

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.

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
<p>1. ALABAMA ALA. CODE. § 22-8A-1 to -14 (West, 2017) ("Natural Death Act") Combined AD. Single statutory form.</p> <p>See also Durable Power of Attorney (DPOA) Act, § 26-1-2</p>	<p>YES Must be substantially followed, but also separately recognizes health powers under DPOA Act 26-1-2</p> <p>Effective only upon incapacity 22-8A-4(d)</p>	<p>Terminology: Health care proxy, §22-8A-3(7)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • 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) <p>* Permissible if expressly authorized</p>	<ul style="list-style-type: none"> • Indiv. Provider * <p>* Exception for relatives employed by the provider</p>	<ul style="list-style-type: none"> • 2 or more witnesses age 19 or older • Appointed proxy must attach written acceptance to designation 	<ul style="list-style-type: none"> • Minor • Agent • Proxy signor • Relative/Spouse • Heir/Beneficiary • Person responsible for care costs 	None Specified	None Specified
<p>2. ALASKA ALASKA STAT. ANN. § 13.52.010 to .395 (West, 2017 ("Health Care Decisions Act"))</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted, 13.52.010</p>	<p>Terminology: Agent, §13.52.010(b)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • 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 <p>Permits oral designation of a surrogate. §13.52.010(a) and 13.52.030(c)</p>	<ul style="list-style-type: none"> • Facility provider* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witness or notarized 	<ul style="list-style-type: none"> • Agent • Facility provider <p><u>At least one witness</u> shall not be:</p> <ul style="list-style-type: none"> • Relative/Spouse/Adoptee • Heir/Beneficiary 	None Specified	None Specified

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3. ARIZONA ARIZ. REV. STAT. ANN. § 36-3201 to -3297 (West, 2017) ("Living Wills & Health Care Directives") Combined AD <i>Separate Living Will Statute:</i> § 36-3261	YES Optional Effective only upon incapacity §36-3223A	Terminology: Agent, §36-3201 Limitations: None specified	<ul style="list-style-type: none"> Person whose license as fiduciary has been revoked/suspended and not reinstated, unless relative 	<ul style="list-style-type: none"> 1 witness or notarized 	<ul style="list-style-type: none"> Agent Provider If only <u>one</u> witness, that person shall not be: <ul style="list-style-type: none"> Relative/Spouse/Adoptee Heir/Beneficiary 	None Specified	None Specified
4. ARKANSAS ARK. CODE. ANN. § 20-6-102 to -118 (West 2017) the "Arkansas Healthcare Decisions Act" <i>Separate Living Will Statute:</i> "Rights of the Terminally Ill and Permanently Unconscious Act" §20-17-201 to -218.	NO Immediately effective permitted §20-6-105(b)(1)	Terminology: <ul style="list-style-type: none"> Agent, 20-6-102(2) Limitations: None specified	None specified	<ul style="list-style-type: none"> 2 witnesses or notary, 20-17-202 Permits oral designation of a surrogate by personally informing supervising health care provider. 2-6-103. 	<u>At least one witness</u> shall not be: <ul style="list-style-type: none"> Relative/Spouse/Adoptee Heir/Beneficiary 20-6-103 		None Specified

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<p>5. CALIFORNIA CAL. PROB. CODE §§ 4600 – 4806 (West, 2017) ("Health Care Decisions Law")</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted §4682</p>	<p>Terminology: Agent §4607</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Civil commitment • Electro-convulsive therapy • Psycho-surgery • Sterilization • Abortion 	<ul style="list-style-type: none"> • Supervising Indiv. Provider* • Facility Provider* • Conservator – if conditions are met. <p>* Exception for relatives who are employees of or for a conservator who has satisfied the Lanterman-Petris Short Act</p>	<ul style="list-style-type: none"> • 2 witnesses or notarized <p>Provides for orally designated surrogate, §4711</p>	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Facility Provider <p><u>At least one</u> witness shall not be:</p> <ul style="list-style-type: none"> • Relative/Spouse/Adoptee • Heir/Beneficiary 	<ul style="list-style-type: none"> • Declaration, in substance, from each witness* • Declaration, in substance, from non-relative/spouse/heir witness* <p>*Except notary</p>	<ul style="list-style-type: none"> • If HCPA executed in facility, ombudsman must sign/declare as witness. §4675
<p>6. COLORADO COLO. REV. STAT. ANN. § 15-14-503 to -509 (West, 2017) ("Colorado Patient Autonomy Act")</p> <p>Special DPA for Health Care</p> <p><i>Separate Living Will Statute:</i> COLO. REV. STAT. §15-18-101 to -113. ("Colorado Medical Treatment Decision Act")</p>	<p>NO Immediately effective permitted §15-14-501</p>	<p>Terminology: Agent § 15-14-504 (1)(c)</p> <p>Limitations: None specified</p>	<p>None specified</p>	<p>None specified</p>	<p>None specified</p>	<p>None Specified</p>	<p>None Specified</p>

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<p>7. CONNECTICUT CONN. GEN. STAT. § Oregon to -580g (West, 2017) ("Removal of Life-Systems")</p> <p>Combined AD, but separate LW and Appointment of a HC Representative forms)</p> <p>See also CONN. GEN. STAT. § 1-56r ("Designation of person for decision-making")</p>	<p>YES Optional</p> <p>Effective only upon incapacity 19a-579</p>	<p>Terminology:</p> <ul style="list-style-type: none"> Health care representative (19a-570) Person designated (§1-56r) <p>Limitations: None specified</p> <ul style="list-style-type: none"> Sections 19a-571 to 19a-573, inclusive, 19a-575 and 19a-575a are not applicable to pregnant patients 	<ul style="list-style-type: none"> Facility Provider* Attending physician Administrator or employee of gov't agency financially responsible for care* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> 2 witnesses Notary also needed only if making a designation of person for decision-making under §1-56r 	<ul style="list-style-type: none"> Agent 		<p>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</p>
<p>8. DELAWARE DEL. CODE ANN. tit. 16, § 2501 - 2518 (West, 2017) ("Health Care Decisions" chapter)</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Effective only upon incapacity §2503</p>	<p>Terminology: Agent §2501 (b)</p> <p>Limitations:</p> <ul style="list-style-type: none"> Pregnancy limitation Decisions about life-sustaining treatment require a finding of permanent unconsciousness, terminal condition, or serious illness or frailty, §2503 	<ul style="list-style-type: none"> Residential LTC Facility Provider* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> 2 witnesses Witnesses state in writing that they're not prohibited witnesses <p>Provides for orally designated surrogate, §2507</p>	<ul style="list-style-type: none"> Facility provider Relative/Spouse Heir/Beneficiary Creditor Person responsible for care costs 	<p>None specified</p>	<p>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</p>

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<p>9. DISTRICT OF COLUMBIA D.C. CODE § 21-2201 - 2213 (West, 2017) ("Health Care Decisions Act")</p> <p>Special DPA</p> <p><i>Separate Living Will Statute:</i> D.C. CODE § 7-621 –630 (West, 2017) ("Natural Death Act")</p>	<p>YES Optional</p> <p>Effective only upon incapacity §21-2202*3)</p>	<p>Terminology: Attorney in Fact §21-2202 (1)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Abortion* • Sterilization* • Psycho-surgery* • Convulsive therapy or other behavior modification programs* <p>*Unless authorized by court</p>	<ul style="list-style-type: none"> • Indiv. Provider • Facility Provider 	<ul style="list-style-type: none"> • 2 witnesses 	<ul style="list-style-type: none"> • Principal • Individual Provider • Facility Provider <p><u>At least one</u> witness shall not be:</p> <ul style="list-style-type: none"> • Relative/Spouse/Adoptee • Heir/Beneficiary 	<ul style="list-style-type: none"> • Include language substantially similar to "not affected by" OR "becomes effective upon" incapacity 	<p>None specified</p>
<p>10. FLORIDA FLA. STAT. ANN. § 765.101 - .404 (West, 2017)</p> <p>Separate acts and forms ("Health Care Surrogate Act and "Life-Prolonging Procedure Act") are under an umbrella "Health Care Advance Directives" chapter.</p>	<p>YES Optional</p> <p>Immediately effective permitted to make health decisions, or just to access health information 765.101(21) & 765.202(6) & 765.204(3)</p>	<p>Terminology: Surrogate § 765.101 (16)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • 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* <p>* Consent/refusal permissible if expressly authorized</p>	<p>None specified</p>	<ul style="list-style-type: none"> • 2 witnesses <p>Oral designation of a surrogate is permissible, §765.101</p>	<ul style="list-style-type: none"> • Agent <p><u>At least one</u> witness shall not be:</p> <ul style="list-style-type: none"> • Relative/Spouse 	<p>None specified</p>	<p>None specified</p>

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11. GEORGIA GA. CODE ANN. § 31-32-1 to -14 (West, 2017) ("Advance Directive for Health Care Act") Combined AD	YES Optional Immediately effective permitted §31-32-4 (statutory form)	Terminology: Health Care Agent §31-32-2 (6) Limitations: <ul style="list-style-type: none"> • Psycho-surgery • Sterilization • Involuntary hospitalization or treatment • Pregnancy limitation • Authority to delegate 	<ul style="list-style-type: none"> • Indiv. Provider directly involved 	<ul style="list-style-type: none"> • 2 witnesses 	<ul style="list-style-type: none"> • Agent • Heir/Beneficiary • Indiv. Provider No more than one witness shall be: <ul style="list-style-type: none"> • Facility provider 	None specified	None specified
12. HAWAII HAW. REV. STAT. § 327E-1 to -16 (West, 2017) ("Uniform Health-Care Decisions Act") Combined AD	YES Optional Immediately effective permitted §327E-3	Terminology: Agent §327E-2 Limitations: <ul style="list-style-type: none"> • Mental Health Facility Admission* *Unless expressly authorized by DPA	<ul style="list-style-type: none"> • Facility Provider or Owner* * Exception for relatives	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized Permits oral designation of a surrogate. §327E-5	<ul style="list-style-type: none"> • Indiv. provider • Facility provider • Agent At least one witness shall not be: <ul style="list-style-type: none"> • Relative/Spouse • Heir/Beneficiary 	None specified	None specified
13. IDAHO IDAHO CODE ANN. § 39-4501 to -4515 (West, 2017) ("Medical Consent and Natural Death Act") Combined AD	YES Optional Immediately effective permitted §39-4512	Terminology: Surrogate Decision Maker § 39-4502 (16) Limitations: <ul style="list-style-type: none"> • Pregnancy limitation (included in statutory form) 	<ul style="list-style-type: none"> • Indiv. Provider* • Community Care Facility Provider* *Exception for relatives who are employees of.	<ul style="list-style-type: none"> • None specified 	<ul style="list-style-type: none"> • None specified 	None specified	None specified

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14. ILLINOIS 755 ILL. COMP. STAT. ANN. 45/4-1 to /4-12 (West, 2017) ("Powers of Attorney for Health Care Law") Special DPA <i>Separate LW Statute:</i> 755 ILL. COMP. STAT. ANN 35/1 to /10 ("Living Will Act")	YES Optional Immediately effective permitted. §4-10(b), in statutory form	Terminology: Agent § 45/4-4 (c) Limitations: None specified	<ul style="list-style-type: none"> • Indiv. Provider 	<ul style="list-style-type: none"> • One Witness 	<ul style="list-style-type: none"> • Facility provider • Indiv. provider • Relative/Spouse • Agent, or relative/spouse of agent or successor agent 	None specified	None specified
15. INDIANA 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)	NO Immediately effective permitted, 30-5-4-2	Terminology: Attorney in Fact under §30-5-2-2 Limitations: <ul style="list-style-type: none"> • Agent's authority to delegate* • Life-sustaining procedures* (see mandatory language) <p>* Permissible if expressly authorized</p>	None specified.	<ul style="list-style-type: none"> • Notarized 30-5-4-1 	None specified	Mandatory language for authority re life-sustaining treatment (§30-5-5-17).	None specified
IND. CODE ANN. § 16-36-1-1 to -14 (West, 2017), ("Health Care Consent" chapter creating a health care representative) <i>Separate LW Statute:</i> IND. CODE ANN. § 16-36-4-1 to -21. ("Living Wills and Life Prolonging Procedures" chapter)	No Effective only upon incapacity 16-36-1-7(e)	Health Care Representative §16-36-1-2 Limitations: <ul style="list-style-type: none"> • Life-sustaining procedures* (see mandatory language) <p>* Permissible if expressly authorized</p>	None specified	<ul style="list-style-type: none"> • One witness 	None specified	Same mandatory language as above. It is incorporated into §16-36-1-14	

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<p>16. IOWA IOWA CODE ANN. § 144B.1 to .12 (West, 2017) ("Durable Power of Attorney for Health Care" chapter)</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> IOWA CODE ANN. § 144A.1 - .12 ("Life-sustaining Procedures Act")</p>	<p>YES Optional</p> <p>Effective only upon incapacity §144B.1</p>	<p>Terminology: Attorney in Fact § 144B.1 (1)</p> <p>Limitations: None specified</p>	<ul style="list-style-type: none"> • Indiv. Provider* • Employee of provider* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> • Agent • Indiv. Provider or employee • Individual less than 18 years old <p><u>At least one</u> witness shall not be:</p> <ul style="list-style-type: none"> • Relative/Spouse/Adoptee 	None specified	None specified
<p>17. KANSAS KAN. STAT. ANN. § 58-625 to -632 (West, 2017) ("Uniform Durable Power of Attorney Act").</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> KAN. STAT. ANN. § 65-28,101 to -28,109 ("Natural Death Act")</p>	<p>YES Must be substantially followed</p> <p>Immediately effective permitted §58-629(b)</p>	<p>Terminology: Attorney in Fact § 58-651 (a)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Cannot revoke previous living will 	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* <p>* Exception for relatives & religious community members who actually and regularly engage in religious ministrations or performance of health care services</p>	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> • Agent • Relative/Spouse • Heir/Beneficiary • Person responsible for health care costs 	None specified	None specified

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<p>18. KENTUCKY KY. REV. STAT. ANN. § 311.621 to .643 (West, 2017) ("Kentucky Living Will Directive Act")</p> <p>Combined AD (but called "Living Will Directive")</p>	<p>YES Must be substantially followed. But non-statutory advance directives are recognized, §311.637(6)</p> <p>Effective only upon incapacity (in statutory form) §311.625</p>	<p>Terminology: Surrogate §311.621(16)</p> <p>Limitations: • Pregnancy Limitation, §311.629(4)</p>	<ul style="list-style-type: none"> • Facility provider* <p>* Exception for relatives within fourth degree of consanguinity & members of same religious or fraternal order. 311.625</p>	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> • 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
<p>19. LOUISIANA LA. CIV. CODE ANN. art. 2989 to 3034 (West, 2017) specifically art. 2997 providing for health decisions power.</p> <p>General DPA statute (called a "mandate"),</p>	<p>NO</p> <p>Immediately effective permitted Art. 3026.</p>	Terminology: Mandatory	None specified	None specified	N/A	None specified	None specified
<p><i>Separate Living Will Statute:</i> LA. REV. STAT. ANN § 40:1151 - 1155 (West, 2017)</p>	<p>Yes Optional</p>	None	None	2 Witnesses	None	None specified	None specified

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20. MAINE ME. REV. STAT. ANN. tit. 18-A, § 5-801 to -817 (West, 2017) ("Uniform Health-Care Decisions Act") 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
21. MARYLAND MD. CODE ANN., HEALTH-GEN. §5-601 to -626 (West, 2017) ("Health Care Decisions Act") Combined AD	YES Optional Immediately effective permitted §5-602	Terminology: Agent § 5-601 (c) Limitations: None specified	• 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	• 2 witnesses • Permits unwitnessed electronic advance directives if declarant's identity authenticated in accord with guidelines specified by the Nat'l Inst. of Standards & Technology. • Permits oral advance directive § 5-602.	• Agent <u>At least one witness</u> must not be: • Heir, or have any other financial interest in person's death	None specified	None specified

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<p>22. MASSACHUSETTS MASS. GEN. LAWS ANN. ch. 201D, §§ 1 - 17 (West, 2017) ("Health Care Proxies" chapter)</p> <p>Special DPA</p>	<p>NO But § 201D § 4 prescribes required elements of the proxy</p> <p>Effective only upon incapacity §201D § 4</p>	<p>Terminology: Health Care Agent, or Agent § 1</p> <p>Limitations: None specified</p>	<ul style="list-style-type: none"> • Facility provider* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses 	<ul style="list-style-type: none"> • Agent 	<p>None specified</p>	<p>None specified</p>
<p>23. MICHIGAN MICH. COMP. LAWS ANN. §700.5506 to .5520 (West, 2017) ("Durable Power of Attorney and Designation of Patient Advocate")</p> <p>Designation of a "patient advocate" provisions within a general DPA law</p>	<p>Only for agent's acceptance</p> <p>Effective only upon incapacity §700.5508</p>	<p>Terminology: Patient Advocate § 5506</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation • Life-sustaining procedures* • Mental health facility admission or forced medication, consent permissible if expressly authorized • Agent's authority to delegate* <p>* Permissible if expressly authorized and acknowledges that such a decision could or would allow the patient's death</p>	<p>None specified</p>	<ul style="list-style-type: none"> • 2 witnesses • Must be part of medical record before implementation <p>Agent must accept in writing before acting as patient advocate §700.5507</p>	<ul style="list-style-type: none"> • Agent • Relative/Spouse • Heir/Beneficiary • Indiv. Provider • Facility Provider (including where the patient resides) • Employee of life/health insurance provider for patient 	<ul style="list-style-type: none"> • Agent's acceptance form 	<p>None specified</p>

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<p>24. MINNESOTA MINN. STAT. ANN. § 145C.01 to .16 (West, 2017) ("Health Care Directives" chapter)</p> <p><i>Separate LW Statute:</i> MINN. STAT. ANN. § 145B.01 to .17 (West, 2017) ("Living Will Act")</p>	<p>YES Optional</p> <p>Immediately effective permitted §145C.05</p>	<p>Terminology: Health Care Agent §145C.01 (2), Proxy §145B.03 (1)</p> <p>Limitations: • Pregnancy Limitations*</p> <p>*Unless expressly overridden in directive</p>	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* • Individual determining capacity <p>* Exception for relatives (including registered domestic partnerships) or "unless otherwise specified" in directive</p>	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> • Agent <p><u>At least one</u> shall not be:</p> <ul style="list-style-type: none"> • Health care provider (but provider may notarize) 	None specified	None specified
<p>25. MISSISSIPPI MISS. CODE ANN. § 41-41-201 to -229 (West, 2017) ("Uniform Health-Care Decisions Act")</p> <p>Combined AD</p>	<p>YES Optional</p> <p>Immediately effective permitted 41-41-205(5)</p>	<p>Terminology: Agent §41-41-203 (c)</p> <p>Limitations: • Mental health facility admission, consent permissible if expressly authorized</p>	<ul style="list-style-type: none"> • LTC Facility* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized <p>Permits orally designated surrogate. § 41-41-211</p>	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Facility Provider <p><u>At least one</u> witness shall not be:</p> <ul style="list-style-type: none"> • Relative/Spouse/Adoptee • Heir/Beneficiary 	Declarations required by witnesses, or declarations by notary	None specified

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<p>26. MISSOURI 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.</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> MO. ANN. STAT. §459.010 - .055 (West, 2017) ("Declarations, Life Support" chapter)</p>	<p>NO</p> <p>Immediately effective permitted §404.825</p>	<p>Terminology: Attorney in Fact § 404.815</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Nutrition & hydration* • Agent's authority to delegate** <p>* Refusal permissible if expressly authorized ** Permissible if expressly authorized</p>	<ul style="list-style-type: none"> • Att. Physician* • Facility Provider* <p>* 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</p>	<ul style="list-style-type: none"> • §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. • http://www.mobar.org/pdf/2014-dpa/faqs-instructions.pdf 	None specified	None specified	None specified
<p>27. MONTANA MONT. CODE ANN. § 72-5-501 and -502 (West, 2017) (Health care provisions in general DPA statute)</p> <p><i>Separate LW Statute:</i> MONT. CODE ANN. § 50-9-101 to -206 (West, 2017) ("Montana Rights of the Terminally Ill Act")</p>	<p>YES, in Living Will statute only. Optional</p> <p>Immediately effective permitted §72-5-501</p>	<p>Terminology: Attorney in Fact or Agent § 72-5-501</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation 	None specified	<ul style="list-style-type: none"> • 2 witnesses under LW statute • DPA statute: none, although customarily notarized 	None specified	None specified	None specified

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<p>28. NEBRASKA NEB. REV. STAT. §30-3401 to -3432 (West, 2017) ("Health Care Power of Attorney" article)</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> NEB. REV. STAT. § 20-401 to -416 (West, 2017) ("Rights of the Terminally Ill Act")</p>	<p>YES Optional</p> <p>Effective only upon incapacity §30-3411.</p>	<p>Terminology: Attorney in Fact § 30-3402 (3)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Life-sustaining procedures* • Nutrition & hydration* (both the usual and typical provision of and those artificially administered) • Pregnancy limitation <p>* Refusal permissible if expressly authorized</p>	<ul style="list-style-type: none"> • Att. Physician or employee of attending physician • Facility* • Any agent presently serving 10 or more principals* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • At least 2 witnesses (must substantially follow the form in § 30-3408) <u>or</u> notarized 	<ul style="list-style-type: none"> • Agent • Relative/Spouse • Heir/Beneficiary • Att. Physician • Insurer <p><u>At least one</u> witness shall not be:</p> <ul style="list-style-type: none"> • Facility provider 	<p>Witness declarations</p>	<p>None specified</p>
<p>29. NEVADA NEV. REV. STAT. ANN. § 162A.700 to .860 (West, 2017) ("Durable Power of Attorney for Health Care Decisions")</p> <p>Special DPA, part of general DPA law</p> <p><i>Separate LW Statute:</i> NEV. REV. STAT. ANN. § 449.535 to .690 (West, 2017) with proxy designation. ("Uniform Act on Rights of the Terminally Ill")</p>	<p>YES Optional</p> <p>Immediately effective permitted. §162A.810</p>	<p>Terminology: Agent § 162A.790 (1)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Mental health facility admission • Electro-convulsive therapy • Aversive intervention • Psycho-surgery • Sterilization • Abortion • Experimental research/treatment 	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* <p>* Exception for spouse, legal guardian or next of kin to the principal</p>	<ul style="list-style-type: none"> • 2 witnesses who know the principal personally <u>or</u> notarized 	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Facility Provider <p><u>At least one</u> witness shall not be:</p> <ul style="list-style-type: none"> • Relative/Spouse/Adoptee • Heir/Beneficiary 	<p>None specified</p>	<p>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</p>

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30. NEW HAMPSHIRE N.H. REV. STAT. ANN. § 137-J:1 to -J:16 (West, 2017) ("Written Directives for Medical Decision Making for Adults Without Capacity to Make Health Care Decisions" chapter) Combined AD	YES Form and disclosure statement must be substantially followed. Effective only upon incapacity §137-J:5	Terminology: Agent § 137 – J:5 Limitations: <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Facility Provider* • Indiv. Provider* * Exception for relatives	<ul style="list-style-type: none"> • 2 witnesses or notarized • Principal must acknowledge receipt of disclosure statement 	<ul style="list-style-type: none"> • Agent • Spouse • Heir/Beneficiary • Att. Physician or person acting under direction/control of attending physician <u>No more than one</u> witness shall be: <ul style="list-style-type: none"> • Health or residential care provider or such provider's employee 	None specified	None specified
31. NEW JERSEY N.J. STAT. ANN. § 26:2H-53 to –91.2 (West, 2017) ("Advance Directives for Health Care Act") Combined AD	NO Effective only upon incapacity §26:2H-59	Terminology: Health Care Representative § 26:2H-55 Limitations: None specified	<ul style="list-style-type: none"> • Att. Physician • Facility Provider* * Exception for relatives/domestic partners	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> • Agent 	None specified	None specified
32. NEW MEXICO N.M. STAT. ANN. § 24-7A-1 to –18 (West, 2017) ("Uniform Health-Care Decisions Act") Combined AD	YES Optional Immediately effective permitted §24-7A-2	Terminology: Agent § 24 -7A-1 (B) Limitations: <ul style="list-style-type: none"> • Mental health facility admission unless expressly authorized 	<ul style="list-style-type: none"> • Facility Provider* * Exception for relatives	<ul style="list-style-type: none"> • 2 witnesses recommended, but not required Permits orally designated surrogate. §24 7A-5	None specified	None specified	None specified

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33. NEW YORK N.Y. PUB. HEALTH LAW §§ 2980-2994 (West, 2017) ("Health Care Agents and Proxies" article) Special DPA	YES Optional Effective only upon incapacity §2981(4)	Terminology: Health Care Agent, or Agent § 2980 (5) Limitations: • Nutrition & hydration* * Principal must make his/her wishes "reasonably known"	<ul style="list-style-type: none"> • Att. Physician* • Facility Provider* • Any agent currently serving 10 or more principals* * Exception for relatives	<ul style="list-style-type: none"> • 2 witnesses 	<ul style="list-style-type: none"> • 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 N.C. GEN. STAT. ANN. § 32A-15 to -27 (West, 2017) ("Health Care Powers of Attorney") Special DPA <i>Separate LW Statute:</i> 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	<ul style="list-style-type: none"> • Indiv. Provider • Facility Provider 	<ul style="list-style-type: none"> • 2 witnesses <u>and</u> notarized 	<ul style="list-style-type: none"> • Relative related within the third degree of consanguinity to the principal/Spouse • Heir/Beneficiary • Indiv. Provider • Facility Provider • Creditor 	None specified	None specified

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35. NORTH DAKOTA N.D. CENT. CODE ANN. § 23-06.5-01 to -19 (West, 2017) ("Health Care Directives") Combined AD	YES Optional Effective only upon incapacity §23-06.5-03	Terminology: Agent §23-06.5-02 (1) Limitations: <ul style="list-style-type: none"> • Mental health facility admission > 45 days* • Psycho-surgery* • Abortion* • Sterilization* *Unless approved by court order <ul style="list-style-type: none"> • Pregnancy Limitation** • Nutrition & Hydration** ** Unless expressly provided for in AD	<ul style="list-style-type: none"> • Individ. Provider* • Facility Provider* * Exception for relatives	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized • Agent must accept in writing §23-06.5-06 	<ul style="list-style-type: none"> • Agent * • Relative/Spouse * • Heir/Beneficiary * • Creditor * • Att. Physician* • Person responsible for care costs* At least one witness shall <u>not</u> be: <ul style="list-style-type: none"> • Individ. Provider • Facility Provider * Also disqualifies notary	•	None specified
36. OHIO OHIO REV. CODE ANN. § 1337.11 to .17 (West, 2017) ("Durable Power of Attorney for Health Care" chapter) Special DPA <i>Separate LW Statute:</i> OHIO REV. CODE ANN. § 2133.01 to .26 (West, 2017) ("Modified Uniform Rights of the Terminally Ill Act")	NO But does include mandatory disclosure statement Immediately effective permitted §1337.12	Terminology: Attorney in Fact §1337.12 (A)(2) Limitations: <ul style="list-style-type: none"> • Life-sustaining procedures* • Nutrition & hydration* • Pregnancy limitation • Comfort care • Withdraw health care to which principal previously consented* * Refusal permissible if specified conditions are met, including initialing and conspicuous type. §1337.13(E)	<ul style="list-style-type: none"> • Att. Physician • Employee/agent of Att. Physician* • Nursing home administrator • Employee/agent of Facility Provider* * Exception for relatives & members of religious orders	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> • Agent • Relative/Spouse/Adoptee • Att. Physician • Nursing home administrator where principal is receiving care 	None specified	None specified

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37. OKLAHOMA OKLA. STAT. ANN. tit. 63, § 3101.1 -.3102.3 (West, 2017) (the "Oklahoma Advance Directive Act") Combined AD	YES Optional Effective only upon incapacity §3101.5	Terminology: Health Care Proxy § 3101.3 (6) Limitations: <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 2 witnesses 	<ul style="list-style-type: none"> • Heir/Beneficiary • Relative 	None specified	None specified
38. OREGON OR. REV. STAT. ANN. § 127.505 - .660 and § 127.995 (West, 2018) ("Oregon Health Care Decisions Act") Combined AD	YES Must be followed But any other form "constitutes evidence of the patient's desires and interests" 127.535(6) Effective only upon incapacity 127.510	Terminology: Health Care representative § 127.505(13) Limitations: <ul style="list-style-type: none"> • 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)	<ul style="list-style-type: none"> • Attending physician* • Facility provider* • Parent or former guardian where specified protective actions were imposed, 126.520 * Exception for relatives	<ul style="list-style-type: none"> • 2 witnesses or notarized Agent must accept in writing §127.525	<ul style="list-style-type: none"> • Agent • Att. physician or health care provider §127.515 	None specified	<ul style="list-style-type: none"> • If in LTC facility, one witness must be designated by facility and meet qualifications specified by DHS. §127.515

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<p>39. PENNSYLVANIA 20 PA. CONS. STAT. ANN. §§ 5421 – 5488 (West, 2017) ("Health Care" chapter)</p> <p>Combined AD, but separate subchapters for "Health Care Agents and Representatives" and "Living Wills"</p>	<p>YES Optional</p> <p>Immediately effective permitted §5471</p>	<p>Terminology: Health Care Agent § 5453 (a)(1)</p> <p>Limitations: <ul style="list-style-type: none"> • Pregnancy limitation* • Nutrition & Hydration* </p> <p>*Unless expressly authorized in HCPA</p>	<ul style="list-style-type: none"> • Attending physician* • Indiv. Provider* • Facility Provider* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses 	<ul style="list-style-type: none"> • Indiv. Provider • Facility Provider • Principal's signatory 	None specified	None specified
<p>40. RHODE ISLAND R.I. GEN. LAWS ANN. § 23-4.10-1 to -12 (West, 2017) (Health Care Power of Attorney " chapter)</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> R.I. GEN LAWS ANN. § 23-4.11-1 to –15 (West, 2017) ("Rights of the Terminally Ill Act")</p>	<p>YES Optional</p> <p>Immediately effective permitted. §23-4.10-2</p>	<p>Terminology: <ul style="list-style-type: none"> • Agent, or Attorney in Fact § 23 - 4.10 - 2 • Health Care Decision Maker § 23 - 4.11 - 2 (7) </p> <p>Limitations: <ul style="list-style-type: none"> • Pregnancy limitation </p>	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses or notarized 	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Facility Provider • <u>One witness</u> shall not be Relative/Spouse or Heir/Beneficiary 	One witness must sign declaration that s/he is not relative/spouse or heir/beneficiary	None specified

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<p>41. SOUTH CAROLINA S.C. CODE ANN. §62-5-501 to -518 (West, 2017)</p> <p>Special DPA for HC within a power of attorney act.</p> <p><i>Separate LW Statute</i> (also provides for appointment of an agent): S. C. CODE ANN. § 44-77-10 to -160 (West, 2017) ("Death with Dignity Act")</p>	<p>YES Optional §62-5-504</p> <p>Immediately effective permitted §62-5-502</p>	<p>Terminology: Agent or attorney –in-Fact §62-5-501</p> <p>Limitations (<i>applicable to statutory form only</i>):</p> <ul style="list-style-type: none"> • Nutrition & hydration* • Pregnancy limitation <p>* Refusal permissible if expressly authorized</p>	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* • Spouse of a Provider* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses <u>and</u> notarized 	<ul style="list-style-type: none"> • Agent • Relative/Spouse • Heir/Beneficiary • Attending physician • Creditor • Life insurance beneficiary • Person financially responsible for medical care costs <p><u>No more than one witness shall be;</u></p> <ul style="list-style-type: none"> • Facility provider 	None specified	None specified
<p>42. SOUTH DAKOTA S.D. CODIFIED LAWS § 59-1-1 to §59-7-11 (West, 2017) ("Agency" title)</p> <p>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</p> <p><i>Separate LW Statute:</i> S.D. CODIFIED LAWS § 34-12D-1 to -22 (West, 2017) ("Living Wills" chapter)</p>	<p>NO</p> <p>Effective only upon incapacity §59-7-2.6</p>	<p>Terminology: Agent or Attorney-in-Fact, or §59-7-2.5</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Pregnancy limitation §59-7-2.8 • Nutrition & hydration* • Agent's authority to delegate** <p>* Refusal permissible if expressly authorized or other conditions are met §59-7-2.7</p> <p>** Permissible if expressly authorized</p>	None specified	<ul style="list-style-type: none"> • 2 witnesses or notarization §59-7-2.1 	None specified	None specified	None specified

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43. TENNESSEE TENN. CODE ANN. § 68-11-1801 to -1815 (West, 2017) ("Tennessee Health Care Decisions Act") Combined AD	NO Immediately effective permitted §68-11-1803	Terminology: Agent §68-11-1802 (a)(2) Limitations: None specified	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* * Exception for relatives	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized Permits orally designated surrogate. § 68-11-1806	<ul style="list-style-type: none"> • Agent <u>At least one</u> witness shall not be: <ul style="list-style-type: none"> • 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 and include a mandatory disclosure statement. Effective only on incapacity §166.152	Terminology: Agent § 166.002 (11) Limitations: <ul style="list-style-type: none"> • Pregnancy limitation • Mental health facility admission • Electro-convulsive therapy • Psycho-surgery • Abortion • Comfort care 	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* * Exception for relatives	<ul style="list-style-type: none"> • 2 witnesses or notarized Permits orally designated surrogate. § § 166.034.	<u>At least one witness</u> shall not be: <ul style="list-style-type: none"> • Agent • Att. Physician • Relative/Spouse • Facility Provider • Heir/Beneficiary • Creditor • Or employee of any above 	None specified	None specified

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45. UTAH UTAH CODE ANN. § 75-2A-101 to -125 (West, 2017) ("Advance Health Care Directive Act") Combined AD	YES Optional Immediately effective permitted §75-2a-109	Terminology: Agent or surrogate § 75-2a-103 Limitations: <ul style="list-style-type: none"> • Pregnancy limitation • Long-term custodial placement in licensed facility other than for assessment, rehabilitative, or respite care over principal's objection §75-2A-110 	<ul style="list-style-type: none"> • Individ. Provider* • Facility Provider* * Exception for relatives	<ul style="list-style-type: none"> • One witness §75-2a-107 Permits orally designated surrogate. §75-2a-103	<ul style="list-style-type: none"> • Agent • Relative/Spouse • Individ. 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 VT. STAT. ANN. tit. 18, §§ 9700 - 9720 (West, 2018) ("Advance Directives for Health Care and Disposition of Remains" chapter) Combined AD	NO Immediately effective permitted §9702(a)	Terminology: Agent § 9702 (2) Limitations: <ul style="list-style-type: none"> • Sterilization §9711(f) 	<ul style="list-style-type: none"> • Individ. Provider • Facility Provider including correctional facility * • Funeral/crematory/ cemetery/organ procurement representative (when authorized to dispose of remains or donate organs) * * Exception for relatives	<ul style="list-style-type: none"> • 2 witnesses 	<ul style="list-style-type: none"> • Agent • Spouse or reciprocal beneficiary • Relative 	None specified	Detailed requirements for explaining the document and signing affirmation of compliance if the principal is in or entering a nursing homes or hospital §9703

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47. VIRGINIA 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	YES Optional Effective only upon incapacity §54.1-2983.2	Terminology: Agent § 54.1-2982 Limitations: <ul style="list-style-type: none"> • Psycho-surgery • Non-therapeutic sterilization • Abortion • Decisions about "visitation" unless expressly authorized and other conditions met. 	None specified	<ul style="list-style-type: none"> • 2 witnesses Permits orally designated surrogate after diagnosis of terminal condition. § 54.1- 2982 & - 2983.	<ul style="list-style-type: none"> • None specified 	None specified	None specified
48. WASHINGTON WASH. REV. CODE ANN. § 11.125.010 to .903 (West, 2017) ("Power of Attorney Act"). Effective Jan. 1, 2017 Uniform Power of Attorney Act with health powers included. <i>Separate LW Statute:</i> WASH. REV. CODE ANN. § 70.122.010 to -.925 (West, 2017) ("Natural Death Act")	NO Immediately effective permitted. §11.125.090	Terminology: Agent § 11.125.020 Limitations: Cross reference to guardianship law [RCWA 11.92.043(5)]: <ul style="list-style-type: none"> • Electro-convulsive therapy • Psycho-surgery • Other psychiatric treatment that restricts physical movement <ul style="list-style-type: none"> • Agent's authority to delegate* * Permissible if expressly authorized	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* * Exception for certain relatives.	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> • Relative • Home care or adult family home provider • Facility 	Durability language required	None specified

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<p>49. WEST VIRGINIA W. VA. CODE ANN. § 16-30-1 to -25 (West, 2017) ("Health Care Decisions Act")</p> <p>Combined AD, but maintains separate Living Will and Medical Power of Attorney documents</p>	<p>YES Optional</p> <p>Effective only upon incapacity. §16-30-6(d)</p>	<p>Terminology: Medical Power of Attorney Representative or Representative § 16-30-3 (q)</p> <ul style="list-style-type: none"> • Limit on agent's authority to revoke a pre-need funeral contract 	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses <u>and</u> notarized 	<ul style="list-style-type: none"> • Agent • Att. Physician • Principal's signatory • Relative/Spouse • Heir/Beneficiary • Person responsible for medical care costs 	<p>None specified</p>	<p>None specified</p>
<p>50. WISCONSIN WIS. STAT. ANN. § 155.01 to .80 (West, 2017) ("Power of Attorney for Health Care" chapter)</p> <p>Special DPA</p> <p><i>Separate LW Statute:</i> WIS. STAT. ANN. § 154.01 to .15 (West, 2017) ("Advance Directives" chapter)</p>	<p>YES Optional, but disclosure statement is mandatory. §155.30</p> <p>Immediately effective permitted §155.05</p>	<p>Terminology: Health Care Agent § 155.01 (4)</p> <p>Limitations:</p> <ul style="list-style-type: none"> • 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 <p>* Refusal permissible only if specified conditions are met</p>	<ul style="list-style-type: none"> • Indiv. Provider or his/her spouse* • Facility Provider or his/her spouse* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses 	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Facility provider* • Relative/Spouse/Adoptee/Domestic partner • Heir/Beneficiary • Person responsible for health care costs <p>* Exception for chaplains & social workers</p>	<p>None specified</p>	<p>None specified</p>

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51. WYOMING WYO. STAT. ANN. § 35-22-401 to -416 (West, 2017) ("Health Care Decisions Act") Combined AD	NO Immediately effective permitted §35-22-403(d)	Terminology: Agent § 35-22-402 Limitations: None specified	<ul style="list-style-type: none"> • Facility Provider* * Exception for relatives	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Facility Provider 	Witness declaration required §35-22-403(b)	None specified
UNIFORM HEALTH-CARE DECISIONS ACT Combined Advance Directive http://uniformlaws.org/Act.aspx?title=Health-Care%20Decisions%20Act	YES Optional Immediately effective permitted	<ul style="list-style-type: none"> • Mental health facility admission* * Only if expressly authorized	<ul style="list-style-type: none"> • LTC Facility Provider 	<ul style="list-style-type: none"> • 2 witnesses recommended, but not required 	<ul style="list-style-type: none"> • 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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