

---

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

---

## DIGEST

### Mills (SB 302)

Present law provides for the designation of certain persons who may consent to surgical or medical treatment.

Proposed law provides that if none of those persons designated under present law are reasonably available, then the patient's attending physician shall have the discretion to provide or perform any surgical or medical treatment or procedures, including but not limited to an autopsy, and may also make decisions regarding continued services needed by the patient, including but not limited to approving the placement or transfer of the patient to another facility, without the consent of the patient or other person authorized to consent for the patient.

Proposed law further provides that prior to such action the attending physician shall obtain confirmation from another physician of the patient's condition and the medical necessity for such action as is appropriate and consistent with the patient's condition and which cannot be omitted without adversely affecting the patient's condition or the quality of medical care rendered.

Proposed law provides that proposed law shall not apply to an emergency governed by present law.

Proposed law provides that no hospital or other health care facility, physician, health care provider, or other person or entity shall be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct based upon the reliance in good faith on any direction or decision by any person reasonably believed to be authorized and empowered to consent under present law even if death or injury to the patient ensues.

Proposed law further provides that each hospital or other health care facility, physician, health care provider, or other person or entity, who acts in good faith reliance on any such direction or decision shall be protected and released to the same extent as though such person had interacted directly with the patient as a fully competent person.

Proposed law provides that any physician attending or confirming, who, in accordance with proposed law above, provides or performs any surgical or medical treatment or procedure, including but not limited to an autopsy, or who makes decisions regarding continued services, including but not limited to approving the transfer or placement of the patient, without the consent of the patient or other person authorized to consent for the patient, shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the decision to perform, or the actual performance of, such treatment or procedure, or with regard to any decisions pertaining to continued services, including but not limited to decisions regarding the transfer or placement of the patient, even if death or injury to the patient

ensues.

Proposed law further provides that no hospital or other health care facility, health care provider or other person or entity acting under the direction of a physician shall be subject to criminal prosecution or civil liability, or be deemed to have engaged in unprofessional conduct as a result of any treatment, procedures, continued services, transfer, or placements that were performed in accordance with proposed law above, even if death or injury to the patient ensues.

Effective August 1, 2014.

(Amends R.S. 40:1299.53)