

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 273

Introduced by Hunt, 8.

Read first time January 15, 2025

Committee: Judiciary

1 A BILL FOR AN ACT relating to decedents' estates; to amend section
2 30-3417, Reissue Revised Statutes of Nebraska; to change powers and
3 duties relating to attorneys in fact; and to repeal the original
4 section.

5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 30-3417, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 30-3417 (1) When the authority conferred by a power of attorney for
4 health care has commenced, the attorney in fact, subject to any
5 instructions and limitations set forth in the power of attorney for
6 health care or elsewhere, shall make health care decisions on the
7 principal's behalf, except that the attorney in fact shall not have
8 authority to (a) ~~to~~ consent to any act or omission to which the principal
9 could not consent under law, (b) to make any decision that will result in
10 the death of the principal's unborn child when the principal is ~~known to~~
11 ~~be pregnant and the unborn child is likely to~~ that will result in the
12 ~~death of the principal's unborn child and it is probable that the unborn~~
13 ~~child will~~ develop to the point of live birth unless the principal's
14 treating physician determines that the principal's life is at risk, with
15 ~~continued application of health care,~~ or (c) ~~to~~ make decisions regarding
16 withholding or withdrawing a life-sustaining procedure or withholding or
17 withdrawing artificially administered nutrition and hydration except as
18 provided under section 30-3418.

19 (2) The attorney in fact shall have priority over any person other
20 than the principal to act for the principal in all health care decisions,
21 except that the attorney in fact shall not have the authority to make any
22 health care decision unless and until the principal has been determined
23 to be incapable of making health care decisions pursuant to section
24 30-3412.

25 (3) The attorney in fact shall not be personally responsible for the
26 cost of health care provided to the principal.

27 (4) Except to the extent that the right is limited by the power of
28 attorney for health care, an attorney in fact shall have the same right
29 as the principal to receive information regarding the proposed health
30 care, to receive and review medical and clinical records, and to consent
31 to the disclosures of such records, except that the right to access such

1 records shall not be a waiver of any evidentiary privilege.

2 (5) Notwithstanding a determination pursuant to section 30-3412 that
3 the principal is incapable of making health care decisions, when a
4 principal objects to the determination or to a health care decision made
5 by an attorney in fact, the principal's objection or decision shall
6 prevail unless the principal is determined by a county court to be
7 incapable of making health care decisions.

8 (6) No health care provider shall be required to accept health care
9 decisions from an attorney in fact until such health care provider has
10 received a signed original or a photostatic copy of a signed original
11 power of attorney for health care.

12 **Sec. 2.** Original section 30-3417, Reissue Revised Statutes of
13 Nebraska, is repealed.