



**Colorado
Legislative
Council
Staff**

HB16-1101

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0035
Prime Sponsor(s): Rep. Young
Sen. Lundberg

Date: August 29, 2016
Bill Status: Signed into Law
Fiscal Analyst: Bill Zepernick (303-866-4777)

BILL TOPIC: MEDICAL DECISIONS FOR UNREPRESENTED PATIENTS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures	Minimal workload increase.	
Appropriation Required: None.		
Future Year Impacts: Minimal ongoing workload increase.		

Summary of Legislation

The bill allows an attending physician to designate another willing physician to act as a patient's proxy decision-maker for health care treatment under certain conditions. The attending physician cannot act as the proxy decision-maker. A physician may be designated as a proxy decision-maker if:

- after reasonable effort, the physician cannot locate any interested person, including the patient's spouse, a parent, an adult child, a sibling, a grandchild, or any close friend of the patient, who is willing and able to act as proxy decision-maker;
- the physician has obtained an independent assessment of the patient's decision-making capacity from another health care provider confirming the patient's lack of decisional capacity; and
- the physician has consulted with and obtained a consensus on the proxy designation with the medical ethics committee of the facility where the patient is receiving care.

The designated physician's authority to act as proxy decision-maker terminates if:

- an interested person is appointed to act as the proxy decision-maker;
- a guardian is appointed for the patient;
- the patient regains decisional capacity;
- the proxy decision-maker no longer wishes to serve in that capacity; or
- the patient is transferred or discharged from the facility where he or she is receiving care, unless the proxy decision-maker expresses his or her intention to continue acting in that capacity.

The bill outlines procedures for decision-making by the attending physician, the proxy decision-maker, and the facility's medical ethics committee, including for end-of-life treatment. A physician or his or her designee who is acting in good faith as a proxy decision-maker is not subject to civil or criminal liability or regulatory sanction, except that liability remains for any negligent acts or omissions in rendering care to an unrepresented patient.

State Expenditures

The bill may result in a minimal workload increase for the Department of Regulatory Agencies and the Department of Public Health and Environment. To the extent the bill results in additional complaints against medical facilities or physicians regarding their actions when acting as a proxy decision-maker for a patient, workload could increase to investigate and adjudicate these complaints. However, the situation contemplated by the bill is assumed to be relatively infrequent and the limitation on physician liability will further limit the scope and number of such investigations. Based on this, no adjustment in appropriations is required at this time.

Effective Date

The bill was signed into law by the Governor on May 18, 2016, and it became effective on August 10, 2016.

State and Local Government Contacts

Counties	Higher Education
Human Services	Information Technology
Judicial	Law
Municipalities	Public Health and Environment