# State Health Care Power of Attorney Statutes

## Selected Characteristics

**September 2019**

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**Abbreviations:** AD = Advance Directive  
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**WITNESSES:** The principal’s agent and anyone signing the directive on behalf of the principal are presumed to be always prohibited as witnesses. Where “provider” is prohibited, the providers' employees are included.

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</table>
See also Durable Power of Attorney (DPOA) Act, § 26-1-2 | **YES** Must be substantially followed, but also separately recognizes health powers under DPOA Act 26-1-2  
Effective only upon incapacity 22-8A-4(d) | Terminology: Health care proxy, §22-8A-3(7)  
Limitations:  
• 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 | • Indiv. Provider *  
* Exception for relatives employed by the provider | • 2 or more witnesses age 19 or older  
• Appointed proxy must attach written acceptance to designation | • Minor  
• Proxy signor  
• Relative/Spouse  
• Heir/Beneficiary  
• Person responsible for care costs | None Specified  
None Specified |
| 2. ALASKA | **ALASKA STAT. ANN. § 13.52.010 to .395 (West, 2019 (“Health Care Decisions Act”)**  
Combined AD | **YES** Optional  
Immediately effective permitted, 13.52.010 | Terminology: Agent, §13.52.010(b)  
Limitations:  
• 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  
Permits oral designation of a surrogate, §13.52.010(a) and 13.52.030(c) | • Facility provider*  
* Exception for relatives | • 2 witnesses or notarized | • Facility provider  
At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary | None Specified  
None Specified |
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| 3. ARIZONA  
*ARIZ. REV. STAT. ANN.* § 36-3201 to -3297 (West, 2019) ("Living Wills & Health Care Directives")  
Combined AD  
Separate Living Will Statute: § 36-3261  
**YES**  
Optional  
Effective only upon incapacity §36-3223A  
Terminology: Agent, §36-3201  
Limitations: None specified  
• Person whose license as fiduciary has been revoked/suspended and not reinstated, unless relative  
• 1 witness or notarized  
• Provider  
If only one witness, that person shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary  
None Specified  
None Specified |
| 4. ARKANSAS  
*ARK. CODE. ANN.* § 20-6-102 to -118 (West 2019) the “Arkansas Healthcare Decisions Act”  
Separate Living Will Statute: “Rights of the Terminally Ill and Permanently Unconscious Act” § 20-17-201 to -218.  
**NO**  
Immediately effective permitted § 20-6-105(b)(1)  
Terminology:  
• Agent, 20-6-102(2)  
Limitations: None specified  
None specified  
• 2 witnesses or notary, 20-17-202  
• Permits oral designation of a surrogate by personally informing supervising health care provider. § 20-6-103.  
At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary § 20-6-103  
None Specified |
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<tr>
<td>5. CALIFORNIA</td>
<td>YES Optional Immediately effective permitted § 4682</td>
<td>Terminology: Agent § 4607 Limitations: • Civil commitment • Electro-convulsive therapy • Psycho-surgery • Sterilization • Abortion</td>
<td>• Supervising Indiv. Provider* • Facility Provider* • Conservator – if conditions are met. * Exception for relatives who are employees of or for a conservator who has satisfied the Lanterman-Petris Short Act</td>
<td>• 2 witnesses or notarized Provides for orally designated surrogate, § 4711</td>
<td>• Indiv. Provider • Facility Provider At least one witness shall not be: • Relative/Spouse/ Adoptee • Heir/Beneficiary</td>
<td>• Declaration, in substance, from each witness* • Declaration, in substance, from non-relative/spouse/heir witness&quot;* Except notary</td>
<td>• If HCPA executed in facility, ombudsman must sign/declare as witness. § 4675</td>
</tr>
<tr>
<td>6. COLORADO</td>
<td>NO Immediately effective permitted § 15-14-501</td>
<td>Terminology: Agent § 15-14-504 (1)(c) Limitations: None specified</td>
<td>None specified</td>
<td>None specified</td>
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*Special DPA for Health Care*

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<tr>
<td>7. CONNECTICUT</td>
<td><strong>YES Optional</strong> Effective only upon incapacity § 19a-579</td>
<td>Terminology:  • Health care representative (§ 19a-570) • Person designated (§ 1-56r)</td>
<td>Facility Provider* • Attending physician • Administrator or employee of gov’t agency financially responsible for care*</td>
<td>2 witnesses • Notary also needed only if making a designation of person for decision-making under § 1-56r</td>
<td>None specified</td>
<td></td>
<td>If in mental health or DD facility, at least one witness must be a physician or a licensed clinical psychologist w/ specialized training, and at least one witness must not be affiliated with facility. § 19a-576</td>
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<td><strong>CONN. GEN. STAT. §§ 19a-570 to -580g (West, 2019) (“Removal of Life-Systems”)</strong></td>
<td></td>
<td>Limitations: None specified</td>
<td>* Exception for relatives</td>
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<td>Combined AD</td>
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<td>See also <strong>CONN. GEN. STAT. § 1-56r (“Designation of person for decision-making”)</strong></td>
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<tr>
<td>8. DELAWARE</td>
<td><strong>YES Optional</strong> Effective only upon incapacity § 2503</td>
<td>Terminology: Agent § 2501 (b) Limitations:  • Pregnancy limitation  • Decisions about life-sustaining treatment require a finding of permanent unconsciousness, terminal condition, or serious illness or frailty, § 2503</td>
<td>Facility Provider* • Residential LTC Facility Provider*</td>
<td>2 witnesses • Witnesses state in writing that they’re not prohibited witnesses Provides for orally designated surrogate, § 2507</td>
<td>None specified</td>
<td></td>
<td>If in sanatorium, rest home, nursing home, boarding home or related institution, one witnesses must be designated as a patient advocate or ombudsman by either state agency. § 2511</td>
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<td><strong>DELCODE ANN. tit. 16, § 2501 - 2518 (West, 2019) (“Health Care Decisions” chapter)</strong></td>
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| A. FORM PROVIDED?  
& START OF AGENCY AUTHORITY | B. AGENT TERMINOLOGY  
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Note: Includes employees of those listed | D. FORMALITIES OF EXECUTION | E. PROHIBITED WITNESSES  
(See Explanation) | F. OTHER MANDATORY LANGUAGE?  
| G. SPECIAL INSTITUTIONAL PROTOCOL |
|---------------------------|---------------------------|-----------------|-------------------|-----------------|---------------------|
| **9. DISTRICT OF COLUMBIA**  
D.C. CODE § 21-2201 - 2213  
(West, 2019) ("Health Care Decisions Act")  
Special DPA  
Separate Living Will Statute: D.C. CODE § 7-621 -630  
(West, 2019) ("Natural Death Act") | YES Optional  
Effective only upon incapacity § 21-2202 (3) | Terminology: Attorney in Fact § 21-2202 (1)  
Limitations:  
• Abortion*  
• Sterilization*  
• Psycho-surgery*  
• Convulsive therapy or other behavior modification programs*  
*Unless authorized by court | • Indiv. Provider  
• Facility Provider  
• 2 witnesses | • Principal  
• Individual Provider  
• Facility Provider  
At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary | Include language substantially similar to “not affected by” OR “becomes effective upon” incapacity | None specified |
| **10. FLORIDA**  
FLA. STAT. ANN. § 765.101 - .547 (West, 2019)  
Umbrella "Health Care Advance Directives" chapter includes "Health Care Surrogate Act" and "Life-Prolonging Procedure Act". | YES Optional  
Immediately effective permitted to make health decisions, or just to access health information 765.101(21) & 765.202(6) & 765.204(3) | Terminology: Surrogate § 765.101(21)  
Limitations:  
• 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*  
* Consent/refusal permissible if expressly authorized | None specified  
Oral designation of a surrogate is permissible, §765.101 | At least one witness shall not be:  
• Relative/Spouse | None specified | None specified |
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|-------|---------------------------------------------|-------------------------------------------------|------------------------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| 11. GEORGIA | YES Optional  
Immediately effective permitted § 31-32-4 (statutory form) | Terminology: Health Care Agent §31-32-2 (6)  
Limitations:  
• Psycho-surgery  
• Sterilization  
• Involuntary hospitalization or treatment  
• Pregnancy limitation  
• Authority to delegate | • Indiv. Provider directly involved | • 2 witnesses | • Heir/Beneficiary  
• Indiv. Provider  
No more than one witness shall be:  
• Facility provider | None specified | None specified |
| 12. HAWAII | YES Optional  
Immediately effective permitted § 327E-3 | Terminology: Agent § 327E-2  
Limitations:  
• Mental Health Facility Admission*  
*Unless expressly authorized by DPA | • Facility Provider or Owner*  
* Exception for relatives  
Permits oral designation of a surrogate.  
§ 327E-5 | • 2 witnesses or notarized | • Indiv. provider  
• Facility provider  
At least one witness shall not be:  
• Relative/Spouse  
• Heir/Beneficiary | None specified | None specified |
| 13. IDAHO | YES Optional  
Immediately effective permitted § 39-4512 | Terminology: Surrogate Decision Maker § 39-4502 (16)  
Limitations:  
• Pregnancy limitation (included in statutory form)  
*Exception for relatives who are employees of. | • Indiv. Provider*  
• Community Care Facility Provider* | • None specified | • None specified | None specified | None specified |
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| **14. ILLINOIS**  
755 ILL. COMP. STAT. ANN. 45/4-1 to 4-12 (West, 2019) (“Powers of Attorney for Health Care Law”)  
Special DPA  
Separate LW Statute: 755 ILL. COMP. STAT. ANN. 35/1 to /10 (“Living Will Act”) | YES Optional  
Immediately effective permitted. § 4-10(b), in statutory form | Terminology: Agent § 45/4-4 (c)  
Limitations: None specified | • Indiv. Provider | • One Witness | • Facility provider  
• Indiv. provider  
• Relative/Spouse  
• Agent, or relative/spouse of agent or successor agent | None specified | None specified |
| **15. INDIANA**  
IND. CODE ANN. § 30-5-1-1 to 30-5-5-19 (West, 2019) specifically § 30-5-5-16 and -17, (part of general “Power of Attorney” article of code | NO  
Immediately effective permitted, 30-5-4-2 | Terminology: Attorney in Fact under § 30-5-2-2  
Limitations:  
• Agent’s authority to delegate*  
• Life-sustaining procedures* (see mandatory language)  
* Permissible if expressly authorized | None specified. | • Notarized § 30-5-4-1 | None specified | Mandatory language for authority re life-sustaining treatment (§ 30-5-5-17). | None specified |
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<td>IND. CODE ANN. § 16-36-1-1 to -14 (West, 2019) (&quot;Health Care Consent&quot; chapter creating a health care representative) Separate LW Statute: IND. CODE ANN. § 16-36-4-1 to -21. (&quot;Living Wills and Life Prolonging Procedures&quot; chapter)</td>
<td>No</td>
<td>Health Care Representative § 16-36-1-2</td>
<td>None specified</td>
<td>• One witness</td>
<td>None specified</td>
<td>Same mandatory language as above. It is incorporated into §16-36-1-14</td>
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<td><strong>Limitations:</strong> Life-sustaining procedures* (see mandatory language)</td>
<td>* Permissible if expressly authorized</td>
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<td>16. IOWA IOWA CODE ANN. § 144B.1 to .12 (West, 2019) (&quot;Durable Power of Attorney for Health Care&quot; chapter) Special DPA Separate LW Statute: IOWA CODE ANN. § 144A.1 - .12 (&quot;Life-sustaining Procedures Act&quot;)</td>
<td>YES Optional</td>
<td>Terminology: Attorney in Fact § 144B.1 (1)</td>
<td>• Indiv. Provider* • Employee of provider*</td>
<td>• 2 witnesses or notarized</td>
<td>• Indiv. Provider or employee At least one witness shall not be: Relative/Spouse/Adoptee</td>
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| **17. KANSAS**  
KAN. STAT. ANN. § 58-625 to -632 (West, 2019) ("Uniform Durable Power of Attorney Act").  
Special DPA  
Must be substantially followed  
Immediately effective permitted § 58-629(b) | Terminology: Attorney in Fact § 58-651 (a)  
Limitations:  
• Cannot revoke previous living will | • Indiv. Provider*  
• Facility Provider*  
* Exception for relatives & religious community members who actually and regularly engage in religious ministrations or performance of health care services  
• 2 witnesses or notarized | • Relative/Spouse  
• Heir/Beneficiary  
• Person responsible for health care costs | None specified | None specified |
| **18. KENTUCKY**  
KY. REV. STAT. ANN. § 311.621 to .643 (West, 2019) ("Kentucky Living Will Directive Act")  
Combined AD (but called “Living Will Directive”) | YES  
Must be substantially followed. But non-statutory advance directives are recognized, § 311.637(6)  
Effective only upon incapacity (in statutory form) § 311.625 | Terminology: Surrogate § 311.621(16)  
Limitations:  
• Pregnancy Limitation, § 311.629(4)  
* Exception for relatives within fourth degree of consanguinity & members of same religious or fraternal order. § 311.625 | • Facility provider*  
* Exception for relatives within fourth degree of consanguinity & members of same religious or fraternal order. § 311.625 | • 2 witnesses or notarized | None specified | None specified |
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<td>19. Louisiana</td>
<td>NO</td>
<td>Terminology: Mandatary</td>
<td>None specified</td>
<td>None specified</td>
<td>N/A</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td>Louisiana</td>
<td>General DPA statute (called a “mandate”),</td>
<td>Immediate effective permitted Art. 3026.</td>
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<tr>
<td>Separate Living Will Statute: Louisiana</td>
<td>Yes Optional</td>
<td>None</td>
<td>None</td>
<td>2 Witnesses</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
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<td>Louisiana</td>
<td>§ 40:1151 - 1155 (West, 2019)</td>
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<td>20. Maine</td>
<td>YES Optional</td>
<td>Terminology: Agent § 5-801 (b)</td>
<td>• LTC Facility provider*</td>
<td>• In writing</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
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<tr>
<td>Maine</td>
<td>Immediately effective permitted §5-802</td>
<td>Limitations:</td>
<td>• Mental health facility admission, consent permissible if expressly authorized</td>
<td>• 2 witnesses</td>
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<tr>
<td>Maine</td>
<td>(“Uniform Health-Care Decisions Act”)</td>
<td>* Exception for relatives</td>
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**Explanation:** The descriptors in the chart are generalizations of statutory language and not quotations, so the statutes must be consulted for precise meaning.

**Abbreviations:**
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- DPA = Durable Power of Attorney
- UHCD = Uniform Health Care Decisions Act

**WITNESSES:** The principal’s agent and anyone signing the directive on behalf of the principal are presumed to be always prohibited as witnesses. Where “provider “is prohibited, the providers employees are included.

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<th>F. Other Mandatory Language?</th>
<th>G. Special Institutional Protocol</th>
</tr>
</thead>
</table>
| **21. MARYLAND**
Immediately effective permitted § 5-602 | Terminology: Agent § 5-601 (c)  
Limitations: None specified | • Facility provider and providers’ relatives*  
• Individuals subject to a protective order shielding the declarant  
• Spouse when separation agreement or divorce filed.  
* Exception for principal’s relatives, qualified surrogates, and previously appointed agents | • 2 witnesses  
• Permits unwitnessed electronic advance directives if declarant’s identity authenticated in accord with guidelines specified by the Nat’l Inst. of Standards & Technology.  
• Permits oral advance directive § 5-602. | At least one witness must not be:  
• Heir, or have any other financial interest in person’s death | None specified | None specified |
| Combined AD | | | | | | | |
| **22. MASSACHUSETTS**
But § 201D § 4 prescribes required elements of the proxy  
Effective only upon incapacity § 201D § 4 | Terminology: Health Care Agent, or Agent § 1  
Limitations: None specified | • Facility provider*  
* Exception for relatives | • 2 witnesses | None specified | None specified | None specified |
### State Health Care Power of Attorney Statutes

#### Selected Characteristics

September 2019

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| 23. Michigan | Only for agent’s acceptance  
Effective only upon incapacity § 700.5508 | Terminology: Patient Advocate § 5506  
Limitations:  
Pregnancy limitation  
Life-sustaining procedures*  
Mental health facility admission or forced medication, consent permissible if expressly authorized  
Agent’s authority to delegate*  
* Permissible if expressly authorized and acknowledges that such a decision could or would allow the patient's death | None specified | 2 witnesses  
Must be part of medical record before implementation  
Agent must accept in writing before acting as patient advocate § 700.5507 |  
Relative/Spouse  
Heir/Beneficiary  
Indiv. Provider  
Facility Provider (including where the patient resides)  
Employee of life/health insurance provider for patient |  
Agent’s acceptance form | None specified |
| 24. Minnesota | Yes Optional  
Immediately effective permitted § 145C.05 | Terminology: Health Care Agent §145C.01 (2), Proxy § 145B.03 (1)  
Limitations:  
Pregnancy Limitations*  
*Unless expressly overridden in directive |  
Indiv. Provider*  
Facility Provider*  
Individual determining capacity  
* Exception for relatives (including registered domestic partnerships) or “unless otherwise specified” in directive | 2 witnesses or notarized | At least one shall not be:  
Health care provider (but provider may notarize) | None specified | None specified |
**State Health Care Power of Attorney Statutes**

Selected Characteristics

September 2019

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| **25. MISSISSIPPI**  
Combined AD  
YES Optional  
Immediately effective permitted § 41-41-205(5)  
Terminology: Agent § 41-41-203 (c)  
Limitations:  
• Mental health facility admission, consent permissible if expressly authorized  
• LTC Facility*  
• Exception for relatives  
• 2 witnesses or notarized  
Permits orally designated surrogate. § 41-41-211  
• Indiv. Provider  
• Facility Provider  
At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary  
Declarations required by witnesses, or declarations by notary  
None specified | | | | | | | | |
| **26. MISSOURI**  
Special DPA  
Separate LW Statute:  
NO  
Immediately effective permitted § 404.825  
Terminology: Attorney in Fact § 404.815  
Limitations:  
• Nutrition & hydration*  
• Agent’s authority to delegate**  
• Refusal permissible if expressly authorized  
• Permissible if expressly authorized  
• Att. Physician*  
• Facility Provider*  
• Exception for relatives within the second degree of consanguinity and members of same religious community who actually and regularly engage in religious ministries or performance of health care services  
§ 404.810 incorporates § 404.705 requiring acknowledge-ment in the manner prescribed for conveys of real estate (i.e., notarization), but the Missouri Bar advises that it must also be witnessed if instructions are also included in the document.  
None specified  
None specified  
None specified | | | | | | | | |
## State Health Care Power of Attorney Statutes
### Selected Characteristics
**September 2019**

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<tr>
<td>27. MONTANA</td>
<td>YES, in Living Will statute only. Optional</td>
<td>Terminology: Attorney in Fact or Agent § 72-5-501</td>
<td>None specified</td>
<td>DPA statute: none, although customarily notarized</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td>28. NEBRASKA</td>
<td>YES Optional</td>
<td>Terminology: Attorney in Fact § 30-3402 (3)</td>
<td>• Att. Physician or employee of attending physician • Facility*</td>
<td>• At least 2 witnesses (must substantially follow the form in § 30-3408) or notarized</td>
<td>Witness declarations</td>
<td>None specified</td>
<td></td>
</tr>
<tr>
<td>Special DPA</td>
<td>Effective only upon incapacity §30-3411.</td>
<td>Limitations: • Life-sustaining procedures* • Nutrition &amp; hydration* (both the usual and typical provision of and those artificially administered) • Pregnancy limitation * Refusal permissible if expressly authorized</td>
<td>• Facility*</td>
<td>• At least one witness shall not be: • Relative/Spouse • Heir/Beneficiary • Att. Physician • Insurer</td>
<td></td>
<td></td>
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**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**  
Selected Characteristics  
September 2019

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| 29. NEVADA | YES Optional  
Special DPA, part of general DPA law  
Separate LW Statute: NEV. REV. STAT. ANN. § 449A.400 to .645 (West, 2019) with proxy designation. ("Uniform Act on Rights of the Terminally Ill")  
§ 162A.700 to .860 (West, 2019) ("Durable Power of Attorney for Health Care Decisions")  
§ 162A.450 | Terminology: Agent § 162A.790 (1)  
Limitations:  
Mental health facility admission  
Electro-convulsive therapy  
Aversive intervention  
Psycho-surgery  
Sterilization  
Abortion  
Experimental research/treatment  
Admission to assisted living facility, skilled nursing or a secured residential long-term care facility*  
* Permissible only if the power of attorney expressly grants the agent that authority.  
Indiv. Provider*  
Facility Provider*  
Indiv. Provider  
Facility Provider  
2 witnesses who know the principal personally or notarized  
At least one witness shall not be:  
Relative/Spouse/Adoptee  
Heir/Beneficiary  
None specified | § 162A.790 | | | | | Certification of competency must be attached if in a hospital, assisted living facility, residential facility for groups, skilled nursing facility, or home for individual residential care § 162A.790 |
### STATE HEALTH CARE POWER OF ATTORNEY STATUTES

**Selected Characteristics**

**September 2019**

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<th>E. PROHIBITED WITNESSES (See Explanation)</th>
<th>F. OTHER MANDATORY LANGUAGE?</th>
<th>G. SPECIAL INSTITUTIONAL PROTOCOL</th>
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<tr>
<td><strong>30. NEW HAMPSHIRE</strong></td>
<td>YES Form and disclosure statement must be substantially followed. Effective only upon incapacity § 137-J:5</td>
<td>Terminology: Agent § 137 – J:5 Limitations:  • Voluntary admission to any state institution  • Sterilization  • Pregnancy limitation  • Psychosurgery  • Electro-convulsive shock therapy  • Sterilization  • Experimental treatment  • Nutrition &amp; hydration*  • Life-sustaining treatment*  * Refusal permissible if expressly authorized See § 137-J10, J5</td>
<td>• Facility Provider*  • Indiv. Provider*  * Exception for relatives</td>
<td>• 2 witnesses or notarized  • Principal must acknowledge receipt of disclosure statement</td>
<td>• Spouse  • Heir/Beneficiary  • Att. Physician or person acting under direction/control of attending physician No more than one witness shall be:  • Health or residential care provider or such provider’s employee</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td><strong>31. NEW JERSEY</strong></td>
<td>NO Effective only upon incapacity §26:2H-59</td>
<td>Terminology: Health Care Representative § 26:2H-55 Limitations: None specified</td>
<td>• Att. Physician  • Facility Provider*  * Exception for relatives/domestic partners</td>
<td>• 2 witnesses or notarized</td>
<td>None specified</td>
<td>None specified</td>
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## STATE HEALTH CARE POWER OF ATTORNEY STATUTES
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<td>32. NEW MEXICO</td>
<td>YES Optional  Immediately effective permitted § 24-7A-2</td>
<td>Terminology: Agent § 24 -7A-1 (B)  Limitations:  • Mental health facility admission unless expressly authorized</td>
<td>• Facility Provider*  * Exception for relatives</td>
<td>2 witnesses recommended, but not required  Permits orally designated surrogate. § 24 7A-5</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
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<tr>
<td>N.M. STAT. ANN. § 24-7A-1 to –18 (West, 2019) (&quot;Uniform Health-Care Decisions Act&quot;)  Combined AD</td>
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<tr>
<td>33. NEW YORK</td>
<td>YES Optional  Effective only upon incapacity § 2981(4)</td>
<td>Terminology: Health Care Agent, or Agent § 2980 (5)  Limitations:  • Nutrition &amp; hydration*</td>
<td>• Att. Physician*  • Facility Provider*  • Any agent currently serving 10 or more principals*  * Exception for relatives</td>
<td>2 witnesses</td>
<td>None specified</td>
<td>None specified</td>
<td>If facility operated by Office of Mental Health &amp; Retardation, one witness must NOT be affiliated w/ facility and one witness must be psychologist § 2981</td>
</tr>
<tr>
<td>N.Y. PUB. HEALTH LAW §§ 2980-2994 (West, 2019) (&quot;Health Care Agents and Proxies” article)  Special DPA</td>
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**State Health Care Power of Attorney Statutes**

**Selected Characteristics**

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| 34. NORTH CAROLINA | YES Optional Effective only upon incapacity § 32A-20. | Terminology: Health Care Agent, or Health Care Attorney in Fact § 32A-15 (2) Limitations: None specified | • Indiv. Provider  
• Facility Provider | • 2 witnesses and notarized | • Relative related within the third degree of consanguinity to the principal/Spouse  
• Heir/Beneficiary  
• Indiv. Provider  
• Facility Provider  
• Creditor | None specified | None specified |
| Separate LW Statute: | | | | | | |
| Special DPA | | | | | | |
| Separate LW Statute: | | | | | | |
| N.C. GEN. STAT. ANN. § 90-320 to –323 (West, 2019) ("Right to Natural Death; Brain Death" article) | | | | | | |
| 35. NORTH DAKOTA | YES Optional Effective only upon incapacity §23-06.5-05(4) | Terminology: Agent §23-06.5-02 (1) Limitations:  
• Mental health facility admission > 45 days*  
• Psycho-surgery*  
• Abortion*  
• Sterilization*  
• *Unless approved by court order  
• Pregnancy Limitation**  
• Nutrition & Hydration**  
• ** Unless expressly provided for in AD | • Indiv. Provider*  
• Facility Provider*  
• * Exception for relatives | • 2 witnesses or notarized | • Relative/Spouse *  
• Heir/Beneficiary *  
• Creditor *  
• Att. Physician*  
• Person responsible for care costs*  
At least one witness shall not be:  
• Indiv. Provider  
• Facility Provider  
• * Also disqualifies notary | None specified | None specified |
| N.D. CENT. CODE ANN. § 23-06.5-01 to -19 (West, 2019) ("Health Care Directives") | | | | | | |
| Combined AD | | | | | | |

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*Unless otherwise specified, abbreviations are:  
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### State Health Care Power of Attorney Statutes

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<td>36. Ohio</td>
<td>NO  But does include mandatory disclosure statement</td>
<td>Terminology: Attorney in Fact § 1337.12 (A)(2)  Limitations:  • Life-sustaining procedures*  • Nutrition &amp; hydration*  • Pregnancy limitation  • Comfort care  • Withdraw health care to which principal previously consented*  * Refusal permissible if specified conditions are met, including initializing and conspicuous type. § 1337.13(E)  • Att. Physician  • Employee/agent of Att. Physician*  • Nursing home administrator  • Employee/agent of Facility Provider*  * Exception for relatives &amp; members of religious orders</td>
<td>2 witnesses or notarized</td>
<td>• Relative/Spouse/Adoptee  • Att. Physician  • Nursing home administrator where principal is receiving care</td>
<td>None specified</td>
<td>None specified</td>
<td></td>
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<tr>
<td>37. Oklahoma</td>
<td>YES Optional  Effective only upon incapacity § 3101.5</td>
<td>Terminology: Health Care Proxy § 3101.3 (6)  Limitations:  • Pregnancy limitation*  • Nutrition &amp; hydration**  * 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</td>
<td>None specified</td>
<td>2 witnesses</td>
<td>Heir/Beneficiary  • Relative</td>
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## STATE HEALTH CARE POWER OF ATTORNEY STATUTES

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| STATE | A. FORM PROVIDED? & START OF AGENCY AUTHORITY | B. AGENT TERMINOLOGY & LIMITS ON AGENT’S POWERS | C. PROHIBITED AGENTS  
Note: Includes employees of those listed | D. FORMALITIES OF EXECUTION | E. PROHIBITED WITNESSES  
(See Explanation) | F. OTHER MANDATORY LANGUAGE? | G. SPECIAL INSTITUTIONAL PROTOCOL |
|---|---|---|---|---|---|---|---|
| **38. OREGON**  
Combined AD | YES  
Must be followed  
But any other form “constitutes evidence of the patient’s desires and interests” § 127.535(6)  
Effective only upon incapacity § 127.510 | Terminology: Health Care representative § 127.505(13)  
Limitations:  
• Electro-convulsive therapy  
• Psycho-surgery  
• Sterilization  
• Abortion  
• Life-sustaining procedures*  
• Nutrition & hydration*  
* 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) | • Attending physician  
• Facility provider*  
• Parent or former guardian where specified protective actions were imposed, § 126.520  
* Exception for relatives | • 2 witnesses or notarized  
Agent must accept in writing § 127.525 | • Att. health care provider §127.515 | None specified |
| **39. PENNSYLVANIA**  
Separate subchapters and forms for “Health Care Agents and Representatives” and “Living Wills” | YES Optional  
Immediately effective permitted § 5454 | Terminology: Health Care Agent § 5453 (a)(1)  
Limitations:  
• Pregnancy limitation*  
• Nutrition & Hydration*  
*Unless expressly authorized in HCPA | • Attending physician*  
• Indiv. Provider*  
• Facility Provider*  
* Exception for relatives | • 2 witnesses  
• Provider  
• Facility Provider | None specified | None specified |
**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**  
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(Health Care Power of Attorney “chapter)  
Special DPA  
| YES  
Optional  
Immediately effective permitted. § 23-4.10-2 | Terminology:  
• Agent, or Attorney in Fact § 23 - 4.10 - 2  
• Health Care Decision Maker § 23 - 4.11 - 2 (7)  
Limitations:  
• Pregnancy limitation | • Indiv. Provider*  
• Facility Provider*  
* Exception for relatives |  
• 2 witnesses or notarized |  
• Indiv. Provider  
• Facility Provider  
• One witness shall not be Relative/Spouse or Heir/Beneficiary | None specified | None specified |
Special DPA for HC within a power of attorney act.  
Optional  
§ 62–5–504  
Effective only upon incapacity § 62–5–517  
* Refusal permissible if expressly authorized | Terminology: Agent or attorney –in-Fact §62-5-501  
Limitations (applicable to statutory form only):  
• Nutrition & hydration*  
• Pregnancy limitation  
* Exception for relatives |  
• Indiv. Provider*  
• Facility Provider*  
• Spouse of a Provider*  
* Exception for relatives |  
• 2 witnesses and notarized |  
• Relative/Spouse  
• Heir/Beneficiary  
• Attending physician  
• Creditor  
• Life insurance beneficiary  
• Person financially responsible for medical care costs  
No more than one witness shall be;  
• Facility provider | None specified | None specified |
### STATE HEALTH CARE POWER OF ATTORNEY STATUTES

**Selected Characteristics**  
September 2019

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LW = Living Will  
DPA = Durable Power of Attorney  
UHCDA = Uniform Health Care Decisions Act.

**WITNESSES:** The principal’s agent and anyone signing the directive on behalf of the principal are presumed to be always prohibited as witnesses. Where “provider “is prohibited, the providers employees are included.

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</table>
| 42. SOUTH DAKOTA | NO Effective only upon incapacity § 59-7-2.6 | Terminology: Agent or Attorney-in-Fact, or § 59-7-2.5  
Limitations:  
• Pregnancy limitation § 59-7-2.8  
• Nutrition & hydration*  
• Agent’s authority to delegate**  
* Refusal permissible if expressly authorized or other conditions are met  
** Permissible if expressly authorized | None specified | • 2 witnesses or notarization  
• § 59-7-2.1 | None specified | None specified | None specified |
| **Separate LW Statute:**  
S.D. CODIFIED LAWS § 34-12D-1 to –22 (West, 2019) (“Living Wills” chapter) | | | | | | |
| 43. TENNESSEE | NO Immediately effective permitted § 68-11-1803 | Terminology: Agent § 68-11-1802 (a)(2)  
Limitations: None specified | • Indiv. Provider*  
• Facility Provider*  
* Exception for relatives  
Permits orally designated surrogate. § 68-11-1806 | • 2 witnesses or notarized  
At least one witness shall not be:  
• Relative/Spouse  
• Heir/Beneficiary | None specified | None specified | None specified |
STATE HEALTH CARE POWER OF ATTORNEY STATUTES
Selected Characteristics
September 2019

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


WITNESSES: The principal’s agent and anyone signing the directive on behalf of the principal are presumed to be always prohibited as witnesses. Where “provider “is prohibited, the providers employees are included.

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<td>TEXAS</td>
<td>YES, Must be substantially followed and include a mandatory disclosure statement. Effective only on incapacity §166.152</td>
<td>Terminology: Agent § 166.002 (11) Limitations: • Pregnancy limitation • Mental health facility admission • Electro-convulsive therapy • Psycho-surgery • Abortion • Comfort care</td>
<td>• Indiv. Provider* • Facility Provider* * Exception for relatives</td>
<td>• 2 witnesses or notarized Permits orally designated surrogate. § 166.034.</td>
<td>At least one witness shall not be: • Att. Physician • Relative/Spouse • Facility Provider • Heir/Beneficiary • Creditor • Or employee of any above</td>
<td>None specified</td>
<td>None specified</td>
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<tr>
<td>UTAH</td>
<td>YES Optional Immediately effective permitted § 75-2a-109</td>
<td>Terminology: Agent or surrogate § 75-2a-103 Limitations: • Pregnancy limitation • Long-term custodial placement in licensed facility other than for assessment, rehabilitative, or respite care over principal’s objection § 75-2a-110</td>
<td>• Indiv. Provider* • Facility Provider* * Exception for relatives</td>
<td>• One witness § 75-2a-107 Permits orally designated surrogate. § 75-2a-103</td>
<td>• Relative/Spouse • Indiv. Provider • Facility Provider • Heir • Beneficiary under any instrument/plan/account/transfer • Person responsible for medical care costs • Principal's signatory</td>
<td>None specified</td>
<td>None specified</td>
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# STATE HEALTH CARE POWER OF ATTORNEY STATUTES

## Selected Characteristics

September 2019

### Explanation:

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### Abbreviations:

- AD = Advance Directive
- LW = Living Will
- DPA = Durable Power of Attorney
- UHCDA = Uniform Health Care Decisions Act

### WITNESSES:

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| 46. VERMONT | NO | Terminology: Agent § 9702 (2)  
Limitations:  
• Sterilization § 9711(f)  
• Indiv. Provider  
• Facility Provider including correctional facility *  
• Funeral/crematory/ cemetery/organ procurement representative (when authorized to dispose of remains or donate organs) *  
• Exception for relatives | 2 witnesses | Spouse or reciprocal beneficiary  
Relative | None specified | Detailed requirements for explaining the document and signing affirmation of compliance if the principal is in or entering a nursing home or hospital § 9703 |
| Combined AD | | | | | | |

| 47. VIRGINIA | YES | Terminology: Agent § 54.1-2982  
Limitations:  
• Psycho-surgery  
• Non-therapeutic sterilization  
• Abortion  
• Decisions about "visitation" unless expressly authorized and other conditions met. | 2 witnesses | None specified | None specified | None specified |
| VA. CODE ANN. § 54.1-2981 to –2993 (West, 2019)  
Healthcare Decisions Act | Optional  
Effective only upon incapacity § 54.1-2983.2 | | | | | |
| Combined AD | | | | | | |

- 2017 amendment provides for “qualified advance directive facilitators” § 54.1– 2982, § 54.1–2988.1 & § 54.1–2993.1
## STATE HEALTH CARE POWER OF ATTORNEY STATUTES

### Selected Characteristics

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| **48. WASHINGTON**  
Uniform Power of Attorney Act with health powers included.  
Separate LW Statute:  
WASH. REV. CODE ANN. § 70.122.010 to -.925 (West, 2019) ("Natural Death Act")  
§11.125.090 Immediately effective permitted. | NO  
Terminology: Agent § 11.125.020  
Limitations: Cross reference to guardianship law [RCWA 11.92.043(5)]:  
- Electro-convulsive therapy  
- Psycho-surgery  
- Other psychiatric treatment that restricts physical movement  
- Agent’s authority to delegate*  
  * Permissible if expressly authorized | • Indiv. Provider*  
• Facility Provider*  
  * Exception for certain relatives. | • 2 witnesses or notarized | • Relative  
• Home care or adult family home provider  
• LTC facility provider | Prescribed durability language required | None specified |
| **49. WEST VIRGINIA**  
W. VA. CODE ANN. § 16-30-1 to -25 (West, 2019) ("Health Care Decisions Act")  
Combined AD, but maintains separate Living Will and Medical Power of Attorney forms | YES Optional  
Effective only upon incapacity. §16-30-6(d)  
Terminology: Medical Power of Attorney Representative or Representative § 16-30-3 (q)  
  - Limit on agent’s authority to revoke a pre-need funeral contract | • Indiv. Provider*  
• Facility Provider*  
  * Exception for relatives | • 2 witnesses and notarized | • Att. Physician  
• Principal's signatory  
• Relative/Spouse  
• Heir/Beneficiary  
• Person responsible for medical care costs | None specified | None specified |
### State Health Care Power of Attorney Statutes

**Selected Characteristics**  
September 2019

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| **50. WISCONSIN**  
Special DPA  
Immediately effective permitted § 155.05 | Terminology: Health Care Agent § 155.01 (4)  
Limitations:  
• 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  
* Refusal permissible only if specified conditions are met | • Indiv. Provider or his/her spouse*  
• Facility Provider or his/her spouse*  
* Exception for relatives | • 2 witnesses | • Indiv. Provider  
• Facility provider*  
• Relative/Spouse/Adoptee/Domestic partner  
• Heir/Beneficiary  
• Person responsible for health care costs  
* Exception for chaplains & social workers | None specified | None specified |
| **51. WYOMING**  
Limitations: None specified | • Facility Provider*  
* Exception for relatives | • 2 witnesses or notarized | • Indiv. Provider  
• Facility Provider | None specified | None specified |
**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**
Selected Characteristics
September 2019

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<td><strong>UNIFORM HEALTH-CARE DECISIONS ACT</strong></td>
<td>YES Optional</td>
<td>Mental health facility admission*</td>
<td>LTC Facility Provider</td>
<td>2 witnesses recommended, but not required</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
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<td>Combined Advance Directive</td>
<td>Immediately effective permitted</td>
<td>* Only if expressly authorized</td>
<td></td>
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*CAUTION: The descriptions and limitations listed in this chart are broad characterizations for comparison purposes and are not precise quotations from legislative language.*

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