PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2545
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

"Section 1. Section 36-3205, Arizona Revised Statutes, is amended to read:

36-3205. Health care provider; direct care staff person; immunity from liability; conditions; definition

A. A health care provider OR DIRECT CARE STAFF PERSON who makes good faith health care decisions in reliance on the provisions of an apparently genuine health care directive or the direction of a surrogate is immune from criminal and civil liability and is not subject to professional discipline for that reliance.

B. A health care provider PROVIDER'S OR DIRECT CARE STAFF PERSON'S acts and refusals to act made in reliance on the provisions of a health care directive or directions of a surrogate are presumed to be made in good faith. A court shall base a finding of an absence of good faith on information known to the HEALTH CARE provider OR DIRECT CARE STAFF PERSON and shall enter its finding only after it has made a determination of bad faith in written findings of fact based on clear and convincing evidence of improper motive. For the purposes of this subsection, "good faith" includes all health care decisions, acts and refusals to act based on a health care provider's OR DIRECT CARE STAFF PERSON'S reasonable belief of a patient's desires, a patient's best interest or the directives of a patient's surrogate if these decisions, acts or refusals to act are not contrary to the patient's express written directions in a valid health care directive.

C. A health care provider OR DIRECT CARE STAFF PERSON is not subject to criminal or civil liability or professional discipline for any of the following:

1. Failing to comply with a decision or a direction that violates the HEALTH CARE provider's OR DIRECT CARE STAFF PERSON'S conscience if the HEALTH CARE provider OR DIRECT CARE STAFF PERSON promptly makes known the HEALTH CARE provider's OR DIRECT CARE STAFF PERSON'S unwillingness and promptly transfers the responsibility for the patient's care to another HEALTH CARE provider OR DIRECT CARE STAFF PERSON who is willing to act in accordance with the agent's direction."
2. Failing to consult THE SURROGATE OF a patient with a disability or AN incapacitated patient's surrogate if the surrogate cannot be contacted after the health care provider OR DIRECT CARE STAFF PERSON has made a reasonable effort to do so or if an emergency situation does not provide the health care provider OR DIRECT CARE STAFF PERSON with sufficient time to locate and consult with the surrogate.

3. Relying on a court order concerning a patient.

4. A guardian's failure to comply with section 14-5303, subsection B relating to the requirement that the petition include a statement that the authority granted to the guardian may include the authority to withhold or withdraw life-sustaining treatment, including artificial food and fluid.

D. This section does not relieve a health care provider OR DIRECT CARE STAFF PERSON from civil or criminal liability or prevent a HEALTH CARE provider OR DIRECT CARE STAFF PERSON from being subjected to professional disciplinary action for the HEALTH CARE provider's OR DIRECT CARE STAFF PERSON'S negligent treatment of a patient if the negligence is unrelated to the HEALTH CARE provider's OR DIRECT CARE STAFF PERSON'S reliance on a health care directive, directions from a surrogate or the recommendations of an institutional ethics committee pursuant to section 36-3231.

E. FOR THE PURPOSES OF THIS SECTION, "DIRECT CARE STAFF PERSON" MEANS A PERSON WHO IS EMPLOYED OR CONTRACTED TO PROVIDE DIRECT SERVICES TO CLIENTS BY EITHER A SERVICE PROVIDER AS DEFINED IN SECTION 36-551 OR A PROGRAM CONTRACTOR AS DEFINED IN SECTION 36-2931.

Sec. 2. Section 36-3251, Arizona Revised Statutes, is amended to read:

36-3251. Prehospital medical care directives; form; effect; immunity; definitions

A. Notwithstanding any law or a health care directive to the contrary, a person may execute a prehospital medical care directive that, in the event of cardiac or respiratory arrest, directs the withholding of cardiopulmonary resuscitation by emergency medical system and personnel, hospital emergency department personnel and, as provided in subsection L of this section, direct care staff persons. For the purposes of this article, "cardiopulmonary resuscitation" includes cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of advanced cardiac life support drugs and related emergency medical procedures. Authorization for the withholding of cardiopulmonary resuscitation does not include the withholding of other medical interventions, such as intravenous fluids, oxygen or other therapies deemed necessary to provide comfort care or to alleviate pain.

B. A prehospital medical care directive shall be printed on an orange background and may be used in either letter or wallet size. The directive shall be in the following form:
Prehospital Medical Care Directive
(side one)

In the event of cardiac or respiratory arrest, I refuse any resuscitation measures, including cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of advanced cardiac life support drugs and related emergency medical procedures.

Patient: ______________________ date: ________________

(Signature or mark)

Attach recent photograph here or provide all of the following information below:

Date of birth ______ sex ____
Eye color _____ hair color ____ race _____
Hospice program (if any) _____________________________
Name and telephone number of patient's physician _____________________________

(side two)

I have explained this form and its consequences to the signer and obtained assurance that the signer understands that death may result from any refused care listed above.

________________________ date __________

(Licensed health care provider)

I was present when this was signed (or marked). The patient then appeared to be of sound mind and free from duress.

________________________ date __________

(Witness)

C. A person who has a valid prehospital medical care directive pursuant to this section may wear an identifying bracelet on either the wrist or the ankle. The bracelet shall be substantially similar to identification bracelets worn in hospitals. The bracelet shall be on an orange background and state the following in bold type:

Do Not Resuscitate

Patient: _____________________________

Patient's physician: _____________________________

D. If the person has designated an agent to make health care decisions under section 36-3221 or has been appointed a guardian for health care decisions pursuant to title 14, that agent or guardian shall sign if the person is no longer competent to do so.

E. A prehospital medical care directive is effective until it is revoked or superseded by a new document.
F. Emergency medical system and personnel, hospital emergency department personnel and direct care staff persons who make a good faith effort to identify the patient and who rely on an apparently genuine directive or a photocopy of a directive on orange paper are immune from liability to the same extent and under the same conditions as prescribed in section 36-3205. If a person has any doubt as to the validity of a directive or the medical situation, that person shall proceed with resuscitative efforts as otherwise required by law. Emergency medical system personnel and direct care staff persons are not required to accept or interpret medical care directives that do not meet the requirements of this section.

G. In the absence of a physician, a person without vital signs who is not resuscitated pursuant to a prehospital medical care directive may be pronounced dead by any peace officer of this state, a professional nurse licensed pursuant to title 32, chapter 15 or an emergency medical technician certified pursuant to this title.

H. This section does not apply to situations involving mass casualties or to medical emergencies involving children and adults with disabilities in public or private schools that are not licensed health care institutions as defined in section 36-401.

I. After being notified of a death by emergency medical system personnel, the person's physician or the county medical examiner is then responsible for signing the death certificate.

J. The office of emergency medical services in the department of health services shall print prehospital medical care directive forms and make them available to the public. The department may charge a fee that covers the department's costs to prepare the form. The department and its employees are immune from civil liability for issuing prehospital medical care directive forms that meet the requirements of this section. A person may use a form that is not prepared by the department of health services if that form meets the requirements of this section. If an organization distributes a prehospital medical care directive form that meets the requirements of this section, that organization and its employees are also immune from civil liability.

K. Any prehospital medical care directive prepared before April 24, 1994 is valid if it was valid at the time it was prepared.

L. A direct care staff person may comply with a prehospital medical care directive pursuant to this section if the physician of the person who has the valid prehospital medical care directive has ordered a hospice plan of care by a licensed hospice service agency.

M. The division of developmental disabilities in the department of economic security or the Arizona health care cost containment system
ADMINISTRATION MAY PRESCRIBE GUIDANCE FOR TRAINING AND EDUCATION OF DIRECT CARE STAFF PERSONS REGARDING THE REQUIREMENTS OF THIS SECTION.

For the purposes of this section:

1. "DIRECT CARE STAFF PERSON" MEANS A PERSON WHO IS EMPLOYED OR CONTRACTED TO PROVIDE DIRECT SERVICES TO CLIENTS BY EITHER A SERVICE PROVIDER AS DEFINED IN SECTION 36-551 OR A PROGRAM CONTRACTOR AS DEFINED IN SECTION 36-2931.

2. "Emergency medical system personnel" includes emergency medical technicians at all levels who are certified by the department of health services and medical personnel who are licensed by this state and who are operating outside of an acute care hospital under the direction of an emergency medical system agency recognized by the department of health services."

Amend title to conform

JOHN M. ALLEN

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