

SENATE BILL NO. 832

April 17, 2024, Introduced by Senators JOHNSON and RUNESTAD and referred to the Committee on Health Policy.

A bill to authorize the making of medical treatment decisions for another individual under certain circumstances; to prohibit the authorization of certain types of medical treatment; and to provide for certain liability.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "Michigan medical
2 treatment decisions act".

3 Sec. 2. As used in this act:

4 (a) "Attending physician" means the physician who has

1 responsibility for the treatment and care of the patient.

2 (b) "Guardian" means an individual appointed under section
3 5306 of the estates and protected individuals code, 1998 PA 386,
4 MCL 700.5306, to the extent that the scope of the guardianship
5 includes the authority to act on the patient's behalf with regard
6 to a medical treatment decision. Guardian also includes an
7 individual who is appointed under the mental health code, 1974 PA
8 258, MCL 330.1001 to 330.2106, to the extent that the scope of the
9 guardianship includes the authority to act on the patient's behalf
10 with regard to a medical treatment decision.

11 (c) "Health care facility" means a health facility or agency
12 as that term is defined in section 20106 of the public health code,
13 1978 PA 368, MCL 333.20106.

14 (d) "Health care provider" means a health care facility or a
15 person who is licensed or otherwise authorized under article 15 of
16 the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, to
17 provide medical treatment.

18 (e) Except as otherwise provided in section 11, "medical
19 treatment" means a medicine, procedure, service, or device to
20 maintain, diagnose, or treat a patient's physical or mental
21 condition.

22 (f) "Medical treatment decision" means a decision on medical
23 treatment.

24 (g) "Patient" means an individual 18 years of age or older who
25 is under the care of a health care provider. Patient does not
26 include a patient with an advanced illness as that term is defined
27 in section 5653 of the public health code, 1978 PA 368, MCL
28 333.5653.

29 (h) "Patient advocate" means an individual presently

1 authorized to make medical treatment decisions on behalf of a
2 patient under sections 5506 to 5515 of the estates and protected
3 individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

4 (i) "Physician" means that term as defined in section 17001 or
5 17501 of the public health code, 1978 PA 368, MCL 333.17001 and
6 333.17501.

7 (j) "Psychologist" means that term as defined in section 18201
8 of the public health code, 1978 PA 368, MCL 333.18201.

9 (k) "Reasonably available individual" means an individual who
10 can be contacted without undue effort and is willing and able to
11 make a medical treatment decision in a timely manner.

12 (l) "Surrogate" means an individual who meets all of the
13 following requirements:

14 (i) The individual is 18 years old or older.

15 (ii) The individual is a relative or a friend of the patient.

16 (iii) The individual exhibits special concern for the patient,
17 is familiar with the patient's activities, health, and beliefs, and
18 demonstrates this concern and familiarity to the satisfaction of
19 the attending physician.

20 Sec. 5. (1) Subject to section 7, an individual described in
21 subsection (2) may make a medical treatment decision on behalf of a
22 patient in accordance with this act.

23 (2) Subject to subsection (3), an individual, in the following
24 order of priority, may make a medical treatment decision for a
25 patient under this act if the individual is a reasonably available
26 individual:

27 (a) The patient's spouse unless there is a pending action for
28 divorce, separate maintenance, or annulment.

29 (b) An adult child of the patient.

1 (c) A parent of the patient.

2 (d) An adult sibling of the patient.

3 (e) A grandparent of the patient.

4 (f) A surrogate.

5 (g) The patient's attending physician and 1 other physician
6 if, after making a reasonable effort to determine if each
7 individual described in subdivisions (a) to (f) is a reasonably
8 available individual, the attending physician determines that there
9 is no individual described in subdivisions (a) to (f) who is a
10 reasonably available individual.

11 (3) If 2 or more individuals described in subsection (2) are
12 of the same and highest order of priority, the authority to make a
13 medical treatment decision on behalf of the patient may be
14 exercised by a majority of the individuals in the same and highest
15 order of priority. If 2 or more individuals described in subsection
16 (2) who are of the same and highest order of priority are evenly
17 divided and in disagreement on a medical treatment decision for the
18 patient, the patient's attending physician with the concurrence of
19 at least 1 other physician may participate in the medical treatment
20 decision for the patient to reach a majority.

21 Sec. 7. The authority to make a medical treatment decision on
22 behalf of a patient under this act is exercisable by 1 or more
23 individuals described in section 5 only when all of the following
24 are met:

25 (a) The patient is unable to participate in medical treatment
26 decisions. The patient's attending physician and another physician
27 or psychologist shall determine upon an examination of the patient
28 whether the patient is unable to participate in medical treatment
29 decisions. A determination made under this subdivision must be in

1 writing and made part of the patient's medical record.

2 (b) The patient does not have a patient advocate or guardian
3 to make the medical treatment decision on behalf of the patient or,
4 if the patient has a patient advocate or guardian, the patient
5 advocate or guardian is not a reasonably available individual. The
6 health care provider shall make a reasonable effort to determine
7 whether the patient has a patient advocate or guardian who is a
8 reasonably available individual.

9 (c) The health care provider has made an attempt to
10 communicate to the patient the name of each individual who will be
11 making a medical treatment decision for the patient. If the patient
12 communicates in any manner an objection to 1 or more individuals
13 making a medical treatment decision on behalf of the patient, the
14 attending physician shall not implement that medical treatment
15 decision.

16 (d) The health care provider has made an attempt to
17 communicate the medical treatment decision to the patient. The
18 attending physician shall not implement the medical treatment
19 decision of the individual if any of the following occur:

20 (i) The patient communicates in any manner an objection to the
21 medical treatment decision.

22 (ii) The attending physician knows the medical treatment
23 decision is contrary to the desires of the patient.

24 Sec. 9. In making a medical treatment decision for a patient
25 under this act, each individual described in section 5 shall follow
26 the known desires and religious tenets of the patient. If the
27 desires and religious tenets of the patient are not known, each
28 individual described in section 5 shall act in the patient's best
29 interests.

1 Sec. 11. Under this act, an individual described in section 5
2 shall not authorize any of the following for a patient:

3 (a) The withholding or withdrawing of medical treatment from
4 the patient that would result in the patient's death.

5 (b) The sterilization of the patient.

6 (c) The termination of the patient's pregnancy.

7 (d) The admission of the patient to a nursing home as that
8 term is defined in section 20109 of the public health code, 1978 PA
9 368, MCL 333.20109.

10 (e) The admission of the patient to a facility as that term is
11 defined in section 100b of the mental health code, 1974 PA 258, MCL
12 330.1100b.

13 (f) The admission of the patient to an inpatient program
14 operated by the department of health and human services for the
15 treatment of individuals with serious mental illness or serious
16 emotional disturbance or to a psychiatric hospital or psychiatric
17 unit licensed under section 137 of the mental health code, 1974 PA
18 258, MCL 330.1137.

19 Sec. 13. A health care provider that implements medical
20 treatment as a result of a medical treatment decision of an
21 individual who is reasonably believed to be acting under the
22 authority granted in this act is liable in the same manner and to
23 the same extent as if the patient had made the medical treatment
24 decision on the patient's own behalf.

25 Sec. 15. (1) This act does not supersede a document in which
26 an individual has indicated in advance the type of medical
27 treatment the individual wishes to receive in a particular
28 circumstance, including, but not limited to, any of the following
29 documents:

1 (a) A physician orders for scope of treatment form executed
2 under part 56B of the public health code, 1978 PA 368, MCL 333.5671
3 to 333.5685.

4 (b) A do-not-resuscitate order as that term is defined in
5 section 2 of the Michigan do-not-resuscitate procedure act, 1996 PA
6 193, MCL 333.1052.

7 (c) A nonopioid directive form described in section 9145 of
8 the public health code, 1978 PA 368, MCL 333.9145.

9 (2) This act does not supersede a patient advocate designation
10 executed in accordance with sections 5506 to 5515 of the estates
11 and protected individuals code, 1998 PA 386, MCL 700.5506 to
12 700.5515.