

COMMITTEE OF ORIGIN: Standing Committee on Judiciary

The bill allows a health care provider to disclose a deceased patient's health care records or payment records to the executor or administrator of the deceased person's estate or, pursuant to a valid, unrevoked power of attorney for health care, to the agent after death. If an executor, administrator, or agent has not been appointed, the deceased, prior to death, did not specifically object to disclosure of the records in writing, and such disclosure is not inconsistent with any prior expressed preference of the deceased that is known to the health care provider, the records may be released upon written request of a person deemed as the personal representative of the deceased person. Priority shall be given according to the bill. Additionally, the bill repeals a provision allowing a list of persons who are born or who die on a particular date to be disclosed upon request.

This bill establishes the "Designated Health Care Decision-Maker Act." In its main provisions, the bill:

- (1) Limits the determination of incapacity of a patient to a specific process and permits a health care provider or facility to rely upon the health care decisions made by a designated health care decision-maker if certain procedures are followed;
- (2) Requires a physician or other provider to make reasonable efforts to inform potential designated health care decision-makers of a determination that a patient is incapacitated as specified in the bill;
- (3) Delineates a list of priority of persons who may make health care decisions for an incapacitated patient as specified in the bill and excludes certain persons from the list if specified circumstances exist;
- (4) Permits any person interested in the welfare of an incapacitated patient to petition the probate court for an order determining the care to be provided to the patient;
- (5) Prohibits a designated health care decision-maker from withdrawing or withholding nutrition or hydration that is ingested through natural means and permits a designated health care decision-maker to withdraw or withhold artificially supplied nutrition or hydration if specified requirements are met;
- (6) Requires the patient's physician to re-examine the patient if the designated health care decision-maker, physician, or anyone in

the priority list believes the patient is no longer incapacitated;

(7) Prohibits any facility or provider who makes good faith and reasonable efforts to identify, locate, and communicate with potential designated health care decision-makers from being subject to civil or criminal liability or regulatory sanctions for such actions;

(8) Permits a provider or facility to decline to comply with a health care decision of a patient or designated health care decision-maker if the provider or facility has a moral or religious objection to the decision so long as the facility or provider takes certain actions as specified in the bill;

(9) Prohibits health care from being denied based on the view that extending the life of certain individuals is of a lower value than extending the life of other specified individuals or on the basis that the provider or facility disagrees with how the patient or decision maker values extension of life versus the risk of disability; and

(10) Prohibits a provider or facility from withholding or withdrawing medical treatment from a pregnant patient.