.
37 397.6818, F.S.; providing a time limitation on a court
38 order authorizing involuntary assessment and
39 stabilization; amending ss. 397.697, 397.6971, and
40 397.6977, F.S.; revising the maximum duration of
41 court-ordered involuntary treatment and conforming
42 provisions; amending s. 397.6955, F.S.; revising
43 requirements for scheduling a hearing on a petition
44 for involuntary treatment; requiring the Louis de la
45 Parte Florida Mental Health Institute within the
46 University of South Florida to provide certain
47 information to the department on a monthly basis;
48 amending s. 397.6773, F.S.; conforming a cross-
49 reference; redesignating part V of ch. 765, F.S., as
50 part VI of ch. 765, F.S.; creating a new part V of ch.
51 765, F.S., entitled "Mental Health and Substance Abuse
52 Treatment Advance Directives"; creating s. 765.501,
53 F.S.; providing a short title; creating s. 765.502,
54 F.S.; providing legislative findings; creating s.
55 765.503, F.S.; defining terms; creating s. 765.504,
56 F.S.; authorizing the execution of mental health or
57 substance abuse treatment advance directives;
58 authorizing directive provisions; creating s. 765.505,
59 F.S.; providing requirements for the execution of a
60 mental health or substance abuse treatment advance
61 directive; creating s. 765.506, F.S.; providing

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62 requirements for the revocation or waiver of a mental
63 health or substance abuse treatment advance directive;
64 creating s. 765.507, F.S.; providing an immunity from
65 liability; providing applicability; creating s.
66 765.508, F.S.; providing for the recognition of a
67 mental health or substance abuse treatment advance
68 directive executed in another state; creating s.
69 765.509, F.S.; requiring service providers to give
70 patients information relating to mental health or
71 substance abuse treatment advance directives;
72 prohibiting a service provider from requiring a
73 patient to execute a mental health or substance abuse
74 treatment advance directive; requiring the Department
75 of Children and Families to provide information and
76 forms on its website relating to mental health or
77 substance abuse treatment advance directives; amending
78 ss. 406.11, 408.802, 408.820, 765.101, and 765.203,
79 F.S.; conforming cross-references; providing an
80 effective date.

81
82 Be It Enacted by the Legislature of the State of Florida:

83
84 Section 1. Section 394.453, Florida Statutes, is amended to
85 read:

86 394.453 Legislative findings and intent.—

87 (1) The Legislature finds that mental health and substance
88 use disorders are diseases of the brain; are complex medical
89 conditions that encompass biological, genetic, psychological,
90 cultural, and social factors; and are subspecialties within the

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91 field of medical practice. The Legislature recognizes that
92 behavioral health disorders may temporarily or permanently
93 affect a person's ability to reason, exercise good judgment,
94 recognize the need for services, or sufficiently provide self-
95 care; thus responsibility for such a person's care must be
96 delegated to a third party and may be vested in an authorized,
97 licensed, qualified health professional who can provide
98 behavioral health services.

99 (2) It is the intent of the Legislature:

100 (a) To authorize licensed, qualified health professionals
101 to exercise the full authority of their respective scopes of
102 practice in the performance of professional functions necessary
103 to carry out the intent of this part.

104 (b) To ensure that local systems of acute care services use
105 a common protocol and apply consistent practice standards that
106 provide for nondiscriminatory and equitable access to the level
107 and duration of care based on the specific needs and preferences
108 of the persons served.

109 (c) That services provided to persons in this state use the
110 coordination-of-care principles characteristic of recovery-
111 oriented services and include social support services, such as
112 housing support, life skills and vocational training, and
113 employment assistance, necessary for persons with mental health
114 and substance use disorders to live successfully in their
115 communities.

116 (d) To authorize and direct the Department of Children and
117 Families to evaluate, research, plan, and recommend to the
118 Governor and the Legislature programs designed to reduce the
119 occurrence, severity, duration, and disabling aspects of mental,

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120 emotional, and behavioral disorders.

121 (e) That state policy and funding decisions be driven by
122 data that is representative of the populations served and the
123 effectiveness of services provided.

124 (f) It is the intent of the Legislature That treatment
125 programs for such disorders shall include, but not be limited
126 to, comprehensive health, social, educational, and
127 rehabilitative services to persons requiring intensive short-
128 term and continued treatment in order to encourage them to
129 assume responsibility for their treatment and recovery. It is
130 intended that:

131 1. Such persons be provided with emergency service and
132 temporary detention for evaluation when required;

133 2. Such persons ~~that they~~ be admitted to treatment
134 facilities on a voluntary basis when extended or continuing care
135 is needed and unavailable in the community;

136 3. ~~that~~ Involuntary placement be provided only when expert
137 evaluation determines that it is necessary;

138 4. ~~that~~ Any involuntary treatment or examination be
139 accomplished in a setting that ~~which~~ is clinically appropriate
140 and most likely to facilitate the person's return to the
141 community as soon as possible; and

142 5. ~~that~~ Individual dignity and human rights be guaranteed
143 to all persons who are admitted to mental health facilities or
144 who are being held under s. 394.463. ~~It is the further intent of~~
145 ~~the Legislature that the least restrictive means of intervention~~
146 ~~be employed based on the individual needs of each person, within~~
147 ~~the scope of available services.~~

148 (3) It is the policy of this state that the use of

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149 restraint and seclusion on clients is justified only as an
150 emergency safety measure to be used in response to imminent
151 danger to the client or others. It is, therefore, the intent of
152 the Legislature to achieve an ongoing reduction in the use of
153 restraint and seclusion in programs and facilities serving
154 persons with mental illness.

155 Section 2. Subsection (2) of section 394.66, Florida
156 Statutes, is amended to read:

157 394.66 Legislative intent with respect to substance abuse
158 and mental health services.—It is the intent of the Legislature
159 to:

160 (2) Recognize that mental health and substance use
161 disorders are diseases of the brain; are complex medical
162 conditions that encompass biological, genetic, psychological,
163 cultural, and social factors; and are subspecialties within the
164 field of medical practice. The Legislature recognizes that
165 behavioral health disorders may temporarily or permanently
166 affect a person's ability to reason, exercise good judgment,
167 recognize the need for services, or sufficiently provide self-
168 care, thus responsibility for such a person's care must be
169 delegated to a third party and may be vested in an authorized,
170 licensed, qualified health professional who can provide
171 behavioral health services ~~mental illness and substance abuse~~
172 ~~impairment are diseases that are responsive to medical and~~
173 ~~psychological interventions and management that integrate~~
174 ~~treatment, rehabilitative, and support services to achieve~~
175 ~~recovery.~~

176 Section 3. Subsections (4) through (12) of section
177 394.9082, Florida Statutes, are renumbered as subsections (6)

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178 though (14), respectively, and new subsections (4) and (5) are
179 added to that section, to read:

180 394.9082 Behavioral health managing entities.—

181 (4) COMMUNITY PLANNING.—Each managing entity shall develop
182 a plan with each county or circuit in its geographic area to
183 establish and maintain a behavioral health service system that
184 has sufficient capacity to ensure that all persons with mental
185 health or substance use disorders who are subject to involuntary
186 admission under this chapter receive prompt assessment of the
187 need for evaluation and treatment. At a minimum, the plan must
188 include the following components:

189 (a) Each county shall work with managing entities, the
190 department, community-based treatment providers, private
191 providers, local hospitals and health departments, law
192 enforcement agencies, the courts, and other local governmental
193 agencies to designate a receiving facility that shall be used by
194 law enforcement officers, but may be used by other authorized
195 persons, for voluntary and involuntary assessments or
196 examinations.

197 1. A county may have more than one facility or may use or
198 share the resources of adjacent counties.

199 2. The department shall suspend or withdraw such
200 designation for failure to comply with this chapter and rules
201 adopted under this chapter. Unless designated by the department,
202 a facility may not hold or treat involuntary patients under this
203 chapter.

204 (b) A managing entity shall coordinate the development of a
205 local plan that:

206 1. Includes the county or circuit.

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207 2. Establishes the specifications and minimum standards for
208 access to care available in each community and specifies the
209 roles, processes, and responsibilities of community intervention
210 programs for the diversion of persons from acute care
211 placements.

212 3. Specifies the method by which local hospitals,
213 ambulatory centers, designated receiving facilities, and acute
214 care inpatient and detoxification providers will coordinate
215 activities to assess, examine, triage, intake, and process
216 persons presented on an involuntary basis.

217 4. Includes a local transportation plan as provided in s.
218 394.462.

219 5. Provides an option to procure nonmedical transportation
220 contracts for the transportation of patients between facilities.

221 (c) A managing entity shall provide technical assistance to
222 counties or circuits for the development, receipt, and approval
223 of such plans and incorporate the community resources designated
224 in such plans when conducting the needs assessment and
225 coordinating the resources within its assigned region.

226 (5) TRANSPORTATION PLANS.—

227 (a) Each managing entity shall develop, in consultation
228 with local law enforcement agencies, county officials, and local
229 acute care providers, a transportation plan for each county or
230 circuit within its assigned region. At a minimum, the plan must
231 address the following:

232 1. The designated public or private substance abuse
233 receiving facility or residential detoxification facility to be
234 used by local law enforcement agencies as their primary
235 receiving facility.

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236 2. The method of transporting a person after a law
237 enforcement officer has relinquished physical custody of the
238 person at a designated public or private substance abuse
239 receiving facility or residential detoxification facility.

240 3. Provide for consumer choice with respect to a receiving
241 facility or other designated facility, or other acute care
242 service provider capable of meeting the person's needs, within
243 reasonable parameters of funding, geography, and safety.

244 4. Specify responsibility for and the means by which
245 transportation to and between facilities of persons in need of
246 behavioral health services will be implemented to support
247 involuntary assessments or examinations, provision of emergency
248 services, acute care placements, and attendance at involuntary
249 court proceedings and resulting commitments.

250 (b) The transportation plan shall be initiated by the local
251 managing entity and must be reviewed and approved by local law
252 enforcement agencies, county commissioners, and designated acute
253 care providers in the county or circuit before submission to the
254 managing entity. The department has final review and approval
255 authority for the transportation plan.

256 Section 4. Section 397.305, Florida Statutes, is amended to
257 read:

258 397.305 Legislative findings, intent, and purpose.—

259 (1) The Legislature finds that mental health and substance
260 use disorders are diseases of the brain; are complex medical
261 conditions that encompass biological, genetic, psychological,
262 cultural, and social factors; and are subspecialties within the
263 field of medical practice. The Legislature recognizes that
264 behavioral health disorders may temporarily or permanently

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265 affect a person's ability to reason, exercise good judgment,
266 recognize the need for services, or sufficiently provide self-
267 care, thus responsibility for such a person's care must be
268 delegated to a third party and may be vested in an authorized,
269 licensed, qualified health professional who can provide
270 behavioral health services.

271 (2)~~(1)~~ Substance abuse is a major health problem that
272 affects multiple service systems and leads to such profoundly
273 disturbing consequences as serious impairment, chronic
274 addiction, criminal behavior, vehicular casualties, spiraling
275 health care costs, AIDS, and business losses, and significantly
276 affects the culture, socialization, and learning ability of
277 children within our schools and educational systems. Substance
278 abuse impairment is a disease which affects the whole family and
279 the whole society and requires a system of care that includes
280 prevention, intervention, clinical treatment, and recovery
281 support services that support and strengthen the family unit.
282 ~~Further, it is the intent of the Legislature to require the~~
283 ~~collaboration of state agencies, service systems, and program~~
284 ~~offices to achieve the goals of this chapter and address the~~
285 ~~needs of the public; to establish a comprehensive system of care~~
286 ~~for substance abuse; and to reduce duplicative requirements~~
287 ~~across state agencies.~~ This chapter is designed to provide for
288 substance abuse services.

289 (3)~~(2)~~ It is the goal of the Legislature to discourage
290 substance abuse by promoting healthy lifestyles; healthy
291 families; and drug-free schools, workplaces, and communities.

292 (4)~~(3)~~ It is the purpose of this chapter to provide for a
293 comprehensive continuum of accessible and quality substance

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294 abuse prevention, intervention, clinical treatment, and recovery
295 support services in the least restrictive environment which
296 promotes long-term recovery while protecting and respecting the
297 rights of individuals, primarily through community-based private
298 not-for-profit providers working with local governmental
299 programs involving a wide range of agencies from both the public
300 and private sectors.

301 (5) It is the intent of the Legislature to authorize
302 licensed, qualified health professionals to exercise the full
303 authority of their respective scopes of practice in the
304 performance of professional functions necessary to carry out the
305 intent of this chapter.

306 (6) It is the intent of the Legislature that state policy
307 and funding decisions be driven by data that is representative
308 of the populations served and the effectiveness of services
309 provided.

310 (7) It is the intent of the Legislature to establish
311 expectations that services provided to persons in this state use
312 the coordination-of-care principles characteristic of recovery-
313 oriented services and include social support services, such as
314 housing support, life skills and vocational training, and
315 employment assistance, necessary for persons with mental health
316 and substance use disorders to live successfully in their
317 communities.

318 (8)~~(4)~~ It is the intent of the Legislature to ensure within
319 available resources a full system of care for substance abuse
320 services based on identified needs, delivered without
321 discrimination and with adequate provision for specialized
322 needs.

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323 (9)~~(5)~~ It is the intent of the Legislature to establish
324 services for individuals with co-occurring substance abuse and
325 mental disorders.

326 (10)~~(6)~~ It is the intent of the Legislature to provide an
327 alternative to criminal imprisonment for substance abuse
328 impaired adults and juvenile offenders by encouraging the
329 referral of such offenders to service providers not generally
330 available within the juvenile justice and correctional systems,
331 instead of or in addition to criminal penalties.

332 (11)~~(7)~~ It is the intent of the Legislature to provide,
333 within the limits of appropriations and safe management of the
334 juvenile justice and correctional systems, substance abuse
335 services to substance abuse impaired offenders who are placed by
336 the Department of Juvenile Justice or who are incarcerated
337 within the Department of Corrections, in order to better enable
338 these offenders or inmates to adjust to the conditions of
339 society presented to them when their terms of placement or
340 incarceration end.

341 (12)~~(8)~~ It is the intent of the Legislature to provide for
342 assisting substance abuse impaired persons primarily through
343 health and other rehabilitative services in order to relieve the
344 police, courts, correctional institutions, and other criminal
345 justice agencies of a burden that interferes with their ability
346 to protect people, apprehend offenders, and maintain safe and
347 orderly communities.

348 (13)~~(9)~~ It is the intent of the Legislature that the
349 freedom of religion of all citizens ~~shall~~ be inviolate. ~~Nothing~~
350 ~~in~~ This act does not ~~shall~~ give any governmental entity
351 jurisdiction to regulate religious, spiritual, or ecclesiastical

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352 services.

353 Section 5. Section 397.675, Florida Statutes, is amended to
354 read:

355 397.675 Criteria for involuntary admissions, including
356 protective custody, emergency admission, and other involuntary
357 assessment, involuntary treatment, and alternative involuntary
358 assessment for minors, for purposes of assessment and
359 stabilization, and for involuntary treatment.—A person meets the
360 criteria for involuntary admission if there is good faith reason
361 to believe the person has a substance use or co-occurring mental
362 health disorder and, because of this condition, has refused or
363 is unable to determine whether examination is necessary. The
364 refusal of services is insufficient evidence of an inability to
365 determine whether an examination is necessary unless, without
366 care or treatment is substance abuse impaired and, because of
367 such impairment:

368 (1) The person is likely to neglect or refuse care for
369 himself or herself to the extent that the neglect or refusal
370 poses a real and present threat of substantial harm to his or
371 her well-being;

372 (2) The person is at risk of the deterioration of his or
373 her physical or mental health and this condition may not be
374 avoided despite assistance from willing family members, friends,
375 or other services; or

376 (3) There is a substantial likelihood that the person will
377 cause serious bodily harm to himself or herself or others, as
378 shown by the person's recent behavior. ~~Has lost the power of~~
379 ~~self-control with respect to substance use; and either~~

380 ~~(2) (a) Has inflicted, or threatened or attempted to~~

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381 ~~inflict, or unless admitted is likely to inflict, physical harm~~
382 ~~on himself or herself or another; or~~

383 ~~(b) Is in need of substance abuse services and, by reason~~
384 ~~of substance abuse impairment, his or her judgment has been so~~
385 ~~impaired that the person is incapable of appreciating his or her~~
386 ~~need for such services and of making a rational decision in~~
387 ~~regard thereto; however, mere refusal to receive such services~~
388 ~~does not constitute evidence of lack of judgment with respect to~~
389 ~~his or her need for such services.~~

390 Section 6. Section 397.6793, Florida Statutes, is amended
391 to read:

392 397.6793 Professional Physician's certificate for emergency
393 admission.—

394 (1) A physician, clinical psychologist, physician's
395 assistant working under the scope of practice of the supervising
396 physician, psychiatric nurse, advanced registered nurse
397 practitioner, licensed mental health counselor, licensed
398 marriage and family therapist, master's level-certified
399 addiction professional for substance abuse services, or licensed
400 clinical social worker may execute a certificate stating that he
401 or she has examined a person within the preceding 5 days and
402 finds that the person appears to meet the criteria for emergency
403 admission and stating the observations upon which that
404 conclusion is based. The professional physician's certificate
405 must include the name of the person to be admitted, the
406 relationship between the person and the professional executing
407 the certificate physician, the relationship between the
408 applicant and the professional executing the certificate
409 physician, and any relationship between the professional

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410 executing the certificate ~~physician~~ and the licensed service
 411 ~~provider, and a statement that the person has been examined and~~
 412 ~~assessed within 5 days of the application date,~~ and must include
 413 factual allegations with respect to the need for emergency
 414 admission, including:

415 (a) The reason for the ~~physician's~~ belief that the person
 416 is substance abuse impaired; and

417 (b) The reason for the ~~physician's~~ belief that because of
 418 such impairment the person has lost the power of self-control
 419 with respect to substance abuse; and either

420 (c) ~~1.~~ The reason for the belief that, without care or
 421 treatment:

422 1. The person is likely to neglect or refuse to care for
 423 himself or herself to the extent that the neglect or refusal
 424 poses a real and present threat of substantial harm to his or
 425 her well-being;

426 2. The person is at risk of the deterioration of his or her
 427 physical or mental health and that this condition may not be
 428 avoided despite assistance from willing family members, friends,
 429 or other services; or

430 3. There is a substantial likelihood that the person will
 431 cause serious bodily harm to himself or herself or others, as
 432 shown by the person's recent behavior. ~~the physician believes~~
 433 ~~that the person has inflicted or is likely to inflict physical~~
 434 ~~harm on himself or herself or others unless admitted; or~~

435 ~~2. The reason the physician believes that the person's~~
 436 ~~refusal to voluntarily receive care is based on judgment so~~
 437 ~~impaired by reason of substance abuse that the person is~~
 438 ~~incapable of appreciating his or her need for care and of making~~

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439 ~~a rational decision regarding his or her need for care.~~

440 (2) The professional ~~physician's~~ certificate must recommend
441 the least restrictive type of service that is appropriate for
442 the person. The certificate must be signed by the professional
443 ~~physician~~. If other less restrictive means are not available,
444 such as voluntary appearance for outpatient evaluation, a law
445 enforcement officer shall take the person named in the
446 certificate into custody and deliver him or her to the nearest
447 facility selected by the county for emergency admission.

448 (3) A signed copy of the professional ~~physician's~~
449 certificate shall accompany the person, and shall be made a part
450 of the person's clinical record, together with a signed copy of
451 the application. The application and professional ~~physician's~~
452 certificate authorize the involuntary admission of the person
453 pursuant to, and subject to the provisions of, ss. 397.679-
454 397.6797.

455 (4) The professional ~~physician's~~ certificate must indicate
456 whether the person requires transportation assistance for
457 delivery for emergency admission and specify, pursuant to s.
458 397.6795, the type of transportation assistance necessary.

459 Section 7. Subsection (1) of section 397.681, Florida
460 Statutes, is amended to read:

461 397.681 Involuntary petitions; general provisions; court
462 jurisdiction and right to counsel.—

463 (1) JURISDICTION.—The courts have jurisdiction of
464 involuntary assessment and stabilization petitions and
465 involuntary treatment petitions for substance abuse impaired
466 persons, and such petitions must be filed with the clerk of the
467 court in the county where the person is located. The court may

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468 not charge a fee for the filing of a petition under this
469 section. The chief judge may appoint a general or special
470 magistrate to preside over all or part of the proceedings. The
471 alleged impaired person is named as the respondent.

472 Section 8. Subsection (1) of section 397.6811, Florida
473 Statutes, is amended to read:

474 397.6811 Involuntary assessment and stabilization.—A person
475 determined by the court to appear to meet the criteria for
476 involuntary admission under s. 397.675 may be admitted for a
477 period of 5 days to a hospital or to a licensed detoxification
478 facility or addictions receiving facility, for involuntary
479 assessment and stabilization or to a less restrictive component
480 of a licensed service provider for assessment only upon entry of
481 a court order or upon receipt by the licensed service provider
482 of a petition. Involuntary assessment and stabilization may be
483 initiated by the submission of a petition to the court.

484 (1) If the person upon whose behalf the petition is being
485 filed is an adult, a petition for involuntary assessment and
486 stabilization may be filed by the respondent's spouse or
487 guardian, any relative, a private practitioner, the director of
488 a licensed service provider or the director's designee, or any
489 adult willing to provide testimony that he or she has personally
490 observed the actions of that person and believes that person to
491 be a threat to himself or herself or others ~~three adults who~~
492 ~~have personal knowledge of the respondent's substance abuse~~
493 ~~impairment.~~

494 Section 9. Subsection (4) is added to section 397.6818,
495 Florida Statutes, to read:

496 397.6818 Court determination.—At the hearing initiated in

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497 accordance with s. 397.6811(1), the court shall hear all
498 relevant testimony. The respondent must be present unless the
499 court has reason to believe that his or her presence is likely
500 to be injurious to him or her, in which event the court shall
501 appoint a guardian advocate to represent the respondent. The
502 respondent has the right to examination by a court-appointed
503 qualified professional. After hearing all the evidence, the
504 court shall determine whether there is a reasonable basis to
505 believe the respondent meets the involuntary admission criteria
506 of s. 397.675.

507 (4) The order is valid only until executed or, if not
508 executed, for the period specified in the order. If no time
509 limit is specified in the order, the order is valid for 7 days
510 after the date the order is signed.

511 Section 10. Subsection (1) of section 397.697, Florida
512 Statutes, is amended to read:

513 397.697 Court determination; effect of court order for
514 involuntary substance abuse treatment.—

515 (1) When the court finds that the conditions for
516 involuntary substance abuse treatment have been proved by clear
517 and convincing evidence, it may order the respondent to undergo
518 involuntary treatment by a licensed service provider for a
519 period not to exceed 90 ~~60~~ days. If the court finds it
520 necessary, it may direct the sheriff to take the respondent into
521 custody and deliver him or her to the licensed service provider
522 specified in the court order, or to the nearest appropriate
523 licensed service provider, for involuntary treatment. When the
524 conditions justifying involuntary treatment no longer exist, the
525 individual must be released as provided in s. 397.6971. When the

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526 conditions justifying involuntary treatment are expected to
527 exist after 90 ~~60~~ days of treatment, a renewal of the
528 involuntary treatment order may be requested pursuant to s.
529 397.6975 before ~~prior to~~ the end of the 90-day ~~60-day~~ period.

530 Section 11. Section 397.6971, Florida Statutes, is amended
531 to read:

532 397.6971 Early release from involuntary substance abuse
533 treatment.—

534 (1) At any time before ~~prior to~~ the end of the 90-day ~~60-~~
535 ~~day~~ involuntary treatment period, or before ~~prior to~~ the end of
536 any extension granted pursuant to s. 397.6975, an individual
537 admitted for involuntary treatment may be determined eligible
538 for discharge to the most appropriate referral or disposition
539 for the individual when:

540 (a) The individual no longer meets the criteria specified
541 in s. 397.675 for involuntary admission and has given his or her
542 informed consent to be transferred to voluntary treatment
543 status;

544 (b) If the individual was admitted on the grounds of
545 likelihood of infliction of physical harm upon himself or
546 herself or others, such likelihood no longer exists; ~~or~~

547 (c) If the individual was admitted on the grounds of need
548 for assessment and stabilization or treatment, accompanied by
549 inability to make a determination respecting such need, either:

550 1. Such inability no longer exists; or

551 2. It is evident that further treatment will not bring
552 about further significant improvements in the individual's
553 condition;

554 (d) The individual is no longer in need of services; or

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555 (e) The director of the service provider determines that
556 the individual is beyond the safe management capabilities of the
557 provider.

558 (2) Whenever a qualified professional determines that an
559 individual admitted for involuntary treatment is ready for early
560 release for any of the reasons listed in subsection (1), the
561 service provider shall immediately discharge the individual, and
562 must notify all persons specified by the court in the original
563 treatment order.

564 Section 12. Section 397.6977, Florida Statutes, is amended
565 to read:

566 397.6977 Disposition of individual upon completion of
567 involuntary substance abuse treatment.—At the conclusion of the
568 90-day ~~60-day~~ period of court-ordered involuntary treatment, the
569 individual is automatically discharged unless a motion for
570 renewal of the involuntary treatment order has been filed with
571 the court pursuant to s. 397.6975.

572 Section 13. Section 397.6955, Florida Statutes, is amended
573 to read:

574 397.6955 Duties of court upon filing of petition for
575 involuntary treatment.—Upon the filing of a petition for the
576 involuntary treatment of a substance abuse impaired person with
577 the clerk of the court, the court shall immediately determine
578 whether the respondent is represented by an attorney or whether
579 the appointment of counsel for the respondent is appropriate.
580 The court shall schedule a hearing to be held on the petition
581 within 5 ~~10~~ days, unless a continuance is granted. A copy of the
582 petition and notice of the hearing must be provided to the
583 respondent; the respondent's parent, guardian, or legal

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584 custodian, in the case of a minor; the respondent's attorney, if
585 known; the petitioner; the respondent's spouse or guardian, if
586 applicable; and such other persons as the court may direct, and
587 have such petition and order personally delivered to the
588 respondent if he or she is a minor. The court shall also issue a
589 summons to the person whose admission is sought.

590 Section 14. In order to maximize efficiency, avoid
591 duplication, and provide cost savings, the Louis de la Parte
592 Florida Mental Health Institute within the University of South
593 Florida shall provide monthly to the Department of Children and
594 Families copies of each of the following:

- 595 (1) Ex parte orders for involuntary examination.
596 (2) Professional certificates for initiating involuntary
597 examination.
598 (3) Law enforcement reports on involuntary examination.
599 (4) Involuntary outpatient placement orders.
600 (5) Involuntary inpatient placement orders.

601 Section 15. Subsection (1) of section 397.6773, Florida
602 Statutes, is amended to read:

603 397.6773 Dispositional alternatives after protective
604 custody.—

605 (1) An individual who is in protective custody must be
606 released by a qualified professional when:

- 607 (a) The individual no longer meets the involuntary
608 admission criteria in s. 397.675 ~~s. 397.675(1)~~;
609 (b) The 72-hour period has elapsed; or
610 (c) The individual has consented to remain voluntarily at
611 the licensed service provider.

612 Section 16. Part V of chapter 765, Florida Statutes, is

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613 redesignated as part VI, and a new part V of chapter 765,
614 Florida Statutes, consisting of ss. 765.501-765.509, is created
615 and entitled "Mental Health and Substance Abuse Treatment
616 Advance Directives."

617 Section 17. Section 765.501, Florida Statutes, is created
618 to read:

619 765.501 Short title.—Sections 765.501-765.509 may be cited
620 as the "Jennifer Act".

621 Section 18. Section 765.502, Florida Statutes, is created
622 to read:

623 765.502 Legislative findings.—

624 (1) The Legislature recognizes that an individual with
625 capacity has the ability to control decisions relating to his or
626 her own mental health care or substance abuse treatment. The
627 Legislature also makes the following findings:

628 (a) Substance abuse and some mental illnesses cause
629 individuals to fluctuate between capacity and incapacity.

630 (b) During periods when an individual's capacity is
631 unclear, the individual may be unable to provide informed
632 consent necessary to access needed treatment.

633 (c) Early treatment may prevent an individual from becoming
634 so ill that involuntary treatment is necessary.

635 (d) Individuals with substance abuse impairment or mental
636 illness need an established procedure to express their
637 instructions and preferences for treatment and provide advance
638 consent to or refusal of treatment. This procedure should be
639 less expensive and less restrictive than guardianship.

640 (2) The Legislature further recognizes the following:

641 (a) A mental health or substance abuse treatment advance

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642 directive must provide the individual with a full range of
643 choices.

644 (b) For a mental health or substance abuse treatment
645 advance directive to be an effective tool, individuals must be
646 able to choose how they want their directives to be applied
647 during periods when they are incompetent to consent to
648 treatment.

649 (c) There must be a clear process so that treatment
650 providers can abide by an individual's treatment choices.

651 Section 19. Section 765.503, Florida Statutes, is created
652 to read:

653 765.503 Definitions.—As used in this part, the term:

654 (1) "Adult" means any individual who has attained the age
655 of majority or is an emancipated minor.

656 (2) "Capacity" means that an adult has not been found to be
657 incapacitated pursuant to s. 394.463.

658 (3) "Health care facility" means a hospital, nursing home,
659 hospice, home health agency, or health maintenance organization
660 licensed in this state, or any facility subject to part I of
661 chapter 394.

662 (4) "Incapacity" or "incompetent" means one or more of the
663 following conditions when present in an adult:

664 (a) An inability to understand the nature, character, and
665 anticipated results of proposed treatment or alternatives or the
666 recognized serious possible risks, complications, and
667 anticipated benefits of treatments and alternatives, including
668 nontreatment.

669 (b) An inability to physically or mentally communicate a
670 willful and knowing decision about mental health care or

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671 substance abuse treatment.

672 (c) An inability to communicate his or her understanding or
673 treatment decisions.

674 (d) Criteria exist for an involuntary examination pursuant
675 to s. 394.463.

676 (5) "Informed consent" means consent voluntarily given by a
677 person after a sufficient explanation and disclosure of the
678 subject matter involved to enable that person to have a general
679 understanding of the treatment or procedure and the medically
680 acceptable alternatives, including the substantial risks and
681 hazards inherent in the proposed treatment or procedures or
682 nontreatment, and to make knowing mental health care or
683 substance abuse treatment decisions without coercion or undue
684 influence.

685 (6) "Interested person" means any person who may reasonably
686 be expected to be affected by the outcome of the particular
687 proceeding involved, including anyone interested in the welfare
688 of an incapacitated person.

689 (7) "Mental health or substance abuse treatment advance
690 directive" means a written document in which the principal makes
691 a declaration of instructions or preferences or appoints a
692 surrogate to make decisions on behalf of the principal regarding
693 the principal's mental health or substance abuse treatment, or
694 both.

695 (8) "Mental health professional" means a psychiatrist,
696 psychologist, psychiatric nurse, or social worker, and such
697 other mental health professionals licensed pursuant to chapter
698 458, chapter 459, chapter 464, chapter 490, or chapter 491.

699 (9) "Principal" means a competent adult who executes a

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700 mental health or substance abuse treatment advance directive and
701 on whose behalf mental health care or substance abuse treatment
702 decisions are to be made.

703 (10) "Service provider" means a mental health receiving
704 facility, a facility licensed under chapter 397, a treatment
705 facility, an entity under contract with the department to
706 provide mental health or substance abuse services, a community
707 mental health center or clinic, a psychologist, a clinical
708 social worker, a marriage and family therapist, a mental health
709 counselor, a physician, a psychiatrist, an advanced registered
710 nurse practitioner, or a psychiatric nurse.

711 (11) "Surrogate" means any competent adult expressly
712 designated by a principal to make mental health care or
713 substance abuse treatment decisions on behalf of the principal
714 as set forth in the principal's mental health or substance abuse
715 treatment advance directive created pursuant to this part.

716 Section 20. Section 765.504, Florida Statutes, is created
717 to read:

718 765.504 Mental health or substance abuse treatment advance
719 directive; execution; allowable provisions.-

720 (1) An adult with capacity may execute a mental health or
721 substance abuse treatment advance directive.

722 (2) A directive executed in accordance with this section is
723 presumed to be valid. The inability to honor one or more
724 provisions of a directive does not affect the validity of the
725 remaining provisions.

726 (3) A directive may include any provision relating to
727 mental health or substance abuse treatment or the care of the
728 principal for whom the directive is executed. Without

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729 limitation, a directive may include one or more of the
730 following:

731 (a) Preferences and instructions for mental health or
732 substance abuse treatment.

733 (b) Consent to specific types of mental health or substance
734 abuse treatment.

735 (c) Refusal of and direction not to administer specific
736 types of mental health or substance abuse treatment.

737 (d) Descriptions of situations that may cause the principal
738 to experience a mental health or substance abuse crisis.

739 (e) Suggested alternative responses that may supplement or
740 be in lieu of direct mental health or substance abuse treatment,
741 such as treatment approaches from other providers.

742 (f) The principal's nomination of a guardian, limited
743 guardian, or guardian advocate as provided under chapter 744.

744 (4) A directive may be combined with or be independent of a
745 nomination of a guardian, a durable power of attorney, or other
746 advance directive.

747 Section 21. Section 765.505, Florida Statutes, is created
748 to read:

749 765.505 Execution of a mental health or substance abuse
750 treatment advance directive.—

751 (1) A directive must have all of the following
752 characteristics:

753 (a) Be in writing.

754 (b) Contain language that clearly indicates that the
755 principal intends to create a directive pursuant to this part.

756 (c) Be dated and signed by the principal or, if the
757 principal is unable to sign, at the principal's direction in the

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758 principal's presence.

759 (d) Be witnessed by two adults, each of whom must declare
760 that he or she personally knows the principal and was present
761 when the principal dated and signed the directive, and that the
762 principal did not appear to be incapacitated or acting under
763 fraud, undue influence, or duress. The person designated as the
764 surrogate may not act as a witness to the execution of a
765 document designating the mental health care or substance abuse
766 treatment surrogate. At least one person who acts as a witness
767 may not be the principal's spouse or his or her blood relative.

768 (2) A directive is valid upon execution, but all or part of
769 the directive may take effect at a later date as designated by
770 the principal in the directive.

771 (3) A directive may be revoked, in whole or in part,
772 pursuant to s. 765.506 or expire under its own terms.

773 (4) A directive does not or may not:

774 (a) Create an entitlement to mental health, substance
775 abuse, or medical treatment or supersede a determination of
776 medical necessity.

777 (b) Obligate any health care provider, professional person,
778 or health care facility to pay the costs associated with the
779 treatment requested.

780 (c) Obligate a health care provider, professional person,
781 or health care facility to be responsible for the nontreatment
782 or personal care of the principal or the principal's personal
783 affairs outside the scope of services the facility normally
784 provides.

785 (d) Replace or supersede any will or testamentary document
786 or supersede the application of intestate succession.

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787 Section 22. Section 765.506, Florida Statutes, is created
788 to read:

789 765.506 Revocation; waiver.-

790 (1) A principal with capacity may, by written statement of
791 the principal or at the principal's direction in the principal's
792 presence, revoke a directive in whole or in part.

793 (2) The principal shall provide a copy of his or her
794 written statement of revocation to his or her agent, if any, and
795 to each health care provider, professional person, or health
796 care facility that received a copy of the directive from the
797 principal.

798 (3) The written statement of revocation is effective as to
799 a health care provider, professional person, or health care
800 facility upon the individual's or entity's receipt of the
801 statement. The professional person, health care provider, or
802 health care facility, or persons acting under their direction,
803 shall make the statement of revocation part of the principal's
804 medical record.

805 (4) A directive also may:

806 (a) Be revoked, in whole or in part, expressly or to the
807 extent of any inconsistency, by a subsequent directive; or

808 (b) Be superseded or revoked by a court order, including
809 any order entered in a criminal matter. The principal's family,
810 a health care facility, an attending physician, or any other
811 interested person who may be directly affected by a surrogate's
812 decision relating to the principal's health care may seek
813 expedited judicial intervention pursuant to rule 5.900 of the
814 Florida Probate Rules, if that person believes:

815 1. The surrogate's decision is not in accord with the

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816 principal's known desires;

817 2. The advance directive is ambiguous, or the principal has
818 changed his or her mind after execution of the advance
819 directive;

820 3. The surrogate was improperly designated or appointed, or
821 the designation of the surrogate is no longer effective or has
822 been revoked;

823 4. The surrogate has failed to discharge duties, or
824 incapacity or illness renders the surrogate incapable of
825 discharging duties;

826 5. The surrogate has abused his or her power or authority;
827 or

828 6. The principal has sufficient capacity to make his or her
829 own health care decisions.

830 (5) A directive that would have otherwise expired but is
831 effective because the principal is incapacitated remains
832 effective until the principal is no longer incapacitated, unless
833 the principal elected in the directive to be able to revoke
834 while incapacitated and has revoked the directive.

835 (6) When a principal with capacity consents to treatment
836 that differs from, or refuses treatment consented to in, his or
837 her directive, the consent or refusal constitutes a waiver of a
838 particular provision of the directive and does not constitute a
839 revocation of that provision or the directive unless the
840 principal also expressly revokes the provision or directive.

841 Section 23. Section 765.507, Florida Statutes, is created
842 to read:

843 765.507 Immunity from liability; weight of proof;
844 presumption.-

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845 (1) A health care facility, provider, or other person who
846 acts under the direction of a health care facility or provider
847 is not subject to criminal prosecution or civil liability, and
848 may not be deemed to have engaged in unprofessional conduct, as
849 a result of carrying out a mental health care or substance abuse
850 treatment decision made in accordance with this part. The
851 surrogate who makes a mental health care or substance abuse
852 treatment decision on a principal's behalf, pursuant to this
853 part, is not subject to criminal prosecution or civil liability
854 for such action.

855 (2) This section does not apply if it is shown by a
856 preponderance of the evidence that the person authorizing or
857 carrying out a mental health care or substance abuse treatment
858 decision did not exercise reasonable care or, in good faith,
859 comply with this part.

860 Section 24. Section 765.508, Florida Statutes, is created
861 to read:

862 765.508 Recognition of mental health or substance abuse
863 treatment advance directive executed in another state.—A mental
864 health or substance abuse treatment advance directive executed
865 in another state in compliance with the laws of that state is
866 validly executed for the purposes of this part.

867 Section 25. Section 765.509, Florida Statutes, is created
868 to read:

869 765.509 Dissemination of information.—

870 (1) A service provider shall give information relating to
871 mental health or substance abuse treatment advance directives to
872 its patients and assist competent and willing patients in
873 completing mental health or substance abuse treatment advance

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874 directives.

875 (2) A service provider may not require a patient to execute
876 a mental health or substance abuse treatment advance directive
877 or to execute a new mental health or substance abuse treatment
878 advance directive using the service provider's forms. The
879 principal's mental health or substance abuse treatment advance
880 directives shall travel with the principal as part of his or her
881 medical record.

882 (3) The Department of Children and Families shall develop,
883 and publish on its website, information on the creation,
884 execution, and purpose of mental health or substance abuse
885 treatment advance directives and the distinction between mental
886 health treatment advance directives created under this part and
887 those created under part I of this chapter. The department shall
888 also develop, and publish on its website, a mental health
889 treatment advance directive form and a substance abuse treatment
890 advance directive form that may be used by an individual to
891 direct future care.

892 Section 26. Paragraph (b) of subsection (2) of section
893 406.11, Florida Statutes, is amended to read:

894 406.11 Examinations, investigations, and autopsies.—

895 (2)

896 (b) The Medical Examiners Commission shall adopt rules,
897 pursuant to chapter 120, providing for the notification of the
898 next of kin that an investigation by the medical examiner's
899 office is being conducted. A medical examiner may not retain or
900 furnish any body part of the deceased for research or any other
901 purpose which is not in conjunction with a determination of the
902 identification of or cause or manner of death of the deceased or

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903 the presence of disease or which is not otherwise authorized by
904 this chapter, part VI ~~part V~~ of chapter 765, or chapter 873,
905 without notification of and approval by the next of kin.

906 Section 27. Subsection (29) of section 408.802, Florida
907 Statutes, is amended to read:

908 408.802 Applicability.—The provisions of this part apply to
909 the provision of services that require licensure as defined in
910 this part and to the following entities licensed, registered, or
911 certified by the agency, as described in chapters 112, 383, 390,
912 394, 395, 400, 429, 440, 483, and 765:

913 (29) Organ, tissue, and eye procurement organizations, as
914 provided under part VI ~~part V~~ of chapter 765.

915 Section 28. Subsection (28) of section 408.820, Florida
916 Statutes, is amended to read:

917 408.820 Exemptions.—Except as prescribed in authorizing
918 statutes, the following exemptions shall apply to specified
919 requirements of this part:

920 (28) Organ, tissue, and eye procurement organizations, as
921 provided under part VI ~~part V~~ of chapter 765, are exempt from s.
922 408.810(5)-(10).

923 Section 29. Subsection (1) and paragraph (d) of subsection
924 (6) of section 765.101, Florida Statutes, are amended to read:

925 765.101 Definitions.—As used in this chapter:

926 (1) "Advance directive" means a witnessed written document
927 or oral statement in which instructions are given by a principal
928 or in which the principal's desires are expressed concerning any
929 aspect of the principal's health care or health information, and
930 includes, but is not limited to, the designation of a health
931 care surrogate, a living will, or an anatomical gift made

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932 pursuant to part VI ~~part V~~ of this chapter.

933 (6) "Health care decision" means:

934 (d) The decision to make an anatomical gift pursuant to
 935 part VI ~~part V~~ of this chapter.

936 Section 30. Section 765.203, Florida Statutes, is amended
 937 to read:

938 765.203 Suggested form of designation.—A written
 939 designation of a health care surrogate executed pursuant to this
 940 chapter may, but need not be, in the following form:

941

942 DESIGNATION OF HEALTH CARE SURROGATE

943

944 I, ...(name)..., designate as my health care surrogate under s.
 945 765.202, Florida Statutes:

946

947 Name: ...(name of health care surrogate)...

948 Address: ...(address)...

949 Phone: ...(telephone)...

950

951 If my health care surrogate is not willing, able, or reasonably
 952 available to perform his or her duties, I designate as my
 953 alternate health care surrogate:

954

955 Name: ...(name of alternate health care surrogate)...

956 Address: ...(address)...

957 Phone: ...(telephone)...

958

959 INSTRUCTIONS FOR HEALTH CARE

960

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961 I authorize my health care surrogate to:
962 ...(Initial here)... Receive any of my health information,
963 whether oral or recorded in any form or medium, that:

964 1. Is created or received by a health care provider, health
965 care facility, health plan, public health authority, employer,
966 life insurer, school or university, or health care
967 clearinghouse; and

968 2. Relates to my past, present, or future physical or
969 mental health or condition; the provision of health care to me;
970 or the past, present, or future payment for the provision of
971 health care to me.

972 I further authorize my health care surrogate to:

973 ...(Initial here)... Make all health care decisions for me,
974 which means he or she has the authority to:

975 1. Provide informed consent, refusal of consent, or
976 withdrawal of consent to any and all of my health care,
977 including life-prolonging procedures.

978 2. Apply on my behalf for private, public, government, or
979 veterans' benefits to defray the cost of health care.

980 3. Access my health information reasonably necessary for
981 the health care surrogate to make decisions involving my health
982 care and to apply for benefits for me.

983 4. Decide to make an anatomical gift pursuant to part VI
984 ~~part V~~ of chapter 765, Florida Statutes.

985 ...(Initial here)... Specific instructions and
986 restrictions:
987
988

989

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990 While I have decisionmaking capacity, my wishes are controlling
991 and my physicians and health care providers must clearly
992 communicate to me the treatment plan or any change to the
993 treatment plan prior to its implementation.

994

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

998

999 THIS HEALTH CARE SURROGATE DESIGNATION IS NOT AFFECTED BY MY
1000 SUBSEQUENT INCAPACITY EXCEPT AS PROVIDED IN CHAPTER 765, FLORIDA
1001 STATUTES.

1002

1003 PURSUANT TO SECTION 765.104, FLORIDA STATUTES, I UNDERSTAND THAT
1004 I MAY, AT ANY TIME WHILE I RETAIN MY CAPACITY, REVOKE OR AMEND
1005 THIS DESIGNATION BY:

1006 (1) SIGNING A WRITTEN AND DATED INSTRUMENT WHICH EXPRESSES
1007 MY INTENT TO AMEND OR REVOKE THIS DESIGNATION;

1008 (2) PHYSICALLY DESTROYING THIS DESIGNATION THROUGH MY OWN
1009 ACTION OR BY THAT OF ANOTHER PERSON IN MY PRESENCE AND UNDER MY
1010 DIRECTION;

1011 (3) VERBALLY EXPRESSING MY INTENTION TO AMEND OR REVOKE
1012 THIS DESIGNATION; OR

1013 (4) SIGNING A NEW DESIGNATION THAT IS MATERIALLY DIFFERENT
1014 FROM THIS DESIGNATION.

1015

1016 MY HEALTH CARE SURROGATE'S AUTHORITY BECOMES EFFECTIVE WHEN MY
1017 PRIMARY PHYSICIAN DETERMINES THAT I AM UNABLE TO MAKE MY OWN
1018 HEALTH CARE DECISIONS UNLESS I INITIAL EITHER OR BOTH OF THE

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1019 FOLLOWING BOXES:

1020

1021 IF I INITIAL THIS BOX [....], MY HEALTH CARE SURROGATE'S
1022 AUTHORITY TO RECEIVE MY HEALTH INFORMATION TAKES EFFECT
1023 IMMEDIATELY.

1024

1025 IF I INITIAL THIS BOX [....], MY HEALTH CARE SURROGATE'S
1026 AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR ME TAKES EFFECT
1027 IMMEDIATELY. PURSUANT TO SECTION 765.204(3), FLORIDA STATUTES,
1028 ANY INSTRUCTIONS OR HEALTH CARE DECISIONS I MAKE, EITHER
1029 VERBALLY OR IN WRITING, WHILE I POSSESS CAPACITY SHALL SUPERSEDE
1030 ANY INSTRUCTIONS OR HEALTH CARE DECISIONS MADE BY MY SURROGATE
1031 THAT ARE IN MATERIAL CONFLICT WITH THOSE MADE BY ME.

1032

1033 SIGNATURES: Sign and date the form here:

1034 ... (date) ... (sign your name) ...
1035 ... (address) ... (print your name) ...
1036 ... (city) ... (state) ...

1037

1038 SIGNATURES OF WITNESSES:

1039 First witness Second witness
1040 ... (print name) ... (print name) ...
1041 ... (address) ... (address) ...
1042 ... (city) ... (state) ... (city) ... (state) ...
1043 ... (signature of witness) ... (signature of witness) ...
1044 ... (date) ... (date) ...

1045 Section 31. This act shall take effect July 1, 2016.