

SENATE BILL NO. 33

February 04, 2025, Introduced by Senators ANTHONY and GEISS and referred to Committee on Housing and Human Services.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending sections 5507 and 5509 (MCL 700.5507 and 700.5509),
section 5507 as amended by 2024 PA 1 and section 5509 as amended by
2004 PA 532.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5507. (1) A patient advocate designation may include a
2 statement of the patient's desires on care, custody, and medical
3 treatment or mental health treatment, or both. **A patient advocate**
4 **designation may also include a statement on which life-sustaining**

1 **treatment the patient would desire or not desire if the patient is**
2 **pregnant at the time the patient advocate designation becomes**
3 **effective. The patient's pregnancy status does not change or limit**
4 **this right.** A patient advocate designation may also include a

5 statement of the patient's desires on the making of an anatomical
6 gift of all or part of the patient's body under part 101 of the
7 public health code, 1978 PA 368, MCL 333.10101 to 333.10123. The
8 statement regarding an anatomical gift under this subsection may
9 include a statement of the patient's desires regarding the
10 resolution of a conflict between the terms of the advance health
11 care directive and the administration of means necessary to ensure
12 the medical suitability of the anatomical gift. The patient may
13 authorize the patient advocate to exercise 1 or more powers
14 concerning the patient's care, custody, medical treatment, mental
15 health treatment, the making of an anatomical gift, or the
16 resolution of a conflict between the terms of the advance health
17 care directive and the administration of means necessary to ensure
18 the medical suitability of the anatomical gift that the patient
19 could have exercised on the patient's own behalf.

20 (2) A patient advocate designation may also include the
21 patient's instructions about how the patient advocate is to make
22 decisions.

23 (3) A patient may designate in the patient advocate
24 designation a successor individual as a patient advocate who may
25 exercise the powers described in subsection (1) for the patient if
26 the first individual named as patient advocate does not accept, is
27 incapacitated, resigns, or is removed.

28 (4) Before a patient advocate designation is implemented, a
29 copy of the patient advocate designation must be given to the

1 proposed patient advocate and must be given to a successor patient
2 advocate before the successor acts as patient advocate. Before
3 acting as a patient advocate, the proposed patient advocate must
4 sign an acceptance of the patient advocate designation.

5 (5) The acceptance of a designation as a patient advocate must
6 include substantially all of the following statements:

7 1. This patient advocate designation is not effective unless
8 the patient is unable to participate in decisions regarding the
9 patient's medical or mental health, as applicable. If this patient
10 advocate designation includes the authority to make an anatomical
11 gift as described in section 5506, the authority remains
12 exercisable after the patient's death.

13 2. A patient advocate shall not exercise powers concerning the
14 patient's care, custody, and medical or mental health treatment
15 that the patient, if the patient were able to participate in the
16 decision, could not have exercised on the patient's own behalf.

17 3. This patient advocate designation ~~cannot be used to make a~~
18 ~~medical treatment decision to withhold or withdraw treatment from a~~
19 ~~patient who is pregnant that would result in the pregnant patient's~~
20 ~~death.~~ **can be used to direct which life-sustaining treatment the**
21 **patient would desire or not desire if the patient is pregnant at**
22 **the time the patient advocate designation becomes effective.**

23 4. A patient advocate may make a decision to withhold or
24 withdraw treatment that would allow a patient to die only if the
25 patient has expressed in a clear and convincing manner that the
26 patient advocate is authorized to make such a decision, and that
27 the patient acknowledges that such a decision could or would allow
28 the patient's death.

29 5. A patient advocate shall not receive compensation for the

1 performance of the patient advocate's authority, rights, and
2 responsibilities, but a patient advocate may be reimbursed for
3 actual and necessary expenses incurred in the performance of the
4 patient advocate's authority, rights, and responsibilities.

5 6. A patient advocate shall act in accordance with the
6 standards of care applicable to fiduciaries when acting for the
7 patient and shall act consistent with the patient's best interests.
8 The known desires of the patient expressed or evidenced while the
9 patient is able to participate in medical or mental health
10 treatment decisions are presumed to be in the patient's best
11 interests.

12 7. A patient may revoke the patient's patient advocate
13 designation at any time and in any manner sufficient to communicate
14 an intent to revoke.

15 8. A patient may waive the patient's right to revoke the
16 patient advocate designation as to the power to make mental health
17 treatment decisions, and if the waiver is made, the patient's
18 ability to revoke as to certain treatment will be delayed for 30
19 days after the patient communicates the patient's intent to revoke.

20 9. A patient advocate may revoke the patient advocate's
21 acceptance of the patient advocate designation at any time and in
22 any manner sufficient to communicate an intent to revoke.

23 10. A patient admitted to a health facility or agency has the
24 rights enumerated in section 20201 of the public health code, 1978
25 PA 368, MCL 333.20201.

26 Sec. 5509. (1) An individual designated as a patient advocate
27 has the following authority, rights, responsibilities, and
28 limitations:

29 (a) A patient advocate shall act in accordance with the

standards of care applicable to fiduciaries in exercising his or her powers.

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

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

(d) The designation cannot be used to make a medical treatment decision to withhold or withdraw treatment from a patient who is pregnant that would result in the pregnant patient's death. **This subsection does not apply on or after the effective date of the amendatory act that added this sentence.**

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

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

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

(h) With regard to mental health treatment decisions, the patient advocate shall only consent to the forced administration of

1 medication or to inpatient hospitalization, other than
2 hospitalization as a formal voluntary patient under section 415 of
3 the mental health code, 1974 PA 258, MCL 330.1415, if the patient
4 has expressed in a clear and convincing manner that the patient
5 advocate is authorized to consent to that treatment. If a patient
6 is hospitalized as a formal voluntary patient under an application
7 executed by his or her patient advocate, the patient retains the
8 right to terminate the hospitalization under section 419 of the
9 mental health code, 1974 PA 258, MCL 330.1419.

10 (2) A patient advocate designation is suspended when the
11 patient regains the ability to participate in decisions regarding
12 medical treatment or mental health treatment, as applicable. The
13 suspension is effective as long as the patient is able to
14 participate in those decisions. If the patient subsequently is
15 determined under section 5508 or 5515 to be unable to participate
16 in decisions regarding medical treatment or mental health
17 treatment, as applicable, the patient advocate's authority, rights,
18 responsibilities, and limitations are again effective.