

By Senator Rodriguez

40-00699-25

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1 A bill to be entitled
2 An act relating to patient-directed medical orders;
3 amending s. 765.101, F.S.; revising and providing
4 definitions; amending s. 765.102, F.S.; revising
5 legislative findings and intent to include palliative
6 care for progressive illnesses; creating s. 765.3041,
7 F.S.; providing a purpose and requirements for a
8 patient-directed medical order; authorizing the use of
9 telehealth for a specified purpose; requiring that
10 certain health care services be provided to the
11 principal regardless of the decision to withhold or
12 withdraw life-prolonging procedures; authorizing
13 physicians, physician assistants, and certain advanced
14 practice registered nurses to withhold or withdraw
15 life-prolonging procedures under certain circumstances
16 without penalty; providing construction; amending ss.
17 395.1041, 400.142, 400.487, 400.605, 400.6095,
18 400.611, 401.35, 401.45, 429.255, 429.73, 744.4431,
19 752.001, 765.110, 765.204, 765.205, and 765.305, F.S.;
20 conforming cross-references and provisions to changes
21 made by the act; requiring the Agency for Health Care
22 Administration to create and update a database for the
23 storage of patient-directed medical orders; providing
24 an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Present subsections (15) through (22) of section
29 765.101, Florida Statutes, are redesignated as subsections (16)

40-00699-25

2025566__

30 through (23), respectively, a new subsection (15) is added to
31 that section, and subsections (1) and (7) of that section are
32 amended, to read:

33 765.101 Definitions.—As used in this chapter:

34 (1) "Advance directive" means a witnessed written document
35 or oral statement in which instructions are given by a principal
36 or in which the principal's desires are expressed concerning any
37 aspect of the principal's health care or health information, and
38 includes, but is not limited to, the designation of a health
39 care surrogate, a living will, or an anatomical gift made
40 pursuant to part V of this chapter. An advance directive may
41 also include a patient-directed medical order.

42 (7) "Health care facility" means a hospital, nursing home,
43 hospice, home health agency, or health maintenance organization
44 licensed in this state, a ~~or any~~ facility subject to part I of
45 chapter 394, or an assisted living facility or adult family-care
46 home licensed under chapter 429.

47 (15) "Patient-directed medical order" means a medical order
48 created by the principal in collaboration with a physician, a
49 physician assistant, or an advanced practice registered nurse
50 registered under s. 464.0123 which is portable across health
51 care settings and accessible in a volunteer, online registry.

52 Section 2. Subsection (6) of section 765.102, Florida
53 Statutes, is amended to read:

54 765.102 Legislative findings and intent.—

55 (6) For purposes of this chapter:

56 (a) Palliative care is the comprehensive management of the
57 physical, psychological, social, spiritual, and existential
58 needs of patients. Palliative care is especially suited to the

40-00699-25

2025566__

59 care of persons who have incurable ~~or,~~ progressive illnesses.

60 (b) Palliative care may ~~must~~ include:

61 1. An opportunity to discuss and plan for end-of-life care.

62 2. Assurance that physical and mental suffering will be
63 carefully attended to.

64 3. Assurance that preferences for withholding and
65 withdrawing life-sustaining interventions will be honored.

66 4. Assurance that the personal goals of the dying person
67 will be addressed.

68 5. Assurance that the dignity of the dying person will be a
69 priority.

70 6. Assurance that health care providers will not abandon
71 the dying person.

72 7. Assurance that the burden to family and others will be
73 addressed.

74 8. Assurance that advance directives for care, orders not
75 to resuscitate executed pursuant to s. 401.45, and patient-
76 directed medical orders executed pursuant to s. 765.3041 will be
77 respected regardless of the location of care.

78 9. Assurance that organizational mechanisms are in place to
79 evaluate the availability and quality of end-of-life,
80 palliative, and hospice care services, including the evaluation
81 of administrative and regulatory barriers.

82 10. Assurance that necessary health care services will be
83 provided and that relevant reimbursement policies are available.

84 11. Assurance that the goals expressed in subparagraphs 1.-
85 10. will be accomplished in a culturally appropriate manner.

86 Section 3. Section 765.3041, Florida Statutes, is created
87 to read:

40-00699-25

2025566__

88 765.3041 Patient-directed medical orders.—

89 (1) To facilitate a principal's instructions concerning
90 treatment preferences, a patient-directed medical order may be
91 executed in advance to direct the actions of health care
92 providers and health care facilities.

93 (2) A valid patient-directed medical order must:

94 (a) Be on a form adopted by rule of the Department of
95 Health and may be combined with an order not to resuscitate
96 executed pursuant to s. 401.45. The form must:

97 1. Address medical interventions to be withheld or
98 withdrawn when the application of life-prolonging procedures
99 would serve only to prolong artificially the process of dying.

100 2. Be signed by the principal and the principal's
101 physician, physician assistant, or advanced practice registered
102 nurse registered under s. 464.0123.

103 a. If the principal is physically unable to sign the form,
104 the physician, physician assistant, or advanced practice
105 registered nurse present at the discussion as required by
106 subparagraph (b)2. may subscribe the principal's signature in
107 the principal's presence and at the principal's direction. If
108 telehealth is used, the physician, physician assistant, or
109 advanced practice registered nurse may be present at either
110 location where telehealth is being administered.

111 b. If the principal is incapacitated, the form may be
112 signed by the principal's health care surrogate or proxy, court-
113 appointed guardian as provided in chapter 744, or attorney in
114 fact under a durable power of attorney as provided in chapter
115 709. The court-appointed guardian or attorney in fact must be
116 delegated authority to make health care decisions on behalf of

40-00699-25

2025566__

117 the principal.

118 c. All signatures may be electronic signatures.

119 (b) Clearly express the principal's preferences and
120 instructions for care, which may include all treatments
121 available, modified treatments that are not prolonged or
122 burdensome, or comfort measures that do not pursue or continue
123 interventions.

124 1. The principal and a physician, a physician assistant, or
125 an advanced practice registered nurse registered under s.
126 464.0123 must discuss the principal's medical treatment wishes
127 relating to medical interventions to be withheld or withdrawn
128 based on the principal's values and preferences in the event the
129 principal becomes unable to make her or his own decisions.

130 2. The discussion must be in person and may be conducted
131 using telehealth.

132 (3) Regardless of the decision to withhold or withdraw
133 life-prolonging procedures, necessary health care services must
134 be provided for the care and comfort of the principal or to
135 alleviate pain.

136 (4) A physician, a physician assistant, or an advanced
137 practice registered nurse registered under s. 464.0123 may
138 withhold or withdraw cardiopulmonary resuscitation or other
139 life-prolonging procedures if presented with an order not to
140 resuscitate executed pursuant to s. 401.45 or a patient-directed
141 medical order executed pursuant to this section which contains
142 an order not to resuscitate or an order to withhold or withdraw
143 life-prolonging procedures. A physician, a physician assistant,
144 or an advanced practice registered nurse registered under s.
145 464.0123 is not subject to any disciplinary action under s.

40-00699-25

2025566__

146 456.072 or criminal prosecution or civil liability, or
 147 considered to have engaged in negligent or unprofessional
 148 conduct, for withholding or withdrawing cardiopulmonary
 149 resuscitation or other life-prolonging procedures pursuant to
 150 such orders. The absence of an order not to resuscitate executed
 151 pursuant to s. 401.45 or a patient-directed medical order
 152 executed pursuant to this section does not preclude a physician,
 153 a physician assistant, or an advanced practice registered nurse
 154 registered under s. 464.0123 from withholding or withdrawing
 155 cardiopulmonary resuscitation or other life-prolonging
 156 procedures as otherwise authorized by law.

157 Section 4. Paragraph (1) of subsection (3) of section
 158 395.1041, Florida Statutes, is amended to read:

159 395.1041 Access to and ensurance of emergency services;
 160 transfers; patient rights; diversion programs; reports of
 161 controlled substance overdoses.—

162 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
 163 FACILITY OR HEALTH CARE PERSONNEL.—

164 (1) Hospital personnel may withhold or withdraw
 165 cardiopulmonary resuscitation or other life-prolonging
 166 procedures if presented with an order not to resuscitate
 167 executed pursuant to s. 401.45 or a patient-directed medical
 168 order executed pursuant to s. 765.3041 which contains an order
 169 not to resuscitate or an order to withhold or withdraw life-
 170 prolonging procedures. Facility staff and facilities are ~~shall~~
 171 ~~not be~~ subject to criminal prosecution or civil liability, or
 172 ~~nor be~~ considered to have engaged in negligent or unprofessional
 173 conduct, for withholding or withdrawing cardiopulmonary
 174 resuscitation or other life-prolonging procedures pursuant to

40-00699-25

2025566__

175 such orders ~~an order~~. The absence of an order not to resuscitate
176 executed pursuant to s. 401.45 or a patient-directed medical
177 order executed pursuant to s. 765.3041 does not preclude a
178 physician from withholding or withdrawing cardiopulmonary
179 resuscitation or other life-prolonging procedures as otherwise
180 authorized ~~permitted~~ by law.

181 Section 5. Subsection (3) of section 400.142, Florida
182 Statutes, is amended to read:

183 400.142 Emergency medication kits; orders not to
184 resuscitate and patient-directed medical orders.-

185 (3) Facility staff may withhold or withdraw cardiopulmonary
186 resuscitation or other life-prolonging procedures if presented
187 with an order not to resuscitate executed pursuant to s. 401.45
188 or a patient-directed medical order executed pursuant to s.
189 765.3041 which contains an order not to resuscitate or an order
190 to withhold or withdraw life-prolonging procedures. Facility
191 staff and facilities are not subject to criminal prosecution or
192 civil liability, or considered to have engaged in negligent or
193 unprofessional conduct, for withholding or withdrawing
194 cardiopulmonary resuscitation or other life-prolonging
195 procedures pursuant to such orders ~~order~~. The absence of an
196 order not to resuscitate executed pursuant to s. 401.45 or a
197 patient-directed medical order executed pursuant to s. 765.3041
198 does not preclude a physician from withholding or withdrawing
199 cardiopulmonary resuscitation or other life-prolonging
200 procedures as otherwise authorized ~~permitted~~ by law.

201 Section 6. Subsection (7) of section 400.487, Florida
202 Statutes, is amended to read:

203 400.487 Home health service agreements; physician's,

40-00699-25

2025566__

204 physician assistant's, and advanced practice registered nurse's
205 treatment orders; patient assessment; establishment and review
206 of plan of care; provision of services; orders not to
207 resuscitate and patient-directed medical orders.—

208 (7) Home health agency personnel may withhold or withdraw
209 cardiopulmonary resuscitation or other life-prolonging
210 procedures if presented with an order not to resuscitate
211 executed pursuant to s. 401.45 or a patient-directed medical
212 order executed pursuant to s. 765.3041 which contains an order
213 not to resuscitate or an order to withhold or withdraw life-
214 prolonging procedures. The agency shall adopt rules providing
215 for the implementation of such orders. Home health personnel and
216 agencies are ~~shall~~ not be subject to criminal prosecution or
217 civil liability, or ~~nor~~ be considered to have engaged in
218 negligent or unprofessional conduct, for withholding or
219 withdrawing cardiopulmonary resuscitation or other life-
220 prolonging procedures pursuant to such orders ~~an order~~ and rules
221 adopted by the agency. The absence of an order not to
222 resuscitate executed pursuant to s. 401.45 or a patient-directed
223 medical order executed pursuant to s. 765.3041 does not preclude
224 a physician from withholding or withdrawing cardiopulmonary
225 resuscitation or other life-prolonging procedures as otherwise
226 authorized by law.

227 Section 7. Paragraph (e) of subsection (1) of section
228 400.605, Florida Statutes, is amended to read:

229 400.605 Administration; forms; fees; rules; inspections;
230 fines.—

231 (1) The agency shall by rule establish minimum standards
232 and procedures for a hospice pursuant to this part. The rules

40-00699-25

2025566__

233 must include:

234 (e) Procedures relating to the implementation of advance
235 ~~advanced~~ directives, patient-directed medical orders executed
236 pursuant to s. 765.3041, and ~~do not resuscitate~~ orders not to
237 resuscitate executed pursuant to s. 401.45.

238 Section 8. Subsection (8) of section 400.6095, Florida
239 Statutes, is amended to read:

240 400.6095 Patient admission; assessment; plan of care;
241 discharge; death.—

242 (8) The hospice care team may withhold or withdraw
243 cardiopulmonary resuscitation or other life-prolonging
244 procedures if presented with an order not to resuscitate
245 executed pursuant to s. 401.45 or a patient-directed medical
246 order executed pursuant to s. 765.3041 which contains an order
247 not to resuscitate or an order to withhold or withdraw life-
248 prolonging procedures. The agency shall adopt rules providing
249 for the implementation of such orders. Hospice staff are ~~shall~~
250 ~~be~~ subject to criminal prosecution or civil liability, or
251 ~~nor be~~ considered to have engaged in negligent or unprofessional
252 conduct, for withholding or withdrawing cardiopulmonary
253 resuscitation or other life-prolonging procedures pursuant to
254 such orders ~~an order~~ and applicable rules. The absence of an
255 order not to resuscitate executed pursuant to s. 401.45 or a
256 patient-directed medical order executed pursuant to s. 765.3041
257 does not preclude a physician from withholding or withdrawing
258 cardiopulmonary resuscitation or other life-prolonging
259 procedures as otherwise authorized ~~permitted~~ by law.

260 Section 9. Paragraph (b) of subsection (4) of section
261 400.611, Florida Statutes, is amended to read:

40-00699-25

2025566__

262 400.611 Interdisciplinary records of care; confidentiality;
263 release of records.—

264 (4) A hospice may not release a patient's interdisciplinary
265 record or any portion thereof, unless the person requesting the
266 information provides to the hospice:

267 (b) In the case of an incapacitated patient, a patient
268 authorization executed before ~~prior to~~ the patient's death by
269 the patient's then acting legal guardian, health care surrogate
270 as defined in s. 765.101 ~~s. 765.101(21)~~, health care proxy as
271 defined in s. 765.101 ~~s. 765.101(19)~~, or agent under power of
272 attorney;

273 Section 10. Subsection (4) of section 401.35, Florida
274 Statutes, is amended to read:

275 401.35 Rules.—The department shall adopt rules, including
276 definitions of terms, necessary to carry out the purposes of
277 this part.

278 (4) The rules must establish circumstances and procedures
279 under which emergency medical technicians and paramedics may
280 honor orders not to resuscitate executed pursuant to s. 401.45
281 or patient-directed medical orders executed pursuant to s.
282 765.3041 which contains an order not to resuscitate or an order
283 to withhold or withdraw life-prolonging procedures by the
284 patient's physician, physician assistant, or advanced practice
285 registered nurse registered under s. 464.0123 ~~not to resuscitate~~
286 and the documentation and reporting requirements for handling
287 such orders ~~requests~~.

288 Section 11. Paragraphs (a) and (b) of subsection (3) of
289 section 401.45, Florida Statutes, are amended to read:

290 401.45 Denial of emergency treatment; civil liability.—

40-00699-25

2025566__

291 (3) (a) ~~Resuscitation may be withheld or withdrawn from a~~
292 ~~patient by~~ An emergency medical technician or paramedic may
293 withhold or withdraw cardiopulmonary resuscitation or other
294 life-prolonging procedures if presented with ~~evidence of an~~
295 order not to resuscitate executed pursuant to this subsection or
296 a patient-directed medical order executed pursuant to s.
297 765.3041 which contains an order not to resuscitate or an order
298 to withhold or withdraw life-prolonging procedures ~~by the~~
299 ~~patient's physician or physician assistant is presented to the~~
300 ~~emergency medical technician or paramedic.~~ An order not to
301 resuscitate executed pursuant to this subsection or a patient-
302 directed medical order executed pursuant to s. 765.3041 which
303 contains an order not to resuscitate or an order to withhold or
304 withdraw life-prolonging procedures, to be valid, must be on the
305 form adopted by rule of the department. The form must be signed
306 by the patient's physician, or physician assistant, or advanced
307 practice registered nurse registered under s. 464.0123 and by
308 the patient or, if the patient is incapacitated, the patient's
309 health care surrogate or proxy as provided in chapter 765,
310 court-appointed guardian as provided in chapter 744, or attorney
311 in fact under a durable power of attorney as provided in chapter
312 709. The court-appointed guardian or attorney in fact must have
313 been delegated authority to make health care decisions on behalf
314 of the patient.

315 (b) Any licensee, physician, medical director, or emergency
316 medical technician or paramedic who acts under the direction of
317 a medical director is not subject to criminal prosecution or
318 civil liability, and has not engaged in negligent or
319 unprofessional conduct, as a result of the withholding or

40-00699-25

2025566__

320 withdrawal of cardiopulmonary resuscitation or other life-
321 prolonging procedures from a patient pursuant to this subsection
322 and rules adopted by the department.

323 Section 12. Subsection (4) of section 429.255, Florida
324 Statutes, is amended to read:

325 429.255 Use of personnel; emergency care.—

326 (4) Facility staff may withhold or withdraw cardiopulmonary
327 resuscitation, ~~or~~ the use of an automated external
328 defibrillator, or other life-prolonging procedures if presented
329 with an order not to resuscitate executed pursuant to s. 401.45
330 or a patient-directed medical order executed pursuant to s.
331 765.3041 which contains an order not to resuscitate or an order
332 to withhold or withdraw life-prolonging procedures. The agency
333 shall adopt rules providing for the implementation of such
334 orders. Facility staff and facilities are ~~may not be~~ subject to
335 criminal prosecution or civil liability, or ~~not be~~ considered to
336 have engaged in negligent or unprofessional conduct, for
337 withholding or withdrawing cardiopulmonary resuscitation, the ~~or~~
338 use of an automated external defibrillator, or other life-
339 prolonging procedures pursuant to such orders ~~an order~~ and rules
340 adopted by the agency. The absence of an order not to
341 resuscitate executed pursuant to s. 401.45 or a patient-directed
342 medical order executed pursuant to s. 765.3041 does not preclude
343 a physician from withholding or withdrawing cardiopulmonary
344 resuscitation, the ~~or~~ use of an automated external
345 defibrillator, or other life-prolonging procedures as otherwise
346 authorized ~~permitted~~ by law.

347 Section 13. Subsection (3) of section 429.73, Florida
348 Statutes, is amended to read:

40-00699-25

2025566__

349 429.73 Rules and standards relating to adult family-care
350 homes.—

351 (3) The agency shall adopt rules providing for the
352 implementation of orders not to resuscitate and patient-directed
353 medical orders. The provider may withhold or withdraw
354 cardiopulmonary resuscitation or other life-prolonging
355 procedures if presented with an order not to resuscitate
356 executed pursuant to s. 401.45 or a patient-directed medical
357 order executed pursuant to s. 765.3041 which contains an order
358 not to resuscitate or an order to withhold or withdraw life-
359 prolonging procedures. The provider is ~~shall~~ not ~~be~~ subject to
360 criminal prosecution or civil liability, or ~~nor be~~ considered to
361 have engaged in negligent or unprofessional conduct, for
362 withholding or withdrawing cardiopulmonary resuscitation or
363 other life-prolonging procedures pursuant to such orders ~~an~~
364 ~~order~~ and applicable rules. The absence of an order not to
365 resuscitate executed pursuant to s. 401.45 or a patient-directed
366 medical order executed pursuant to s. 765.3041 does not preclude
367 a physician from withholding or withdrawing cardiopulmonary
368 resuscitation or other life-prolonging procedures as otherwise
369 authorized by law.

370 Section 14. Subsections (1), (7), and (8) of section
371 744.4431, Florida Statutes, are amended to read:

372 744.4431 Guardianship power regarding life-prolonging
373 procedures.—

374 (1) Except as provided in this section, decisions by a
375 professional guardian, as defined in s. 744.102, to withhold or
376 withdraw life-prolonging procedures from, or to execute an order
377 not to resuscitate pursuant to s. 401.45 or a patient-directed

40-00699-25

2025566__

378 medical order pursuant to s. 765.3041 which contains an order
379 not to resuscitate or an order to withhold or withdraw life-
380 prolonging procedures for, a ward must be approved by the court.
381 A professional guardian appointed to act on behalf of a ward's
382 person must petition the court pursuant to the Florida Probate
383 Rules for authority to consent to withhold or withdraw life-
384 prolonging procedures or to execute an order not to resuscitate
385 pursuant to s. 401.45 or a patient-directed medical order
386 pursuant to s. 765.3041. Court approval must be obtained before
387 taking such action, except as provided in subsection (7).

388 (7) Court approval is not required for the following
389 decisions:

390 (a) A decision to withhold or withdraw life-prolonging
391 procedures made by a professional guardian to whom authority has
392 been granted by the court under s. 744.3115 to carry out the
393 instructions in or to take actions consistent with the ward's
394 advance directive, order not to resuscitate executed pursuant to
395 s. 401.45, or patient-directed medical order executed pursuant
396 to s. 765.3041 which contains an order not to resuscitate or an
397 order to withhold or withdraw life-prolonging procedures, as
398 long as there are no known objections from the ward; the ward's
399 attorney; the ward's next of kin, if known; and any other
400 interested persons as the court may direct based on s.
401 765.105(1).

402 (b) A decision by a professional guardian who has been
403 delegated health care decisionmaking authority to execute an
404 order not to resuscitate pursuant to s. 401.45 or a patient-
405 directed medical order pursuant to s. 765.3041, ~~as described in~~
406 ~~s. 401.45(3)(a)~~, if the ward is in a hospital and the following

40-00699-25

2025566__

407 conditions are met:

408 1. The ward's primary treating physician and at least one
409 other consulting physician document in the ward's medical record
410 that:

411 a. There is no reasonable medical probability for recovery
412 from or a cure of the ward's underlying medical condition;

413 b. The ward is in an end-stage condition, a terminal
414 condition, or a persistent vegetative state as those terms are
415 defined in s. 765.101, and that the ward's death is imminent;
416 and

417 c. Resuscitation will cause the ward physical harm or
418 additional pain.

419 2. The professional guardian has notified the ward's next
420 of kin, if known, and any interested persons as the court may
421 direct and the decision is not contrary to the ward's expressed
422 wishes and there are no known objections from the ward; the
423 ward's attorney; the ward's next of kin, if known; or any other
424 interested persons as the court may direct on the basis of s.
425 765.105(1).

426 (8) Within 2 business days after executing an order not to
427 resuscitate pursuant to s. 401.45 or a patient-directed medical
428 order pursuant to s. 765.3041 which contains an order not to
429 resuscitate or an order to withhold or withdraw life-prolonging
430 procedures under paragraph (7)(b), a professional guardian must
431 notify the court in writing of all of the following:

432 (a) The date the order not to resuscitate or patient-
433 directed medical order was executed.

434 (b) The location of the ward when the order not to
435 resuscitate or patient-directed medical order was executed.

40-00699-25

2025566__

436 (c) The names of the physicians who documented the ward's
437 condition in the ward's medical record.

438 Section 15. Subsection (3) of section 752.001, Florida
439 Statutes, is amended to read:

440 752.001 Definitions.—As used in this chapter, the term:

441 (3) "Persistent vegetative state" has the same meaning as
442 ~~provided in s. 765.101 s. 765.101(15).~~

443 Section 16. Subsections (1) and (4) of section 765.110,
444 Florida Statutes, are amended to read:

445 765.110 Health care facilities and providers; discipline.—

446 (1) A health care facility must, ~~pursuant to Pub. L. No.~~
447 ~~101-508, ss. 4206 and 4751, shall~~ provide to each patient
448 written information concerning the individual's rights
449 concerning advance directives, orders not to resuscitate
450 executed pursuant to s. 401.45, or patient-directed medical
451 orders executed pursuant to s. 765.3041 which contain an order
452 not to resuscitate or an order to withhold or withdraw life-
453 prolonging procedures and the health care facility's policies
454 respecting the implementation of such rights, and shall document
455 in the patient's medical records whether ~~or not~~ the individual
456 has executed an advance directive, an order not to resuscitate
457 pursuant to s. 401.45, or a patient-directed medical order
458 pursuant to s. 765.3041 which contains an order not to
459 resuscitate or an order to withhold or withdraw life-prolonging
460 procedures.

461 (4) The Department of Health, in consultation with the
462 Department of Elderly Affairs, for health care providers; the
463 Agency for Health Care Administration for hospitals, hospices,
464 nursing homes, home health agencies, assisted living facilities,

40-00699-25

2025566__

465 adult family-care homes, and health maintenance organizations;
466 and the Department of Children and Families for facilities
467 subject to part I of chapter 394 shall adopt rules to implement
468 this section.

469 Section 17. Subsection (3) of section 765.204, Florida
470 Statutes, is amended to read:

471 765.204 Capacity of principal; procedure.—

472 (3) The surrogate's authority commences either upon a
473 determination under subsection (2) that the principal lacks
474 capacity or upon a stipulation of such authority pursuant to s.
475 765.101 ~~s. 765.101(21)~~. Such authority remains in effect until a
476 determination that the principal has regained such capacity, if
477 the authority commenced as a result of incapacity, or until the
478 authority is revoked, if the authority commenced immediately
479 pursuant to s. 765.101 ~~s. 765.101(21)~~. Upon commencement of the
480 surrogate's authority, a surrogate who is not the principal's
481 spouse shall notify the principal's spouse or adult children of
482 the principal's designation of the surrogate. Except if the
483 principal provided immediately exercisable authority to the
484 surrogate pursuant to s. 765.101 ~~s. 765.101(21)~~, in the event
485 that the primary or attending physician determines that the
486 principal has regained capacity, the authority of the surrogate
487 shall cease, but recommences if the principal subsequently loses
488 capacity as determined pursuant to this section. A health care
489 provider is not liable for relying upon health care decisions
490 made by a surrogate while the principal lacks capacity. At any
491 time when a principal lacks capacity, a health care decision
492 made on the principal's behalf by a surrogate is effective to
493 the same extent as a decision made by the principal. If a

40-00699-25

2025566__

494 principal possesses capacity, health care decisions of the
495 principal take precedence over decisions made by the surrogate
496 that present a material conflict.

497 Section 18. Paragraph (c) of subsection (1) of section
498 765.205, Florida Statutes, is amended to read:

499 765.205 Responsibility of the surrogate.—

500 (1) The surrogate, in accordance with the principal's
501 instructions, unless such authority has been expressly limited
502 by the principal, shall:

503 (c) Provide written consent using an appropriate form
504 whenever consent is required, including the execution of an a
505 physician's order not to resuscitate pursuant to s. 401.45 or a
506 patient-directed medical order pursuant to s. 765.3041 which
507 contains an order not to resuscitate or an order to withhold or
508 withdraw life-prolonging procedures.

509 Section 19. Subsection (2) of section 765.305, Florida
510 Statutes, is amended to read:

511 765.305 Procedure in absence of a living will.—

512 (2) Before exercising the incompetent patient's right to
513 forego treatment, including the execution of an order not to
514 resuscitate pursuant to s. 401.45 or a patient-directed medical
515 order pursuant to s. 765.3041 which contains an order not to
516 resuscitate or an order to withhold or withdraw life-prolonging
517 procedures, the surrogate must be satisfied that:

518 (a) The patient does not have a reasonable medical
519 probability of recovering capacity so that the right could be
520 exercised by the patient.

521 (b) The patient has an end-stage condition, the patient is
522 in a persistent vegetative state, or the patient's physical

40-00699-25

2025566__

523 condition is terminal.

524 Section 20. The Agency for Health Care Administration shall
525 create and update a database for the storage of patient-directed
526 medical orders, which shall be stored solely at the option of
527 the patient in electronic form by the agency.

528 Section 21. This act shall take effect July 1, 2025.