

By Senator Rodriguez

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A bill to be entitled

An act relating to patient-directed medical orders; amending s. 765.101, F.S.; revising definitions and defining the term "patient-directed medical order"; amending s. 765.102, F.S.; revising legislative findings and intent; creating s. 765.3041, F.S.; authorizing the execution of a patient-directed medical order for a specified purpose; providing requirements for valid patient-directed medical orders; authorizing the use of telehealth for a specified purpose; requiring that certain health care services be provided to the principal regardless of the decision to withhold or withdraw life-prolonging procedures; authorizing physicians, physician assistants, and advanced practice registered nurses to withhold or withdraw life-prolonging procedures under certain circumstances without penalty; providing construction; amending ss. 395.1041, 400.142, 400.487, 400.605, 400.6095, 400.611, 401.35, 401.45, 429.255, 429.73, 744.4431, 752.001, 765.110, 765.204, 765.205, and 765.305, F.S.; conforming cross-references and provisions to changes made by the act; requiring the Agency for Health Care Administration to create and update a database for the storage of patient-directed medical orders; providing an effective date.

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

Section 1. Present subsections (15) through (22) of section

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765.101, Florida Statutes, are redesignated as subsections (16) through (23), respectively, a new subsection (15) is added to that section, and subsections (1) and (7) of that section are amended, to read:

765.101 Definitions.—As used in this chapter:

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

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

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

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

765.102 Legislative findings and intent.—

(6) For purposes of this chapter:

(a) Palliative care is the comprehensive management of the physical, psychological, social, spiritual, and existential

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needs of patients. Palliative care is especially suited to the care of persons who have incurable or~~7~~ progressive illnesses.

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

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

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

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

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

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

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

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

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

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

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

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

Section 3. Section 765.3041, Florida Statutes, is created

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to read:

765.3041 Patient-directed medical orders.—

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

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

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

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

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

a. If the principal is physically unable to sign the form, the physician, physician assistant, or advanced practice registered nurse present at the discussion as required by subparagraph (b)1. may subscribe the principal's signature in the principal's presence and at the principal's direction. If telehealth is used, the physician, physician assistant, or advanced practice registered nurse may be present at either location where telehealth is being administered.

b. If the principal is incapacitated, the form may be signed by the principal's health care surrogate or proxy, court-appointed guardian as provided in chapter 744, or attorney in fact under a durable power of attorney as provided in chapter 709. The court-appointed guardian or attorney in fact must be

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117 delegated authority to make health care decisions on behalf of
118 the principal.

119 c. All signatures may be electronic signatures.

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

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

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

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

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

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464.0123 is not subject to any disciplinary action under s.
456.072 or criminal prosecution or civil liability, or
considered to have engaged in negligent or unprofessional
conduct, for withholding or withdrawing cardiopulmonary
resuscitation or other life-prolonging procedures pursuant to
such orders. The absence of an order not to resuscitate executed
pursuant to s. 401.45 or a patient-directed medical order
executed pursuant to this section does not preclude a physician,
a physician assistant, or an advanced practice registered nurse
registered under s. 464.0123 from withholding or withdrawing
cardiopulmonary resuscitation or other life-prolonging
procedures as otherwise authorized by law.

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

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

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

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

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

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

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

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

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

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400.487 Home health service agreements; physician's, physician assistant's, and advanced practice registered nurse's treatment orders; patient assessment; establishment and review of plan of care; provision of services; orders not to resuscitate and patient-directed medical orders.—

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

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

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

(1) The agency shall by rule establish minimum standards

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and procedures for a hospice pursuant to this part. The rules must include:

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

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

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

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

Section 9. Paragraph (b) of subsection (4) of section

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400.611, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

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291 401.45 Denial of emergency treatment; civil liability.—

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

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

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unprofessional conduct, as a result of the withholding or withdrawal of cardiopulmonary resuscitation or other life-prolonging procedures from a patient pursuant to this subsection and rules adopted by the department.

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

429.255 Use of personnel; emergency care.—

(4) Facility staff may withhold or withdraw cardiopulmonary resuscitation, ~~or~~ the use of an automated external defibrillator, or other life-prolonging procedures if presented with an order not to resuscitate executed pursuant to s. 401.45 or a patient-directed medical order executed pursuant to s. 765.3041 which contains an order not to resuscitate or an order to withhold or withdraw life-prolonging procedures. The agency shall adopt rules providing for the implementation of such orders. Facility staff and facilities are ~~may not be~~ subject to criminal prosecution or civil liability, or ~~nor be~~ considered to have engaged in negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation, the ~~or~~ use of an automated external defibrillator, or other life-prolonging procedures pursuant to such orders ~~an order~~ and rules adopted by the agency. The absence of an order not to resuscitate executed pursuant to s. 401.45 or a patient-directed medical order executed pursuant to s. 765.3041 does not preclude a physician from withholding or withdrawing cardiopulmonary resuscitation, the ~~or~~ use of an automated external defibrillator, or other life-prolonging procedures as otherwise authorized ~~permitted~~ by law.

Section 13. Subsection (3) of section 429.73, Florida

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Statutes, is amended to read:

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

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

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

744.4431 Guardianship power regarding life-prolonging procedures.—

(1) Except as provided in this section, decisions by a professional guardian, as defined in s. 744.102, to withhold or withdraw life-prolonging procedures from, or to execute an order

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

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

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

(b) A decision by a professional guardian who has been delegated health care decisionmaking authority to execute an order not to resuscitate pursuant to s. 401.45 or a patient-directed medical order pursuant to s. 765.3041, ~~as described in~~

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407 ~~s. 401.45(3)(a)~~, if the ward is in a hospital and the following
408 conditions are met:

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

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

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

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

420 2. The professional guardian has notified the ward's next
421 of kin, if known, and any interested persons as the court may
422 direct and the decision is not contrary to the ward's expressed
423 wishes and there are no known objections from the ward; the
424 ward's attorney; the ward's next of kin, if known; or any other
425 interested persons as the court may direct on the basis of s.
426 765.105(1).

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

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

435 (b) The location of the ward when the order not to

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resuscitate or patient-directed medical order was executed.

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

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

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

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

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

765.110 Health care facilities and providers; discipline.—

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

(4) The Department of Health, in consultation with the Department of Elderly Affairs, for health care providers; the Agency for Health Care Administration for hospitals, hospices,

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nursing homes, home health agencies, assisted living facilities,
adult family-care homes, and health maintenance organizations;
and the Department of Children and Families for facilities
subject to part I of chapter 394 shall adopt rules to implement
this section.

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

765.204 Capacity of principal; procedure.—

(3) The surrogate's authority commences either upon a
determination under subsection (2) that the principal lacks
capacity or upon a stipulation of such authority pursuant to s.
765.101 ~~s. 765.101(21)~~. Such authority remains in effect until a
determination that the principal has regained such capacity, if
the authority commenced as a result of incapacity, or until the
authority is revoked, if the authority commenced immediately
pursuant to s. 765.101 ~~s. 765.101(21)~~. Upon commencement of the
surrogate's authority, a surrogate who is not the principal's
spouse shall notify the principal's spouse or adult children of
the principal's designation of the surrogate. Except if the
principal provided immediately exercisable authority to the
surrogate pursuant to s. 765.101 ~~s. 765.101(21)~~, in the event
that the primary or attending physician determines that the
principal has regained capacity, the authority of the surrogate
shall cease, but recommences if the principal subsequently loses
capacity as determined pursuant to this section. A health care
provider is not liable for relying upon health care decisions
made by a surrogate while the principal lacks capacity. At any
time when a principal lacks capacity, a health care decision
made on the principal's behalf by a surrogate is effective to

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the same extent as a decision made by the principal. If a principal possesses capacity, health care decisions of the principal take precedence over decisions made by the surrogate that present a material conflict.

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

765.205 Responsibility of the surrogate.—

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

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

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

765.305 Procedure in absence of a living will.—

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

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

(b) The patient has an end-stage condition, the patient is

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in a persistent vegetative state, or the patient's physical condition is terminal.

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

Section 21. This act shall take effect July 1, 2026.