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## A BILL FOR AN ACT

RELATING TO HEALTH-CARE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 327E-9, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~§~~327E-9 ~~§~~ Immunities. (a) A health-care provider or  
4 institution acting in good faith and in accordance with  
5 generally accepted health-care standards applicable to the  
6 health-care provider or institution shall not be subject to  
7 civil or criminal liability or to discipline for unprofessional  
8 conduct for:

9           (1) Complying with a health-care decision of a person  
10           apparently having authority to make a health-care  
11           decision for a patient, including a decision to  
12           withhold or withdraw health care;

13           (2) Declining to comply with a health-care decision of a  
14           person based on a belief that the person then lacked  
15           authority; or



1 (3) Complying with an advance health-care directive and  
2 assuming that the directive was valid when made and  
3 has not been revoked or terminated.

4 (b) An individual acting as agent, guardian, or surrogate  
5 under this chapter shall not be subject to civil or criminal  
6 liability or to discipline for unprofessional conduct for  
7 health-care decisions made in good faith[-] and may recover  
8 statutory damages upon prevailing in a civil action, pursuant to  
9 section 327E-10(c)."

10 SECTION 2. Section 327E-10, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "[+]§327E-10[+] **Statutory damages.** (a) A health-care  
13 provider or institution that intentionally violates this chapter  
14 shall be subject to liability to the individual or the  
15 individual's estate for damages of \$500 or actual damages  
16 resulting from the violation, whichever is greater, plus  
17 reasonable attorney's fees.

18 (b) A person who intentionally falsifies, forges,  
19 conceals, defaces, or obliterates an individual's advance  
20 health-care directive or a revocation of an advance health-care  
21 directive without the individual's consent, or who coerces or



1 fraudulently induces an individual to give, revoke, or not to  
2 give an advance health-care directive, shall be subject to  
3 liability to that individual for damages of \$2,500 or actual  
4 damages resulting from the action, whichever is greater, plus  
5 reasonable attorney's fees.

6 (c) A person who brings a civil action against an  
7 individual acting as agent, guardian, or surrogate under this  
8 chapter regarding health-care decisions made in good faith shall  
9 be subject to liability to that individual for actual damages or  
10 damages of \$25,000, whichever is less, plus reasonable  
11 attorney's fees and costs, if that individual is the prevailing  
12 party in the civil action. The damages payable pursuant to this  
13 section shall be in addition to any other damages permitted by  
14 law."

15 SECTION 3. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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Calvin M. Boy  
[Handwritten signature]

JAN 20 2017



# H.B. NO. 548

**Report Title:**

Health-Care; Agents, Guardians, Surrogates; Civil Action Damages

**Description:**

Provides that an individual acting as agent, guardian, or surrogate regarding health-care decisions may be awarded damages upon prevailing in a civil action.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

