### State Health Care Power of Attorney Statutes

**Selected Characteristics**

**January 2019**

**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

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<th>F. Other Mandatory Language?</th>
<th>G. Special Institutional Protocol</th>
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</table>
| **1. ALABAMA**  | 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**   | YES Optional | Terminology: Agent, §13.52.010(b)  
Limitations:  
• No abortion, sterilization, psychosurgery, or removal of bodily organs except where the above procedures are necessary to preserve the life of the patient or to prevent serious impairment to the patient’s health  
• Pregnancy limitation  
Permits oral designation of a surrogate, §13.52.010(a) and 13.52.030(c) | • Facility provider*  
* Exception for relatives | • 2 witness or notarized | • Agent  
• Facility provider  
At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary | None Specified | None Specified |
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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 |
|-----------|---------------------------------------------|-----------------------------------------------|------------------------|-------------------|-----------------------------|-----------------------------|-----------------------------|
| 3. Arizona | YES Optional  
Effective only upon incapacity  
§36-3261 | 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 |
| ARIZ. REV. STAT. ANN. § 36-3201 to -3297 (West, 2017)  
(“Living Wills & Health Care Directives”)  
Combined AD  
Separate Living Will Statute: § 36-3261 | | | | | | | |
| 4. Arkansas | NO Immediately effective permitted  
§20-6-105(b)(1) | Terminology:  
• Agent, 20-6-102(2)  
Limitations: None specified | None specified | • 2 witnesses or notary, 20-17-202  
• Permits oral designation of a surrogate by personally informing supervising health care provider.  
20-6-103. | At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary 20-6-103 | None Specified | None Specified |
| ARK. CODE. ANN. § 20-6-102 to -118 (West 2017)  
The “Arkansas Healthcare Decisions Act”  
Separate Living Will Statute:  
“Rights of the Terminally Ill and Permanently Unconscious Act” §20-17-201 to -218. | | | | | | | |
**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**  
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| 5. CALIFORNIA | YES Optional  
Combined AD | 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  
Provides for orally designated surrogate, §4711 | • Agent  
• Indiv. Provider  
• Facility Provider  
At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary | • Declaration, in substance, from each witness*  
• Declaration, in substance, from non-relative/spouse/heir witness*  
*Except notary | • If HCPA executed in facility, ombudsman must sign/declare as witness. §4675 |
| 6. COLORADO | NO  
Special DPA for Health Care  
Limitations: None specified | None specified | None specified | None specified | None Specified | None Specified |
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| 7. CONNECTICUT  
CONN. GEN. STAT. § Oregon to -580g (West, 2017) (*Removal of Life-Systems*)  
Combined AD, but separate LW and Appointment of a HC Representative forms)  
See also CONN. GEN. STAT. § 1-56r (*Designation of person for decision-making*) | YES Optional  
Effective only upon incapacity 19a-579 | 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  

* Exception for relatives | Facility Provider*  
- Attending physician  
- Administrator or employee of gov’t agency financially responsible for care* | 2 witnesses  
- Notary also needed only if making a designation of person for decision-making under §1-56r |  
- Agent |  
If in mental health or DD facility, at least one witness must be a physician or a licensed clinical psychologist w/ specialized training, and at least one witness must not be affiliated with facility. §19a-576 |
| 8. DELAWARE  
DEL. CODE ANN. tit. 16, § 2501 - 2518 (West, 2017) (*Health Care Decisions* chapter)  
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  

* Exception for relatives | Residential LTC Facility Provider*  
- Witnesses state in writing that they’re not prohibited witnesses  

Provides for orally designated surrogate, §2507 | 2 witnesses  
- Facility provider  
- Relative/Spouse  
- Heir/Beneficiary  
- Creditor  
- Person responsible for care costs | None specified |  
If in sanatorium, rest home, nursing home, boarding home or related institution, one witnesses must be designated as a patient advocate or ombudsman by either state agency. §2511 |
# State Health Care Power of Attorney Statutes

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| **9. DISTRICT OF COLUMBIA**   | YES Optional                                   | Terminology: Attorney in Fact §21-2202 (1)    | • Indiv. Provider  
• Facility Provider | • 2 witnesses | • Principal  
• Individual Provider  
• Facility Provider | At least one witness shall not be:  
• Relative/Spouse/Adoptee  
• Heir/Beneficiary | None specified |
|                               | Special DPA                                    | Limitations:  
• Abortion*  
• Sterilization*  
• Psycho-surgery*  
• Convulsive therapy or other behavior modification programs*  
*Unless authorized by court |§21-2202(3) | | | | |
|                               | E. None specified                              | | | | | | |
| **10. FLORIDA**               | YES Optional                                   | Terminology: Surrogate § 765.101 (16)       | None specified | • 2 witnesses | • Agent  
At least one witness shall not be:  
• Relative/Spouse | None specified | None specified |
|                               | Separate acts and forms ("Health Care Surrogate Act and “Life-Prolonging Procedure Act") are under an umbrella “Health Care Advance Directives” chapter. | 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 |§765.101(21) & §765.202(6) & §765.204(3) | | | | |
|                               | | | | | | | |
**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**  
**Selected Characteristics**  
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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>
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| 11. GEORGIA    | YES Optional  
Combined AD | Terminology: Health Care Agent §31-32-2 (6)  
Limitations:  
- Psycho-surgery  
- Sterilization  
- Involuntary hospitalization or treatment  
- Pregnancy limitation  
- Authority to delegate | • Indiv. Provider directly involved | • 2 witnesses | • Agent  
• Heir/Beneficiary  
• Indiv. Provider  
No more than one witness shall be:  
• Facility provider | None specified | None specified |
| 12. HAWAII     | YES Optional  
HAW. REV. STAT. § 327E-1 to –16 (West, 2017) ("Uniform Health-Care Decisions Act")  
Combined AD | Terminology: Agent §327E-2  
Limitations:  
- Mental Health Facility Admission*  
*Unless expressly authorized by DPA | • Facility Provider or Owner*  
* Exception for relatives | • 2 witnesses or notarized  
Permits oral designation of a surrogate. §327E-5 | • Indiv. provider  
• Facility provider  
• Agent  
At least one witness shall not be:  
• Relative/Spouse  
• Heir/Beneficiary | None specified | None specified |
| 13. IDAHO      | YES Optional  
IDAHO CODE ANN. § 39-4501 to -4515 (West, 2017) ("Medical Consent and Natural Death Act")  
Combined AD | Terminology: Surrogate Decision Maker § 39-4502 (16)  
Limitations:  
- Pregnancy limitation (included in statutory form)  
*Exception for relatives who are employees of. | • Indiv. Provider*  
• Community Care Facility Provider* | • None specified | • None specified | None specified | None specified |
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<td>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>
</tr>
<tr>
<td>INDIANA</td>
<td>NO Immediate 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>INDIANA</td>
<td>No Effective only upon incapacity 16-36-1-7(e)</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>
<td>None specified</td>
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*Note: Includes employees of those listed*
# State Health Care Power of Attorney Statutes

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<tr>
<td>16. IOWA</td>
<td><strong>YES Optional</strong></td>
<td>Terminology: Attorney in Fact § 144B.1 (1)  Limitations: None specified</td>
<td>• Indiv. Provider*  • Employee of provider*  * Exception for relatives</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent  • Indiv. Provider or employee  • Individual less than 18 years old  At least one witness shall not be:  • Relative/Spouse/Adoptee</td>
<td>None specified</td>
<td>None specified</td>
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**Iowa Code Ann. § 144B.1 to .12 (West, 2017) (“Durable Power of Attorney for Health Care” chapter)**

**Special DPA**

**Separate LW Statute:** Iowa Code Ann. § 144A.1 - .12 (“Life-sustaining Procedures Act”)

| 17. KANSAS | **YES** 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 |


**Special DPA**

### STATE HEALTH CARE POWER OF ATTORNEY STATUTES

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<td>18. KENTUCKY</td>
<td>YES Must be substantially followed. But non-statutory advance directives are recognized, §311.637(6) Effective only upon incapacity (in statutory form) §311.625</td>
<td>Terminology: Surrogate §311.621(16) Limitations: * Facility provider* * Exception for relatives within fourth degree of consanguinity &amp; members of same religious or fraternal order. §311.625</td>
<td>• Facility provider*</td>
<td>• 2 witnesses or notarized</td>
<td>• Relative/Spouse • Facility Provider unless he/she serves as notary public • Attg. physician • Heir/Beneficiary • Person responsible for health care costs</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td>19. LOUISIANA</td>
<td>NO Immediately effective permitted Art. 3026.</td>
<td>Terminology: Mandatory</td>
<td>None specified</td>
<td>None specified</td>
<td>N/A</td>
<td>None specified</td>
<td>None specified</td>
</tr>
</tbody>
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**Note:** Includes employees of those listed

**Facility provider**

* Exception for relatives within fourth degree of consanguinity & members of same religious or fraternal order. §311.625

**None specified**

**Separate Living Will Statute:**

LA. REV. STAT. ANN § 40:1151 - 1155 (West, 2017)
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<td>20. Maine</td>
<td>YES Optional</td>
<td>Terminology: Agent § 5-801 (b)</td>
<td>• LTC Facility provider*</td>
<td>• In writing  • 2 witnesses</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td></td>
<td>Immediately effective permitted §5-802</td>
<td>Limitations:  • Mental health facility admission, consent permissible if expressly authorized  • Exception for relatives</td>
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<td>Combined AD</td>
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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*  • Individuals subject to a protective order shielding the declarant  • Spouse when separation agreement or divorce filed.  • Exception for principal’s relatives, qualified surrogates, and previously appointed agents</td>
<td>• 2 witnesses  • Permits unwitnessed electronic advance directives if declarant’s identity authenticated in accord with guidelines specified by the Nat’l Inst. of Standards &amp; Technology  • Permits oral advance directive § 5-602.</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>
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<td>Immediately effective permitted §5-602</td>
<td>Limitations: None specified</td>
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|-------|---------------------------------------------|-----------------------------------------------|----------------------|-----------------------------|-------------------------|-----------------------------|--------------------------------|
| 22. Massachusetts | NO  
But § 201D § 4 prescribes required elements of the proxy  
Effective only upon incapacity §201D § 4 | Terminology: Health Care Agent, or Agent § 1  
Limitations: None specified | • Facility provider*  
* Exception for relatives | • 2 witnesses | • Agent | None specified | None specified |
| Special DPA | | | | | | | |

| 23. Michigan | Only for agent’s acceptance  
Effective only upon incapacity §700.5508 | Terminology: Patient Advocate § 5506  
Limitations:  
• Pregnancy limitation  
• Life-sustaining procedures*  
• Mental health facility admission or forced medication, consent permissible if expressly authorized  
• Agent’s authority to delegate*  
* Permissible if expressly authorized and acknowledges that such a decision could or would allow the patient’s death | None specified | • 2 witnesses  
• Must be part of medical record before implementation  
Agent must accept in writing before acting as patient advocate §700.5507 | • Agent  
• Relative/Spouse  
• Heir/Beneficiary  
• Indiv. Provider  
• Facility Provider (including where the patient resides)  
• Employee of life/health insurance provider for patient | • Agent’s acceptance form | None specified |

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[Page 11]
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Limitations:  
* Pregnancy Limitations*  
*Exception for relatives (including registered domestic partnerships) or "unless otherwise specified" in directive | • Indiv. Provider*  
• Facility Provider*  
• Individual determining capacity  
* Exception for relatives | • 2 witnesses or notarized | • Agent  
At least one shall not be:  
Health care provider (but provider may notarize) | None specified | None specified |

**Separate LW Statute:** Minn. Stat. Ann. § 145B.01 to .17 (West, 2017) (“Living Will Act”)

| **25. MISSISSIPPI**<br>Miss. Code Ann. § 41-41-201 to -229 (West, 2017) (“Uniform Health-Care Decisions Act”) | YES Optional<br>Immediately effective permitted 41-41-205(S) | Terminology: Agent §41-41-203 (c)  
Limitations:  
* Mental health facility admission, consent permissible if expressly authorized  
* Exception for relatives | • LTC Facility*  
Permits orally designated surrogate. § 41-41-211 | • 2 witnesses or notarized | • Agent  
• Indiv. Provider  
• Facility Provider  
At least one witness shall not be:  
Relative/Spouse/Adoptee  
Heir/Beneficiary | Declarations required by witnesses, or declarations by notary | None specified |
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<td><strong>26. MISSOURI</strong>&lt;br&gt;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.&lt;br&gt;Separate LW Statute: Mo. Ann. Stat. §459.010 - .055 (West, 2017) (“Declarations, Life Support” chapter)</td>
<td>NO&lt;br&gt;Immediately effective permitted §404.825</td>
<td>Terminology: Attorney in Fact § 404.815&lt;br&gt;Limitations:&lt;br&gt;• Nutrition &amp; hydration*&lt;br&gt;• Agent’s authority to delegate**&lt;br&gt;• Refusal permissible if expressly authorized&lt;br&gt;** Permissible if expressly authorized</td>
<td>• Att. Physician*&lt;br&gt;• Facility Provider*&lt;br&gt;* 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.&lt;br&gt;• <a href="http://www.mobar.org/pdf/2014-dpa/faqs-instructions.pdf">http://www.mobar.org/pdf/2014-dpa/faqs-instructions.pdf</a></td>
<td>None specified</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>
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</tbody>
</table>
| 28. NEBRASKA  | 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  
  * Exception for relatives | • Att. Physician or employee of attending physician  
  • Facility*  
  • Any agent presently serving 10 or more principals*  
  • At least 2 witnesses (must substantially follow the form in § 30-3408) or notarized | • Agent  
  • Relative/Spouse  
  • Heir/Beneficiary  
  • Att. Physician  
  • Insurer | Yes, at least one witness shall not be:  
  • Facility provider  
  | Witness declarations | None specified |
| NEVADA        | YES Optional Immediately effective permitted. §162A.810 | Terminology: Agent § 162A.790 (1) Limitations:  
  • Mental health facility admission  
  • Electro-convulsive therapy  
  • Aversive intervention  
  • Psycho-surgery  
  • Sterilization  
  • Abortion  
  • Experimental research/treatment  
  • Indiv. Provider*  
  • Facility Provider*  
  • Exception for spouse, legal guardian or next of kin to the principal  
  • 2 witnesses who know the principal personally or notarized | • Agent  
  • Indiv. Provider  
  • Facility Provider  
  | None specified | Certification of competency must be attached if in a hospital, ass’t’d living facility, residential facility for groups, skilled nursing facility, or home for individual residential care §162A.790 |
## State Health Care Power of Attorney Statutes
### Selected Characteristics
January 2019

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<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>
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<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 * Exception for relatives</td>
<td>• Facility Provider*</td>
<td>• 2 witnesses recommended, but not required Permits orally designated surrogate. §24 7A-5</td>
<td>None specified</td>
<td>None specified</td>
<td>None specified</td>
</tr>
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### State Health Care Power of Attorney Statutes

#### Selected Characteristics

**January 2019**

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<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                                  | 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                                  | Terminology: Health Care Agent, or Health Care Attorney in Fact § 32A-15 (2)  
Limitations: None specified | • Indiv. Provider  
• Facility Provider | • 2 witnesses and notarized | • Relative related within the third degree of consanguinity to the principal/Spouse  
• Heir/Beneficiary  
• Indiv. Provider  
• Facility Provider  
• Creditor | None specified | None specified |
| Separate LW Statute:  
## State Health Care Power of Attorney Statutes

### Selected Characteristics

Jan 2019

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

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</thead>
<tbody>
<tr>
<td><strong>35. NORTH DAKOTA</strong></td>
<td>YES Optional</td>
<td>Terminology: Agent §23-06.5-02 (1)</td>
<td>• Indiv. Provider*</td>
<td>• 2 witnesses or notarized</td>
<td>• Agent *</td>
<td></td>
<td></td>
</tr>
<tr>
<td>N.D. CENT. CODE ANN. §23-06.5-01 to -19 (West, 2017) (<em>Health Care Directives</em>)</td>
<td>Effective only upon incapacity §23-06.5-03</td>
<td>Limitations:</td>
<td>Facility Provider*</td>
<td></td>
<td>Relative/Spouse *</td>
<td></td>
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<tr>
<td>Combined AD</td>
<td></td>
<td>Mental health facility admission &gt; 45 days*</td>
<td>* Exception for</td>
<td></td>
<td>Heir/Beneficiary *</td>
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<td></td>
<td></td>
<td>Psycho-surgery*</td>
<td>relatives</td>
<td></td>
<td>Creditor *</td>
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<td></td>
<td></td>
<td>Abortion*</td>
<td></td>
<td></td>
<td>Att. Physician*</td>
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<td></td>
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<td>Sterilization*</td>
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<td>Person responsible for</td>
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<td></td>
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<td>&quot;Unless approved by court order</td>
<td></td>
<td></td>
<td>care costs*</td>
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<td></td>
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<td>Pregnancy Limitation*</td>
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<td>At least one witness</td>
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<td></td>
<td></td>
<td>Nutrition &amp; Hydration*</td>
<td></td>
<td></td>
<td>shall not be:</td>
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<td></td>
<td></td>
<td>&quot;Unless expressly provided for in AD</td>
<td></td>
<td></td>
<td>• Indiv. Provider</td>
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<td></td>
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<td></td>
<td>• Facility Provider</td>
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<td>* Also disqualifies notary</td>
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<tr>
<td><strong>36. OHIO</strong></td>
<td>NO But does include mandatory disclosure</td>
<td>Terminology: Attorney in Fact §1337.12 (A)(2)</td>
<td>• Att. Physician</td>
<td>• 2 witnesses or</td>
<td>• Agent</td>
<td></td>
<td>None specified</td>
</tr>
<tr>
<td>OHIO REV. CODE ANN. §1337.11 to .17 (West, 2017) (*&quot;Durable Power of Attorney for Health Care&quot; chapter)</td>
<td>statement</td>
<td>Limitations:</td>
<td>Employee/agent</td>
<td>notarized</td>
<td>Relative/Spouse/Adoptee</td>
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<tr>
<td>Separate LW Statute:</td>
<td>Immediately effective permitted §1337.12</td>
<td>Life-sustaining procedures*</td>
<td>of Att. Physician*</td>
<td></td>
<td>Att. Physician</td>
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</tr>
<tr>
<td>OHIO REV. CODE ANN. §2133.01 to .26 (West, 2017) (*&quot;Modified Uniform Rights of the Terminally Ill Act&quot;)</td>
<td></td>
<td>Nutrition &amp; hydration*</td>
<td>Nursing home</td>
<td></td>
<td>Nursing home administrator</td>
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<tr>
<td></td>
<td></td>
<td>Pregnancy limitation</td>
<td>administrator</td>
<td></td>
<td>where principal is</td>
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<td></td>
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<td>Comfort care</td>
<td>Employee/agent of</td>
<td></td>
<td>receiving care</td>
<td></td>
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<td></td>
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<td>withdraw health care to which principal</td>
<td>Facility Provider*</td>
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<td></td>
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<td>previously consented*</td>
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<td>* Exception for relatives</td>
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<td>&amp; members of</td>
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<td>religious orders</td>
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</tbody>
</table>

Page 17
**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**  
Selected Characteristics  
January 2019

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

**Abbreviations:**  
AD = Advance Directive  
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<th>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>
| 37. OKLAHOMA | **YES** Optional  
Combined AD | 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 |
| 38. OREGON | **YES** Must be followed  
Combined AD | Terminology: Health Care representative § 127.505(13)  
Limitations:  
• Electro-convulsive therapy  
• Psycho-surgery  
• Sterilization  
• Abortion  
• Life-sustaining procedures*  
• Nutrition & hydration*  
* Refusal permissible if expressly authorized or if specified conditions are met (ex: principal has been medically confirmed to be in a terminal condition or permanently unconscious) | • Attending physician*  
• Facility provider*  
• Parent or former guardian where specified protective actions were imposed, 126.520  
* Exception for relatives | • 2 witnesses or notarized | • Agent  
• Att. physician or health care provider §127.515 | None specified | • If in LTC facility, one witness must be designated by facility and meet qualifications specified by DHS. §127.515 |
## State Health Care Power of Attorney Statutes
### Selected Characteristics
**January 2019**

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<tr>
<td><strong>39. Pennsylvania</strong></td>
<td>YES Optional</td>
<td>Terminology: Health Care Agent § 5453 (a)(1)</td>
<td>• Attending physician*</td>
<td>2 witnesses</td>
<td>• Indiv. Provider</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td></td>
<td>Immediately effective permitted §5471</td>
<td>Limitations:</td>
<td>• Indiv. Provider*</td>
<td></td>
<td>• Facility Provider</td>
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<tr>
<td></td>
<td></td>
<td>• Pregnancy limitation*</td>
<td>• Facility Provider*</td>
<td></td>
<td>• Principal's signatory</td>
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<tr>
<td></td>
<td></td>
<td>• Nutrition &amp; Hydration*</td>
<td>* Exception for relatives</td>
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<td></td>
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<td>*Unless expressly authorized in HCPA</td>
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<tr>
<td><strong>40. Rhode Island</strong></td>
<td>YES Optional</td>
<td>Terminology: Agent, or Attorney in Fact § 23 - 4.10 - 2</td>
<td>• Indiv. Provider*</td>
<td>2 witnesses or notarized</td>
<td>• Agent</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 §23-4.10-2</td>
<td>• Health Care Decision Maker § 23 - 4.11 - 2 (7)</td>
<td>• Facility Provider*</td>
<td></td>
<td>• Facility Provider</td>
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<tr>
<td></td>
<td></td>
<td>Limitations:</td>
<td>• Indiv. Provider*</td>
<td></td>
<td>One witness shall not be Relative/Spouse or Heir/Beneficiary</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Pregnancy limitation</td>
<td>• Facility Provider*</td>
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<td>* Exception for relatives</td>
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Combined AD, but separate subchapters for “Health Care Agents and Representatives” and “Living Wills”
# State Health Care Power of Attorney Statutes

## Selected Characteristics

**January 2019**

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<th>F. Other Mandatory Language?</th>
<th>G. Special Institutional Protocol</th>
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</thead>
</table>
| **41. South Carolina**  
Special DPA for HC within a power of attorney act.  
Separate LW Statute (also provides for appointment of an agent):  
**YES** Optional §62–5–504  
Immediately effective permitted §62–5–502  
Terminology: Agent or attorney —in-fact §62-5-501  
Limitations (applicable to statutory form only):  
* Nutrition & hydration*  
* Pregnancy limitation  
  * Refusal permissible if expressly authorized  
  • Indiv. Provider*  
  • Facility Provider*  
  • Spouse of a Provider*  
  * Exception for relatives  
  • 2 witnesses and notarized  
  • Agent  
  • Relative/Spouse  
  • Heir/Beneficiary  
  • Attending physician  
  • Creditor  
  • Life insurance beneficiary  
  • Person financially responsible for medical care costs  
  • No more than one witness shall be;  
  • Facility provider  
  | None specified | None specified |
| **42. South Dakota**  
S.D. Codified Laws § 59-1-1 to §59-7-11 (West, 2017) ("Agency" title)  
General DPA that permits health decisions authority per §59-7-2.1 to §59-7-11. See especially §59-7-2.1 and 2.5  
Separate LW Statute:  
S.D. Codified Laws § 34–12D-1 to –22 (West, 2017) ("Living Wills" chapter)  
**NO** Effective only upon incapacity §59-7-2.6  
Terminology: Agent or Attorney-in-fact, or §59-7-2.5  
Limitations:  
* Pregnancy limitation §59-7-2.8  
* Nutrition & hydration*  
* Agent’s authority to delegate**  
  * Refusal permissible if expressly authorized or other conditions are met §59-7-2.7  
  ** Permissible if expressly authorized  
  None specified  
  • 2 witnesses or notarization §59-7-2.1  
  • None specified  
  | None specified | None specified |
**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**  
Selected Characteristics  
January 2019

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<th>F. OTHER MANDATORY LANGUAGE?</th>
<th>G. SPECIAL INSTITUTIONAL PROTOCOL</th>
</tr>
</thead>
</table>
| 43. TENNESSEE  | NO                                             | Terminology: Agent §68-11-1802 (a)(2) Limitations: None specified | • Indiv. Provider*  
• Facility Provider*  
* Exception for relatives | • 2 witnesses or notarized  
Permits orally designated surrogate. § 68-11-1806 | • Agent  
At least one witness shall not be:  
• Relative/Spouse  
• Heir/Beneficiary | Written advance directive shall contain witness attestation clause | None specified |
| Combined AD    |                                               | | | | | | |

| 44. TEXAS      | YES, Must be substantially followed and include a 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  
Permits orally designated surrogate. § § 166.034. | 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 |
<p>| TEX. HEALTH &amp; 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. | | | | | | |</p>
<table>
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<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>
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<td><strong>45. UTAH</strong>&lt;br&gt; Utah Code Ann. § 75-2A-101 to -125 (West, 2017) (<em>“Advance Health Care Directive Act”</em>)&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&lt;br&gt; Limitations:&lt;br&gt; • Pregnancy limitation&lt;br&gt; • 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*&lt;br&gt; • Facility Provider*&lt;br&gt; * Exception for relatives</td>
<td>• One witness §75-2a-107&lt;br&gt; Permits orally designated surrogate, §75-2a-103</td>
<td>• Agent&lt;br&gt; • Relative/Spouse&lt;br&gt; • Indiv. Provider&lt;br&gt; • Facility Provider&lt;br&gt; • Heir&lt;br&gt; • Beneficiary under any instrument/plan/account/transfer&lt;br&gt; • Person responsible for medical care costs&lt;br&gt; • Principal's signatory</td>
<td>None specified</td>
<td>None specified</td>
</tr>
<tr>
<td><strong>46. VERMONT</strong>&lt;br&gt; Vt. Stat. Ann. tit. 18, §§ 9700 - 9720 (West, 2018) (<em>“Advance Directives for Health Care and Disposition of Remains” chapter</em>)&lt;br&gt; Combined AD</td>
<td>NO&lt;br&gt; Immediately effective permitted §9702(a)</td>
<td>Terminology: Agent § 9702 (2)&lt;br&gt; Limitations:&lt;br&gt; • Sterilization §9711(f)</td>
<td>• Indiv. Provider&lt;br&gt; • Facility Provider including correctional facility *&lt;br&gt; • Funeral/crematory/cemetery/organ procurement representative (when authorized to dispose of remains or donate organs) *&lt;br&gt; * Exception for relatives</td>
<td>• 2 witnesses</td>
<td>• Agent&lt;br&gt; • Spouse or reciprocal beneficiary&lt;br&gt; • Relative</td>
<td>None specified</td>
<td>Detailed requirements for explaining the document and signing affirmation of compliance if the principal is in or entering a nursing home or hospital §9703</td>
</tr>
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**STATE HEALTH CARE POWER OF ATTORNEY STATUTES**  
Selected Characteristics  
January 2019

**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.

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<th>E. PROHIBITED WITNESSES Note: “Provider” includes employees of provider</th>
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<th>G. SPECIAL INSTITUTIONAL PROTOCOL</th>
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| 47. VIRGINIA | YES Optional  
VA. CODE ANN. § 54.1-2981 to –2993 (West, 2017)  
Healthcare Decisions Act  
Combined AD  
2017 amendment provides for “qualified advance directive facilitators” §54.1–2982, §54.1–2988.1 & §54.1–2993.1 | Terminology: Agent § 54.1-2982  
Limitations:  
• Psycho-surgery  
• Non-therapeutic sterilization  
• Abortion  
• Decisions about “visitation” unless expressly authorized and other conditions met. | None specified | • 2 witnesses  
Permits orally designated surrogate after diagnosis of terminal condition. § 54.1-2982 & -2983. | • None specified | None specified | None specified |
| 48. WASHINGTON | NO | Terminology: Agent § 11.125.020  
Limitations:  
Cross reference to guardianship law [RCWA 11.92.043(5)]:  
• Electro-convulsive therapy  
• Psycho-surgery  
• Other psychiatric treatment that restricts physical movement  
• Agent’s authority to delegate*  
* Permissible if expressly authorized | • Indiv. Provider*  
• Facility Provider*  
* Exception for certain relatives. | • 2 witnesses or notarized | • Relative  
Home care or adult family home provider  
Facility | Durability language required | None specified |
## State Health Care Power of Attorney Statutes

**Selected Characteristics**  
January 2019

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

**Abbreviations:** AD = Advance Directive  
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|-------|---------------------------------------------|-----------------------------------------------|----------------------|-----------------------------|-------------------------|---------------------------|-----------------------------|
| 49. West Virginia | YES Optional  
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 | 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 |
| 50. Wisconsin | YES Optional, but disclosure statement is mandatory §155.30  
WIS. STAT. ANN. § 155.01 to .80 (West, 2017) (“Power of Attorney for Health Care” chapter)  
Special DPA | Terminology: Health Care Agent § 155.01 (4)  
Limitations:  
• Admission to facility for mental health or other listed conditions  
• Electro-convulsive therapy  
• Psychosurgery  
• Experimental mental health research  
• Drastic mental health treatment  
• Admission to nursing home or residential facility – very limited unless expressly authorized in the document  
• Nutrition & hydration*  
• Pregnancy limitation  
* Refusal permissible only if specified conditions are met | • Indiv. Provider or his/her spouse*  
• Facility Provider or his/her spouse*  
* Exception for relatives | • 2 witnesses | • 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 |

* * *
## STATE HEALTH CARE POWER OF ATTORNEY STATUTES

**Selected Characteristics**

January 2019

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

**Abbreviations:** AD = Advance Directive  
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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 |
| **UNIFORM HEALTH-CARE DECISIONS ACT** | Combined Advance Directive  
Immediately effective permitted | Mental health facility admission*  
* Only if expressly authorized | LTC Facility Provider  
2 witnesses recommended, but not required | None specified | None specified | None specified |

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

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