

March 20, 2007

S 1046. ADVANCE DIRECTIVES/HEALTH CARE PWR. ATTY. Filed 3/20/07. *TO CLARIFY THE RIGHT TO MAKE ADVANCE DIRECTIVES AND TO DESIGNATE HEALTH CARE AGENTS; AND TO IMPROVE AND SIMPLIFY THE MEANS OF MAKING THESE DIRECTIVES AND DESIGNATIONS.*

This bill amends the statutes dealing with health care powers of attorney and with living wills to make them parallel and consistent with one another.

Health care powers of attorney. Amends GS 32A-16 to reduce from two to one the number of witnesses needed for a health care power of attorney; clarifies who may not act as witness. Permits a guardian to petition the court to suspend authority of the principal's health care agent (currently, the statute automatically suspends that authority upon appointment of a guardian), and makes conforming amendment in new GS 35A-1208. Expands GS 32A-24, giving immunity because of reliance on a health care power of attorney. Repeals the existing statutory form for a health care power of attorney in GS 32A-25 and inserts a new statutory form in new GS 32A-25.1. Enacts new GS 32A-27 declaring that health care powers of attorney executed in other states are valid in NC.

Living wills. Amends GS 90-321 to redefine the circumstances under which an attending physician must follow the declarations in a living will, and reduces from two to one the number of witnesses needed for such a will; clarifies who may not act as witness. Repeals the existing statutory form for a living will, set out in GS 90-321(d) and inserts a new statutory form, and makes clear that persons need not follow the statutory form; declares that living wills executed in other states are valid in NC. Adds new GS 90-321(k) permitting an attending physician to decline to honor a living will if it violates the physician's conscience or if the physician has reasonable grounds to question the will's authenticity. Amends GS 90-322 to set out a new order of persons who may authorize withholding life-prolonging measures in the absence of a living will. Amends GS 90-21.13, informed consent, to set out a new order of persons who may give consent to medical treatment.

Other provisions. Rewrites GS 90-21.17 to add a provision for a standard Medical Order for Scope of Treatment, which can be carried by persons. Rewrites GS 130A-420 to set out a new order of persons who may authorize manner of disposition of a decedent's body and adds a similar provision to GS 90-210.63, regarding serving as legal representative of a preneed contract beneficiary.

Intro. by Hartsell.

GS 28A, 32A, 35A, 90, 122C, 130A

May 8, 2007

S 1046. ADVANCE DIRECTIVES/HEALTH CARE PWR. ATTY. Filed 3/20/07. Senate committee substitute makes the following changes to 1st edition. Amends GS 32A-16 as follows: (1) includes in the definition of *health care* any treatment, services, or procedure to provide for the principal's care and comfort, including life-prolonging measures (was, life-sustaining procedures); (2) amends the definition of *health care power of attorney* to require a signature in the presence of at least one qualified witness (was, two qualified witnesses). Also allows the notary who takes the acknowledgement to be a paid employee of the attending physician or treatment provider, of the health care facility at which the principal is a patient, or of a nursing home or group-care home where the principal resides; (3) deletes the definition of *life sustaining procedure* and replaces it with *life prolonging measures*; and (4) deletes the definition of *advance instruction for mental health* and replaces it with reference to definition in GS 122C-72(1). Amends GS 32A-24 to provide that the protections are not limited to health care powers of attorney prepared in accordance with the statutory form in GS 32A-25.1 (was, GS 36A-25). Amends GS 90-321 to provide that a notary that takes acknowledgement of a declaration may be a paid employee of physicians, facilities, or homes providing care or services to the declarant. Amends GS 90-321 to clarify that a physician may decline to honor a declaration that expresses the declarant's desire that life-prolonging measures not be used (was, a declaration). Amends GS 90-21.17 to state that a patient's representative is an individual from the list of persons authorized to consent to the withholding of life-prolonging measures (was, withholding of extraordinary care). Removes the amendments to GS 90-321(e). Requires the Legislative Research Commission to study whether

North Carolina law should be amended to allow a person to require life-prolonging measures and to report back to the 2008 Session of the 2007 General Assembly. Makes technical and stylistic changes. Makes a conforming title change.

May 10, 2007

S 1046. ADVANCE DIRECTIVES/HEALTH CARE PWR. ATTY. Filed 3/20/07. Senate amendment makes the following changes to 2nd edition. Modifies GS 32A-16 regarding the definition for a health care power of attorney to specify that the document must be signed in the presence of two qualified witnesses (was, one qualified witness). Makes conforming changes to GS 32A-25.1 (statutory form for a health care power of attorney). Modifies GS 90-321(c) regarding advance directives to require that the declarant sign the directive in the presence of two qualified witnesses (was, one qualified witness). Makes conforming changes to GS 90-321 (advance directive for a natural death or living will). Deletes Section 16.(c), which would have amended GS 122C-72(1) to reduce the number of witnesses from two to one on an advance instruction for mental health treatment.

May 14, 2007

S 1046. ADVANCE DIRECTIVES/HEALTH CARE PWR. ATTY. Filed 3/20/07. Senate amendment makes the following changes to 2nd edition, as amended. Modifies proposed amendments to GS 90-21.17(c) to require a MOST form to include an advisory stating that while the MOST directions are in effect, those directions may suspend any conflicting directions in a patient's previously executed declaration of a living will, health care power of attorney, or other legally authorized instrument.

July 11, 2007

S 1046. ADVANCE DIRECTIVES/HEALTH CARE PWR. ATTY. Filed 3/20/07. House committee substitute makes the following changes to 3rd edition. Modifies GS 32A-15(c) to provide that nothing in GS Chapter 32A, Article 3, is to be construed as authorizing any affirmative or deliberate act or omission to end life. Modifies GS 32A-16 (definitions) and GS 90-321(c)(4) to replace the term group-care home with *adult care home*. Modifies GS 90-320 to recognize as valid a military advanced medical directive executed in accordance with federal or other applicable law. Modifies proposed new GS 90-321(d1) to specify that an individual should use an Advance Directive for a Natural Death (Living Will) to give health care providers instructions regarding *withholding or withdrawing* life-prolonging measures in certain situations. Deletes proposed reorganization of GS 90-21.13(b) (regarding presumption of valid consent). Makes conforming changes. Deletes proposed amendments to GS 130A-420 (authority to dispose of body or body parts). Deletes proposed new GS 90-210.63(c) and deletes proposed amendments to GS 90-210.124(a). Enacts new provision directing the North Carolina Institute of Medicine (Institute) to study issues related to the provision of end-of-life medical care in NC. Directs the Institute to report its findings by January 30, 2013, to the 2013 General Assembly, the NC State Bar Association, and the NC Board of Medicine.

July 25, 2007

S 1046. ADVANCE DIRECTIVES/HEALTH CARE PWR. ATTY. Filed 3/20/07. House committee substitute makes the following changes to 4th edition. Modifies proposed GS 90-321(d1) to replace the subheading *exceptions* with *clarifications* in the form for an Advance Directive For A Natural Death (Living Will) and to provide an additional option for selection on the form regarding the provision of artificial hydration and/or nutrition. Modifies GS 90-21.17 to require a notice that an individual is not required to sign a Medical Order for Scope of Treatment (MOST) in order to receive medical treatment to be displayed above the signature line on the MOST form. Changes the effective date of the act to October 1, 2007 (was, when it becomes law). Makes technical and conforming changes. Revises the title to specify the details of the bill.

July 15, 2008

S 1046. YADKIN PROJECT STUDY (NEW). Filed 3/20/07. House committee substitute deletes the provisions of the 5th edition and replaces it with *AN ACT TO STUDY THE IMPACTS ON THE STATE OF NORTH CAROLINA OF THE POTENTIAL ISSUANCE OF A FIFTY-YEAR LICENSE BY THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE OPERATION OF THE YADKIN HYDROELECTRIC PROJECT*. Requires the Environmental Review Commission (ERC) to study the impacts of the potential issuance of a fifty year license by the Federal Energy Regulatory Commission (FERC) to Alcoa Power Generating, Inc. (APGI). Authorizes the ERC to consider and develop proposals regarding (1) the socioeconomic impacts of APGI's decision to discontinue its job-producing manufacturing activities at its Badin facility that relied on the use of low-cost power from the Yadkin Hydroelectric Project; (2) assurance of an adequate, clean future water supply for the region; and (3) the allocation of water for non-power uses from the Yadkin Hydroelectric Project. Requires the ERC to submit a report to the 2009 General Assembly by February 1, 2009. Provides that nothing in the act precludes the Governor or any state agency or department from taking any action necessary to protect the interest of the state in the FERC relicensing procedure. Requires the Department of Environment and Natural Resources (DENR) to consider the report submitted by the ERC in making any decision on an application for water quality certification requested by APGI in connection with the FERC relicensing. Requires the ERC's report to include information necessary to trigger the 60 day time limit for the Director's decision under 15A NCAC 02H .0507(a) and be supplied promptly to the Director of the Division of Water Quality upon receipt by the General Assembly. Provides that failure by the Commission to issue a report by the deadline does not prohibit DENR from making a final certification determination. Specifies that nothing in the act affects DENR's authority to provide notices, request additional studies or information, conduct hearings, or issue or deny a 401 Water Quality Certification for the FERC relicensing Project.

July 29, 2008

SL 2008-137 (S 1046). YADKIN PROJECT STUDY. *AN ACT TO STUDY THE IMPACTS ON THE STATE OF NORTH CAROLINA OF THE POTENTIAL ISSUANCE OF A FIFTY-YEAR LICENSE BY THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE OPERATION OF THE YADKIN HYDROELECTRIC PROJECT*. Summarized in *Daily Bulletin* 7/15/08. Enacted July 28, 2008. Effective July 28, 2008.