

**765.302 Procedure for making a living will; notice to physician.--**

(1) Any competent adult may, at any time, make a living will or written declaration and direct the providing, withholding, or withdrawal of life-prolonging procedures in the event that such person has a terminal condition, has an end-stage condition, or is in a persistent vegetative state. A living will must be signed by the principal in the presence of two subscribing witnesses, one of whom is neither a spouse nor a blood relative of the principal. If the principal is physically unable to sign the living will, one of the witnesses must subscribe the principal's signature in the principal's presence and at the principal's direction.

(2) It is the responsibility of the principal to provide for notification to her or his attending or treating physician that the living will has been made. In the event the principal is physically or mentally incapacitated at the time the principal is admitted to a health care facility, any other person may notify the physician or health care facility of the existence of the living will. An attending or treating physician or health care facility which is so notified shall promptly make the living will or a copy thereof a part of the principal's medical records.

(3) A living will, executed pursuant to this section, establishes a rebuttable presumption of clear and convincing evidence of the principal's wishes.

**History.--**s. 4, ch. 92-199; s. 1147, ch. 97-102; s. 25, ch. 99-331.

**765.303 Suggested form of a living will.--**

(1) A living will may, BUT NEED NOT, be in the following form:

Living Will

Declaration made this \_\_\_\_\_ day of \_\_\_\_\_, (year), I, \_\_\_\_\_, willfully and voluntarily make known my desire that my dying not be artificially prolonged under the circumstances set forth below, and I do hereby declare that, if at any time I am incapacitated and

(initial) I have a terminal condition

or (initial) I have an end-stage condition

or (initial) I am in a persistent vegetative state

and if my attending or treating physician and another consulting physician have determined that there is no reasonable medical probability of my recovery from such condition, I direct that life-prolonging procedures be withheld or withdrawn when the application of such procedures would serve only to prolong artificially the process of

dying, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care or to alleviate pain.

It is my intention that this declaration be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and to accept the consequences for such refusal.

In the event that I have been determined to be unable to provide express and informed consent regarding the withholding, withdrawal, or continuation of life-prolonging procedures, I wish to designate, as my surrogate to carry out the provisions of this declaration:

Name:

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Address:

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Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Additional Instructions (optional):

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\_\_\_\_\_ (Signed) \_\_\_\_\_

\_\_\_\_\_ Witness \_\_\_\_\_

\_\_\_\_\_ Address \_\_\_\_\_

\_\_\_\_\_ Phone \_\_\_\_\_

\_\_\_\_\_ Witness \_\_\_\_\_

\_\_\_\_\_ Address \_\_\_\_\_

\_\_\_\_\_ Phone \_\_\_\_\_

(2) The principal's failure to designate a surrogate shall not invalidate the living will.

**History.**--s. 4, ch. 92-199; s. 35, ch. 99-6; s. 26, ch. 99-331; s. 12, ch. 2000-295.

**765.304 Procedure for living will.--**

(1) If a person has made a living will expressing his or her desires concerning life-prolonging procedures, but has not designated a surrogate to execute his or her wishes concerning life-prolonging procedures or designated a surrogate under part II, the attending physician may proceed as directed by the principal in the living will. In the event of a dispute or disagreement concerning the attending physician's decision to withhold or withdraw life-prolonging procedures, the attending physician shall not withhold or withdraw life-prolonging procedures pending review under s. 765.105. If a review of a disputed decision is not sought within 7 days following the attending physician's decision to withhold or withdraw life-prolonging procedures, the attending physician may proceed in accordance with the principal's instructions.

(2) Before proceeding in accordance with the principal's living will, it must be determined that:

(a) The principal does not have a reasonable medical probability of recovering capacity so that the right could be exercised directly by the principal.

(b) The principal has a terminal condition, has an end-stage condition, or is in a persistent vegetative state.

(c) Any limitations or conditions expressed orally or in a written declaration have been carefully considered and satisfied.

**History.**--s. 4, ch. 92-199; s. 10, ch. 94-183; s. 27, ch. 99-331.