## State Health Care Power of Attorney Statutes

### Selected Characteristics

**January 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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| **1. ALABAMA**  
AL. CODE. § 22-8A-1 to -14 (West, 2017) ("Natural Death Act")  
Combined AD. Single statutory form.
  
*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  
- Agent  
- Proxy signer  
- Relative/Spouse  
- Heir/Beneficiary  
- Person responsible for care costs | | | None Specified | None Specified |
| **2. ALASKA**  
ALASKA STAT. ANN. § 13.52.010 to .395 (West, 2017 ("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  
**Facility provider*  
  * Exception for relatives**  
2 witness or notarized  
**Agent**  
**Facility provider**  
At least one witness shall not be:  
- Relative/Spouse/Adoptee  
- Heir/Beneficiary | | | None Specified | None Specified |
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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Limitations: None specified | • Person whose license as fiduciary has been revoked/suspended and not reinstated, unless relative | • 1 witness or notarized | Agent  
Provider  
If only one witness, that person shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary | None Specified | None Specified |
| 4. ARKANSAS Amended 4/7/2017 | ARK. CODE. ANN. § 20-6-102 to -118 (West 2017) 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. 2-6-103. | At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary 20-6-103 | None Specified | None Specified |
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| **5. California**  
Combined AD | YES Optional  
Immediately effective permitted §4682 | Terminology: Agent §4607  
Limitations:  
• Civil commitment  
• Electro-convulsive therapy  
• Psycho-surgery  
• Sterilization  
• Abortion | • 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 | • 2 witnesses or notarized | • Agent  
• Indiv. Provider  
• Facility Provider  
At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary | • Declaration, in substance, from each witness*  
• Declaration, in substance, from non-relative/spouse/heir witness*  
*Except notary | • If HCPA executed in facility, ombudsman must sign/declare as witness. §4675 |
| **6. Colorado**  
COLO. REV. STAT. ANN. § 15-14-503 to -509 (West , 2017) (“Colorado Patient Autonomy Act”)  
Special DPA for Health Care  
Separate Living Will Statute:  
COLO. REV. STAT. §15-18-101 to -113. (“Colorado Medical Treatment Decision Act”) | NO  
Immediately effective permitted §15-14-501 | Terminology: Agent § 15-14-504 (1)(c)  
Limitations: None specified | None specified | None specified | None specified | None Specified  
None Specified |
## STATE HEALTH CARE POWER OF ATTORNEY STATUTES
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| 7. CONNECTICUT | YES Optional Substantially followed<br>Effective only upon incapacity 19a-579 | Terminology:  
- Health care representative (19a-570)
- Person designated (§1-56r)  
Limitations: None specified | • Facility Provider*  
- Attending physician  
- Administrator or employee of gov’t agency financially responsible for care* | • 2 witnesses  
- Notary also needed only if making a designation of person for decision-making under §1-56r | • Agent | | 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 |
| 8. DELAWARE | YES Optional<br>Effective only upon incapacity §2503 | 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 | • Residential LTC Facility Provider*  
- Witnesses state in writing that they’re not prohibited witnesses | • 2 witnesses  
- Facility provider  
- Relative/Spouse  
- Heir/Beneficiary  
- Creditor  
- Person responsible for care costs | None specified | | 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 |
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| 9. DISTRICT OF COLUMBIA | YES Optional | 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 | YES Optional | Terminology: Surrogate § 765.101 (16)  
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 | • 2 witnesses | • Agent  
At least one witness shall not be:  
• Relative/Spouse | None specified | None specified |
# State Health Care Power of Attorney Statutes
## Selected Characteristics
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| **11. GEORGIA**  
Combined AD | 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 | • Agent  
• Heir/Beneficiary  
• Indiv. Provider  
No more than one witness shall be:  
• Facility provider | None specified | None specified |
| **12. HAWAII**  
HAW. REV. STAT. § 327E-1 to –16 (West, 2017) (“Uniform Health-Care Decisions Act”)  
Combined AD | 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 | • 2 witnesses or notarized | • Indiv. provider  
• Facility provider  
• Agent  
At least one witness shall not be:  
• Relative/Spouse  
• Heir/Beneficiary | None specified | None specified |
| **13. IDAHO**  
IDAHO CODE ANN. § 39-4501 to –4515 (West, 2017) (“Medical Consent and Natural Death Act”)  
Combined AD | 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*  
*Exception for relatives who are employees of. | • None specified | • None specified | None specified | None specified |
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| **14. Illinois** | YES Optional  
**Special DPA**  
Separate LW Statute: 755 ILL. COMP. STAT. ANN. 45/4-1 to /4-12 (West, 2017) ("Powers of Attorney for Health Care Law") | 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** | NO  
**Ind. Code Ann. § 30-5-1-1 to 30-5-5-19 (West, 2017)** specifically § 30-5-5-16 and -17, (part of general “Power of Attorney” article of code | 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). |

**Ind. Code Ann. § 16-36-1-1 to -14 (West, 2017), ("Health Care Consent" chapter creating a health care representative)**  
Separate LW Statute: Ind. Code Ann. § 16-36-4-1 to -21. ("Living Wills and Life Prolonging Procedures" chapter)  
No  
Effective only upon incapacity §16-36-1-7(e) | Health Care Representative §16-36-1-2  
Limitations:  
- Life-sustaining procedures* (see mandatory language)  
* Permissible if expressly authorized | None specified | • One witness | None specified | Same mandatory language as above. It is incorporated into §16-36-1-14.
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<td>Iowa</td>
<td>YES Optional &amp; Effective only upon incapacity §144B.1</td>
<td>Terminology: Attorney in Fact §144B.1 (1) Limitations: None specified</td>
<td>• Indiv. Provider* • Employee of provider* * Exception for relatives</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent • Indiv. Provider or employee • Individual less than 18 years old At least one witness shall not be: • Relative/Spouse/Adoptee</td>
<td>None specified</td>
<td>None specified</td>
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<tr>
<td>Kansas</td>
<td>YES Must be substantially followed Immediately effective permitted §58-629(b)</td>
<td>Terminology: Attorney in Fact §58-651 (a) Limitations: Cannot revoke previous living will</td>
<td>• Indiv. Provider* • Facility Provider* * Exception for relatives &amp; religious community members who actually and regularly engage in religious ministrations or performance of health care services</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent • Relative/Spouse • Heir/Beneficiary • Person responsible for health care costs</td>
<td>None specified</td>
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| 18. KENTUCKY | YES  
Combined AD (but called “Living Will Directive”) | Terminology: Surrogate §311.621(16)  
Limitations:  
• Facility provider*  
  * Exception for relatives within fourth degree of consanguinity & members of same religious or fraternal order.  
311.625 | • 2 witnesses or notarized | • Relative/Spouse  
• Facility Provider unless he/she serves as notary public  
• Attg. physician  
• Heir/Beneficiary  
• Person responsible for health care costs | None specified | None specified |
| 19. LOUISIANA | NO  
LA. CIV. CODE ANN. art. 2989 to 3034 (West, 2017) specifically art. 2997 providing for health decisions power.  
General DPA statute (called a “mandate”), | Terminology: Mandatory | None specified | N/A | None specified | None specified |
| Separate Living Will Statute:  
LA. REV. STAT. ANN § 40:1151 - 1155 (West, 2017) | Yes Optional | None | None | 2 Witnesses | None | None specified | None specified |

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Page | 9 ABA Commission on Law and Aging | [www.americanbar.org/aging](http://www.americanbar.org/aging) | © 2018 American Bar Association Commission on Law and Aging. The ABA acknowledges and thanks the West Group for providing access to on-line legal research.
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<td>20. MAINE</td>
<td>ME. REV. STAT. ANN. tit. 18-A, § 5-801 to -817 (West, 2017) (“Uniform Health-Care Decisions Act”)</td>
<td>YES Optional Immediately effective permitted §5-802</td>
<td>Terminology: Agent § 5-801 (b) Limitations: • Mental health facility admission, consent permissible if expressly authorized</td>
<td>• LTC Facility provider*</td>
<td>• In writing</td>
<td>None specified</td>
<td>None specified</td>
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<td>21. MARYLAND</td>
<td>MD. CODE ANN., HEALTH-GEN. §5-601 to –626 (West, 2017) (“Health Care Decisions Act”)</td>
<td>YES Optional Immediately effective permitted §5-602</td>
<td>Terminology: Agent § 5-601 (c) Limitations: None specified</td>
<td>• Facility provider and providers’ relatives* • Individuals subject to a protective order shielding the declarant • Spouse when separation agreement or divorce filed.</td>
<td>• 2 witnesses</td>
<td>• Agent At least one witness must not be: • Heir, or have any other financial interest in person's death</td>
<td>None specified</td>
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| 22. MASSACHUSETTS | NO 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 | • Agent | None specified | None specified |
| Special DPA | | | | | | | |
| 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 | • Agent  
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 |
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| **24. MINNESOTA**          | YES Optional                                  | Terminology: Health Care Agent §145C.01 (2), Proxy §145B.03 (1) | • Indiv. Provider*  
  • Facility Provider*  
  • Individual determining capacity  
  * Exception for relatives (including registered domestic partnerships) or "unless otherwise specified" in directive | • 2 witnesses or notarized | • Agent  
  At least one shall not be:  
  • Health care provider (but provider may notarize) | None specified | None specified |
| **Separate LW Statute:**   |                                               | • Pregnancy Limitations*  
  *Unless expressly overridden in directive |                                               |                                               |                                               |                                               |                                               |
| **MINN. STAT. ANN. § 145B.01 to .17** (West, 2017) (**“Living Will Act”**) |                                               |                                               |                                               |                                               |                                               |                                               |                                               |
| **25. MISSISSIPPI**        | YES Optional                                  | 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 | • Agent  
  • 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 |
| **MISS. CODE ANN. § 41-41-201 to -229** (West, 2017) (**“Uniform Health-Care Decisions Act”**) |                                               |                                               |                                               |                                               |                                               |                                               |                                               |
# STATE HEALTH CARE POWER OF ATTORNEY STATUTES

## Selected Characteristics

**January 2018**

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

**Abbreviations:** AD = Advance Directive  
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<th>F. OTHER MANDATORY LANGUAGE?</th>
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| 26. MISSOURI | NO | Terminology: Attorney in Fact § 404.815  
Limitations:  
* Nutrition & hydration*  
* Agent’s authority to delegate** | H. Att. Physician*  
F. 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 acknowledgment in the manner prescribed for conveyances 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.  
| Special DPA | | | ** Refusal permissible if expressly authorized  
** Permissible if expressly authorized | | | | |
| Separate LW Statute: | | | | | | | |
| MO. ANN. STAT. § 459.010 - .055 (West, 2017) ("Declarations, Life Support* chapter) | | | | | | | |
| NO | Immediately effective permitted §404.825 | | | | | | |
| 27. MONTANA | YES, in Living Will statute only. Optional | Terminology: Attorney in Fact or Agent § 72-5-501  
Limitations:  
* Pregnancy limitation | None specified | None specified | None specified | None specified | None specified |
| MONT. CODE ANN. § 72-5-501 and –502 (West, 2017) (Health care provisions in general DPA statute) | Immediately effective permitted §72-5-501 | | | | | | |
| Separate LW Statute: | | | | | | | |
### STATE HEALTH CARE POWER OF ATTORNEY STATUTES
#### Selected Characteristics

*January 2018*

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<tr>
<td>28. NEBRASKA</td>
<td>YES Optional  / Effective only upon incapacity §30-3411.</td>
<td>Terminology: Attorney in Fact § 30-3402 (3)  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>• Att. Physician or employee of attending physician  • Facility*  • Any agent presently serving 10 or more principals*  * Exception for relatives</td>
<td>• At least 2 witnesses (must substantially follow the form in § 30-3408) or notarized</td>
<td>• Agent  • Relative/Spouse  • Heir/Beneficiary  • Att. Physician  • Insurer</td>
<td>Witness declarations</td>
<td>None specified</td>
</tr>
</tbody>
</table>

| 29. NEVADA | YES Optional  / Immediately effective permitted. §162A.810 | Terminology: Agent § 162A.790 (1)  Limitations:  • Mental health facility admission  • Electro-convulsive therapy  • Aversive intervention  • Psycho-surgery  • Sterilization  • Abortion  • Experimental research/treatment | • Indiv. Provider*  • Facility Provider*  * Exception for spouse, legal guardian or next of kin to the principal | • 2 witnesses who know the principal personally or notarized | • Agent  • Indiv. Provider  • Facility Provider  | None specified | Certification of competency must be attached if in a hospital, asst’d living facility, residential facility for groups, skilled nursing facility, or home for individuals residential care §162A.790 |

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Page | 14 ABA Commission on Law and Aging | [www.americanbar.org/aging](http://www.americanbar.org/aging) | © 2018 American Bar Association Commission on Law and Aging. The ABA acknowledges and thanks the West Group for providing access to on-line legal research.
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<tbody>
<tr>
<td>30. NEW HAMPSHIRE</td>
<td><strong>YES</strong> 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>• Agent • 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>31. NEW JERSEY</td>
<td><strong>NO</strong> 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>• Agent</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td>32. NEW MEXICO</td>
<td><strong>YES</strong> 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</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
</tr>
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### STATE HEALTH CARE POWER OF ATTORNEY STATUTES

**Selected Characteristics**  
January 2018

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

**Abbreviations:**  
AD = Advance Directive  
LW = Living Will  
DPA = Durable Power of Attorney  
UHCDA = Uniform Health Care Decisions Act.

| **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**  
Note: “Provider” includes employees of provider | **E. PROHIBITED WITNESSES**  
Note: 2 witnesses | **F. OTHER MANDATORY LANGUAGE?** | **G. SPECIAL INSTITUTIONAL PROTOCOL** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **33. NEW YORK**  
N.Y. PUB. HEALTH LAW §§ 2980-2994 (West, 2017)  
(“Health Care Agents and Proxies” article)  
Special DPA | YES Optional  
Effective only upon incapacity §2981(4) | Terminology: Health Care Agent, or Agent § 2980 (5)  
Limitations:  
* Nutrition & hydration*  
  * Principal must make his/her wishes “reasonably known” | • Att. Physician*  
• Facility Provider*  
• Any agent currently serving 10 or more principals*  
  * Exception for relatives | • 2 witnesses | • Agent | None specified | If facility operated by Office of Mental Health & Retardation, one witness must NOT be affiliated w/ facility and one witness must be psychologist §2981 |
| **34. NORTH CAROLINA**  
(“Health Care Powers of Attorney”)  
Special DPA  
(“Right to Natural Death; Brain Death” article) | 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 |
### STATE HEALTH CARE POWER OF ATTORNEY STATUTES

**Selected Characteristics**  
**January 2018**

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<tr>
<td>35. NORTH DAKOTA</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>
N.D. CENT. CODE ANN. § 23-06.5-01 to -19 (West, 2017) ("Health Care Directives")  
Combined AD | YES Optional  
Effective only upon incapacity §23-06.5-03 | 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  
• Agent must accept in writing §23-06.5-06 | • Agent *  
• Relative/Spouse *  
• Heir/Beneficiary *  
• Creditor *  
• Att. Physician*  
• Person responsible for care costs*  
• * Also disqualifies notary | None specified |

| 36. OHIO |  
Special DPA  
Separate LW Statute:  
Ohio Rev. Code Ann. § 2133.01 to .26 (West, 2017) ("Modified Uniform Rights of the Terminally Ill Act") | NO But does include mandatory disclosure statement  
Immediately effective permitted §1337.12 | Terminology: Attorney in Fact §1337.12 (A)(2)  
Limitations:  
• Life-sustaining procedures*  
• Nutrition & hydration*  
• Pregnancy limitation  
• Comfort care  
• Withdraw health care to which principal previously consented*  
• * Refusal permissible if specified conditions are met, including initialing and conspicuous type. §1337.13(E) | • Att. Physician  
• Employee/agent of Att. Physician*  
• Nursing home administrator  
• Employee/agent of Facility Provider*  
• * Exception for relatives & members of religious orders  
• 2 witnesses or notarized | • Agent  
• Relative/Spouse/Adoptee  
• Att. Physician  
• Nursing home administrator where principal is receiving care | None specified  
None specified |
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* Pregnancy limitation*  
* Nutrition & 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 | None specified | 2 witnesses | Heir/Beneficiary  
Relative | None specified | None specified |
* 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*  
* Person who has been disqualified from making health care decisions for principal  
* Exception for relatives | 2 witnesses | Agent  
Att. physician  
One witness shall not be:  
Relative/Spouse/Adoptee  
Heir/Beneficiary  
Facility Provider | Witness must sign written declaration (form provided) | If in LTC facility, one witness must be designated by facility and meet qualifications specified by DHS. §127.515 |
### STATE HEALTH CARE POWER OF ATTORNEY STATUTES

**Selected Characteristics**  
January 2018

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<th>F. Other Mandatory Language?</th>
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| **39. PENNSYLVANIA**  
20 PA. CONS. STAT. ANN. §§ 5421 – 5488 (West, 2017)  
(“Health Care” chapter)  
Combined AD, but separate subchapters for “Health Care Agents and Representatives” and “Living Wills” | YES Optional  
Immediately effective permitted §5471 | 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 | • Indiv. Provider  
• Facility Provider  
• Principal's signatory | None specified | None specified |
| **40. RHODE ISLAND**  
R.I. GEN. LAWS ANN. § 23-4.10-1 to -12 (West, 2017)  
(Health Care Power of Attorney “chapter)  
Special DPA  
Separate LW Statute:  
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 | • Agent  
• Indiv. Provider  
• Facility Provider  
• One witness shall not be Relative/Spouse or Heir/Beneficiary | One witness must sign declaration that she is not relative/spouse or heir/beneficiary | None specified |
# STATE HEALTH CARE POWER OF ATTORNEY STATUTES
## Selected Characteristics
### January 2018

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• Nutrition & hydration*  
• Pregnancy limitation  
* Refusal permissible if expressly authorized | • Indiv. Provider*  
• Facility Provider*  
• Spouse of a Provider*  
* Exception for relatives | • 2 witnesses and notarized | • Agent  
• 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 |
| **42. SOUTH DAKOTA** | S.D. CODIFIED LAWS § 59-1-1 to §59-7-11 (West, 2017) (“Agency” title) 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 Separate LW Statute: S.D. CODIFIED LAWS § 34-12D-1 to –22 (West, 2017) (“Living Wills” chapter) | 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 §59-7-2.7  
** Permissible if expressly authorized | None specified | • 2 witnesses or notarization §59-7-2.1 | None specified | None specified |

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Page | 20 ABA Commission on Law and Aging | www.americanbar.org/aging | © 2018 American Bar Association Commission on Law and Aging. The ABA acknowledges and thanks the West Group for providing access to on-line legal research.
# State Health Care Power of Attorney Statutes

## Selected Characteristics

January 2018

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<td><strong>43. TENNESSEE</strong>&lt;br&gt;TENN. CODE ANN. § 68-11-1801 to –1815 (West, 2017) (“Tennessee Health Care Decisions Act”)&lt;br&gt;Combined AD</td>
<td>NO &lt;br&gt;Immediately effective permitted §68-11-1803</td>
<td>Terminology: Agent §68-11-1802 (a)(2) &lt;br&gt;Limitations: None specified</td>
<td>• Indiv. Provider*&lt;br&gt;• Facility Provider*&lt;br&gt;• Exception for relatives</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent &lt;br&gt;At least one witness shall not be: &lt;br&gt;• Relative/Spouse &lt;br&gt;• Heir/Beneficiary</td>
<td>Written advance directive shall contain witness attestation clause</td>
<td>None specified</td>
</tr>
<tr>
<td><strong>44. TEXAS</strong>&lt;br&gt;TEX. HEALTH &amp; SAFETY CODE ANN. § 166.001 to -.166 (West, 2017) (“Advance Directives Act”)&lt;br&gt;Combined AD, but separate provisions and forms for “medical power of attorney” and medical directives (living will). Agent may be appointed under both.</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) &lt;br&gt;Limitations: &lt;br&gt;• Pregnancy limitation &lt;br&gt;• Mental health facility admission &lt;br&gt;• Electro-convulsive therapy &lt;br&gt;• Psycho-surgery &lt;br&gt;• Abortion &lt;br&gt;• Comfort care</td>
<td>• Indiv. Provider*&lt;br&gt;• Facility Provider*&lt;br&gt;• Exception for relatives</td>
<td>• 2 witnesses or notarized</td>
<td>At least one witness shall not be: &lt;br&gt;• Agent &lt;br&gt;• Att. Physician &lt;br&gt;• Relative/Spouse &lt;br&gt;• Facility Provider &lt;br&gt;• Heir/Beneficiary &lt;br&gt;• Creditor &lt;br&gt;• Or employee of any above</td>
<td>None specified</td>
<td>None specified</td>
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### State Health Care Power of Attorney Statutes

#### Selected Characteristics

**January 2018**

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**Abbreviations:** AD = Advance Directive  LW = Living Will  DPA = Durable Power of Attorney  UHCDA = Uniform Health Care Decisions Act.

|-------|---------------------------------------------|------------------------------------------------|----------------------|---------------------------|--------------------------|---------------------------|---------------------------------|
| **45. Utah**  
Combined AD  
Combined AD | YES  
Optional  
Immediately effective permitted §75-2a-109 | 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 | • Indiv. Provider*  
- Facility Provider*  
* Exception for relatives | • One witness §75-2a-107 | • Agent  
- Relative/Spouse  
- Indiv. Provider  
- Facility Provider  
- Heir  
- Beneficiary under any instrument/plan/account/transfer  
- Person responsible for medical care costs  
- Principal’s signatory | None specified | None specified |
| **46. Vermont**  
Combined AD | NO  
Immediately effective permitted §9702(a) | 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 | • Agent  
- Spouse or reciprocal beneficiary  
- Relative | None specified | If in nursing home, resid't. facility or hospital, one of the following must sign statement that s/he explained the AD:  
- Ombudsman  
- Patient rep.  
- Clergy  
- Atty  
- Probate ct. designee  
- Hospital-designated explainer of ADs. §9703 |
**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**
Selected Characteristics
January 2018

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<td>47. VIRGINIA</td>
<td>VA. CODE ANN. § 54.1-2981 to –2993 (West, 2017) Healthcare Decisions Act</td>
<td>YES Optional Effective only upon incapacity §54.1–2983.2</td>
<td>Terminology: Agent § 54.1-2982 Limitations: Psycho-surgery Non-therapeutic sterilization Abortion Decisions about “visitation” unless expressly authorized and other conditions met.</td>
<td>None specified</td>
<td>2 witnesses</td>
<td>None specified</td>
<td>None specified</td>
</tr>
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2017 amendment provides for “qualified advance directive facilitators” §54.1–2982, §54.1–2988.1 & §54.1–2993.1

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<td>49. West Virginia</td>
<td>YES Optional</td>
<td>Terminology: Medical Power of Attorney</td>
<td>• Indiv. Provider*</td>
<td>2 witnesses and notarized</td>
<td>Agent</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td></td>
<td>W. Va. Code Ann. § 16-30-1 to -25 (West, 2017)</td>
<td>Representative or Representative § 16-30-3 (q)</td>
<td>• Facility Provider*</td>
<td></td>
<td>Att. Physician</td>
<td></td>
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<tr>
<td></td>
<td>Combined AD, but maintains separate Living Will and Medical Power of Attorney documents</td>
<td>• Limit on agent’s authority to revoke a pre-need funeral contract</td>
<td>• Exception for relatives</td>
<td></td>
<td>Principal’s signatory</td>
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<td></td>
<td></td>
<td></td>
<td>• Indiv. Provider or his/her spouse*</td>
<td></td>
<td>Relative/Spouse</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• Facility Provider or his/her spouse*</td>
<td></td>
<td>Heir/Beneficiary</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Exception for relatives</td>
<td></td>
<td>Person responsible for medical care costs</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>• Nutrition &amp; hydration*</td>
<td></td>
<td>* Refusal permissible only if specified conditions are met</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• Pregnancy limitation</td>
<td></td>
<td>* Refusal permissible only if specified conditions are met</td>
<td></td>
<td></td>
</tr>
<tr>
<td>50. Wisconsin</td>
<td>YES Optional, but disclosure statement is</td>
<td>Terminology: Health Care Agent § 155.01 (4)</td>
<td>• Indiv. Provider or his/her spouse*</td>
<td>2 witnesses</td>
<td>* Refusal permissible only if specified conditions are met</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>mandatory §155.30</td>
<td>Limitations:</td>
<td>• Facility Provider or his/her spouse*</td>
<td></td>
<td>* Refusal permissible only if specified conditions are met</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Immedeiately effective permitted §155.05</td>
<td>• Admission to facility for mental health or other listed conditions</td>
<td>• Exception for relatives</td>
<td></td>
<td>* Refusal permissible only if specified conditions are met</td>
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<td></td>
<td></td>
<td>• Electro-convulsive therapy</td>
<td></td>
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<td></td>
<td></td>
<td>• Psychosurgery</td>
<td></td>
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<td></td>
<td></td>
<td>• Experimental mental health research</td>
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<td>• Drastic mental health treatment</td>
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<td>• Admission to nursing home or residential facility – very limited unless expressly authorized in the document</td>
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<td></td>
<td></td>
<td></td>
<td>• Nutrition &amp; hydration*</td>
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<td></td>
<td></td>
<td></td>
<td>• Pregnancy limitation</td>
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<td></td>
<td></td>
<td>• * Refusal permissible only if specified conditions are met</td>
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<td></td>
<td></td>
<td>• * Refusal permissible only if specified conditions are met</td>
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</tbody>
</table>

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


Page | 24 ABA Commission on Law and Aging | www.americanbar.org/aging | © 2018 American Bar Association Commission on Law and Aging. The ABA acknowledges and thanks the West Group for providing access to on-line legal research.
## STATE HEALTH CARE POWER OF ATTORNEY STATUTES
### Selected Characteristics
#### January 2018

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

**Abbreviations:** AD = Advance Directive  LW = Living Will  DPA = Durable Power of Attorney  UHCD = Uniform Health Care Decisions Act.

<table>
<thead>
<tr>
<th>STATE</th>
<th>A. FORM PROVIDED? &amp; START OF AGENCY AUTHORITY</th>
<th>B. AGENT TERMINOLOGY &amp; LIMITS ON AGENT'S POWERS</th>
<th>C. PROHIBITED AGENTS Note: Includes employees of those listed</th>
<th>D. FORMALITIES OF EXECUTION</th>
<th>E. PROHIBITED WITNESSES Note: “Provider” includes employees of provider</th>
<th>F. OTHER MANDATORY LANGUAGE?</th>
<th>G. SPECIAL INSTITUTIONAL PROTOCOL</th>
</tr>
</thead>
</table>
| 51. WYOMING  
Combined AD | NO  
Immediately effective permitted §35-22-403(d) | Terminology: Agent § 35-22-402  
Limitations: None specified  
* Exception for relatives | • Facility Provider  
• 2 witnesses or notarized | • Agent  
• Indiv. Provider  
• Facility Provider | Witness declaration required §35-22-403(b)  
None specified | None specified |
| **UNIFORM HEALTH-CARE DECISIONS ACT**  
Combined Advance Directive  
Optional  
Immediately effective permitted | • Mental health facility admission*  
* Only if expressly authorized | • LTC Facility Provider  
• 2 witnesses recommended, but not required | • None specified | None specified | None specified |

**CAUTION:** The descriptions and limitations listed in this chart are broad characterizations for comparison purposes and are not precise quotations from legislative language.


The ABA acknowledges Thomson Reuters Westlaw for providing access to on-line legal research.