# State Health Care Power of Attorney Statutes

## Selected Characteristics

**August 2017**

**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.

<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</th>
<th>D. FORMALITIES OF EXECUTION</th>
<th>E. PROHIBITED WITNESSES</th>
<th>F. OTHER MANDATORY LANGUAGE?</th>
<th>G. SPECIAL INSTITUTIONAL PROTOCOL</th>
</tr>
</thead>
</table>
| **1. ALABAMA** | **YES** Must be substantially followed 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** | **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  
* Exception for relatives | • 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 |
| **3. ARIZONA** | **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Limitations: None specified | • Person whose license as fiduciary has been revoked/suspended and not reinstated, unless relative | • 1 witness or notarized | • Agent  
• Provider  
If only one witness, that person shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary | None Specified | None Specified |

---

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

August 2017

**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.

<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</th>
<th>D. FORMALITIES OF EXECUTION</th>
<th>E. PROHIBITED WITNESSES</th>
<th>F. OTHER MANDATORY LANGUAGE?</th>
<th>G. SPECIAL INSTITUTIONAL PROTOCOL</th>
</tr>
</thead>
</table>
| 4. ARKANSAS Amended 4/7/2017  
ARK. CODE, ANN. § 20-6-102 to -118 (West 2017) the "Arkansas Healthcare Decisions Act" | YES Optional  
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 | Attestation clause must attest that witnesses qualifications are met, 20-6-103 | None Specified |
| 5. CALIFORNIA  
CAL. PROB. CODE §§ 4600 – 4806 (West, 2017) ("Health Care Decisions Law")  
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 | None Specified |
* Except notary  
* If HCPA executed in facility, ombudsman must sign/declare as witness. §4675
## STATE HEALTH CARE POWER OF ATTORNEY STATUTES
### Selected Characteristics
#### August 2017

**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.

<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>
<tbody>
<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>
<td>None specified</td>
<td>None Specified</td>
<td>None Specified</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Special DPA for Health Care</td>
<td>Separate Living Will Statute: COLO. REV. STAT. §15-14-503 to -509 (West , 2016) (&quot;Colorado Patient Autonomy Act&quot;)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 7. CONNECTICUT | YES Optional Substantially followed | 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*  
* Exception for relatives | • 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 |
| | | Effective only upon incapacity 19a-579 | | | | | |
| | | • Sections 19a-571 to 19a-573, inclusive, 19a-575 and 19a-575a are not applicable to pregnant patients | | | | | |
| | | | | | | | |
| | | | | | | | |

---

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**

August 2017

**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.

<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>
| **8. DELAWARE**  
Combined AD | YES Optional  
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*  
* Exception for relatives | • 2 witnesses  
• Witnesses state in writing that they’re not prohibited 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 |

| **9. DISTRICT OF COLUMBIA**  
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 |
<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>
<tbody>
<tr>
<td>10. FLORIDA</td>
<td>YES Optional</td>
<td>Terminology: Surrogate § 765.101 (16)</td>
<td>None specified</td>
<td>2 witnesses</td>
<td>Agent</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td></td>
<td>FLA. STAT. ANN. § 765.101 - .404 (West, 2017)</td>
<td>Limitations:</td>
<td></td>
<td></td>
<td>At least one witness shall not be:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Separate acts and forms</td>
<td>• Mental health facility admission*</td>
<td></td>
<td></td>
<td>• Relative/Spouse</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(“Health Care Surrogate Act and Life-Prolonging Procedure Act”) are under an umbrella “Health Care Advance Directives” chapter.</td>
<td>• Electro-convulsive therapy*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Psycho-surgery</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Sterilization</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Abortion</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Experimental treatments not approved by IRB*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Withdrawing or withholding life-prolonging procedures from a pregnant patient prior to viability*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Pregnancy limitation*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>* Consent/refusal permissible if expressly authorized</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. GEORGIA</td>
<td>YES Optional</td>
<td>Terminology: Health Care Agent §31-32-2 (6)</td>
<td>• Indiv. Provider directly involved</td>
<td>2 witnesses</td>
<td>Agent</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td></td>
<td>GA. CODE ANN. § 31-32-1 to -14 (West, 2017)</td>
<td>Limitations:</td>
<td></td>
<td></td>
<td>Heir/Beneficiary</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(“Advance Directive for Health Care Act”)</td>
<td>• Psycho-surgery</td>
<td></td>
<td></td>
<td>Indiv. Provider</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Combined AD</td>
<td>• Sterilization</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Involuntary hospitalization or treatment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Pregnancy limitation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Authority to delegate</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### STATE HEALTH CARE POWER OF ATTORNEY STATUTES
#### Selected Characteristics
#### August 2017

**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  UHCDCA = 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>
<tbody>
<tr>
<td>12. HAWAII</td>
<td>YES Optional</td>
<td>Terminology: Agent §327E-2</td>
<td>• Facility Provider or Owner*</td>
<td>2 witnesses or notarized</td>
<td>• Indiv. provider  • Facility provider  • Agent</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Limitations:</td>
<td>* Exception for relatives</td>
<td></td>
<td>At least one witness shall not be:  • Relative/Spouse  • Heir/Beneficiary</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Mental Health Facility Admission*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>*Unless expressly authorized by DPA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Immediately effective permitted §327E-3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Combined AD</td>
<td>Terminology: Agent §327E-2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Limitations:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Mental Health Facility Admission*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>*Unless expressly authorized by DPA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. IDAHO</td>
<td>YES Optional</td>
<td>Terminology: Surrogate Decision Maker § 39-4502 (16)</td>
<td>• Indiv. Provider*</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Limitations:</td>
<td>• Community Care Facility Provider*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Pregnancy limitation (included in statutory form)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>*Exception for relatives who are employees of.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Immediately effective permitted §39-4512</td>
<td>Terminology: Agent § 45/4-4 (c)</td>
<td>• Indiv. Provider</td>
<td>One Witness</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Combined AD</td>
<td>Limitations: None specified</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14. ILLINOIS</td>
<td>YES Optional</td>
<td>Terminology: Agent § 45/4-4 (c)</td>
<td>• Indiv. Provider</td>
<td>One Witness</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Limitations: None specified</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Special DPA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Separate LW Statute: 755 ILL. COMP. STAT. ANN. 45/4-1 to -4-12 (West, 2017) (“Powers of Attorney for Health Care Law”)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# State Health Care Power of Attorney Statutes

## Selected Characteristics

**August 2017**

**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
- UHCDAA = 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>
<tbody>
<tr>
<td><strong>15. INDIANA</strong>&lt;br&gt;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</td>
<td>NO&lt;br&gt;Immediately effective permitted, 30-5-4-2</td>
<td>Terminology: Attorney in Fact under §30-5-2-2&lt;br&gt;Limitations:&lt;br&gt;• Agent’s authority to delegate*&lt;br&gt;• Life-sustaining procedures* (see mandatory language)&lt;br&gt;* Permissible if expressly authorized</td>
<td>None specified.</td>
<td>• Notarized 30-5-4-1</td>
<td>None specified</td>
<td>Mandatory language for authority re life-sustaining treatment (§30-5-5-17).</td>
<td>None specified</td>
</tr>
<tr>
<td>IND. CODE ANN. § 16-36-1-1 to -14 (West, 2017), (“Health Care Consent” chapter creating a health care representative)&lt;br&gt;&lt;br&gt;&lt;i&gt;Separate LW Statute&lt;/i&gt;: IND. CODE ANN. § 16-36-4-1 to -21. (“Living Wills and Life Prolonging Procedures” chapter)</td>
<td>No&lt;br&gt;Effective only upon incapacity 16-36-1-7(e)</td>
<td>Health Care Representative §16-36-1-2&lt;br&gt;Limitations:&lt;br&gt;• Life-sustaining procedures* (see mandatory language)&lt;br&gt;* Permissible if expressly authorized</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>
<td></td>
</tr>
<tr>
<td><strong>16. IOWA</strong>&lt;br&gt;IOWA CODE ANN. § 144B.1 to .12 (West, 2017) (“Durable Power of Attorney for Health Care” chapter)&lt;br&gt;&lt;br&gt;&lt;i&gt;Special DPA&lt;/i&gt;&lt;br&gt;&lt;br&gt;&lt;i&gt;Separate LW Statute&lt;/i&gt;: IOWA CODE ANN. § 144A.1 - .12 (“Life-sustaining Procedures Act”)</td>
<td>YES&lt;br&gt;Optional&lt;br&gt;Effective only upon incapacity §144B.1</td>
<td>Terminology: Attorney in Fact § 144B.1 (1)&lt;br&gt;Limitations: None specified&lt;br&gt;* Exception for relatives</td>
<td>• Indiv. Provider*• Employee of provider*</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent&lt;br&gt;• Indiv. Provider or employee&lt;br&gt;• Individual less than 18 years old&lt;br&gt;At least one witness shall not be:&lt;br&gt;• Relative/Spouse/Adoptee</td>
<td>None specified</td>
<td>None specified</td>
</tr>
</tbody>
</table>
**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**  
Selected Characteristics  
August 2017  

**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 A = 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  
• 2 witnesses or notarized | E. PROHIBITED WITNESSES  
Note: “Provider” includes employees of provider | F. OTHER MANDATORY LANGUAGE? | G. SPECIAL INSTITUTIONAL PROTOCOL |
|---|---|---|---|---|---|---|---|
| **17. KANSAS**  
Special DPA  
Separate LW Statute:  
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 | • Agent  
• Relative/Spouse  
• Heir/Beneficiary  
• Person responsible for health care costs | None specified | None specified |

| **18. KENTUCKY**  
Combined AD (but called “Living Will Directive”) | YES  
Must be substantially followed  
Effective only upon incapacity (in statutory form) §311.625 | Terminology: Surrogate §311.621(16)  
Limitations:  
• Pregnancy Limitation, §311.629(4)  
• 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**  
LA. CIV. CODE ANN. art. 2989 to 3034 (West, 2017) specifically art. 2997 providing for health decisions power.  
General DPA statute (called a “mandate”), | NO  
Immediately effective permitted Art. 3026. | Terminology: Mandatory | None specified | N/A | None specified | None specified |
### State Health Care Power of Attorney Statutes

**Selected Characteristics**

**August 2017**

**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>
<tbody>
<tr>
<td>20. MAINE ME. Rev. Stat. Ann. Tit 18-A, § 5-801 to -817 (West, 2017) (“Uniform Health-Care Decisions Act”) Combined AD</td>
<td>YES Optional</td>
<td>Terminology: Agent § 5-801 (b) Limitations: Mental health facility admission, consent permissible if expressly authorized</td>
<td>• LTC Facility provider*  * Exception for relatives</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td>21. MARYLAND Md. Code Ann., Health-Gen. §§ 5-601 to –626 (West, 2017) (“Health Care Decisions Act”) Combined AD</td>
<td>YES Optional</td>
<td>Terminology: Agent § 5-601 (c) Limitations: None specified</td>
<td>• Facility provider and providers’ relatives*  * Exception for principal’s relatives, qualified surrogates, and previously appointed agents</td>
<td>2 witnesses  For an oral AD – must be made in presence of and signed by attending physician or nurse practitioner AND one witness</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>
<td>None specified</td>
</tr>
<tr>
<td>State</td>
<td>A. Form Provided? &amp; Start of Agency Authority</td>
<td>B. Agent Terminology &amp; Limits on Agent's Powers</td>
<td>C. Prohibited Agents Note: Includes employees of those listed</td>
<td>D. Formalities of Execution</td>
<td>E. Prohibited Witnesses Note: “Provider” includes employees of provider</td>
<td>F. Other Mandatory Language?</td>
<td>G. Special Institutional Protocol</td>
</tr>
<tr>
<td>-----------------------</td>
<td>-----------------------------------------------</td>
<td>-------------------------------------------------</td>
<td>--------------------------------------------------------</td>
<td>----------------------------</td>
<td>-----------------------------------------------------------------</td>
<td>-------------------------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td>22. Massachusetts</td>
<td>NO But § 201D § 4 prescribes required elements of the proxy Effective only upon incapacity §201D § 4</td>
<td>Terminology: Health Care Agent, or Agent § 1 Limitations: None specified</td>
<td>• Facility provider* * Exception for relatives</td>
<td>• 2 witnesses</td>
<td>• Agent</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td>23. Michigan</td>
<td>Only for agent’s acceptance Effective only upon incapacity §700.5508</td>
<td>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</td>
<td>None specified</td>
<td>• 2 witnesses • Must be part of medical record before implementation Agent must accept in writing before acting as patient advocate §700.5506</td>
<td>• Agent • Relative/Spouse • Heir/Beneficiary • Indiv. Provider • Facility Provider (including where the patient resides) • Employee of life/health insurance provider for patient</td>
<td>None specified</td>
<td>None specified</td>
</tr>
</tbody>
</table>
### State Health Care Power of Attorney Statutes

**Selected Characteristics**

**August 2017**

**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>
<tbody>
<tr>
<td><strong>24. MINNESOTA</strong></td>
<td>YES Optional Immediately effective permitted §145C.05</td>
<td>Terminology: Health Care Agent §145C.01 (2), Proxy §145B.03 (1) Limitations: <em>Pregnancy Limitations</em> *Unless expressly overridden in directive</td>
<td>• Indiv. Provider* • Facility Provider* • Individual determining capacity * Exception for relatives (including registered domestic partnerships) or “unless otherwise specified” in directive</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent At least one shall not be: • Health care provider (but provider may notarize) None specified</td>
<td>None specified</td>
<td></td>
</tr>
<tr>
<td><strong>25. MISSISSIPPI</strong></td>
<td>YES Optional Immediately effective permitted 41-41-205(5)</td>
<td>Terminology: Agent §41-41-203 (c) Limitations: • Mental health facility admission, consent permissible if expressly authorized</td>
<td>• LTC Facility* * Exception for relatives</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent • Indiv. Provider • Facility Provider At least one witness shall not be: • Relative/Spouse/Adeptee • Heir/Beneficiary</td>
<td>Declarations required by witnesses, or declarations by notary</td>
<td>None specified</td>
</tr>
<tr>
<td>MISS. CODE ANN. § 41-41-201 to -229 (West, 2017) (“Uniform Health-Care Decisions Act”) Combined AD</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## State Health Care Power of Attorney Statutes
### Selected Characteristics
#### August 2017

**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

|-------|-----------------------------------------------|-----------------------------------------------|----------------------|----------------------------|-------------------------|-----------------------------|---------------------------------|
| 26. MISSOURI | **NO**  
**Immediately effective permitted §404.825**  
Special DPA  
**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 acknowledgement 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.**  
| 27. MONTANA | YES, in Living Will statute only. Optional  
**Immediately effective permitted §72-5-501**  
**Limitations:**  
* Pregnancy limitation | None specified |  
* 2 witnesses under LW statute  
**DPA statute: none, although customarily notarized** | None specified | None specified | None specified |
## State Health Care Power of Attorney Statutes
### Selected Characteristics
#### August 2017

**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.

<table>
<thead>
<tr>
<th><strong>State</strong></th>
<th><strong>A. Form Provided? &amp; Start of Agency Authority</strong></th>
<th><strong>B. Agent Terminology &amp; Limits on Agent’s Powers</strong></th>
<th><strong>C. Prohibited Agents</strong></th>
<th><strong>D. Formalities of Execution</strong></th>
<th><strong>E. Prohibited Witnesses</strong></th>
<th><strong>F. Other Mandatory Language?</strong></th>
<th><strong>G. Special Institutional Protocol</strong></th>
</tr>
</thead>
</table>
| **28. NEBRASKA**| YES Optional                                    | Terminology: Attorney in Fact § 30-3402 (3)       | • Att. Physician or employee of attending physician  
• Facility*  
• Any agent presently serving 10 or more principals*  
* Exception for relatives | • At least 2 witnesses (must substantially follow the form in § 30-3408) or notarized | • Agent  
• Relative/Spouse  
• Heir/Beneficiary  
• Att. Physician  
• Insurer | Witness declarations | None specified |
| Special DPA     | Effective only upon incapacity §30-3411.        | Limitations: Life-sustaining procedures*  
Nutrition & hydration* (both the usual and typical provision of and those artificially administered)  
Pregnancy limitation  
* Refusal permissible if expressly authorized | | | | |
| Separate LW Statute: | | | | | | | |
| NEBR. REV. STAT. § 20-401 to –416 (West, 2017) (“Rights of the Terminally Ill Act”) | | | | | | | |

| **29. NEVADA**  | YES Optional                                    | Terminology: Agent § 162A.790 (1)                | • 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 individual residential care §162A.790 |
Electro-convulsive therapy  
Aversive intervention  
Psycho-surgery  
Sterilization  
Abortion  
Experimental research/treatment | | | | | |
| Special DPA, part of general DPA law | | | | | | | |
### State Health Care Power of Attorney Statutes

**Selected Characteristics**

**August 2017**

**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  UHCDAA = 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>
<tbody>
<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>• 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><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>• Agent</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td><strong>32. NEW MEXICO</strong></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</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
</tr>
</tbody>
</table>
## State Health Care Power of Attorney Statutes

**Selected Characteristics**

**August 2017**

**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.

<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>
| 33. NEW YORK   | YES Optional  
Special DPA | 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 | YES Optional  
Special DPA  
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
#### August 2017

**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    UHCDAA = 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 Wishes Note: “Provider” includes employees of provider</th>
<th>F. Other Mandatory Language?</th>
<th>G. Special Institutional Protocol</th>
</tr>
</thead>
<tbody>
<tr>
<td>35. North Dakota</td>
<td>YES Optional Effective only upon incapacity §23-06.5-03</td>
<td>Terminology: Agent §23-06.5-02 (1) Limitations:  • Mental health facility admission &gt; 45 days*  • Psycho-surgery*  • Abortion*  • Sterilization*  <em>Unless approved by court order  • Pregnancy Limitation</em>*  • Nutrition &amp; Hydration**  **Unless expressly provided for in AD</td>
<td>• Indiv. Provider*  • Facility Provider*  * Exception for relatives</td>
<td>• 2 witnesses or notarized  • Agent must accept in writing §23-06.5-06</td>
<td>• Agent *  • Relative/Spouse *  • Heir/Beneficiary *  • Creditor *  • At. Physician*  • Person responsible for care costs*  *Unless expressly provided for in AD</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td>36. Ohio</td>
<td>NO But does include mandatory disclosure statement Immediately effective permitted §1337.12</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 initialing and conspicuous type. §1337.13(E)</td>
<td>• 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>• Agent  • Relative/Spouse/Adoptee  • Att. Physician  • Nursing home administrator where principal is receiving care</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td>State</td>
<td>A. Form Provided? &amp; Start of Agency Authority</td>
<td>B. Agent Terminology &amp; Limits on Agent’s Powers</td>
<td>C. Prohibited Agents Note: Includes employees of those listed</td>
<td>D. Formalities of Execution</td>
<td>E. Prohibited Witnesses Note: “Provider” includes employees of provider</td>
<td>F. Other Mandatory Language?</td>
<td>G. Special Institutional Protocol</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------------------------------------------</td>
<td>-----------------------------------------------</td>
<td>-------------------------------------------------------------</td>
<td>-----------------------------</td>
<td>------------------------------------------------------------------</td>
<td>-----------------------------</td>
<td>---------------------------------</td>
</tr>
</tbody>
</table>
| OKLAHOMA     | NO But if statutory form not used, see Limits on Agents Powers | Terminology: Health Care Proxy § 3101.3 (6) Limitations:  
• 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 |
| OREGON       | YES Must be followed But any other form “constitutes evidence of the patient’s desires and interests” Effective only upon incapacity §3101.5 | Terminology: Attorney in Fact § 127.505 (6) 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*  
• 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

**August 2017**

**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.

<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>
<tbody>
<tr>
<td><strong>39. PENNSYLVANIA</strong></td>
<td>YES Optional</td>
<td>Terminology: Health Care Agent §5453 (a)(1)</td>
<td>• Attending physician*  • Indiv. Provider*  • Facility Provider*  * Exception for relatives</td>
<td>2 witnesses</td>
<td>• Indiv. Provider  • Facility Provider  • Principal’s signatory</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td></td>
<td>20 PA. CONS. STAT. ANN. §§5421 – 5488 (West, 2017)</td>
<td>Limitations:  • Pregnancy limitation*  • Nutrition &amp; Hydration*  *Unless expressly authorized in HCPA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(“Health Care” chapter)</td>
<td>Combined AD, but separate subchapters for “Health Care Agents and Representatives” and “Living Wills”</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>YES Optional</td>
<td>Terminology: Agent, or Attorney in Fact § 23 - 4.10 - 2  Health Care Decision Maker § 23 - 4.11 - 2 (7)</td>
<td>• Indiv. Provider*  • Facility Provider*  * Exception for relatives</td>
<td>2 witnesses or notarized</td>
<td>• Agent  • Indiv. Provider  • Facility Provider  <strong>One witness</strong> shall not be Relative/Spouse or Heir/Beneficiary</td>
<td>One witness must sign declaration that s/he is not relative/spouse or heir/beneficiary</td>
<td>None specified</td>
</tr>
<tr>
<td></td>
<td>Immediately effective permitted §5471</td>
<td>Limitations:  • Pregnancy limitation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>40. RHODE ISLAND</strong></td>
<td>YES Optional</td>
<td>Terminology: Agent, or Attorney in Fact § 23 - 4.10 - 2  Health Care Decision Maker § 23 - 4.11 - 2 (7)</td>
<td>• Indiv. Provider*  • Facility Provider*  * Exception for relatives</td>
<td>2 witnesses or notarized</td>
<td>• Agent  • Indiv. Provider  • Facility Provider  <strong>One witness</strong> shall not be Relative/Spouse or Heir/Beneficiary</td>
<td>One witness must sign declaration that s/he is not relative/spouse or heir/beneficiary</td>
<td>None specified</td>
</tr>
</tbody>
</table>
# State Health Care Power of Attorney Statutes

## Selected Characteristics

August 2017

**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>
<tbody>
<tr>
<td>Effective 1/1/2017  <strong>41. SOUTH CAROLINA</strong>  S.C. CODE ANN. §62–5–501 to –518 (West, 2017)  Special DPA for HC within a power of attorney act.  <em>Separate LW Statute</em> (also provides for appointment of an agent): S. C. CODE ANN. § 44-77-10 to –160 (West, 2017) (“Death with Dignity Act”)  YES Optional §62–5–504  Immediately effective permitted §62–5–502</td>
<td>Terminology: Agent or attorney —in- Fact §62-5-501  Limitations (applicable to statutory form only):  * Nutrition &amp; hydration*  * Pregnancy limitation  * Refusal permissible if expressly authorized</td>
<td>• Indiv. Provider*  • Facility Provider*  • Spouse of a Provider*  * Exception for relatives</td>
<td>• 2 witnesses and notarized</td>
<td>• 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</td>
<td>None specified</td>
<td>None specified</td>
<td></td>
</tr>
<tr>
<td><strong>42. SOUTH DAKOTA</strong>  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  <em>Separate LW Statute</em>: S.D. CODIFIED LAWS § 34-12D-1 to –22 (West, 2017) ( “Living Wills” chapter)  NO</td>
<td>Terminology: Agent or Attorney-in-Fact, or §59-7-2.5  Limitations:  * Pregnancy limitation §59-7-2.8  * Nutrition &amp; hydration*  * Agent’s authority to delegate**  * Refusal permissible if expressly authorized or other conditions are met §59-7-2.7  ** Permissible if expressly authorized</td>
<td>None specified</td>
<td>• 2 witnesses or notarization §59-7-2.1</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
<td></td>
</tr>
</tbody>
</table>
## State Health Care Power of Attorney Statutes

**Selected Characteristics**  
**August 2017**

**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.

<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>
| 43. TENNESSEE  
Combined AD | NO  
Immediately effective permitted §68-11-1803 | Terminology: Agent §68-11-1802 (a)(2)  
Limitations: None specified  
Indiv. Provider*  
Facility Provider*  
* Exception for relatives | 2 witnesses or notarized | Agent  
At least one witness shall not be:  
Relative/Spouse  
Heir/Beneficiary | Written advance directive shall contain witness attestation clause | None specified |
| 44. TEXAS  
TEX. HEALTH & SAFETY CODE ANN. § 166.001 to -.166 (West, 2017) (“Advance Directives Act”)  
Combined AD, but separate provisions and forms for “medical power of attorney” and medical directives (living will). Agent may be appointed under both. | YES, Must be substantially followed plus mandatory disclosure statement.  
Effective only on incapacity §166.152 | Terminology: Agent § 166.002 (11)  
Limitations:  
Pregnancy limitation  
Mental health facility admission  
Electro-convulsive therapy  
Psycho-surgery  
Abortion  
Comfort care  
Indiv. Provider*  
Facility Provider*  
* Exception for relatives | 2 witnesses or notarized | At least one witness shall not be:  
Agent  
Att. Physician  
Relative/Spouse  
Facility Provider  
Heir/Beneficiary  
Creditor  
Or employee of any above | None specified | None specified |
## State Health Care Power of Attorney Statutes

### Selected Characteristics

**August 2017**

**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>
| **45. UTAH**  
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/crematory/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  
• Att’y  
• Probate ct. designee  
• Hospital-designated explainer of ADs. §9703 |
### STATE HEALTH CARE POWER OF ATTORNEY STATUTES

**Selected Characteristics**

**August 2017**

**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.

<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>
<tbody>
<tr>
<td>47. VIRGINIA</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>
<td>None specified</td>
</tr>
</tbody>
</table>

**48. WASHINGTON**


Uniform Power of Attorney Act with health powers included.

*Separate LW Statute: WASH. REV. CODE ANN. § 70.122.010 to -.925 (West, 2017) (“Natural Death Act”)*

| | YES | 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  Facility | Durability language required | None specified |
| | | | | | | | |

**WEST VIRGINIA**

**W. VA. CODE ANN. § 16-30-1 to -25 (West, 2017) (“Health Care Decisions Act”)**

Combined AD, but maintains separate Living Will and Medical Power of Attorney documents

| | 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 | Agent  Att. Physician  Principal’s signatory  Relative/Spouse  Heir/Beneficiary  Person responsible for medical care costs | None specified | None specified |

---

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

**August 2017**

**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.

<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>
<tbody>
<tr>
<td>50. WISCONSIN</td>
<td>YES Optional, but disclosure statement is mandatory §155.30</td>
<td>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 &amp; hydration*  • Pregnancy limitation  * Refusal permissible only if specified conditions are met</td>
<td>• Indiv. Provider or his/her spouse*  • Facility Provider or his/her spouse*  * Exception for relatives</td>
<td>• 2 witnesses</td>
<td>• Agent  • Indiv. Provider  • Facility provider*  • Relative/Spouse/Adoptee/Domestic partner  • Heir/Beneficiary  • Person responsible for health care costs  * Exception for chaplains &amp; social workers</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td>51. WYOMING</td>
<td>NO Immediately effective permitted §155.05</td>
<td>Terminology: Agent §35-22-402 Limitations: None specified</td>
<td>• Facility Provider*  * Exception for relatives</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent  • Indiv. Provider  • Facility Provider</td>
<td>Witness declaration required §35-22-403(b)</td>
<td>None specified</td>
</tr>
</tbody>
</table>

*Refusal permissible only if specified conditions are met.*
# State Health Care Power of Attorney Statutes

## Selected Characteristics

**August 2017**

**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.

<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>
<tbody>
<tr>
<td>Uniform Health-Care Decisions Act</td>
<td>YES Optional  Immediately effective permitted</td>
<td>• Mental health facility admission*  * Only if expressly authorized</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>
</tr>
</tbody>
</table>

© 2017, American Bar Association, Commission on Law and Aging.

The American Bar Association acknowledges and thanks the West Group for providing access to on-line legal research.