

SENATE BILL No. 293

April 12, 1989, Introduced by Senators DILLINGHAM, GEAKE, CARL, DINGELL, SEDERBURG, NICHOLS, CROUSEY, BARCIA and EHLERS and referred to the Committee on Human Resources and Senior Citizens.

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, AND DATED, AND SHALL BE EXECUTED
3 VOLUNTARILY. IF THE POWER OF ATTORNEY contains the words "This
4 power of attorney shall not be affected by disability of the
5 principal," or "This power of attorney shall become effective
6 upon the disability of the principal," or similar words showing
7 the intent of the principal that the authority conferred shall be
8 exercisable notwithstanding his OR HER disability, THEN THE POWER
9 OF ATTORNEY SHALL BE A DURABLE POWER OF ATTORNEY AND the author-
10 ity of the attorney in fact or agent ~~is~~ SHALL BE exercisable by
11 him OR HER as provided in the power ~~on behalf of the principal~~
12 OF ATTORNEY notwithstanding later disability or incapacity of the
13 principal at law or later uncertainty as to whether the principal
14 is dead 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 OR 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 OR
12 IS OTHERWISE NOT COMPLYING WITH THIS SECTION MAY SEEK THE DISSO-
13 LUTION OF THE POWER OF ATTORNEY OR THE REMOVAL OF THE AGENT
14 THROUGH AN ACTION IN PROBATE COURT.

15 SEC. 496. (1) A PERSON 18 YEARS OF AGE OR OLDER WHO IS OF
16 SOUND MIND AT THE TIME A DESIGNATION IS MADE MAY DESIGNATE IN
17 WRITING A PATIENT ADVOCATE WHO IS 18 YEARS OF AGE OR OLDER TO
18 MAKE CARE, CUSTODY, AND MEDICAL TREATMENT DECISIONS FOR THE
19 PERSON WHO MADE THE DESIGNATION.

20 (2) A DESIGNATION EXECUTED UNDER THIS SECTION SHALL BE IN
21 WRITING, SIGNED, NOTARIZED, DATED, EXECUTED VOLUNTARILY, AND
22 BEFORE ITS IMPLEMENTATION SHALL BE MADE PART OF THE PATIENT'S
23 MEDICAL RECORD. THE DESIGNATION SHALL INCLUDE THE STATEMENT:
24 "THIS DESIGNATION SHALL BECOME EFFECTIVE UPON THE INCAPACITY OF
25 THE PATIENT" OR A SIMILAR STATEMENT STATING THAT THE AUTHORITY
26 CONFERRED UNDER THIS SECTION SHALL BE EXERCISABLE ONLY WHEN THE

1 PATIENT IS UNABLE TO PARTICIPATE IN CARE, CUSTODY, AND MEDICAL
2 TREATMENT DECISIONS.

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

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

22 (5) A COPY OF THE DESIGNATION SHALL BE GIVEN TO THE PROPOSED
23 PATIENT ADVOCATE AND, IF APPLICABLE, ANY SUCCESSOR PATIENT
24 ADVOCATE. THE DESIGNATION SHALL INCLUDE A WRITTEN STATEMENT OF
25 THE RIGHTS AND RESPONSIBILITIES OF THE PATIENT ADVOCATE. THE
26 DESIGNATION AND AN ACCEPTANCE TO THE DESIGNATION SIGNED BY THE

1 PROPOSED PATIENT ADVOCATE SHALL BE FILED WITH THE PROBATE COURT
2 IN THE COUNTY IN WHICH THE PATIENT RESIDES.

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

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

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

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

18 (D) A PATIENT ADVOCATE SHALL NOT EXERCISE MEDICAL TREATMENT
19 DECISIONS FOR A PATIENT WHO IS THE BIOLOGICAL FATHER OF AN UNBORN
20 CHILD WITHOUT THE PROBATE COURT'S APPROVAL UNDER
21 SUBSECTION (18).

22 (E) A PATIENT ADVOCATE SHALL NOT EXERCISE MEDICAL TREATMENT
23 DECISIONS THAT WOULD DEPRIVE THE PATIENT OF NUTRITION AND HYDRA-
24 TION IF THE PURPOSE IS TO HASTEN THE PATIENT'S DEATH.

25 (F) A PATIENT ADVOCATE SHALL NOT RECEIVE COMPENSATION FOR
26 THE PERFORMANCE OF HIS OR HER DUTIES, BUT A PATIENT ADVOCATE MAY

1 BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE
2 PERFORMANCE OF HIS OR HER DUTIES.

3 (G) A PATIENT ADVOCATE IS HELD TO THE STANDARD OF CARE OF A
4 FIDUCIARY FOR THE PATIENT, WHICH IS TO ACT IN THE PATIENT'S BEST
5 INTERESTS.

6 (H) A PATIENT AND THE PATIENT ADVOCATE SHOULD DISCUSS ALL
7 POWERS GIVEN OR TO BE GIVEN IN THE DESIGNATION.

8 (I) A PATIENT MAY REVOKE HIS OR HER DESIGNATION AND THE
9 PATIENT ADVOCATE MAY REVOKE HIS OR HER ACCEPTANCE TO THE DESIGNA-
10 TION AT ANY TIME AND IN ANY MANNER SUFFICIENT TO COMMUNICATE AN
11 INTENT TO REVOKE.

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

16 (7) THE AUTHORITY UNDER A WRITTEN DESIGNATION EXECUTED UNDER
17 THIS SECTION MAY BE EXERCISED BY A PATIENT ADVOCATE ONLY DURING A
18 PERIOD WHEN THE PATIENT IS UNABLE TO PARTICIPATE IN MEDICAL
19 TREATMENT DECISIONS. UNLESS THE MEDICAL EXAMINATION WOULD VIO-
20 LATE THE PATIENT'S RELIGIOUS BELIEFS AND THIS IS STATED IN THE
21 PATIENT'S DESIGNATION, THE PATIENT'S ATTENDING PHYSICIAN AND
22 ANOTHER PHYSICIAN OR LICENSED PSYCHOLOGIST SHALL DETERMINE UPON
23 EXAMINATION OF THE PATIENT WHEN THE PATIENT IS UNABLE TO PARTICI-
24 PATE IN MEDICAL TREATMENT DECISIONS, SHALL PUT THE DETERMINATION
25 IN WRITING, SHALL SEND A COPY OF THE DETERMINATION TO THE PROBATE
26 COURT IN THE COUNTY IN WHICH THE DESIGNATION WAS FILED UNDER
27 SUBSECTION (5), AND SHALL REVIEW THE DETERMINATION NOT LESS THAN

1 ANNUALLY. IF THE PATIENT'S RELIGIOUS BELIEFS PROHIBIT A MEDICAL
2 EXAMINATION, THEN THE PATIENT SHALL INDICATE IN THE DESIGNATION
3 HOW IT SHALL BE DETERMINED WHEN THE PATIENT ADVOCATE SHALL MAKE
4 DECISIONS ON BEHALF OF THE PATIENT. IF A DISPUTE ARISES AS TO
5 WHETHER THE PATIENT IS UNABLE TO PARTICIPATE IN MEDICAL TREATMENT
6 DECISIONS, A PETITION MAY BE FILED WITH THE PROBATE COURT, IN THE
7 COUNTY IN WHICH THE PATIENT RESIDES OR IS FOUND, REQUESTING THE
8 COURT'S DETERMINATION AS TO WHETHER THE PATIENT IS UNABLE TO PAR-
9 TICIPATE IN MEDICAL TREATMENT DECISIONS. IF A PETITION IS FILED
10 UNDER THIS SUBSECTION, THE COURT SHALL APPOINT A GUARDIAN AD
11 LITEM TO REPRESENT THE PATIENT FOR THE PURPOSES OF THIS
12 SUBSECTION. THE COURT SHALL CONDUCT A HEARING ON A PETITION
13 UNDER THIS SUBSECTION AS SOON AS POSSIBLE AND WITHIN 7 DAYS OF
14 THE COURT'S RECEIPT OF THE PETITION. AS SOON AS POSSIBLE AND
15 WITHIN 7 DAYS AFTER THE HEARING, THE COURT SHALL DETERMINE
16 WHETHER OR NOT THE PATIENT IS ABLE TO PARTICIPATE IN MEDICAL
17 TREATMENT DECISIONS. IF THE COURT DETERMINES THAT THE PATIENT IS
18 UNABLE TO PARTICIPATE IN MEDICAL TREATMENT DECISIONS, THE PATIENT
19 ADVOCATE'S DUTIES SHALL BECOME EFFECTIVE. IF THE COURT DETER-
20 MINES THAT THE PATIENT IS ABLE TO PARTICIPATE IN MEDICAL TREAT-
21 MENT DECISIONS, THE PATIENT ADVOCATE'S DUTIES SHALL NOT BECOME
22 EFFECTIVE.

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

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

1 (B) TAKE REASONABLE STEPS TO FOLLOW THE DESIRES,
2 INSTRUCTIONS, OR GUIDELINES GIVEN BY THE PATIENT WHILE THE
3 PATIENT WAS ABLE TO PARTICIPATE IN CARE, CUSTODY, OR MEDICAL
4 TREATMENT DECISIONS, WHETHER GIVEN ORALLY OR AS WRITTEN IN THE
5 DESIGNATION. HOWEVER, A PATIENT ADVOCATE SHALL NOT MAKE ANY OF
6 THE FOLLOWING DECISIONS:

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

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

14 (iii) A MEDICAL TREATMENT DECISION TO WITHHOLD OR WITHDRAW
15 TREATMENT FOR A PATIENT WHO IS THE BIOLOGICAL FATHER OF AN UNBORN
16 CHILD UNLESS THE PATIENT ADVOCATE PETITIONS THE PROBATE COURT AND
17 RECEIVES THE PROBATE COURT'S APPROVAL UNDER SUBSECTION (18).

18 (iv) A DECISION TO DEPRIVE THE PATIENT OF NUTRITION AND
19 HYDRATION IF THE PURPOSE IS TO HASTEN THE PATIENT'S DEATH.

20 (9) A PATIENT ADVOCATE UNDER THIS SECTION SHALL NOT DELEGATE
21 HIS OR HER POWERS TO ANOTHER INDIVIDUAL WITHOUT PRIOR AUTHORIZA-
22 TION BY THE PATIENT. A PATIENT MAY DESIGNATE IN THE DESIGNATION
23 A SUCCESSOR INDIVIDUAL AS A PATIENT ADVOCATE WHO MAY MAKE CARE,
24 CUSTODY, AND MEDICAL TREATMENT DECISIONS FOR THE PATIENT IF THE
25 FIRST INDIVIDUAL NAMED AS PATIENT ADVOCATE IS INCAPACITATED,
26 RESIGNS, OR IS REMOVED. AT THE TIME OF THE EXECUTION OF THE
27 DESIGNATION, THE PATIENT AND A SUCCESSOR PATIENT ADVOCATE SHALL

1 FULFILL THE REQUIREMENTS OF THIS SECTION, INCLUDING THE FILING
2 AND NOTICE PROVISIONS OF SUBSECTIONS (5) AND (6) IN ORDER FOR THE
3 ADVOCACY TO BE EFFECTIVE.

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

8 (A) DEATH OF THE PATIENT.

9 (B) THE PATIENT REGAINS THE ABILITY TO PARTICIPATE IN MEDI-
10 CAL TREATMENT DECISIONS. A REVOCATION UNDER THIS SUBDIVISION IS
11 EFFECTIVE AS LONG AS THE PATIENT IS ABLE TO PARTICIPATE IN MEDI-
12 CAL TREATMENT DECISIONS. IF THE PATIENT SUBSEQUENTLY IS DETER-
13 MINED UNDER SUBSECTION (7) TO BE UNABLE TO PARTICIPATE IN MEDICAL
14 TREATMENT DECISIONS, THE PATIENT ADVOCATE'S DUTIES SHALL AGAIN
15 BECOME EFFECTIVE.

16 (C) AN ORDER OF DISSOLUTION BY THE PROBATE COURT UNDER
17 SUBSECTION (15).

18 (D) RESIGNATION OF THE PATIENT ADVOCATE UNLESS A SUCCESSOR
19 PATIENT ADVOCATE HAS BEEN DESIGNATED.

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

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

23 (G) THE OCCURRENCE OF A PROVISION FOR REVOCATION CONTAINED
24 IN THE DESIGNATION.

25 (11) NOTWITHSTANDING THE COMPETENCY OF THE PATIENT, A
26 PATIENT MAY REVOKE A DESIGNATION AT ANY TIME AND IN ANY MANNER BY
27 WHICH HE OR SHE IS ABLE TO COMMUNICATE AN INTENT TO REVOKE THE

1 DESIGNATION. IF THE REVOCATION IS NOT IN WRITING, A PERSON WHO
2 WITNESSES A REVOCATION OF A DESIGNATION SHALL DESCRIBE THE CIR-
3 CUMSTANCES OF THE REVOCATION IN WRITING, SHALL SIGN THE WRITING,
4 AND SHALL NOTIFY, IF POSSIBLE, THE PATIENT ADVOCATE OF THE
5 REVOCATION. IF THE PATIENT'S PHYSICIAN OR HEALTH FACILITY HAS
6 NOTICE OF THE PATIENT'S REVOCATION OF A DESIGNATION, THE PHYSI-
7 CIAN OR HEALTH FACILITY SHALL NOTE THE REVOCATION IN THE
8 PATIENT'S MEDICAL RECORDS AND FILE AND SHALL NOTIFY THE PATIENT
9 ADVOCATE.

10 (12) A DESIGNATION EXECUTED UNDER THIS SECTION BEFORE A
11 PATIENT'S MARRIAGE SHALL TERMINATE UPON THE PATIENT'S MARRIAGE.
12 IF A DESIGNATION IS EXECUTED UNDER THIS SECTION DURING A
13 PATIENT'S MARRIAGE NAMING THE PATIENT'S SPOUSE AS THE PATIENT
14 ADVOCATE, AND THE PARTIES ARE SUBSEQUENTLY DIVORCED, THE DESIGNA-
15 TION SHALL TERMINATE UPON THE DIVORCE UNLESS THE PATIENT HAS EXE-
16 CUTED A SEPARATE WRITTEN DESIGNATION NAMING A SUCCESSOR INDIVID-
17 UAL TO SERVE AS THE PATIENT ADVOCATE. IF A SUCCESSOR PATIENT
18 ADVOCATE IS NAMED, THAT INDIVIDUAL, AND NOT THE PATIENT'S FORMER
19 SPOUSE, SHALL ACT AS THE PATIENT ADVOCATE.

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

1 (14) A PERSON PROVIDING MEDICAL CARE TO A PATIENT IS NOT
2 BOUND BY THE INSTRUCTIONS OF A PATIENT ADVOCATE IF THE PATIENT
3 ADVOCATE DOES NOT COMPLY WITH THIS SECTION.

4 (15) A PERSON WHO HAS REASON TO BELIEVE THAT A PATIENT ADVO-
5 CATE IS NOT ACTING CONSISTENT WITH THE PATIENT'S BEST INTERESTS
6 OR IS OTHERWISE NOT COMPLYING WITH THIS SECTION MAY SEEK THE DIS-
7 SOLUTION OF THE DESIGNATION OR THE REMOVAL OF THE PATIENT ADVO-
8 CATE THROUGH AN ACTION IN PROBATE COURT.

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

11 (17) A LIFE OR HEALTH INSURER SHALL NOT DO ANY OF THE FOL-
12 LOWING BECAUSE OF THE EXECUTION OR IMPLEMENTATION OF A DESIGNA-
13 TION OR BECAUSE OF THE REFUSAL TO EXECUTE OR IMPLEMENT A
14 DESIGNATION:

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

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

17 (C) CHARGE A PATIENT A DIFFERENT RATE.

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

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

22 (18) IF A PATIENT IS PREGNANT, A MEDICAL TREATMENT DECISION
23 TO WITHHOLD OR WITHDRAW TREATMENT BEING ADVOCATED BY A PATIENT
24 ADVOCATE PURSUANT TO A DESIGNATION EXECUTED UNDER THIS SECTION
25 THAT WOULD BE DETRIMENTAL TO THE EMBRYO OR FETUS SHALL BE
26 REVIEWED BY THE PROBATE COURT BEFORE THE TREATMENT DECISION IS
27 IMPLEMENTED. IF A PATIENT IS PREGNANT, THE COURT SHALL APPOINT A

1 GUARDIAN AD LITEM TO REPRESENT THE EMBRYO OR FETUS. THE GUARDIAN
2 AD LITEM SHALL REPRESENT THE BEST INTERESTS OF THE EMBRYO OR
3 FETUS. THE BEST INTERESTS OF THE EMBRYO OR FETUS INCLUDE THE
4 SURVIVAL OF THE EMBRYO OR FETUS. IF A PATIENT IS THE BIOLOGICAL
5 FATHER OF AN UNBORN CHILD, A MEDICAL TREATMENT DECISION TO WITH-
6 HOLD OR WITHDRAW TREATMENT BEING ADVOCATED BY A PATIENT ADVOCATE
7 PURSUANT TO A DESIGNATION EXECUTED UNDER THIS SECTION SHALL BE
8 REVIEWED BY THE PROBATE COURT BEFORE THE TREATMENT DECISION IS
9 IMPLEMENTED.

10 (19) A DESIGNATION EXECUTED UNDER THIS SECTION SHALL NOT
11 CONDONE, ALLOW, PERMIT, AUTHORIZE, OR APPROVE SUICIDE OR
12 HOMICIDE.

13 (20) THIS SECTION SHALL NOT APPLY TO OR AFFECT A PERSON WHO
14 HAS NOT EXECUTED A DESIGNATION. THIS SECTION SHALL NOT APPLY TO
15 OR AFFECT A PERSON ACTING FOR OR ON BEHALF OF ANOTHER PERSON WHO
16 HAS NOT EXECUTED A DESIGNATION.

17 (21) A DESIGNATION EXECUTED BEFORE THE EFFECTIVE DATE OF
18 THIS SECTION WITH THE INTENT OF ACCOMPLISHING A SIMILAR PURPOSE
19 AS THIS SECTION IS VALID BUT SUBJECT TO SUBSECTIONS (1) THROUGH
20 (20). A DESIGNATION DESIGNATING A PATIENT ADVOCATE TO MAKE MEDI-
21 CAL TREATMENT DECISIONS FOR THE PATIENT THAT IS EXECUTED AFTER
22 THE EFFECTIVE DATE OF THIS SECTION SHALL CONFORM TO THIS
23 SECTION.

24 (22) NOTHING IN THIS OR ANY OTHER PROVISION OF THIS ACT
25 SHALL BE CONSIDERED TO AUTHORIZE OR COMPEL CARE, CUSTODY, OR MED-
26 ICAL TREATMENT DECISIONS FOR A PATIENT WHO CHOOSES TO RELY ON

1 SPIRITUAL MEANS THROUGH PRAYER ALONE IN ACCORDANCE WITH A
2 RECOGNIZED METHOD OF HEALING.

3 Section 2. Section 497 of Act No. 642 of the Public Acts of
4 1978, being section 700.497 of the Michigan Compiled Laws, is
5 repealed.