

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1464

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 1106, 5306, 5506, 5507, 5508, 5509, 5510, 5511, 5512, and 5520 (MCL 700.1106, 700.5306, 700.5506, 700.5507, 700.5508, 700.5509, 700.5510, 700.5511, 700.5512, and 700.5520), sections 1106, 5506, 5507, 5508, and 5510 as amended by 2003 PA 63, section 5306 as amended and section 5520 as added by 2000 PA 312, and section 5509 as amended by 1999 PA 52, and by adding section 5515; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1106. As used in this act:

2 (a) "Mental health professional" means an individual who is
3 trained and experienced in the area of mental illness or
4 developmental disabilities and who is 1 of the following:

5 (i) A physician who is licensed to practice medicine or

1 osteopathic medicine and surgery in this state under article 15
2 of the public health code, 1978 PA 368, MCL 333.16101 to
3 333.18838.

4 (ii) A psychologist licensed to practice in this state under
5 article 15 of the public health code, 1978 PA 368, MCL 333.16101
6 to 333.18838.

7 (iii) A registered professional nurse licensed to practice in
8 this state under article 15 of the public health code, 1978 PA
9 368, MCL 333.16101 to 333.18838.

10 (iv) ~~A~~ **Until July 1, 2005, a** social worker registered as a
11 certified social worker under article 15 of the public health
12 code, 1978 PA 368, MCL 333.16101 to 333.18838. **Beginning July 1,**
13 **2005, a licensed master's social worker licensed under article 15**
14 **of the public health code, 1978 PA 368, MCL 333.16101 to**
15 **333.18838.**

16 (v) A physician's assistant licensed to practice in this
17 state under article 15 of the public health code, 1978 PA 368,
18 MCL 333.16101 to 333.18838.

19 (vi) **A licensed professional counselor licensed under part**
20 **181 of the public health code, 1978 PA 368, MCL 333.18101 to**
21 **333.18117.**

22 (b) "Michigan prudent investor rule" means the fiduciary
23 investment and management rule prescribed by part 5 of this
24 article.

25 (c) "Minor" means an individual who is less than 18 years of
26 age.

27 (d) "Minor ward" means a minor for whom a guardian is

1 appointed solely because of minority.

2 (e) "Money" means legal tender or a note, draft, certificate
3 of deposit, stock, bond, check, or credit card.

4 (f) "Mortgage" means a conveyance, agreement, or arrangement
5 in which property is encumbered or used as security.

6 (g) "Nonresident decedent" means a decedent who was domiciled
7 in another jurisdiction at the time of his or her death.

8 (h) "Organization" means a corporation, business trust,
9 estate, trust, partnership, joint venture, association, limited
10 liability company, government, governmental subdivision or
11 agency, or another legal or commercial entity.

12 (i) "Parent" includes, but is not limited to, an individual
13 entitled to take, or who would be entitled to take, as a parent
14 under this act by intestate succession from a child who dies
15 without a will and whose relationship is in question. Parent
16 does not include an individual who is only a stepparent, foster
17 parent, or grandparent.

18 (j) "Patient advocate" means an individual designated to
19 exercise powers concerning another individual's care, custody,
20 and medical **or mental health** treatment or authorized to make an
21 anatomical gift on behalf of another individual, or both, as
22 provided in section 5506.

23 (k) "Patient advocate designation" means the written document
24 executed and with the effect as described in sections 5506 to
25 ~~5512~~ 5515.

26 (l) "Payor" means a trustee, insurer, business entity,
27 employer, government, governmental subdivision or agency, or

1 other person authorized or obligated by law or a governing
2 instrument to make payments.

3 (m) "Person" means an individual or an organization.

4 (n) "Personal representative" includes, but is not limited
5 to, an executor, administrator, successor personal
6 representative, and special personal representative, and any
7 other person who performs substantially the same function under
8 the law governing that person's status.

9 (o) "Petition" means a written request to the court for an
10 order after notice.

11 (p) "Proceeding" includes an application and a petition, and
12 may be an action at law or a suit in equity. A proceeding may be
13 denominated a civil action under court rules.

14 (q) "Professional conservator" means a person that provides
15 conservatorship services for a fee. Professional conservator
16 does not include a person who is an individual who is related to
17 all but 2 of the protected individuals for whom he or she is
18 appointed as conservator.

19 (r) "Professional guardian" means a person that provides
20 guardianship services for a fee. Professional guardian does not
21 include a person who is an individual who is related to all but 2
22 of the wards for whom he or she is appointed as guardian.

23 (s) "Property" means anything that may be the subject of
24 ownership, and includes both real and personal property or an
25 interest in real or personal property.

26 (t) "Protected individual" means a minor or other individual
27 for whom a conservator has been appointed or other protective

1 order has been made as provided in part 4 of article V.

2 (u) "Protective proceeding" means a proceeding under the
3 provisions of part 4 of article V.

4 Sec. 5306. (1) The court may appoint a guardian if the
5 court finds by clear and convincing evidence both that the
6 individual for whom a guardian is sought is an incapacitated
7 individual and that the appointment is necessary as a means of
8 providing continuing care and supervision of the incapacitated
9 individual, with each finding supported separately on the
10 record. Alternately, the court may dismiss the proceeding or
11 enter another appropriate order.

12 (2) The court shall grant a guardian only those powers and
13 only for that period of time as is necessary to provide for the
14 demonstrated need of the incapacitated individual. The court
15 shall design the guardianship to encourage the development of
16 maximum self-reliance and independence in the individual. If the
17 court is aware that an individual has executed a patient advocate
18 designation under section 5506, the court shall not grant a
19 guardian any of the same powers that are held by the patient
20 advocate. A court order establishing a guardianship shall
21 specify any limitations on the guardian's powers and any time
22 limits on the guardianship.

23 (3) If the court finds by clear and convincing evidence that
24 an individual is incapacitated and lacks the capacity to do some,
25 but not all, of the tasks necessary to care for himself or
26 herself, the court may appoint a limited guardian to provide
27 guardianship services to the individual, but the court shall not

1 appoint a full guardian.

2 (4) If the court finds by clear and convincing evidence that
3 the individual is incapacitated and is totally without capacity
4 to care for himself or herself, the court shall specify that
5 finding of fact in an order and may appoint a full guardian.

6 (5) If an individual executed a patient advocate designation
7 under section 5506 before the time the court determines that he
8 or she became a legally incapacitated individual, a guardian does
9 not have and shall not exercise the power or duty of making
10 medical **or mental health** treatment decisions that the patient
11 advocate is designated to make. If, however, a petition for
12 guardianship or for modification under section 5310 alleges and
13 the court finds that the patient advocate designation was not
14 executed in compliance with section 5506, that the patient
15 advocate is not complying with the terms of the designation or
16 **with the applicable provisions** of sections 5506 to ~~5512~~ **5515**,
17 or that the patient advocate is not acting consistent with the
18 ward's best interests, the court may modify the guardianship's
19 terms to grant those powers to the guardian.

20 Sec. 5506. (1) An individual 18 years of age or older who
21 is of sound mind at the time a patient advocate designation is
22 made may designate in writing another individual who is 18 years
23 of age or older to exercise powers concerning care, custody, and
24 medical **or mental health** treatment decisions for the individual
25 making the patient advocate designation. An individual making a
26 patient advocate designation under this subsection may include in
27 the patient advocate designation the authority for the designated

1 individual to make an anatomical gift of all or part of the
2 individual's body in accordance with this act and section 10102
3 of the public health code, 1978 PA 368, MCL 333.10102.

4 (2) For purposes of this section and sections 5507 to ~~5512~~
5 **5515**, an individual who is named in a patient advocate
6 designation to exercise powers concerning care, custody, and
7 medical **or mental health** treatment decisions is known as a
8 patient advocate and an individual who makes a patient advocate
9 designation is known as a patient.

10 (3) A patient advocate designation under this section must be
11 in writing, signed, witnessed as provided in subsection (4),
12 dated, executed voluntarily, and, before its implementation, made
13 part of the patient's medical record with, **as applicable**, the
14 patient's attending physician, ~~and, if applicable, with the~~
15 **mental health professional providing treatment to the patient**,
16 the facility where the patient is located, **or the community**
17 **mental health services program or hospital that is providing**
18 **mental health services to the patient**. The patient advocate
19 designation must include a statement that the authority conferred
20 under this section is exercisable only when the patient is unable
21 to participate in medical **or mental health** treatment decisions,
22 **as applicable**, and, in the case of the authority to make an
23 anatomical gift as described in subsection (1), a statement that
24 the authority remains exercisable after the patient's death.

25 (4) A patient advocate designation under this section must be
26 executed in the presence of and signed by 2 witnesses. A witness
27 under this section shall not be the patient's spouse, parent,

1 child, grandchild, sibling, presumptive heir, known devisee at
2 the time of the witnessing, physician, or patient advocate or an
3 employee of a life or health insurance provider for the patient,
4 of a health facility that is treating the patient, or of a home
5 for the aged as defined in section 20106 of the public health
6 code, 1978 PA 368, MCL 333.20106, where the patient resides, **or**
7 **of a community mental health services program or hospital that is**
8 **providing mental health services to the patient.** A witness shall
9 not sign the patient advocate designation unless the patient
10 appears to be of sound mind and under no duress, fraud, or undue
11 influence.

12 (5) As used in this section, "community mental health
13 services program or hospital" means a community mental health
14 services program as that term is defined in section 100a of the
15 mental health code, 1974 PA 258, MCL 330.1100a, or a hospital as
16 that term is defined in section 100b of the mental health code,
17 1974 PA 258, MCL 330.1100b.

18 Sec. 5507. (1) A patient advocate designation may include a
19 statement of the patient's desires on care, custody, and medical
20 treatment **or mental health treatment, or both.** A patient
21 advocate designation may also include a statement of the
22 patient's desires on the making of an anatomical gift of all or
23 part of the patient's body under part 101 of the public health
24 code, 1978 PA 368, MCL 333.10101 to 333.10109. The patient may
25 authorize the patient advocate to exercise 1 or more powers
26 concerning the patient's care, custody, ~~and~~ medical treatment,
27 ~~or concerning~~ **mental health treatment, or** the making of an

1 anatomical gift that the patient could have exercised on his or
2 her own behalf.

3 (2) A patient may designate in the patient advocate
4 designation a successor individual as a patient advocate who may
5 exercise powers concerning care, custody, and medical **or mental**
6 **health** treatment decisions or concerning the making of an
7 anatomical gift for the patient if the first individual named as
8 patient advocate does not accept, is incapacitated, resigns, or
9 is removed.

10 (3) Before a patient advocate designation is implemented, a
11 copy of the patient advocate designation must be given to the
12 proposed patient advocate and must be given to a successor
13 patient advocate before the successor acts as patient advocate.
14 Before acting as a patient advocate, the proposed patient
15 advocate must sign an acceptance of the patient advocate
16 designation.

17 (4) The acceptance of a designation as a patient advocate
18 must include substantially all of the following statements:

19 1. This patient advocate designation is not effective unless
20 the patient is unable to participate in ~~medical treatment~~
21 decisions **regarding the patient's medical or mental health, as**
22 **applicable**. If this patient advocate designation includes the
23 authority to make an anatomical gift as described in section
24 5506, the authority remains exercisable after the patient's
25 death.

26 2. A patient advocate shall not exercise powers concerning
27 the patient's care, custody, and medical **or mental health**

1 treatment that the patient, if the patient were able to
2 participate in the decision, could not have exercised on his or
3 her own behalf.

4 3. This patient advocate designation cannot be used to make
5 a medical treatment decision to withhold or withdraw treatment
6 from a patient who is pregnant that would result in the pregnant
7 patient's death.

8 4. A patient advocate may make a decision to withhold or
9 withdraw treatment that would allow a patient to die only if the
10 patient has expressed in a clear and convincing manner that the
11 patient advocate is authorized to make such a decision, and that
12 the patient acknowledges that such a decision could or would
13 allow the patient's death.

14 5. A patient advocate shall not receive compensation for the
15 performance of his or her authority, rights, and
16 responsibilities, but a patient advocate may be reimbursed for
17 actual and necessary expenses incurred in the performance of his
18 or her authority, rights, and responsibilities.

19 6. A patient advocate shall act in accordance with the
20 standards of care applicable to fiduciaries when acting for the
21 patient and shall act consistent with the patient's best
22 interests. The known desires of the patient expressed or
23 evidenced while the patient is able to participate in medical **or**
24 **mental health** treatment decisions are presumed to be in the
25 patient's best interests.

26 7. A patient may revoke his or her patient advocate
27 designation at any time and in any manner sufficient to

1 communicate an intent to revoke.

2 8. A patient may waive his or her right to revoke the
3 patient advocate designation as to the power to make mental
4 health treatment decisions, and if such a waiver is made, his or
5 her ability to revoke as to certain treatment will be delayed for
6 30 days after the patient communicates his or her intent to
7 revoke.

8 9. ~~8.~~ A patient advocate may revoke his or her acceptance
9 of the patient advocate designation at any time and in any manner
10 sufficient to communicate an intent to revoke.

11 10. ~~9.~~ A patient admitted to a health facility or agency
12 has the rights enumerated in section 20201 of the public health
13 code, 1978 PA 368, MCL 333.20201.

14 Sec. 5508. (1) Except as provided under subsection (3), the
15 authority under a patient advocate designation is exercisable by
16 a patient advocate only when the patient is unable to participate
17 in medical treatment **or, as applicable, mental health treatment**
18 decisions. The patient's attending physician and another
19 physician or licensed psychologist shall determine upon
20 examination of the patient ~~when~~ **whether** the patient is unable
21 to participate in medical treatment decisions, shall put the
22 determination in writing, shall make the determination part of
23 the patient's medical record, and shall review the determination
24 not less than annually. If the patient's religious beliefs
25 prohibit an examination and this is stated in the designation,
26 the patient must indicate in the designation how ~~it shall be~~
27 ~~determined when the patient advocate exercises powers concerning~~

1 ~~decisions on behalf of the patient~~ **the determination under this**
2 **subsection shall be made. The determination of the patient's**
3 **ability to make mental health treatment decisions shall be made**
4 **under section 5515.**

5 (2) If a dispute arises as to whether the patient is unable
6 to participate in medical **or mental health** treatment decisions, a
7 petition may be filed with the court in the county in which the
8 patient resides or is ~~found~~ **located** requesting the court's
9 determination as to whether the patient is unable to participate
10 in **decisions regarding** medical treatment ~~decisions~~ **or mental**
11 **health treatment, as applicable.** If a petition is filed under
12 this subsection, the court shall appoint a guardian ad litem to
13 represent the patient for the purposes of this subsection. The
14 court shall conduct a hearing on a petition under this subsection
15 as soon as possible and not later than 7 days after the court
16 receives the petition. As soon as possible and not later than 7
17 days after the hearing, the court shall determine whether or not
18 the patient is able to participate in **decisions regarding** medical
19 treatment ~~decisions~~ **or mental health treatment, as applicable.**
20 If the court determines that the patient is unable to participate
21 in ~~medical treatment~~ **the** decisions, the patient advocate's
22 authority, rights, and responsibilities are effective. If the
23 court determines that the patient is able to participate in
24 ~~medical treatment~~ **the** decisions, the patient advocate's
25 authority, rights, and responsibilities are not effective.

26 (3) In the case of a patient advocate designation that
27 authorizes a patient advocate to make an anatomical gift of all

1 or part of the patient's body, the patient advocate shall act on
2 the patient's behalf in accordance with section 10102 of the
3 public health code, 1978 PA 368, MCL 333.10102, and may do so
4 only after the patient has been declared unable to participate in
5 medical treatment decisions as provided in subsection (1) or
6 declared dead by a licensed physician. The patient advocate's
7 authority to make an anatomical gift remains exercisable after
8 the patient's death.

9 Sec. 5509. (1) An individual designated as a patient
10 advocate has the following authority, rights, responsibilities,
11 and limitations:

12 (a) A patient advocate shall act in accordance with the
13 standards of care applicable to fiduciaries in exercising his or
14 her powers.

15 (b) A patient advocate shall take reasonable steps to follow
16 the desires, instructions, or guidelines given by the patient
17 while the patient was able to participate in **decisions regarding**
18 care, custody, ~~or~~ medical treatment, ~~decisions~~ **or mental**
19 **health treatment, as applicable**, whether given orally or as
20 written in the designation.

21 (c) A patient advocate shall not exercise powers concerning
22 the patient's care, custody, and medical **or mental health**
23 treatment that the patient, if the patient were able to
24 participate in the decision, could not have exercised on his or
25 her own behalf.

26 (d) ~~This~~ **The** designation cannot be used to make a medical
27 treatment decision to withhold or withdraw treatment from a

1 patient who is pregnant that would result in the pregnant
2 patient's death.

3 (e) A patient advocate may make a decision to withhold or
4 withdraw treatment that would allow a patient to die only if the
5 patient has expressed in a clear and convincing manner that the
6 patient advocate is authorized to make such a decision, and that
7 the patient acknowledges that such a decision could or would
8 allow the patient's death.

9 (f) A patient advocate may choose to have the patient placed
10 under hospice care.

11 (g) A patient advocate under this section shall not delegate
12 his or her powers to another individual without prior
13 authorization by the patient.

14 (h) **With regard to mental health treatment decisions, the**
15 **patient advocate shall only consent to the forced administration**
16 **of medication or to inpatient hospitalization, other than**
17 **hospitalization as a formal voluntary patient under section 415**
18 **of the mental health code, 1974 PA 258, MCL 330.1415, if the**
19 **patient has expressed in a clear and convincing manner that the**
20 **patient advocate is authorized to consent to that treatment. If**
21 **a patient is hospitalized as a formal voluntary patient under an**
22 **application executed by his or her patient advocate, the patient**
23 **retains the right to terminate the hospitalization under section**
24 **419 of the mental health code, 1974 PA 258, MCL 330.1419.**

25 (2) A patient advocate designation is suspended when the
26 patient regains the ability to participate in **decisions regarding**
27 **medical treatment ~~decisions~~ or mental health treatment, as**

1 **applicable.** The suspension is effective as long as the patient
2 is able to participate in ~~medical treatment~~ **those** decisions.
3 If the patient subsequently is determined under section 5508 **or**
4 **5515** to be unable to participate in **decisions regarding** medical
5 treatment ~~decisions~~ **or mental health treatment, as applicable,**
6 the patient advocate's authority, rights, responsibilities, and
7 limitations are again effective.

8 Sec. 5510. (1) A patient advocate designation is revoked by
9 1 or more of the following:

10 (a) The patient's death, except that part of the patient
11 advocate designation, if any, that authorizes the patient
12 advocate to make an anatomical gift of all or part of the
13 deceased patient's body in accordance with this act and section
14 10102 of the public health code, 1978 PA 368, MCL 333.10102.

15 (b) An order of removal by the probate court under section
16 ~~5511(4)~~ **5511(5)**.

17 (c) The patient advocate's resignation or removal by the
18 court, unless a successor patient advocate has been designated.

19 (d) The patient's revocation of the patient advocate
20 designation. ~~Even~~ **Subject to section 5515, even** if the patient
21 is unable to participate in medical treatment decisions, a
22 patient may revoke a patient advocate designation at any time and
23 in any manner by which he or she is able to communicate an intent
24 to revoke the patient advocate designation. If there is a
25 dispute as to the intent of the patient to revoke the patient
26 advocate designation, the court may make a determination on the
27 patient's intent to revoke the patient advocate designation. If

1 the revocation is not in writing, an individual who witnesses a
2 revocation of a patient advocate designation shall describe in
3 writing the circumstances of the revocation, must sign the
4 writing, and shall notify, if possible, the patient advocate of
5 the revocation. If the patient's physician, **mental health**
6 **professional**, or health facility has notice of the patient's
7 revocation of a patient advocate designation, the physician,
8 **mental health professional**, or health facility shall note the
9 revocation in the patient's ~~medical~~ records and bedside chart
10 and ~~must~~ **shall** notify the patient advocate.

11 (e) A subsequent patient advocate designation that revokes
12 the prior patient advocate designation either expressly or by
13 inconsistency.

14 (f) The occurrence of a provision for revocation contained in
15 the patient advocate designation.

16 (g) If a patient advocate designation is executed during a
17 patient's marriage naming the patient's spouse as the patient
18 advocate, the patient advocate designation is suspended during
19 the pendency of an action for separate maintenance, annulment, or
20 divorce and is revoked upon the entry of a judgment of separate
21 maintenance, annulment, or divorce, unless the patient has named
22 a successor individual to serve as a patient advocate. If a
23 successor patient advocate is named, that individual acts as the
24 patient advocate.

25 (2) The revocation of a patient advocate designation under
26 subsection (1) does not revoke or terminate the agency as to the
27 patient advocate or other person who acts in good faith under the

1 patient advocate designation and without actual knowledge of the
2 revocation. Unless the action is otherwise invalid or
3 unenforceable, an action taken without knowledge of the
4 revocation binds the patient and his or her heirs, devisees, and
5 personal representatives. A sworn statement executed by the
6 patient advocate stating that, at the time of doing an act in
7 accordance with the patient advocate designation, he or she did
8 not have actual knowledge of the revocation of the patient
9 advocate designation is, in the absence of fraud, conclusive
10 proof that the patient advocate did not have actual knowledge of
11 the revocation at the time of the act.

12 Sec. 5511. (1) Irrespective of a previously expressed or
13 evidenced desire, a current desire by a patient to have provided,
14 and not withheld or withdrawn, a specific life-extending care,
15 custody, or medical treatment is binding on the patient advocate,
16 if known by the patient advocate, regardless of the then ability
17 or inability of the patient to participate in care, custody, or
18 medical treatment decisions or the patient's competency.

19 (2) A person providing, performing, withholding, or
20 withdrawing care, custody, or medical **or mental health** treatment
21 as a result of the decision of an individual who is reasonably
22 believed to be a patient advocate and who is reasonably believed
23 to be acting within the authority granted by the designation is
24 liable in the same manner and to the same extent as if the
25 patient had made the decision on his or her own behalf.

26 (3) A person providing care, custody, or medical **or mental**
27 **health** treatment to a patient is bound by sound medical **or, if**

1 applicable, mental health treatment practice and by a patient
2 advocate's instructions if the patient advocate complies with
3 sections 5506 to ~~5512~~ 5515, but is not bound by the patient
4 advocate's instructions if the patient advocate does not comply
5 with these sections.

6 (4) A mental health professional who provides mental health
7 treatment to a patient shall comply with the desires of the
8 patient as expressed in the designation. If 1 or more of the
9 following apply to a desire of the patient as expressed in the
10 designation, the mental health professional is not bound to
11 follow that desire, but shall follow the patient's other desires
12 as expressed in the designation:

13 (a) In the opinion of the mental health professional,
14 compliance is not consistent with generally accepted community
15 practice standards of treatment.

16 (b) The treatment requested is not reasonably available.

17 (c) Compliance is not consistent with applicable law.

18 (d) Compliance is not consistent with court-ordered
19 treatment.

20 (e) In the opinion of the mental health professional, there
21 is a psychiatric emergency endangering the life of the patient or
22 another individual and compliance is not appropriate under the
23 circumstances.

24 (5) ~~(4)~~ If a dispute arises as to whether a patient
25 advocate is acting consistent with the patient's best interests
26 or is not complying with sections 5506 to ~~5512~~ 5515, a petition
27 may be filed with the court in the county in which the patient

1 resides or is ~~found~~ **located** requesting the court's
2 determination as to the continuation of the designation or the
3 removal of the patient advocate.

4 Sec. 5512. (1) A patient advocate cannot make a medical
5 treatment decision under the authority of or under the process
6 created by this section and sections 5506 to 5511 to withhold or
7 withdraw treatment from a pregnant patient that would result in
8 the pregnant patient's death.

9 (2) A health care provider shall not require a patient
10 advocate designation to be executed as a condition of providing,
11 withholding, or withdrawing care, custody, or medical **or mental**
12 **health** treatment.

13 (3) A life or health insurer shall not do any of the
14 following because of the execution or implementation of a patient
15 advocate designation or because of the failure or refusal to
16 execute or implement such a designation:

17 (a) Refuse to provide or continue coverage to the patient.

18 (b) Limit the amount of coverage available to a patient.

19 (c) Charge a patient a different rate.

20 (d) Consider the terms of an existing policy of life or
21 health insurance to have been breached or modified.

22 (e) Invoke a suicide or intentional death exemption or
23 exclusion in a policy covering the patient.

24 (4) A patient advocate designation shall not be construed to
25 condone, allow, permit, authorize, or approve suicide or
26 homicide.

27 (5) Except as provided in subsections (2) and (3), ~~this~~

Senate Bill No. 1464 (H-1) as amended December 9, 2004

1 ~~section and~~ sections 5506 to ~~5511~~ **5515** only apply to or affect
2 an individual who has executed a patient advocate designation or
3 an individual acting for or on behalf of another individual who
4 has executed a patient advocate designation.

5 (6) Nothing in ~~this section or~~ sections 5506 to ~~5511~~ **5515**
6 shall be considered to authorize or compel care, custody, or
7 medical **or mental health** treatment decisions for a patient who
8 objects on religious grounds.

9 (7) A designation executed before the effective date of this
10 section with the intent of accomplishing a similar purpose as
11 this section is valid but is subject to ~~this section,~~ section
12 5506(1) ~~—~~ and sections 5507 to ~~5511~~ **5515**; must be in writing,
13 signed, witnessed or notarized, dated, and executed voluntarily;
14 and, before its implementation, must be made part of the
15 patient's medical **or, as applicable, mental health treatment**
16 record.

17 **Sec. 5515. (1) A patient may waive the right to revoke a**
18 **patient advocate designation as to the power to exercise mental**
19 **health treatment decisions by making the waiver as part of the**
20 **document containing the designation. However, mental health**
21 **treatment provided to a patient [who has communicated his or her intent**
22 **to revoke] a designation in which the**
23 **patient has waived his or her right to revoke shall not continue**
24 **for more than 30 consecutive days, and the waiver does not affect**
25 **the patient's rights under section 419 of the mental health code,**
26 **1974 PA 258, MCL 330.1419.**

27 (2) A patient advocate may exercise the power to make mental
health treatment decisions only if a physician and a mental

1 health practitioner both certify, in writing and after
2 examination of the patient, that the patient is unable to give
3 informed consent to mental health treatment. The patient may, in
4 the document containing the patient advocate designation,
5 designate a physician, a mental health practitioner, or both, to
6 make the determination under this subsection. If a physician or
7 mental health practitioner designated by the patient is unable or
8 unwilling to conduct the examination and make the determination
9 required by this subsection within a reasonable time, the
10 examination and determination shall be made by another physician
11 or mental health practitioner, as applicable.

12 Sec. 5520. A legally incapacitated individual who has a
13 guardian with responsibility for making medical **or mental health**
14 treatment decisions cannot then designate another individual to
15 make medical **or mental health** treatment decisions for the legally
16 incapacitated individual.

17 Enacting section 1. Section 5513 of the estates and
18 protected individuals code, 1998 PA 386, MCL 700.5513, is
19 repealed.

20 Enacting section 2. This amendatory act does not take
21 effect unless all of the following bills of the 92nd Legislature
22 are enacted into law:

- 23 (a) Senate Bill No. 1465.
- 24 (b) Senate Bill No. 1466.
- 25 (c) Senate Bill No. 1467.
- 26 (d) Senate Bill No. 1468.
- 27 (e) Senate Bill No. 1469.

- 1 (f) Senate Bill No. 1470.
- 2 (g) Senate Bill No. 1471.
- 3 (h) Senate Bill No. 1472.