

enactment. Sections 6 and 11 are effective beginning for tax increment financing districts certified during calendar year 1988. Section 2 is effective the day after final enactment and applies to taxes payable in 1989, and thereafter.

Presented to the governor January 30, 1989

Signed by the governor January 30, 1989, 3:37 p.m.

CHAPTER 2—H.F.No. 1

An act relating to courts; reenacting the statutory provision authorizing six member juries in nonfelony cases; reenacting Minnesota Statutes 1988, section 593.01, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **REENACTMENT.**

Minnesota Statutes 1988, section 593.01, subdivision 1, is reenacted.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment and applies to crimes committed on or after that date.

Presented to the governor February 8, 1989

Signed by the governor February 8, 1989, 3:59 p.m.

CHAPTER 3—S.F.No. 28

An act relating to probate; providing for adult health care decisions; imposing penalties; proposing coding for new law as Minnesota Statutes, chapter 145B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[145B.01] CITATION.**

This chapter may be cited as the "adult health care decisions act."

Sec. 2. **[145B.02] DEFINITIONS.**

Subdivision 1. APPLICABILITY. The definitions in this section apply to this chapter.

Subd. 2. DECLARATION. "Declaration" means a writing made according to section 3.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. HEALTH CARE. “Health care” means care, treatment, services, or procedures to maintain, diagnose, or treat an individual’s physical condition when the individual is in a terminal condition.

Subd. 4. HEALTH CARE DECISION. “Health care decision” means a decision to begin, continue, increase, limit, discontinue, or not begin any health care.

Subd. 5. HEALTH CARE FACILITY. “Health care facility” means a hospital or other entity licensed under sections 144.50 to 144.58; a nursing home licensed to serve adults under section 144A.02; or a home care provider licensed under sections 144A.43 to 144A.49.

Subd. 6. HEALTH CARE PROVIDER. “Health care provider” means a person, health care facility, organization, or corporation licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care directly or through an arrangement with other health care providers.

Subd. 7. HMO. “HMO” means an organization licensed under sections 62D.01 to 62D.30.

Subd. 8. TERMINAL CONDITION. “Terminal condition” means an incurable or irreversible condition for which the administration of medical treatment will serve only to prolong the dying process.

Sec. 3. [145B.03] DECLARATION.

Subdivision 1. SCOPE. A competent adult may make a declaration of preferences or instructions regarding health care. These preferences or instructions may include, but are not limited to, consent to or refusal of any health care, treatment, service, procedure, or placement. A declaration may include preferences or instructions regarding health care, the designation of a proxy to make health care decisions on behalf of the declarant, or both.

Subd. 2. REQUIREMENTS FOR EXECUTING A DECLARATION. (a) A declaration is effective only if it is signed by the declarant and two witnesses or a notary public.

(b) A declaration must state:

(1) the declarant’s preferences regarding whether the declarant wishes to receive or not receive artificial administration of nutrition and hydration; or

(2) that the declarant wishes the proxy, if any, to make decisions regarding the administering of artificially administered nutrition and hydration for the declarant

if the declarant is unable to make health care decisions and the declaration becomes operative. If the declaration does not state the declarant’s preferences regarding artificial administration of nutrition and hydration, the declaration shall be enforceable as to all other preferences or instructions regarding health

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care, and a decision to administer, withhold, or withdraw nutrition and hydration artificially shall be made pursuant to section 13. However, the mere existence of a declaration or appointment of a proxy does not, by itself, create a presumption that the declarant wanted the withholding or withdrawing of artificially administered nutrition or hydration.

(c) The declaration may be communicated to and then transcribed by one of the witnesses. If the declarant is physically unable to sign the document, one of the witnesses shall sign the document at the declarant's direction.

(d) Neither of the witnesses can be someone who is entitled to any part of the estate of the declarant under a will then existing or by operation of law. Neither of the witnesses nor the notary may be named as a proxy in the declaration. Each witness shall substantially make the following declaration on the document:

"I certify that the declarant voluntarily signed this declaration in my presence and that the declarant is personally known to me. I am not named as a proxy by the declaration."

Subd. 3. GUARDIAN OR CONSERVATOR. Except as otherwise provided in the declaration, designation of a proxy is considered a nomination of a guardian or conservator of the person for purposes of section 525.544.

Sec. 4. [145B.04] SUGGESTED FORM.

A declaration executed after August 1, 1989, under this chapter must be substantially in the form in this section. Forms printed for public distribution must be substantially in the form in this section.

"Health Care Declaration

Notice:

This is an important legal document. Before signing this document, you should know these important facts:

(a) This document gives your health care providers or your designated proxy the power and guidance to make health care decisions according to your wishes when you are in a terminal condition and cannot do so. This document may include what kind of treatment you want or do not want and under what circumstances you want these decisions to be made. You may state where you want or do not want to receive any treatment.

(b) If you name a proxy in this document and that person agrees to serve as your proxy, that person has a duty to act consistently with your wishes. If the proxy does not know your wishes, the proxy has the duty to act in your best interests. If you do not name a proxy, your health care providers have a duty to act consistently with your instructions or tell you that they are unwilling to do so.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) This document will remain valid and in effect until and unless you amend or revoke it. Review this document periodically to make sure it continues to reflect your preferences. You may amend or revoke the declaration at any time by notifying your health care providers.

(d) Your named proxy has the same right as you have to examine your medical records and to consent to their disclosure for purposes related to your health care or insurance unless you limit this right in this document.

(e) If there is anything in this document that you do not understand, you should ask for professional help to have it explained to you.

TO MY FAMILY, DOCTORS, AND ALL THOSE CONCERNED WITH MY CARE:

I,, being an adult of sound mind, willfully and voluntarily make this statement as a directive to be followed if I am in a terminal condition and become unable to participate in decisions regarding my health care. I understand that my health care providers are legally bound to act consistently with my wishes, within the limits of reasonable medical practice and other applicable law. I also understand that I have the right to make medical and health care decisions for myself as long as I am able to do so and to revoke this declaration at any time.

(1) The following are my feelings and wishes regarding my health care (you may state the circumstances under which this declaration applies):
.....
.....

(2) I particularly want to have all appropriate health care that will help in the following ways (you may give instructions for care you do want):
.....
.....

(3) I particularly do not want the following (you may list specific treatment you do not want in certain circumstances):

(4) I particularly want to have the following kinds of life-sustaining treatment if I am diagnosed to have a terminal condition (you may list the specific types of life-sustaining treatment that you do want if you have a terminal condition):
.....
.....

(5) I particularly do not want the following kinds of life-sustaining treatment if I am diagnosed to have a terminal condition (you may list the specific types of life-sustaining treatment that you do not want if you have a terminal condition):

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.....

(6) I recognize that if I reject artificially administered sustenance, then I may die of dehydration or malnutrition rather than from my illness or injury. The following are my feelings and wishes regarding artificially administered sustenance should I have a terminal condition (you may indicate whether you wish to receive food and fluids given to you in some other way than by mouth if you have a terminal condition):

.....

(7) Thoughts I feel are relevant to my instructions. (You may, but need not, give your religious beliefs, philosophy, or other personal values that you feel are important. You may also state preferences concerning the location of your care.)

.....

(8) Proxy Designation. (If you wish, you may name someone to see that your wishes are carried out, but you do not have to do this. You may also name a proxy without including specific instructions regarding your care. If you name a proxy, you should discuss your wishes with that person.)

If I become unable to communicate my instructions, I designate the following person(s) to act on my behalf consistently with my instructions, if any, as stated in this document. Unless I write instructions that limit my proxy's authority, my proxy has full power and authority to make health care decisions for me. If a guardian or conservator of the person is to be appointed for me, I nominate my proxy named in this document to act as guardian or conservator of my person.

Name:

Address:

Phone Number:

Relationship: (If any)

If the person I have named above refuses or is unable or unavailable to act on my behalf, or if I revoke that person's authority to act as my proxy, I authorize the following person to do so:

Name:

Address:

Phone Number:

Relationship: (If any)

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I understand that I have the right to revoke the appointment of the persons named above to act on my behalf at any time by communicating that decision to the proxy or my health care provider.

DATE:

SIGNED:

STATE OF

.....

COUNTY OF

Subscribed, sworn to, and acknowledged before me by on this day of, 19...

.....

NOTARY PUBLIC

OR

(Sign and date here in the presence of two adult witnesses, neither of whom is entitled to any part of your estate under a will or by operation of law, and neither of whom is your proxy.)

I certify that the declarant voluntarily signed this declaration in my presence and that the declarant is personally known to me. I am not named as a proxy by the declaration, and to the best of my knowledge, I am not entitled to any part of the estate of the declarant under a will or by operation of law.

Witness Address

Witness Address

Reminder: Keep the signed original with your personal papers.

Give signed copies to your doctors, family, and proxy."

Sec. 5. [145B.05] WHEN OPERATIVE.

A declaration becomes operative when it is delivered to the declarant's physician or other health care provider. The physician or provider must comply with it to the fullest extent possible, consistent with reasonable medical practice and other applicable law, or comply with the notice and transfer provisions of sections 6 and 7. The physician or health care provider shall continue to obtain the declarant's informed consent to all health care decisions if the declarant is capable of informed consent.

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Sec. 6. [145B.06] COMPLIANCE WITH DECLARATION.

Subdivision 1. BY HEALTH CARE PROVIDER. (a) A physician or other health care provider shall make the declaration a part of the declarant's medical record. If the physician or other health care provider is unwilling at any time to comply with the declaration, the physician or health care provider must promptly notify the declarant and document the notification in the declarant's medical record. After notification, if a competent declarant fails to transfer to a different physician or provider, the physician or provider has no duty to transfer the patient.

(b) If a physician or other health care provider receives a declaration from a competent declarant and does not advise the declarant of unwillingness to comply, and if the declarant then becomes incompetent or otherwise unable to seek transfer to a different physician or provider, the physician or other health care provider who is unwilling to comply with the declaration shall promptly take all reasonable steps to transfer care of the declarant to a physician or other health care provider who is willing to comply with the declaration.

Subd. 2. BY PROXY. A proxy designated to make health care decisions and who agrees to serve as proxy may make health care decisions on behalf of a declarant to the same extent that the declarant could make the decision, subject to limitations or conditions stated in the declaration. In exercising this authority, the proxy shall act consistently with any desires the declarant expresses in the declaration or otherwise makes known to the proxy. If the declarant's desires are unknown, the proxy shall act in the best interests of the declarant.

Sec. 7. [145B.07] TRANSFER OF CARE.

If a declaration is delivered to a physician or other health care provider who transfers care of patients to other health care providers, or if a declaration is delivered to a health care provider, including a health care facility or HMO that delivers patient care through an arrangement with individual providers, the physician or other health care provider receiving a declaration shall make reasonable efforts:

(1) to ensure that an agreement with the patient to comply with the declaration will be honored by others who provide health care to that patient; or

(2) to identify and deliver the declaration to the individual providers and facilitate the declarant's discussion with those individuals whose agreement to comply with the declaration is required.

Sec. 8. [145B.08] ACCESS TO MEDICAL INFORMATION BY PROXY.

Unless a declaration under this chapter provides otherwise, a proxy has the same rights as the declarant to receive information regarding proposed health care, to receive and review medical records, and to consent to the disclosure of medical records for purposes related to the declarant's health care or insurance.

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Sec. 9. [145B.09] REVOCATION.

Subdivision 1. GENERAL. A declaration under this chapter may be revoked in whole or in part at any time and in any manner by the declarant, without regard to the declarant's physical or mental condition. A revocation is effective when the declarant communicates it to the attending physician or other health care provider. The attending physician or other health care provider shall note the revocation as part of the declarant's medical record.

Subd. 2. EFFECT OF MARRIAGE DISSOLUTION OR ANNULMENT ON DESIGNATION OF PROXY. Unless a declaration under this chapter expressly provides otherwise, if after executing a declaration the declarant's marriage is dissolved or annulled, the dissolution or annulment revokes any designation of the former spouse as a proxy to make health care decisions for the declarant.

Sec. 10. [145B.10] PENALTIES.

Subdivision 1. CONCEALING OR CHANGING DECLARATION. An individual who willfully conceals, cancels, defaces, or obliterates a declaration of another under this chapter without the declarant's consent or who falsifies or forges a revocation of the declaration of another is guilty of a gross misdemeanor.

Subd. 2. FORGING DECLARATION. An individual who falsifies or forges the declaration of another under this chapter, or who willfully conceals or withholds personal knowledge of a revocation, is guilty of aggravated forgery under section 609.625, subdivision 1.

Subd. 3. FORCED EXECUTION OF A DECLARATION. A person who coerces or fraudulently induces another to execute a declaration under this chapter is guilty of a felony.

Subd. 4. REQUIRED OR PROHIBITED EXECUTION. A person who requires or prohibits the execution of a declaration under this chapter as a condition for being insured for or receiving all or some health care services is guilty of a misdemeanor.

Subd. 5. OTHER SANCTIONS PRESERVED. The sanctions provided in this section do not displace any sanction applicable under other law.

Sec. 11. [145B.11] EFFECT ON INSURANCE.

The making or effectuation of a declaration under this chapter does not affect the sale, procurement, issuance, or validity of a policy of life insurance or annuity, nor does it affect, impair, or modify the terms of an existing policy of life insurance or annuity or the liability of the party issuing the policy or annuity contract.

Sec. 12. [145B.12] NO PRESUMPTION CREATED.

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. If an individual has not executed or has revoked a declaration under this chapter, a presumption is not created with respect to:

- (1) the individual's intentions concerning the provision of health care; or
- (2) the appropriate health care to be provided.

Subd. 2. Nothing in this chapter shall be construed to authorize or justify the withholding or withdrawal of artificially administered nutrition or hydration from any person who has not issued a declaration or designated a proxy under this chapter.

Sec. 13. [145B.13] REASONABLE MEDICAL PRACTICE REQUIRED.

In reliance on a patient's declaration, a decision to administer, withhold, or withdraw medical treatment after the patient has been diagnosed by the attending physician to be in a terminal condition must always be based on reasonable medical practice, including:

(1) continuation of appropriate care to maintain the patient's comfort, hygiene, and human dignity and to alleviate pain;

(2) oral administration of food or water to a patient who accepts it, except for clearly documented medical reasons; and

(3) in the case of a declaration of a patient that the attending physician knows is pregnant, the declaration must not be given effect as long as it is possible that the fetus could develop to the point of live birth with continued application of life-sustaining treatment.

Sec. 14. [145B.14] CERTAIN PRACTICES NOT CONDONED.

Nothing in this chapter may be construed to condone, authorize, or approve mercy killing, euthanasia, suicide, or assisted suicide.

Sec. 15. [145B.15] RECOGNITION OF PREVIOUSLY EXECUTED DECLARATION.

A declaration that substantially complies with section 3, but is made before the effective date of this chapter, is an effective declaration under this chapter.

Sec. 16. [145B.16] RECOGNITION OF DOCUMENT EXECUTED IN ANOTHER STATE.

A declaration executed in another state is effective if it substantially complies with this chapter.

Sec. 17. [145B.17] EXISTING RIGHTS.

Nothing in this chapter impairs or supersedes the existing rights of any patient or any other legal right or legal responsibility a person may have to begin, continue, withhold, or withdraw health care. Nothing in this chapter

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prohibits lawful treatment by spiritual means through prayer in lieu of medical or surgical treatment when treatment by spiritual means has been authorized by the declarant.

Presented to the governor February 28, 1989

Signed by the governor March 3, 1989, 11:36 a.m.

CHAPTER 4—S.F.No. 171

An act relating to law libraries; permitting fees to be set annually; amending Minnesota Statutes 1988, section 140.422, subdivision 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 140.422, subdivision 4, is amended to read:

Subd. 4. **SETTING FEES.** The law library board of trustees shall, with the approval of the board of commissioners, set the amount of the law library fee for civil and criminal matters in the district, ~~county or county municipal~~ and conciliation courts of the county. The fee shall be initially set on July 1, 1982. ~~Commencing with July 1, 1983, the law library fee shall be set every two years each year and shall remain in effect during that time until changed.~~ All law library fees shall be published in the State Register.

Presented to the governor March 2, 1989

Signed by the governor March 3, 1989, 9:10 a.m.

CHAPTER 5—S.F.No. 32

An act relating to crimes; trespass; recodifying the law on dangerous trespasses and misdemeanor trespasses; prescribing penalties; amending Minnesota Statutes 1988, sections 609.02, subdivisions 12 and 13; 609.50; 609.55, subdivision 2, and by adding subdivisions; 609.576; 609.605; 609.85; 609.855, subdivisions 1 and 3; 624.731, subdivision 7; and 629.363; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 1988, section 609.60.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 609.02, subdivision 12, is amended to read:

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