

BILL ANALYSIS

Senate Research Center
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H.B. 995
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As part of its ongoing review of Texas law, the Real Estate, Probate, and Trust Law Section of the State Bar of Texas (REPTL Section) has proposed H.B. 995, which provides updates to the law regarding medical powers of attorney.

H.B. 995 clarifies that a valid medical power of attorney will not be revoked upon the divorce of the principal and spouse, and that only the authority of the principal's spouse under the medical power of attorney will terminate upon dissolution, annulment or the voiding of the marriage, unless the document provides otherwise. Revisions to the statutory form have been made to reflect this clarification.

H.B. 995 also makes the nonsubstantive change of moving the disclosure statement that is currently required to be signed prior to the execution of a medical power of attorney into the actual form of the medical power of attorney. Additionally, there were small, nonsubstantive changes in language to remove ambiguity and have no effect.

H.B. 995 amends current law relating to the form and revocation of medical powers of attorney.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 5 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 166.155, Health and Safety Code, to read as follows:

Sec. 166.155. REVOCATION; EFFECT OF TERMINATION OF MARRIAGE.

SECTION 2. Amends Section 166.155, Health and Safety Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Makes nonsubstantive changes.

(a-1) Creates this subsection from existing text. Provides that an agent's authority under a medical power of attorney is revoked if the agent's marriage to the principal is dissolved, annulled, or declared void unless the medical power of attorney provides otherwise. Deletes existing text providing that a medical power of attorney is revoked by, among certain other ways, the divorce of the principal and spouse, if the spouse is the principal's agent, unless the medical power of attorney provides otherwise.

SECTION 3. Amends Section 166.164, Health and Safety Code, as follows:

Sec. 166.164. FORM OF MEDICAL POWER OF ATTORNEY. Requires that the medical power of attorney be in a form with certain language. Sets forth the language of the form.

SECTION 4. Repealers: Sections 166.162 (Disclosure Statement) and 166.163 (Form of Disclosure Statement), Health and Safety Code.

SECTION 5. Requires the executive commissioner of the Health and Human Services Commission (HHSC), not later than December 1, 2017, to adopt all rules necessary to implement this Act.

SECTION 6. Provides that the change in law made by this Act to Section 166.164, Health and Safety Code, does not affect the validity of a document executed under that section before January 1, 2018. Provides that a document executed before the effective date of this section is governed by the law in effect immediately before the effective date of this Act, and the former law continues in effect for that purpose.

SECTION 7. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2017.

(b) Effective date of Sections 1, 2, 3, 4, and 6 of this Act: January 1, 2018.