

BY: Delegate Trueschler

AMENDMENTS TO SENATE BILL NO. 796, AS AMENDED  
(Third Reading File Bill)

AMENDMENT NO. 1

Strike the Health and Government Operations Committee Amendments (SB0796/096887/1) in their entirety.

AMENDMENT NO. 2

On page 1 of the bill, after line 2, insert:

“FOR the purpose of establishing a Power of Attorney for Health Care Decisions in the State for certain purposes; requiring individuals to register a Power of Attorney for Health Care Decisions with the Secretary of Health and Mental Hygiene; requiring the Secretary, in consultation with the Office of the Attorney General, to develop certain forms and make the forms available at certain locations; providing certain procedures for the termination of a Power of Attorney for Health Care Decisions; requiring the Secretary to keep certain records; requiring certain health care facilities to allow certain designees to visit a designating individual except under certain circumstances; requiring that a designating individual and a designee of the designating individual’s power of attorney for health care decisions be given the opportunity to share a room in a certain facility under certain circumstances; requiring certain related institutions to allow a resident who is a designating individual to have privacy during a visit by the designee of the designating individual’s power of attorney for health care decisions; requiring the Secretary to adopt certain regulations; establishing certain crimes and penalties; providing that existing obligations or contract rights may not be impaired; making the provisions of this Act severable; and generally relating to the Medical Decision Making Act of 2005.”.

On pages 1 and 2, strike in their entirety the lines beginning with line 3 on page 1 through line 27 on page 2, inclusive.

(Over)

On page 2, strike lines 30 and 31 in their entirety and substitute:

“Section 20-1101 through 20-1109 to be under the new subtitle “Subtitle 11. Power of Attorney for Health Care Decisions””;

strike beginning with “1-101” in line 36 down through “(q)(1)” in line 37 and substitute “19-344(h) and (k)”; and strike beginning with “4-215(a),” in line 42 down through “and” in line 43.

On page 3, strike in their entirety lines 3 through 22, inclusive.

#### AMENDMENT NO. 3

On pages 10 through 14, strike in their entirety the lines beginning with line 11 on page 10 through line 28 on page 14, inclusive.

#### AMENDMENT NO. 4

On page 14, after line 28, insert:

“19-344.

(a) To carry out the policy set forth in § 19-343 of this subtitle, the following procedures are required for all services provided to a resident of a facility.

(h) If it is feasible to do so and not medically contraindicated, spouses OR THE DESIGNATING INDIVIDUAL AND THE DESIGNEE OF A POWER OF ATTORNEY FOR HEALTH CARE DECISIONS OF THE DESIGNATING INDIVIDUAL who are both residents of the facility shall be given the opportunity to share a room.

(k) (1) Each married resident of a facility shall have privacy during a visit by the spouse.

(2) EACH RESIDENT WHO IS A DESIGNATING INDIVIDUAL SHALL HAVE PRIVACY DURING A VISIT BY THE DESIGNEE OF A POWER OF ATTORNEY FOR HEALTH CARE DECISIONS.

SUBTITLE 11. PUBLIC POWER OF ATTORNEY FOR HEALTH CARE DECISIONS.”;

in line 29, strike "6-101." and substitute "20-1101."; and after line 30, insert:

"(B) "DESIGNATING INDIVIDUAL" MEANS THE INDIVIDUAL WHO IS CONFERRING THE OBLIGATIONS, DUTIES, AND AUTHORITY OF A POWER OF ATTORNEY FOR HEALTH CARE DECISIONS ON ANOTHER INDIVIDUAL.

(C) "DESIGNEE" MEANS THE INDIVIDUAL WHO IS GIVEN THE AUTHORITY TO EXERCISE THE OBLIGATIONS, DUTIES, AND AUTHORITY OF A POWER OF ATTORNEY FOR HEALTH CARE DECISIONS ON BEHALF OF A DESIGNATING INDIVIDUAL.

(D) "HEALTH CARE FACILITY" INCLUDES:

(1) A HOSPITAL;

(2) A RELATED INSTITUTION;

(3) A NURSING HOME; AND

(4) A RESIDENTIAL TREATMENT CENTER, AS DEFINED IN § 19-301 OF THIS ARTICLE."

AMENDMENT NO. 5

On pages 14 through 16, strike in their entirety the lines beginning with line 31 on page 14 through line 2 on page 16, inclusive.

AMENDMENT NO. 6

On page 16, in line 3, strike "6-203." and substitute "20-1102."; in line 4, after "SECRETARY" insert ", IN CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL,"; in line 5, strike ""DECLARATION OF LIFE PARTNERSHIP"" and substitute ""CONTINUOUS AND DURABLE "POWER OF ATTORNEY FOR HEALTH CARE DECISIONS""; in line 6, strike "LIFE PARTNERSHIP" and substitute ""POWER OF ATTORNEY FOR HEALTH CARE DECISIONS""; in lines 7 and 8, strike "DECLARATION OF LIFE

(Over)

PARTNERSHIP” and substitute “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS”; in line 8, strike “LIFE PARTNERSHIP” and substitute “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS”; strike in their entirety lines 12 through 15, inclusive; strike beginning with “(1)” in line 16 down through “FORM” in line 21 and substitute “THERE SHALL BE NO FEE CHARGED FOR FILING OR REGISTERING THE FORMS”; strike line 24 in its entirety and substitute:

“20-1103.

THE “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM SHALL AUTHORIZE AN INDIVIDUAL TO DESIGNATE ANOTHER INDIVIDUAL TO:

(1) MAKE MEDICAL DECISIONS ON BEHALF OF THE DESIGNATING INDIVIDUAL IF THE DESIGNATING INDIVIDUAL:

(I) IS DETERMINED TO BE INCOMPETENT;

(II) HAS NOT APPOINTED ANOTHER INDIVIDUAL AS A HEALTH CARE AGENT; AND

(III) HAS NOT EXECUTED A DOCUMENT IN ACCORDANCE WITH § 5-509(A) OF THIS ARTICLE;

(2) SUBJECT TO THE PROVISIONS OF § 20-1109 OF THIS SUBTITLE, VISIT THE ILL OR INJURED DESIGNATING INDIVIDUAL IN A HEALTH CARE FACILITY ON THE SAME BASIS AS A MEMBER OF THE ILL OR INJURED DESIGNATING INDIVIDUAL’S IMMEDIATE FAMILY IF THE DESIGNATING INDIVIDUAL IS RECEIVING HEALTH CARE SERVICES FROM THE HEALTH CARE FACILITY;

(3) RIDE ALONG WITH THE DESIGNATING INDIVIDUAL IN AN EMERGENCY VEHICLE THAT IS TRANSPORTING THE DESIGNATING INDIVIDUAL:

(I) TO A HEALTH CARE FACILITY FOR TREATMENT FOR A MEDICAL EMERGENCY; OR

(II) FOR AN INTERFACILITY TRANSFER; AND

(4) MAKE DECISIONS CONCERNING THE DEATH OF THE DESIGNATING INDIVIDUAL, INCLUDING:

(I) GIVING CONSENT FOR A POSTMORTEM EXAMINATION;

(II) DISPOSITION OF THE DESIGNATING INDIVIDUAL'S BODY AFTER DEATH; AND

(III) FUNERAL ARRANGEMENTS.

20-1104.”;

in line 25, strike “DECLARATION OF LIFE PARTNERSHIP” and substitute “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS”; in line 26, strike beginning with “INDIVIDUAL” through “PARTNER” and substitute “DESIGNATING INDIVIDUAL AND DESIGNEE”; and in lines 27 and 28, strike “MEETS THE REQUIREMENTS OF § 6-202 OF THIS SUBTITLE” and substitute “IS AT LEAST 18 YEARS OLD”.

AMENDMENT NO. 7

On page 17, in lines 1, 4, and 7 and 8, in each instance, strike “DECLARATION OF LIFE PARTNERSHIP” and substitute “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS”; in line 8, strike “6-206” and substitute “20-1106”; in line 9, after “FORM” insert “WITH A CONFIRMATION NUMBER OF THE REGISTERED “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM”; in the same line, strike “LIFE PARTNERS” and substitute “DESIGNATING INDIVIDUAL AND DESIGNEE”; strike line 10 in its entirety and substitute “ADDRESSES PROVIDED.”; strike in their entirety lines 11 through 14, inclusive; in line 15, strike “6-205.” and substitute “20-1105.”; in line 16, strike “(1)”; strike beginning with “:” in line 16 down through “(II)” in line 18; in line 18, strike “LIFE PARTNERSHIP” and substitute “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS”; strike in their entirety lines 20 through 25, inclusive, and substitute:

(Over)

“(B) (1) A DESIGNATING INDIVIDUAL SHALL SEND, BY CERTIFIED MAIL, A NOTICE OF TERMINATION OF POWER OF ATTORNEY FOR HEALTH CARE DECISIONS FORM TO THE SECRETARY.”;

and in lines 31 and 35, in each instance, strike “LIFE PARTNER” and substitute “DESIGNATING INDIVIDUAL”.

AMENDMENT NO. 8

On page 18, in lines 1 and 2, strike “OTHER LIFE PARTNER’S” and substitute “DESIGNEE’S”; strike in their entirety lines 3 through 18, inclusive; in line 19, strike “6-206.” and substitute “20-1106.”; in line 20, strike “A CERTIFICATE OF LIFE PARTNERSHIP BOOK” and substitute “RECORDS CONCERNING POWER OF ATTORNEY FOR HEALTH CARE DECISIONS FORMS”; strike beginning with “PROPERLY” in line 28 down through “PARTNERSHIP” in line 29 and substitute “CONFIRMATION NUMBERS OF REGISTERED POWER OF ATTORNEY FOR HEALTH CARE DECISIONS FORMS”; and strike in their entirety lines 32 through 35, inclusive.

AMENDMENT NO. 9

On page 19, strike in their entirety lines 1 through 6, inclusive; in line 7, strike “6-301.” and substitute “20-1109.”; strike in their entirety lines 8 through 11, inclusive, and substitute:

“(A) A HEALTH CARE FACILITY SHALL ALLOW A DESIGNEE OF A POWER OF ATTORNEY FOR HEALTH CARE DECISIONS TO VISIT, UNLESS:”;

strike beginning with “HOSPITAL” in line 18 down through “CENTER” in line 19 and substitute “HEALTH CARE FACILITY”; and after line 21, insert:

“20-1107.

A HEALTH CARE FACILITY, HEALTH CARE PROVIDER, CEMETERY, FUNERAL DIRECTOR, OR OTHER PERSON SUBJECT TO THE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS FORM:

(1) SHALL COMPLY WITH THE POWER OF ATTORNEY FOR HEALTH

CARE DECISIONS FORM; AND

(2) IS NOT LIABLE FOR VIOLATING THE PROVISIONS OF THIS SUBTITLE FOR A GOOD-FAITH ATTEMPT TO COMPLY WITH THE PROVISIONS OF THE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS FORM.

20-1108.

THE SECRETARY, IN COLLABORATION WITH THE OFFICE OF THE ATTORNEY GENERAL, SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

20-1109.

(A) AN INDIVIDUAL MAY NOT KNOWINGLY MAKE ANY MATERIAL FALSE STATEMENT TO INDUCE OR TO HELP ANOTHER INDIVIDUAL TO INDUCE A DESIGNATING INDIVIDUAL INTO DESIGNATING THE INDIVIDUAL THE POWERS UNDER A POWER OF ATTORNEY FOR HEALTH CARE DECISIONS.

(B) AN INDIVIDUAL WHO VIOLATES THE PROVISIONS OF THIS SECTION IS GUILTY OF PERJURY.”.

AMENDMENT NO. 10

On pages 19 through 25, strike in their entirety the lines beginning with line 22 on page 19 through line 11 on page 25, inclusive, and substitute:

“SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing obligation, contract, privately drafted power of attorney, or advance directive may not be impaired in any way by this Act.”;

and in lines 12 and 18, strike “2.” and “3.”, respectively, and substitute “3.” and “4.”, respectively.