

STATE HEALTH CARE STATUTES
Triggering Authority of Surrogate
June 2018

Explanation: The descriptors in the chart are generalizations of statutory language and not quotations, so the statutes must be consulted for precise meaning.

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STATE	A. FORM PROVIDED? & START OF AGENCY AUTHORITY	B. AGENT TERMINOLOGY & LIMITS ON AGENT'S POWERS	C. TRIGGERING CRITERIA
<p>1. ALABAMA ALA. CODE. § 22-8A-1 to -14 (West, 2016) ("Natural Death Act") Combined AD. Single statutory form. <i>See also</i> Durable Power of Attorney Act, § 26-1-2</p>	<p>YES Must be substantially followed Effective only upon incapacity 22-8A-4(d)</p>	<p>Terminology: Health care proxy, §22-8A-3(7) Limitations: <ul style="list-style-type: none"> • Nutrition and hydration* • Alabama Durable Power of Attorney Act, 26-1-2: no psychosurgery, sterilization, abortion when not necessary to preserve the life of the principal, or involuntary mental health hospitalization or treatment • Pregnancy limitation, 22-8A-4(e) * Permissible if expressly authorized</p>	<p>Withdrawing life-support: Attending physician must determine lack of capability over own care, and that withdrawing life-support will not result in undue pain or discomfort. Attending + second qualified opinion must certify that individual has terminal illness, injury, or condition of permanent unconsciousness.</p>
<p>2. ALASKA ALASKA STAT. ANN. § 13.52.010 to .395 (West, 2016) ("Health Care Decisions Act") Combined AD</p>	<p>YES Optional Immediately effective permitted, 13.52.010</p>	<p>Terminology: Agent, §13.52.010(b) Limitations: <ul style="list-style-type: none"> • No abortion, sterilization, psychosurgery, or removal of bodily organs except where the above procedures are necessary to preserve the life of the patient or to prevent serious impairment to the patient's health • Pregnancy limitation </p>	<p>Determining lack-of-capacity: If not mental health treatment: one physician must determine patient lacks capacity to make a health care decision. If mental health treatment: one physician and at least one psychiatrist, or one physician and a mental health care clinician, must have determined patient lacks capacity. Treatment may only be performed on an emergency basis.</p>
<p>3. ARIZONA ARIZ. REV. STAT. ANN. § 36-3201 to .3297 (West, 2016) ("Living Wills & Health Care Directives") Combined AD <i>Separate Living Will Statute:</i> § 36-3261</p>	<p>YES Optional Effective only upon incapacity §36-3223A</p>	<p>Terminology: Agent, §36-3201 Limitations: None specified</p>	<p>Lack of capacity: No medical opinion necessary, beyond "If an adult patient is unable to make or communicate health care treatment decisions[.]" A.R.S. § 36-3231(A)</p>

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<p>4. ARKANSAS ARK. CODE. ANN. § 20-6-101 to -118 (West 2016) the “Arkansas Healthcare Decisions Act”</p> <p>Pre-existing “Durable Power of Attorney for Health Care Act” (§20-13-104) and “Rights of the Terminally Ill and Permanently Unconscious Act” (§20-17-201 to -218 remain on the books but are overridden to the extent in conflict with the Healthcare Decisions Act for directives since 2013.</p>	<p>NO</p> <p>Immediately effective permitted §20-6-103(c)</p>	<p>Terminology: • Agent, 20-6-102(2)</p> <p>Limitations: None specified</p>	<p>Prior to withdrawal of life support:</p> <p>Two physicians needed, supervisor and independent physician, to certify two things:</p> <ol style="list-style-type: none"> 1. Provision of artificial nutrition/hydration is merely prolonging the act of dying 2. The principal is highly unlikely to regain capacity. A.C.A. § 20-6-106(b)(2)
<p>5. CALIFORNIA CAL. PROB. CODE §§ 4600 – 4806 (West, 2016) (“Health Care Decisions Law”)</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted §4682</p>	<p>Terminology: Agent §4607</p> <p>Limitations: • Civil commitment • Electro-convulsive therapy • Psycho-surgery • Sterilization • Abortion</p>	<p>Determining Lack of Capacity:</p> <p>One physician needed to determine lack of capacity. § 4658</p>
<p>6. COLORADO COLO. REV. STAT. ANN. § 15-14-503 to -509 (West, 2016) (“Colorado Patient Autonomy Act”)</p> <p>Special DPA for Health Care</p> <p><i>Separate Living Will Statute:</i> COLO. REV. STAT. §15-18-101 to -113. (“Colorado Medical Treatment Decision Act”)</p>	<p>NO</p> <p>Immediately effective permitted §15-14-501</p>	<p>Terminology: Agent § 15-14-504 (1)(c)</p> <p>Limitations: None specified</p>	<p>Removal of life support:</p> <p><i>When agent has medical power of attorney:</i> absent directive set forth in medical durable power of attorney, the agent shall act in accordance with the best interests of the principal as determined by the agent.</p> <p><i>When agent is a surrogate:</i> withdrawal from a patient only when the attending physician and a second independent physician trained in neurology or neurosurgery provision is merely prolonging the act of dying and is unlikely to result in the restoration of the patient to independent neurological functioning. C.R.S.A. § 15-18.5-103(6)(a)</p>

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<p>7. CONNECTICUT CONN. GEN. STAT. § 19a-570 to -580g (West, 2016) (“Removal of Life-Systems”)</p> <p>Combined AD, but separate LW and Appointment of a HC Representative forms)</p> <p>See also CONN. GEN. STAT. § 1-56r (“Designation of person for decision-making”)</p>	<p>YES Optional</p> <p>Effective only upon incapacity 19a-579</p>	<p>Terminology:</p> <ul style="list-style-type: none"> • Health care representative (19a-570) • Person designated (§1-56r) <p>Limitations: None specified</p> <ul style="list-style-type: none"> • Sections 19a-571 to 19a-573, inclusive, 19a-575 and 19a-575a are not applicable to pregnant patients 	<p>“...the attending physician or advanced practice registered nurse deems the patient to be in a terminal condition or, in consultation with a physician qualified to make a neurological diagnosis who has examined the patient, deems the patient to be permanently unconscious;” C.G.S.A. § 19a-571 (a)</p>
<p>8. DELAWARE DEL. CODE ANN. tit. 16, § 2501 - 2518 (West, 2016) (“Health Care Decisions” chapter)</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Effective only upon incapacity §2503</p>	<p>Terminology: Agent §2501 (b)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation • Decisions about life-sustaining treatment require a finding of permanent unconsciousness, terminal condition, or serious illness or frailty, §2503 	<p>Two doctors must certify in the patient’s medical record a qualifying condition – serious illness or frailty, terminal condition, or permanent unconsciousness. In the case of permanent unconsciousness, the second doctor must be a board-certified neurologist or neurosurgeon. § 2501</p>
<p>9. DISTRICT OF COLUMBIA D.C. CODE § 21-2201 - 2213 (West, 2016) (“Health Care Decisions Act”)</p> <p>Special DPA</p> <p>Separate Living Will Statute: D.C. CODE § 7-621 –630 (West, 2016) (“Natural Death Act”)</p>	<p>YES Optional</p> <p>Effective only upon incapacity §21-2202*3)</p>	<p>Terminology: Attorney in Fact §21-2202 (1)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Abortion* • Sterilization* • Psycho-surgery* • Convulsive therapy or other behavior modification programs* <p>*Unless authorized by court</p>	<p>Determining capacity:</p> <p>Certification of incapacity is necessary, and certification requires a physician and a psychologist/psychiatrist. DC ST § 21-2204</p>

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<p>10. FLORIDA FLA. STAT. ANN. § 765.101 -.404 (West, 2016)</p> <p>Separate acts and forms ("Health Care Surrogate Act and "Life-Prolonging Procedure Act") are under an umbrella "Health Care Advance Directives" chapter.</p>	<p>YES Optional</p> <p>Immediately effective permitted to make health decisions, or just to access health information 765.101(21) & 765.202(6) & 765.204(3)</p>	<p>Terminology: Surrogate § 765.101 (16)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Mental health facility admission* • Electro-convulsive therapy* • Psycho-surgery* • Sterilization* • Abortion* • Experimental treatments not approved by IRB* • Withdrawing or withholding life-prolonging procedures from a pregnant patient prior to viability* • Pregnancy limitation* <p>* Consent/refusal permissible if expressly authorized</p>	<p>Determining capacity:</p> <p>Only one doctor needed to certify capacity; two in cases of uncertainty. (F.S.A. § 765.204).</p>
<p>11. GEORGIA GA. CODE ANN. § 31-32-1 to -14 (West, 2016) ("Advance Directive for Health Care Act")</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted §31-32-4 (statutory form)</p>	<p>Terminology: Health Care Agent §31-32-2 (6)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Psycho-surgery • Sterilization • Involuntary hospitalization or treatment • Pregnancy limitation • Authority to delegate 	<p>Prior to withdrawal of life-support:</p> <p>Physician shall determine declarant is not pregnant, or if she is that fetus is not viable and specific instructions in advance directive.</p> <p>To establish a terminal condition or state of permanent unconsciousness:</p> <p>Two physicians (one attending physician) certify after personally examining patient.</p>
<p>12. HAWAII HAW. REV. STAT. § 327E-1 to – 16 (West, 2016) ("Uniform Health-Care Decisions Act")</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted §327E-3</p>	<p>Terminology: Agent §327E-2</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Mental Health Facility Admission* <p>*Unless expressly authorized by DPA</p>	<p>A designated surrogate may make all health-care decision for the patient that she/he would make on their own behalf.</p> <p>An appointed surrogate may do the same, but when choosing to withhold or withdraw artificial n/h, the primary physician and a second independent physician must certify that the provision or continuation of artificial n/h is merely prolonging the act of dying and the patient is highly unlikely to have any neurological response in the future. HRS § 327E-5</p>

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<p>13. IDAHO IDAHO CODE ANN. § 39-4501 to -4515 (West, 2016) ("Medical Consent and Natural Death Act") Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted §39-4512</p>	<p>Terminology: Surrogate Decision Maker § 39-4502 (16)</p> <p>Limitations: • Pregnancy limitation (included in statutory form)</p>	<p>No particular medical certification needed prior to withdrawal of artificial n/h. Certification of persistent vegetative state for purposes of advance healthcare directive requires a diagnosis by a neurological specialist. I.C. § 39-4502</p>
<p>14. ILLINOIS 755 ILL. COMP. STAT. ANN. 45/4-1 to /4-12 (West, 2016) ("Powers of Attorney for Health Care Law") Special DPA <i>Separate LW Statute:</i> 755 ILL. COMP. STAT. ANN 35/1 to /10 ("Living Will Act")</p>	<p>YES Optional</p> <p>Immediately effective permitted. §4-10(b), in statutory form</p>	<p>Terminology: Agent § 45/4-4 (c)</p> <p>Limitations: None specified</p>	<p>Two doc rule for qualifying conditions (terminal condition, permanent unconsciousness, or incurable or irreversible condition).</p>
<p>15. INDIANA IND. CODE ANN. § 30-5-1-1 to 30-5-5-19 (West, 2016) specifically § 30-5-5-16 and -17, (part of general "Power of Attorney" article of code</p>	<p>NO</p> <p>Immediately effective permitted, 30-5-4-2</p>	<p>Terminology: Attorney in Fact under §30-5-2-2</p> <p>Limitations: • Agent's authority to delegate*</p> <p>* Permissible if expressly authorized</p>	<p>Establishing capacity: One physician needed. IC 30-5-7-3.</p>
<p>IND. CODE ANN. § 16-36-1-1 to -14 (West, 2016), ("Health Care Consent " chapter creating a health care representative)</p> <p><i>Separate LW Statute:</i> IND. CODE ANN. § 16-36-4-1 to -21. ("Living Wills and Life Prolonging Procedures" chapter)</p>	<p>No</p> <p>Effective only upon incapacity 16-36-1-7(e)</p>	<p>Health Care Representative §16-36-1-2</p> <p>Limitations: None specified</p>	

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<p>16. IOWA IOWA CODE ANN. § 144B.1 to .12 (West, 2016) (“Durable Power of Attorney for Health Care” chapter) Special DPA <i>Separate LW Statute:</i> IOWA CODE ANN. § 144A.1 - .12 (“Life-sustaining Procedures Act”)</p>	<p>YES Optional Effective only upon incapacity §144B.1</p>	<p>Terminology: Attorney in Fact § 144B.1 (1) Limitations: None specified</p>	<p>Determination of terminal condition requires two doctors, I.C.A. § 144A.5, to assess whether the patient has an incurable or irreversible condition that, without the administration of life-sustaining procedures, will cause the patient to die within a relatively short period of time or a state of permanent unconsciousness from which there can be no recovery.</p>
<p>17. KANSAS KAN. STAT. ANN. § 58-625 to -632 (West, 2016) (“Uniform Durable Power of Attorney Act”). Special DPA <i>Separate LW Statute:</i> KAN. STAT. ANN. § 65-28,101 to -28,109 (“Natural Death Act”)</p>	<p>YES Must be substantially followed Immediately effective permitted §58-629(b)</p>	<p>Terminology: Attorney in Fact § 58-651 (a) Limitations: <ul style="list-style-type: none"> • Cannot revoke previous living will </p>	<p>Qualified patients may prepare declarations for life-sustaining procedures, and qualification of patients requires a diagnosis of a terminal condition by two physicians. K.S.A. 65-28,102</p>
<p>18. KENTUCKY KY. REV. STAT. ANN. § 311.621 to .643 (West, 2016) (“Kentucky Living Will Directive Act”) Combined AD (but called “Living Will Directive”)</p>	<p>YES Must be substantially followed Effective only upon incapacity (in statutory form) §311.625</p>	<p>Terminology: Surrogate §311.621(16) Limitations: <ul style="list-style-type: none"> • Pregnancy Limitation, §311.629(4) </p>	<p>Removal of artificially-provided nutrition and hydration unavailable to pregnant women w/viable fetuses. KRS § 311.629(3). Permanent unconsciousness and terminal condition must be determined by two physicians. § 311.621</p>

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<p>19. LOUISIANA LA. CIV. CODE ANN. art. 2989 to 3034 (West, 2016) specifically art. 2997 providing for health decisions power.</p> <p>General DPA statute (called a "mandate"),</p> <p><i>Separate Living Will Statute:</i> LA. REV. STAT. ANN § 40:1151 - 1155 (West, 2016)</p>	<p>NO</p> <p>Immediately effective permitted Art. 3026.</p>	<p>Terminology: Mandatory</p>	<p>Qualified patient (one with terminal and irreversible condition) shall have attending and second physician certify.</p>
<p>20. MAINE ME. REV. STAT. ANN. tit. 18-A, § 5-801 to -817 (West, 2016) ("Uniform Health-Care Decisions Act")</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted §5-802</p>	<p>Terminology: Agent § 5-801 (b)</p> <p>Limitations: • Mental health facility admission, consent permissible if expressly authorized</p>	<p>One physician needed to certify qualifying condition (persistent vegetative state or terminal illness).</p>
<p>21. MARYLAND MD. CODE ANN., HEALTH-GEN. §5-601 to -626 (West, 2016) ("Health Care Decisions Act")</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted §5-602</p>	<p>Terminology: Agent § 5-601 (c)</p> <p>Limitations: None specified</p>	<p>Suspension of life sustaining treatment requires certification by 2 doctors. MD Code, Health - General, § 5-606</p>
<p>22. MASSACHUSETTS MASS. GEN. LAWS ANN. ch. 201D, §§ 1 - 17 (West, 2016) ("Health Care Proxies" chapter)</p> <p>Special DPA</p>	<p>NO But § 201D § 4 prescribes required elements of the proxy</p> <p>Effective only upon incapacity §201D § 4</p>	<p>Terminology: Health Care Agent, or Agent § 1</p> <p>Limitations: None specified</p>	<p>One doctor needed to certify incapacity. If certifying incapacity for mental health reasons: attending physician must consult w/ expert in relevant mental illness/developmental disorder. M.G.L.A. 201D § 6</p>

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<p>23. MICHIGAN MICH. COMP. LAWS ANN. §700.5506 to .5520 (West, 2016) ("Durable Power of Attorney and Designation of Patient Advocate")</p> <p>Designation of a "patient advocate" provisions within a general DPA law</p>	<p>Only for agent's acceptance</p> <p>Effective only upon incapacity §700.5508</p>	<p>Terminology: Patient Advocate § 5506</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation • Life-sustaining procedures* • Mental health facility admission or forced medication, consent permissible if expressly authorized • Agent's authority to delegate* <p>* Permissible if expressly authorized and acknowledges that such a decision could or would allow the patient's death</p>	<p>Two doctor rule to certify incapacity. M.C.L.A. 700.5508</p>
<p>24. MINNESOTA MINN. STAT. ANN. § 145C.01 to .16 (West, 2016) ("Health Care Directives" chapter)</p> <p><i>Separate LW Statute:</i> MINN. STAT. ANN. § 145B.01 to .17 (West, 2016) ("Living Will Act")</p>	<p>YES Optional</p> <p>Immediately effective permitted §145C.05</p>	<p>Terminology: Health Care Agent §145C.01 (2), Proxy §145B.03 (1)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy Limitations* <p>*Unless expressly overridden in directive</p>	<p>Only attending physician need certify lack of decision making capacity. M.S.A. § 145C.06</p>
<p>25. MISSISSIPPI MISS. CODE ANN. § 41-41-201 to -229 (West, 2016 ("Uniform Health-Care Decisions Act"))</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted 41-41-205(5)</p>	<p>Terminology: Agent §41-41-203 (c)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Mental health facility admission, consent permissible if expressly authorized 	<p>One doctor necessary to certify capacity.</p>

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<p>26. MISSOURI MO. ANN. STAT. § 404.800 - .872 (West, 2016) (“Durable Power of Attorney for Health Care Act”) but several provisions of their general DPA statute are incorporated by reference.</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> MO. ANN. STAT. §459.010 - .055 (West, 2016) (“Declarations, Life Support” chapter)</p>	<p>NO</p> <p>Immediately effective permitted §404.825</p>	<p>Terminology: Attorney in Fact § 404.815</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Nutrition & hydration* • Agent’s authority to delegate** <p>* Refusal permissible if expressly authorized ** Permissible if expressly authorized</p>	<p>No rule; one doc needed to certify incapacity.</p>
<p>27. MONTANA MONT. CODE ANN. § 72-5-501 and –502 (West, 2016) (Health care provisions in general DPA statute)</p> <p><i>Separate LW Statute:</i> MONT. CODE ANN. § 50-9-101 to -206 (West, 2016) (“Montana Rights of the Terminally Ill Act”)</p>	<p>YES, in Living Will statute only. Optional</p> <p>Immediately effective permitted §72-5-501</p>	<p>Terminology: Attorney in Fact or Agent § 72-5-501</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation 	<p>One doctor. Patients for whom English is a second language must be assessed by a health care provider in the presence of an interpreter who is fluent in the patient’s primary language. Patients who communicate using American sign language must be assessed in the presence of an interpreter fluent in American sign language. MCA 50-5-1302</p>
<p>28. NEBRASKA NEB. REV. STAT. §30-3401 to -3432 (West, 2016) (“Health Care Power of Attorney” article)</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> NEB. REV. STAT. § 20-401 to – 416 (West, 2016) (“Rights of the Terminally Ill Act”)</p>	<p>YES Optional</p> <p>Effective only upon incapacity §30-3411.</p>	<p>Terminology: Attorney in Fact § 30-3402 (3)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Life-sustaining procedures* • Nutrition & hydration* (both the usual and typical provision of and those artificially administered) • Pregnancy limitation <p>* Refusal permissible if expressly authorized</p>	<p>Only attending physician or APRN needed. MCA 50-9-106</p>

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<p>29. NEVADA NEV. REV. STAT. ANN. § 162A.700 to .860 (West, 2016) (“Durable Power of Attorney for Health Care Decisions”)</p> <p>Special DPA, part of general DPA law</p> <p><i>Separate LW Statute:</i> NEV. REV. STAT. ANN. § 449.535 to .690 (West, 2016) with proxy designation. (“Uniform Act on Rights of the Terminally Ill”)</p>	<p>YES Optional</p> <p>Immediately effective permitted. §162A.810</p>	<p>Terminology: Agent § 162A.790 (1)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Mental health facility admission • Electro-convulsive therapy • Aversive intervention • Psycho-surgery • Sterilization • Abortion • Experimental research/treatment 	<p>Only one doctor needed to certify incapacity. No additional doctor needed for withdrawal of life support. N.R.S. 449.617.</p>
<p>30. NEW HAMPSHIRE N.H. REV. STAT. ANN. § 137-J:1 to -J:16 (West, 2016) (“Written Directives for Medical Decision Making for Adults Without Capacity to Make Health Care Decisions” chapter)</p> <p>Combined AD</p>	<p>YES Form and disclosure statement must be substantially followed.</p> <p>Effective only upon incapacity §137-J:5</p>	<p>Terminology: Agent § 137 – J:2 (III)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Voluntary admission to any state institution • Sterilization • Pregnancy limitation • Psychosurgery • Electro-convulsive shock therapy • Sterilization • Experimental treatment • Nutrition & hydration* • Life-sustaining treatment* <p>* Refusal permissible if expressly authorized</p>	<p>Absent a living will, two physicians or one physician and one APRN must certify the principal is near death or permanently unconscious. N.H. Rev. Stat. § 137-J:10.</p>
<p>31. NEW JERSEY N.J. STAT. ANN. § 26:2H-53 to – 91.2 (West, 2016) (“Advance Directives for Health Care Act”)</p> <p>Combined AD</p>	<p>NO</p> <p>Effective only upon incapacity §26:2H-59</p>	<p>Terminology: Health Care Representative § 26:2H-55</p> <p>Limitations: None specified</p>	<p>Two physicians must confirm lack of decision making capacity, unless condition is ‘readily apparent’, and health care representative + attending physician agree a second physician’s opinion is unnecessary. Withdrawal of life-sustaining treatment in cases of a terminal condition or permanent unconsciousness requires two physicians to certify. N.J.S.A. 26:2H-60</p>

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<p>32. NEW MEXICO N.M. STAT. ANN. § 24-7A-1 to – 18 (West, 2016) (“Uniform Health-Care Decisions Act”) Combined AD</p>	<p>YES Optional Immediately effective permitted §24-7A-2</p>	<p>Terminology: Agent § 24 -7A-1 (B) Limitations: • Mental health facility admission unless expressly authorized</p>	<p>Determining capacity: Two physicians, at least one primary care practitioner, and in case of mental impairment one trained in assessment of functional impairment. § 24-7A-11.</p>
<p>33. NEW YORK N.Y. PUB. HEALTH LAW §§ 2980-2994 (West, 2016) (“Health Care Agents and Proxies” article) Special DPA</p>	<p>YES Optional Effective only upon incapacity §2981(4)</p>	<p>Terminology: Health Care Agent, or Agent § 2980 (5) Limitations: • Nutrition & hydration* * Principal must make his/her wishes "reasonably known"</p>	<p>Second opinion needed to determine incapacity. § 2994-c.</p>
<p>34. NORTH CAROLINA N.C. GEN. STAT. ANN. § 32A-15 to -27 (West, 2016) (“Health Care Powers of Attorney”) Special DPA <i>Separate LW Statute:</i> N.C. GEN. STAT. ANN. § 90-320 to –323 (West, 2016) (“Right to Natural Death; Brain Death” article)</p>	<p>YES Optional Effective only upon incapacity §32A-20.</p>	<p>Terminology: Health Care Agent, or Health Care Attorney in Fact § 32A-15 (2) Limitations: None specified</p>	<p>Single physician determines to a high degree of medical certainty that a person lacks capacity to make or communicate health care decisions and the person will never regain that capacity. N.C.G.S.A. § 90-322; see also N.C.G.S.A. § 90-321.</p>

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<p>35. NORTH DAKOTA N.D. CENT. CODE ANN. § 23-06.5-01 to -19 (West, 2016) ("Health Care Directives")</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Effective only upon incapacity §23-06.5-03</p>	<p>Terminology: Agent §23-06.5-02 (1)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Mental health facility admission > 45 days* • Psycho-surgery* • Abortion* • Sterilization* <p>*Unless approved by court order</p> <ul style="list-style-type: none"> • Pregnancy Limitation** • Nutrition & Hydration** <p>** Unless provided for in AD</p>	<p>Single doctor to certify lack of capacity for health care directive. § 23-06.5-03. Single doctor needed to certify lack of capacity for surrogacy. § 23-12-13.</p>
<p>36. OHIO OHIO REV. CODE ANN. § 1337.11 to .17 (West, 2016) ("Durable Power of Attorney for Health Care" chapter)</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> OHIO REV. CODE ANN. § 2133.01 to .26 (West, 2016) ("Modified Uniform Rights of the Terminally Ill Act")</p>	<p>NO But does include mandatory disclosure statement</p> <p>Immediately effective permitted §1337.12</p>	<p>Terminology: Attorney in Fact §1337.12 (A)(2)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Life-sustaining procedures* • Nutrition & hydration* • Pregnancy limitation • Comfort care • Withdraw health care to which principal previously consented* <p>* Refusal permissible if specified conditions are met, including initialing and conspicuous type. §1337.13(E)</p>	<p>Two physicians needed to certify withholding or withdrawal of life-sustaining treatment, and artificial nutrition/hydration. See statutes for additional diagnostic criteria. See R.C. § 2133.09; R.C. § 2133.08.</p>
<p>37. OKLAHOMA OKLA. STAT. ANN. tit. 63, § 3101.1 -3102.3 (West, 2016) (the "Oklahoma Advance Directive Act")</p> <p>Combined AD</p>	<p>NO But if statutory form not used, see <i>Limits on Agents Powers</i></p> <p>Effective only upon incapacity §3101.5</p>	<p>Terminology: Health Care Proxy § 3101.3 (6)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation* • Nutrition & hydration** <p>* Refusal permissible if expressly authorized during the course of pregnancy ** Refusal permissible if expressly authorized in principal's own words or by a separate section that deals only with nutrition/hydration and is separately marked by declarant</p>	<p>Determining Capacity:</p> <p>Persistent unconsciousness, terminal condition, and qualified patient require a diagnosis from two physicians. § 3101.3</p>

STATE HEALTH CARE STATUTES
Triggering Authority of Surrogate
June 2018

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<p>38. OREGON OR. REV. STAT. ANN. § 127.505 - .660 and § 127.995 (West, 2016) ("Oregon Health Care Decisions Act")</p> <p>Combined AD</p>	<p>YES Must be followed But any other form "constitutes evidence of the patient's desires and interests"</p> <p>Effective only upon incapacity 127.510</p>	<p>Terminology: Attorney in Fact § 127.505 (6)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Electro-convulsive therapy • Psycho-surgery • Sterilization • Abortion • Life-sustaining procedures* • Nutrition & hydration* <p>* Refusal permissible if expressly authorized or if specified conditions are met (ex: principal has been medically confirmed to be in a terminal condition or permanently unconscious)</p>	<p>Determining capacity:</p> <p>Two doc rule for qualifying medical diagnosis. "Permanently unconscious" requires a neurological specialist. § 127.505 Other circumstances may except presumption of consent to artificial nutrition/hydration. § 127.580</p>
<p>39. PENNSYLVANIA 20 PA. CONS. STAT. ANN. §§ 5421 – 5488 (West, 2016) ("Health Care" chapter)</p> <p>Combined AD, but separate subchapters for "Health Care Agents and Representatives" and "Living Wills"</p>	<p>YES Optional</p> <p>Immediately effective permitted §5471</p>	<p>Terminology: Health Care Agent § 5453 (a)(1)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation* • Nutrition & Hydration* <p>*Unless expressly authorized in HCPA</p>	<p>One physician necessary to certify qualifying condition. 20 Pa.C.S.A. § 5443</p>
<p>40. RHODE ISLAND R.I. GEN. LAWS ANN. § 23-4.10-1 to -12 (West, 2016) (Health Care Power of Attorney "chapter)</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> R.I. GEN LAWS ANN. § 23-4.11-1 to -15 (West, 2016) ("Rights of the Terminally Ill Act")</p>	<p>YES Optional</p> <p>Immediately effective permitted. §23-4.10-2</p>	<p>Terminology:</p> <ul style="list-style-type: none"> • Agent, or Attorney in Fact § 23 - 4.10 - 2 • Health Care Decision Maker § 23 - 4.11 - 2 (7) <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation 	<p>No rule on medical diagnosis prior to termination of life-sustaining care or artificial feeding. § 23-4.10-5</p>

STATE HEALTH CARE STATUTES
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June 2018

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<p>41. SOUTH CAROLINA S.C. CODE ANN. §62–5–501 to – 518 (West, 2016)</p> <p>Special DPA for HC within a power of attorney act.</p> <p><i>Separate LW Statute</i> (also provides for appointment of an agent): S. C. CODE ANN. § 44-77-10 to – 160 (West, 2016) (“Death with Dignity Act”)</p>	<p>YES Optional §62–5–517</p> <p>Immediately effective permitted §62–5–502</p>	<p>Terminology: Agent or attorney –in-Fact §59-7-2.5</p> <p>Limitations (<i>applicable to statutory form only</i>):</p> <ul style="list-style-type: none"> • Nutrition & hydration* • Pregnancy limitation <p>* Refusal permissible if expressly authorized</p>	<p>Effectiveness of healthcare power of attorney comes into play after certification by two physicians. § 62-5-502 and § 44-66-20</p>
<p>42. SOUTH DAKOTA S.D. CODIFIED LAWS § 59-1-1 to §59-7-11 (West, 2016) (“Agency” title)</p> <p>General DPA that permits health decisions authority per §59-7-2.1 to §59-7-11. See especially §59-7-2.1 and 2.5</p> <p><i>Separate LW Statute:</i> S.D. CODIFIED LAWS § 34-12D-1 to –22 (West, 2016) (“Living Wills” chapter)</p>	<p>NO</p> <p>Effective only upon incapacity §59-7-2.6</p>	<p>Terminology: Agent or Attorney-in-Fact, or §59-7-2.5</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation §59-7-2.8 • Nutrition & hydration* • Agent’s authority to delegate** <p>* Refusal permissible if expressly authorized or other conditions are met §59-7-2.7 ** Permissible if expressly authorized</p>	<p>Single doctor needed to certify incapacity. SDCL § 34-12C-2.</p>
<p>43. TENNESSEE TENN. CODE ANN. § 68-11-1801 to –1815 (West, 2016) (“Tennessee Health Care Decisions Act”)</p> <p>Combined AD</p>	<p>NO</p> <p>Immediately effective permitted §68-11-1803</p>	<p>Terminology: Agent §68-11-1802 (a)(2)</p> <p>Limitations: None specified</p>	<p>Second independent physician’s certification required when default surrogate wishes to withhold artificial nutrition/hydration. § 68-11-1806.</p>

STATE HEALTH CARE STATUTES
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<p>44. TEXAS TEX. HEALTH & SAFETY CODE ANN. § 166.001 to -166 (West, 2016) ("Advance Directives Act")</p> <p>Combined AD, but separate provisions and forms for "medical power of attorney" and medical directives (living will). Agent may be appointed under both.</p>	<p>YES, Must be substantially followed plus mandatory disclosure statement.</p> <p>Effective only on incapacity §166.152</p>	<p>Terminology: Agent § 166.002 (11)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation • Mental health facility admission • Electro-convulsive therapy • Psycho-surgery • Abortion • Comfort care 	<p>Both terminal condition and incompetence only require single doc to certify. No further necessary certification. § 166.039.</p>
<p>4.5. UTAH UTAH CODE ANN. § 75-2A-101 to -125 (West, 2016) ("Advance Health Care Directive Act")</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted §75-2a-109</p>	<p>Terminology: Agent or surrogate § 75-2a-103</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation • Long-term custodial placement in licensed facility other than for assessment, rehabilitative, or respite care over principal's objection §75-2A-110 	<p>One doctor's opinion needed to certify health care decision making capacity.</p>
<p>46. VERMONT VT. STAT. ANN. tit. 18, §§ 9700 - 9720 (West, 2016) ("Advance Directives for Health Care and Disposition of Remains" chapter)</p> <p>Combined AD</p>	<p>NO</p> <p>Immediately effective permitted §9702(a)</p>	<p>Terminology: Agent § 9702 (2)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Sterilization §9711(f) 	<p>One doctor needed to assess capacity.</p>

STATE HEALTH CARE STATUTES
Triggering Authority of Surrogate
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<p>47. VIRGINIA VA. CODE ANN. § 54.1-2981 to – 2993 (West, 2016)</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Effective only upon incapacity §54.1-2983.2</p>	<p>Terminology: Agent § 54.1-2982</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Psycho-surgery • Non-therapeutic sterilization • Abortion • Decisions about “visitation” unless expressly authorized and other conditions met. 	<p>Second opinion needed from capacity reviewer, unless patient is “unconscious or experiencing a profound impairment of consciousness due to trauma, stroke, or other acute physiological condition.” § 54.1-2983.2.</p>
<p>48. WASHINGTON WASH. REV. CODE ANN. § 11.125.010 to .903 (West, 2016) (“Power of Attorney Act”). Effective Jan. 1, 2017 Uniform Power of Attorney Act with health powers included.</p> <p><i>Separate LW Statute:</i> WASH. REV. CODE ANN. § 70.122.010 to -.925 (West, 2016) (“Natural Death Act”)</p>	<p>NO</p> <p>Immediately effective permitted. §11.125.090</p>	<p>Terminology: Agent § 11.125.020</p> <p>Limitations:</p> <p>Cross reference to guardianship law [RCWA 11.92.043(5)]:</p> <ul style="list-style-type: none"> • Electro-convulsive therapy • Psycho-surgery • Other psychiatric treatment that restricts physical movement <p>• Agent’s authority to delegate*</p> <p>* Permissible if expressly authorized</p>	<p>Single physician to determine incapacity. 11.125.090. Directive to withhold or withdraw life-sustaining treatment requires certification of 1 doctor if from terminal illness, two doctors to certify permanent unconsciousness. RCWA 70.122.030</p>
<p>49. WEST VIRGINIA W. VA. CODE ANN. § 16-30-1 to -25 (West, 2016) (“Health Care Decisions Act”)</p> <p>Combined AD, but maintains separate Living Will and Medical Power of Attorney documents</p>	<p>YES Optional</p> <p>Effective only upon incapacity. §16-30-6(d)</p>	<p>Terminology: Medical Power of Attorney Representative or Representative § 16-30-3 (q)</p> <ul style="list-style-type: none"> • Limit on agent’s authority to revoke a pre-need funeral contract 	<p>Incapacity for persons w/ mental illness, intellectual disability or addiction requires second opinion from qualified physician or psychologist</p>

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Triggering Authority of Surrogate
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<p>50. WISCONSIN WIS. STAT. ANN. § 155.01 to .80 (West, 2016) (“Power of Attorney for Health Care” chapter)</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> Wis. STAT. ANN. § 154.01 to -.15 (West, 2016) (“Advance Directives” chapter)</p>	<p>YES Optional, but disclosure statement is mandatory §155.30</p> <p>Immediately effective permitted §155.05</p>	<p>Terminology: Health Care Agent § 155.01 (4)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Admission to facility for mental health or other listed conditions • Electro-convulsive therapy • Psychosurgery • Experimental mental health research • Drastic mental health treatment • Admission to nursing home or residential facility – very limited unless expressly authorized in the document • Nutrition & hydration* • Pregnancy limitation <p>* Refusal permissible only if specified conditions are met</p>	<p>Two doctors to find incapacity. 155.05. Withdrawal of feeding tube may not be performed if “the principal's attending physician advises that, in his or her professional judgment, the withholding or withdrawal will cause the principal pain or reduce the principal's comfort.” 155.20</p>
<p>51. WYOMING WYO. STAT. ANN. § 35-22-401 to -416 (West, 2016) (“Health Care Decisions Act”)</p> <p>Combined AD</p>	<p>NO</p> <p>Immediately effective permitted §35-22-403(d)</p>	<p>Terminology: Agent § 35-22-402</p> <p>Limitations: None specified</p>	<p>One doctor to certify incapacity. § 35-22-412</p>
<p>UNIFORM HEALTH-CARE DECISIONS ACT</p> <p>Combined Advance Directive</p> <p>http://uniformlaws.org</p>	<p>YES Optional</p> <p>Immediately effective permitted</p>	<ul style="list-style-type: none"> • Mental health facility admission* <p>* Only if expressly authorized</p>	

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