

## Health Care Decision-Making Authority: Who Makes the Decision?

Statutes governing the duties of guardians and health care agents often note that given appointment’s authority over health care decisions. However, a clear understanding of which appointment trumps the other might be lacking. This chart examines statutes from all fifty-states and determines where the ultimate authority over health care decisions for an individual with diminished capabilities rests.

OUTCOME	STATES	TOTAL
<b>Health Care Agents</b>	UHCDA, UGPPA, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, IA, KY, ME, MD, MA, MI, MS, NE, NH, NJ, NM, NY, NC, ND, OH, OR, SD, TN, UT, VT, VA, WV, WI, WY	<b>36</b>
<b>Guardians</b>	AL, HI, ID, KS, LA, MN, MO, MT, NV, PA, SC, WA	<b>12</b>
<b>Not Identified</b>	OK, RI, TX	<b>3</b>

STATE	HEALTH CARE AGENTS	COURT-APPOINTED GUARDIANS	WHO MAKES THE DECISION?
<b>UHCDA</b>	“Absent a court order to the contrary, a health-care decision of an agent takes precedence over that of a guardian.” Unif. Health Care Decisions Act § 6(b) (1994).	“A guardian shall comply with the ward's individual instructions and may not revoke the ward's advance health-care directive unless the appointing court expressly so authorizes.” Unif. Health Care Decisions Act § 6(a) (1994).	<b>Health Care Agent</b>
<b>UGPPA</b>	“If a power of attorney for health care [made pursuant to the Uniform Health-Care Decisions Act] is in effect, absent an order of the court to the contrary, a health-care decision of the agent takes precedence over that of a guardian.” Unif. Guardianship Protective Proc. Act § 316(c) (1997).	“[A] guardian may . . . consent to medical or other care, treatment, or service for the ward.” Unif. Guardianship Protective Proc. Act § 315(a)(4) (1997).	<b>Health Care Agent</b>
<b>AL</b>	“If, following execution of a durable power of attorney, a court of the domicile of the principal appoints a guardian . . . the attorney in fact is accountable to the fiduciary as well as to the principal. The fiduciary has the same power to revoke or amend the power of attorney that the principal would have had if he or she was not disabled, incompetent, or incapacitated.” Ala. Code § 26-1-2 (2011).	“[A] guardian of an incapacitated person is responsible for health, support, education, or maintenance of the ward.” Ala. Code § 26-2A-108 (1987).	<b>Guardian</b>

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<b>AK</b>	“Unless there is a court order to the contrary, a health care decision of an agent takes precedence over that of a guardian.” Alaska Stat. Ann. § 13.52.040(b) (West 2004).	“[T]he guardian shall assure that the ward receives the services necessary to meet the essential requirements for the ward's physical health and safety and to develop or regain, to the maximum extent possible, the capacity to meet the ward's needs for physical health and safety.” Alaska Stat. Ann. § 13.26.150(c)(3) (West 2004).	<b>Health Care Agent</b>
<b>AZ</b>	“An agent's authority to make health care decisions on behalf of the principal is limited only by the express language of the health care power of attorney or by court order as prescribed under § 36-3206.” Ariz. Rev. Stat. Ann. § 36-3223 (2009).	“A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment or service.” Ariz. Rev. Stat. Ann. § 14-5312 (2014).	<b>Health Care Agent</b>
<b>AR</b>	“Absent a court order to the contrary, a guardian shall comply with the principal's individual instructions and shall not revoke the principal's advance directive.” Ark. Code Ann. § 20-6-107(a) (West 2013).	“It shall be the duty of the guardian of the person, consistent with and out of the resources of the ward's estate, to care for and maintain the ward.” Ark. Code Ann. § 28-65-301 (West 1999).	<b>Health Care Agent</b>
<b>CA</b>	“Unless the power of attorney for health care provides otherwise, the agent designated in the power of attorney who is known to the health care provider to be reasonably available and willing to make health care decisions has priority over any other person in making health care decisions for the principal.” Cal. Prob. Code § 4683(a) (West 2006).	“If the conservatee has been adjudicated to lack the capacity to make health care decisions, the conservator has the exclusive authority to make health care decisions for the conservatee that the conservator in good faith based on medical advice determines to be necessary.” Cal. Prob. Code § 2355(a) (West 1999) (giving authority to a conservator, i.e., a guardian, in the absence of a health care agent).	<b>Health Care Agent</b>
<b>CO</b>	“A guardian has the same power to revoke, suspend, or terminate all or any part of the power of attorney or agency as it relates to matters concerning the principal's personal care that the principal would have had if the principal were not disabled or incompetent, except with respect to medical treatment decisions made by an agent pursuant to sections 15-14-506 to 15-14-509.” Colo. Rev. Stat. Ann. § 15-14-501(1) (West 1992).	“Except as otherwise limited by the court, a guardian shall make decisions regarding the ward's support, care, education, health, and welfare.” Colo. Rev. Stat. Ann. § 15-14-314(1) (West 2001).	<b>Health Care Agent</b>

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<b>CT</b>	<p>“Absent the court's order to the contrary and except as otherwise provided in subsection (b) of section 19a-580e, a conservator appointed pursuant to this section shall be bound by all health care decisions properly made by the conserved person's health care representative.” Conn. Gen. Stat. Ann. § 45a-650(3)(j) (West 2014).</p>	<p>“The conservator of the person shall have . . . the authority to give consent for the conserved person's medical or other professional care, counsel, treatment or service.” Conn. Gen. Stat. Ann. § 45a-656(a)(3) (West 2014) (giving authority to conservators, i.e., guardians, in the absence of a health care representative).</p>	<b>Health Care Agent</b>
<b>DE</b>	<p>“A guardian shall comply with the instructions of the adult person with a disability and may not revoke the person's advance health-care directive unless the appointing court expressly so authorizes.” Del. Code Ann. tit. 16, § 2506 (West 2014).</p>	<p>“The guardian may give such consent or approval as may be necessary to enable the person with a disability to receive medical or other professional care, counsel, treatment or service and shall have power to authorize release of medical records.” Del. Code Ann. tit. 12, § 3922(b)(3) (West 2014).</p>	<b>Health Care Agent</b>
<b>DC</b>	<p>“[T]he designated attorney in fact, if known to a health-care provider to be available and willing to make a particular health-care decision, shall have priority over any other person to act for the principal in all matters regarding health care.” D.C. Code § 21-2206(b)(1) (1994).</p>	<p>“[A] general guardian or limited guardian shall . . . consent to medical examination and medical or other professional care, treatment, or advice for the ward.” D.C. Code § 21-2047(b)(4) (2008).</p>	<b>Health Care Agent</b>
<b>FL</b>	<p>“If, after the appointment of a surrogate, a court appoints a guardian, the surrogate shall continue to make health care decisions for the principal, unless the court has modified or revoked the authority of the surrogate pursuant to s. 744.3115.” Fla. Stat. Ann. § 765.205(3) (West 2006).</p>	<p>A guardian must take “into consideration all aspects of social, psychological, educational, direct service, health, and personal care needs.” Fla. Stat. Ann. § 744.361(14)(c) (West 2015).</p>	<b>Health Care Agent</b>
<b>GA</b>	<p>“The mere appointment of a guardian does not revoke the powers of an agent who was previously appointed by the ward to act as an agent under a durable power of attorney for health care or health care agent under an advance directive for health care.” Ga. Code Ann. § 29-4-21(b) (West 2007).</p>	<p>“Except as otherwise provided by law or by the court, a guardian shall make decisions regarding the ward's support, care, education, health, and welfare.” Ga. Code Ann. § 29-4-22(a) (West 2004).</p>	<b>Health Care Agent</b>

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<b>HI</b>	“[T]he appointment of a guardian automatically terminates the authority of any agent designated in the medical directive or health care power of attorney.” Haw. Rev. Stat. § 560:5-316(c) (West 2004).	“Except as otherwise limited by the court, a guardian shall make decisions regarding the ward's support, care, education, health, and welfare.” Haw. Rev. Stat. § 560:5-314(a) (West 2004).	<b>Guardian</b>
<b>ID</b>	“Consent for the furnishing of hospital . . . or other health care, treatment or procedures to any person who is not then capable of giving such consent as provided in this chapter . . . may be given or refused in the order of priority set forth hereafter . . . (a) The court appointed guardian of such person; (b) The person named in another person's “Living Will and Durable Power of Attorney for Health Care” pursuant to section 39-4510, Idaho Code.” Idaho Code Ann. § 39-4504(1)(a)-(b) (West 2012) (granting priority to guardians).	“A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment or service.” Idaho Code Ann. § 15-5-312(1)(c) (West 2014).	<b>Guardian</b>
<b>IL</b>	“Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian has no power, duty, or liability with respect to any personal or health care matters covered by the agency.” 755 Ill. Comp. Stat. Ann. 5/11a-17 (2014).	“To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward and the ward's minor and adult dependent children and shall procure for them and shall make provision for their support, care, comfort, [and] health. 755 Ill. Comp. Stat. Ann. 5/11a-17(a) (2014).	<b>Health Care Agent</b>
<b>IN</b>	“A guardian does not have power, duty, or liability with respect to property or personal health care decisions that are subject to a valid power of attorney. A guardian has no power to revoke or amend a valid power of attorney unless specifically directed to revoke or amend the power of attorney by a court order on behalf of the principal.” Ind. Code Ann. § 30-5-3-4(b) (West 1991).	“The power to consent to medical or other professional care and treatment for the minor's health and welfare.” Ind. Code Ann. § 29-3-8-2(a)(4) (West 1989).	<b>Health Care Agent</b>
<b>IA</b>	“[A]n attorney in fact who is known to the health care provider to be available and willing to make health care decisions has priority over any other person, including a guardian appointed pursuant to chapter 633, to act for the principal in all matters of health care decisions.” Iowa Code Ann. § 144B.6(1) (West 1991).	“[I]f a guardian is appointed, the guardian may, without court approval, provide for the care of the ward . . . and ensure that the ward receives necessary emergency medical services.” Iowa Code Ann. § 633.562 (West 2000).	<b>Health Care Agent</b>

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<b>KS</b>	“A durable power of attorney for health care decisions may convey to the agent the authority to: (1) Consent, refuse consent, or withdraw consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition, and to make decisions about organ donation, autopsy, and disposition of the body.” Kan. Stat. Ann. § 58-629(a)(1) (West 2002).	“If, following execution of a durable power of attorney for health care decisions, a court of the principal's domicile appoints a guardian charged with the responsibility for the principal's person, the guardian has the same power to revoke or amend the durable power of attorney that the principal would have had if the principal were not disabled or incapacitated.” Kan. Stat. Ann. § 58-627(a) (West 1989).	<b>Guardian</b>
<b>KY</b>	“If, following the execution of an advance directive under KRS 311.623, a court of the grantor's principal domicile appoints a fiduciary charged with the care and protection of the grantor's person, the fiduciary shall be bound by the terms of the grantor's advance directive. If the advance directive designates a surrogate to make health care decisions for the grantor, the surrogate may continue to act.” Ky. Rev. Stat. Ann. § 311.6231 (West 1998).	A guardian shall have the authority “to give any necessary consent or approval to enable the ward to receive medical or other professional care.” Ky. Rev. Stat. Ann. § 387.660(3) (West 1982).	<b>Health Care Agent</b>
<b>LA</b>	“[A]ny one of the following persons in the following order of priority, if there is no person in a prior class who is reasonably available, willing, and competent to act, is authorized and empowered to consent, either orally or otherwise, to any surgical or medical treatment . . . which may be suggested, recommended, prescribed, or directed by a duly licensed physician: . . . (2) The judicially appointed tutor or curator of the patient, if one has been appointed. (3) An agent acting pursuant to a valid mandate, specifically authorizing the agent to make health care decisions.” La. Rev. Stat. Ann. 40:1299.53(A)(2)-(3) (2005).	Not stated	<b>Guardian</b>
<b>ME</b>	“Absent a court order to the contrary, a health-care decision of an agent takes precedence over that of a guardian.” Me. Rev. Stat. tit. 18-A, § 5-806(b) (1995).	“A guardian may give or withhold consents or approvals related to medical or other professional care, counsel, treatment or service for the ward.” Me. Rev. Stat. tit. 18-A, § 5-312(3) (1995).	<b>Health Care Agent</b>
<b>MD</b>	“An agent appointed under this subtitle has decision making priority over any individuals otherwise authorized under this subtitle to make health care decisions for a declarant.” Md. Code Ann., Health-Gen. § 5-602(b)(4) (West 1993).	A guardian has the power to consent to “medical or other professional care, counsel, treatment, or service, including admission to a hospital or nursing home or transfer from one medical facility to another.” Md. Code Ann., Est. & Trusts § 13-708(8)(i) (West 2014).	<b>Health Care Agent</b>

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<b>MA</b>	“A guardian, without authorization of the court, may not revoke a health care proxy of which the incapacitated person is the principal. If a health care proxy is in effect, absent an order of the court to the contrary, a health-care decision of the agent takes precedence over that of a guardian.” Mass. Gen. Laws Ann. ch. 190B, § 5-309(e) (West 2012).	“[A] guardian of an incapacitated person shall make decisions regarding the incapacitated person's support, care, education, health and welfare.” Mass. Gen. Laws Ann. ch. 190B, § 5-309(a) (West 2012).	<b>Health Care Agent</b>
<b>MI</b>	“If an individual executed a patient advocate designation under section 5506 before the time the court determines that he or she became a legally incapacitated individual, a guardian does not have and shall not exercise the power or duty of making medical or mental health treatment decisions that the patient advocate is designated to make.” Mich. Comp. Laws Ann. § 700.5306 (West 2004).	“The power to give the consent or approval that is necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.” Mich. Comp. Laws Ann. § 700.5314 (West 2014).	<b>Health Care Agent</b>
<b>MN</b>	“If the court grants the guardian any of the powers or duties under section 524.5-313, paragraph (c), clause (1), (2), or (4), the authority of a previously appointed health care agent to make health care decisions, as defined in section 145C.01, subdivision 5, is suspended until further order of the court or as otherwise provided by this section.” Minn. Stat. Ann. § 524.5-310(d) (West 2010).	“[T]he power to give any necessary consent to enable the ward to receive necessary medical or other professional care, counsel, treatment, or service.” Minn. Stat. Ann. § 524.5-313(4)(i) (West 2005).	<b>Guardian</b>
<b>MS</b>	“Absent a court order to the contrary, a health-care decision of an agent takes precedence over that of a guardian.” Miss. Code. Ann. § 41-41-213(2) (West 1998).	Not stated	<b>Health Care Agent</b>
<b>MO</b>	“If, following [the] execution of a durable power of attorney, a court appoints a legal representative for the principal, the attorney in fact shall follow the instructions of the court or of the legal representative, and shall communicate with and be accountable to the principal's guardian on matters affecting the principal's personal welfare.” Mo. Ann. Stat. § 404.714(5) (West 2006). <u>See also</u> Mo. Ann. Stat. § 404.810 (West 1991) (applying the duties of attorney in fact to a durable power of attorney for health care decisions).	A guardian has a duty to “assure that the ward receives medical care and other services that are needed.” Mo. Ann. Stat. § 475.120(3)(2) (West 2014).	<b>Guardian</b>

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<b>MT</b>	“If a guardian is appointed for the principal, the attorney-in-fact or agent, during the continuance of the appointment, is accountable to the guardian as well as the principal. The guardian has the same power to revoke or amend the health care power of attorney that the principal would have had if the principal were not disabled or incapacitated.” Mont. Code Ann. § 72-5-501(2) (West 2011).	“A full guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.” Mont. Code Ann. § 72-5-321(2)(c) (West 2009).	<b>Guardian</b>
<b>NE</b>	“The attorney in fact shall have priority over any person other than the principal to act for the principal in all health care decisions, except that the attorney in fact shall not have the authority to make any health care decision unless and until the principal has been determined to be incapable of making health care decisions pursuant to section 30-3412.” Neb. Rev. Stat. § 30-3417(2) (1992).	“A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical, psychiatric, psychological, or other professional care, counsel, treatment, or service.” Neb. Rev. Stat. § 30-2628(3) (2013).	<b>Health Care Agent</b>
<b>NV</b>	“If, after a principal executes a power of attorney for health care, a court appoints a guardian of the principal's person, the power of attorney is terminated.” Nev. Rev. Stat. Ann. § 162A.800(2) (West 2009).	“Authorizing medical, surgical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward.” Nev. Rev. Stat. Ann. § 159.079(b) (West 2013).	<b>Guardian</b>
<b>NH</b>	“If a ward has previously executed a valid living will, under RSA 137-J, a guardian shall be bound by the terms of such document, provided that the court may hold a hearing to interpret any ambiguity in such document. If a ward has previously executed a valid durable power of attorney for health care, RSA 137-J shall apply.” N.H. Rev. Stat. Ann. § 464-A:25(II)(e) (2011).	“A guardian of the person may give any necessary consent or approval to enable the ward to receive medical or other professional care, counsel, treatment, or service.” N.H. Rev. Stat. Ann. § 464-A:25(II)(d) (2011).	<b>Health Care Agent</b>
<b>NJ</b>	“If a different individual has been appointed as the patient's legal guardian, the health care representative shall retain legal authority to make health care decisions on the patient's behalf, unless the terms of the legal guardian's court appointment or other court decree provide otherwise.” N.J. Stat. Ann. § 26:2H-61(b) (West 1991).	A guardian shall, “subject to the provisions of subsection c. of N.J.S.3B:12-56, give or withhold any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment or service.” N.J. Stat. Ann. § 3B:12-57(4) (West 2005).	<b>Health Care Agent</b>

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<b>NM</b>	“A health-care decision of an agent appointed by a person having capacity takes precedence over that of a guardian, unless the appointing court expressly directs otherwise after notice to the agent and the protected person.” N.M. Stat. Ann. § 24-7A-6(B) (West 2009).	“[I]f no agent is entitled to make health-care decisions for the incapacitated person under the provisions of the Uniform Health-Care Decisions Act, then the guardian shall make health-care decisions for the incapacitated person in accordance with the provisions of that act.” N.M. Stat. Ann. § 45-5-312(3) (West 2009).	<b>Health Care Agent</b>
<b>NY</b>	If “the patient has a health care agent appointed pursuant to article twenty-nine-C of this chapter . . . health care decisions for the patient shall be governed by such article, and shall have priority over decisions by any other person except the patient or as otherwise provided in the health care proxy.” N.Y. Pub. Health Law § 2994-b(2) (McKinney 2011).	A guardian shall “consent to or refuse generally accepted routine or major medical or dental treatment, subject to the decision-making standard in subdivision four of section twenty-nine hundred ninety-four-d of the public health law.” N.Y. Mental Hyg. Law § 81.22(8)(i) (McKinney 2010).	<b>Health Care Agent</b>
<b>NC</b>	“[I]f the patient has a health care agent appointed pursuant to a valid health care power of attorney, the health care agent shall have the right to exercise the authority granted in the health care power of attorney unless the Clerk has suspended the authority of that health care agent in accordance with G.S. 35A-1208.” N.C. Gen. Stat. Ann. § 35A-1241(a)(3) (West 2007).	“The guardian of the person may give any consent or approval that may be necessary to enable the ward to receive medical, legal, psychological, or other professional care, counsel, treatment, or service.” N.C. Gen. Stat. Ann. § 35A-1241(a)(3) (West 2007).	<b>Health Care Agent</b>
<b>ND</b>	“Unless a court of competent jurisdiction determines otherwise, the appointment of an agent in a health care directive executed pursuant to this chapter takes precedence over any authority to make medical decisions granted to a guardian pursuant to chapter 30.1-28.” N.D. Cent. Code Ann. § 23-06.5-13(1) (West 2005).	“Notwithstanding general or limited authority to make medical decisions on behalf of the ward, no guardian may consent to psychosurgery, abortion, sterilization, or experimental treatment of any kind unless the procedure is first approved by order of the court.” N.D. Cent. Code Ann. § 30.1-28-12(4) (West 2005) (amended by ND LEGIS S.B. 2168 (2015), 2015 North Dakota Laws S.B. 2168 (West's No. 162)).	<b>Health Care Agent</b>

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<b>OH</b>	“If a guardian is appointed for the principal, a durable power of attorney for health care is not terminated, and the authority of the attorney in fact continues unless the court, pursuant to its authority under section 2111.50 of the Revised Code, limits, suspends, or terminates the power of attorney after notice to the attorney in fact and upon a finding that the limitation, suspension, or termination is in the best interest of the principal.” Ohio Rev. Code Ann. § 1337.12(4) (West 2013).	“A guardian of the person may authorize or approve the provision to the ward of medical, health, or other professional care, counsel, treatment, or services.” Ohio Rev. Code Ann. § 2111.13(c) (West 2006).	<b>Health Care Agent</b>
<b>OK</b>	“Encourage and support health care instructions by the individual in advance of incapacity and the delegation of decision-making powers to a health care proxy.” Okla. Stat. Ann. tit. 63, § 3101.2(A)(5) (West 1992).	A guardian may “consent to routine or necessary medical or other professional care.” Okla. Stat. Ann. tit. 30, § 3-118(2)(b) (West 1990).	<b>Not Identified</b>
<b>OR</b>	“Unless the power of attorney for health care provides otherwise, valid appointment of an attorney-in-fact for health care supersedes: (a) Any power of a guardian or other person appointed by a court to make health care decisions for the protected person; and (b) Any other prior appointment or designation of a health care representative.” Or. Rev. Stat. Ann. § 127.545(6) (West 1993).	“[T]he guardian may consent, refuse consent or withhold or withdraw consent to health care, as defined in ORS 127.505, for the protected person.” Or. Rev. Stat. Ann. § 125.315(1)(c) (West 2007).	<b>Health Care Agent</b>
<b>PA</b>	“If a principal who has executed a health care power of attorney is later adjudicated an incapacitated person and a guardian of the person to make health care decisions is appointed by a court, the health care agent is accountable to the guardian as well as to the principal.” 20 Pa. Cons. Stat. Ann. § 5460(a) (West 2006).	A guardian has the duty of “[a]ssuring that the incapacitated person receives such training, education, medical and psychological services.” 20 Pa. Cons. Stat. Ann. § 5512.1(b)(3) (West 1992) (applying to limited guardianships).	<b>Guardian</b>
<b>RI</b>	“This document gives your agent authority to consent, to refuse to consent, or to withdraw consent to any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or mental condition.” R.I. Gen. Laws Ann. § 23-4.10-2 (West 2006) (referencing an advance directive).	Not stated	<b>Not Identified</b>

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SC	<p>“Unless the power of attorney provides otherwise, appointment of a guardian terminates all or part of the power of attorney that relates to matters within the scope of the guardianship.” S.C. Code Ann. § 62-5-501(B) (2010).</p>	<p>“A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.” S.C. Code Ann. § 62-5-312(3) (1986).</p>	<p><b>Guardian</b></p>
SD	<p>“Unless prior authorization of the court is first obtained, a guardian . . . may not . . . revoke or amend a durable power of attorney of which the protected person is the principal.” S.D. Codified Laws § 29A-5-118 (1995).</p>	<p>“A guardian of a protected person shall make decisions regarding the protected person’s support, care, [and] health.” S.D. Codified Laws § 29A-5-402 (1995).</p>	<p><b>Health Care Agent</b></p>
TN	<p>“Unless the durable power of attorney for health care provides otherwise . . . the attorney in fact designated in the durable power of attorney who is known to the health care provider to be available and willing to make health care decisions has priority over any other person to act for the principal in all matters of health care decisions.” Tenn. Code Ann. § 34-6-204(a)(1) (West 2004).</p>	<p>“[I]f a court appoints a conservator, guardian of the estate or other fiduciary, that fiduciary shall not have the power to revoke or amend a durable power of attorney for health care nor replace the attorney in fact designated in a power of attorney for health care.” Tenn. Code Ann. § 34-6-204(2)(a) (West 2004).</p>	<p><b>Health Care Agent</b></p>
TX	<p>“On motion filed in connection with a petition for appointment of a guardian or, if a guardian has been appointed, on petition of the guardian, a probate court shall determine whether to suspend or revoke the authority of the agent.” Tex. Health &amp; Safety Code Ann. § 166.156(a) (West 1999). “During the pendency of the court’s determination under Subsection (a), the guardian has the sole authority to make any health care decisions unless the court orders otherwise. If a guardian has not been appointed, the agent has the authority to make any health care decisions unless the court orders otherwise.”). Tex. Health &amp; Safety Code Ann. § 166.156(c) (West 1999).</p>	<p>A guardian shall have “the power to consent to medical, psychiatric, and surgical treatment other than the inpatient psychiatric commitment of the ward. Tex. Estates Code Ann. § 1151.051(c)(4) (West 2013) (amended by GUARDIANSHIPS FOR INCAPACITATED PERSONS AND TO SUBSTITUTES FOR GUARDIANSHIPS FOR CERTAIN ADULTS WITH DISABILITIES, 2015 Tex. Sess. Law Serv. Ch. 214 (H.B. 39) (VERNON’S)).</p>	<p><b>Not Identified</b></p>
UT	<p>“A health care decision of an agent takes precedence over that of a guardian, in the absence of a court order to the contrary.” Utah Code Ann. § 75-2a-112(2) (West 2008).</p>	<p>“A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service.” Utah Code Ann. § 75-5-312(2)(c) (West 2014).</p>	<p><b>Health Care Agent</b></p>

## Health Care Decision-Making Authority: Who Makes the Decision?

STATE	HEALTH CARE AGENTS	COURT-APPOINTED GUARDIANS	WHO MAKES THE DECISION?
<b>VT</b>	“When the person under guardianship has an advance directive, the authority of the agent and the instructions contained therein shall remain in effect unless the probate division of the superior court expressly orders otherwise in a petition for review of the advance directive under 18 V.S.A. § 9718.” Vt. Stat. Ann. tit. 14, § 3069(b) (West 2009).	“[T]he power to seek, obtain, and give or withhold consent to the initiation or continuation of medical or dental treatment.” Vt. Stat. Ann. tit. 14, § 3069(c)(2) (West 2009).	<b>Health Care Agent</b>
<b>VA</b>	“If, after a principal executes a power of attorney, a court appoints a conservator or guardian of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's authority continues unless limited, suspended, or terminated by the court.” Va. Code Ann. § 64.2-1606(B) (West 2012).	“A guardian's duties and authority shall not extend to decisions addressed in a valid advance directive or durable power of attorney previously executed by the incapacitated person. A guardian may seek court authorization to revoke, suspend, or otherwise modify a durable power of attorney, as provided by the Uniform Power of Attorney Act (§ 64.2-1600 et seq.)” Va. Code Ann. § 64.2-2019(B) (West 2012).	<b>Health Care Agent</b>
<b>WA</b>	“If a guardian thereafter is appointed for the principal, the attorney-in-fact or agent, during the continuance of the appointment, shall account to the guardian rather than the principal. The guardian has the same power the principal would have had if the principal were not disabled or incompetent, to revoke, suspend or terminate all or any part of the power of attorney or agency.” Wash. Rev. Code Ann. § 11.94.010(1) (West 2007).	“It shall be the duty of the guardian . . . [to give] informed consent for health care of the incapacitated person.” Wash. Rev. Code Ann. § 11.92.043(5) (West 2011).	<b>Guardian</b>
<b>WV</b>	“A guardian shall be required to seek prior court authorization . . . to deviate from a protected person's living will or medical power of attorney, or to revoke or amend a durable power of attorney executed by the protected person.” W. Va. Code Ann. § 44A-3-1(c) (West 2010).	“The guardian of a protected person . . . is responsible for . . . making decisions with respect to the protected person's support, care, [and] health.” W. Va. Code Ann. § 44A-3-1(a) (West 2010).	<b>Health Care Agent</b>

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<b>WI</b>	<p>“Unless the court makes this revocation or limitation, the guardian for the individual may not make health care decisions for the ward that may be made by the health care agent, unless the guardian is the health care agent.” Wis. Stat. Ann. § 155.60(2) (West 2006).</p>	<p>A guardian has “[t]he power to give informed consent, if in the ward's best interests, to the involuntary administration of a medical examination, medication other than psychotropic medication, and medical treatment that is in the ward's best interest.” Wis. Stat. Ann. § 54.25 (West 2008).</p>	<b>Health Care Agent</b>
<b>WY</b>	<p>“Absent a court order to the contrary, a health care decision of an agent takes precedence over that of a guardian.” Wyo. Stat. Ann. § 35-22-407(b) (West 2007).</p>	<p>“The guardian shall: . . . (iii) Subject to the restrictions of W.S. 3-2-202, authorize or expressly withhold authorization of medical or other professional care, treatment or advice.” Wyo. Stat. Ann. § 3-2-201(a)(iii) (West 1998).</p>	<b>Health Care Agent</b>