

# HOUSE BILL No. 4016

January 11, 1989, Introduced by Reps. Hollister, Jondahl, Gubow, Stabenow, Emerson, Power, Kilpatrick, Leland, Murphy, Hunter, Brown, Johnson and Honigman and referred to the Committee on Judiciary.

A bill to amend section 495 of Act No. 642 of the Public Acts of 1978, entitled as amended "Revised probate code," being section 700.495 of the Michigan Compiled Laws; to add section 496; and to repeal certain parts of the act.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 495 of Act No. 642 of the Public Acts of  
2 1978, being section 700.495 of the Michigan Compiled Laws, is  
3 amended and section 496 is added to read as follows:

4 Sec. 495. (1) ~~When a principal designates another as the~~  
5 ~~principal's attorney in fact or agent by a power of attorney in~~  
6 ~~writing and the writing~~ A PERSON 18 YEARS OF AGE OR OLDER WHO IS  
7 OF SOUND MIND AT THE TIME A POWER OF ATTORNEY IS MADE MAY  
8 DESIGNATE IN WRITING A PERSON TO MAKE SOME OR ALL DECISIONS  
9 CONCERNING THE PRINCIPAL'S ESTATE AND FINANCIAL AFFAIRS.

1 (2) A POWER OF ATTORNEY GIVEN PURSUANT TO THIS SECTION SHALL  
2 BE IN WRITING, SIGNED, DATED, AND SHALL BE EXECUTED VOLUNTARILY.  
3 IF THE POWER OF ATTORNEY contains the words "This power of attor-  
4 ney shall not be affected by disability of the principal," or  
5 "This power of attorney shall become effective upon the disabil-  
6 ity of the principal," or similar words showing the intent of the  
7 principal that the authority conferred shall be exercisable not-  
8 withstanding his OR HER disability, THEN THE POWER OF ATTORNEY  
9 SHALL BE A DURABLE POWER OF ATTORNEY AND the authority of the  
10 attorney in fact or agent ~~is~~ SHALL BE exercisable by him OR HER  
11 as provided in the power ~~on behalf of the principal~~ OF ATTORNEY  
12 notwithstanding later disability or incapacity of the principal  
13 at law or later uncertainty as to whether the principal is dead  
14 or alive.

15 (3) A PERSON DESIGNATED AS AN ATTORNEY IN FACT OR AGENT PUR-  
16 SUANT TO THIS SECTION SHALL ACT AS A FIDUCIARY IN EXERCISING HIS  
17 OR HER POWERS AND OBSERVE THE STANDARDS OF CARE APPLICABLE TO  
18 FIDUCIARIES.

19 (4) An act done by the attorney in fact or agent pursuant to  
20 ~~the~~ A power OF ATTORNEY GIVEN UNDER THIS SECTION during ~~any~~ A  
21 period of disability, ~~or~~ incompetence, or uncertainty as to  
22 whether the principal is dead or alive ~~have~~ HAS the same effect  
23 and ~~inure~~ INURES to the benefit of and ~~bind~~ BINDS the princi-  
24 pal or his OR HER PROSPECTIVE heirs, devisees, and personal rep-  
25 resentative as if the principal were alive, competent, and not  
26 disabled. If a conservator ~~thereafter~~ is appointed for the  
27 principal, the attorney in fact or agent, during the continuance

1 of the CONSERVATOR'S appointment, shall account to the  
2 conservator rather than the principal. The conservator has the  
3 same power the principal would have had if he OR SHE were not  
4 protected to revoke the power of attorney or agency.

5 (5) AN ATTORNEY IN FACT OR AGENT UNDER THIS SECTION SHALL  
6 NOT DELEGATE HIS OR HER POWERS TO ANOTHER PERSON WITHOUT PRIOR  
7 AUTHORIZATION BY THE PRINCIPAL. A PRINCIPAL MAY DESIGNATE IN A  
8 POWER OF ATTORNEY A SUCCESSOR PERSON AS ATTORNEY IN FACT OR AGENT  
9 WHO MAY MAKE DECISIONS CONCERNING THE PRINCIPAL'S ESTATE AND  
10 AFFAIRS IF THE FIRST PERSON NAMED AS ATTORNEY IN FACT OR AGENT IS  
11 UNAVAILABLE, INCAPACITATED, RESIGNS, OR IS REMOVED.

12 (6) A REVOCATION OF A POWER OF ATTORNEY IS BINDING AND  
13 EFFECTIVE UPON AN ATTORNEY IN FACT OR AGENT UPON ACTUAL NOTICE OF  
14 THE REVOCATION. A POWER OF ATTORNEY EXECUTED UNDER THIS SECTION  
15 IS REVOKED BY ANY OF THE FOLLOWING:

16 (A) DEATH OF THE PRINCIPAL.

17 (B) AN ORDER OF DISSOLUTION BY THE PROBATE COURT UNDER  
18 SUBSECTION (8).

19 (C) RESIGNATION OF THE ATTORNEY IN FACT OR AGENT UNLESS A  
20 SUCCESSOR ATTORNEY IN FACT OR AGENT HAS BEEN DESIGNATED.

21 (D) REVOCATION OF THE POWER OF ATTORNEY BY THE PRINCIPAL.

22 (E) IF A CONSERVATOR HAS BEEN APPOINTED FOR THE PRINCIPAL,  
23 REVOCATION OF THE POWER OF ATTORNEY BY THE CONSERVATOR.

24 (F) THE OCCURRENCE OF A PROVISION FOR REVOCATION CONTAINED  
25 IN THE POWER OF ATTORNEY.

26 (G) DISABILITY OF THE PRINCIPAL, UNLESS THE POWER OF  
27 ATTORNEY CREATED IS A DURABLE POWER OF ATTORNEY.

1 (H) A SUBSEQUENT POWER OF ATTORNEY THAT REVOKES THE PRIOR  
2 POWER OF ATTORNEY EITHER EXPRESSLY OR BY INCONSISTENCY.

3 (7) A PRINCIPAL MAY REVOKE A POWER OF ATTORNEY AT ANY TIME  
4 AND IN ANY MANNER BY WHICH HE OR SHE IS ABLE TO COMMUNICATE AN  
5 INTENT TO REVOKE THE POWER OF ATTORNEY. IF THE REVOCATION IS NOT  
6 IN WRITING, A PERSON WHO WITNESSES A REVOCATION OF A POWER OF  
7 ATTORNEY SHALL DESCRIBE THE CIRCUMSTANCES OF THE REVOCATION IN  
8 WRITING, SHALL SIGN THE WRITING, AND SHALL NOTIFY, IF POSSIBLE,  
9 THE ATTORNEY IN FACT OR AGENT OF THE REVOCATION.

10 (8) A PERSON WHO HAS REASON TO BELIEVE THAT AN ATTORNEY IN  
11 FACT OR AGENT IS NOT ACTING IN THE PRINCIPAL'S BEST INTERESTS  
12 AND, IF APPLICABLE, ACCORDING TO THE PRINCIPAL'S DESIRES, OR IS  
13 OTHERWISE NOT COMPLYING WITH THIS SECTION, MAY SEEK THE DISSOLU-  
14 TION OF THE POWER OF ATTORNEY OR THE REMOVAL OF THE AGENT THROUGH  
15 AN ACTION IN PROBATE COURT.

16 SEC. 496. (1) A PERSON 18 YEARS OF AGE OR OLDER WHO IS OF  
17 SOUND MIND AT THE TIME A DESIGNATION IS MADE MAY DESIGNATE IN A  
18 WRITTEN DURABLE POWER OF ATTORNEY A PERSON WHO IS 18 YEARS OF AGE  
19 OR OLDER TO MAKE CARE, CUSTODY, AND MEDICAL TREATMENT DECISIONS  
20 FOR THE PERSON WHO MADE THE DESIGNATION. FOR PURPOSES OF THIS  
21 SECTION, A PERSON WHO IS NAMED IN A DURABLE POWER OF ATTORNEY TO  
22 MAKE CARE, CUSTODY, AND MEDICAL TREATMENT DECISIONS FOR THE  
23 PERSON WHO MADE THE DESIGNATION SHALL BE KNOWN AS A PATIENT  
24 ADVOCATE.

25 (2) A DESIGNATION EXECUTED UNDER THIS SECTION SHALL BE IN  
26 WRITING, SIGNED, NOTARIZED, DATED, EXECUTED VOLUNTARILY, AND  
27 BEFORE ITS IMPLEMENTATION SHALL BE MADE PART OF THE PATIENT'S

1 MEDICAL RECORD. THE DESIGNATION SHALL INCLUDE THE STATEMENT  
2 "THIS DESIGNATION SHALL BECOME EFFECTIVE UPON THE INCAPACITY OF  
3 THE PATIENT" OR A SIMILAR STATEMENT STATING THAT THE AUTHORITY  
4 CONFERRED UNDER THIS SECTION SHALL BE EXERCISABLE ONLY WHEN THE  
5 PATIENT IS UNABLE TO PARTICIPATE IN MEDICAL TREATMENT DECISIONS.

6 (3) A DESIGNATION GIVEN UNDER THIS SECTION SHALL BE EXECUTED  
7 IN THE PRESENCE OF AND SIGNED BY 2 WITNESSES. THE WITNESSES  
8 SHALL NOT BE THE PATIENT'S SPOUSE, PARENT, CHILD, GRANDCHILD,  
9 SIBLING, AN HEIR AT THE TIME OF THE WITNESSING, PHYSICIAN,  
10 PATIENT ADVOCATE, AN EMPLOYEE OF A LIFE OR HEALTH INSURANCE PRO-  
11 VIDER FOR THE PATIENT, OR AN EMPLOYEE OF A HOSPITAL, HOSPITAL  
12 LONG-TERM CARE UNIT, HEALTH FACILITY OR AGENCY, HEALTH MAINTE-  
13 NANCE ORGANIZATION THAT IS TREATING THE PATIENT, OR AN EMPLOYEE  
14 OF A HOME FOR THE AGED AS DEFINED IN SECTION 20106 OF THE PUBLIC  
15 HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SEC-  
16 TION 333.20106 OF THE MICHIGAN COMPILED LAWS, WHERE THE PATIENT  
17 RESIDES. THE WITNESSES SHALL ATTEST IN THE DESIGNATION THAT THE  
18 PATIENT "APPEARS TO BE OF SOUND MIND AND UNDER NO DURESS, FRAUD,  
19 OR UNDUE INFLUENCE".

20 (4) A DESIGNATION MAY INCLUDE A STATEMENT OF THE PATIENT'S  
21 DESIRES ON MEDICAL TREATMENT. THE PATIENT MAY AUTHORIZE THE  
22 PATIENT ADVOCATE TO EXERCISE 1 OR MORE POWERS CONCERNING THE  
23 PATIENT'S MEDICAL TREATMENT, CARE, AND CUSTODY THAT THE PATIENT  
24 COULD HAVE EXERCISED ON HIS OR HER OWN BEHALF.

25 (5) A COPY OF THE DESIGNATION SHALL BE GIVEN TO THE PROPOSED  
26 PATIENT ADVOCATE AND, IF APPLICABLE, ANY SUCCESSOR PATIENT  
27 ADVOCATE. THE DESIGNATION SHALL INCLUDE A WRITTEN STATEMENT OF

1 THE RIGHTS AND RESPONSIBILITIES OF THE PATIENT ADVOCATE. THE  
2 DESIGNATION AND AN ACCEPTANCE TO THE DESIGNATION SIGNED BY THE  
3 PROPOSED PATIENT ADVOCATE SHALL BE FILED WITH THE PROBATE COURT  
4 IN THE COUNTY IN WHICH THE PATIENT RESIDES.

5 (6) UPON THE PROBATE COURT'S RECEIPT OF THE DESIGNATION AND  
6 THE ACCEPTANCE TO THE DESIGNATION, THE COURT SHALL IMMEDIATELY  
7 NOTIFY THE PATIENT AND THE PATIENT ADVOCATE IN A WRITTEN STATE-  
8 MENT AS FOLLOWS:

9 "(A) THIS DESIGNATION SHALL NOT BECOME EFFECTIVE UNLESS THE  
10 PATIENT IS UNABLE TO PARTICIPATE IN CARE, CUSTODY, AND MEDICAL  
11 TREATMENT DECISIONS.

12 (B) THIS DESIGNATION SHALL NOT AUTHORIZE A PATIENT ADVOCATE  
13 TO EXERCISE POWERS CONCERNING THE PATIENT'S MEDICAL TREATMENT,  
14 CARE, AND CUSTODY THAT THE PATIENT COULD NOT HAVE EXERCISED ON  
15 HIS OR HER OWN BEHALF.

16 (C) A PATIENT ADVOCATE SHALL NOT EXERCISE MEDICAL TREATMENT  
17 DECISIONS TO WITHHOLD OR WITHDRAW TREATMENT FOR A PATIENT WHO IS  
18 PREGNANT THAT WOULD BE DETRIMENTAL TO THE EMBRYO OR FETUS WITHOUT  
19 THE PROBATE COURT'S APPROVAL UNDER SUBSECTION (18).

20 (D) A PATIENT ADVOCATE SHALL NOT RECEIVE COMPENSATION FOR  
21 THE PERFORMANCE OF HIS OR HER DUTIES, BUT A PATIENT ADVOCATE MAY  
22 BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE  
23 PERFORMANCE OF HIS OR HER DUTIES.

24 (E) A PATIENT ADVOCATE IS HELD TO THE STANDARD OF CARE OF A  
25 FIDUCIARY FOR THE PATIENT AND SHALL ACT CONSISTENT WITH THE  
26 PATIENT'S DESIRES, IF THEY ARE KNOWN. IF THE PATIENT'S DESIRES

1 ARE NOT KNOWN, THEN THE PATIENT ADVOCATE SHALL ACT IN THE  
2 PATIENT'S BEST INTERESTS.

3 (F) A PATIENT AND THE PATIENT ADVOCATE SHOULD DISCUSS ALL  
4 POWERS GIVEN OR TO BE GIVEN IN THE DESIGNATION.

5 (G) A PATIENT MAY REVOKE HIS OR HER DESIGNATION AND THE  
6 PATIENT ADVOCATE MAY REVOKE HIS OR HER ACCEPTANCE TO THE DESIGNA-  
7 TION AT ANY TIME AND IN ANY MANNER SUFFICIENT TO COMMUNICATE AN  
8 INTENT TO REVOKE.

9 (H) A PATIENT ADMITTED TO A HEALTH FACILITY OR AGENCY HAS  
10 THE RIGHTS ENUMERATED IN SECTION 20201 OF THE PUBLIC HEALTH CODE,  
11 ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.20201  
12 OF THE MICHIGAN COMPILED LAWS."

13 (7) THE AUTHORITY UNDER A WRITTEN DESIGNATION EXECUTED UNDER  
14 THIS SECTION MAY BE EXERCISED BY A PATIENT ADVOCATE ONLY DURING A  
15 PERIOD WHEN THE PATIENT IS UNABLE TO PARTICIPATE IN MEDICAL  
16 TREATMENT DECISIONS. UNLESS THE EXAMINATION WOULD VIOLATE THE  
17 PATIENT'S RELIGIOUS BELIEFS AND THIS IS STATED IN THE PATIENT'S  
18 DESIGNATION, THE PATIENT'S ATTENDING PHYSICIAN AND ANOTHER PHYSI-  
19 CIAN OR LICENSED PSYCHOLOGIST SHALL DETERMINE UPON EXAMINATION OF  
20 THE PATIENT WHEN THE PATIENT IS UNABLE TO PARTICIPATE IN MEDICAL  
21 TREATMENT DECISIONS AND SHALL REVIEW THE DETERMINATION NOT LESS  
22 THAN ANNUALLY. IF THE PATIENT'S RELIGIOUS BELIEFS PROHIBIT AN  
23 EXAMINATION, THEN THE PATIENT SHALL INDICATE IN THE DESIGNATION  
24 HOW IT SHALL BE DETERMINED WHEN THE PATIENT ADVOCATE SHALL MAKE  
25 DECISIONS ON BEHALF OF THE PATIENT. IF A DISPUTE ARISES AS TO  
26 WHETHER THE PATIENT IS UNABLE TO PARTICIPATE IN MEDICAL TREATMENT  
27 DECISIONS, A PETITION MAY BE FILED WITH THE PROBATE COURT IN THE

1 COUNTY IN WHICH THE PATIENT RESIDES OR IS FOUND REQUESTING THE  
2 COURT'S DETERMINATION AS TO WHETHER THE PATIENT IS UNABLE TO PAR-  
3 TICIPATE IN MEDICAL TREATMENT DECISIONS. THE COURT SHALL DETER-  
4 MINE WHETHER A PERSON FILING A PETITION UNDER THIS SUBSECTION HAS  
5 STANDING TO FILE THE PETITION. IF A PETITION IS FILED UNDER THIS  
6 SUBSECTION, THE COURT SHALL APPOINT A GUARDIAN AD LITEM TO REPRESENT  
7 THE PATIENT FOR THE PURPOSES OF THIS SUBSECTION. THE COURT  
8 SHALL CONDUCT A HEARING ON A PETITION UNDER THIS SUBSECTION AS  
9 SOON AS POSSIBLE AND WITHIN 7 DAYS OF THE COURT'S RECEIPT OF THE  
10 PETITION. AS SOON AS POSSIBLE AND WITHIN 7 DAYS AFTER THE HEAR-  
11 ING, THE COURT SHALL DETERMINE WHETHER OR NOT THE PATIENT IS ABLE  
12 TO PARTICIPATE IN MEDICAL TREATMENT DECISIONS. IF THE COURT  
13 DETERMINES THAT THE PATIENT IS UNABLE TO PARTICIPATE IN MEDICAL  
14 TREATMENT DECISIONS, THE PATIENT ADVOCATE'S DUTIES SHALL BECOME  
15 EFFECTIVE. IF THE COURT DETERMINES THAT THE PATIENT IS ABLE TO  
16 PARTICIPATE IN MEDICAL TREATMENT DECISIONS, THE PATIENT  
17 ADVOCATE'S DUTIES SHALL NOT BECOME EFFECTIVE.

18 (8) AN INDIVIDUAL DESIGNATED AS A PATIENT ADVOCATE UNDER  
19 THIS SECTION SHALL HAVE THE FOLLOWING DUTIES:

20 (A) ACT AS A FIDUCIARY IN EXERCISING HIS OR HER POWERS IN  
21 MAKING CARE, CUSTODY, AND MEDICAL TREATMENT DECISIONS AND OBSERVE  
22 THE STANDARDS OF CARE APPLICABLE TO FIDUCIARIES.

23 (B) TAKE REASONABLE STEPS TO FOLLOW THE DESIRES, INSTRUCTIONS,  
24 OR GUIDELINES GIVEN BY THE PATIENT WHILE THE PATIENT WAS  
25 ABLE TO PARTICIPATE IN CARE, CUSTODY, OR MEDICAL TREATMENT DECISIONS,  
26 WHETHER GIVEN ORALLY OR AS WRITTEN IN THE DESIGNATION.



1 HOWEVER, A PATIENT ADVOCATE SHALL NOT MAKE THE FOLLOWING  
2 DECISIONS:

3 (i) A MEDICAL TREATMENT, CARE, OR CUSTODY DECISION THAT THE  
4 PATIENT COULD NOT HAVE EXERCISED ON HIS OR HER BEHALF.

5 (ii) A MEDICAL TREATMENT DECISION TO WITHHOLD OR WITHDRAW  
6 TREATMENT FOR A PATIENT WHO IS PREGNANT IF THE DECISION WOULD BE  
7 DETRIMENTAL TO THE EMBRYO OR FETUS UNLESS THE PATIENT ADVOCATE  
8 PETITIONS THE PROBATE COURT AND RECEIVES THE PROBATE COURT'S  
9 APPROVAL UNDER SUBSECTION (18).

10 (9) A PATIENT ADVOCATE UNDER THIS SECTION SHALL NOT DELEGATE  
11 HIS OR HER POWERS TO ANOTHER INDIVIDUAL WITHOUT PRIOR AUTHORIZA-  
12 TION BY THE PATIENT. A PATIENT MAY DESIGNATE IN THE DESIGNATION  
13 A SUCCESSOR INDIVIDUAL AS A PATIENT ADVOCATE WHO MAY MAKE CARE,  
14 CUSTODY, AND MEDICAL TREATMENT DECISIONS FOR THE PATIENT IF THE  
15 FIRST INDIVIDUAL NAMED AS PATIENT ADVOCATE IS INCAPACITATED,  
16 RESIGNS, OR IS REMOVED. AT THE TIME OF THE EXECUTION OF THE DES-  
17 IGNATION THE PATIENT AND A SUCCESSOR PATIENT ADVOCATE SHALL FUL-  
18 FILL THE REQUIREMENTS OF THIS SECTION, INCLUDING THE FILING AND  
19 NOTICE PROVISIONS OF SUBSECTIONS (5) AND (6) IN ORDER FOR THE  
20 ADVOCACY TO BE EFFECTIVE.

21 (10) A REVOCATION OF A DESIGNATION IS BINDING AND EFFECTIVE  
22 UPON A PATIENT ADVOCATE AND THE PATIENT'S PHYSICIAN UPON ACTUAL  
23 NOTICE OF THE REVOCATION. A DESIGNATION EXECUTED UNDER THIS SEC-  
24 TION IS REVOKED BY ANY OF THE FOLLOWING:

25 (A) DEATH OF THE PATIENT.

26 (B) THE PATIENT REGAINS THE ABILITY TO PARTICIPATE IN  
27 MEDICAL TREATMENT DECISIONS. A REVOCATION UNDER THIS SUBDIVISION

1 IS EFFECTIVE SO LONG AS THE PATIENT IS ABLE TO PARTICIPATE IN  
2 MEDICAL TREATMENT DECISIONS. IF THE PATIENT SUBSEQUENTLY IS  
3 DETERMINED UNDER SUBSECTION (7) TO BE UNABLE TO PARTICIPATE IN  
4 MEDICAL TREATMENT DECISIONS, THE PATIENT ADVOCATE'S DUTIES SHALL  
5 AGAIN BECOME EFFECTIVE.

6 (C) AN ORDER OF DISSOLUTION BY THE PROBATE COURT UNDER  
7 SUBSECTION (15).

8 (D) RESIGNATION OF THE PATIENT ADVOCATE UNLESS A SUCCESSOR  
9 PATIENT ADVOCATE HAS BEEN DESIGNATED.

10 (E) REVOCATION OF THE DESIGNATION BY THE PATIENT.

11 (F) A SUBSEQUENT DESIGNATION THAT REVOKES THE PRIOR DESIGNA-  
12 TION EITHER EXPRESSLY OR BY INCONSISTENCY.

13 (G) THE OCCURRENCE OF A PROVISION FOR REVOCATION CONTAINED  
14 IN THE DESIGNATION.

15 (11) A PATIENT MAY REVOKE A DESIGNATION AT ANY TIME AND IN  
16 ANY MANNER BY WHICH HE OR SHE IS ABLE TO COMMUNICATE AN INTENT TO  
17 REVOKE THE DESIGNATION. IF THE REVOCATION IS NOT IN WRITING, A  
18 PERSON WHO WITNESSES A REVOCATION OF A DESIGNATION SHALL DESCRIBE  
19 THE CIRCUMSTANCES OF THE REVOCATION IN WRITING, SHALL SIGN THE  
20 WRITING, AND SHALL NOTIFY, IF POSSIBLE, THE PATIENT ADVOCATE OF  
21 THE REVOCATION. IF THE PATIENT'S PHYSICIAN OR HEALTH FACILITY  
22 HAS NOTICE OF THE PATIENT'S REVOCATION OF A DESIGNATION, THE PHY-  
23 SICIAN OR HEALTH FACILITY SHALL NOTE THE REVOCATION IN THE  
24 PATIENT'S MEDICAL RECORDS AND FILE AND SHALL NOTIFY THE PATIENT  
25 ADVOCATE.

26 (12) A DESIGNATION EXECUTED UNDER THIS SECTION BEFORE A  
27 PATIENT'S MARRIAGE SHALL TERMINATE UPON THE PATIENT'S MARRIAGE.

1 IF A DESIGNATION IS EXECUTED UNDER THIS SECTION DURING A  
2 PATIENT'S MARRIAGE NAMING THE PATIENT'S SPOUSE AS THE PATIENT  
3 ADVOCATE, AND THE PARTIES ARE SUBSEQUENTLY DIVORCED, THE DESIGNA-  
4 TION SHALL TERMINATE UPON THE DIVORCE UNLESS THE PATIENT HAS EXE-  
5 CUTED A SEPARATE WRITTEN DESIGNATION NAMING A SUCCESSOR INDIVID-  
6 UAL TO SERVE AS A PATIENT ADVOCATE. IF A SUCCESSOR PATIENT ADVO-  
7 CATE IS NAMED, THAT INDIVIDUAL, AND NOT THE PATIENT'S FORMER  
8 SPOUSE, SHALL ACT AS THE PATIENT ADVOCATE.

9 (13) A PERSON PROVIDING, PERFORMING, WITHHOLDING, OR WITH-  
10 DRAWING CARE, CUSTODY, OR MEDICAL TREATMENT AS A RESULT OF THE  
11 DECISION OF AN INDIVIDUAL WHO IS REASONABLY BELIEVED TO BE A  
12 PATIENT ADVOCATE AND WHO IS REASONABLY BELIEVED TO BE ACTING  
13 WITHIN THE AUTHORITY GRANTED BY THE DESIGNATION, IS LIABLE IN THE  
14 SAME MANNER AND TO THE SAME EXTENT AS IF THE PATIENT HAD MADE THE  
15 DECISION ON HIS OR HER OWN BEHALF.

16 (14) A PERSON PROVIDING CARE, CUSTODY, AND MEDICAL TREATMENT  
17 TO A PATIENT IS BOUND BY SOUND MEDICAL PRACTICE AND BY THE  
18 INSTRUCTIONS OF A PATIENT ADVOCATE IF THE PATIENT ADVOCATE COM-  
19 PLIES WITH THIS SECTION AND IS NOT BOUND BY THE INSTRUCTIONS OF A  
20 PATIENT ADVOCATE IF THE PATIENT ADVOCATE DOES NOT COMPLY WITH  
21 THIS SECTION.

22 (15) A PERSON WHO HAS REASON TO BELIEVE THAT A PATIENT ADVO-  
23 CATE IS NOT ACTING CONSISTENT WITH THE PATIENT'S DESIRES OR IS  
24 OTHERWISE NOT COMPLYING WITH THIS SECTION MAY SEEK THE DISSOLU-  
25 TION OF THE DESIGNATION OR THE REMOVAL OF THE PATIENT ADVOCATE  
26 THROUGH AN ACTION IN PROBATE COURT.

1 (16) A HEALTH CARE PROVIDER SHALL NOT REQUIRE A DESIGNATION  
2 TO BE EXECUTED AS A CONDITION OF MEDICAL TREATMENT.

3 (17) A LIFE OR HEALTH INSURER SHALL NOT DO ANY OF THE FOL-  
4 LOWING BECAUSE OF THE EXECUTION OR IMPLEMENTATION OF A DESIGNA-  
5 TION OR BECAUSE OF THE REFUSAL TO EXECUTE OR IMPLEMENT A  
6 DESIGNATION:

7 (A) REFUSE TO PROVIDE OR CONTINUE COVERAGE TO THE PATIENT.

8 (B) LIMIT THE AMOUNT OF COVERAGE AVAILABLE TO A PATIENT.

9 (C) CHARGE A PATIENT A DIFFERENT RATE.

10 (D) CONSIDER THE TERMS OF AN EXISTING POLICY OF LIFE OR  
11 HEALTH INSURANCE TO HAVE BEEN BREACHED OR MODIFIED.

12 (E) INVOKE A SUICIDE OR INTENTIONAL DEATH EXEMPTION OR  
13 EXCLUSION IN A POLICY COVERING THE PATIENT.

14 (18) IF A PATIENT IS PREGNANT, A MEDICAL TREATMENT DECISION  
15 TO WITHHOLD OR WITHDRAW TREATMENT BEING ADVOCATED BY A PATIENT  
16 ADVOCATE PURSUANT TO A DESIGNATION EXECUTED UNDER THIS SECTION  
17 THAT WOULD BE DETRIMENTAL TO THE EMBRYO OR FETUS SHALL BE  
18 REVIEWED BY THE PROBATE COURT BEFORE THE TREATMENT DECISION IS  
19 IMPLEMENTED. THE COURT SHALL APPOINT A GUARDIAN AD LITEM TO REP-  
20 RESENT THE EMBRYO OR FETUS. THE GUARDIAN AD LITEM SHALL REPRE-  
21 SENT THE BEST INTERESTS OF THE EMBRYO OR FETUS.

22 (19) A DESIGNATION EXECUTED UNDER THIS SECTION SHALL NOT BE  
23 CONSTRUED TO CONDONE, ALLOW, PERMIT, AUTHORIZE, OR APPROVE SUI-  
24 CIDE OR HOMICIDE.

25 (20) THIS SECTION SHALL NOT APPLY TO OR AFFECT A PERSON WHO  
26 HAS NOT EXECUTED A DESIGNATION. THIS SECTION SHALL NOT APPLY TO

1 OR AFFECT A PERSON ACTING FOR OR ON BEHALF OF ANOTHER PERSON WHO  
2 HAS NOT EXECUTED A DESIGNATION.

3 (21) A DESIGNATION EXECUTED BEFORE THE EFFECTIVE DATE OF  
4 THIS SECTION WITH THE INTENT OF ACCOMPLISHING A SIMILAR PURPOSE  
5 AS THIS SECTION IS VALID BUT SUBJECT TO SUBSECTION (1) AND SUB-  
6 SECTIONS (4) THROUGH (20). A DESIGNATION DESIGNATING A PATIENT  
7 ADVOCATE TO MAKE MEDICAL TREATMENT DECISIONS FOR THE PATIENT THAT  
8 IS EXECUTED AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL CON-  
9 FORM TO THIS SECTION.

10 (22) A CURRENT DESIRE BY A PATIENT TO HAVE PROVIDED, AND NOT  
11 WITHHELD OR WITHDRAWN, A SPECIFIC LIFE EXTENDING CARE, CUSTODY,  
12 OR MEDICAL TREATMENT SHALL BE BINDING ON THE PATIENT ADVOCATE, IF  
13 KNOWN BY THE PATIENT ADVOCATE, REGARDLESS OF THE THEN ABILITY OR  
14 INABILITY OF THE PATIENT TO PARTICIPATE IN CARE, CUSTODY, OR MED-  
15 ICAL TREATMENT DECISIONS.

16 (23) NOTHING IN THIS ACT SHALL BE CONSIDERED TO AUTHORIZE OR  
17 COMPEL CARE, CUSTODY, OR MEDICAL TREATMENT DECISIONS FOR A  
18 PATIENT WHO CHOOSES TO RELY ON SPIRITUAL MEANS THROUGH PRAYER  
19 ALONE IN ACCORDANCE WITH A RECOGNIZED METHOD OF HEALING.

20 Section 2. Section 497 of Act No. 642 of the Public Acts of  
21 1978, being section 700.497 of the Michigan Compiled Laws, is  
22 repealed.