

62A-15-1003 Physician and provider responsibilities -- Provision of services contrary to declaration -- Revocation.

- (1) Upon being presented with a declaration, a physician shall make the declaration a part of the declarant's medical record. When acting under authority of a declaration, a physician shall comply with it to the fullest extent possible, consistent with reasonable medical practice, the availability of treatments requested, and applicable law. If the physician or other provider is unwilling at any time to comply with the declaration, the physician or provider shall promptly notify the declarant and the attorney-in-fact, and document the notification in the declarant's medical record.
- (2) A physician or provider may subject a declarant to intrusive treatment in a manner contrary to the declarant's wishes, as expressed in a declaration for mental health treatment if:
 - (a) the declarant has been committed to the custody of a local mental health authority in accordance with Part 6, Utah State Hospital and Other Mental Health Facilities; or
 - (b) in cases of emergency endangering life or health.
- (3) A declaration does not limit any authority provided in Part 6, Utah State Hospital and Other Mental Health Facilities, to take a person into custody, or admit or retain a person in the custody of a local mental health authority.
- (4) A declaration may be revoked in whole or in part by the declarant at any time so long as the declarant is not incapable. That revocation is effective when the declarant communicates the revocation to the attending physician or other provider. The attending physician or other provider shall note the revocation as part of the declarant's medical record.
- (5) A physician who administers or does not administer mental health treatment according to and in good faith reliance upon the validity of a declaration is not subject to criminal prosecution, civil liability, or professional disciplinary action resulting from a subsequent finding that a declaration is invalid.
- (6) None of the following persons may serve as an attorney-in-fact or as witnesses to the signing of a declaration:
 - (a) the declarant's attending physician or mental health treatment provider, or an employee of that physician or provider;
 - (b) an employee of the division; or
 - (c) an employee of a local mental health authority or any organization that contracts with a local mental health authority.
- (7) An attorney-in-fact may withdraw by giving notice to the declarant. If a declarant is incapable, the attorney-in-fact may withdraw by giving notice to the attending physician or provider. The attending physician shall note the withdrawal as part of the declarant's medical record.

Renumbered and Amended by Chapter 8, 2002 Special Session 5
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