

**Hall of the House of Representatives**  
93rd General Assembly - Regular Session, 2021  
**Amendment Form**

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**Subtitle of House Bill No. 1685**

TO AMEND THE ARKANSAS HEALTHCARE DECISIONS ACT.

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**Amendment No. 1 to House Bill 1685**

Amend House Bill No. 1685 as originally introduced:

Page 1, delete line 20, and substitute the following:

"SECTION 1. Arkansas Code § 20-6-102(19), concerning the definition of "principal" under the Arkansas Healthcare Decisions Act, is amended to read as follows:

(19) "Principal" means an individual who grants authority to another individual under this subchapter or for whom a surrogate is designated under § 20-6-105;

SECTION 2. Arkansas Code § 20-6-102(24), concerning the definition of "surrogate" under the Arkansas Healthcare Decisions Act, is amended to read as follows:

(24)(A) "Surrogate" means an individual, other than a principal's agent or guardian, authorized under this subchapter to make a healthcare decision for the principal.

(B) "Surrogate" includes without limitation a supervising healthcare provider designated under § 20-6-105; and

SECTION 3. Arkansas Code §§ 20-6-105 – 20-6-107 are amended to read as"

AND

Page 1, delete lines 32 and 33, and substitute the following:

"decisions about the principal has not been appointed or the agent or guardian with the authority to make healthcare decisions about the"

AND

Page 2, delete lines 8 through 10, and substitute the following:

"(D) Does not have a guardian with healthcare decision-making authority or the guardian with healthcare decision-making authority is not reasonably available, as defined in § 20-6-102(21)."



AND

Page 3, delete lines 6 through 9, and substitute the following:

"(E) Any other adult relative of the principal; or

(F) Any other adult person who satisfies the requirements"

AND

Page 3, delete lines 16 through 27, and substitute the following:

"(A) Consults with and obtains the recommendations of ~~an~~ a healthcare institution's ethics officers or ethics committee; or

(B) Obtains concurrence from a ~~second~~ physician, advanced practice registered nurse, or physician assistant who is:

(i) Not the supervising healthcare provider;

~~(i)~~ (ii) Not directly involved in the principal's health care;

~~(ii)~~ (iii) Does not serve in a capacity of decision making, influence, or responsibility over the designated ~~physician~~ supervising healthcare provider; and

~~(iii)~~ (iv) Does not serve in a capacity under the authority of the designated ~~physician's~~ supervising healthcare provider's decision making, influence, or responsibility."

AND

Page 4, delete line 21, and substitute the following:

"(2)(A) ~~Otherwise~~ In the absence of individual instructions or other information, the surrogate shall make the decision in"

AND

Page 4, delete lines 27 through 31, and substitute the following:

"(b) A surrogate ~~who has not been designated by the principal~~ may make all healthcare decisions for the principal that the principal could make on the principal's own behalf, ~~except that artificial nutrition and hydration may be withheld or withdrawn for a principal upon a decision of the surrogate only if:~~"

AND

Page 5, delete lines 4 through 11

AND

Page 5, delete lines 15 through 25, and substitute the following:

"20-6-107. Requirement of guardian, agent, and surrogate to comply with principal's individual instruction.

(a) (1) Absent a court order to the contrary, a guardian shall comply with the principal's individual instructions and shall not revoke the principal's advance directive.

~~(b)(2)~~ Except as provided in § 28-65-102, a healthcare decision made by a guardian for the principal is effective without judicial approval.

(b) An agent or surrogate shall not make a healthcare decision that is contrary to the express terms of the principal's written advance directive unless:

(1) A supervising healthcare provider who is not acting as a surrogate and a physician, advanced practice registered nurse, or physician assistant who is not the supervising healthcare provider certify in the principal's current clinical records that the principal is highly unlikely to regain capacity to make healthcare decisions; and

(2) A determination that the particular healthcare decision is in the principal's best interest or is otherwise appropriate to avoid care that serves only to prolong the patient's natural death is agreed to by the supervising healthcare provider and:

(A) A healthcare institution's ethics officer or ethics committee; or

(B) A physician who is not the supervising healthcare provider or a treating healthcare provider."

AND

Delete SECTION 2 in its entirety

AND

Page 6, delete line 13, and substitute the following:

"(b) ~~As~~ A healthcare provider, an ethics officer, an ethics committee member, or any"

AND

Page 6, delete lines 22 and 23, and substitute the following:

"(b) ~~As~~ Unless an individual has been determined to permanently lack capacity under this subchapter or other applicable state law, an individual is presumed to have"

AND

Page 6, line 29, delete "(b)(1)" and substitute "(b)"

AND

Page 6, delete lines 31 through 33, and substitute the following:

"business days after service of process on all necessary parties is complete."

AND

Appropriately renumber the sections of the bill

The Amendment was read \_\_\_\_\_  
By: Representative M. Gray  
JMB/JMB - 04-01-2021 13:41:06  
JMB444

\_\_\_\_\_  
Chief Clerk