

APA-1
10/17

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 420 Alabama Department of Public Health

Rule Number 420-5-19.01

Rule Title Advanced Directives

New XXXX Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

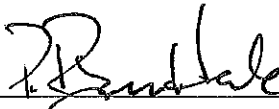
Are all facts of the rulemaking process designed solely for the purpose of and so they have as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of §41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Service Agency.

Signature of Certifying Officer  Date 12/18/17

FORM APA2
10/17

STATE BOARD OF HEALTH
NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Public Health

RULE NUMBER AND TITLE: 420-5-19.01, Advance Directives

INTENDED ACTION: To amend the current rule

SUBSTANCE OF PROPOSED ACTION: This amendment will give clarification of who may be a decision maker and that person may be someone other than a family member.

TIME, PLACE, AND MANNER OF PRESENTING VIEWS: A public hearing will be held on January 25, 2018, at 9:00 a.m., at the RSA Tower, Suite 1540, 201 Monroe Street, Montgomery, AL 36104.

FINAL DATE FOR COMMENTS AND COMPLETION OF NOTICE: Written or oral comments will be received until the close of the record at 5:00 p.m. February 4, 2018. All comments and requests for copies of the proposed amendments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Dennis Blair, Bureau of Health Provider Standards, Department of Public Health, P.O. Box 303017, Montgomery, Alabama 36130-3017, Telephone number: (334) 206-9369.



P. Brian Hale, Agency Secretary

420-5-19-.01 Advance Directives. Surrogate health care decision makers, as authorized by Act 97-187, shall complete the form attached hereto as Appendix I which, when properly completed and duly notarized, shall constitute the certification of the surrogate as required by the act- and shall authorize the surrogate, including a representative of the ethics committee or another duly appointed committee at the facility where the patient is being treated, acting by unanimous consent as the surrogate, to make standard health care decisions for the patient as well as to make decisions regarding the providing, withholding, or withdrawal of life-sustaining treatment and artificially provided nutrition and hydration in instances involving terminal illness or injury and permanent unconsciousness. This form is to be used in fulfillment of the purposes of Act 97-187.

Author: Rick Harris

Statutory Authority: Act No. 97-187.

History: New Rule: Filed August 20, 1997; effective September 24, 1997.

STATE BOARD OF HEALTH
ADMINISTRATIVE CODE

APPENDIX I

CERTIFICATION OF HEALTH CARE DECISION SURROGATE

PATIENT'S NAME: _____

SURROGATE'S NAME: _____

I certify that:

- (a) I am at least nineteen years old.
- (b) The patient whose name is given above either has not, to my knowledge, made an advance directive for health care (living will or durable power of attorney), or the patient has executed an advance directive for health care, but the document fails to address his or her present circumstances.
- (c) I have consulted with the physician who is now overseeing the patient's care.
- (d) I am qualified to act as a surrogate health care decision maker for this patient

because:

- I. My relationship to the patient is the one indicated by checkmark below.
- II. I have spoken to or attempted to speak to all other adults, if there are any, who fit into my category, and to all those who fit into a higher category (on the list below, a higher category is one listed before my category). Each such person that I spoke to has either agreed that I may act as surrogate, or has expressed no objection to my acting as surrogate.
- III. If I have not spoken to any such person, it is because the person is in an unknown location, or because he or she is in a location so remote that he or she cannot, as a practical matter, be contacted in a timely fashion, or because he or she has been adjudged incompetent and remains incompetent today.

____ 1. I am the judicially-appointed guardian of the patient. My guardianship appointment specifically gives me the authority to make health care decisions for the patient, and to make decisions regarding the providing, withholding, or withdrawal of life-sustaining treatment and artificially provided nutrition and hydration in instances involving terminal illness or injury and permanent unconsciousness.

____ 2. I am the husband or wife of the patient.

____ 3. I am a child of the patient.

____ 4. I am a parent of the patient.

____ 5. I am a brother or sister of the patient.

____ 6. I am another person related to the patient by blood. To my knowledge, the patient has no other living relatives, or the patient's closer living relatives either cannot or will not serve as surrogates. I am the patient's _____.

____ 7. The patient has not known relatives who are able and willing to act as surrogate. I am a representative of the ethics committee at the facility where the patient is being treated or I am a representative of some other committee duly appointed to make health care decisions for this patient.

(e) I understand that under the laws of Alabama certification on this form of any information known by me to be false is a class C felony, which has a penalty of up to ten years imprisonment, and a fine of up to \$5,000.

Signature Of Surrogate

Sworn to (or affirmed) and subscribed before me this ____ day of _____, _____.

Notary Public