

HB 747 -- HEALTH CARE DECISION-MAKING PROCEDURES

SPONSOR: Van Schoiack

This bill establishes the Designated Health Care Decision-Maker Act. A health care provider or health care facility may rely on good faith and reasonable medical judgment for health care decisions made by designated health care decision-makers if two physicians determine that an incapacitated patient does not have a guardian with medical decision-making authority, a durable power of attorney for health care, is not a child under juvenile court jurisdiction, nor has any other known person who has the legal authority to make health care decisions. The physician or health care provider must make reasonable efforts, as described in the bill, to inform potential designated health care decision-makers of a patient's incapacitation.

Designated health care decision-makers may be selected from the following persons listed by priority:

- (1) The spouse of the patient;
- (2) An adult child of the patient;
- (3) A parent of the patient;
- (4) An adult sibling of the patient;
- (5) A grandparent or adult grandchild;
- (6) The niece or nephew or the next nearest relative;
- (7) A religious person who is a member of the patient's community;
- (8) Any non-relative with a close personal relationship who is familiar with the patient's values; or
- (9) A person unanimously agreed upon by those in the priority list.

Priority will not be given to those listed if abuse or neglect is reported, the person with priority cannot be reached by the physician, or if the probate court finds that the person with priority is making decisions contrary to the patient's instructions. Furthermore, this bill does not prevent any person interested in the patient's welfare, a health care provider, or a health care facility from petitioning the probate court for the appointment of a guardian.

A designated health care decision-maker must make reasonable efforts to obtain information regarding the patient's health preferences and make decisions in the patient's best interests. Additionally, a designated health care decision-maker may only authorize the withdrawal or withholding of nutrition or hydration supplied through either natural or artificial means in certain situations as specified in the bill.

Once a health care decision-maker or physician believes that the patient is no longer incapacitated then the patient will be reexamined. If the patient's physician determines that the patient is no longer incapacitated, then the physician will certify the decision and the basis therefor in the patient's medical record and

notify the patient, the designated health care decision-maker, and the person who initiated the redetermination of capacity. The rights of the designated health care decision-maker cease upon the physician's certification that the patient is no longer incapacitated.

This bill further provides that no health care provider or health care facility that makes reasonable efforts to locate and communicate with potential designated health care decision-makers will be liable for the effort to identify and communicate with a potential designated health care decision-maker.

Additionally, a health care provider or health care facility may decline to comply with the decision of a health care decision-maker if the decision is contrary to the religious beliefs or moral convictions of the provider or facility. If a health care provider declines to comply with a health care decision of the designated health care decision-maker, no health care provider or health care facility can impede the transfer of the patient to another provider or facility willing to comply with the health care decision.

Nothing in this bill shall be construed as condoning, authorizing, or approving euthanasia or mercy killing, or as permitting any affirmative or deliberate act to end a person's life.

This bill is similar to SB 1055 (2024).