

Amendment No. 325

Assembly Amendment to Assembly Bill No. 414	(BDR 13-797)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date				
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



ASSEMBLY BILL NO. 414—ASSEMBLYWOMAN BACKUS

MARCH 27, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing powers of attorney. (BDR 13-797)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to powers of attorney; ~~adopting the Uniform Health Care Decisions Act;~~ **defining certain words and terms relating to powers of attorney for health care; establishing a form to create an advance health-care directive; revising provisions concerning witnesses to a principal’s signature of a power of attorney for health care; removing the requirement that, in certain circumstances, a certification of competency must be attached to a power of attorney;** repealing ~~various~~ provisions relating to **the current form for** powers of attorney for health care; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law sets forth provisions governing durable powers of attorney for health care
2 decisions. (NRS 162A.700-162A.870) ~~[This bill repeals such provisions and instead adopts~~
3 ~~the Uniform Health Care Decisions Act.~~
4 ~~— Section 28 of this bill provides that an individual is presumed to have the capacity to~~
5 ~~make health care decisions and make or revoke a health care instruction or a power of attorney~~
6 ~~for health care, unless a health care provider or a court determines that the individual does not~~
7 ~~understand and appreciate the nature and consequences of certain decisions. Section 29 of this~~
8 ~~bill provides that such a presumption may be rebutted by a determination of a court under~~
9 ~~section 31 of this bill or certain health care providers if such providers have examined the~~
10 ~~individual and found the individual to lack capacity. Section 30 of this bill authorizes an~~
11 ~~individual to object to the finding that the individual lacks capacity and that, with certain~~
12 ~~exceptions, the objection is sufficient to treat the individual as having capacity. Section 31: (1)~~
13 ~~authorizes certain persons to petition the court to make a determination on whether the~~
14 ~~individual lacks capacity; and (2) requires the court to comply with certain procedural~~
15 ~~requirements concerning such a petition.~~
16 ~~— Section 32 of this bill authorizes an individual to make a health care instruction which~~
17 ~~includes certain preferences regarding the health care of the individual.~~
18 ~~— Section 33 of this bill sets forth the requirements to execute a power of attorney for health~~
19 ~~care and specifies who may not act as an agent to an individual who lacks capacity.~~
20 ~~— Section 34 of this bill authorizes an individual to create an advance health care directive~~
21 ~~that only addresses the mental health care of the individual and may waive certain rights.~~
22 ~~Section 35 of this bill sets forth the procedure to follow when an advance health care directive~~
23 ~~that addresses only the mental health care of the individual conflicts with any other type of~~
24 ~~advance health care directive.~~

25 — Section 36 of this bill establishes a form to create an advance health care directive.
26 — Section 37 of this bill sets forth a class of persons who, in order of priority, may act as a
27 default surrogate for an individual if the individual lacks capacity to make health care
28 decisions and an agent or guardian has not been appointed or the agent or guardian of the
29 individual is not reasonably available. Section 38 of this bill sets forth the procedure a
30 responsible health care provider is required to follow if two or more members of such class
31 assume authority to act as a default surrogate and both default surrogates disagree on a health
32 care decision.
33 — Section 39 of this bill authorizes an individual to disqualify certain persons from acting as
34 a default surrogate.
35 — Section 40 of this bill authorizes an individual, under certain circumstances, to revoke: (1)
36 an appointment of an agent; (2) the designation of a default surrogate; or (3) a health care
37 instruction. Section 40 also provides that: (1) a subsequent advance health care directive
38 revokes a prior advance health care directive to the extent the two conflict; and (2) the
39 appointment of a spouse or domestic partner is revoked under certain circumstances.
40 — Section 41 of this bill provides that: (1) a health care directive created outside of this
41 State is valid in this State under certain circumstances; (2) a person may rely on an advance
42 health care directive under certain circumstances; and (3) the directive may not be denied
43 solely because the directive or the signature is in electronic form.
44 — Section 42 of this bill provides that an agent or default surrogate has a fiduciary duty to
45 an individual who lacks capacity and is required to make a health care decision in accordance
46 with the direction of the individual in an advance health care directive.
47 — Sections 43 and 44 of this bill set forth the powers and limitations of an agent or a default
48 surrogate under an advance health care directive or court order.
49 — Section 45 of this bill provides that under certain circumstances, two or more individuals
50 are authorized to act as co-agents or alternate agents of an individual under an advance health
51 care directive.
52 — Section 46 of this bill sets forth the duties of a health care provider, a responsible health
53 care provider and a health care institution.
54 — Section 47 of this bill provides that: (1) a guardian may not refuse to comply with or
55 revoke the advance health care directive of the individual; and (2) a health care decision made
56 by certain agents prevails over the decision of the guardianship appointed for the individual.
57 — Section 48 of this bill provides that under certain circumstances, a health care provider,
58 health care institution, an agent or default surrogate acting in good faith is not subject to civil
59 or criminal liability or certain discipline.
60 — Section 49 of this bill prohibits a person from taking certain actions concerning an
61 advance health care directive. Section 49 additionally provides that an individual or the estate
62 of the individual has a cause of action against a person that violates such prohibitions.
63 — Section 50 of this bill provides that an electronic copy of an advance health care
64 directive, a revocation of an advance health care directive or a designation or disqualification
65 of a surrogate has the same effect as the original.
66 — Section 51 of this bill provides that the Uniform Health Care Decisions Act does not
67 authorize mercy killing, assisted suicide or euthanasia.
68 — Section 52 of this bill provides that a court acting under this Uniform Act may only grant
69 equitable relief.
70 — Section 53 of this bill provides that in applying and construing the Uniform Act, a court is
71 required to consider the promotion of uniformity of the law among jurisdictions that enact the
72 Uniform Act.
73 — Section 54 of this bill establishes a form to create a power of attorney for health care.
74 Sections 55 and 56 of this bill, respectively, establish a form to create a power of attorney for
75 health care decisions for an adult with an intellectual disability or with any form of dementia.
76 — Sections 1 and 57-76 of this bill make conforming changes to reflect the changes made in
77 this bill and to remove and replace references to the repealed sections. **Section 36 of this bill**
78 **establishes a form to create an advance health-care directive that includes provisions**
79 **relating to: (1) naming an agent and alternate agent and limiting an agent's authority;**
80 **(2) health care instructions concerning life-sustaining treatment and certain priorities;**
81 **(3) optional special powers of an agent, access to health information by an agent,**
82 **additional guidance for an agent and the nomination of a guardian; (4) organ donation;**

83 and (5) certain information for agents. Section 78 of this bill repeals the current form for
84 powers of attorney for health care.

85 Existing law requires a power of attorney for health care to be signed by the
86 principal, whose signature must be acknowledged by a notary public or witnessed by
87 two adult witnesses who personally know the principal. Existing law also sets forth
88 certain persons who are disqualified from being a witness to a principal's signature and
89 establishes certain other requirements relating to such witnesses. Existing law further
90 requires that a certification of competency of the principal be attached to a power of
91 attorney if the principal lives in certain health care facilities. (NRS 162A.790) Section
92 57.7 of this bill: (1) removes the requirement that the witnesses to a principal's signature
93 must personally know the principal; (2) provides that only the owner or operator or an
94 employee of a nursing home in which the principal resides is disqualified from being a
95 witness to the principal's signature; and (3) removes the requirement that a certification
96 of competency must be attached to the power of attorney of a principal who lives in
97 certain health care facilities.

98 Sections ~~5-27~~ 5-19 of this bill define certain words and terms for the purposes of
99 ~~sections 3-56.~~ the provisions of law governing powers of attorney for health care
100 decisions. Sections 57.3 and 61-72 of this bill make conforming changes to indicate the
101 proper placement of sections 5-36 of this bill in the Nevada Revised Statutes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. [NRS 159.0753 is hereby amended to read as follows:

2 ~~159.0753 1. Any person who wishes to request to nominate another person~~
3 ~~to be appointed as his or her guardian may do so:~~

4 ~~(a) If nominating a guardian of the estate, pursuant to NRS 162A.250;~~

5 ~~(b) If nominating a guardian of the person, pursuant to [NRS 162A.800;]~~
6 ~~section 32 of this act; or~~

7 ~~(c) By completing a form requesting to nominate a guardian in accordance with~~
8 ~~this section.~~

9 ~~2. A form requesting to nominate a guardian pursuant to this section must be:~~

10 ~~(a) Signed by the person requesting to nominate a guardian;~~

11 ~~(b) Signed by two impartial adult witnesses who have no interest, financial or~~
12 ~~otherwise, in the estate of the person requesting to nominate a guardian and who~~
13 ~~attest that the person has the mental capacity to understand and execute the form;~~
14 ~~and~~

15 ~~(c) Notarized.~~

16 ~~3. A request to nominate a guardian pursuant to this section may be in~~
17 ~~substantially the following form, and must be witnessed and executed in the same~~
18 ~~manner as the following form:~~

19 REQUEST TO NOMINATE GUARDIAN

20 ~~I,, (insert your name), residing at (insert your~~
21 ~~address), am executing this notarized document as my written declaration~~
22 ~~and request for the person(s) designated below to be appointed as my~~
23 ~~guardian should it become necessary. I am advising the court and all~~
24 ~~persons and entities as follows:~~

25 ~~1. As of the date I am executing this request to nominate a guardian, I~~
26 ~~have the mental capacity to understand and execute this request.~~

27 ~~2. This request pertains to a (circle one): (guardian of the~~
28 ~~person)/(guardian of the estate)/(guardian of the person and estate).~~

~~3. Should the need arise, I request that the court give my preference to the person(s) designated below to serve as my appointed guardian.~~

~~4. I request that my _____ (insert relation), _____ (insert name), serve as my appointed guardian.~~

~~5. If _____ (insert name) is unable or unwilling to serve as my appointed guardian, then I request that my _____ (insert relation), _____ (insert name), serve as my appointed guardian.~~

~~6. I do not, under any circumstances, desire to have any private, for-profit guardian serve as my appointed guardian.~~

(YOU MUST DATE AND SIGN THIS DOCUMENT)

~~I sign my name to this document on _____ (date)~~

~~_____~~

~~(Signature)~~

(YOU MUST HAVE TWO QUALIFIED ADULT WITNESSES DATE AND SIGN THIS DOCUMENT)

~~I declare under penalty of perjury that the principal is personally known to me, that the principal signed this request to nominate a guardian in my presence, that the principal appears to be of sound mind, has the mental capacity to understand and execute this document and is under no duress, fraud or undue influence, and that I have no interest, financial or otherwise, in the estate of the principal.~~

~~_____~~

~~(Signature of first witness)~~

~~_____~~

~~(Print name)~~

~~_____~~

~~(Date)~~

~~_____~~

~~(Signature of second witness)~~

~~_____~~

~~(Print name)~~

~~_____~~

~~(Date)~~

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

~~State of Nevada _____)~~

~~_____)~~

~~County of _____)~~

~~On this _____ day of _____, in the year _____, before me, _____ (insert name of notary public), personally appeared _____ (insert name of principal), _____ (insert name of first witness) and _____ (insert name of second witness), personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to this instrument, and acknowledged that they have signed this instrument.~~

1 _____
 2 _____
 3 (Signature of notarial officer)
 4 _____
 5 (Seal, if any)

6 ~~4. The Secretary of State shall make the form established in subsection 3~~
 7 ~~available on the Internet website of the Secretary of State.~~

8 ~~5. The Secretary of State may adopt any regulations necessary to carry out the~~
 9 ~~provisions of this section.] (Deleted by amendment.)~~

10 **Sec. 2.** Chapter 162A of NRS is hereby amended by adding thereto the
 11 provisions set forth as sections 3 to 56, inclusive, of this act.

12 **Sec. 3.** ~~[Sections 3 to 56, inclusive, of this act may be cited as the Uniform~~
 13 ~~Health Care Decisions Act.] (Deleted by amendment.)~~

14 **Sec. 4.** ~~[As used in sections 3 to 56, inclusive, of this act, unless the context~~
 15 ~~otherwise requires, the words and terms defined in sections 5 to 27, inclusive, of~~
 16 ~~this act have the meanings ascribed to them in those sections.] (Deleted by~~
 17 ~~amendment.)~~

18 **Sec. 5.** "Advance health-care directive" means a power of attorney for
 19 health care. ~~[for a health care instruction.]~~

20 **Sec. 6.** ~~["Agent" means an individual appointed in a power of attorney for~~
 21 ~~health care.] (Deleted by amendment.)~~

22 **Sec. 7.** ~~["Cohabitant" means each of two individuals not married to each~~
 23 ~~other who have lived together as a couple for at least 1 year after reaching the~~
 24 ~~age of majority or emancipation.] (Deleted by amendment.)~~

25 **Sec. 8.** ~~["Default surrogate" means an individual authorized under section~~
 26 ~~36 of this act to make a health care decision for another individual.] (Deleted by~~
 27 ~~amendment.)~~

28 **Sec. 9.** "Guardian" means a person appointed under other law by a court
 29 to make decisions regarding the personal affairs of an individual, including,
 30 without limitation, health care decisions. The term does not include a guardian
 31 ad litem.

32 **Sec. 10.** ~~["Has capacity" means not determined or found under section 29~~
 33 ~~or 31 of this act to lack capacity. "Had capacity" and "have capacity" have~~
 34 ~~corresponding meanings.] (Deleted by amendment.)~~

35 **Sec. 11.** "Health care" means care, treatment, service or procedure to
 36 maintain, monitor, diagnose or otherwise affect the physical or mental illness,
 37 injury or condition of an individual.

38 **Sec. 12.** ~~["Health care decision" means a decision made by an individual,~~
 39 ~~or the surrogate of the individual, regarding the individual's health care,~~
 40 ~~including, without limitation, the:~~

41 ~~1. Selection or discharge of a health care provider or health care~~
 42 ~~institution;~~

43 ~~2. Approval or disapproval of a diagnostic test, surgical procedure,~~
 44 ~~medication, therapeutic intervention or other type of health care; and~~

45 ~~3. Direction to provide, withhold or withdraw artificial nutrition or~~
 46 ~~hydration, mechanical ventilation or other health care.] (Deleted by~~
 47 ~~amendment.)~~

48 **Sec. 13.** ~~["Health care institution" means a facility or agency licensed,~~
 49 ~~certified or otherwise authorized or permitted by other law to provide health care~~
 50 ~~in this State in the ordinary course of business.] (Deleted by amendment.)~~

51 **Sec. 14.** ~~["Health care instruction" means a direction, whether or not in a~~
 52 ~~record, made by an individual that indicates the goals, preferences or wishes of~~
 the individual concerning the provision, withholding or withdrawal of health

1 ~~care. The term includes a direction intended to be effective if specified conditions~~
2 ~~arise.] (Deleted by amendment.)~~

3 ~~Sec. 15. [“Health care provider” means a physician or other individual~~
4 ~~licensed, certified or otherwise authorized or permitted by other law of this State~~
5 ~~to provide health care in this State in the ordinary course of business or practice~~
6 ~~of the profession of the physician or individual.] (Deleted by amendment.)~~

7 ~~Sec. 16. [“Individual” means an adult or emancipated minor.] (Deleted by~~
8 ~~amendment.)~~

9 ~~Sec. 17. [“Lack capacity” means that an individual is unable to understand~~
10 ~~and appreciate the nature and consequences of a decision or is unable or~~
11 ~~unwilling to make or communicate a decision, even with appropriate services,~~
12 ~~technological assistance, supported decision making or other reasonable~~
13 ~~accommodations.] (Deleted by amendment.)~~

14 ~~Sec. 18. [“Mental health care” means care, treatment, service or procedure~~
15 ~~to maintain, monitor, diagnose or improve the mental illness or other emotional,~~
16 ~~psychological or psychosocial condition of an individual.] (Deleted by~~
17 ~~amendment.)~~

18 ~~Sec. 19. “Nursing home” means a “nursing facility” as defined in 42~~
19 ~~U.S.C. § 1396r(a), as amended, or “skilled nursing facility” as defined in 42~~
20 ~~U.S.C. § 1395i-3(a), as amended.~~

21 ~~Sec. 20. [“Person” means an individual, estate, business or nonprofit~~
22 ~~entity, government or governmental subdivision, agency or instrumentality or~~
23 ~~other legal entity.] (Deleted by amendment.)~~

24 ~~Sec. 21. [“Person interested in the welfare of the individual” means:~~
25 ~~— 1. The spouse, child, parent or grandparent of the individual or a~~
26 ~~descendant of the spouse, child, parent or grandparent of the individual;~~
27 ~~— 2. The domestic partner, cohabitant or friend of the individual;~~
28 ~~— 3. A public entity providing health care, case management or protective~~
29 ~~services to the individual;~~
30 ~~— 4. The surrogate of the individual;~~
31 ~~— 5. A person appointed under other law to make decisions for the individual~~
32 ~~under a power of attorney for finances; or~~
33 ~~— 6. A person that has an ongoing personal or professional relationship with~~
34 ~~the individual, including, without limitation, a person that has provided~~
35 ~~educational or health care services or supported decision making to the~~
36 ~~individual.] (Deleted by amendment.)~~

37 ~~Sec. 22. [“Physician” means an individual authorized to practice medicine~~
38 ~~under chapter 630 of NRS or osteopathy under chapter 633 NRS.] (Deleted by~~
39 ~~amendment.)~~

40 ~~Sec. 23. [“Power of attorney for health care” means a record granting an~~
41 ~~agent the authority to make health care decisions for the individual granting the~~
42 ~~power.] (Deleted by amendment.)~~

43 ~~Sec. 24. [“Reasonably available” means able to be contacted without undue~~
44 ~~effort and willing and able to act in a timely manner considering the urgency of~~
45 ~~an individual’s health care situation. When used to refer to an agent or default~~
46 ~~surrogate, the term includes being willing and able to comply with the duties~~
47 ~~under section 13 of this act in a timely manner considering the urgency of an~~
48 ~~individual’s health care situation.] (Deleted by amendment.)~~

49 ~~Sec. 25. [“Responsible health care provider” means:~~
50 ~~— 1. A health care provider designated by an individual, or the surrogate of an~~
51 ~~individual, to have primary responsibility for the individual’s health care or for~~
52 ~~overseeing a particular course of treatment; or~~

~~2. In the absence of a designation under subsection 1, or if the provider designated under subsection 1 is not reasonably available, a health care provider who has primary responsibility for the health care of the individual or for overseeing a particular course of treatment.] (Deleted by amendment.)~~

~~Sec. 26. [“Supported decision making” means assistance from one or more persons of an individual’s choosing that helps the individual make or communicate a decision, including, without limitation, by helping the individual understand the nature and consequences of the decision.] (Deleted by amendment.)~~

~~Sec. 27. [“Surrogate” means:~~

~~1. An agent;~~

~~2. A default surrogate; or~~

~~3. A guardian authorized to make health care decisions.] (Deleted by amendment.)~~

~~Sec. 28. [1. An individual is presumed to have capacity to make a health care decision unless a health care provider under section 29 or 30 of this act, or a court under section 31 of this act, finds or determines the individual does not understand and appreciate the nature and consequences of the decision, including, without limitation, the primary risks and benefits of the decision;~~

~~2. An individual is presumed to have capacity to make or revoke a health care instruction unless a health care provider under section 29 or 30 of this act, or a court under section 31 of this act, finds or determines the individual does not understand and appreciate the nature and consequences of a health care decision in the instruction, including, without limitation, the primary risks and benefits of the choices expressed in the instruction;~~

~~3. An individual is presumed to have capacity to make or revoke a power of attorney for health care unless a health care provider under section 29 or 30 of this act, or a court under section 31 of this act, finds or determines the individual does not understand;~~

~~(a) And appreciate the nature and consequences of appointing an agent under the power of attorney;~~

~~(b) The identity of the individual being appointed as an agent; or~~

~~(c) The general nature of the individual’s relationship with the individual being appointed as an agent.~~

~~4. Creating, revoking or not creating an advance health care directive does not affect the right of an individual who has the capacity to make a health care decision.] (Deleted by amendment.)~~

~~Sec. 29. [1. A presumption under section 28 of this act that an individual has capacity may be rebutted by:~~

~~(a) A determination by a court under section 31 of this act or chapter 159 of NRS; or~~

~~(b) A finding made in accordance with accepted standards of medical judgment and to a reasonable degree of medical certainty that the individual lacks capacity by any of the following who has contemporaneously examined the individual and is not the spouse, child, parent, grandparent, domestic partner or cohabitant of the individual, or of the surrogate of the individual, or a descendant of the spouse, child, parent, grandparent, domestic partner or cohabitant of the individual or of the surrogate:~~

~~(1) A physician;~~

~~(2) A psychologist licensed or otherwise authorized to practice in this State; or~~

~~(3) A responsible health care provider if:~~

~~(I) The individual about whom the finding is to be made is experiencing a health condition requiring that a decision regarding health care treatment be made promptly to avoid loss of life or serious harm to the health of the individual; and~~

~~(II) An individual listed in subparagraph (1) or (2) is not reasonably available.~~

~~2. A finding under paragraph (b) of subsection 1 must be promptly documented in a record that:~~

~~(a) Is signed by the individual making the finding; and~~

~~(b) States the opinion of the individual making the finding of the cause, nature, extent and probable duration of the lack of capacity.~~

~~3. A determination or finding under this section may apply to a specified health care decision, to a specified set of health care decisions or to all health care decisions.] (Deleted by amendment.)~~

~~Sec. 30. [1. An individual found under paragraph (b) of subsection 1 of section 29 of this act to lack capacity may object to the finding in a record, orally or by another act.~~

~~2. If the individual objects under subsection 1, the finding is not sufficient to rebut the presumption of capacity in section 29 of this act, and the individual must be treated as having capacity, unless:~~

~~(a) The individual withdraws the objection;~~

~~(b) The court determines under section 31 of this act that the individual lacks capacity;~~

~~(c) The individual is experiencing a health condition requiring that a decision regarding health care treatment be made promptly to avoid loss of life or serious harm to the health of the individual;~~

~~(d) The finding is:~~

~~(1) Not used to withhold or withdraw life sustaining treatment if the individual is objecting to the withholding or withdrawal of the treatment; and~~

~~(2) Confirmed by an individual authorized under paragraph (b) of subsection 1 of section 29 of this act who:~~

~~(I) Did not make the first finding;~~

~~(II) Is not the spouse, child, parent, grandparent, domestic partner or cohabitant of the individual who made the first finding; and~~

~~(III) Is not a descendant of the spouse, child, parent, grandparent, domestic partner or cohabitant of the individual who made the first finding; or~~

~~(c) The individual, in an advance health care directive that addresses only mental health care created under section 34 of this act, directs the first finding to be sufficient to rebut the presumption of capacity.~~

~~3. A health care provider who is informed of an objection under subsection 1 shall promptly:~~

~~(a) Communicate the challenge to a responsible health care provider; and~~

~~(b) Document the objection in the medical record of the individual or communicate the objection to an administrator with responsibility for the medical records of the health care institution providing health care to the individual.] (Deleted by amendment.)~~

~~Sec. 31. [1. An individual found under paragraph (b) of subsection 1 of section 29 of this act to lack capacity, a responsible health care provider, the health care institution providing health care to the individual or a person interested in the welfare of the individual may petition a district court in the county in which the individual resides or is located to determine whether the individual lacks capacity.~~

~~2. The court in which a petition under subsection 1 is filed shall appoint legal counsel to represent the individual if the individual does not have legal counsel in the proceeding. The court shall hear the petition as soon as possible but not later than 7 days after the petition is filed. As soon as possible, but not later than 7 days after the hearing, the court shall determine whether the individual lacks capacity. The individual shall be determined to lack capacity only if the court finds by clear and convincing evidence that the individual lacks capacity.~~ **(Deleted by amendment.)**

Sec. 32. ~~[1. The preferences in the health care instruction of an individual may include:~~

~~(a) Health care providers or health care institutions;~~

~~(b) How a health care decision will be made and communicated;~~

~~(c) Persons that should or should not be consulted regarding a health care decision;~~

~~(d) A person to serve as guardian for the individual if one is appointed; and~~

~~(e) An individual to serve as a default surrogate.~~

~~2. A health care provider to whom an individual communicates an instruction under subsection 1 shall document the instruction and the date of the instruction in the medical record of the individual.~~

~~3. A health care instruction that conflicts with an earlier health care instruction, including an instruction documented in a medical order, revokes the earlier instruction to the extent of the conflict.~~

~~4. A health care instruction may be in the same record as a power of attorney for health care.~~ **(Deleted by amendment.)**

Sec. 33. ~~[1. An individual may create a power of attorney for health care to authorize one or more agents to make a health care decision for the individual if the individual is found or determined under section 29 or 31 of this act to lack capacity.~~

~~2. An individual is disqualified from acting as agent for an individual found or determined under section 29 or 31 of this act to lack capacity if the court finds that the first individual poses a danger to the individual found or determined to lack capacity, even if the court does not issue a protective order against the first individual. Advocating for the withholding or withdrawal of health care from the individual is not itself an indication of posing a danger to the individual.~~

~~3. An owner, operator or employee of a nursing home at which an individual is receiving care is disqualified from acting as agent unless the owner, operator or employee is the spouse, child, parent, grandparent, domestic partner or cohabitant of the individual, or a descendent of the spouse, child, parent, grandparent or domestic partner of the individual.~~

~~4. A health care decision made by an agent is effective without judicial approval.~~

~~5. A power of attorney for health care must be in a record, signed by the individual granting the power and witnessed by an adult who:~~

~~(a) Reasonably believes that the act of the individual to create the power of attorney is voluntary and knowing and made without coercion or undue influence;~~

~~(b) Must not be:~~

~~(1) The agent appointed by the individual;~~

~~(2) The spouse, domestic partner or cohabitant of the agent; or~~

~~(3) If the individual resides in a nursing home, the owner, operator or employee of the residential long-term health care institution; and~~

1 ~~— (c) Is present when the individual signs the power of attorney or when the~~
2 ~~individual represents that the power of attorney reflects the wishes of the~~
3 ~~individual.~~

4 ~~— 6. A witness under subsection 5 is considered present if the witness and the~~
5 ~~individual are:~~

6 ~~— (a) Physically present in the same location;~~

7 ~~— (b) Using an electronic means that allows for real-time audio and visual~~
8 ~~transmission and able to communicate in real-time to the same extent as if they~~
9 ~~were physically present in the same location; or~~

10 ~~— (c) Able to speak to and hear each other in real-time through audio~~
11 ~~connection if:~~

12 ~~— (1) The identity of the individual is personally known to the witness; or~~

13 ~~— (2) The witness is able to authenticate the identity of the individual by~~
14 ~~receiving accurate answers from the individual that enable the authentication.~~

15 ~~— 7. A power of attorney for health care may include a health care~~
16 ~~instruction.] (Deleted by amendment.)~~

17 ~~Sec. 34. [1. An individual may create an advance health care directive~~
18 ~~that addresses only mental health care for the individual.~~

19 ~~— 2. A health care instruction that addresses only mental health care for an~~
20 ~~individual may~~
21 ~~include:~~

22 ~~— (a) A statement of the general philosophy and objectives of the individual~~
23 ~~regarding mental health care; and~~

24 ~~— (b) The specific goals, preferences and wishes of the individual regarding the~~
25 ~~provision, withholding or withdrawal of a form of mental health care, including:~~

26 ~~— (1) Preferences regarding professionals, programs and facilities;~~

27 ~~— (2) Admission to a mental health facility, including, without limitation,~~
28 ~~the length of admission;~~

29 ~~— (3) Preferences regarding medications;~~

30 ~~— (4) A refusal to accept a specific type of mental health care, including,~~
31 ~~without limitation, a medication; and~~

32 ~~— (5) Preferences regarding means of crisis intervention.~~

33 ~~— 3. A health care instruction under this section may be in the same record as~~
34 ~~a power of attorney for health care.~~

35 ~~— 4. An individual may direct, in an advance health care directive that~~
36 ~~addresses only mental health care, that a single finding that the individual lacks~~
37 ~~capacity is sufficient under paragraph (c) of subsection 2 of section 30 of this act~~
38 ~~to rebut the presumption of capacity under section 28 of this act.~~

39 ~~— 5. If an advance health care directive includes the direction under~~
40 ~~subsection 4, the directive must be in a record, signed by the individual creating~~
41 ~~the directive and witnessed by at least two adults who:~~

42 ~~— (a) Attest that to the best of their knowledge the direction is voluntary and~~
43 ~~knowing and made without coercion or undue influence;~~

44 ~~— (b) Must not be:~~

45 ~~— (1) The agent appointed by the individual;~~

46 ~~— (2) The spouse, domestic partner or cohabitant of the agent; and~~

47 ~~— (3) If the individual resides in a residential long-term health care~~
48 ~~institution, not the owner, operator or employee of the residential long-term~~
49 ~~health care institution; and~~

50 ~~— (c) Are physically present in the same location as the individual.] (Deleted by~~
51 ~~amendment.)~~

52 ~~Sec. 35. [1. If a direction in an advance health care directive that~~
53 ~~addresses only mental health care conflicts with a direction in another advance~~

1 ~~health care directive, the later direction revokes the earlier direction to the extent~~
2 ~~of the conflict.~~

3 ~~2. An appointment by an individual under a power of attorney for health~~
4 ~~care of an agent to make decisions only for the mental health care of the~~
5 ~~individual does not revoke an earlier appointment of an agent under a power of~~
6 ~~attorney for health care to make other health care decisions for the individual.~~
7 ~~The later appointment revokes the authority of the agent under the earlier~~
8 ~~appointment to make mental health care decisions unless otherwise specified in~~
9 ~~the later appointment.~~

10 ~~3. Appointment by an individual of an agent under a power of attorney for~~
11 ~~health care decisions other than mental health care decisions made after~~
12 ~~appointment of an agent authorized to make only mental health care decisions~~
13 ~~does not revoke the appointment of the agent authorized to make only mental~~
14 ~~health care decisions.] (Deleted by amendment.)~~

15 **Sec. 36.** *The following form may be used to create an advance health-care*
16 *directive.*

17
18 **ADVANCE HEALTH-CARE DIRECTIVE**
19 **~~[EXPLANATION OF] HOW YOU USE THIS FORM~~**

20
21 *You can use this form if you wish to name someone [you want] to make*
22 *health care decisions for you ~~[. This person will only be able to make~~*
23 *~~health care decisions for you if] in case you cannot make them for~~*
24 *yourself. This is called giving the person you name a power of attorney*
25 *for health care. The person you name is called your agent.*

26
27 *You can also use this form to state your wishes, preferences and goals for*
28 *health care, and to say if you want to be an organ donor ~~[when]~~ after you*
29 *die.*

30
31 **YOUR NAME AND ~~[BIRTHDAY]~~ DATE OF BIRTH**

32 ~~*[Write your name and date of birth below.]*~~

33 *Name:*

34 *Date of birth:*

35
36
37
38
39 **~~PART 1: [POWER OF ATTORNEY FOR HEALTH CARE] NAMING~~**
40 **AN AGENT**

41
42 *This part ~~[allows] lets you [to appoint] name~~ someone else to make health*
43 *care decisions for you. You ~~can] may leave [all or some of it] any item~~*
44 *blank.*

45
46 **(1) ~~[APPOINTMENT OF] NAMING AN AGENT: I want the following~~**
47 **person to make health care decisions for me if I cannot ~~[(If you can, give~~**
48 **~~the full name.] make decisions for myself:~~**

49 *Name:*

50
51 ***Optional contact information (It is helpful to include information such as***
52 ***the person's address, phone number and email address .): ~~[of the~~***
53 ***individual you are appointing.]***

~~(2) [APPOINTMENT OF] NAMING AN ALTERNATE AGENT: I want the following person to make health care decisions for me if I cannot and my ~~first~~ agent is not willing, able or reasonably available to make them for me : [.....]~~

~~Name:.....
[If you can, provide the full name.]~~

~~Optional contact information (It is helpful to include information such as the person's address, phone number and email address .): [of the individual you are appointing. You can name more than one alternate agent.]~~.....

~~(3) [SPECIAL POWERS: My agent can do the following things ONLY if I have initialed or marked them below:~~

~~() consent to my participation in medical research that is allowed by law even if it will not directly benefit me and risks more than a little harm to me~~

~~() admit me as a voluntary patient to a facility for mental health treatment for not more than () days~~

~~() if I am not terminally ill, place me in a nursing home for more than 100 days even if my needs can be met somewhere else and I object at that time to being placed in the nursing home~~

~~(4) HEALTH INFORMATION SHARING: My agent may obtain, examine and share~~

~~information about my health needs and health care (initial or mark one):~~

~~() whenever my agent reasonably believes it is in my best interest~~

~~() only if I cannot make health care decisions for myself~~

~~(5) OTHER LIMITS ON] LIMITING YOUR AGENT'S AUTHORITY: I give my agent the power to make all health care decisions for me if I cannot make those decisions for myself, except [as I state here:] for the following:~~

~~(If you do not add any limitations here, your agent will be able make all health care decisions that an agent is permitted to make under state law.)~~

PART 2: HEALTH CARE INSTRUCTION

~~This part [allows] lets you [to indicate] state your priorities for health care and types of health care you do and do not want. [You can leave all or some of it blank.]~~

(1) INSTRUCTIONS ABOUT LIFE-SUSTAINING TREATMENT

~~[If I have a condition that is not curable and is expected to cause me to die soon even if treated (initial or mark your choices):] This section gives you the opportunity to say how you want your agent to act while making decisions for you. You may mark or initial each item. You may also leave any item blank.~~

Medical treatment needed to keep me alive but not needed for comfort or any other purpose should (mark all that apply):

- ~~[I want to receive all medical treatments available to prolong my life]~~ Always be given to me.
- ~~[I do not want medical treatment if its only purpose is to prolong my life]~~ Not be given to me if I have a condition that is not curable and is expected to cause my death soon, even if treated.
- ~~[If I cannot swallow, I do not want to be given food or liquids through a tube or other means if its only purpose is to prolong my life]~~ Not be given to me if I am unconscious and I am not expected to be conscious again.
- ~~[I want to receive care that will help me be comfortable even if it may shorten my life]~~ Not be given to me if I have a medical condition from which I am not expected to recover that prevents me from communicating with people I care about, caring for myself and recognizing family and friends.
- ~~[other]~~ Other (write what you want or do not want):

If I ~~[am unconscious and am not expected to ever be conscious again (initial or mark your choices)]~~ cannot swallow and staying alive requires me to get liquid or food through a tube or other means for the rest of my life, liquid or food should (mark all that apply):

- ~~[I want to receive all medical treatments available to prolong my life]~~ Always be given to me.
- ~~[I do not want medical treatment if its only purpose is to prolong my life]~~ Not be given to me if I have a condition that is not curable and is expected to cause my death soon, even if treated.
- ~~[If I cannot swallow, I do not want to be given food or liquids through a tube or other means if its only purpose is to prolong my life]~~ Not be given to me if I am unconscious and I am not expected to be conscious again.
- ~~[I want to receive care that will help me be comfortable even if it may shorten my life]~~ Not be given to me if I have a medical condition from which I am not expected to recover that prevents me from communicating with people I care about, caring for myself and recognizing family and friends.
- ~~[other]~~ Other (write what you want or do not want):

If I ~~[have a medical condition that prevents me from communicating with people I care about, care for myself and recognizing family and friends and I am not expected to recover (initial or mark your choices)]~~ am in significant pain, care that will keep me comfortable but is likely to shorten my life should (mark all that apply):

- ~~[I want to receive all medical treatments available to prolong my life]~~ Always be given to me.
- ~~[I do not want medical treatment if its only purpose is to prolong my life]~~ Never be given to me.
- ~~[If I cannot swallow, I do not want to be given food or liquids through a tube or other means if its only purpose is to prolong my life]~~ Be given to me if I have a condition that is not curable and is expected to cause my death soon, even if treated.

- 1 ~~I want to receive care that will help me be comfortable even if it~~
2 ~~may shorten my life.~~ Be given to me if I am unconscious and I
3 am not expected to be conscious again.
- 4 Be given to me if I have a medical condition from which I am
5 not expected to recover that prevents me from communicating
6 with people I care about, caring for myself and recognizing
7 family and friends.
- 8 ~~Other.~~ Other (write what you want or do not want):

10 (2) INSTRUCTION ABOUT PRIORITIES ~~f-1~~

11
12 You can use this section to indicate what is important to you, and what is
13 not important to you. This information can help ~~others~~ your agent make
14 decisions for you if you cannot ~~make them for yourself.~~ It also helps
15 others understand your preferences.

16 You may mark or initial each item. You also may leave any item blank.

17
18 Staying alive as long as possible even if I have substantial physical
19 limitations is: ~~[(initial or mark your choice):]~~

- 20 very important
- 21 somewhat important
- 22 not important

23
24 Staying alive as long as possible even if I have substantial mental
25 limitations is: ~~[(initial or mark your choice):]~~

- 26 very important
- 27 somewhat important
- 28 not important

29
30 Being free from significant pain is: ~~[(initial or mark your choice):]~~

- 31 very important
- 32 somewhat important
- 33 not important

34
35 Being independent is: ~~[(initial or mark your choice):]~~

- 36 very important
- 37 somewhat important
- 38 not important

39
40 Having my agent talk with my family ~~[and friends involved in]~~ before
41 making decisions about my care is: ~~[(initial or mark your choice):]~~

- 42 very important
- 43 somewhat important
- 44 not important

45
46 Having my agent talk with my friends before making decisions about my
47 care is:

- 48 very important
- 49 somewhat important
- 50 not important

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~~[You can indicate other values and goals that are important to you below. This can include things you want and things you do not want:~~

(3) OTHER INSTRUCTIONS

You can use this section to provide any other information about your goals, ~~[preferences,]~~ values and ~~[wishes]~~ preferences for treatment ~~[about the health]~~, including care you want or do not want. You can also use this section to name anyone who you do not want to make decisions for you under any conditions.

~~[(4)]~~ **PART 3: OPTIONAL ~~[ADDITIONAL]~~ SPECIAL POWERS AND GUIDANCE ~~[FOR YOUR AGENT]~~**

~~Initial or mark your choice if you want to provide]~~ This part allows you to give your agent additional powers and to provide your agent with more guidance ~~[r]~~ about your wishes. You may mark or initial each item. You also may leave any item blank.

(1) OPTIONAL SPECIAL POWERS

My agent can do the following things ONLY if I have initialed or marked them below:

~~[The instructions I stated in this document should guide the person making decisions for me, but I give that person permission to be flexible in applying these statements if they think it would be in my best interest based on what they know about me.]~~ Admit me as a voluntary patient to a facility for mental health treatment for up to 7 days, 14 days or 30 days (circle one).
(If I do not mark or initial this, my agent MAY NOT admit me as a voluntary patient to this type of facility.)

~~[The instructions I stated in this document should guide the person making decisions for me and I want them to follow them exactly as written if possible, even if they think something else is better.]~~ Place me in a nursing home for more than 100 days even if my needs can be met somewhere else, I am not terminally ill and I object.
(If I do not mark or initial this, my agent MAY NOT do this.)

(2) ACCESS TO MY HEALTH INFORMATION

My agent may obtain, examine and share information about my health needs and health care if I am not able to make decisions for myself. If I initial or mark below, my agent may also do this at any time he or she thinks it will help me.

I give my agent permission to obtain, examine and share information about my health needs and health care whenever he or she thinks it will help me.

(3) GUIDANCE FOR MY AGENT

The instructions I have stated in this document should guide my agent in making decisions for me (initial or mark one of the below items to tell your agent more about how to use these instructions):

() I give my agent permission to be flexible in applying these instructions if he or she thinks it would be in my best interest based on what they know about me.

() I want my agent to follow these instructions exactly as written if possible, even if he or she thinks something else is better.

(4) NOMINATION OF GUARDIAN

Here you can say who you would want as your guardian if you need one. A guardian is a person appointed by a court to make decisions for someone who cannot make decisions. Filling this out does NOT mean you want or need a guardian right now.

If a court appoints a guardian to make personal decisions for me, I want the court to choose:

() My agent named in this form. If my agent cannot be a guardian, I want my alternate agent named in this form.

() Other [(You can use this section to tell your agent more about how to treat your instructions.)] (write who you would want and their contact information):.....

PART ~~3~~ 4: ORGAN DONATION

This part allows you to donate your organs when you die. [~~If you do not want to use this form to make a donation, you can~~] You may mark or initial each item. You also may leave ~~it~~ any item blank.

Even if [~~procedures necessary to evaluate, maintain or preserve my organs, tissues or other body parts conflict with other instructions I have put in this form or another document, upon my death (initial or mark the box that indicates what you want).]~~ it requires maintaining treatments that could prolong my dying process and might be in conflict with other instructions I have put in this form, upon my death:

() I donate my organs, tissues and other body parts, except for those listed below ([~~if you do not~~] list any ~~,~~ all can be donated.)] body parts you do not want to donate):.....

~~() I donate the following organs, tissues or body parts only (list the ones you want to give):.....~~

() I do not want my organs, tissues or body parts donated to anybody for any reason.

~~[My organs.]~~ Organs, tissues ~~and~~ or body parts that I donate may be used for : ~~[(initial or mark the box or boxes that indicate what you want).]~~

- transplant
- therapy
- research
- education
- all of the above

PART ~~4~~ 5: SIGNATURES REQUIRED ON THIS FORM

YOUR SIGNATURE

~~[My]~~ Sign your name:.....

~~[My signature:]~~.....

~~[Date:]~~ Today's date:.....

~~[Optional: My contact information (you can include your address, phone number, email address or other contact information):~~.....

~~(A witness is needed)~~

SIGNATURE OF WITNESSES

You need two witnesses if you are using this form to name an agent. The ~~[witness]~~ witnesses must be adults and cannot be ~~[a]~~ the person you are naming as agent . ~~for that person's spouse, domestic partner or cohabitant.]~~ If you live in a nursing home, the witness cannot be an employee ~~], operator or owner]~~ of the home ~~)]~~ or someone who owns or runs the home.

Witness name:.....

Witness signature : ~~[(only sign as a witness if you believe the person above is voluntarily making this advance directive):~~.....

~~Witness address (providing the full address of the witness is recommended):]~~.....

Date witness signed:.....

(Only sign as a witness if you think that the person signing above is doing it voluntarily.)

Witness name:.....

Witness signature:.....

Date witness signed:.....

(Only sign as a witness if you think that the person signing above is doing it voluntarily.)

PART ~~5~~ 6: INFORMATION FOR AGENTS

(1) If this form ~~appoints~~ names you as an agent, you ~~may~~ can make decisions about health care for the person who ~~appointed~~ named you when they cannot make their own.

(2) If ~~making~~ you make a decision for the person, ~~you should~~ follow any instructions the person gave, including any in this form.

(3) If you make a decision for the person and you don't know what the person would want, ~~you should~~ make the decision that you think is in the person's best interest. To figure out what is in the individual's person's best interest, ~~is, you must~~ consider the ~~individual's~~ person's values, preferences and goals if you know them or can learn them. Some of those preferences might be in this form. You should also consider any behaviors or communications from the person that indicate what they currently want.

(4) If this form ~~appoints~~ names you as an agent, you can also get and share the individual's health information. But unless the person has said so in this form, you can only get or share this information when the person cannot make their own decisions about their health care.

~~Sec. 37. [1. A default surrogate may make a health care decision for an individual who lacks capacity to make health care decisions and for whom an agent or guardian authorized to make health care decisions has not been appointed or is not reasonably available.~~

~~— 2. Unless the individual has an advance health care directive that indicates otherwise, a member of the following classes, in descending order of priority, who is reasonably available and not disqualified under section 39 of this act, may act as a default surrogate for the individual:~~

~~— (a) An adult who the individual has designated in an advance health care directive or in another manner;~~

~~— (b) The spouse or domestic partner of the individual, unless a petition for annulment, divorce, dissolution of marriage, legal separation or termination has been filed and not dismissed or withdrawn, or the spouse or domestic partner has abandoned the individual for more than 1 year;~~

~~— (c) The adult child or parent of the individual;~~

~~— (d) The cohabitant of the individual;~~

~~— (e) The adult sibling of the individual;~~

~~— (f) The adult grandchild or grandparent of the individual;~~

~~— (g) An adult not listed in paragraphs (a) to (f), inclusive, who has assisted the individual with supported decision making routinely during the preceding 6 months;~~

~~— (h) The adult stepchild of the individual not listed in paragraphs (a) to (g), inclusive, who the individual actively parented during the minor years of the stepchild and with whom the individual has an ongoing relationship; or~~

~~— (i) An adult not listed in paragraphs (a) to (h), inclusive, who has exhibited special care and concern for the individual and is familiar with the personal values of the individual.~~

~~3. A member of a class who assumes authority to act as default surrogate shall communicate the assumption of authority as promptly as practicable to other members who can be readily contacted in the same class and in classes with higher priority listed in subsection 2 and to a responsible health care provider.~~

~~4. A responsible health care provider may require an individual who assumes authority to act as a default surrogate to provide a declaration in a record under penalty of perjury stating facts and circumstances reasonably sufficient to establish the authority.~~

~~5. If a responsible health care provider reasonably determines that an individual who has assumed authority to act as a default surrogate is not willing or able to comply with a duty under section 42 of this act or fails to do so in a timely manner, the provider may recognize the individuals next in priority under subsection 2 as the default surrogates.~~

~~6. A health care decision made by a default surrogate is effective without judicial approval.] (Deleted by amendment.)~~

Sec. 38. ~~[1. A default surrogate who has assumed authority under subsection 3 of section 37 of this act shall inform a responsible health care provider if two or more members of the class have assumed authority to act as default surrogates and the members do not agree on a health care decision.~~

~~2. A responsible health care provider shall comply with the decision of a majority of the members of the class with higher priority who have communicated their views to the provider.~~

~~3. If a responsible health care provider is informed that the members of the class are evenly divided concerning the health care decision, the provider shall make a reasonable effort to solicit the views of other members of the class who are reasonably available but have not yet communicated their views to the provider. The provider, after the solicitation, shall comply with the decision of a majority of the members who have communicated their views to the provider.~~

~~4. If the class remains evenly divided after additional class members have provided their views under subsection 3, a responsible health care provider shall make a reasonable effort to solicit the views of members of the next class in priority, if any, who are reasonably available and, after the solicitation, comply with the decision of a majority of the members in the two classes who have communicated their views to the provider.~~

~~5. If a responsible health care provider is informed that the views of the members of the two classes providing their views under subsection 4 remain evenly divided, the health care decision shall be made as provided in other law of this State regarding the treatment of an individual who has been found or determined under section 29 or 31 of this act to lack capacity.] (Deleted by amendment.)~~

Sec. 39. ~~[1. At any time, an individual for whom health care decisions would be made may disqualify another individual from acting as default surrogate for the first individual. The disqualification may be in a record signed by the first individual or communicated verbally or nonverbally to the individual being disqualified, another individual or a responsible health care provider. Disqualification under this subsection is effective even if made by an individual who has been found or determined under section 29 or 31 of this act to lack capacity to make health care decisions.~~

~~2. An individual is disqualified from acting as a default surrogate for an individual found or determined under section 29 or 31 of this act to lack capacity to make health care decisions if the court finds that the potential default surrogate poses a danger to the individual for whom health care decisions would be made, even if the court does not impose a protective order against the~~

1 ~~individual being disqualified. Advocating for the withholding or withdrawal of~~
2 ~~health care from an individual does not itself indicate that the potential default~~
3 ~~surrogate poses a danger to the individual.~~

4 ~~— 3. An owner, operator or employee of a residential long-term health care~~
5 ~~institution at which an individual is receiving care is disqualified from acting as a~~
6 ~~default surrogate for the individual unless the owner, operator or employee is the~~
7 ~~spouse, child, parent, grandparent, domestic partner or cohabitant of the~~
8 ~~individual or a descendant of the spouse, child, parent, grandparent or domestic~~
9 ~~partner of the individual.~~

10 ~~— 4. An individual who refuses to provide a timely declaration under~~
11 ~~subsection 4 of section 37 of this act is disqualified from acting as default~~
12 ~~surrogate.] (Deleted by amendment.)~~

13 **Sec. 40.** ~~[1. Unless found or determined to lack capacity to do so under~~
14 ~~section 29 or 31 of this act, an individual may revoke the designation of an agent~~
15 ~~under a power of attorney for health care, the designation of a default surrogate~~
16 ~~or a health care instruction in whole or in part. The revocation must be by any~~
17 ~~act clearly indicating that the individual intends to revoke the designation or~~
18 ~~instruction, including an oral statement to a health care provider.~~

19 ~~— 2. An advance health care directive that conflicts with an earlier advance~~
20 ~~health care directive revokes the earlier directive to the extent of the conflict.~~

21 ~~— 3. Unless otherwise provided in the advance health care directive of an~~
22 ~~individual, the appointment of a spouse or domestic partner of an individual as~~
23 ~~agent for the individual is revoked by:~~

24 ~~— (a) A filing for annulment, divorce, dissolution of marriage, legal separation~~
25 ~~or termination that has not been dismissed or withdrawn;~~

26 ~~— (b) A decree of annulment, divorce, dissolution of marriage, legal separation~~
27 ~~or termination; or~~

28 ~~— (c) Abandonment of the individual for more than 1 year by the spouse or~~
29 ~~domestic partner of the individual.] (Deleted by amendment.)~~

30 **Sec. 41.** ~~[1. An advance health care directive created outside this State is~~
31 ~~valid if the advance health care directive complies with:~~

32 ~~— (a) The law of the state specified in the directive or, if no state is specified,~~
33 ~~the state in which the individual created the directive; or~~

34 ~~— (b) The provisions of sections 3 to 56, inclusive, of this act.~~

35 ~~— 2. A person may assume without inquiry that an advance health care~~
36 ~~directive is genuine, valid and still in effect and may implement or rely on it if the~~
37 ~~person does not have good cause to believe that the directive is invalid or has~~
38 ~~been revoked.~~

39 ~~— 3. An advance health care directive or a revocation of a directive may not~~
40 ~~be denied legal effect or enforceability solely because the directive is in electronic~~
41 ~~form. If this act requires a signature on a directive or revocation, an electronic~~
42 ~~signature satisfies the requirement.~~

43 ~~— 4. Evidence relating to an advance health care directive, revocation of a~~
44 ~~directive or a signature on a directive or revocation may not be excluded in a~~
45 ~~proceeding solely because it is in electronic form.~~

46 ~~— 5. If the provisions of this act conflict with other law of this State relating to~~
47 ~~the creation, execution, implementation or revocation of an advance health care~~
48 ~~directive, this act prevails.] (Deleted by amendment.)~~

49 **Sec. 42.** ~~[1. An agent or default surrogate has a fiduciary duty to the~~
50 ~~individual for whom the agent or default surrogate is acting when exercising or~~
51 ~~purporting to exercise a power under section 43 of this act.~~

52 ~~— 2. An agent or default surrogate shall make a health care decision in~~
53 ~~accordance with the direction of the individual in an advance health care~~

~~directive and other goals, preferences and wishes of the individual to the extent known to or reasonably ascertainable by the agent or default surrogate. If there is no direction and the goals, preferences and wishes of the individual regarding a health care decision are not known or reasonably ascertainable by the agent or default surrogate, the agent or default surrogate shall make the decision in accordance with the agent's or default surrogate's determination of the individual's best interest.~~

~~3. In determining the best interest of the individual, an agent or default surrogate shall give primary consideration to the contemporaneous communications of the individual, including, without limitation, verbal and nonverbal expressions.~~

~~4. An agent or default surrogate who is informed of a revocation of an advance health care directive or disqualification of an agent or default surrogate shall promptly communicate the revocation or disqualification to a responsible health care provider.~~ **(Deleted by amendment.)**

Sec. 43. ~~[1. Except as otherwise provided in subsection 4, the power of an agent or default surrogate commences when the individual is found under paragraph (b) of subsection 1 of section 29 of this act, or is determined by a court pursuant to section 31 of this act, to lack capacity to make a health care decision. The power ceases if the individual later is found or determined to have capacity to make a health care decision, or the individual makes an objection under section 30 of this act to the finding of lack of capacity under paragraph (b) of subsection 1 of section 29 of this act. If the power ceases because an objection is made under section 30 of this act, the power resumes if a court later determines that the person lacks capacity to make a health care decision.~~

~~2. Subject to subsection 6 and section 44 of this act, an agent or default surrogate may make a health care decision for the individual.~~

~~3. An agent or default surrogate may request, receive, examine and copy and consent to the disclosure of medical and other health care information about the individual if the individual would have the right to request, receive, examine, copy or disclose the information.~~

~~4. The power of attorney for health care may provide that the power of an agent under subsection 3 commences upon appointment.~~

~~5. If no other person is authorized, an agent or default surrogate has the power to apply for public or private health insurance and benefits on behalf of the individual. An agent or default surrogate who has the power to apply for insurance and benefits does not, solely by reason of the power, have a duty to apply for the insurance or benefits.~~

~~6. An agent or default surrogate has the following powers only if specifically authorized by the individual in an advance health care directive:~~

~~(a) Consent to have the individual participate in medical research that does not provide direct benefit to the individual and creates a risk of more than minimal harm to the individual, but is otherwise authorized by law;~~

~~(b) Consent to voluntary admission of the individual to a facility for mental health treatment for not longer than the number of days specified in the directive or, if no number is specified, for not more than 14 days; or~~

~~(c) Consent to placement of the individual, if not terminally ill, in a nursing home if the placement is intended to be for more than 100 days and an alternative living arrangement is reasonably feasible.~~ **(Deleted by amendment.)**

Sec. 44. ~~[1. If an individual has a long term disability requiring routine treatment by artificial nutrition, hydration or mechanical ventilation and the individual has a history of using the treatment without objection, an agent or default surrogate may not consent to withdrawal of the treatment unless:~~

~~1 (a) The treatment is not necessary to sustain the life of the individual;
2 (b) The individual has expressly authorized the withdrawal in a health care
3 instruction that has not been revoked; or~~

~~4 (c) The individual has experienced a major reduction in health or functional
5 ability from which the individual is not expected to recover, even with other
6 appropriate treatment, and the individual has not:~~

~~7 (1) Given a direction inconsistent with withdrawal; or~~

~~8 (2) Communicated, by verbal or nonverbal expression, a desire for
9 artificial nutrition, hydration or mechanical ventilation;~~

~~10 2. A default surrogate may not make a health care decision if, under other
11 law of this State, the decision:~~

~~12 (a) May not be made by a guardian; or~~

~~13 (b) May be made by a guardian only if the court appointing the guardian
14 specifically authorizes the guardian to make the decision.} (Deleted by
15 amendment.)~~

~~16 Sec. 45. [1. A power of attorney for health care may designate two or
17 more individuals to act as co agents. Unless the power of attorney provides
18 otherwise, each co agent may exercise independent authority;~~

~~19 2. A power of attorney for health care may designate one or more alternate
20 agents to act if an agent resigns, dies, becomes disqualified, is not reasonably
21 available or is otherwise unwilling or unable to serve as agent. Unless the power
22 of attorney provides otherwise, an alternate agent:~~

~~23 (a) Has the same authority as the original agent; and~~

~~24 (b) May act only if all predecessor agents have resigned, died, become
25 disqualified, are not reasonably available or are otherwise unwilling or unable to
26 act as an agent.} (Deleted by amendment.)~~

~~27 Sec. 46. [1. If possible before implementing a health care decision by a
28 surrogate for an individual, a responsible health care provider shall promptly
29 communicate to the individual the decision made and the identity of the person
30 making the decision;~~

~~31 2. A responsible health care provider who makes or is informed of a
32 determination or finding that an individual lacks capacity to make a health care
33 decision or no longer lacks capacity, or that other circumstances exist that affect
34 a health care instruction or the authority of a surrogate, shall promptly:~~

~~35 (a) Document the determination, finding or circumstance in the medical
36 record of the individual; and~~

~~37 (b) If possible, communicate to the individual and the surrogate of the
38 individual:~~

~~39 (I) The determination, finding or circumstance; and~~

~~40 (II) That the individual may object to the determination or finding;~~

~~41 3. A responsible health care provider who is informed that an individual
42 has created or revoked an advance health care directive or that a surrogate for
43 an individual has been designated or disqualified, shall:~~

~~44 (a) Document the information promptly in the medical record of the
45 individual; and~~

~~46 (b) If evidence of the directive, revocation, designation or disqualification is
47 in a record, request a copy and, on receipt, cause the copy to be included in the
48 medical record of the individual;~~

~~49 4. Except as provided in subsections 5 and 6, a health care provider or
50 health care institution providing health care to an individual shall comply with:~~

~~51 (a) A health care instruction given by the individual regarding the health
52 care of the individual;~~

~~1 (b) A reasonable interpretation by the surrogate of the individual of an
2 instruction given by the individual; and~~

~~3 (c) A health care decision for the individual made by the surrogate of the
4 individual to the same extent as if the decision had been made by the individual at
5 a time when the individual had capacity.~~

~~6 5. A health care provider or a health care institution may refuse to provide
7 care consistent with a health care instruction or health care decision if:~~

~~8 (a) The instruction or decision is contrary to a policy of the health care
9 institution providing health care to the individual that is expressly based on
10 reasons of conscience and the policy was timely communicated to the individual
11 who gave the instruction or about whom the decision was to be made or to the
12 surrogate of the individual;~~

~~13 (b) The care would require the use of a form of care or treatment that is not
14 available to the provider or institution; or~~

~~15 (c) Compliance would:~~

~~16 (1) Require the provider or institution to provide care that is contrary to
17 generally accepted health care standards applicable to the provider or institution;
18 or~~

~~19 (2) Violate a court order or other law.~~

~~20 6. A health care provider or health care institution that refuses care under
21 paragraph (a) or (b) of subsection 5 shall:~~

~~22 (a) If possible, promptly inform the individual and the surrogate of the
23 individual of the refusal;~~

~~24 (b) Immediately make a reasonable effort to transfer the individual to
25 another health care provider or health care institution that is willing to comply
26 with the instruction or decision;~~

~~27 (c) If the refusal is made under paragraph (a) of subsection 5, provide
28 medically appropriate care to the individual until a transfer under paragraph (b)
29 is made; and~~

~~30 (d) If the refusal is made under paragraph (b) of subsection 5, provide
31 continuing care to the individual until a transfer under paragraph (b) is made or
32 it reasonably appears transfer cannot be made not later than 10 days after the
33 refusal. **(Deleted by amendment.)**~~

~~34 Sec. 47. [1. A guardian shall comply with the direction of the individual
35 subject to guardianship and may not refuse to comply with or revoke the advance
36 health care directive of the individual, unless the court appointing the guardian
37 expressly orders the noncompliance or revocation.~~

~~38 2. Unless a court orders otherwise, a health care decision made by an agent
39 appointed by an individual subject to guardianship prevails over the decision of
40 the guardian appointed for the individual. **(Deleted by amendment.)**~~

~~41 Sec. 48. [1. A health care provider or health care institution acting in
42 good faith is not subject to civil or criminal liability or to discipline for
43 unprofessional conduct for:~~

~~44 (a) Complying with a health care decision of a person based on a reasonable
45 belief that the person has authority to make the decision for an individual,
46 including, without limitation, a decision to withhold or withdraw health care;~~

~~47 (b) Refusing to comply with a health care decision of a person based on a
48 reasonable belief that the person lacked authority or capacity to make the
49 decision;~~

~~50 (c) Complying with an advance health care directive based on a reasonable
51 belief that the directive is valid; or~~

~~52 (d) Determining that an individual who might otherwise be authorized to act
53 as an agent or default surrogate is not reasonably available.~~

~~2. An agent or default surrogate, or an individual with a reasonable belief that the individual is an agent or a default surrogate, is not subject to civil or criminal liability or to discipline for unprofessional conduct for a health care decision made in a good faith effort to comply with the provisions of section 42 of this act. (Deleted by amendment.)~~

~~Sec. 49. [1. A person may not:~~

- ~~(a) Intentionally falsify an advance health care directive;~~
- ~~(b) Intentionally conceal, deface, obliterate, or delete an advance health care directive or revocation of an advance health care directive without consent of the individual who created or revoked the directive;~~
- ~~(c) Coerce or fraudulently induce an individual to create, revoke or refrain from creating or revoking an advance health care directive;~~
- ~~(d) Intentionally withhold knowledge of the existence or revocation of an advance health care directive from a responsible health care provider or health care institution providing health care to the individual who created or revoked the directive; or~~
- ~~(e) Require or prohibit the creation or revocation of an advance health care directive as a condition for providing health care.~~

~~2. An individual who is the subject of conduct prohibited by subsection 1, or the estate of the individual, has a cause of action against a person that violates subsection 1 for statutory damages of \$25,000 or actual damages resulting from the violation, whichever is greater.~~

~~3. An individual who makes a health care instruction or the estate of the individual has a cause of action against a health care provider or health care institution that intentionally violates subsection 4 of section 46 of this act for statutory damages of \$50,000, or actual damages resulting from the violation, whichever is greater.~~

~~4. In an action under this section, a prevailing plaintiff may recover reasonable attorney's fees, court costs and other reasonable litigation expenses.~~

~~5. The provisions of this section do not supersede or preclude another cause of action or a remedy available under other law.] (Deleted by amendment.)~~

~~Sec. 50. [1. A physical or electronic copy of an advance health care directive, revocation of an advance health care directive or designation or disqualification of a surrogate has the same effect as the original.~~

~~2. An individual may create a certified physical copy of an advance health care directive in electronic form or the revocation in electronic form of a directive by affirming under penalty of perjury that the physical copy is a complete and accurate copy of the directive or revocation.] (Deleted by amendment.)~~

~~Sec. 51. [1. This act does not authorize mercy killing, assisted suicide or euthanasia.~~

~~2. This act does not affect other law of this State governing the treatment for mental illness of an individual involuntarily committed to a mental health care institution pursuant to chapter 433 of NRS.~~

~~3. Death of an individual caused by withholding or withdrawing health care in accordance with this act does not constitute a suicide or homicide or legally impair or invalidate a policy of insurance or an annuity providing a death benefit, notwithstanding any term of the policy or annuity to the contrary.~~

~~4. This act does not create a presumption concerning the intention of an individual who has not created or who has revoked an advance health care directive.] (Deleted by amendment.)~~

~~Sec. 52. [1. On petition of an individual, the surrogate of an individual, a health care provider or health care institution providing health care to the individual or a person interested in the welfare of the individual, the court may:~~

~~1 (a) Enjoin implementation of a health care decision made by an agent or
2 default surrogate on behalf of the individual on a finding that the decision is
3 inconsistent with section 42 or 43 of this act;~~

~~4 (b) Enjoin an agent from making a health care decision for the individual on
5 a finding that the individual's appointment of the agent has been revoked or the
6 agent;~~

~~7 (1) Is disqualified under subsection 3 of section 33 of this act;~~

~~8 (2) Is unable or unwilling to comply with section 42 of this act; or~~

~~9 (3) Poses a danger to the individual;~~

~~10 (c) Enjoin another individual from acting as a default surrogate on a finding
11 that the other individual's designation as a default surrogate did not comply with
12 section 37 of this act, or the other individual;~~

~~13 (1) Is unable or unwilling to comply with section 42 of this act; or~~

~~14 (2) Poses a danger to the first individual;~~

~~15 (d) Order implementation of a health care decision made by and for the
16 individual if the individual has not been found or determined under section 29 or
17 31 of this act to lack capacity to make the decision; or~~

~~18 (e) Order implementation of a health care decision made by an agent or
19 default surrogate who is acting in compliance with the powers and duties of the
20 agent or default surrogate.~~

~~21 2. Advocating for the withholding or withdrawal of health care from an
22 individual is not itself an indication that an agent or default surrogate poses a
23 danger to the individual.~~

~~24 3. A proceeding under this section is governed by chapter 159 of NRS.]
25 (Deleted by amendment.)~~

~~26 Sec. 53. [In applying and construing the Uniform Health Care Decisions
27 Act, a court shall consider the promotion of uniformity of the law among states
28 that enact it.] (Deleted by amendment.)~~

~~29 Sec. 54. [Except as otherwise provided in sections 55 and 56 of this act, the
30 form of a power of attorney for health care may be substantially in the following
31 form, and must be witnessed in the same manner as the following form:~~

~~32 **ADVANCE HEALTH CARE DIRECTIVE**
33 **HOW YOU USE THIS FORM**~~

~~34 You can use this form if you wish to name someone to make health care
35 decisions for you in case you cannot make them for yourself. This is
36 called giving someone Power of Attorney. This person is called your
37 Agent.~~

~~38 You can also use this form to state your wishes, preferences, and goals for
39 health care, and to say if you want to be an organ donor when you die.~~

~~40 **YOUR NAME AND BIRTHDAY**~~

~~41 Name:~~

~~42 Date of birth:~~

~~43 **PART I: POWER OF ATTORNEY FOR HEALTH CARE**~~

~~44 Part I allows you to appoint someone else to make health care decisions
45 for you. You do not have to respond to every item if you prefer not to.~~

~~1. NAMING AN AGENT~~

~~I want the following person to make health care decisions for me if I cannot make decisions for myself:~~

~~Name:~~

~~Address (optional):~~

~~Phone Number (optional):~~

~~Email (optional):~~

~~2. NAMING AN ALTERNATE AGENT~~

~~I want the following person to make health care decisions for me if I cannot and my Agent is not willing, able or reasonably available to make them for me:~~

~~Name:~~

~~Address (optional):~~

~~Phone Number (optional):~~

~~Email (optional):~~

~~3. ADDITIONAL POWERS~~

~~My Agent can do the following things ONLY if I have initialed or marked them below:~~

- ~~() Admit me as a voluntary patient to a facility for mental health treatment for not more than 7 days, or 14 days or 30 days (circle one)~~
- ~~() Place me in a nursing home for more than 100 days if I am not terminally ill, even if my needs can be met somewhere else, and even if I object to being placed in the nursing home~~
- ~~() Agree to my participating in medical research even if it will not directly benefit me and risks more than a little harm to me~~

~~4. SPECIAL LIMITS ON AGENT'S AUTHORITY~~

~~I give my Agent the power to make all health care decisions for me if I cannot make those decisions for myself, except the following:~~

~~Limitations:~~
~~(If you do not add any limitations here, your Agent will be able to make all health care decisions that an Agent is permitted to make under state law.)~~

~~5. HEALTH INFORMATION SHARING~~

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~~My Agent may obtain, examine and share information about my health needs and health care (initial or mark one):~~

- ~~() Whenever my Agent reasonably believes it is in my best interest~~
- ~~() Only if I cannot make health care decisions for myself~~

~~**PART 2: HEALTH CARE INSTRUCTION**~~

~~Part 2 lets you state your priorities for health care and the types of health care you do and do not want.~~

~~**1. INSTRUCTIONS ABOUT LIFE-SUSTAINING TREATMENT**~~

~~This section gives you the opportunity to say how you want your Agent to act in your behalf while making decisions for you. You may mark each item with a check, an X or your initials. You also may leave any item blank if you prefer.~~

~~If I have a condition that is not curable and is expected to cause me to die soon even if treated:~~

- ~~() I want to receive all medical treatments available to continue my life.~~
- ~~() I do not want medical treatment if its only purpose is to continue my life.~~
- ~~() If I cannot swallow, I do not want to be given food or liquids through a tube or other means if its only purpose is to continue my life.~~
- ~~() I want to receive care that will help me be comfortable even if it shortens my life.~~
- ~~() Other (write what you want or do not want):~~

~~If I am unconscious and am not expected to be conscious again:~~

- ~~() I want to receive all medical treatments available to continue my life.~~
- ~~() I do not want medical treatment if its only purpose is to continue my life.~~
- ~~() If I cannot swallow, I do not want to be given food or liquids through a tube or other means if its only purpose is to continue my life.~~
- ~~() I want to receive care that will help me be comfortable even if it may shorten my life.~~
- ~~() Other (write what you want or do not want):~~

~~If I have a medical condition from which I am not expected to recover that prevents me from communicating with people I care about, caring for myself and recognizing family and friends:~~

- ~~() I want to receive all medical treatments available to continue my life.~~
- ~~() I do not want medical treatment if its only purpose is to continue my life.~~
- ~~() If I cannot swallow, I do not want to be given food or liquids through a tube or other means if its only purpose is to continue my life.~~

1 ~~() I want to receive care that will help me be comfortable even if it~~
2 ~~may shorten my life.~~

3 ~~() Other (write what you want or do not want)~~

4
5 **~~2. INSTRUCTION ABOUT PRIORITIES~~**

6
7 ~~You can use this section to indicate what is important to you, and what is~~
8 ~~not important to you. This information can help your Agent make~~
9 ~~decisions for you if you cannot make them for yourself. It also helps~~
10 ~~others understand your preferences.~~

11
12 ~~You may mark each item with a check, an X or your initials. You also~~
13 ~~may leave any item blank if you prefer.~~

14
15 ~~Staying alive as long as possible even if I have substantial physical~~
16 ~~limitations is:~~

17 ~~() Very important~~

18 ~~() Somewhat important~~

19 ~~() Not important~~

20
21 ~~Staying alive as long as possible even if I have substantial mental~~
22 ~~limitations is:~~

23 ~~() Very important~~

24 ~~() Somewhat important~~

25 ~~() Not important~~

26
27 ~~Being free from significant pain is:~~

28 ~~() Very important~~

29 ~~() Somewhat important~~

30 ~~() Not important~~

31
32 ~~Being independent is:~~

33 ~~() Very important~~

34 ~~() Somewhat important~~

35 ~~() Not important~~

36
37 ~~Having my family and friends involved in making decisions about my~~
38 ~~care is:~~

39 ~~() Very important~~

40 ~~() Somewhat important~~

41 ~~() Not important~~

42
43 **~~3. OTHER INSTRUCTIONS~~**

44
45 ~~You can use this section to provide any other information about your~~
46 ~~goals, preferences, values and wishes for treatment about the health care~~
47 ~~you want or do not want. You can also use this section to name anyone~~
48 ~~who you do not want to make decisions for you under any conditions.~~

49
50 **~~4. OPTIONAL, ADDITIONAL GUIDANCE FOR YOUR AGENT~~**

51
52 ~~You may mark each item with a check, an X or your initials. You also~~
53 ~~may leave any item blank if you prefer.~~

~~(=) The instructions I stated in this document should guide the person making decisions for me. However, I give my Agent permission to be flexible in applying these instructions if they think it would be in my best interest based on what they know about me.~~

~~(=) The instructions I stated in this document should guide the person making decisions for me. I want them to follow them exactly as written if possible, even if they think something else is better.~~

PART 3: ORGAN DONATION

~~Part 3 allows you to donate your organs when you die. If you do not want to use this form to make a donation, you may leave it blank.~~

~~You may mark each item with a check, an X or your initials. You also may leave any item blank if you prefer.~~

~~Even if procedures necessary to evaluate, maintain or preserve my organs, tissues or other body parts conflict with other instructions I have put in this form or another document, upon my death:~~

~~(=) I donate my organs, tissues and other body parts, except for those listed below (list any body parts you do NOT want to donate):~~

~~(=) I donate the following organs, tissues or body parts only (list any body parts you DO want to donate):~~

~~(=) I do not want my organs, tissues or body parts donated to anybody for any reason.~~

~~My organs, tissues and body parts may be used for (mark each item you want with a check, an X or your initials):~~

- ~~(=) Transplant~~
- ~~(=) Therapy~~
- ~~(=) Research~~
- ~~(=) Education~~
- ~~(=) All of the above~~

PART 4: SIGNATURES REQUIRED ON THIS FORM

YOUR SIGNATURE:

Sign your name:

Today's date:

SIGNATURE OF A WITNESS

~~You need a witness if you are using this form to name an Agent. The witness cannot be the person you are naming as Agent or the Agent's spouse, domestic partner or someone the Agent lives with as a couple. If~~

~~you live in a nursing home, the witness cannot be an employee of the home or someone who owns or runs the home.~~

~~Witness's name:.....~~

~~Witness's signature:.....~~

~~(Only sign as a witness if you believe that the person filling out this form is doing so voluntarily.)~~

~~Witness's address:.....~~

~~Date witness signed:.....~~

PART 5: INFORMATION FOR AGENTS

~~1. If this form appoints you as an Agent, you may make decisions about health care for the person who appointed you when they cannot make their own.~~

~~2. If you make a decision for the person, follow any instructions the person gave, including any in this form.~~

~~3. If you don't know what the person would want, make the decision that you think is in the person's best interest. To figure out what is in the individual's best interest, consider the individual's values, preferences and goals if you know them or can learn them. Some of these preferences may be on this form. You should also consider any behavior or communications from the person that indicate what they currently want.~~

~~4. If this form appoints you as an Agent, you can also get and share the individual's health information. But unless the person has said so in this form, you can only get or share this information when the person cannot make their own decisions about their health care.]~~

~~(Deleted by amendment.)~~

Sec. 55. ~~[1. The form of a power of attorney for health care for an adult with an intellectual disability may be substantially in the following form and must be witnessed in the same manner as the following form.]~~

**ADVANCE HEALTH CARE DIRECTIVE
HOW YOU USE THIS FORM**

~~You can use this form if you wish to name someone to make health care decisions for you in case you cannot make them for yourself. This is called giving someone Power of Attorney. This person is called your Agent.~~

~~You can also use this form to state your wishes, preferences and goals for health care, and to say if you want to be an organ donor when you die.~~

YOUR NAME AND BIRTHDAY

~~Name:.....~~

~~Date of birth:.....~~

~~**PART 1. POWER OF ATTORNEY FOR HEALTH CARE**~~

~~Part 1 allows you to appoint someone else to make health care decisions for you. You do not have to respond to every item if you prefer not to.~~

~~**1. NAMING AN AGENT**~~

~~I would like to designate (insert the name of the person you wish to designate as your agent for health care decisions for you) as my agent for health care decisions for me if I am sick or hurt and need to see a doctor or an advanced practice registered nurse or go to the hospital. I understand what this means.~~

~~Name (of agent):.....~~

~~Address (optional):.....~~

~~Phone Number (optional):.....~~

~~Email (optional):.....~~

~~**2. NAMING AN ALTERNATE AGENT**~~

~~I want the following person to make health care decisions for me if I cannot and my Agent is not willing, able or reasonably available to make them for me:~~

~~Name:.....~~

~~Address (optional):.....~~

~~Phone Number (optional):.....~~

~~Email (optional):.....~~

~~**3. ADDITIONAL POWERS**~~

~~— If I am sick or hurt, my agent should take me to the doctor or an advanced practice registered nurse. If my agent is not with me when I become sick or hurt, please contact my agent and ask him or her to come to the doctor's or advanced practice registered nurse's office. I would like the doctor or advanced practice registered nurse to speak with my agent and me about my sickness or injury and whether I need any medicine or other treatment. After we speak with the doctor or advanced practice registered nurse, I would like my agent to speak with me about the care or treatment. When we have made decisions about the care or treatment, my agent will tell the doctor or advanced practice registered nurse about our decisions and sign any necessary papers.~~

~~— If I am very sick or hurt, I may need to go to the hospital. I would like my agent to help me decide if I need to go to the hospital. If I go to the hospital, I would like the people who work at the hospital to try very hard~~

~~to care for me. If I am able to communicate, I would like the doctor or advanced practice registered nurse at the hospital to speak with me and my agent about what care or treatment I should receive, even if I am unable to understand what is being said about me. After we speak with the doctor or advanced practice registered nurse, I would like my agent to help me decide what care or treatment I should receive. Once we decide, my agent will sign any necessary paperwork. If I am unable to communicate because of my illness or injury, I would like my agent to make decisions about my care or treatment based on what he or she thinks I would do and what is best for me.~~

~~I would like my agent to help me decide if I need to see a dentist and help me make decisions about what care or treatment I should receive from the dentist. Once we decide, my agent will sign any necessary paperwork.~~

~~I understand that my agent cannot make me receive any care or treatment that I do not want. I also understand that I can take away this power from my agent at any time, either by telling my agent that he or she is no longer my agent or by putting it in writing.~~

~~4. SPECIAL LIMITS ON AGENT'S AUTHORITY~~

~~I give my Agent the power to make all health care decisions for me if I cannot make those decisions for myself, except the following:~~

~~Limitations: _____

(If you do not add any limitations here, your Agent will be able to make all health care decisions that an Agent is permitted to make under state law.)~~

~~5. HEALTH INFORMATION SHARING~~

~~I would like my agent to be able to see and have copies of all my medical records. If my agent requests to see or have copies of my medical records, please allow him or her to see or have copies of the records.~~

~~PART 2: HEALTH CARE INSTRUCTION~~

~~Part 2 lets you state your priorities for health care and the types of health care you do and do not want.~~

~~1. INSTRUCTIONS ABOUT LIFE SUSTAINING TREATMENT~~

~~You can, but are not required to, state what you want to happen if you get very sick and are not likely to get well. You do not have to complete this form, but if you do, your agent must do as you ask if you cannot speak for yourself.~~

~~_____ (Insert name of agent) might have to decide, if you get very sick, whether to continue with your medicine or to stop your medicine, even if it means you might not live. _____ (Insert name of agent) will talk to you to find out what you want to do, and will follow your wishes.~~

~~If you are not able to talk to _____ (insert name of agent), you can help him or her make these decisions for you by letting your agent know what you want.~~

~~Here are your choices. Please circle yes or no to each of the following statements and sign your name below.~~

~~1. I want to take all the medicine and receive any treatment I can to keep me alive regardless of how the medicine or treatment makes me feel. _____ YES _____ NO~~

~~2. I do not want to take medicine or receive treatment if my doctors or advanced practice registered nurses think that the medicine or treatment will not help me. _____ YES _____ NO~~

~~3. I do not want to take medicine or receive treatment if I am very sick and suffering and the medicine or treatment will not help me get better. _____ YES _____ NO~~

~~4. I want to get food and water even if I do not want to take medicine or receive treatment. _____ YES _____ NO~~

~~2. INSTRUCTION ABOUT PRIORITIES~~

~~You can use this section to indicate what is important to you, and what is not important to you. This information can help your Agent make decisions for you if you cannot make them for yourself. It also helps others understand your preferences.~~

~~You may mark each item with a check, an X or your initials. You also may leave any item blank if you prefer.~~

~~Staying alive as long as possible even if I have substantial physical limitations is:~~

- ~~() Very important~~
- ~~() Somewhat important~~
- ~~() Not important~~

~~Staying alive as long as possible even if I have substantial mental limitations is:~~

- ~~() Very important~~
- ~~() Somewhat important~~
- ~~() Not important~~

~~Being free from significant pain is:~~

- ~~() Very important~~
- ~~() Somewhat important~~
- ~~() Not important~~

~~Being independent is:~~

- ~~() Very important~~

~~() Somewhat important~~

~~() Not important~~

~~Having my family and friends involved in making decisions about my care is:~~

~~() Very important~~

~~() Somewhat important~~

~~() Not important~~

~~3. OTHER INSTRUCTIONS~~

~~You can use this section to provide any other information about your goals, preferences, values and wishes for treatment about the health care you want or do not want. You can also use this section to name anyone who you do not want to make decisions for you under any conditions.~~

~~4. OPTIONAL, ADDITIONAL GUIDANCE FOR YOUR AGENT~~

~~You may mark each item with a check, an X or your initials. You also may leave any item blank if you prefer.~~

~~() The instructions I stated in this document should guide the person making decisions for me. However, I give my Agent permission to be flexible in applying these instructions if they think it would be in my best interest based on what they know about me.~~

~~() The instructions I stated in this document should guide the person making decisions for me. I want them to follow them exactly as written if possible, even if they think something else is better.~~

~~PART 3: ORGAN DONATION~~

~~Part 3 allows you to donate your organs when you die. If you do not want to use this form to make a donation, you may leave it blank.~~

~~You may mark each item with a check, an X or your initials. You also may leave any item blank if you prefer.~~

~~Even if procedures necessary to evaluate, maintain or preserve my organs, tissues or other body parts conflict with other instructions I have put in this form or another document, upon my death:~~

~~() I donate my organs, tissues and other body parts, except for those listed below (list any body parts you do NOT want to donate):~~

~~() I donate the following organs, tissues or body parts only (list any body parts you DO want to donate):~~

~~() I do not want my organs, tissues or body parts donated to anybody for any reason.~~

~~My organs, tissues and body parts may be used for (mark each item you want with a check, an X or your initials):~~

- ~~() Transplant~~
- ~~() Therapy~~
- ~~() Research~~
- ~~() Education~~
- ~~() All of the above~~

~~PART 4: SIGNATURES REQUIRED ON THIS FORM~~

~~YOUR SIGNATURE:~~

~~Sign your name:~~

~~Today's date:~~

~~SIGNATURE OF A WITNESS~~

~~You need a witness if you are using this form to name an Agent. The witness cannot be the person you are naming as Agent or the Agent's spouse, domestic partner or someone the Agent lives with as a couple. If you live in a nursing home, the witness cannot be an employee of the home or someone who owns or runs the home.~~

~~Witness's name:~~

~~Witness's signature:~~

~~(Only sign as a witness if you believe that the person filling out this form is doing so voluntarily.)~~

~~Witness's address:~~

~~Date witness signed:~~

~~PART 5: INFORMATION FOR AGENTS~~

- ~~1. If this form appoints you as an Agent, you may make decisions about health care for the person who appointed you when they cannot make their own.~~
- ~~2. If you make a decision for the person, follow any instructions the person gave, including any in this form.~~
- ~~3. If you don't know what the person would want, make the decision that you think is in the person's best interest. To figure out what is in the individual's best interest, consider the individual's values, preferences and goals if you know them or can learn them. Some of these preferences may be on this form. You should also consider any behavior or communications from the person that indicate what they currently want.~~
- ~~4. If this form appoints you as an Agent, you can also get and share the individual's health information. But unless the person has said so~~

~~in this form, you can only get or share this information when the person cannot make their own decisions about their health care.]~~
~~(Deleted by amendment.)~~

Sec. 56. ~~[The form of a power of attorney for health care for an adult with any form of dementia may be substantially in the following form and must be witnessed in the same manner as the following form:~~

~~ADVANCE HEALTH CARE DIRECTIVE
HOW YOU USE THIS FORM~~

~~You can use this form if you wish to name someone to make health care decisions for you in case you cannot make them for yourself. This is called giving someone Power of Attorney. This person is called your Agent.~~

~~You can also use this form to state your wishes, preferences and goals for health care, and to say if you want to be an organ donor when you die.~~

~~YOUR NAME AND BIRTHDAY~~

~~Name:~~

~~Date of birth:~~

~~PART I: POWER OF ATTORNEY FOR HEALTH CARE~~

~~Part I allows you to appoint someone else to make health care decisions for you. You do not have to respond to every item if you prefer not to.~~

~~1. NAMING AN AGENT~~

~~I would like to designate (insert the name of the person you wish to designate as your agent for health care decisions for you) as my agent for health care decisions for me if I am sick or hurt and need to see a doctor or an advanced practice registered nurse or go to the hospital. I understand what this means.~~

~~Name (of agent):~~

~~Address (optional):~~

~~Phone Number (optional):~~

~~Email (optional):~~

~~2. NAMING AN ALTERNATE AGENT~~

~~I want the following person to make health care decisions for me if I cannot and my Agent is not willing, able or reasonably available to make them for me:~~

~~Name:~~

~~Address (optional):.....~~

~~Phone Number (optional):.....~~

~~Email (optional):.....~~

~~3. ADDITIONAL POWERS~~

~~If I am sick or hurt, my agent should take me to the doctor or an advanced practice registered nurse. If my agent is not with me when I become sick or hurt, please contact my agent and ask him or her to come to the doctor's or advanced practice registered nurse's office. I would like the doctor or advanced practice registered nurse to speak with my agent and me about my sickness or injury and whether I need any medicine or other treatment. After we speak with the doctor or advanced practice registered nurse, I would like my agent to speak with me about the care or treatment. When we have made decisions about the care or treatment, my agent will tell the doctor or advanced practice registered nurse about our decisions and sign any necessary papers.~~

~~If I am very sick or hurt, I may need to go to the hospital. I would like my agent to help me decide if I need to go to the hospital. If I go to the hospital, I would like the people who work at the hospital to try very hard to care for me. If I am able to communicate, I would like the doctor or advanced practice registered nurse at the hospital to speak with me and my agent about what care or treatment I should receive, even if I am unable to understand what is being said about me. After we speak with the doctor or advanced practice registered nurse, I would like my agent to help me decide what care or treatment I should receive. Once we decide, my agent will sign any necessary paperwork. If I am unable to communicate because of my illness or injury, I would like my agent to make decisions about my care or treatment based on what he or she thinks I would do and what is best for me.~~

~~I would like my agent to help me decide if I need to see a dentist and help me make decisions about what care or treatment I should receive from the dentist. Once we decide, my agent will sign any necessary paperwork.~~

~~I understand that my agent cannot make me receive any care or treatment that I do not want. I also understand that I can take away this power from my agent at any time, either by telling my agent that he or she is no longer my agent or by putting it in writing.~~

~~If my agent is unable to make health care decisions for me, then I designate (insert the name of another person you wish to designate as your alternative agent to make health care decisions for you) as my agent to make health care decisions for me as authorized in this document.~~

~~4. SPECIAL LIMITS ON AGENT'S AUTHORITY~~

~~I give my Agent the power to make all health care decisions for me if I cannot make those decisions for myself, except the following:~~

~~Limitations:.....~~

~~(If you do not add any limitations here, your Agent will be able to make all health care decisions that an Agent is permitted to make under state law.)~~

~~5. HEALTH INFORMATION SHARING~~

~~I would also like my agent to be able to see and have copies of all my medical records. If my agent requests to see or have copies of my medical records, please allow him or her to see or have copies of the records.~~

~~PART 2. HEALTH CARE INSTRUCTION~~

~~Part 2 lets you state your priorities for health care and the types of health care you do and do not want.~~

~~1. INSTRUCTIONS ABOUT LIFE SUSTAINING TREATMENT~~

~~You can, but are not required to, state what you want to happen if you get very sick and are not likely to get well. You do not have to complete this form, but if you do, your agent must do as you ask if you cannot speak for yourself.~~

~~..... (Insert name of agent) might have to decide, if you get very sick, whether to continue with your medicine or to stop your medicine, even if it means you might not live (Insert name of agent) will talk to you to find out what you want to do, and will follow your wishes.~~

~~If you are not able to talk to (insert name of agent), you can help him or her make these decisions for you by letting your agent know what you want.~~

~~Here are your choices. Please circle yes or no to each of the following statements and sign your name below.~~

~~1. I want to take all the medicine and receive any treatment I can to keep me alive regardless of how the medicine or treatment makes me feel. YES NO~~

~~2. I do not want to take medicine or receive treatment if my doctors or advanced practice registered nurses think that the medicine or treatment will not help me. YES NO~~

~~3. I do not want to take medicine or receive treatment if I am very sick and suffering and the medicine or treatment will not help me get better. YES NO~~

~~4. I want to get food and water even if I do not want to take medicine or receive treatment. YES NO~~

~~2. INSTRUCTION ABOUT PRIORITIES~~

~~You can use this section to indicate what is important to you, and what is not important to you. This information can help your Agent make decisions for you if you cannot make them for yourself. It also helps others understand your preferences.~~

~~You may mark each item with a check, an X or your initials. You also may leave any item blank if you prefer.~~

~~Staying alive as long as possible even if I have substantial physical limitations is:~~

- ~~Very important~~
- ~~Somewhat important~~
- ~~Not important~~

~~Staying alive as long as possible even if I have substantial mental limitations is:~~

- ~~Very important~~
- ~~Somewhat important~~
- ~~Not important~~

~~Being free from significant pain is:~~

- ~~Very important~~
- ~~Somewhat important~~
- ~~Not important~~

~~Being independent is:~~

- ~~Very important~~
- ~~Somewhat important~~
- ~~Not important~~

~~Having my family and friends involved in making decisions about my care is:~~

- ~~Very important~~
- ~~Somewhat important~~
- ~~Not important~~

~~3. OTHER INSTRUCTIONS~~

~~You can use this section to provide any other information about your goals, preferences, values and wishes for treatment about the health care you want or do not want. You can also use this section to name anyone who you do not want to make decisions for you under any conditions.~~

~~4. OPTIONAL, ADDITIONAL GUIDANCE FOR YOUR AGENT~~

~~You may mark each item with a check, an X or your initials. You also may leave any item blank if you prefer.~~

- ~~The instructions I stated in this document should guide the person making decisions for me. However, I give my Agent permission to be flexible in applying these instructions if they think it would be in my best interest based on what they know about me.~~

~~() The instructions I stated in this document should guide the person making decisions for me. I want them to follow them exactly as written if possible, even if they think something else is better.~~

PART 3: ORGAN DONATION

~~Part 3 allows you to donate your organs when you die. If you do not want to use this form to make a donation, you may leave it blank. You may mark each item with a check, an X or your initials. You also may leave any item blank if you prefer.~~

~~Even if procedures necessary to evaluate, maintain or preserve my organs, tissues or other body parts conflict with other instructions I have put in this form or another document, upon my death:~~

~~() I donate my organs, tissues and other body parts, except for those listed below (list any body parts you do NOT want to donate):.....~~

~~() I donate the following organs, tissues or body parts only (list any body parts you DO want to donate):.....~~

~~() I do not want my organs, tissues or body parts donated to anybody for any reason.~~

~~My organs, tissues and body parts may be used for (mark each item you want with a check, an X or your initials):~~

- ~~() Transplant~~
- ~~() Therapy~~
- ~~() Research~~
- ~~() Education~~
- ~~() All of the above~~

PART 4: SIGNATURES REQUIRED ON THIS FORM

YOUR SIGNATURE:

~~Sign your name:.....~~

~~Today's date:.....~~

SIGNATURE OF A WITNESS

~~You need a witness if you are using this form to name an Agent. The witness cannot be the person you are naming as Agent or the Agent's spouse, domestic partner or someone the Agent lives with as a couple. If you live in a nursing home, the witness cannot be an employee of the home or someone who owns or runs the home.~~

~~Witness's name:.....~~

~~Witness's signature:.....~~

~~(Only sign as a witness if you believe that the person filling out this form is doing so voluntarily.)~~

~~Witness's address: _____~~

~~Date witness signed: _____~~

~~PART 5: INFORMATION FOR AGENTS~~

~~1. If this form appoints you as an Agent, you may make decisions about health care for the person who appointed you when they cannot make their own.~~

~~2. If you make a decision for the person, follow any instructions the person gave, including any in this form.~~

~~3. If you don't know what the person would want, make the decision that you think is in the person's best interest. To figure out what is in the individual's best interest, consider the individual's values, preferences and goals if you know them or can learn them. Some of these preferences may be on this form. You should also consider any behavior or communications from the person that indicate what they currently want.~~

~~4. If this form appoints you as an Agent, you can also get and share the individual's health information. But unless the person has said so in this form, you can only get or share this information when the person cannot make their own decisions about their health care.]~~

~~(Deleted by amendment.)~~

Sec. 57. [NRS 162A.220 is hereby amended to read as follows:

~~162A.220 1. A power of attorney must be signed by the principal or, in the principal's conscious presence, by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.~~

~~2. If the principal resides in a hospital, residential facility for groups, facility for skilled nursing or home for individual residential care, at the time of execution of the power of attorney, a certification of competency of the principal from an advanced practice registered nurse, a physician, psychologist or psychiatrist must be attached to the power of attorney.~~

~~3. If the principal resides or is about to reside in a hospital, assisted living facility or facility for skilled nursing at the time of execution of the power of attorney, in addition to the prohibition set forth in [NRS 162A.840] section 33 of this act and except as otherwise provided in subsection 4, the principal may not name as agent in any power of attorney for any purpose:~~

~~(a) The hospital, assisted living facility or facility for skilled nursing;~~

~~(b) An owner or operator of the hospital, assisted living facility or facility for skilled nursing; or~~

~~(c) An employee of the hospital, assisted living facility or facility for skilled nursing.~~

~~4. The principal may name as agent any person identified in subsection 3 if that person is:~~

~~1 (a) The spouse, legal guardian or next of kin of the principal; or
 2 (b) Named only for the purpose of assisting the principal to establish eligibility
 3 for Medicaid and the power of attorney complies with the provisions of subsection
 4 5.~~

~~5 5. A person may be named as agent pursuant to paragraph (b) of subsection 4
 6 only if:~~

~~7 (a) A valid financial power of attorney for the principal does not exist;~~

~~8 (b) The agent has made a good faith effort to contact each family member of
 9 the principal identified in the records of the hospital, assisted living facility or
 10 facility for skilled nursing, as applicable, to request that the family member
 11 establish a financial power of attorney for the principal and has documented his or
 12 her effort;~~

~~13 (c) The power of attorney specifies that the agent is only authorized to access
 14 financial documents of the principal which are necessary to prove eligibility of the
 15 principal for Medicaid as described in the application for Medicaid and specifies
 16 that any request for such documentation must be accompanied by a copy of the
 17 application for Medicaid or by other proof that the document is necessary to prove
 18 eligibility for Medicaid;~~

~~19 (d) The power of attorney specifies that the agent does not have authority to
 20 access money or any other asset of the principal for any purpose; and~~

~~21 (e) The power of attorney specifies that the power of attorney is only valid
 22 until eligibility of the principal for Medicaid is determined or 6 months after the
 23 power of attorney is signed, whichever is sooner.~~

~~24 6. A person who is named as agent pursuant to paragraph (b) of subsection 4
 25 shall not use the power of attorney for any purpose other than to assist the principal
 26 to establish eligibility for Medicaid and shall not use the power of attorney in a
 27 manner inconsistent with the provisions of subsection 5. A person who violates the
 28 provisions of this subsection is guilty of a category C felony and shall be punished
 29 as provided in NRS 193.130.~~

~~30 7. As used in this section:~~

~~31 (a) "Assisted living facility" has the meaning ascribed to it in NRS 422.3962.~~

~~32 (b) "Facility for skilled nursing" has the meaning ascribed to it in NRS
 33 449.0039.~~

~~34 (c) "Home for individual residential care" has the meaning ascribed to it in
 35 NRS 449.0105.~~

~~36 (d) "Hospital" has the meaning ascribed to it in NRS 449.012.~~

~~37 (e) "Residential facility for groups" has the meaning ascribed to it in NRS
 38 449.017.] (Deleted by amendment.)~~

Sec. 57.3. NRS 162A.710 is hereby amended to read as follows:

162A.710 As used in NRS 162A.700 to 162A.870, inclusive, **and sections 5
 to 36, inclusive, of this act**, unless the context otherwise requires, the words and
 terms defined in NRS 162A.720 to 162A.780, inclusive, **and sections 5 to 19,
 inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 57.7. NRS 162A.790 is hereby amended to read as follows:

162A.790 1. Any adult person may execute a power of attorney enabling
 the agent named in the power of attorney to make decisions concerning health care
 for the principal if that principal becomes incapable of giving informed consent
 concerning such decisions.

2. A power of attorney for health care must be signed by the principal. The
 principal's signature on the power of attorney for health care must be:

(a) Acknowledged before a notary public; or

(b) Witnessed by two adult witnesses. ~~[who know the principal personally.]~~

3. Neither of the witnesses to a principal's signature may be ~~the~~

- ~~1 (a) A provider of health care;~~
- ~~2 (b) An employee of a provider of health care;~~
- ~~3 (c) An operator of a health care facility;~~
- ~~4 (d) An employee of a health care facility; or~~
- ~~5 (e) The agent.] the owner, operator or employee of a nursing home if the~~
- ~~6 principal resides in the nursing home.~~

~~7 4. [At least one of the witnesses to a principal's signature must be a person~~
~~8 who is:~~

- ~~9 (a) Not related to the principal by blood, marriage or adoption; and~~
- ~~10 (b) To the best of the witnesses' knowledge, not entitled to any part of the~~
~~11 estate of the principal upon the death of the principal.~~

~~12 5. If the principal resides in a hospital, residential facility for groups, facility~~
~~13 for skilled nursing or home for individual residential care, at the time of the~~
~~14 execution of the power of attorney, a certification of competency of the principal~~
~~15 from an advanced practice registered nurse, a physician, psychologist or~~
~~16 psychiatrist must be attached to the power of attorney.~~

~~17 6.] A power of attorney executed in a jurisdiction outside of this State is valid~~
~~18 in this State if, when the power of attorney was executed, the execution complied~~
~~19 with the laws of that jurisdiction or the requirements for a military power of~~
~~20 attorney pursuant to 10 U.S.C. § 1044b.~~

~~21 [7. As used in this section:~~

- ~~22 (a) "Facility for skilled nursing" has the meaning ascribed to it in NRS~~
~~23 449.0039.~~
- ~~24 (b) "Home for individual residential care" has the meaning ascribed to it in~~
~~25 NRS 449.0105.~~
- ~~26 (c) "Hospital" has the meaning ascribed to it in NRS 449.012.~~
- ~~27 (d) "Residential facility for groups" has the meaning ascribed to it in NRS~~
~~28 449.017.]~~

~~29 **Sec. 58. [NRS 200.495 is hereby amended to read as follows:**~~

~~30 200.495 1. A professional caretaker who fails to provide such service, care~~
~~31 or supervision as is reasonable and necessary to maintain the health or safety of a~~
~~32 patient is guilty of criminal neglect of a patient if:~~

- ~~33 (a) The act or omission is aggravated, reckless or gross;~~
- ~~34 (b) The act or omission is such a departure from what would be the conduct of~~
~~35 an ordinarily prudent, careful person under the same circumstances that it is~~
~~36 contrary to a proper regard for danger to human life or constitutes indifference to~~
~~37 the resulting consequences;~~
- ~~38 (c) The consequences of the negligent act or omission could have reasonably~~
~~39 been foreseen; and~~
- ~~40 (d) The danger to human life was not the result of inattention, mistaken~~
~~41 judgment or misadventure, but the natural and probable result of an aggravated~~
~~42 reckless or grossly negligent act or omission.~~

~~43 2. Unless a more severe penalty is proscribed by law for the act or omission~~
~~44 which brings about the neglect, a person who commits criminal neglect of a patient:~~

- ~~45 (a) If the neglect results in death, is guilty of a category B felony and shall be~~
~~46 punished by imprisonment in the state prison for a minimum term of not less than 1~~
~~47 year and a maximum term of not more than 20 years.~~
- ~~48 (b) If the neglect results in substantial bodily harm, is guilty of a category B~~
~~49 felony and shall be punished by imprisonment in the state prison for a minimum~~
~~50 term of not less than 1 year and a maximum term of not more than 6 years, or by a~~
~~51 fine of not more than \$5,000, or by both fine and imprisonment.~~
- ~~52 (c) If the neglect does not result in death or substantial bodily harm, is guilty of~~
~~53 a gross misdemeanor.~~

~~2. For the purposes of this section, a patient is not neglected for the sole reason that:~~

~~(a) According to the patient's desire, the patient is being furnished with treatment by spiritual means through prayer alone in accordance with the tenets and practices of a church or religious denomination. Subsection 1 does not authorize or require any medical care or treatment over the implied or express objection of such a patient;~~

~~(b) Life-sustaining treatment was withheld or withdrawn in accordance with a valid declaration by the patient or his or her agent pursuant to [NRS 162A.790.] section 33 of this act.~~

~~4. Upon the conviction of a person for a violation of the provisions of subsection 1, the Attorney General shall give notice of the conviction to the licensing boards which:~~

~~(a) Licensed the facility in which the criminal neglect occurred; and~~

~~(b) If applicable, licensed the person so convicted.~~

~~5. As used in this section:~~

~~(a) "Medical facility" has the meaning ascribed to it in NRS 449.0151.~~

~~(b) "Patient" means a person who resides or receives health care in a medical facility;~~

~~(c) "Professional caretaker" means a person who:~~

~~(1) Holds a license, registration or permit issued pursuant to title 54 or chapter 449 of NRS;~~

~~(2) Is employed by, an agent of or under contract to perform services for, a medical facility; and~~

~~(3) Has responsibility to provide care to patients.~~

~~The term does not include a person who is not involved in the day to day operation or management of a medical facility unless that person has actual knowledge of the criminal neglect of a patient and takes no action to cure such neglect. (Deleted by amendment.)~~

Sec. 59. ~~[NRS 225.330 is hereby amended to read as follows:~~

~~225.330 "Other document" means a document registered with the Secretary of State pursuant to NRS 225.370 and may include, without limitation, a passport, a birth certificate, a marriage license, a form requesting to nominate a guardian that is executed in accordance with NRS 159.0753 or a power of attorney for health care that is properly executed pursuant to [NRS 162A.790.] section 33 of this act. (Deleted by amendment.)~~

Sec. 60. ~~[NRS 232.459 is hereby amended to read as follows:~~

~~232.459 1. The Advocate shall:~~

~~(a) Respond to written and telephonic inquiries received from consumers and injured employees regarding concerns and problems related to health care and workers' compensation;~~

~~(b) Assist consumers and injured employees in understanding their rights and responsibilities under health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;~~

~~(c) Identify and investigate complaints of consumers and injured employees regarding their health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance and assist those consumers and injured employees to resolve their complaints, including, without limitation:~~

~~(1) Referring consumers and injured employees to the appropriate agency, department or other entity that is responsible for addressing the specific complaint of the consumer or injured employee; and~~

~~(2) Providing counseling and assistance to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance;~~

~~(d) Provide information to consumers and injured employees concerning health care plans, including, without limitation, the Public Employees' Benefits Program, and policies of industrial insurance in this State;~~

~~(e) Establish and maintain a system to collect and maintain information pertaining to the written and telephonic inquiries received by the Office for Consumer Health Assistance;~~

~~(f) Take such actions as are necessary to ensure public awareness of the existence and purpose of the services provided by the Advocate pursuant to this section;~~

~~(g) In appropriate cases and pursuant to the direction of the Advocate, refer a complaint or the results of an investigation to the Attorney General for further action;~~

~~(h) Provide information to and applications for prescription drug programs for consumers without insurance coverage for prescription drugs or pharmaceutical services;~~

~~(i) Establish and maintain an Internet website which includes:~~

~~(1) Information concerning purchasing prescription drugs from Canadian pharmacies that have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328;~~

~~(2) Links to websites of Canadian pharmacies which have been recommended by the State Board of Pharmacy for inclusion on the Internet website pursuant to subsection 4 of NRS 639.2328; and~~

~~(3) A link to the website established and maintained pursuant to NRS 439A.270 which provides information to the general public concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State;~~

~~(j) Assist consumers with accessing a navigator, care manager or facilitator to help the consumer obtain health care services;~~

~~(k) Assist consumers with scheduling an appointment with a provider of health care who is in the network of providers under contract to provide services to participants in the health care plan under which the consumer is covered;~~

~~(l) Assist consumers with filing complaints against health care facilities and health care professionals;~~

~~(m) Assist consumers with filing complaints with the Commissioner of Insurance against issuers of health care plans; and~~

~~(n) On or before January 31 of each year, compile a report of aggregated information submitted to the Office for Consumer Health Assistance pursuant to NRS 687B.675, aggregated for each type of provider of health care for which such information is provided and submit the report to the Director of the Legislative Counsel Bureau for transmittal to:~~

~~(1) In even numbered years, the Joint Interim Standing Committee on Health and Human Services; and~~

~~(2) In odd numbered years, the next regular session of the Legislature.~~

~~2. The Advocate may adopt regulations to carry out the provisions of this section and NRS 232.461 and 232.462.~~

~~3. As used in this section:~~

~~(a) "Health care facility" [has the meaning ascribed to it in NRS 162A.740.] means any:~~

~~(1) Medical facility as defined in NRS 449.0151; and~~

~~(2) Facility for the dependent as defined in NRS 449.0045.~~

~~(b) “Navigator, case manager or facilitator” has the meaning ascribed to it in NRS 687B.675.] (Deleted by amendment.)~~

Sec. 61. NRS 433A.190 is hereby amended to read as follows:

433A.190 1. The administrative officer of a public or private mental health facility or hospital shall ensure that, within 24 hours of the emergency admission of a person alleged to be a person in a mental health crisis who is at least 18 years of age, the person is asked to give permission to provide notice of the emergency admission to a family member, friend or other person identified by the person.

2. If a person alleged to be a person in a mental health crisis who is at least 18 years of age gives permission to notify a family member, friend or other person of the emergency admission, the administrative officer shall ensure that:

(a) The permission is recorded in the medical record of the person; and

(b) Notice of the admission is promptly provided to the family member, friend or other person in person or by telephone, facsimile, other electronic communication or certified mail.

3. Except as otherwise provided in subsections 4 and 5, if a person alleged to be a person in a mental health crisis who is at least 18 years of age does not give permission to notify a family member, friend or other person of the emergency admission of the person, notice of the emergency admission must not be provided until permission is obtained.

4. If a person alleged to be a person in a mental health crisis who is at least 18 years of age is not able to give or refuse permission to notify a family member, friend or other person of the emergency admission, the administrative officer of the mental health facility or hospital may cause notice as described in paragraph (b) of subsection 2 to be provided if the administrative officer determines that it is in the best interest of the person in a mental health crisis.

5. If a guardian has been appointed for a person alleged to be a person in a mental health crisis who is at least 18 years of age or the person has executed a durable power of attorney for health care pursuant to [NRS 162A.700 to 162A.870, inclusive, and sections 3 to 56, inclusive, of this act](#) or appointed an attorney-in-fact using an advance directive for psychiatric care pursuant to NRS 449A.600 to 449A.645, inclusive, the administrative officer of the mental health facility or hospital must ensure that the guardian, agent designated by the durable power of attorney or the attorney-in-fact, as applicable, is promptly notified of the admission as described in paragraph (b) of subsection 2, regardless of whether the person alleged to be a person in a mental health crisis has given permission to the notification.

Sec. 62. ~~NRS 439.4923 is hereby amended to read as follows:~~

~~439.4923 “Health care facility” [has the meaning ascribed to it in NRS 162A.740.] means any:~~

~~1. Medical facility as defined in NRS 449.0151; and~~

~~2. Facility for the dependent as defined in NRS 449.0045.] (Deleted by amendment.)~~

Sec. 63. ~~NRS 439.4972 is hereby amended to read as follows:~~

~~439.4972 “Health care facility” [has the meaning ascribed to it in NRS 162A.740.] means any:~~

~~1. Medical facility as defined in NRS 449.0151; and~~

~~2. Facility for the dependent as defined in NRS 449.0045.] (Deleted by amendment.)~~

Sec. 64. NRS 449A.309 is hereby amended to read as follows:

449A.309 “Representative of the patient” means a legal guardian of the patient, a person designated by the patient to make decisions governing the withholding or withdrawal of life-sustaining treatment pursuant to NRS 449A.433

1 or a person given power of attorney to make decisions concerning health care for
 2 the patient pursuant to ~~NRS 162A.700 to 162A.870, inclusive,]~~ **inclusive, and**
 3 **sections 3 to 56, inclusive, of this act.**

4 **Sec. 65.** ~~[NRS 449A.433 is hereby amended to read as follows:~~

5 ~~449A.433 1. A person of sound mind and 18 or more years of age may
 6 execute at any time a declaration governing the withholding or withdrawal of life-
 7 sustaining treatment. The declarant may designate another natural person of sound
 8 mind and 18 or more years of age to make decisions governing the withholding or
 9 withdrawal of life-sustaining treatment. The declaration must be signed by the
 10 declarant, or another at the declarant's direction, and attested by two witnesses.~~

11 ~~2. A physician or other provider of health care who is furnished a copy of the
 12 declaration shall make it a part of the declarant's medical record and, if unwilling to
 13 comply with the declaration, promptly so advise the declarant and any person
 14 designated to act for the declarant.~~

15 ~~3. A durable power of attorney for health care properly executed pursuant to
 16 [NRS 162A.700] section 33 of this act regarding the withholding or withdrawal of
 17 life-sustaining treatment constitutes for the purposes of NRS 449A.400 to
 18 449A.481, inclusive, a properly executed declaration pursuant to this section.]~~
 19 **(Deleted by amendment.)**

20 **Sec. 66.** ~~[NRS 449A.524 is hereby amended to read as follows:~~

21 ~~449A.524 "Health care facility" [has the meaning ascribed to it in NRS
 22 162A.740.] means any:~~

23 ~~1. Medical facility as defined in NRS 449.015; and~~

24 ~~2. Facility for the dependent as defined in NRS 449.0045.]~~ **(Deleted by**
 25 **amendment.)**

26 **Sec. 67.** NRS 449A.545 is hereby amended to read as follows:

27 449A.545 "Representative of the patient" means a legal guardian of the
 28 patient, a person designated by the patient to make decisions governing the
 29 withholding or withdrawal of life-sustaining treatment pursuant to NRS 449A.433
 30 or a person given power of attorney to make decisions concerning health care for
 31 the patient pursuant to **NRS 162A.700 to 162A.870, inclusive, [,], and sections 3 to**
 32 **56, inclusive, of this act.**

33 **Sec. 68.** NRS 449A.621 is hereby amended to read as follows:

34 449A.621 The form of an advance directive for psychiatric care may be
 35 substantially in the following form, and must be witnessed or executed in the same
 36 manner as the following form:

37
 38 **NOTICE TO PERSON MAKING AN ADVANCE DIRECTIVE FOR**
 39 **PSYCHIATRIC CARE**

40
 41 THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES AN
 42 ADVANCE DIRECTIVE FOR PSYCHIATRIC CARE. BEFORE
 43 SIGNING THIS DOCUMENT YOU SHOULD KNOW THESE
 44 IMPORTANT FACTS:

45 THIS DOCUMENT ALLOWS YOU TO MAKE DECISIONS IN
 46 ADVANCE ABOUT CERTAIN TYPES OF PSYCHIATRIC CARE. THE
 47 INSTRUCTIONS YOU INCLUDE IN THIS ADVANCE DIRECTIVE
 48 WILL BE FOLLOWED IF TWO PROVIDERS OF HEALTH CARE,
 49 ONE OF WHOM MUST BE A PHYSICIAN OR LICENSED
 50 PSYCHOLOGIST AND THE OTHER OF WHOM MUST BE A
 51 PHYSICIAN, A PHYSICIAN ASSISTANT, A LICENSED
 52 PSYCHOLOGIST, A PSYCHIATRIST OR AN ADVANCED PRACTICE
 53 REGISTERED NURSE WHO HAS THE PSYCHIATRIC TRAINING

1 AND EXPERIENCE PRESCRIBED BY THE STATE BOARD OF
2 NURSING PURSUANT TO NRS 632.120, DETERMINES THAT YOU
3 ARE INCAPABLE OF MAKING OR COMMUNICATING
4 TREATMENT DECISIONS. OTHERWISE YOU WILL BE
5 CONSIDERED CAPABLE TO GIVE OR WITHHOLD CONSENT FOR
6 THE TREATMENTS. YOUR INSTRUCTIONS MAY BE
7 OVERRIDDEN IF YOU ARE BEING HELD IN ACCORDANCE WITH
8 CIVIL COMMITMENT LAW. BY EXECUTING A DURABLE POWER
9 OF ATTORNEY FOR HEALTH CARE AS SET FORTH IN NRS
10 162A.700 TO 162A.870, INCLUSIVE, AND SECTIONS 3 TO 56,
11 INCLUSIVE, OF THIS ACT, YOU MAY ALSO APPOINT A PERSON
12 AS YOUR AGENT TO MAKE TREATMENT DECISIONS FOR YOU IF
13 YOU BECOME INCAPABLE. THIS DOCUMENT IS VALID FOR TWO
14 YEARS FROM THE DATE YOU EXECUTE IT UNLESS YOU
15 REVOKE IT. YOU HAVE THE RIGHT TO REVOKE THIS
16 DOCUMENT AT ANY TIME YOU HAVE NOT BEEN DETERMINED
17 TO BE INCAPABLE. YOU MAY NOT REVOKE THIS ADVANCE
18 DIRECTIVE WHEN YOU ARE FOUND INCAPABLE BY TWO
19 PROVIDERS OF HEALTH CARE, ONE OF WHOM MUST BE A
20 PHYSICIAN OR LICENSED PSYCHOLOGIST AND THE OTHER OF
21 WHOM MUST BE A PHYSICIAN, A PHYSICIAN ASSISTANT, A
22 LICENSED PSYCHOLOGIST, A PSYCHIATRIST OR AN ADVANCED
23 PRACTICE REGISTERED NURSE WHO HAS THE PSYCHIATRIC
24 TRAINING AND EXPERIENCE PRESCRIBED BY THE STATE
25 BOARD OF NURSING PURSUANT TO NRS 632.120. A
26 REVOCATION IS EFFECTIVE WHEN IT IS COMMUNICATED TO
27 YOUR ATTENDING PHYSICIAN OR OTHER HEALTH CARE
28 PROVIDER. THE PHYSICIAN OR OTHER PROVIDER SHALL NOTE
29 THE REVOCATION IN YOUR MEDICAL RECORD. TO BE VALID,
30 THIS ADVANCE DIRECTIVE MUST BE SIGNED BY TWO
31 QUALIFIED WITNESSES, PERSONALLY KNOWN TO YOU, WHO
32 ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR
33 SIGNATURE. IT MUST ALSO BE ACKNOWLEDGED BEFORE A
34 NOTARY PUBLIC.

35 36 NOTICE TO PHYSICIAN OR OTHER PROVIDER OF HEALTH CARE

37
38 Under Nevada law, a person may use this advance directive to provide
39 consent or refuse to consent to future psychiatric care if the person later
40 becomes incapable of making or communicating those decisions. By
41 executing a durable power of attorney for health care as set forth in NRS
42 162A.700 to 162A.870, inclusive, and sections 3 to 56, inclusive, of this
43 act, the person may also appoint an agent to make decisions regarding
44 psychiatric care for the person when incapable. A person is “incapable” for
45 the purposes of this advance directive when in the opinion of two providers
46 of health care, one of whom must be a physician or licensed psychologist
47 and the other of whom must be a physician, a physician assistant, a licensed
48 psychologist, a psychiatrist or an advanced practice registered nurse who
49 has the psychiatric training and experience prescribed by the State Board of
50 Nursing pursuant to NRS 632.120, the person currently lacks sufficient
51 understanding or capacity to make or communicate decisions regarding
52 psychiatric care. If a person is determined to be incapable, the person may
53 be found capable when, in the opinion of the person’s attending physician

1 or an advanced practice registered nurse who has the psychiatric training
 2 and experience prescribed by the State Board of Nursing pursuant to NRS
 3 632.120 and has an established relationship with the person, the person has
 4 regained sufficient understanding or capacity to make or communicate
 5 decisions regarding psychiatric care. This document becomes effective
 6 upon its proper execution and remains valid for a period of 2 years after the
 7 date of its execution unless revoked. Upon being presented with this
 8 advance directive, the physician or other provider of health care must make
 9 it a part of the person's medical record. The physician or other provider
 10 must act in accordance with the statements expressed in the advance
 11 directive when the person is determined to be incapable, except as
 12 otherwise provided in NRS 449A.636. The physician or other provider shall
 13 promptly notify the principal and, if applicable, the agent of the principal,
 14 and document in the principal's medical record any act or omission that is
 15 not in compliance with any part of an advance directive. A physician or
 16 other provider may rely upon the authority of a signed, witnessed, dated
 17 and notarized advance directive.

18
19 ADVANCE DIRECTIVE FOR PSYCHIATRIC CARE

20
21 I,, being an adult of sound mind or an emancipated
 22 minor, willfully and voluntarily make this advance directive for psychiatric
 23 care to be followed if it is determined by two providers of health care, one
 24 of whom must be my attending physician or a licensed psychologist and the
 25 other of whom must be a physician, a physician assistant, a licensed
 26 psychologist, a psychiatrist or an advanced practice registered nurse who
 27 has the psychiatric training and experience prescribed by the State Board of
 28 Nursing pursuant to NRS 632.120, that my ability to receive and evaluate
 29 information effectively or communicate decisions is impaired to such an
 30 extent that I lack the capacity to refuse or consent to psychiatric care. I
 31 understand that psychiatric care may not be administered without my
 32 express and informed consent or, if I am incapable of giving my informed
 33 consent, the express and informed consent of my legally responsible
 34 person, my agent named pursuant to a valid durable power of attorney for
 35 health care or my consent expressed in this advance directive for
 36 psychiatric care. I understand that I may become incapable of giving or
 37 withholding informed consent or refusal for psychiatric care due to the
 38 symptoms of a diagnosed mental disorder. These symptoms may include:
 39

40
41 PSYCHOACTIVE MEDICATIONS

42
43 If I become incapable of giving or withholding informed consent for
 44 psychiatric care, my instructions regarding psychoactive medications are as
 45 follows: (Place initials beside choice.)

46 I consent to the administration of the
 47 following medications: [.....]
 48

49 I do not consent to the administration of the
 50 following medications: [.....]
 51

52 Conditions or limitations:
 53

ADMISSION TO AND RETENTION IN FACILITY

If I become incapable of giving or withholding informed consent for psychiatric care, my instructions regarding admission to and retention in a medical facility for psychiatric care are as follows: (Place initials beside choice.)

I consent to being admitted to a medical facility for psychiatric care. [.....]
My facility preference is:

I do not consent to being admitted to a medical facility for psychiatric care. [.....]

This advance directive cannot, by law, provide consent to retain me in a facility beyond the specific number of days, if any, provided in this advance directive.

Conditions or limitations:

ADDITIONAL INSTRUCTIONS

These instructions shall apply during the entire length of my incapacity. In case of a mental health crisis, please contact:

- 1. Name:
Address:
Home Telephone Number:
Work Telephone Number:
Relationship to Me:
2. Name:
Address:
Home Telephone Number:
Work Telephone Number:
Relationship to Me:
3. My physician:
Name:
Work Telephone Number:
4. My therapist or counselor:
Name:
Work Telephone Number:

The following may cause me to experience a mental health crisis:

The following may help me avoid a hospitalization:

I generally react to being hospitalized as follows:

Staff of the hospital or crisis unit can help me by doing the following:

I give permission for the following person or people to visit me:

Instructions concerning any other medical interventions, such as electroconvulsive (ECT) treatment (commonly referred to as "shock treatment"):

instrument is an advance directive for psychiatric care and that he or she willingly and voluntarily made and executed it as his or her free act and deed for the purposes expressed in it.

I further certify that and, witnesses, appeared before me and swore or affirmed that each witnessed sign the attached advance directive for psychiatric care believing him or her to be of sound mind and also swore that at the time each witnessed the signing, each person was: (1) not the attending physician or provider of health care, or an employee of the physician or provider, of the principal; (2) not the owner or operator, or employee of the owner or operator, of a medical facility in which the principal is a patient or resident; and (3) not a person appointed as an attorney-in-fact by the attached advance directive for psychiatric care. I further certify that I am satisfied as to the genuineness and due execution of the instrument.

This is the day of,

.....

Notary Public

My Commission expires:

Sec. 69. NRS 449A.703 is hereby amended to read as follows:

449A.703 “Advance directive” means an advance directive for health care.

The term includes:

- 1. A declaration governing the withholding or withdrawal of life-sustaining treatment as set forth in NRS 449A.400 to 449A.481, inclusive;
- 2. A durable power of attorney for health care as set forth in NRS 162A.700 to 162A.870, inclusive ~~[-], and sections 3 to 56, inclusive, of this act;~~
- 3. An advance directive for psychiatric care as set forth in NRS 449A.600 to 449A.645, inclusive;
- 4. A do-not-resuscitate order as defined in NRS 450B.420; and
- 5. A Provider Order for Life-Sustaining Treatment form as defined in NRS 449A.542.

Sec. 70. NRS 449A.727 is hereby amended to read as follows:

449A.727 1. The provisions of NRS 449A.700 to 449A.739, inclusive, do not require a provider of health care to inquire whether a patient has an advance directive registered on the Registry or to access the Registry to determine the terms of the advance directive.

2. A provider of health care who relies in good faith on the provisions of an advance directive retrieved from the Registry is immune from criminal and civil liability as set forth in:

- (a) NRS 449A.460, if the advance directive is a declaration governing the withholding or withdrawal of life-sustaining treatment executed pursuant to NRS 449A.400 to 449A.481, inclusive, or a durable power of attorney for health care executed pursuant to NRS 162A.700 to 162A.870, inclusive ~~[-], and sections 3 to 56, inclusive, of this act.~~
- (b) NRS 449A.642, if the advance directive is an advance directive for psychiatric care executed pursuant to NRS 449A.600 to 449A.645, inclusive;
- (c) NRS 449A.500 to 449A.581, inclusive, if the advance directive is a Provider Order for Life-Sustaining Treatment form; or
- (d) NRS 450B.540, if the advance directive is a do-not-resuscitate order as defined in NRS 450B.420.

Sec. 71. ~~NRS 450B.440 is hereby amended to read as follows:~~

~~450B.440 “Health care facility” [has the meaning ascribed to it in NRS 162A.740.] means any:~~

- ~~1. Medical facility as defined in NRS 449.0151; and~~

~~2. Facility for the dependent as defined in NRS 449.0045-7 (Deleted by amendment.)~~

Sec. 72. NRS 450B.520 is hereby amended to read as follows:

450B.520 Except as otherwise provided in NRS 450B.525:

1. A qualified patient may apply to the health authority for a do-not-resuscitate identification by submitting an application on a form provided by the health authority. To obtain a do-not-resuscitate identification, the patient must comply with the requirements prescribed by the board and sign a form which states that the patient has informed each member of his or her family within the first degree of consanguinity or affinity, whose whereabouts are known to the patient, or if no such members are living, the patient's legal guardian, if any, or if he or she has no such members living and has no legal guardian, his or her caretaker, if any, of the patient's decision to apply for an identification.

2. An application must include, without limitation:

(a) Certification by the patient's attending physician or attending advanced practice registered nurse that the patient suffers from a terminal condition;

(b) Certification by the patient's attending physician or attending advanced practice registered nurse that the patient is capable of making an informed decision or, when the patient was capable of making an informed decision, that the patient:

(1) Executed:

(I) A written directive that life-resuscitating treatment be withheld under certain circumstances;

(II) A durable power of attorney for health care pursuant to NRS 162A.700 to 162A.870, inclusive, ~~and sections 3 to 56, inclusive, of this act~~; or

(III) A Provider Order for Life-Sustaining Treatment form pursuant to NRS 449A.500 to 449A.581, inclusive, if the form provides that the patient is not to receive life-resuscitating treatment; or

(2) Was issued a do-not-resuscitate order pursuant to NRS 450B.510;

(c) A statement that the patient does not wish that life-resuscitating treatment be undertaken in the event of a cardiac or respiratory arrest;

(d) The name, signature and telephone number of the patient's attending physician or attending advanced practice registered nurse; and

(e) The name and signature of the patient or the agent who is authorized to make health care decisions on the patient's behalf pursuant to a durable power of attorney for health care decisions.

Sec. 73. ~~NRS 451.595 is hereby amended to read as follows:~~

~~451.595 1. As used in this section:~~

~~(a) "Advance health care directive" means a power of attorney for health care or other record signed by a prospective donor, or executed in the manner set forth in [NRS 162A.700,] section 33 of this act, containing the prospective donor's direction concerning a health care decision for the prospective donor.~~

~~(b) "Declaration" means a record signed by a prospective donor, or executed as set forth in NRS 449A.433, specifying the circumstances under which life-sustaining treatment may be withheld or withdrawn from the prospective donor. The term includes a Provider Order for Life-Sustaining Treatment form executed pursuant to NRS 449A.500 to 449A.581, inclusive.~~

~~(c) "Health care decision" means any decision made regarding the health care of the prospective donor.~~

~~2. If a prospective donor has a declaration or advance health care directive and the terms of the declaration or advance health care directive and the express or implied terms of the potential anatomical gift are in conflict concerning the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy;~~

~~1 — (a) The attending physician of the prospective donor shall confer with the
2 prospective donor to resolve the conflict or, if the prospective donor is incapable of
3 resolving the conflict, with:~~

~~4 — (1) An agent acting under the declaration or advance health care directive
5 of the prospective donor; or~~

~~6 — (2) If an agent is not named in the declaration or advance health care
7 directive or the agent is not reasonably available, any other person authorized by
8 law, other than by a provision of NRS 451.500 to 451.598, inclusive, to make a
9 health care decision for the prospective donor.~~

~~10 — (b) The conflict must be resolved as expeditiously as practicable.~~

~~11 — (c) Information relevant to the resolution of the conflict may be obtained from
12 the appropriate procurement organization and any other person authorized to make
13 an anatomical gift of the prospective donor's body or part under NRS 451.556.~~

~~14 — (d) Before the resolution of the conflict, measures necessary to ensure the
15 medical suitability of the part may not be withheld or withdrawn from the
16 prospective donor, if withholding or withdrawing the measures is not medically
17 contraindicated for the appropriate treatment of the prospective donor at the end of
18 his or her life.] **(Deleted by amendment.)**~~

~~19 **Sec. 74.** [NRS 457.020 is hereby amended to read as follows:~~

~~20 — 457.020 As used in this chapter, unless the context requires otherwise:~~

~~21 — 1. "Cancer" means all malignant neoplasms, regardless of the tissue of origin,
22 including malignant lymphoma and leukemia.~~

~~23 — 2. "Division" means the Division of Public and Behavioral Health of the
24 Department of Health and Human Services.~~

~~25 — 3. "Health care facility" [has the meaning ascribed to it in NRS 162A.740 and
26 also includes freestanding facilities] **means any:**~~

~~27 — (a) *Medical facility as defined in NRS 449.0151;*~~

~~28 — (b) *Facility for the dependent as defined in NRS 449.0045; and*~~

~~29 — (c) *Freestanding facility for plastic reconstructive, oral and maxillofacial
30 surgery.*~~

~~31 — 4. "Other treatment facility" means a facility, other than a health care facility,
32 that provides services to patients with cancer and other neoplasms, including,
33 without limitation, screening, diagnosis and treatment.~~

~~34 — 5. "Provider of health care" has the meaning ascribed to it in NRS 629.031.]~~

~~35 **(Deleted by amendment.)**~~

~~36 **Sec. 75.** [NRS 631.313 is hereby amended to read as follows:~~

~~37 — 631.313 1. Except as otherwise provided in NRS 454.217 and 629.086, a
38 licensed dentist may assign to a person in his or her employ who is a dental
39 hygienist, dental therapist, dental assistant or other person directly or indirectly
40 involved in the provision of dental care only such intraoral tasks as may be
41 permitted by a regulation of the Board or by the provisions of this chapter.~~

~~42 — 2. The performance of those tasks must be:~~

~~43 — (a) If performed by a dental assistant or a person, other than a dental hygienist
44 or dental therapist, who is directly or indirectly involved in the provision of dental
45 care, under the supervision of the licensed dentist who made the assignment.~~

~~46 — (b) If performed by a dental hygienist or dental therapist, authorized by the
47 licensed dentist of the patient for whom the tasks will be performed, except as
48 otherwise provided in NRS 631.287.~~

~~49 — 3. No such assignment is permitted that requires:~~

~~50 — (a) The diagnosis, treatment planning, prescribing of drugs or medicaments, or
51 authorizing the use of restorative, prosthodontic or orthodontic appliances.~~

~~1 (b) Surgery on hard or soft tissues within the oral cavity or any other intraoral
2 procedure that may contribute to or result in an irremediable alteration of the oral
3 anatomy;~~

~~4 (c) The administration of general anesthesia, minimal sedation, moderate
5 sedation or deep sedation except as otherwise authorized by regulations adopted by
6 the Board;~~

~~7 (d) The performance of a task outside the authorized scope of practice of the
8 employee who is being assigned the task;~~

~~9 4. A dental hygienist may, pursuant to regulations adopted by the Board,
10 administer local anesthesia or nitrous oxide in a health care facility [, as defined in
11 NRS 162A.740.] if:~~

~~12 (a) The dental hygienist is so authorized by the licensed dentist of the patient to
13 whom the local anesthesia or nitrous oxide is administered; and~~

~~14 (b) The health care facility has licensed medical personnel and necessary
15 emergency supplies and equipment available when the local anesthesia or nitrous
16 oxide is administered;~~

~~17 5. As used in this section, "health care facility" means any:~~

~~18 (a) Medical facility as defined in NRS 449.0151; and~~

~~19 (b) Facility for the dependent as defined in NRS 449.0045.] (Deleted by
20 amendment.)~~

Sec. 76. ~~[NRS 639.0155 is hereby amended to read as follows:~~

~~21 639.0155 1. "Wholesale distribution" means the distribution of drugs to
22 persons other than consumers or patients, but does not include:~~

~~23 [1.] (a) Sales within a company;~~

~~24 [2.] (b) The purchase or other acquisition of a drug by a health care facility or
25 a pharmacy that is a member of a purchasing organization;~~

~~26 [3.] (c) The sale, purchase or trade of a drug or an offer to sell, purchase or
27 trade a drug;~~

~~28 [(a)] (1) By a charitable organization, as defined by section 501(c)(3) of the
29 Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), to a nonprofit affiliate of the
30 organization;~~

~~31 [(b)] (2) Between health care facilities or pharmacies that are under common
32 control;~~

~~33 [(c)] (3) For emergency medical reasons;~~

~~34 [(d)] (4) Pursuant to a prescription;~~

~~35 [4.] (d) A transfer of drugs, in an amount not to exceed 5 percent of the total
36 annual sales, by a retail pharmacy to another retail pharmacy to alleviate a
37 temporary shortage;~~

~~38 [5.] (e) The distribution of drug samples by a representative of the
39 manufacturer or distributor;~~

~~40 [6.] (f) The sale, purchase or exchange of blood or blood components for
41 transfusions;~~

~~42 [***] 2. As used in this section, "health care facility" [has the meaning ascribed to
43 it in NRS 162A.740.] means any:~~

~~44 (a) Medical facility as defined in NRS 449.0151; and~~

~~45 (b) Facility for the dependent as defined in NRS 449.0045.] (Deleted by
46 amendment.)~~

Sec. 77. 1. The provisions of this act apply to an advance health-care
47 directive created before, on or after January 1, 2024.

2. An advance health-care directive created before January 1, 2024, is valid if
48 it complies with the provisions of this act or complied at the time of creation with
49 the law of the state in which it was created.
50
51
52

3. The provisions of this act do not affect the validity or effect of an act done before January 1, 2024.

4. An individual who assumed authority to act as a default surrogate before January 1, 2024, may continue to act as a default surrogate until the individual for whom the default surrogate is acting no longer lacks capacity or the default surrogate is disqualified, whichever occurs first.

5. An advance health-care directive created before, on or after January 1, 2024, must be interpreted in accordance with the law of this State, excluding the State's choice-of-law rules, at the time the directive is implemented.

Sec. 78. ~~NRS [162A.700, 162A.710, 162A.720, 162A.730, 162A.740, 162A.745, 162A.750, 162A.760, 162A.770, 162A.780, 162A.790, 162A.800, 162A.810, 162A.815, 162A.820, 162A.830, 162A.840, 162A.850,] 162A.860 [162A.865 and 162A.870 are] is hereby repealed.~~

Sec. 79. This act becomes effective on January 1, 2024.

~~HEADLINES]~~ **TEXT OF REPEALED [SECTIONS]** SECTION

- ~~162A.700 Applicability.~~
- ~~162A.710 Definitions.~~
- ~~162A.720 "Attending physician" defined.~~
- ~~162A.730 "Declaration" defined.~~
- ~~162A.740 "Health care facility" defined.~~
- ~~162A.745 "Intellectual disability" defined.~~
- ~~162A.750 "Life sustaining treatment" defined.~~
- ~~162A.760 "Provider of health care" defined.~~
- ~~162A.770 "Qualified patient" defined.~~
- ~~162A.780 "Terminal condition" defined.~~
- ~~162A.790 Execution of power of attorney; acknowledgment; witnesses; certification of competency required for certain principals; validity of power of attorney executed outside this State.~~
- ~~162A.800 Nomination of guardian of person; relation of agent to court-appointed guardian; duties of guardian.~~
- ~~162A.810 Time at which power of attorney is effective.~~
- ~~162A.815 Acceptance and reliance upon acknowledged power of attorney.~~
- ~~162A.820 Termination of power of attorney or authority of agent.~~
- ~~162A.830 Co agents and successor agents.~~
- ~~162A.840 Persons not eligible for designation as agent.~~
- ~~162A.850 Agents: Prohibited acts; decisions concerning use or nonuse of life-sustaining treatment.~~
- ~~162A.860 Power of attorney: Form.~~
- ~~162A.865 Power of attorney for adult with intellectual disability: Form.~~
- ~~162A.870 Power of attorney for adult with dementia: Form.]~~
- 162A.860 Power of attorney: Form. Except as otherwise provided in NRS 162A.865 and 162A.870, the form of a power of attorney for health care may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:**

**DURABLE POWER OF ATTORNEY
FOR HEALTH CARE DECISIONS**

WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL OF CONSENT OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO MAINTAIN, DIAGNOSE OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR OR ADVANCED PRACTICE REGISTERED NURSE NOT GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6. YOU HAVE THE RIGHT TO DECIDE WHERE YOU LIVE, EVEN AS YOU AGE. DECISIONS ABOUT WHERE YOU LIVE ARE PERSONAL. SOME PEOPLE LIVE AT HOME WITH SUPPORT, WHILE OTHERS MOVE TO ASSISTED LIVING FACILITIES OR FACILITIES FOR SKILLED NURSING. IN SOME CASES, PEOPLE ARE MOVED TO FACILITIES WITH LOCKED DOORS TO PREVENT PEOPLE WITH COGNITIVE DISORDERS FROM LEAVING OR GETTING LOST OR TO PROVIDE

ASSISTANCE TO PEOPLE WHO REQUIRE A HIGHER LEVEL OF CARE. YOU SHOULD DISCUSS WITH THE PERSON DESIGNATED IN THIS DOCUMENT YOUR DESIRES ABOUT WHERE YOU LIVE AS YOU AGE OR IF YOUR HEALTH DECLINES. YOU HAVE THE RIGHT TO DETERMINE WHETHER TO AUTHORIZE THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE DECISIONS FOR YOU ABOUT WHERE YOU LIVE WHEN YOU ARE NO LONGER CAPABLE OF MAKING THAT DECISION. IF YOU DO NOT PROVIDE SUCH AUTHORIZATION TO THE PERSON DESIGNATED IN THIS DOCUMENT, THAT PERSON MAY NOT BE ABLE TO ASSIST YOU TO MOVE TO A MORE SUPPORTIVE LIVING ARRANGEMENT WITHOUT OBTAINING APPROVAL THROUGH A JUDICIAL PROCESS.

7. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

8. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, ADVANCED PRACTICE REGISTERED NURSE, HOSPITAL OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

9. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

10. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

11. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

12. YOU MAY REQUEST THAT THE NEVADA SECRETARY OF STATE ELECTRONICALLY STORE WITH THE NEVADA LOCKBOX A COPY OF THIS DOCUMENT TO ALLOW ACCESS BY AN AUTHORIZED PROVIDER OF HEALTH CARE AS DEFINED IN NRS 629.031.

1. DESIGNATION OF HEALTH CARE AGENT.

I,,
(insert your name) do hereby designate and appoint:

Name:
Address:
Telephone Number:

as my agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your agent to make health care decisions for you. Unless the person is

also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4. SPECIAL PROVISIONS AND LIMITATIONS.

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of treatment or placement that you do not want your agent's authority to give consent for or other restrictions you wish to place on his or her agent's authority, you should list them in the space below. If you do not write any limitations, your agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my agent is subject to the following special provisions and limitations:

.....
.....
.....
.....

5. DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this power of attorney end on the following date:

6. STATEMENT OF DESIRES CONCERNING TREATMENT.

(With respect to decisions to withhold or withdraw life-sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)

(If the statement reflects your desires, initial the box next to the statement.)

A. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures. _____ [.....]

B. If I am in a coma which my doctors or advanced practice registered nurses have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments not be used. _____ [.....]

C. If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments not be used. _____ [.....]

D. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld. _____ [.....]

E. I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life. _____ [.....]

F. If I have an incurable or terminal condition, including late stage dementia,

or illness and no reasonable hope of long-term recovery or survival, I desire my attending physician to administer any medication to alleviate suffering without regard that the medication is likely to cause addiction or reduce the extension of my life. [.....

(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires:
.....
.....
.....
.....

7. STATEMENT OF DESIRES CONCERNING LIVING ARRANGEMENTS

A. I desire to live in my home as long as it is safe and my medical needs can be met. My agent may arrange for a natural person, employee of an agency or provider of community-based services to come into my home to provide care for me. When it is no longer safe for me to live in my home, I authorize my agent to place me in a facility or home that can provide any medical assistance and support in my activities of daily living that I require. Before being placed in such a facility or home, I wish for my agent to discuss and share information concerning the placement with me. [.....

B. I desire to live in my home for as long as possible without regard for my medical needs, personal safety or ability to engage in activities of daily living. My agent may arrange for a natural person, an employee of an agency or a provider of community-based services to come into my home and provide care for me. I understand that, before I may be placed in a facility or home other than the home in which I currently reside, a guardian must be appointed for me. [.....

(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires:
.....
.....

.....
.....
.....

8. DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same health care decisions as the agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my agent is unable to make health care decisions for me, then I designate the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternative Agent

Name:

Address:

Telephone Number:

B. Second Alternative Agent

Name:

Address:

Telephone Number:

9. PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

10. WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

11. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my advanced practice registered nurse, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

12. NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, proceedings seeking an adjudication of incapacity are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

13. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on (date) at (city), (state)

.....
(Signature)

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }
}ss.
County of }

On this..... day of..... in the year..., before me..... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

NOTARY SEAL
(Signature of Notary Public)

STATEMENT OF WITNESSES

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

Signature: Residence Address:
Print Name:
Date:

Signature: Residence Address:
Print Name:
Date:

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature:

Signature:

Names: Address:
Print Name:
Date:

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care. This includes requesting the Nevada Secretary of State to electronically store this document with the Nevada Lockbox to allow access by authorized providers of healthcare.