

DESIGNATION OF HEALTH CARE SURROGATE

OF

I, _____, designate as my health care surrogate under s. 765.202, Florida Statutes:

Name: _____

Address: _____

_____, _____

Phone: _____

If prior agent is not willing, able, or reasonably available to perform his or her duties, I designate as my alternate health care surrogate:

Alternate Surrogate

Name: _____

Address: _____

_____, _____

Phone: _____

INSTRUCTIONS FOR HEALTH CARE

I authorize my health care surrogate to:

_____ Receive any of my health information, whether oral or recorded in any form or
(initial here) medium, that:

- 1. Is created or received by a health care provider, health care facility, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
- 2. Relates to my past, present, or future physical or mental health or condition; the provision of health care to me; or the past, present, or future payment for the provision of health care to me.

I further authorize my health care surrogate to:

_____ Make all health care decisions for me, which means he or she has the authority
(initial here) to:

- 1. Provide informed consent, refusal of consent, or withdrawal of consent to any and all of my health care, including life-prolonging procedures.
- 2. Apply on my behalf for private, public, government, or veterans' benefits to defray the cost of health care.

3. Access my health information reasonably necessary for the health care surrogate to make decisions involving my health care and to apply for benefits for me.

4. Decide to make an anatomical gift pursuant to part V of chapter 765, Florida Statutes.

SPECIFIC INSTRUCTIONS AND RESTRICTIONS

_____ I hereby require my surrogate to direct my physicians to comply with any valid
(initial here) Living Will, Directive to Physicians, or similar document which I may have heretofore executed or which I may hereafter execute. My surrogate is not authorized to direct my physician in a manner which would contradict any such valid Living Will, Directive to Physicians, or similar document.

_____ My surrogate may provide consent for *[abortion,]*sterilization, electroshock
(initial here) therapy, psychosurgery, experimental treatments that have not been approved by a federally approved institutional review board in accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56, or voluntary admission to a mental health facility.

_____ My surrogate may provide consent for the withholding or withdrawing of life-
(initial here) prolonging procedures as long as my unborn child or children are not considered viable as defined in Section 390.011(12) of the Florida Statutes.

_____ A surrogate serving hereunder shall be treated as having resigned as my
(initial here) surrogate if such surrogate refuses to arrange for or submit to a mental status examination requested by any [HIPAA language], the purpose of which is to determine whether such surrogate should be permitted to continue to serve as my surrogate hereunder, provided that such examinations shall not occur more frequently than once every two years, and provided further that the cost of such examinations shall be paid by me.

_____ I hereby require my surrogate to comply with the following restrictions:
(initial here)

While I have decision-making capacity, my wishes are controlling and my physicians and health care providers must clearly communicate to me the treatment plan or any change to the treatment plan prior to its implementation.

To the extent I am capable of understanding, my health care surrogate shall keep me reasonably informed of all decisions that he or she has made on my behalf and matters concerning me.

THIS HEALTH CARE SURROGATE DESIGNATION IS NOT AFFECTED BY MY SUBSEQUENT INCAPACITY EXCEPT AS PROVIDED IN CHAPTER 765, FLORIDA STATUTES.

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

- (1) SIGNING A WRITTEN AND DATED INSTRUMENT WHICH EXPRESSES MY INTENT TO AMEND OR REVOKE THIS DESIGNATION;
- (2) PHYSICALLY DESTROYING THIS DESIGNATION THROUGH MY OWN ACTION OR BY THAT OF ANOTHER PERSON IN MY PRESENCE AND UNDER MY DIRECTION;
- (3) VERBALLY EXPRESSING MY INTENTION TO AMEND OR REVOKE THIS DESIGNATION; OR
- (4) SIGNING A NEW DESIGNATION THAT IS MATERIALLY DIFFERENT FROM THIS DESIGNATION.

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

IF I INITIAL THIS BOX, MY HEALTH CARE SURROGATE'S AUTHORITY TO RECEIVE MY HEALTH INFORMATION TAKES EFFECT IMMEDIATELY.

IF I INITIAL THIS BOX, MY HEALTH CARE SURROGATE'S AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR ME TAKES EFFECT IMMEDIATELY. PURSUANT TO SECTION 765.204(3), FLORIDA STATUTES, ANY INSTRUCTIONS OR HEALTH CARE DECISIONS I MAKE, EITHER VERBALLY OR IN WRITING, WHILE I POSSESS CAPACITY SHALL SUPERSEDE ANY INSTRUCTIONS OR HEALTH CARE DECISIONS MADE BY MY SURROGATE THAT ARE IN MATERIAL CONFLICT WITH THOSE MADE BY ME.

DEFINITIONS

The following definitions as set forth in Section 765.101 of the Florida Statutes shall apply:

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 chapter 765 of the Florida Statutes.
2. "Attending physician" means the primary physician who has responsibility for the

treatment and care of the patient while the patient receives such treatment or care in a hospital as defined in Section 395.002(12) of the Florida Statutes.

3. "Close personal friend" means any person 18 years of age or older who has exhibited special care and concern for the patient, and who presents an affidavit to the health care facility or to the primary physician stating that he or she is a friend of the patient; is willing and able to become involved in the patient's health care; and has maintained such regular contact with the patient so as to be familiar with the patient's activities, health, and religious or moral beliefs.

4. "End-stage condition" means an irreversible condition that is caused by injury, disease, or illness which has resulted in progressively severe and permanent deterioration, and which, to a reasonable degree of medical probability, treatment of the condition would be ineffective.

5. "Health Care" means care, services, or supplies related to the health of an individual and includes, but is not limited to, preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the individual's physical or mental condition or functional status or that affect the structure or function of the individual's body.

6. "Health care decision" means: (a) Informed consent, refusal of consent, or withdrawal of consent to any and all health care, including life-prolonging procedures and mental health treatment, unless otherwise stated in the advance directives. (b) The decision to apply for private, public, government, or veterans' benefits to defray the cost of health care. (c) The right of access to health information of the principal reasonably necessary for a health care surrogate or proxy to make decisions involving health care and to apply for benefits. (d) The decision to make an anatomical gift pursuant to part V of chapter 765 of the Florida Statutes.

7. "Health care facility" means a hospital, nursing home, hospice, home health agency, or health maintenance organization licensed in this state, or any facility subject to part I of chapter 394 of the Florida Statutes.

8. "Health care provider" or "provider" means any person licensed, certified, or otherwise authorized by law to administer health care in the ordinary course of business or practice of a profession.

9. "Health information" means any information, whether oral or recorded in any form or medium, as defined in 45 C.F.R. s. 160.103 and the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. s. 1320d, as amended, that: (a) Is created or received by a health care provider, health care facility, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and (b) Relates to the past, present, or future physical or mental health or condition of the principal; the provision of health care to the principal; or the past, present, or future payment for the provision of health care to the principal.

10. "Incapacity" or "incompetent" means the patient is physically or mentally unable to communicate a willful and knowing health care decision. For the purposes of making an anatomical gift, the term also includes a patient who is deceased.

11. "Informed consent" means consent voluntarily given by a person after a sufficient explanation and disclosure of the subject matter involved to enable that person to have a general understanding of the treatment or procedure and the medically acceptable alternatives, including the substantial risks and hazards inherent in the proposed treatment or procedures, and to make a knowing health care decision without coercion or undue influence.

12. "Life-prolonging procedure" means any medical procedure, treatment, or intervention, including artificially provided sustenance and hydration, which sustains, restores, or supplants a spontaneous vital function. The term does not include the administration of medication or performance of medical procedure, when such medication or procedure is deemed necessary to provide comfort care or to alleviate pain.

13. "Living will" or "declaration" means: (a) A witnessed document in writing, voluntarily executed by the principal in accordance with Florida Statute 765.302; or (b) A witnessed oral statement made by the principal expressing the principal's instructions concerning life-prolonging procedures.

14. "Persistent vegetative state" means a permanent and irreversible condition of unconsciousness in which there is: (a) The absence of voluntary action or cognitive behavior of any kind. (b) An inability to communicate or interact purposefully with the environment.

15. "Physician" means a person licensed pursuant to chapter 458 or chapter 459 of the Florida Statutes.

16. "Primary physician" means a physician designated by an individual or the individual's surrogate, proxy, or agent under a durable power of attorney as provided in chapter 709, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes the responsibility.

17. "Principal" means a competent adult executing an advance directive and on whose behalf health care decisions are to be made or health care information is to be received, or both.

18. "Proxy" means a competent adult who has not been expressly designated to make health care decisions for a particular incapacitated individual, but who, nevertheless, is authorized pursuant to Florida Statute 765.401 to make health care decisions for such individual.

19. "Reasonably available" means readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs.

20. "Surrogate" means any competent adult expressly designated by a principal to make health care decisions and to receive health information. The principal may stipulate whether the authority of the surrogate to make health care decisions or to receive health information is exercisable immediately without the necessity for a determination of incapacity or only upon the principal's incapacity as provided in Florida Statute 765.204 on behalf of the principal upon the principal's incapacity.

