



ANNOTATED GUIDE: DESIGNATION OF HEALTH CARE SURROGATE

This annotated guide educates non-lawyers on how to complete the document while explaining underlying Florida statutory rules.

Part 1: Annotated Sample Document

DESIGNATION OF HEALTH CARE SURROGATE

My Name is: [Principal Full Legal Name] ¹
 My Address is: [Principal Street Address, City, State, Zip] ²

I designate the following person as my health care surrogate:

Name: [Name of Primary Surrogate] ³
 Address/Phone: [Address & Telephone Number]

If the person named above is not available, I designate the following person as my secondary health care surrogate:

Name: [Name of Secondary Surrogate] ⁴
 Address/Phone: [Address & Telephone Number]

To my family, friends, health care providers, and any other person or facility that may have an interest in my medical care:

Being of sound mind, I voluntarily create this Designation of Health Care Surrogate.

I. APPOINTMENT OF HEALTH CARE SURROGATE

My surrogate will serve unless I revoke their authority, or they become unavailable or unwilling to act as my surrogate. ⁵

II. HEALTH CARE SURROGATE'S AUTHORITY

I fully understand that Florida law permits my health care surrogate to make health care decisions and to provide, withhold, or withdraw consent on my behalf; to apply for public benefits to defray the cost of health care; and to authorize my admission to or transfer from a health care facility.

[] ⁶ By initialing this paragraph, I expressly authorize my surrogate to make decisions to withhold or withdraw life-prolonging procedures, which would allow me to die, and I acknowledge such decisions could or would allow my death.

[] ⁷ By initialing this paragraph, I expressly authorize my surrogate to make decisions to withhold or withdraw artificially provided sustenance and hydration, which would allow me to die, and I acknowledge such decisions could or would allow my death.

My surrogate's power includes, but is not limited to, the authority to:

- a. hire and fire medical personnel;
- b. visit me in any hospital, hospice, nursing home, or other medical care facility;
- c. in accordance with the Health Insurance Portability and Accountability Act (HIPAA), and as my personal representative, request, receive, and review any information, verbal or written, regarding my physical or mental health, including medical and hospital records and other protected health information, and to execute any releases or other documents that may be required in order to obtain such information; ⁸

- d. in accordance with any other instructions I give in this document or a Living Will, sign any documents required to request, withdraw, or refuse medical treatment or to be released or transferred to or from a hospital, hospice, nursing home, adult home, or other medical care facility;
- e. authorize my admission to or discharge from (including transfer to another facility) any hospital, hospice, nursing home, adult home, or other medical care facility, and to execute any releases or other documents that may be required to do so choose where I live and receive care and support when those choices relate to my health care needs;
- f. sign any waiver or release from liability required by a hospital or physician, and;
- g. contract on my behalf for any health care related service or facility, without incurring personal financial liability for such contracts.

III. WHEN EFFECTIVE

The authority of my surrogate is effective when my primary physician or another authorized health care provider determines I am incapable of making informed decisions regarding my health care. ⁹ However, when this document is signed, each individual identified as my surrogate is, in accordance with the Health Insurance Portability and Accountability Act, my personal representative for all purposes related to any assessment of my capacity to make informed decisions regarding my health care.

IV. HEALTH CARE SURROGATE'S OBLIGATION

My surrogate shall make decisions for me in accordance with this Designation of Health Care Surrogate and Living Will, and any other wishes to the extent known to my surrogate. To the extent my wishes are unknown, my surrogate shall make decisions for me in accordance with what my surrogate determines to be in my best interest. In determining my best interest, my surrogate shall consider my personal values to the extent known to my surrogate.

V. HEALTH CARE SURROGATE'S POST-DEATH AUTHORITY

The authority of my surrogate shall continue after my death for a period of time sufficient for my surrogate to carry out any wishes described in this section:

- a. I authorize my surrogate to donate my organs, tissues, or other body parts according to the instructions set forth in a Living Will, or according to my wishes as otherwise communicated to my surrogate.
- b. I authorize my surrogate to decide whether or not to direct or consent to an autopsy after I die.
- c. I authorize my surrogate to direct the disposition of my remains according to arrangements I have made or according to my wishes as otherwise communicated to my surrogate.

VI. NOMINATION OF GUARDIAN

If a court must appoint a guardian of my person, I nominate the surrogate designated in this form to serve without bond or security. ¹⁰

VII. OTHER PROVISIONS

I further affirm that this designation is not being made as a condition of treatment or admission to a health care facility.

VIII. GOVERNING LAW

I intend this document to be my Designation of Health Care Surrogate under Florida law.

IX. DEFINITIONS

For purposes of this document:

- a. **Health care decision** means (1) informed consent, refusal of consent, or withdrawal of consent to any and all health care, including life-prolonging procedures; (2) the decision to apply for private, public, government, or veterans' benefits to defray the cost of health care; (3) the right of access to all records of the principal reasonably necessary for a health care surrogate to make decisions involving health care and to apply for benefits; and (4) the decision to make an anatomical gift.
- b. **Terminal condition** means a condition caused by injury, disease, or illness from which there is no reasonable probability of recovery and which, without treatment, can be expected to cause death.
- c. **Persistent vegetative state** means a permanent and irreversible condition of unconsciousness in which there is no voluntary action or cognitive behavior of any kind and no ability to communicate or interact purposefully with the environment.

- d. End-stage condition** means an irreversible condition that is caused by injury, disease, or illness which has resulted in progressively severe and permanent deterioration, and which, to a reasonable degree of medical probability, treatment of the condition would be ineffective.
- e. Life-prolonging procedure** means any medical procedure, treatment, or intervention which sustains, restores, or supplants a spontaneous vital function.
- f. Artificially provided sustenance and hydration**—also called nutrition and hydration—means a mix of nutrients and fluids given through tubes inserted into veins or various body parts, depending on the patient's condition.

X. EFFECT OF COPY

A copy of this document has the same effect as the original.

XI. SEVERABILITY

If a court finds any of the specific provisions in this document to be invalid, that shall not affect other provisions that can be given effect without the invalid provision.

IN WITNESS WHEREOF I have hereunto executed this Designation of Health Care Surrogate consisting of [] pages this [] day of [Month], 20[].¹¹

WITNESSES:

PRINCIPAL:

(Signature of Witness #1)¹³

Principal Signature¹²

(Printed name of Witness #1)

Principal Printed Name

(Address of Witness #1)

(Signature of Witness #2)

(Printed Name of Witness #2)

(Address of Witness #2)

STATE OF FLORIDA | County of [County]¹⁴

Subscribed and acknowledged before me by means of [] **physical presence** or [] **online notarization** by [Name of Principal], and in the presence of [Name of Witness #1] and [Name of Witness #2], witnesses, on [Date], 20[].¹⁵

Signature of Notary Public

Part 2: Detailed Legal Endnotes & Annotations

The following table corresponds to the superscript reference numbers in Part 1. It details the legal purpose of each section, instructions for accurate completion, and relevant Florida statutory rules.

#	Section / Field Title	Plain-Language Legal Explanation & Florida Statutory Rules
1	Principal Name	Why it exists: Identifies you as the creator ("Principal") granting authority over your medical care. How to complete: Enter your full legal name matching your legal photo ID. Florida Statutory Rule: Any competent adult (18+) residing in Florida may execute a health care surrogate designation under F.S. § 765.202.
2	Principal Address	Why it exists: Establishes official residence and jurisdiction for healthcare providers. How to complete: Provide your primary residential street address, city, state, and zip code.
3	Primary Health Care Surrogate	Why it exists: Names the primary individual trusted to speak with medical professionals and make healthcare choices for you if you cannot.

#	Section / Field Title	Plain-Language Legal Explanation & Florida Statutory Rules
		How to complete: List their full legal name, telephone number, and street address. Florida Rule: The surrogate must be an adult (18+). They are legally obligated under F.S. § 765.205 to make decisions according to your known values or best interests.
4	Alternate Surrogate	Why it exists: Provides a backup decision-maker if your primary surrogate is unwilling, deceased, or unavailable. How to complete: Fill in contact details for a trusted secondary choice.
5	Revocation & Duration	Why it exists: Confirms your right to cancel or modify the document at any time while competent. Florida Statutory Rule (F.S. § 765.104): A designation remains effective until revoked by the principal via written notice, creating a new surrogate form, or physically destroying the original document.
6	Life-Prolonging Procedures Initial	Why it exists: Explicitly grants authority to withhold/withdraw life-prolonging treatments in terminal or end-stage conditions. How to complete: Place your initials here <i>only</i> if you wish to grant this power. Leaving it blank retains standard medical care authority without end-of-life withdrawal powers.
7	Hydration & Sustenance Initial	Why it exists: Addresses tube feeding and artificial hydration specifically. How to complete: Initial only if you authorize withdrawing artificial nutrition/hydration under terminal conditions.
8	HIPAA Release Authorization	Why it exists: Authorizes medical providers to share confidential medical records with your designated surrogate. Florida Rule: Grants immediate status as a HIPAA Personal Representative strictly for evaluating capacity or consulting with medical staff without violating federal privacy laws.
9	Triggering Event / Effective Date	Why it exists: Prevents the surrogate from overriding your choices while you still have decision-making capacity. Florida Statutory Rule: Authority takes effect only after an attending physician determines in writing that you lack capacity to make informed health decisions.
10	Pre-Need Guardian Nomination	Why it exists: Protects you if formal court guardianship proceedings ever become necessary. Florida Rule (F.S. § 744.3045): Nominates your surrogate as preferred guardian of person, steering court appointments to your chosen representative.
11	Execution Date Block	Why it exists: Establishes the date of execution to confirm timeline and legal priority over older documents. How to complete: Fill in total page count, day, month, and year at the time of signing.
12	Principal Signature Block	Why it exists: Validates the agreement under Florida law. Execution Rules: Must be signed by the Principal in the direct presence of two qualified witnesses.
13	Execution & Witness Formalities	Florida Statutory Formalities (F.S. § 765.104 / § 732.502): Requires two adult witnesses who sign in the presence of the principal and each other. Key Nuance: At least one signing witness must NOT be a spouse or blood relative of the Principal.
14	County & Jurisdiction	Why it exists: Identifies the county venue where the legal execution and notarization occur.
15	Self-Proving & Notary Block	Self-Proving & RON Formalities (F.S. § 732.503 & Ch. 117): While health care surrogates require two witnesses, adding notarization elevates legal validity across institutions and states. Remote Online Notarization (RON): Florida permits complete remote execution using approved audio-video technology with explicit check-box indication.

KEY FLORIDA LEGAL NUANCES & ESTATE PLANNING CONTEXT

- **Execution & Witness Formalities (F.S. § 732.502 / § 765.104):** Florida law strictly enforces witness rules. For legal documents (Wills, Trusts, Health Care Directives), two disinterested witnesses must be physically present together with the signer, or connected via statutory RON protocol. At least one witness cannot be a blood relative or spouse.
- **Self-Proving Affidavit (F.S. § 732.503):** Notarizing your estate planning documents creates a "self-proving" instrument. In probate, a self-proving document eliminates the requirement to locate signing witnesses years later to give sworn court oaths. Modern Florida law permits execution via physical presence or statutory Remote Online Notarization (RON).
- **Personal Representative Qualifications (F.S. § 733.302):** When designating an executor/PR for a Florida estate, the nominee must be either a Florida resident OR a close relative by blood or marriage (spouse, child, parent, sibling, niece/nephew). They must be at least 18 years old and have no felony convictions.
- **Original Will Deposit Rule (F.S. § 732.901):** The custodian of an original Will must deposit it with the local Clerk of Court within 10 days of receiving notice of the decedent's death.
- **Probate Pathways (Summary vs. Formal Administration):** *Summary Administration* is an expedited probate route for estates with non-exempt assets of \$150,000 or less, or where the decedent has been deceased for more than 2 years. *Formal Administration* is required for larger or complex estates exceeding \$150,000.
- **100% Remote Probate:** In modern Florida practice, probate administration can almost always be completed 100% remotely without clients ever stepping into a courtroom or law firm office.
- **Restricted Depository:** Courts may order estate cash assets held in a "Restricted Depository"—a frozen bank account where funds cannot be withdrawn or disbursed without a specific signed order from the probate judge.

DESIGNATION OF HEALTH CARE SURROGATE

My Name is:

My Address is:

I designate the following person as my health care surrogate:

If the person named above is not available, I designate the following person as my secondary health care surrogate:

To my family, friends, health care providers, and any other person or facility that may have an interest in my medical care:

Being of sound mind, I voluntarily create this Designation of Health Care Surrogate.

I. Appointment of Health Care Surrogate:

My surrogate will serve unless I revoke their authority, or they become unavailable or unwilling to act as my surrogate.

II. Health Care Surrogate's Authority

I fully understand that Florida law permits my health care surrogate to make health care decisions and to provide, withhold, or withdraw consent on my behalf; to apply for public benefits to defray the cost of health care; and to authorize my admission to or transfer from a health care facility.

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My surrogate's power includes, but is not limited to, the authority to:

- a. hire and fire medical personnel;
- b. visit me in any hospital, hospice, nursing home, or other medical care facility;
- c. in accordance with the Health Insurance Portability and Accountability Act, and as my personal representative, request, receive, and review any information, verbal or written, regarding my physical or mental health, including medical and hospital records and other protected health information, and to execute any releases or other documents that may be required in order to obtain such information;
- d. in accordance with any other instructions I give in this document or a Living Will, sign any documents required to request, withdraw, or refuse medical treatment or to be released or transferred to or from a hospital, hospice, nursing home, adult home, or other medical care facility;
- e. authorize my admission to or discharge from (including transfer to another facility) any hospital, hospice, nursing home, adult home, or other medical care facility, and to execute any releases or other documents that may be required to do so choose where I live and receive care and support when those choices relate to my health care needs;
- f. sign any waiver or release from liability required by a hospital or physician, and;
- g. contract on my behalf for any health care related service or facility, without incurring personal financial liability for such contracts.

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determining my best interest, my surrogate shall consider my personal values to the extent known to my surrogate.

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- c. I authorize my surrogate to direct the disposition of my remains according to arrangements I have made or according to my wishes as otherwise communicated to my surrogate.

VI. Nomination of Guardian

If a court must appoint a guardian of my person, I nominate the surrogate designated in this form to serve without bond or security.

VII. Other Provisions

I further affirm that this designation is not being made as a condition of treatment or admission to a health care facility.

VIII. Governing Law

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XI. Severability

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IN WITNESS WHEREOF I have hereunto executed this Designation of Health Care Surrogate consisting of _____ pages this ____ day of _____, 20____.

WITNESSES:

PRINCIPAL:

(Signature of Witness #1)

Principal Signature

(Printed name of Witness #1)

Principal Printed Name

(Address of Witness #1)

(Signature of Witness #2)

(Printed Name of Witness #2)

(Address of Witness #2)

,STATE OF FLORIDA
County of _____

Subscribed and acknowledged before me by means of [] physical presence or []
online notarization by _____ (print name of principal), and in the
presence of (print name of witness #1) _____ and
(print name of witness #2), _____, witnesses, on
_____ 20____.

Signature of Notary Public