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# Health Quality Subcommittee

Tuesday, March 24, 2015  
1:00 PM - 3:00 PM  
306 HOB

## Action Packet

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

3/24/2015 1:00:00PM

**Location:** 306 HOB

### **Summary:**

#### **Health Quality Subcommittee**

*Tuesday March 24, 2015 01:00 pm*

CS/HB 889 Favorable With Committee Substitute

Yeas: 11

Nays: 0

Amendment 904775 Adopted Without Objection

Amendment 560809 Adopted Without Objection

Amendment 657533 Adopted Without Objection

Committee meeting was reported out: Tuesday, March 24, 2015 1:36:20PM

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

3/24/2015 1:00:00PM

Location: 306 HOB

### Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Cary Pigman (Chair)	X		
Bobby DuBose	X		
Matt Gaetz	X		
Julio Gonzalez	X		
Travis Hutson	X		
Kristin Jacobs			X
Mike Miller	X		
Edwin Narain	X		
Rene Plasencia	X		
Patrick Rooney, Jr.	X		
Chris Sprowls	X		
Cynthia Stafford	X		
W. Gregory Steube	X		
<b>Totals:</b>	<b>12</b>	<b>0</b>	<b>1</b>

Committee meeting was reported out: Tuesday, March 24, 2015 1:36:20PM

# COMMITTEE MEETING REPORT

## Health Quality Subcommittee

3/24/2015 1:00:00PM

Location: 306 HOB

CS/HB 889 : Health Care Representatives

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Bobby DuBose	X				
Matt Gaetz	X				
Julio Gonzalez	X				
Travis Hutson	X				
Kristin Jacobs			X		
Mike Miller	X				
Edwin Narain	X				
Rene Plasencia	X				
Patrick Rooney, Jr.	X				
Chris Sprows	X				
Cynthia Stafford	X				
W. Gregory Steube			X		
Cary Pigman (Chair)	X				
<b>Total Yeas: 11</b>		<b>Total Nays: 0</b>			

### CS/HB 889 Amendments

#### Amendment 904775

Adopted Without Objection

#### Amendment 560809

Adopted Without Objection

#### Amendment 657533

Adopted Without Objection

### Appearances:

Edenfield, Martha (Lobbyist) - Waive In Support  
The Real Property, Probate & Trust Law Section of the Florida Bar  
215 S. Monroe St., #815  
Tallahassee FL 32301  
Phone: (850) 999-4100

Committee meeting was reported out: Tuesday, March 24, 2015 1:36:20PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input type="checkbox"/>	(Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/>	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	<input type="checkbox"/>	(Y/N)
WITHDRAWN	<input type="checkbox"/>	(Y/N)
OTHER	<input type="checkbox"/>	

1 Committee/Subcommittee hearing bill: Health Quality  
 2 Subcommittee

3 Representative Wood offered the following:

4

5 **Amendment**

6 Remove lines 67-85 and insert:

7 attorney executed after July 1, 2001, or informed consent as  
 8 provided by law is required, except as provided in s. 39.407(3).

9 (2) Any of the following persons, in order of priority  
 10 listed, may consent to the medical care or treatment of a minor  
 11 who is not committed to the Department of Children and Families  
 12 or the Department of Juvenile Justice or in their custody under  
 13 chapter 39, chapter 984, or chapter 985 when, after a reasonable  
 14 attempt, a person who has the power to consent as otherwise  
 15 provided by law cannot be contacted by the treatment provider  
 16 and actual notice to the contrary has not been given to the  
 17 provider by that person:



Amendment No. |

18           (a) A health care surrogate designated under s. 765.2035  
19 after September 30, 2015, or a person who possesses a power of  
20 attorney to provide medical consent for the minor. A health care  
21 surrogate designation under s. 765.2035 executed after September  
22 30, 2015, and a power of attorney executed after July 1, 2001,  
23 to provide medical consent for a minor includes the power



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Health Quality  
 2 Subcommittee  
 3 Representative Gonzalez offered the following:

**Amendment**

Remove lines 444-651 and insert:

STATUTES.

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

12 1) SIGNING A WRITTEN AND DATED INSTRUMENT WHICH EXPRESSES  
 13 MY INTENT TO AMEND OR REVOKE THIS DESIGNATION;

14 2) PHYSICALLY DESTROYING THIS DESIGNATION THROUGH MY OWN  
 15 ACTION OR BY THAT OF ANOTHER PERSON IN MY PRESENCE AND UNDER MY  
 16 DIRECTION;



Amendment No. 2

17 3) VERBALLY EXPRESSING MY INTENTION TO AMEND OR REVOKE THIS  
18 DESIGNATION; OR

19 4) SIGNING A NEW DESIGNATION THAT IS MATERIALLY DIFFERENT  
20 FROM THIS DESIGNATION.

21  
22 MY HEALTH CARE SURROGATE'S AUTHORITY BECOMES EFFECTIVE WHEN MY  
23 PRIMARY PHYSICIAN DETERMINES THAT I AM UNABLE TO MAKE MY OWN  
24 HEALTH CARE DECISIONS UNLESS I INITIAL EITHER OR BOTH OF THE  
25 FOLLOWING BOXES:

26  
27 IF I INITIAL THIS BOX [....], MY HEALTH CARE SURROGATE'S  
28 AUTHORITY TO RECEIVE MY HEALTH INFORMATION TAKES EFFECT  
29 IMMEDIATELY.

30  
31 IF I INITIAL THIS BOX [....], MY HEALTH CARE SURROGATE'S  
32 AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR ME TAKES EFFECT  
33 IMMEDIATELY.

34  
35 SIGNATURES: Sign and date the form here:

36 ...(date)... ...(sign your name)...  
37 ...(address)... ...(print your name)...  
38 ...(city)... ...(state)...

39  
40 SIGNATURES OF WITNESSES:

41 First witness Second witness  
42 ...(print name)... ...(print name)...





COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 889 (2015)

Amendment No. 2

43 ... (address) ... ... (address) ...  
 44 ... (city) ... (state) ... ... (city) ... (state) ...  
 45 ... (signature of witness) ... ... (signature of witness) ...  
 46 ... (date) ... ... (date) ...  
 47 Name: .... (Last) .... (First) .... (Middle Initial) ....

48 ~~In the event that I have been determined to be~~  
 49 ~~incapacitated to provide informed consent for medical treatment~~  
 50 ~~and surgical and diagnostic procedures, I wish to designate as~~  
 51 ~~my surrogate for health care decisions:~~

52 Name: .....

53 Address: .....

54

..... Zip Code: .....

55

56 Phone: .....

57 ~~If my surrogate is unwilling or unable to perform his or~~  
 58 ~~her duties, I wish to designate as my alternate surrogate:~~

59 Name: .....

60 Address: .....

61

..... Zip Code: .....

62

63 Phone: .....

64 ~~I fully understand that this designation will permit my~~  
 65 ~~designee to make health care decisions and to provide, withhold,~~  
 66 ~~or withdraw consent on my behalf; to apply for public benefits~~



Amendment No. 2

67 ~~to defray the cost of health care; and to authorize my admission~~  
68 ~~to or transfer from a health care facility.~~

69 Additional instructions (optional): .....

70 .....

71 .....

72 .....

73 ~~I further affirm that this designation is not being made as~~  
74 ~~a condition of treatment or admission to a health care facility.~~  
75 ~~I will notify and send a copy of this document to the following~~  
76 ~~persons other than my surrogate, so they may know who my~~  
77 ~~surrogate is.~~

78 Name: .....

79 Name: .....

80 .....

81 .....

82 Signed: .....

83 Date: .....

84

Witnesses: 1. —

85

2. —

86

87 Section 10. Section 765.2035, Florida Statutes, is created  
88 to read:

89 765.2035 Designation of a health care surrogate for a  
90 minor.—



Amendment No. 2

91       (1) A natural guardian as defined in s. 744.301(1), legal  
92 custodian, or legal guardian of the person of a minor may  
93 designate a competent adult to serve as a surrogate to make  
94 health care decisions for the minor. Such designation shall be  
95 made by a written document signed by the minor's principal in  
96 the presence of two subscribing adult witnesses. If a minor's  
97 principal is unable to sign the instrument, the principal may,  
98 in the presence of witnesses, direct that another person sign  
99 the minor's principal's name as required by this subsection. An  
100 exact copy of the instrument shall be provided to the surrogate.

101       (2) The person designated as surrogate may not act as  
102 witness to the execution of the document designating the health  
103 care surrogate.

104       (3) A document designating a health care surrogate may  
105 also designate an alternate surrogate; however, such designation  
106 must be explicit. The alternate surrogate may assume his or her  
107 duties as surrogate if the original surrogate is not willing,  
108 able, or reasonably available to perform his or her duties. The  
109 minor's principal's failure to designate an alternate surrogate  
110 does not invalidate the designation.

111       (4) If neither the designated surrogate or the designated  
112 alternate surrogate is willing, able, or reasonably available to  
113 make health care decisions for the minor on behalf of the  
114 minor's principal and in accordance with the minor's principal's  
115 instructions, s. 743.0645(2) shall apply as if no surrogate had  
116 been designated.



Amendment No. 2

117 (5) A natural guardian as defined in s. 744.301(1), legal  
118 custodian, or legal guardian of the person of a minor may  
119 designate a separate surrogate to consent to mental health  
120 treatment for the minor. However, unless the document  
121 designating the health care surrogate expressly states  
122 otherwise, the court shall assume that the health care surrogate  
123 authorized to make health care decisions for a minor under this  
124 chapter is also the minor's principal's choice to make decisions  
125 regarding mental health treatment for the minor.

126 (6) Unless the document states a time of termination, the  
127 designation shall remain in effect until revoked by the minor's  
128 principal. An otherwise valid designation of a surrogate for a  
129 minor shall not be invalid solely because it was made before the  
130 birth of the minor.

131 (7) A written designation of a health care surrogate  
132 executed pursuant to this section establishes a rebuttable  
133 presumption of clear and convincing evidence of the minor's  
134 principal's designation of the surrogate and becomes effective  
135 pursuant to s. 743.0645(2)(a).

136 Section 11. Section 765.2038, Florida Statutes, is created  
137 to read:

138 765.2038 Designation of health care surrogate for a minor;  
139 suggested form.—A written designation of a health care surrogate  
140 for a minor executed pursuant to this chapter may, but need to  
141 be, in the following form:

142 DESIGNATION OF HEALTH CARE SURROGATE



Amendment No. 2

FOR MINOR

I/We, ... (name/names)..., the [....] natural guardian(s)  
as defined in s. 744.301(1), Florida Statutes; [....] legal  
custodian(s); [....] legal guardian(s) [check one] of the  
following minor(s):

.....;  
.....;  
.....;

pursuant to s. 765.2035, Florida Statutes, designate the  
following person to act as my/our surrogate for health care  
decisions for such minor(s) in the event that I/we am/are not  
able or reasonably available to provide consent for medical  
treatment and surgical and diagnostic procedures:

Name: ... (name)...  
Address: ... (address)...  
Zip Code: ... (zip code)...  
Phone: ... (telephone)...

If my/our designated health care surrogate for a minor is  
not willing, able, or reasonably available to perform his or her  
duties, I/we designate the following person as my/our alternate  
health care surrogate for a minor:



Amendment No. 2

- 169 Name: ... (name)...
- 170 Address: ... (address)...
- 171 Zip Code: ... (zip code)...
- 172 Phone: ... (telephone)...

173

174 I/We authorize and request all physicians, hospitals, or  
175 other providers of medical services to follow the instructions  
176 of my/our surrogate or alternate surrogate, as the case may be,  
177 at any time and under any circumstances whatsoever, with regard  
178 to medical treatment and surgical and diagnostic procedures for  
179 a minor, provided the medical care and treatment of any minor is  
180 on the advice of a licensed physician.

181

182 I/We fully understand that this designation will permit  
183 my/our designee to make health care decisions for a minor and to  
184 provide, withhold, or withdraw consent on my/our behalf, to  
185 apply for public benefits to defray the cost of health care, and  
186 to authorize the admission or transfer of a minor to or from a  
187 health care facility.

188

189 I/We will notify and send a copy of this document to the  
190 following person(s) other than my/our surrogate, so that they  
191 may know the identity of my/our surrogate:

192

193 Name: ... (name)...

194 Name: ... (name)...



Amendment No. 2

195  
196 Signed: ... (signature)...

197 Date: ... (date)...

198  
199 WITNESSES:

200 1. ... (witness)...

201 2. ... (witness)...

202 Section 12. Section 765.204, Florida Statutes, is amended  
203 to read:

204 765.204 Capacity of principal; procedure.—

205 (1) A principal is presumed to be capable of making health  
206 care decisions for herself or himself unless she or he is  
207 determined to be incapacitated. Incapacity may not be inferred  
208 from the person's voluntary or involuntary hospitalization for  
209 mental illness or from her or his intellectual disability.

210 (2) If a principal's capacity to make health care  
211 decisions for herself or himself or provide informed consent is  
212 in question, the primary or attending physician shall evaluate  
213 the principal's capacity and, if the evaluating physician  
214 concludes that the principal lacks capacity, enter that  
215 evaluation in the principal's medical record. If the evaluating  
216 ~~attending~~ physician has a question as to whether the principal  
217 lacks capacity, another physician shall also evaluate the  
218 principal's capacity, and if the second physician agrees that  
219 the principal lacks the capacity to make health care decisions  
220 or provide informed consent, the health care facility shall



Amendment No. 2

221 enter both physician's evaluations in the principal's medical  
222 record. If the principal has designated a health care surrogate  
223 or has delegated authority to make health care decisions to an  
224 attorney in fact under a durable power of attorney, the health  
225 care facility shall notify such surrogate or attorney in fact in  
226 writing that her or his authority under the instrument has  
227 commenced, as provided in chapter 709 or s. 765.203. If an  
228 attending physician determines the principal lacks capacity, the  
229 hospital in which the attending physician made such a  
230 determination shall notify the principal's primary physician of  
231 the determination.





Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input type="checkbox"/>	(Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/>	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	<input type="checkbox"/>	(Y/N)
WITHDRAWN	<input type="checkbox"/>	(Y/N)
OTHER	<input type="checkbox"/>	

1 Committee/Subcommittee hearing bill: Health Quality  
 2 Subcommittee

3 Representative Gonzalez offered the following:  
 4

**Amendment**

Remove lines 103-104 and insert:

7 (2) "Attending physician" means the ~~primary~~ physician who  
 8 has primary responsibility for the treatment and care of the  
 9 patient while the patient receives such treatment or care in a  
 10 hospital as defined in s. 395.002(12).