# 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
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| 1. ALABAMA  
**ALA. 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 signor  
• Relative/Spouse  
• Heir/Beneficiary  
• Person responsible for care costs | None Specified | None Specified |
| 2. ALASKA  
**ALASKA STAT. ANN. § 13.52.010 to .395 (West, 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 |
### 3. ARIZONA

**State Statute:**
- **Arizona Revised Statutes (ARS) 36-3201 to 36-3297 (West 2017)**
- Combined AD
  - ARIZ. REV. STAT. ANN. § 36-3201 to -3297 (West, 2017)
- **Separate Living Will Statute:** § 36-3261

|-----------------------------------------------|-----------------------------------------------|----------------------|-----------------------------|--------------------------|-----------------------------|----------------------------------|
| **YES** Optional Effective only upon incapacity | **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** | None Specified | None Specified |

#### Arkansas Healthcare Decisions Act

**Terminology:** Agent, 20-6-102(2)

- **Limitations:** None specified

- **At least one witness shall not be:**
  - Relative/Spouse/Adoptee
  - Heir/Beneficiary

- **2 witnesses or notary, 20-17-202**

- **Permits oral designation of a surrogate by personally informing supervising health care provider. 20-17-105(b)(1)**

#### Separate Living Will Statute
- "Rights of the Terminally Ill and Permanently Unconscious Act" §20-17-201 to -218.

**Formalities:**
- **2 witnesses or notary, 20-17-202**

- **Permits oral designation of a surrogate by personally informing supervising health care provider. 20-17-105(b)(1)**

**Note:** Includes employees of those listed.

### 4. ARKANSAS

**Amended 4/7/2017**

**State Statute:**
- **Arkansas Code Annotated (ARK.C.A.) 20-6-102 to 20-17-118 (West 2017)**
- **"Arkansas Healthcare Decisions Act"**

**Separate Living Will Statute:**
- "Rights of the Terminally Ill and Permanently Unconscious Act" §20-17-201 to -218.

|-----------------------------------------------|-----------------------------------------------|----------------------|-----------------------------|--------------------------|-----------------------------|----------------------------------|
| **NO** Immediately effective permitted §20-6-105(b)(1) | **Terminology:** Agent, 20-6-102(2)
Limitations: None specified | None specified | **2 witnesses or notary, 20-17-202**
- **Permits oral designation of a surrogate by personally informing supervising health care provider. 20-17-105(b)(1)** |

**At least one witness shall not be:**
- Relative/Spouse/Adoptee
- Heir/Beneficiary 20-6-103

**Note:** None specified.

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<tr>
<td>5. CALIFORNIA</td>
<td>YES Optional Immediately effective permitted §4682</td>
<td>Terminology: Agent §4607 Limitations: • Civil commitment • Electro-convulsive therapy • Psycho-surgery • Sterilization • Abortion</td>
<td>• Supervising Indiv. Provider* • Facility Provider* • Conservator – if conditions are met. * Exception for relatives who are employees of or for a conservator who has satisfied the Lanterman-Petris Short Act</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent • Indiv. Provider • Facility Provider At least one witness shall not be: • Relative/Spouse/Adoptee • Heir/Beneficiary</td>
<td>• Declaration, in substance, from each witness* • Declaration, in substance, from non-relative/spouse/heir witness* *Except notary</td>
<td>• If HCPA executed in facility, ombudsman must sign/declare as witness. §4675</td>
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<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>
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*Special DPA for Health Care

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<td>7. CONNECTICUT</td>
<td>YES Optional Substantially followed Effective only upon incapacity 19a-579</td>
<td>Terminology: • Health care representative (19a-570) • Person designated (§1-56r) Limitations: None specified • Sections 19a-571 to 19a-573, inclusive, 19a-575 and 19a-575a are not applicable to pregnant patients</td>
<td>• Facility Provider* • Attending physician • Administrator or employee of govt agency financially responsible for care*</td>
<td>• 2 witnesses • Notary also needed only if making a designation of person for decision-making under §1-56r</td>
<td>• Agent</td>
<td>If in mental health or DD facility, at least one witness must be a physician or a licensed clinical psychologist w/ specialized training, and at least one witness must not be affiliated with facility. §19a-576</td>
<td></td>
</tr>
<tr>
<td>8. DELAWARE</td>
<td>YES Optional Effective only upon incapacity §2503</td>
<td>Terminology: Agent §2501 (b) Limitations: • Pregnancy limitation • Decisions about life-sustaining treatment require a finding of permanent unconsciousness, terminal condition, or serious illness or frailty, §2503</td>
<td>• Residential LTC Facility Provider*</td>
<td>• 2 witnesses • Witnesses state in writing that they’re not prohibited witnesses</td>
<td>• Facility provider • Relative/Spouse • Heir/Beneficiary • Creditor • Person responsible for care costs</td>
<td>None specified</td>
<td>If in sanatorium, rest home, nursing home, boarding home or related institution, one witnesses must be designated as a patient advocate or ombudsman by either state agency. §2511</td>
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| 9. DISTRICT OF COLUMBIA | YES Optional  
D.C. CODE § 21-2201 - 2213 (West, 2017) ("Health Care Decisions Act")  
Special DPA  
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  
FLA. STAT. ANN. § 765.101 - .404 (West, 2017)  
Separate acts and forms ("Health Care Surrogate Act and “Life-Prolonging Procedure Act") are under an umbrella “Health Care Advance Directives” chapter. | 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 |
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<td>11. GEORGIA</td>
<td>[GA. CODE ANN. § 31-32-1 to -14 (West, 2017) (“Advance Directive for Health Care Act”)]</td>
<td>YES Optional&lt;br&gt;Immediately effective permitted §31-32-4 (statutory form)</td>
<td>Terminology: Health Care Agent §31-32-2 (6) Limitations: • Psycho-surgery • Sterilization • Involuntary hospitalization or treatment • Pregnancy limitation • Authority to delegate</td>
<td>• Indiv. Provider directly involved</td>
<td>• 2 witnesses</td>
<td>None specified</td>
<td>None specified</td>
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<tr>
<td>12. HAWAII</td>
<td>[HAW. REV. STAT. § 327E-1 to –16 (West, 2017) (“Uniform Health-Care Decisions Act”)]</td>
<td>YES Optional&lt;br&gt;Immediately effective permitted §327E-3</td>
<td>Terminology: Agent §327E-2 Limitations: • Mental Health Facility Admission* *Unless expressly authorized by DPA</td>
<td>• Facility Provider or Owner* * Exception for relatives</td>
<td>• 2 witnesses or notarized</td>
<td>None specified</td>
<td>None specified</td>
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<td>13. IDAHO</td>
<td>[IDAHO CODE ANN. § 39-4501 to –4515 (West, 2017) (“Medical Consent and Natural Death Act”)]</td>
<td>YES Optional&lt;br&gt;Immediately effective permitted §39-4512</td>
<td>Terminology: Surrogate Decision Maker § 39-4502 (16) Limitations: • Pregnancy limitation (included in statutory form) *Exception for relatives who are employees of.</td>
<td>• Indiv. Provider* • Community Care Facility Provider*</td>
<td>• None specified</td>
<td>None specified</td>
<td>None specified</td>
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<td>State</td>
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<td>B. Agent Terminology &amp; Limits on Agent's Powers</td>
<td>C. Prohibited Agents Note: Includes employees of those listed</td>
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<td>14. Illinois</td>
<td>YES Optional Immediately effective permitted §4-10(b), in statutory form</td>
<td>Terminology: Agent § 45/4-4 (c) Limitations: None specified</td>
<td>• Indiv. Provider</td>
<td>• One Witness</td>
<td>• Facility provider • Indiv. provider • Relative/Spouse • Agent, or relative/spouse of agent or successor agent</td>
<td>None specified</td>
<td>None specified</td>
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<td>15. Indiana</td>
<td>NO Immediately effective permitted, 30-5-4-2</td>
<td>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</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></td>
<td>IND. CODE ANN. § 16-36-1-1 to -14 (West, 2017), (“Health Care Consent” chapter creating a health care representative)</td>
<td>Health Care Representative §16-36-1-2 Limitations: • Life-sustaining procedures* (see mandatory language) * 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>
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# State Health Care Power of Attorney Statutes
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| **16. IOWA** | Iowa Code Ann. § 144B.1 to .12 (West, 2017) (“Durable Power of Attorney for Health Care” chapter)  
Separate LW Statute: Iowa Code Ann. § 144A.1 -.12 (“Life-sustaining Procedures Act”) | YES  
Optional  
Effective only upon incapacity §144B.1 | Terminology: Attorney in Fact § 144B.1 (1)  
Limitations: None specified | • Indiv. Provider*  
• Employee of provider*  
* Exception for relatives | • 2 witnesses or notarized | • Agent  
• Indiv. Provider or employee  
• Individual less than 18 years old  
At least one witness shall not be:  
• Relative/Spouse/Adoptee | None specified | None specified |
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 |
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| **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 | • Facility provider*  
• 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**  
General DPA statute (called a “mandate”),  
| **20. MAINE**  
Combined AD | YES  
Optional  
Immediately effective permitted §5-802 | Terminology: Agent § 5-801 (b)  
Limitations:  
• Mental health facility admission, consent permissible if expressly authorized  
• LTC Facility provider*  
* Exception for relatives | • In writing  
• 2 witnesses | None specified | None specified | None specified | None specified |
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<td>21. MARYLAND</td>
<td>Yes Optional</td>
<td>Terminology: Agent § 5-601 (c)</td>
<td>- Facility provider and providers’ relatives*&lt;br&gt; - Individuals subject to a protective order shielding the declarant&lt;br&gt; - Spouse when separation agreement or divorce filed.&lt;br&gt; * Exception for principal’s relatives, qualified surrogates, and previously appointed agents</td>
<td>- 2 witnesses&lt;br&gt; - For an oral AD – must be made in presence of and signed by attending physician or nurse practitioner AND one witness&lt;br&gt; - Permits un witnessed electronic advance directives if declarant’s identity authenticated in accord with guidelines specified by the Nat’l Inst. of Standards &amp; Technology.</td>
<td>- Agent&lt;br&gt; At least one witness must not be:&lt;br&gt; - Heir, or have any other financial interest in person’s death</td>
<td>None specified</td>
<td>None specified</td>
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<td>22. MASSACHUSETTS</td>
<td>No But § 201D § 4 prescribes required elements of the proxy</td>
<td>Terminology: Health Care Agent, or Agent § 1</td>
<td>- Facility provider*&lt;br&gt; * Exception for relatives</td>
<td>- 2 witnesses</td>
<td>- Agent</td>
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| **23. MICHIGAN**
Designation of a “patient advocate” provisions within a general DPA law
| 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
| None specified

| **24. MINNESOTA**
| YES Optional
Immediately effective permitted §145C.05
| Terminology: Health Care Agent §145C.01 (2), Proxy §145B.03 (1)
Limitations:
- Pregnancy Limitations*
  *
  "Unless expressly overridden in directive"
| Indiv. Provider*
- Facility Provider*
- Individual determining capacity
  *
  "Exception for relatives (including registered domestic partnerships) or "unless otherwise specified" in directive"
| 2 witnesses or notarized
| Agent
- At least one shall not be:
  - Health care provider (but provider may notarize)
| None specified
| None specified

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2018-03-08, 10:14
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<td>25. MISSISSIPPI</td>
<td>MISS. CODE ANN. § 41-41-201 to -229 (West, 2017 (“Uniform Health-Care Decisions Act”) Combined AD</td>
<td>YES Optional Immediately effective permitted 41-41-205(5) Terminology: Agent §41-41-203 (c) Limitations: • Mental health facility admission, consent permissible if expressly authorized • LTC Facility* * Exception for relatives</td>
<td>• LTC Facility* * Exception for relatives</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent • Indiv. Provider • Facility Provider</td>
<td>Declarations required by witnesses, or declarations by notary</td>
<td>None specified</td>
</tr>
<tr>
<td>26. MISSOURI</td>
<td>MO. ANN. STAT. § 404.800 - .872 (West, 2017) “Durable Power of Attorney for Health Care Act”) but several provisions of their general DPA statute are incorporated by reference. Special DPA Separate LW Statute: MO. ANN. STAT. §459.010 - .055 (West, 2017) (“Declarations, Life Support” chapter)</td>
<td>NO Immediately effective permitted §404.825 Terminology: Attorney in Fact § 404.815 Limitations: • Nutrition &amp; hydration* • Agent’s authority to delegate** * Refusal permissible if expressly authorized ** Permissible if expressly authorized</td>
<td>• 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</td>
<td>• §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.</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**

**January 2018**

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<th>F. OTHER MANDATORY LANGUAGE?</th>
<th>G. SPECIAL INSTITUTIONAL PROTOCOL</th>
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<tbody>
<tr>
<td><strong>27. MONTANA</strong>&lt;br&gt;MONT. CODE ANN. § 72-5-501 and –502 (West, 2017) (Health care provisions in general DPA statute)</td>
<td>YES, in Living Will statute only. Optional Immediately effective permitted §72-5-501</td>
<td>Terminology: Attorney in Fact or Agent § 72-5-501 Limitations: • Pregnancy limitation</td>
<td>None specified</td>
<td>• 2 witnesses under LW statute • DPA statute: none, although customarily notarized</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
</tr>
</tbody>
</table>

**Separate LW Statute:**

**28. NEBRASKA**
NEB. REV. STAT. §30-3401 to -3432 (West, 2017) ("Health Care Power of Attorney" article)

**Special DPA**
NEB. REV. STAT. § 20-401 to –416 (West, 2017) ("Rights of the Terminally Ill Act")

YES Optional Effective only upon incapacity §30-3411. | Terminology: Attorney in Fact § 30-3402 (3) Limitations: • Life-sustaining procedures* • Nutrition & hydration* (both the usual and typical provision of and those artificially administered) • Pregnancy limitation * Refusal permissible if expressly authorized | • 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 At least one witness shall not be: • Facility provider | Witness declarations | None specified | None specified |

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*Refusal permissible if expressly authorized.*
# State Health Care Power of Attorney Statutes

## Selected Characteristics

**January 2018**

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<th>Agent Terminology &amp; Limits on Agent’s Powers</th>
<th>Prohibited Agents</th>
<th>Formalities of Execution</th>
<th>Prohibited Witnesses</th>
<th>Other Mandatory Language?</th>
<th>Special Institutional Protocol</th>
</tr>
</thead>
</table>
| **29. NEVADA**  
NEV. REV. STAT. ANN.§ 162A.700 to .860 (West, 2017) (“Durable Power of Attorney for Health Care Decisions”)  
Special DPA, part of general DPA law  
Separate LW Statute: NEV. REV. STAT. ANN. § 449.535 to .690 (West, 2017) with proxy designation. (“Uniform Act on Rights of the Terminally Ill”) | 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  
At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary | None specified |
| **30. NEW HAMPSHIRE**  
Form and disclosure statement must be substantially followed.  
Effective only upon incapacity §137-J:5 | Terminology: Agent § 137 – J:5  
Limitations:  
• Voluntary admission to any state institution  
• Sterilization  
• Pregnancy limitation  
• Psychosurgery  
• Electro-convulsive shock therapy  
• Sterilization  
• Experimental treatment  
• Nutrition & hydration*  
• Life-sustaining treatment*  
* Refusal permissible if expressly authorized See § 137-J10, J5 | • Facility Provider*  
• Indiv. Provider*  
* Exception for relatives | • 2 witnesses or notarized  
Principal must acknowledge receipt of disclosure statement | • 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 | None specified |

* * *
# STATE HEALTH CARE POWER OF ATTORNEY STATUTES
Selected Characteristics
January 2018

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<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>31. NEW JERSEY</td>
<td>N.J. STAT. ANN. § 26:2H-53 to –91.2 (West, 2017) (“Advance Directives for Health Care Act”) Combined AD</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  None specified</td>
</tr>
<tr>
<td>32. NEW MEXICO</td>
<td>N.M. STAT. ANN. § 24-7A-1 to –18 (West, 2017) (“Uniform Health-Care Decisions Act”) Combined AD</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  • Facility Provider*  * Exception for relatives</td>
<td>• Facility Provider*  * Exception for relatives</td>
<td>• 2 witnesses recommended, but not required</td>
<td>None specified</td>
<td>None specified  None specified</td>
</tr>
<tr>
<td>33. NEW YORK</td>
<td>N.Y. PUB. HEALTH LAW §§ 2980-2994 (West, 2017) (“Health Care Agents and Proxies’ article) Special DPA</td>
<td>YES Optional Effective only upon incapacity §2981(4)</td>
<td>Terminology: Health Care Agent, or Agent § 2980 (5) Limitations:  • Nutrition &amp; hydration*  • Principal must make his/her wishes <em>reasonably known</em></td>
<td>• Att. Physician*  • Facility Provider*  Any agent currently serving 10 or more principals*  * Exception for relatives</td>
<td>• 2 witnesses</td>
<td>• Agent</td>
<td>None specified  If facility operated by Office of Mental Health &amp; Retardation, one witness must NOT be affiliated w/ facility and one witness must be psychologist §2981</td>
</tr>
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# STATE HEALTH CARE POWER OF ATTORNEY STATUTES

**Selected Characteristics**  
January 2018

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</tr>
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</table>
| 34. NORTH CAROLINA | YES Optional  
Special DPA  
Separate LW Statute:  
N.C. GEN. STAT. ANN. § 90-320 to –323 (West, 2017) ("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 |
| 35. NORTH DAKOTA | YES Optional  
N.D. CENT. CODE ANN. § 23-06.5-01 to -19 (West, 2017) ("Health Care Directives")  
Combined AD | 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*  
• 2 witnesses or notarized  
• * Exception for relatives  
• Agent must accept in writing §23-06.5-06  
• * Agent  
• Relative/Spouse  
• Heir/Beneficiary  
• Creditor  
• Att. Physician  
• Person responsible for care costs*  
• At least one witness shall not be:  
• Indiv. Provider  
• Facility Provider  
• * Also disqualifies notary | | | |

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### STATE HEALTH CARE POWER OF ATTORNEY STATUTES
Selected Characteristics
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| 36. OHIO | NO But does include mandatory disclosure statement | 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 initializing and conspicuous type. §1337.13(E) | • Att. Physician  
• Employee/agent of Att. Physician*  
• Nursing home administrator  
• Employee/agent of Facility Provider*  
* Exception for relatives & 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 |

### OHIO
Ohio Rev. Code Ann. § 1337.11 to .17 (West, 2017) (“Durable Power of Attorney for Health Care” chapter)

Special DPA

Separate LW Statute:
Ohio Rev. Code Ann. § 2133.01 to .26 (West, 2017) (“Modified Uniform Rights of the Terminally Ill Act”)

| 37. OKLAHOMA | YES Optional | 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 |

### OKLAHOMA

Combined AD

| 36. OHIO | NO But does include mandatory disclosure statement | 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 initializing and conspicuous type. §1337.13(E) | • Att. Physician  
• Employee/agent of Att. Physician*  
• Nursing home administrator  
• Employee/agent of Facility Provider*  
* Exception for relatives & 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 |

### OHIO
Ohio Rev. Code Ann. § 1337.11 to .17 (West, 2017) (“Durable Power of Attorney for Health Care” chapter)

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Ohio Rev. Code Ann. § 2133.01 to .26 (West, 2017) (“Modified Uniform Rights of the Terminally Ill Act”)

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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 |

### OKLAHOMA

Combined AD

| 36. OHIO | NO But does include mandatory disclosure statement | 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 initializing and conspicuous type. §1337.13(E) | • Att. Physician  
• Employee/agent of Att. Physician*  
• Nursing home administrator  
• Employee/agent of Facility Provider*  
* Exception for relatives & 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 |

### OHIO
Ohio Rev. Code Ann. § 1337.11 to .17 (West, 2017) (“Durable Power of Attorney for Health Care” chapter)

Special DPA

Separate LW Statute:
Ohio Rev. Code Ann. § 2133.01 to .26 (West, 2017) (“Modified Uniform Rights of the Terminally Ill Act”)

| 37. OKLAHOMA | YES Optional | 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 |

### OKLAHOMA

Combined AD
**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**

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</table>
Must be followed  
But any other form "constitutes evidence of the patient’s desires and interests"  
Effective only upon incapacity 127.510 | 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 must accept in writing §127.525 | • Agent  
• Att. physician  
One witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary  
• Facility Provider  
* Exception for relatives | • 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 |

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  
Agent must accept in writing §5453 (a)(1) | • Indiv. Provider  
• Facility Provider  
• Principal’s signatory  
* Exception for relatives | None specified  
None specified |
## STATE HEALTH CARE POWER OF ATTORNEY STATUTES
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<tr>
<td><strong>40. RHODE ISLAND</strong></td>
<td>YES Optional Immediately effective permitted, §23-4.10-2</td>
<td>Terminology: • Agent, or Attorney in Fact § 23 - 4.10 - 2 • Health Care Decision Maker § 23 - 4.11 - 2 (7) Limitations: • Pregnancy limitation</td>
<td>• Indiv. Provider* • Facility Provider* * Exception for relatives</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent • Indiv. Provider • Facility Provider • One witness 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>Separate LW Statute: R.I. GEN. LAWS ANN. § 23-4.11-1 to –15 (West, 2017) (“Rights of the Terminally Ill Act”)</td>
<td><strong>41. SOUTH CAROLINA</strong></td>
<td>YES Optional §62–5–504 Immediately effective permitted §62–5–504</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</td>
<td>None specified</td>
</tr>
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## STATE HEALTH CARE POWER OF ATTORNEY STATUTES
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<td>42. SOUTH DAKOTA</td>
<td>NO</td>
<td>Terminology: Agent or Attorney-in-Fact, or §59-7-2.5</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>
</tr>
<tr>
<td></td>
<td>Effective only upon incapacity §59-7-2.6</td>
<td>Limitations:  • Pregnancy limitation §59-7-2.8  • Nutrition &amp; hydration*  • Agent’s authority to delegate**</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>* Refusal permissible if expressly authorized or other conditions are met §59-7-2.7  ** Permissible if expressly authorized</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Separate LW Statute: S.D. CODIFIED LAWS § 34-12D-1 to –22 (West, 2017) (“Living Wills” chapter)</td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>43. TENNESSEE</td>
<td>NO</td>
<td>Terminology: Agent §68-11-1802 (a)(2)</td>
<td>None specified</td>
<td>2 witnesses or notarized</td>
<td>Agent</td>
<td>Written advance directive shall contain witness attestation clause</td>
<td>None specified</td>
</tr>
<tr>
<td></td>
<td>Immediately effective permitted §68-11-1803</td>
<td>Limitations: None specified</td>
<td></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>• Indiv. Provider*  • Facility Provider*  • Exception for relatives</td>
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<td></td>
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*Refusal permissible if expressly authorized or other conditions are met §59-7-2.7  ** Permissible if expressly authorized
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<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) Limitations: • Pregnancy limitation • Mental health facility admission • Electro-convulsive therapy • Psycho-surgery • Abortion • Comfort care</td>
<td>• Indiv. Provider* • Facility Provider* * Exception for relatives</td>
<td>• 2 witnesses or notarized</td>
<td></td>
<td>None specified</td>
<td></td>
</tr>
<tr>
<td><strong>45. Utah</strong>&lt;br&gt;Utah Code Ann. § 75-2A-101 to -125 (West, 2017) (“Advance Health Care Directive Act”)&lt;br&gt;Combined AD</td>
<td>YES Optional&lt;br&gt;Immediately effective permitted §75-2a-109</td>
<td>Terminology: Agent or surrogate § 75-2a-103 Limitations: • Pregnancy limitation • Long-term custodial placement in licensed facility other than for assessment, rehabilitative, or respite care over principal’s objection §75-2A-110</td>
<td>• Indiv. Provider* • Facility Provider* * Exception for relatives</td>
<td>• One witness §75-2a-107</td>
<td></td>
<td>None specified</td>
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<td>B. AGENT TERMINOLOGY &amp; LIMITS ON AGENT'S POWERS</td>
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<td>D. FORMALITIES OF EXECUTION</td>
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<td>VERMONT</td>
<td>NO</td>
<td>Termology: Agent § 9702 (2)</td>
<td>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</td>
<td>2 witnesses</td>
<td>Agent • Spouse or reciprocal beneficiary • Relative</td>
<td>None specified</td>
<td>If in nursing home, resd'l. 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</td>
</tr>
<tr>
<td>VIRGINIA</td>
<td>YES Optional</td>
<td>Termology: Agent § 54.1-2982</td>
<td>None specified</td>
<td>2 witnesses</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
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**Explanation:** The descriptors in the chart are generalizations of statutory language and not quotations, so the statutes must be consulted for precise meaning.

**Abbreviations:** AD = Advance Directive  LW = Living Will  DPA = Durable Power of Attorney  UHCA = Uniform Health Care Decisions Act.
**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**
Selected Characteristics
January 2018

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| 48. WASHINGTON | NO  Immediated effective permitted. §11.125.090 | 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*  
* Except for certain relatives. | 2 witnesses or notarized | Relative  
• Home care or adult family home provider  
• Facility | Durability language required | None specified |

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

49. 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)  
Limit on agent’s authority to revoke a pre-need funeral contract

Terminology: Medical Power of Attorney Representative or Representative § 16-30-3 (q)  
• 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
### 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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| **50. WISCONSIN**  | YES Optional, but disclosure statement is mandatory §155.30 | Terminology: Health Care Agent §155.01 (4)     | • Indiv. Provider or his/her spouse*  
• Facility Provider or his/her spouse*  
* Exception for relatives | • 2 witnesses | • Agent  
• Indiv. Provider  
• Facility provider*  
• Relative/Spouse/Adoptee/Domestic partner  
• Heir/Beneficiary  
• Person responsible for health care costs  
* Exception for chaplains & social workers | None specified | None specified |

**Separate LW Statute:** Wis. Stat. Ann. § 154.01 to -.15 (West, 2017) (“Advance Directives” chapter)

| **51. WYOMING**     | NO Immediately effective permitted §35-22-403(d) | Terminology: Agent §35-22-402  
Limitations: None specified | • Facility Provider*  
* Exception for relatives | • 2 witnesses or notarized | • Agent  
• Indiv. Provider  
• Facility Provider | Witness declaration required §35-22-403(b) | None specified |

**Combined AD**
### 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.

| State | A. Form Provided? & Start of Agency Authority | B. Agent Terminology & Limits on Agent's Powers | C. Prohibited Agents  
Note: Includes employees of those listed | D. Formalities of Execution | E. Prohibited Witnesses  
Note: “Provider” includes employees of provider | F. Other Mandatory Language? | G. Special Institutional Protocol |
|-------|---------------------------------------------|-------------------------------------------------|-----------------------|-------------------|-------------------------------|---------------------|---------------------|
| Uniform Health-Care Decisions Act  
Combined Advance Directive  
Immediately effective permitted | • Mental health facility admission*  
* Only if expressly authorized | • LTC Facility Provider | • 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.