

MURPHY FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2616
(Reference to the HEALTH AND HUMAN SERVICES Committee amendment)

1 Page 1, strike lines 2 through 28

2 Strike pages 2 and 3

3 Page 4, strike lines 1 through 4, insert:

4 "Section 1. Section 14-5303, Arizona Revised Statutes, is amended to
5 read:

6 14-5303. Procedure for court appointment of a guardian of an
7 alleged incapacitated person

8 A. The alleged incapacitated person or any person interested in that
9 person's affairs or welfare may petition for the appointment of a guardian or
10 for any other appropriate protective order.

11 B. The petition shall **CONTAIN A STATEMENT THAT THE AUTHORITY GRANTED**
12 **TO THE GUARDIAN MAY INCLUDE THE AUTHORITY TO WITHHOLD OR WITHDRAW LIFE**
13 **SUSTAINING TREATMENT, INCLUDING ARTIFICIAL FOOD AND FLUID, AND SHALL** state,
14 to the extent known:

15 1. The interest of the petitioner.

16 2. The name, age, residence and address of the alleged incapacitated
17 person.

18 3. The name, address and priority for appointment of the person whose
19 appointment is sought.

20 4. The name and address of the conservator, if any, of the alleged
21 incapacitated person.

22 5. The name and address of the nearest relative of the alleged
23 incapacitated person known to the petitioner.

24 6. A general statement of the property of the alleged incapacitated
25 person, with an estimate of its value and including any compensation,
26 insurance, pension or allowance to which the person is entitled.

27 7. The reason why appointment of a guardian or any other protective
28 order is necessary.

29 8. The type of guardianship requested. If a general guardianship is
30 requested, the petition must state that other alternatives have been explored
31 and why a limited guardianship is not appropriate. If a limited guardianship

1 is requested, the petition also must state what specific powers are
2 requested.

3 C. On the filing of a petition, the court shall set a hearing date on
4 the issues of incapacity. Unless the alleged incapacitated person is
5 represented by independent counsel, the court shall appoint an attorney to
6 represent that person in the proceeding. The alleged incapacitated person
7 shall be interviewed by an investigator appointed by the court and shall be
8 examined by a physician, psychologist or registered nurse appointed by the
9 court. The investigator and the person conducting the examination shall
10 submit their reports in writing to the court. In addition to information
11 required under subsection D ~~of this section~~, the court may direct that either
12 report include other information the court deems appropriate. The
13 investigator also shall interview the person seeking appointment as guardian,
14 visit the present place of abode of the alleged incapacitated person and the
15 place where it is proposed that the person will be detained or reside if the
16 requested appointment is made and submit a report in writing to the
17 court. The alleged incapacitated person is entitled to be present at the
18 hearing and to see or hear all evidence bearing on that person's
19 condition. The alleged incapacitated person is entitled to be represented by
20 counsel, to present evidence, to cross-examine witnesses, including the
21 court-appointed examiner and investigator, and to trial by jury. The court
22 may determine the issue at a closed hearing if the alleged incapacitated
23 person or that person's counsel so requests.

24 D. A report filed pursuant to this section by a physician,
25 psychologist or registered nurse acting within that person's scope of
26 practice shall include the following information:

27 1. A specific description of the physical, psychiatric or
28 psychological diagnosis of the person.

29 2. A comprehensive assessment listing any functional impairments of
30 the alleged incapacitated person and an explanation of how and to what extent
31 these functional impairments may prevent that person from receiving or
32 evaluating information in making decisions or in communicating informed
33 decisions regarding that person.

34 3. An analysis of the tasks of daily living the alleged incapacitated
35 person is capable of performing without direction or with minimal direction.

36 4. A list of all medications the alleged incapacitated person is
37 receiving, the dosage of the medications and a description of the effects

1 each medication has on the person's behavior to the best of the declarant's
2 knowledge.

3 5. A prognosis for improvement in the alleged incapacitated person's
4 condition and a recommendation for the most appropriate rehabilitation plan
5 or care plan.

6 6. Other information the physician, psychologist or registered nurse
7 deems appropriate."

8 Page 5, line 4, after "THE" insert "PERMANENT"; strike the second "OR"

9 Line 5, strike "WITHHOLDING"; strike "A SURROGATE"

10 Strike lines 6 and 7

11 Page 6, line 9, strike "THE NOTICE REQUIREMENTS OF"

12 Line 10, after "SECTION" strike remainder of line insert "14-5303, SUBSECTION B
13 RELATING TO THE REQUIREMENT THAT THE PETITION INCLUDE A STATEMENT THAT THE
14 AUTHORITY GRANTED TO THE GUARDIAN MAY INCLUDE THE AUTHORITY TO WITHHOLD OR
15 WITHDRAW LIFE SUSTAINING TREATMENT, INCLUDING ARTIFICIAL FOOD AND FLUID."

16 Line 22, after the period strike remainder of line

17 Strike lines 23 through 26

18 Page 8, line 4, after "H." strike remainder of line

19 Line 5, strike "OR WITHHOLD FOOD AND FLUID FROM THE PATIENT" insert "IF A
20 PETITION IS FILED TO CHALLENGE THE DECISION OF A GUARDIAN TO PERMANENTLY
21 WITHDRAW THE ARTIFICIAL ADMINISTRATION OF FOOD AND FLUID FROM A PATIENT WHO
22 IS IN AN IRREVERSIBLE COMA OR IS IN A PERSISTENT VEGETATIVE STATE THAT THE
23 PATIENT'S DOCTOR BELIEVES IS IRREVERSIBLE OR INCURABLE"

24 Line 14, after "JUDGMENT" insert "ANY OF THE FOLLOWING APPLIES"

25 Line 21, strike "ALL" insert "BOTH"

26 Line 23, after "PATIENT" strike remainder of line

27 Strike lines 24 through 29, insert:

28 "IS IN AN IRREVERSIBLE COMA OR IS IN A PERSISTENT VEGETATIVE STATE THAT
29 IS IRREVERSIBLE OR INCURABLE. EVIDENCE THAT THE PATIENT IS IN AN
30 IRREVERSIBLE COMA OR IS IN A"

31 Page 9, strike line 12, insert:

32 "(b) WHILE COMPETENT THE PATIENT MANIFESTED THE PATIENT'S INTENT THAT
33 MEDICALLY INVASIVE LIFE PROLONGING TREATMENT, INCLUDING THE ARTIFICIAL
34 ADMINISTRATION OF FOOD OR FLUID, NOT BE ADMINISTERED IN THE CASE OF AN
35 IRREVERSIBLE COMA OR A PERSISTENT VEGETATIVE STATE THAT IS IRREVERSIBLE OR
36 INCURABLE."

- 1 Page 10, line 4, after "TO" insert "PERMANENTLY"; strike "OR"
- 2 Line 5, strike "WITHHOLD"; after "FLUID" insert "FROM A PATIENT WHO IS IN AN
- 3 IRREVERSIBLE COMA OR IN A PERSISTENT VEGETATIVE STATE THAT IS IRREVERSIBLE OR
- 4 INCURABLE"
- 5 Lines 6 and 9, strike "HEIR" insert "SUCCESSOR IN INTEREST"
- 6 Line 10, after "BE" insert "PERMANENTLY"
- 7 Line 11, strike "OR WITHHELD"
- 8 Amend title to conform

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04/27/2009
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C: jcs