

HOUSE BILL NO. 383

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE CROFT

Introduced: 2/16/00

Referred: Health, Education and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to health care decisions."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 18 is amended by adding new sections to read:

4 **Article 2. Health Care Decisions.**

5 **Sec. 18.12.200. Individual instructions.** An individual who is an adult or an
6 emancipated minor may give an individual instruction. The instruction may be oral
7 or written and may be limited to take effect only if a specified condition arises.

8 **Sec. 18.12.210. Powers of attorney.** (a) An individual who is an adult or an
9 emancipated minor may execute a power of attorney for health care under
10 AS 18.12.200 - 18.12.290. The power of attorney may authorize the agent to make
11 any health care decisions the principal could have made while having capacity. The
12 power must be in writing and signed by the principal. The power remains in effect
13 notwithstanding the principal's later incapacity and may include individual instructions.
14 Unless related to the principal by blood, marriage, or adoption, an agent may not be
15 an owner, operator, or employee of a residential long-term health care institution at

1 which the principal is receiving care.

2 (b) Unless specified otherwise in a power of attorney for health care, the
3 authority of an agent becomes effective only upon a determination that the principal
4 lacks capacity, and ceases to be effective upon a determination that the principal has
5 recovered capacity.

6 **Sec. 18.12.220. Provisions not exclusive.** Notwithstanding any other
7 provision of law to the contrary, the handling of health care decisions under
8 AS 18.12.200 - 18.12.290 is not exclusive and is in addition to any other method
9 authorized under law for making health care decisions, including a power of attorney
10 for health care services under AS 13.26.332 - 13.26.358, a declaration under
11 AS 18.12010 - 18.12.100, and a declaration for mental health treatment under
12 AS 47.30.950 - 47.30.980.

13 **Sec. 18.12.290. Definitions.** In AS 18.12.200 - 18.12.290,

14 (1) "agent" means an individual designated in a power of attorney for
15 health care to make a health care decision for the individual granting the power;

16 (2) "capacity" means an individual's ability to understand the
17 significant benefits, risks, and alternatives to proposed health care and to make and
18 communicate a health care decision;

19 (3) "health care" means any care, treatment, service, or procedure to
20 maintain, diagnose, or otherwise affect an individual's physical or mental condition;

21 (4) "health care decision" means a decision made by an individual or
22 the individual's agent, guardian, or surrogate regarding the individual's health care,
23 including

24 (A) selection and discharge of health care institutions, and
25 individuals licensed, certified, or otherwise authorized or permitted by law to
26 provide health care in the ordinary course of business or practice of a
27 profession;

28 (B) approval or disapproval of diagnostic tests, surgical
29 procedures, programs of medication, and orders not to resuscitate; and

30 (C) directions to provide, withhold, or withdraw artificial
31 nutrition and hydration and all other forms of health care;

1 (5) "health care institution" means an institution, facility, or agency
2 licensed, certified, or otherwise authorized or permitted by law to provide health care
3 in the ordinary course of business;

4 (6) "individual instruction" means an individual's direction concerning
5 a health care decision for the individual;

6 (7) "power of attorney for health care" means the designation of an
7 agent to make health care decisions for the individual granting the power;

8 (8) "surrogate" means an individual, other than a patient's agent or
9 guardian, authorized under AS 18.12.200 - 18.12.290 to make a health care decision
10 for the patient.

11 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section
12 to read:

13 REVISOR'S INSTRUCTION. In the following statute sections, the revisor shall
14 change the references to "this chapter" and "AS 18.12" to read "AS 18.12.010 - 18.12.100":
15 AS 13.26.335, 13.26.344(1)(3), AS 13.50.030(b), 13.50.030(d), 13.50.050(d), AS 18.12.010(d),
16 18.12.035(d), 18.12.037, 18.12.040(b), 18.12.050(b), 18.12.060, 18.12.080(a), 18.12.080(d),
17 18.12.080(e), 18.12.080(f), 18.12.090, 18.12.100, AS 18.65.311, AS 28.10.021(c),
18 AS 28.15.061(d), and 28.15.111(b).