

50 STATE SURVEY – ADVANCE DIRECTIVES

State	Limits on Agent?	Prohibited Agents?	Requirements for Execution?	Prohibited Witnesses?	Comity?	Surrogate in Absence of Advance Directive?	Mechanism for Unbefriended?
Alabama Ala. Code 1975 §§ 22-8A-1 to -14	<ul style="list-style-type: none"> ▪ Mental health facility admission and treatments ▪ Psycho-surgery ▪ Sterilization ▪ Abortion ▪ Pregnancy limitation ▪ Refusal of nutrition & hydration permitted if expressly authorized 	Individual's healthcare provider (Exception for relatives employed by the provider)	2 or more witnesses age 19 or older	Minor = 18 Agent Proxy signor Relative Heir Person responsible for care costs	Yes	Yes	Yes
Alaska Alaska Stat. §§ 13-52-010 to -395	<p>Pregnancy limitation</p> <p>Consent/refusal for Psycho-surgery Sterilization Abortion Removal of bodily organs Temporary admission to mental health facility Electro-convulsive therapy Psychotropic medication Life-sustaining procedures only if expressly authorized.</p>	• Facility provider (Exception for relatives)	2 witnesses or notarized	Agent Facility provider One witness may not be a relative or heir	Yes	Yes	No
Arizona Ariz. Rev. Stat. §§ 36-3208 to -3261	None specified	None specified	1 witness or notarized	Agent Provider If only one witness, may not be heir or relative	Yes	Yes	Yes
Arkansas Ark. Code Ann. §	Life-sustaining treatment unless DPA incorporates proxy authorization from the Living	None specified	2 witnesses	None specified	YES, if part of a (living will)	Yes	No

20-13-104; §§ 20-17-201 to -218	Will Declaration statute, §20-17-202 Pregnancy limitation				declaration		
California Cal. Probate Code §4600 to -4948 806	Civil commitment Electro-convulsive therapy Psycho-surgery Sterilization Abortion	<ul style="list-style-type: none"> • Supervising Individ. Provider* • Facility Provider* • Conservator – unless conditions are met. * Exception for relatives who are employees of. 	2 witnesses or notarized and special institutional requirements	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Facility Provider One may not be: <ul style="list-style-type: none"> • Relative • Heir 	Yes	Yes	No
Colorado Colo. Rev. Stat. §15-14-503 to -509. <i>Separate Living Will Statute:</i> Colo. Rev. Stat. §15-18-101 to -113	None specified	None specified	None specified	None specified	Yes	Yes	No
Connecticut Conn. Gen. Stat. §19a-570 to -580d	None specified, but authority is described as authority to "convey" principal's wishes, rather than to make decisions for principal.	<ul style="list-style-type: none"> • Facility Provider* • Attending physician • 	2 witnesses or notarized and special institutional requirements	Agent	No	Yes	Yes

	Pregnancy limitation	Administrat or or employee of gov't agency financially responsible for care* * Exception for relatives					
Delaware Del. Code Ann. tit. 16, §2501 to 2518	Pregnancy limitation	— Residential LTC Facility Provider* * Exception for relatives	2 witnesses or notarized and special institutional requirements	Facility provider • Relative • Heir • Creditor • Person responsible for care costs	Yes	Yes	No
District of Columbia D.C. Code Ann. §21-2201 to -2213 <i>Separate Living Will Statute:</i> D.C. Code Ann. §7-621 to –630	Decision to medicate a defendant to render him/her competent to stand trial	• Indiv. Provider • Facility Provider	2 witnesses	• Principal • Individual Provider • Facility Provider • One may not be relative or heir	No	Yes	No

<p>Florida</p> <p>Fla. Stat. Ann. §765.101 to -.404</p>	<p>Consent or refusal of: Mental health facility admission Electro-convulsive therapy Psycho-surgery Sterilization Abortion Experimental treatments not approved by IRB Life-sustaining procedures while pregnant permissible if expressly authorized</p> <p>Pregnancy limitation.</p>	<p>None specified</p>	<p>2 witnesses</p>	<ul style="list-style-type: none"> • Agent • One may not be spouse or relative 	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>
<p>Georgia</p> <p>Ga. Code Ann. §31-36A-1 to –13</p> <p><i>Separate Living Will Statute:</i> §31-32-1 – 12</p>	<p>Mental health facility admission or treatment under Title 37 of Code Psycho-surgery Sterilization</p>	<ul style="list-style-type: none"> • Indiv. Provider directly or indirectly involved 	<p>2 witnesses or notarized and special institutional requirements</p> <p>Electronic signature prohibited</p>	<p>None</p>	<p>No</p>	<p>Yes</p>	<p>No</p>
<p>Hawaii</p> <p>Hawaii Rev. Stat. §327E-1 to –16</p>	<p>None specified</p>	<p>Facility provider Exception for relatives</p>	<p>2 witnesses or notarized</p>	<ul style="list-style-type: none"> • Indiv. provider • Facility provider • Agent One may not be • Relative • Heir 	<p>Yes</p>	<p>Yes</p>	<p>No</p>

<p>Idaho</p> <p>Idaho Code §39-4501 to -4509</p>	<p>Pregnancy limitation</p>	<p>Indiv. Provider*</p> <ul style="list-style-type: none"> • Community Care Facility Provider* • Exception for relatives who are employees 	<p>2 witnesses or notarized</p>	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Community Care Facility • One may not be relative or heir 	<p>No</p>	<p>Yes</p>	<p>No</p>
<p>Illinois</p> <p>755 ILCS 45/4-1 through 4-12</p> <p><i>Separate LW Statute: 755 ILCS 35/1 to 35/10</i></p>	<p>None specified</p>	<p>Individual provider</p>	<p>None specified</p>	<p>None specified</p>	<p>Yes</p>	<p>Yes</p>	<p>No</p>
<p>Indiana</p> <p>Ind. Code §§30-5-1-1 to 30-5-5-19</p> <p><i>Separate LW Statute: Ind. Code Ann. §16-36-4-1 to -21</i></p>	<p>None specified</p>	<p>None specified</p>	<p>Notarized or one witness</p>	<p>Agent</p>	<p>Yes</p>	<p>Yes</p>	<p>No</p>
<p>Iowa</p> <p>Iowa Code Ann. §144B.1 to .12</p> <p><i>Separate LW Statute: Iowa Code</i></p>	<p>None specified</p>	<p>Individual provider</p> <p>Exceptions for relatives</p>	<p>2 witnesses or notarized</p>	<p>Agent</p> <p>Individual provider</p> <p>One may not be relative</p>	<p>Yes</p>	<p>Yes</p>	<p>No</p>

Ann. §144A.1 to .12							
Kansas Kan. Stat. Ann. §58-625 to -632 <i>Separate LW Statute:</i> Kan. Stat. Ann. §65-28,101 to 28,109	Cannot revoke previous living will	Individual provider Facility provider Exception for relatives and religious community members	2 witnesses or notarized	Agent Relative Heir Person responsible for care costs	Yes	Yes	No
Kentucky Ky. Rev. Stat. §311.621 to .643	Refusal of nutrition & hydration permissible if specified conditions are met Pregnancy limitation	• Facility provider* * Exception for relatives	2 witnesses or notarized	• Relative • Facility Provider • Attg. physician • Heir • Person responsible for care costs	No	Yes	No
Louisiana La. Rev. Stat. Ann 40:1299.58.1 to .10	Powers implicitly limited to executing a living will declaration on behalf of principal. However, a DPA may confer health decision powers generally on an agent	None specified	2 witnesses	Relative Heir	Yes	Yes	No
Maine Me. Rev. Stat. Ann. tit. 18A, §5-801 to §5-817	Mental health facility admission, consent permissible if expressly authorized	• LTC Facility provider* * Exception for relatives	2 witnesses	None specified	Yes	Yes	No
Maryland Md. Code Ann.	None specified	Facility provider Exception	2 witnesses; also recognizes oral directive to	Agent One must not be heir or have any other financial	Yes	Yes	No

[Health-Gen.] §5-601 to -618		for relatives	a physician with one witness	interests in person' death			
Massachusetts Mass. Gen. Laws Ann. Ch. 201D	None specified	Facility provider Exception for relatives	2 witnesses	Agent	Yes	No	No
Michigan Mich. Comp. Laws Ann. §700.5506 to 5512	Pregnacy limitation Refusal of life sustaining procedures permissible if expressly authorized	None specified	2 witnesses Agent must accept in writing before acting as agent	Agent • Relative • Heir • Individ. Provider • Facility Provider • Employee of life/health insurance provider for patient	No	Yes	No
Minnesota Minn. Stat. Ann. §145C.01 to .16 <i>Separate LW Statute:</i> Minn. Stat. §145B.01 to .17	None specified	• Individ. Provider* • Facility Provider* * Exception for relatives	2 witnesses or notarized	• Agent • One may not be provider	Yes	No	No
Mississippi Miss. Code Ann. §41-41-201 to -229	Mental health facility admission, consent permissible if expressly authorized	• LTC Facility * Exception for relatives	2 witnesses or notarized	• Agent • Individ. Provider • Facility Provider • One may not be relative or heir	Yes but only if directive complies with this Act	Yes	Yes
Missouri	Refusal of nutrition and hydration permissible if	• Att. Physician*	Must contain language of	None specified	Yes	No	No

Mo. Ann. Stat. §404.800 - .872 <i>Separate LW Statute:</i> Mo. Ann. Stat. §459.010 to 459.055	expressly authorized	• Facility Provider* * Exception for relatives and members of same religious community	durability and be acknowledged as conveyance of real estate (§404.705)				
Montana Mont. Code Ann. §50-9-101 to -206	Pregnancy limitation	None specified	Living Will statute: 2 witnesses DPA statute: none required, customarily notarized	None specified	Yes	Yes	No
Nebraska Neb. Rev. Stat. §30-3401 to -3432 (2007) <i>Separate LW Statute:</i> Neb. Rev. Stat. §20-401 to -416	Refusal of life sustaining procedures, nutrition & hydration permissible if expressly authorized Pregnancy limitation	• Att. Physician* • Facility* • Any agent serving 10 or more principals* * Exception for relatives who are employees of.	2 witnesses or notarized	• Agent • Spouse • Relative • Heir • Att. Physician • Insurer One may not be Facility provider	Yes	No	No
Nevada Nev. Rev. Stat. §449.800 to .860 (2007) <i>Separate LW</i>	Mental health facility admission Electro-convulsive therapy Aversive intervention Psycho-surgery Sterilization Abortion	• Indiv. Provider* • Facility Provider* * Exception for relatives	2 witnesses or notarized	Agent • Indiv. Provider • Facility Provider • One may not be relative or heir	No	Yes	No

<i>Statute:</i> Nev. Rev. Stat.449.535 to 690							
New Hampshire N.H. Rev. Stat. Ann. §137-J:1 to -J:16 (2007) <i>LW Statute: Repealed</i>	Mental health facility admission • Sterilization Pregnancy limitation Refusal of nutrition & hydration permissible if expressly authorized	• Facility Provider* * Exception for relatives who are employees of	2 witnesses or notarized Principal must acknowledge receipt of mandatory notice	• Agent • Spouse • Heir • AH Physician • One may not be residential care provider	Yes	No	No
New Jersey N.J. Stat. Ann. §26:2H-53 to -81 (West 2007)	None specified	Att. Physician • Facility Provider * Exception for relatives	2 witnesses or notarized	Agent	Yes	Yes	No
New Mexico N.M. Stat. Ann. §24-7A-1 to -18	Mental health facility admission	LTC Facility Provider * Exception for relatives	2 witnesses recommended, not required	None specified	YES, but only if directive complies with this Act	Yes	No
New York N.Y. Pub. Health Law §2980 to 2994	Principal must make her wishes for nutrition & hydration "reasonably known"	• Att. Physician* • Facility Provider* • Any agent serving 10 or more principals* * Exception for relatives who are employees	2 witnesses and special institutional requirements	Agent	Yes	Yes	Yes

		of.					
<p>North Carolina</p> <p>N.C. Gen. Stat. §32A-15 to -26</p> <p><i>Separate LW Statute:</i> N.C. Gen. Stat. § 90-320 to -322</p>	None specified	<ul style="list-style-type: none"> • Indiv. Provider 	2 witnesses and notarized	<ul style="list-style-type: none"> • Relative • Heir • Att. Physician • Facility Provider (unpaid facility volunteers may witness) • Creditor 	No	Yes	Yes
<p>North Dakota</p> <p>N.D. Cent. Code §23-06.5-01 to -18</p>	<p>Mental health facility admission >45 days</p> <p>Psycho-surgery</p> <p>Abortion</p> <p>Sterilization</p>	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* * Exception for relatives who are employees of 	<p>2 witnesses or notarized</p> <p>Agent must accept designation in writing</p>	<ul style="list-style-type: none"> Agent * • Spouse * • Heir * • Relative * • Creditor * <p>One may not be:</p> <ul style="list-style-type: none"> • Indiv. Provider • Facility Provider <p>* Also disqualifies notary</p>	Yes	Yes	No
<p>Ohio</p> <p>Ohio Rev. Code §1337.11 to .17</p> <p><i>Separate LW Statute:</i> Ohio Rev. Code §2133.01 to .15</p>	<p>Refusal of life-sustaining procedures and nutrition & hydration permissible if specified conditions met</p> <p>Pregnancy limitation</p>	<ul style="list-style-type: none"> • Att. Physician* • Nursing home administrator* * Exception for relatives who are employees of 	2 witnesses or notarized	<ul style="list-style-type: none"> Agent • Relative • Att. Physician • Nursing home administrator 	Yes	Yes	No
<p>Oklahoma</p> <p>Okla. Stat. Ann. tit. 63, §3101.1 to</p>	Refusal of nutrition hydration permissible if expressly authorized	None specified	2 witnesses	Heir	Yes	Yes	No

.16	Pregnancy limitation						
Oregon Or. Rev. Stat. §127.505 to .660 and 127.995	Mental health facility admission Electro-convulsive therapy Psycho-surgery Sterilization Abortion Refusal of life sustaining procedures and nutrition & hydration permissible if expressly authorized or if specified conditions are met	Attending physician* • Facility provider* * Exception for relatives	2 witnesses Agent must accept in writing Special institutional requirements	Agent • Att. physician • One may not be relative, heir, or facility provider	Yes	Yes	Yes
Pennsylvania Pa. Stat. Ann. tit. 20, §5401 to 5416 <i>And</i> 20 Pa. Cons. Stat. Ann. §5601 to 5611 (DPA)	Unclear whether agent is permitted to act only if principal is in a terminal condition or state of permanent unconsciousness Refusal of nutrition & hydration permissible if expressly authorized Pregnancy limitation Statutory Form DPA defines powers specifically.	None specified	Living Will: 2 witnesses Statutory Form DPA: None required	LW: Person who signs declaration on declarant's behalf • Statutory Form DPA: None specified	• LW: NO • Statutory Form DPA: YES	Yes	No
Rhode Island R.I. Gen. Laws §23-4.10-1 to -12 <i>Separate LW Statute:</i> R.I. Gen Laws § 23-4.11-1 to -15	None specified	Indiv. Provider* • Community Care Facility* * Exception for relatives	2 witnesses Principal must be Rhode Island resident	• Agent • Indiv. Provider • Community Care Facility • One may not be relative or heir	Yes	No	No

		who are employees of					
<p>South Carolina</p> <p>S.C. Code §62-5-501 to -505</p> <p><i>Separate LW Statute:</i> S. C. Code § 44-77-10 to -160</p>	<p>Refusal or nutrition & hydration "necessary for comfort care or alleviation of pain" permissible if expressly authorized</p> <p>Pregnancy limitation</p>	<p>Indiv. Provider*</p> <ul style="list-style-type: none"> • Facility Provider* • Spouse of a Provider* * Exception for relatives 	2 witnesses	<ul style="list-style-type: none"> • Agent • Spouse • Relative • Heir • Attending physician • Creditor • Life insurance beneficiary • Person responsible for care costs • One may not be facility provider 	Yes	Yes	No
<p>South Dakota</p> <p>S.D. Codified Laws §59-7-1 to -9</p> <p><i>Separate LW Statute:</i> S.D. Codified Laws § 34-12D-1 to -22</p>	<p>Pregnancy limitation</p> <p>Refusal of nutrition & hydration permissible if expressly authorized or other conditions are met</p>	None specified	None specified	None specified	Yes	Yes	No
<p>Tennessee</p> <p>Tenn. Code Ann §68-11-1801 to -1815</p>	None specified	None specified	2 witnesses or notarized	<ul style="list-style-type: none"> • Agent • Provider • Facility • One may not be relative or heir 	Yes	Yes	Yes
<p>Texas</p> <p>Tex. [Health & Safety] Code Ann.</p>	<p>Mental health facility admission</p> <p>Electro-convulsive therapy</p> <p>Psycho-surgery</p>	<ul style="list-style-type: none"> • Indiv. Provider* • Facility 	2 witnesses	<p>One may not be:</p> <ul style="list-style-type: none"> • Agent • Att. Physician 	Yes	Yes	Yes

§166.001 to -.166	Abortion Comfort care	Provider* * Exception for relatives who are employees of		<ul style="list-style-type: none"> • Relative • Facility • Heir • Creditor 			
Utah Utah Code Ann. §75-2A-1101 to -1119	Pregnancy limitation Long-term custodial placement in licensed facility other than for assessment, rehabilitative, or respite care.	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* * Exception for relatives who are employees of 	One witness	<ul style="list-style-type: none"> Agent • Relative • Provider • Facility • Heir • Person responsible for care costs 	Yes	Yes	No
Vermont Vt. Stat. Ann. tit. 18, §5263 to 5278	Mental health facility admission	<ul style="list-style-type: none"> Indiv. Provider* • Residential Care Provider* • Funeral/crematory/ cemetery representative (if authorized to dispose of remains or donate organs) * Exception for relatives who are 	<p>Warning disclosure</p> <p>2 witnesses</p> <p>Special institutional requirements</p>	<ul style="list-style-type: none"> Agent • Indiv. Provider • Residential Care Provider • Spouse • Heir • Creditor • Funeral/crematory/ cemetery representative 	Yes	No	No

		employees of					
Virginia Va. Code §54.1-2981 to -2993	Mental health facility admission Psycho-surgery Sterilization Abortion Decisions about “visitation” unless expressly authorized	None specified	2 witnesses	<ul style="list-style-type: none"> • Spouse • Relative 	Yes	Yes	No
Washington Wash. Rev. Code Ann. §11.94.010 to .900 <i>Separate LW Statute:</i> Wash. Rev. Code Ann. § 70.122.010 to -.920	Electro-convulsive therapy Psycho-surgery Other psychiatric Amputation	Indiv. Provider* • Facility Provider* * Exception for relatives	None specified	N/A	Yes	Yes	No
West Virginia W. VA. Code Ann. §16-30-1 to -25	Limit on agent’s authority to revoke a pre-need funeral contract	Indiv. Provider* • Facility Provider* * Exception for relatives who are employees of	2 witnesses and notarized	<ul style="list-style-type: none"> • Agent • Att. Physician • Principal's signatory • Relative • Heir • Person responsible for care costs 	Yes	Yes	Yes
Wisconsin Wis. Stat. Ann. §155.01 to .80 <i>Separate LW Statute:</i>	Admission to facility for mental health/retardation or other listed conditions Electro-convulsive therapy Mental health research Drastic mental health treatment Admission to nursing home or	• Indiv. Provider* • Facility Provider* * Exception for relatives	2 witnesses	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Facility provider* • Relative • Heir • Person responsible for care 	Yes	Yes	No

Wisc. Stat. Ann. §§ 154.01 to -15	residential facility very limited unless expressly authorized in the document Refusal of nutrition & hydration permissible only if specified conditions are met Pregnancy limitation			costs * Exception for chaplains & social workers			
Wyoming Wyo. Stat. §35-22-401 to -416 <i>Separate LW Statute:</i> Wyo. Stat §§ 35-22-101 to -109	None specified	• Residential or Community Care Provider* * Exception for relatives who are employees of	2 witnesses or notarized	• Agent • Indiv. Provider • Facility Provider	No	Yes	No

Adapted from

HEALTH CARE POWER OF ATTORNEY, COMBINED ADVANCE DIRECTIVE LEGISLATION & SURROGATE CONSENT IN THE ABSENCE OF AN ADVANCE DIRECTIVE, JANUARY 2008

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