

As Passed by the Senate

**125th General Assembly
Regular Session
2003-2004**

Am. H. B. No. 72

**Representatives Oelslager, C. Evans, Hartnett, Hollister, Miller, Olman, Seitz,
Ujvagi, Latta, Book, Harwood, Core, Willamowski, Schlichter, Beatty, Allen,
Aslanides, Barrett, Brown, Buehrer, Calvert, Carmichael, Cirelli, Collier,
Daniels, DeBose, DePiero, Domenick, Driehaus, Flowers, Gibbs, Hagan,
Hoops, Hughes, Jolivette, Kearns, Key, Kilbane, Koziura, Niehaus, S. Patton,
T. Patton, Perry, Price, Redfern, Schmidt, Schneider, Setzer, Sferra, Skindell,
J. Stewart, Taylor, Walcher, Widener, Widowfield, Woodard, Yates
Senators Austria, Carnes, Robert Gardner, Roberts, Schuler, Harris**

A B I L L

To amend sections 1337.11 and 1337.14 and to enact 1
sections 2135.01 to 2135.14 of the Revised Code to 2
permit the execution of a Declaration for Mental 3
Health Treatment. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1337.11 and 1337.14 be amended and 5
sections 2135.01, 2135.02, 2135.03, 2135.04, 2135.05, 2135.06, 6
2135.07, 2135.08, 2135.09, 2135.10, 2135.11, 2135.12, 2135.13, and 7
2135.14 of the Revised Code be enacted to read as follows: 8

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of the 9
Revised Code: 10

(A) "Adult" means a person who is eighteen years of age or 11
older. 12

(B) "Attending physician" means the physician to whom a principal or the family of a principal has assigned primary responsibility for the treatment or care of the principal or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(C) "Comfort care" means any of the following:

(1) Nutrition when administered to diminish the pain or discomfort of a principal, but not to postpone death;

(2) Hydration when administered to diminish the pain or discomfort of a principal, but not to postpone death;

(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a principal, but not to postpone death.

(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a principal, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of sections 1337.11 to 1337.17 of the Revised Code, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

(E) "Declaration for mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.

(F) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.

~~(F)~~(G) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition or physical or mental health.

~~(G)~~(H) "Health care decision" means informed consent, refusal

to give informed consent, or withdrawal of informed consent to 43
health care. 44

~~(H)~~(I) "Health care facility" means any of the following: 45

(1) A hospital; 46

(2) A hospice care program or other institution that 47
specializes in comfort care of patients in a terminal condition or 48
in a permanently unconscious state; 49

(3) A nursing home; 50

(4) A home health agency; 51

(5) An intermediate care facility for the mentally retarded; 52

(6) A regulated community mental health organization. 53

~~(I)~~(J) "Health care personnel" means physicians, nurses, 54
physician assistants, emergency medical technicians-basic, 55
emergency medical technicians-intermediate, emergency medical 56
technicians-paramedic, medical technicians, dietitians, other 57
authorized persons acting under the direction of an attending 58
physician, and administrators of health care facilities. 59

~~(J)~~(K) "Home health agency" has the same meaning as in 60
section ~~3701.88~~ 5101.61 of the Revised Code. 61

~~(K)~~(L) "Hospice care program" has the same meaning as in 62
section 3712.01 of the Revised Code. 63

~~(L)~~(M) "Hospital" has the same meanings as in sections 64
2108.01, 3701.01, and 5122.01 of the Revised Code. 65

~~(M)~~(N) "Hydration" means fluids that are artificially or 66
technologically administered. 67

~~(N)~~(O) "Incompetent" has the same meaning as in section 68
2111.01 of the Revised Code. 69

~~(O)~~(P) "Intermediate care facility for the mentally retarded" 70
has the same meaning as in section 5111.20 of the Revised Code. 71

~~(P)~~(Q) "Life-sustaining treatment" means any medical 72
procedure, treatment, intervention, or other measure that, when 73
administered to a principal, will serve principally to prolong the 74
process of dying. 75

~~(Q)~~(R) "Medical claim" has the same meaning as in section 76
~~2305.11~~ 2305.113 of the Revised Code. 77

(S) "Mental health treatment" has the same meaning as in 78
section 2135.01 of the Revised Code. 79

~~(R)~~(T) "Nursing home" has the same meaning as in section 80
3721.01 of the Revised Code. 81

~~(S)~~(U) "Nutrition" means sustenance that is artificially or 82
technologically administered. 83

~~(T)~~(V) "Permanently unconscious state" means a state of 84
permanent unconsciousness in a principal that, to a reasonable 85
degree of medical certainty as determined in accordance with 86
reasonable medical standards by the principal's attending 87
physician and one other physician who has examined the principal, 88
is characterized by both of the following: 89

(1) Irreversible unawareness of one's being and environment. 90

(2) Total loss of cerebral cortical functioning, resulting in 91
the principal having no capacity to experience pain or suffering. 92

~~(U)~~(W) "Person" has the same meaning as in section 1.59 of 93
the Revised Code and additionally includes political subdivisions 94
and governmental agencies, boards, commissions, departments, 95
institutions, offices, and other instrumentalities. 96

~~(V)~~(X) "Physician" means a person who is authorized under 97
Chapter 4731. of the Revised Code to practice medicine and surgery 98
or osteopathic medicine and surgery. 99

~~(W)~~(Y) "Political subdivision" and "state" have the same 100
meanings as in section 2744.01 of the Revised Code. 101

~~(X)~~(Z) "Professional disciplinary action" means action taken 102
by the board or other entity that regulates the professional 103
conduct of health care personnel, including the state medical 104
board and the board of nursing. 105

~~(Y)~~(AA) "Regulated community mental health organization" 106
means a residential facility as defined and licensed under section 107
5119.22 of the Revised Code or a community mental health agency as 108
defined in section 5122.01 of the Revised Code. 109

(BB) "Terminal condition" means an irreversible, incurable, 110
and untreatable condition caused by disease, illness, or injury 111
from which, to a reasonable degree of medical certainty as 112
determined in accordance with reasonable medical standards by a 113
principal's attending physician and one other physician who has 114
examined the principal, both of the following apply: 115

(1) There can be no recovery. 116

(2) Death is likely to occur within a relatively short time 117
if life-sustaining treatment is not administered. 118

~~(Z)~~(CC) "Tort action" means a civil action for damages for 119
injury, death, or loss to person or property, other than a civil 120
action for damages for a breach of contract or another agreement 121
between persons. 122

Sec. 1337.14. (A) A principal who creates a valid durable 123
power of attorney for health care may revoke that instrument or 124
the designation of the attorney in fact under it. 125

The principal may so revoke at any time and in any manner. 126
The revocation shall be effective when the principal expresses ~~his~~ 127
an intention to so revoke, except that, if the principal made ~~his~~ 128
the principal's attending physician aware of the durable power of 129
attorney for health care, the revocation shall be effective upon 130
its communication to the attending physician by the principal 131

himself, a witness to the revocation, or other health care 132
personnel to whom the revocation is communicated by such a 133
witness. Absent actual knowledge to the contrary, the attending 134
physician of the principal and other health care personnel who are 135
informed of the revocation of a durable power of attorney for 136
health care by an alleged witness may rely on the information and 137
act in accordance with the revocation. 138

(B) Upon the communication as described in division (A) of 139
this section to the attending physician of a principal of the fact 140
that ~~his~~ the principal's durable power of attorney for health care 141
has been revoked, the attending physician or other health care 142
personnel acting under the direction of the attending physician 143
shall make the fact a part of the principal's medical record. 144

(C) Unless the instrument provides otherwise, a valid durable 145
power of attorney for health care revokes a prior, valid durable 146
power of attorney for health care. 147

(D) Regardless of when the declaration is drafted, the 148
execution of a declaration for mental health treatment does not 149
revoke a valid durable power of attorney for health care. A 150
declaration for mental health treatment executed in accordance 151
with Chapter 2135. of the Revised Code supersedes a valid durable 152
power of attorney for health care with regard to mental health 153
treatment and the designation of a proxy to make decisions 154
regarding mental health treatment. 155

Sec. 2135.01. As used in sections 2135.01 to 2135.14 of the 156
Revised Code: 157

(A) "Adult" means a person who is eighteen years of age or 158
older. 159

(B) "Capacity to consent to mental health treatment 160
decisions" means the functional ability to understand information 161

about the risks of, benefits of, and alternatives to the proposed 162
mental health treatment, to rationally use that information, to 163
appreciate how that information applies to the declarant, and to 164
express a choice about the proposed treatment. 165

(C) "Declarant" means an adult who has executed a declaration 166
for mental health treatment in accordance with this chapter. 167

(D) "Declaration for mental health treatment" or 168
"declaration" means a written document declaring preferences or 169
instructions regarding mental health treatment executed in 170
accordance with this chapter. 171

(E) "Designated physician" means the physician the declarant 172
has named in a declaration for mental health treatment and has 173
assigned the primary responsibility for the declarant's mental 174
health treatment or, if the declarant has not so named a 175
physician, the physician who has accepted that responsibility. 176

(F) "Guardian" means a person appointed by a probate court 177
pursuant to Chapter 2111. of the Revised Code to have the care and 178
management of the person of an incompetent. 179

(G) "Health care" means any care, treatment, service, or 180
procedure to maintain, diagnose, or treat an individual's physical 181
or mental condition or physical or mental health. 182

(H) "Health care facility" has the same meaning as in section 183
1337.11 of the Revised Code. 184

(I) "Incompetent" has the same meaning as in section 2111.01 185
of the Revised Code. 186

(J) "Informed consent" means consent voluntarily given by a 187
person after a sufficient explanation and disclosure of the 188
subject matter involved to enable that person to have a general 189
understanding of the nature, purpose, and goal of the treatment or 190
procedures, including the substantial risks and hazards inherent 191

in the proposed treatment or procedures and any alternative 192
treatment or procedures, and to make a knowing health care 193
decision without coercion or undue influence. 194

(K) "Medical record" means any document or combination of 195
documents that pertains to a declarant's medical history, 196
diagnosis, prognosis, or medical condition and that is generated 197
and maintained in the process of the declarant's health care. 198

(L) "Mental health treatment" means any care, treatment, 199
service, or procedure to maintain, diagnose, or treat an 200
individual's mental condition or mental health, including, but not 201
limited to, electroconvulsive or other convulsive treatment, 202
treatment of mental illness with medication, and admission to and 203
retention in a health care facility. 204

(M) "Mental health treatment decision" means informed 205
consent, refusal to give informed consent, or withdrawal of 206
informed consent to mental health treatment. 207

(N) "Mental health treatment provider" means physicians, 208
physician assistants, psychologists, licensed independent social 209
workers, licensed professional clinical counselors, and 210
psychiatric nurses. 211

(O) "Physician" means a person who is authorized under 212
Chapter 4731. of the Revised Code to practice medicine and surgery 213
or osteopathic medicine and surgery. 214

(P) "Professional disciplinary action" means action taken by 215
the board or other entity that regulates the professional conduct 216
of health care personnel, including, but not limited to, the state 217
medical board, the state board of psychology, and the state board 218
of nursing. 219

(Q) "Proxy" means an adult designated to make mental health 220
treatment decisions for a declarant under a valid declaration for 221

<u>mental health treatment.</u>	222
<u>(R) "Psychiatric nurse" means a registered nurse who holds a</u>	223
<u>master's degree or doctorate in nursing with a specialization in</u>	224
<u>psychiatric nursing.</u>	225
<u>(S) "Psychiatrist" has the same meaning as in section 5122.01</u>	226
<u>of the Revised Code.</u>	227
<u>(T) "Psychologist" has the same meaning as in section 4732.01</u>	228
<u>of the Revised Code.</u>	229
<u>(U) "Registered nurse" has the same meaning as in section</u>	230
<u>4723.01 of the Revised Code.</u>	231
<u>(V) "Tort action" means a civil action for damages for</u>	232
<u>injury, death, or loss to person or property, other than a civil</u>	233
<u>action for damages for a breach of contract or another agreement</u>	234
<u>between persons.</u>	235
<u>Sec. 2135.02. (A) An adult who has the capacity to consent to</u>	236
<u>mental health treatment decisions voluntarily may execute at any</u>	237
<u>time a declaration governing the use or continuation, or the</u>	238
<u>withholding or withdrawal, of mental health treatment. The</u>	239
<u>declaration shall be signed at the end by the declarant, state the</u>	240
<u>date of its execution, and either be witnessed or be acknowledged</u>	241
<u>in accordance with section 2135.06 of the Revised Code. The</u>	242
<u>declaration may include a designation by the declarant of a person</u>	243
<u>to act as a proxy to make decisions regarding mental health</u>	244
<u>treatment pursuant to the declaration, and, if the declaration</u>	245
<u>includes a designation of a proxy, the declaration shall be signed</u>	246
<u>at the end by the designated proxy. The declarant may also</u>	247
<u>specifically designate in the declaration an alternate proxy to</u>	248
<u>act in that role if the original proxy is unable or unwilling to</u>	249
<u>act at any time, and, if the declaration includes a designation of</u>	250
<u>an alternate proxy, the declaration shall be signed at the end by</u>	251

the designated alternate proxy. The declarant may name in the 252
declaration a physician and assign the physician the primary 253
responsibility for the declarant's mental health treatment. The 254
declaration may include a specific authorization for the use or 255
continuation, or the withholding or withdrawal, of mental health 256
treatment. 257

(B) A mental health treatment provider or a health care 258
facility providing services to a declarant shall continue to 259
obtain the declarant's informed consent to all mental health 260
treatment decisions if the declarant has the capacity to consent 261
to mental health treatment decisions. 262

Sec. 2135.03. (A) Except as otherwise provided in this 263
division and subject to division (C) of this section, a 264
declaration for mental health treatment remains valid and 265
effective for three years after its execution unless it is 266
properly revoked. A declaration for mental health treatment may 267
become operative as provided in section 2135.04 of the Revised 268
Code. If the declaration becomes operative, the authority of a 269
proxy named in the declaration continues in effect as long as the 270
declaration designating the proxy is in effect or until the proxy 271
has withdrawn. If a declaration for mental health treatment has 272
become operative and is in effect at the expiration of three years 273
after its execution, the declaration remains effective until the 274
declarant has the capacity to consent to mental health treatment 275
decisions. If a declaration for mental health treatment has not 276
become operative at the expiration of three years after its 277
execution, the declaration may be renewed as provided in division 278
(C)(1) of this section or remains effective as provided in 279
division (C)(2) of this section. 280

(B) A valid declaration may be revoked in accordance with 281

section 2135.09 of the Revised Code or renewed in accordance with 282
division (C) (1) of this section, but it shall not otherwise be 283
altered or amended after it has been executed. A properly executed 284
declaration is not revoked or invalidated by an alteration of or 285
amendment to the declaration. Any alteration of or amendment to 286
the declaration is not a part of the declaration. 287

(C) (1) A declarant may renew a declaration once, extending 288
the validity of the document for an additional three-year period 289
from the date of the renewal, by repeating the procedures set 290
forth in section 2135.06 of the Revised Code, if the declarant has 291
included in the declaration a specific authorization for the use 292
or continuation, or the withholding or withdrawal, of mental 293
health treatment, and the declarant makes no change with respect 294
to that authorization. A declarant shall not make any changes to 295
any term or provision of the declaration when renewing under 296
division (C)(1) of this section. 297

(2) A declaration for mental health treatment that has not 298
become operative at the expiration of three years after its 299
execution remains effective if both of the following apply: 300

(a) The declaration designates a proxy or an alternate proxy. 301

(b) The declarant does not include in the declaration a 302
specific authorization for the use or continuation, or the 303
withholding or withdrawal, of mental health treatment. 304

Sec. 2135.04. (A) A declaration becomes operative when both 306
of the following apply: 307

(1) The declaration is communicated to a mental health 308
treatment provider of the declarant. 309

(2) The designated physician or a psychiatrist, and one other 310
mental health treatment provider, who examine the declarant 311

determine that the declarant does not have the capacity to consent
to mental health treatment decisions. At least one of the two
persons who make this determination shall not currently be
involved in the declarant's treatment at the time of the
determination. If a designated physician is named in the
declaration and is not one of the two persons who make this
determination, then the psychiatrist who makes the determination
in lieu of the designated physician shall make a good faith effort
to consult with the designated physician as soon as practicable.

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(B) A mental health treatment provider for a declarant or a
health care facility providing services to a declarant shall make
a declaration part of the declarant's medical record and shall
note in that record when the declaration is operative.

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(C) A mental health treatment provider for a declarant or a
health care facility providing services to a declarant shall act
in accordance with an operative declaration of the declarant
consistent with reasonable medical practice, the availability of
treatments requested, and applicable law. The mental health
treatment provider or the health care facility shall continue to
act in accordance with an operative declaration until the
declarant has the capacity to consent to mental health treatment
decisions.

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(D) An operative declaration of a declarant supersedes any
general consent to treatment form signed by the declarant prior
to, upon, or after the declarant's admission to a health care
facility to the extent there is a conflict between the declaration
and the form, even if the declarant signs the form after the
execution of the declaration. To the extent that the provisions of
a declarant's declaration and a general consent to treatment form
signed by the declarant do not conflict, both documents shall
govern the use or continuation, or the withholding or withdrawal,

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of mental health treatment for the declarant. This division does 343
not apply if a declarant revokes a declaration after the declarant 344
signs a general consent to treatment form. 345

Sec. 2135.05. (A) A declaration may designate an adult to act 346
as a proxy to make decisions about the mental health treatment of 347
the declarant and may designate an adult as an alternate proxy as 348
described in section 2135.02 of the Revised Code. A proxy 349
designated to make decisions about mental health treatment may 350
make decisions about mental health treatment on behalf of the 351
declarant only when the declaration has become operative. The 352
decisions of the proxy regarding the mental health treatment of 353
the declarant must be consistent with desires the declarant has 354
expressed in the declaration. 355

(B) The following persons may not serve as a proxy for a 356
declarant: 357

(1) The declarant's mental health treatment provider, or an 358
employee of the declarant's mental health treatment provider; 359

(2) The owner, operator, or employee of a health care 360
facility in which the declarant is a patient receiving its 361
services or a resident. 362

(C) Divisions (B)(1) and (2) of this section do not apply if 363
the declarant and proxy are related by blood, marriage, or 364
adoption. 365

(D) A proxy may withdraw from a declaration prior to the 366
declaration becoming operative by giving notice to the declarant. 367
If the declaration is operative, a proxy may withdraw by giving 368
written notice to the declarant's mental health treatment provider 369
or the health care facility providing services to the declarant. 370
The mental health treatment provider or the health care facility 371
shall note the withdrawal of a proxy as part of the declarant's 372

medical record.

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Sec. 2135.06. (A) A declaration for mental health treatment
is valid only if it is signed by the declarant, states the date of
its execution, and is either witnessed by two adults or
acknowledged before a notary public.

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If a proxy, or a proxy and an alternate proxy, have been
designated in the declaration, then each proxy also shall sign the
declaration, and the signature of each proxy shall be either
witnessed by two adults or acknowledged before a notary public,
except that, notwithstanding these requirements, both of the
following apply:

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(1) No declaration shall be invalid or be held invalid
because a proxy has not signed the declaration.

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(2) If a proxy has not signed the declaration, or if the
signature of a proxy named in a valid declaration is not either
witnessed by two adults or acknowledged before a notary public,
then the designation of the proxy is invalid, but the declaration
is not invalid because of the absence of a witnessed or
acknowledged signature of a proxy.

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(B) If witnessed for purposes of this section, a declaration
shall be witnessed by two individuals as described in this
division in whose presence the declarant and each designated proxy
signs the declaration. Each witness shall subscribe the witness'
signature after the signature of the declarant and, by doing so,
attest to the witness' belief that the declarant appears to be of
sound mind and not under or subject to duress, fraud, or undue
influence. The signatures of the declarant and any proxy under
this section and of the witnesses under this division are not
required to appear on the same page of the declaration.

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(C) If acknowledged for purposes of this section, a

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declaration shall be acknowledged before a notary public, who 403
shall make the certification described in section 147.53 of the 404
Revised Code and also shall attest that the declarant and each 405
designated proxy appear to be of sound mind and not under or 406
subject to duress, fraud, or undue influence. 407

(D) The following may not serve as a witness to the signing 408
of a declarant's declaration: 409

(1) The declarant's mental health treatment provider or a 410
relative or employee of the declarant's mental health treatment 411
provider; 412

(2) The owner, the operator, or a relative or employee of an 413
owner or operator of a health care facility in which the declarant 414
is a patient receiving its services or a resident; 415

(3) A person related to the declarant by blood, marriage, or 416
adoption; 417

(4) A person named as a proxy in the declarant's declaration. 418

Sec. 2135.07. (A) If a mental health treatment provider of a 419
declarant or a health care facility providing services to a 420
declarant is unwilling at any time to comply with the declarant's 421
declaration, the mental health treatment provider or health care 422
facility promptly shall notify the declarant and any proxy and 423
document the notification in the declarant's medical record. The 424
mental health treatment provider or health care facility that is 425
unwilling to comply with the declarant's declaration shall not 426
prevent or attempt to prevent, or unreasonably delay or attempt to 427
unreasonably delay, the transfer of the declarant to the care of a 428
mental health treatment provider or a health care facility that is 429
willing and able to comply or allow compliance with the 430
declarant's declaration. 431

(B) The mental health treatment provider of a declarant or a 432

health care facility providing services to a declarant may subject
the declarant to treatment in a manner contrary to the declarant's
expressed wishes only if either of the following applies:

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(1) The declarant has been committed as a patient under
Chapter 2945. or 5122. of the Revised Code, and, if the court
knows of the declaration, the committing court acknowledges the
existence of the declaration and specifically orders treatment in
a manner contrary to the declaration.

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(2) An emergency situation endangers the life or health of
the declarant or others.

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Sec. 2135.08. (A) The proxy under a declaration is not, as a
result of acting in that capacity, personally liable for the cost
of treatment provided to the declarant. Except to the extent the
right is limited by the declaration or any federal law, a proxy
has the same right as the declarant to receive information
regarding the proposed mental health treatment of the declarant
and to receive, review, and consent to disclosure of the
declarant's medical records relating to that treatment. This right
of access does not waive any evidentiary privilege.

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(B) In exercising authority under a declaration, the proxy
has a duty to act consistently with the desires of the declarant
as expressed in the declaration. If the declarant's desires are
not expressed in the declaration, the proxy has a duty to act in
what the proxy in good faith believes to be the best interests of
the declarant.

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(C) A proxy is not subject to criminal prosecution, tort or
other civil liability for injury, death, or loss to person or
property, or professional disciplinary action for an action taken
in good faith under a declaration for mental health treatment.

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Sec. 2135.09. (A) A declarant may revoke a declaration at any

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time the declarant has the capacity to consent to mental health 463
treatment decisions. Any revocation of a declaration by a 464
declarant shall be in writing, signed by the declarant, and dated. 465
The revocation shall be effective upon its communication to the 466
mental health treatment provider of the declarant or the health 467
care facility providing services to the declarant. If the 468
declaration is operative, then the declarant may revoke the 469
declaration after a designated physician or a psychiatrist, and 470
one other mental health treatment provider, who examine the 471
declarant determine that the declarant has the capacity to consent 472
to mental health treatment decisions. 473

(B) Upon the declarant's revocation of a declaration, the 474
mental health treatment provider or the health care facility shall 475
make the revocation a part of the declarant's medical record. 476

(C) A valid declaration for mental health treatment revokes a 477
prior, valid declaration for mental health treatment. 478

(D) The probate judge of the county in which the declarant is 479
located may revoke a declaration if the judge appoints a guardian 480
for the declarant and specifically orders the revocation of the 481
declaration. 482

Sec. 2135.10. A mental health treatment provider of a 483
declarant, a health care facility providing services to a 484
declarant, or other authorized persons acting under the direction 485
of either a mental health treatment provider of a declarant or a 486
health care facility providing services to a declarant who 487
administer or do not administer mental health treatment according 488
to and in good faith reliance upon the validity of the declarant's 489
declaration are not subject to criminal prosecution, are not 490
liable in tort or other civil damages for injury, death, or loss 491
to person or property, and are not subject to professional 492

disciplinary action resulting from a subsequent finding of a 493
declaration's invalidity. 494

Sec. 2135.11. No person shall require an individual to 495
execute or to refrain from executing a declaration as a criterion 496
for insurance, as a condition for receiving mental health 497
treatment or health care, or as a condition of admission to or 498
discharge from a health care facility. 499

Sec. 2135.12. (A) A declaration executed in accordance with 501
this chapter shall not supersede a valid declaration governing the 502
use or continuation, or the withholding or withdrawal, of 503
life-sustaining treatment executed under Chapter 2133. of the 504
Revised Code. 505

(B) A declaration executed in accordance with this chapter 506
does not revoke a valid durable power of attorney for health care 507
created under Chapter 1337. of the Revised Code, but a declaration 508
so executed shall supersede the designation of an attorney in fact 509
made in a valid health care power of attorney under Chapter 1337. 510
of the Revised Code with respect to the mental health treatment of 511
the declarant. The designation of an attorney in fact in a valid 512
health care power of attorney under Chapter 1337. of the Revised 513
Code shall remain effective in all other respects. 514

Sec. 2135.13. (A) A person who opposes any decision arising 515
under this chapter may make an application opposing the decision 516
to the probate division of the court of common pleas of the county 517
in which the declarant is located or in which the declaration was 518
either witnessed or acknowledged as described in this chapter. 519

(B) If a declarant has not named any proxies in the 520
declaration, or if all the named proxies have withdrawn or are 521
unable or unwilling to act at a time when the declaration has 522

become operative, then the physician who has the primary 523
responsibility for treating the declarant may petition the probate 524
division of the court of common pleas of the county in which the 525
declarant is located to appoint a person to act as a proxy. If the 526
judge of the probate division of the court of common pleas finds 527
it to be in the best interest of the declarant, then the court 528
shall appoint a person to serve as a proxy for the declarant while 529
the declaration is effective. The person so appointed shall be a 530
person who is eligible to serve as a proxy as determined under 531
section 2135.05 of the Revised Code. 532

Sec. 2135.14. A printed form of a declaration may be sold or 533
otherwise distributed in this state for use by adults who are not 534
advised by an attorney. By use of a printed form of that nature, a 535
declarant may consent or refuse to consent to mental health 536
treatment and may designate a proxy to make mental health 537
treatment decisions in accordance with this chapter. The printed 538
form shall not be used as an instrument for granting any other 539
type of authority or for making any other type of designation, 540
including those declarations that may be made under Chapter 2133. 541
of the Revised Code or designations made under Chapter 1337. of 542
the Revised Code. 543

Section 2. That existing sections 1337.11 and 1337.14 of the 544
Revised Code are hereby repealed. 545