
Civil Rights & Judiciary Committee

HB 1197

Brief Description: Concerning health care decisions made by a designated person.

Sponsors: Representatives Riccelli, Tharinger, Cody, Pollet and Harris-Talley.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Allows a patient, while competent, to designate a health care proxy by informing certain health care providers, who would then be required to sign and enter the information into the patient's health record.
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Hearing Date: 1/19/21

Staff: Ingrid Lewis (786-7289).

Background:

In Washington a person has the right to make his or her own health care decisions. Under the principle of "informed consent," a patient must be provided all the information necessary to make a knowledgeable decision regarding his or her health care. If a patient is determined to be incapacitated or incompetent to make health care decisions on their own behalf, a surrogate party may speak for him or her, unless the patient indicates otherwise. The following persons, in order of priority, may consent to health care decisions on behalf of a patient who is incapacitated or incompetent:

- an appointed guardian;
- a person with durable power of attorney to make health care decisions;
- a spouse or state registered domestic partner;
- adult children;
- parents;
- adult siblings; and

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- an unrelated adult who: has exhibited care and concern for the patient; is familiar with the wishes and values of the patient; is reasonably available to make health care decisions; is not a member of the patient's medical or care team; does not receive compensation to provide care to the patient; attests that he or she does not have knowledge of a willing and available person in a higher priority class; and provides a declaration signed under penalty of perjury stating as such.

A health care provider seeking informed consent for a patient who is incapacitated or incompetent is required to make reasonable efforts to secure consent from a surrogate party in descending order. No person may make health care decisions for the incompetent patient if a person in a higher priority can be located. A health care provider's failure to obtain the appropriate consent may give rise to an action for negligence.

A person designated to give informed consent must first determine in good faith that the patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that it is in the patient's best interests.

Summary of Bill:

The list of persons who may provide informed consent for health care decisions for an adult who is incapacitated or incompetent is extended to include a person designated by the patient. The patient must make the designation while still retaining decision-making capacity and must communicate the designation by orally or personally informing a physician, nurse practitioner, or physician assistant. The provider must sign and enter the information into the patient's health care record.

The person designated by the patient is placed third in line in the health care decision maker statutory hierarchy.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.