

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 66

Introduced by DeBoer, 10.

Read first time January 09, 2025

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to health care; to adopt the Uniform Health-
- 2 Care Decisions Act; and to provide severability.
- 3 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 30 of this act shall be known and may be
2 cited as the Uniform Health-Care Decisions Act.

3 **Sec. 2.** In the Uniform Health-Care Decisions Act:

4 (1) Advance health-care directive means a power of attorney for
5 health care, health-care instruction, or both. The term includes an
6 advance mental health-care directive.

7 (2) Advance mental health-care directive means a power of attorney
8 for health care, health-care instruction, or both, created under section
9 9 of this act.

10 (3) Agent means an individual appointed under a power of attorney
11 for health care to make a health-care decision for the individual who
12 made the appointment. The term includes a co-agent or alternate agent
13 appointed under section 20 of this act.

14 (4) Capacity means having capacity under section 3 of this act.

15 (5) Cohabitant means each of two individuals who have been living
16 together as a couple for at least one year after each became an adult or
17 was emancipated and who are not married to each other.

18 (6) Default surrogate means an individual authorized under section
19 12 of this act to make a health-care decision for another individual.

20 (7) Electronic means relating to technology having electrical,
21 digital, magnetic, wireless, optical, electromagnetic, or similar
22 capabilities.

23 (8) Family member means a spouse, adult child, parent, or
24 grandparent, or an adult descendant of a spouse, child, parent, or
25 grandparent.

26 (9) Guardian means a person appointed under other law by a court to
27 make decisions regarding the personal affairs of an individual, which may
28 include health-care decisions. The term does not include a guardian ad
29 litem.

30 (10) Health care means care or treatment or a service or procedure
31 to maintain, monitor, diagnose, or otherwise affect an individual's

1 physical or mental illness, injury, or condition. The term includes
2 mental health care.

3 (11) Health-care decision means a decision made by an individual or
4 the individual's surrogate regarding the individual's health care,
5 including:

6 (A) selection or discharge of a health-care professional or health-
7 care institution;

8 (B) approval or disapproval of a diagnostic test, surgical
9 procedure, medication, therapeutic intervention, or other health care;
10 and

11 (C) direction to provide, withhold, or withdraw artificial nutrition
12 or hydration, mechanical ventilation, or other health care.

13 (12) Health-care institution means a facility or agency licensed,
14 certified, or otherwise authorized or permitted by other law to provide
15 health care in this state in the ordinary course of business.

16 (13) Health-care instruction means a direction, whether or not in a
17 record, made by an individual that indicates the individual's goals,
18 preferences, or wishes concerning the provision, withholding, or
19 withdrawal of health care. The term includes a direction intended to be
20 effective if a specified condition arises.

21 (14) Health-care professional means a physician or other individual
22 licensed, certified, or otherwise authorized or permitted by other law of
23 this state to provide health care in this state in the ordinary course of
24 business or the practice of the physician's or individual's profession.

25 (15) Individual means an adult or emancipated minor.

26 (16) Mental health care means care or treatment or a service or
27 procedure to maintain, monitor, diagnose, or otherwise affect an
28 individual's mental illness or other psychiatric, psychological, or
29 psychosocial condition.

30 (17) Nursing home means a nursing facility as defined in section
31 1919(a)(1) of the Social Security Act, 42 U.S.C. 1396r(a)(1), as amended,

1 or skilled nursing facility as defined in section 1819(a)(1) of the
2 Social Security Act, 42 U.S.C. 1395i-3(a)(1), as amended.

3 (18) Person means an individual, estate, business or nonprofit
4 entity, government or governmental subdivision, agency, or
5 instrumentality, or other legal entity.

6 (19) Person interested in the welfare of the individual means:

7 (A) the individual's surrogate;

8 (B) a family member of the individual;

9 (C) the cohabitant of the individual;

10 (D) a public entity providing health-care case management or
11 protective services to the individual;

12 (E) a person appointed under other law to make decisions for the
13 individual under a power of attorney for finances; or

14 (F) a person that has an ongoing personal or professional
15 relationship with the individual, including a person that has provided
16 educational or health-care services or supported decision making to the
17 individual.

18 (20) Physician means an individual authorized to practice as a
19 physician or an osteopathic physician under the Medicine and Surgery
20 Practice Act.

21 (21) Power of attorney for health care means a record in which an
22 individual appoints an agent to make health-care decisions for the
23 individual.

24 (22) Reasonably available means being able to be contacted without
25 undue effort and being willing and able to act in a timely manner
26 considering the urgency of an individual's health-care situation. When
27 used to refer to an agent or default surrogate, the term includes being
28 willing and able to comply with the duties under section 17 of this act
29 in a timely manner considering the urgency of an individual's health-care
30 situation.

31 (23) Record means information:

1 (A) inscribed on a tangible medium; or
2 (B) stored in an electronic or other medium and retrievable in
3 perceivable form.

4 (24) Responsible health-care professional means:

5 (A) a health-care professional designated by an individual or the
6 individual's surrogate to have primary responsibility for the
7 individual's health care or for overseeing a course of treatment; or

8 (B) in the absence of a designation under subdivision (A) or, if the
9 professional designated under subdivision (A) is not reasonably
10 available, a health-care professional who has primary responsibility for
11 overseeing the individual's health care or for overseeing a course of
12 treatment.

13 (25) Sign means, with present intent to authenticate or adopt a
14 record:

15 (A) to execute or adopt a tangible symbol; or

16 (B) to attach to or logically associate with the record an
17 electronic symbol, sound, or process.

18 (26) State means a state of the United States, the District of
19 Columbia, Puerto Rico, the United States Virgin Islands, or any other
20 territory or possession subject to the jurisdiction of the United States.
21 The term includes a federally recognized Indian tribe.

22 (27) Supported decision making means assistance, from one or more
23 persons of an individual's choosing, that helps the individual make or
24 communicate a decision, including by helping the individual understand
25 the nature and consequences of the decision.

26 (28) Surrogate means:

27 (A) an agent;

28 (B) a default surrogate; or

29 (C) a guardian authorized to make health-care decisions.

30 **Sec. 3.** (a) An individual has capacity for the purpose of the
31 Uniform Health-Care Decisions Act if the individual:

1 (1) is willing and able to communicate a decision independently or
2 with appropriate services, technological assistance, supported decision
3 making, or other reasonable accommodation; and

4 (2) in making or revoking:

5 (A) a health-care decision, understands the nature and consequences
6 of the decision, including the primary risks and benefits of the
7 decision;

8 (B) a health-care instruction, understands the nature and
9 consequences of the instruction, including the primary risks and benefits
10 of the choices expressed in the instruction; and

11 (C) an appointment of an agent under a health-care power of attorney
12 or identification of a default surrogate under subdivision (b)(1) of
13 section 12 of this act, recognizes the identity of the individual being
14 appointed or identified and understands the general nature of the
15 relationship of the individual making the appointment or identification
16 with the individual being appointed or identified.

17 (b) The right of an individual who has capacity to make a decision
18 about the individual's health care is not affected by whether the
19 individual creates or revokes an advance health-care directive.

20 **Sec. 4.** (a) An individual is presumed to have capacity to make or
21 revoke a health-care decision, health-care instruction, and power of
22 attorney for health care unless:

23 (1) a court has found the individual lacks capacity to do so; or

24 (2) the presumption is rebutted under subsection (b) of this
25 section.

26 (b) Subject to sections 5 and 6 of this act, a presumption under
27 subsection (a) of this section may be rebutted by a finding that the
28 individual lacks capacity:

29 (1) subject to subsection (c) of this section, made on the basis of
30 a contemporaneous examination by any of the following:

31 (A) a physician;

1 (B) a psychologist licensed or otherwise authorized to practice in
2 this state;

3 (C) an individual with training and expertise in the finding of lack
4 of capacity who is licensed or otherwise authorized to practice in this
5 state as:

6 (i) a physician assistant;

7 (ii) an advanced practice registered nurse; or

8 (iii) a social worker; or

9 (D) a responsible health-care professional not described in
10 subdivision (A), (B), or (C) if:

11 (i) the individual about whom the finding is to be made is
12 experiencing a health condition requiring a decision regarding health-
13 care treatment to be made promptly to avoid loss of life or serious harm
14 to the health of the individual; and

15 (ii) an individual listed in subdivision (A), (B), or (C) is not
16 reasonably available;

17 (2) made in accordance with accepted standards of the profession and
18 the scope of practice of the individual making the finding and to a
19 reasonable degree of certainty; and

20 (3) documented in a record signed by the individual making the
21 finding that includes an opinion of the cause, nature, extent, and
22 probable duration of the lack of capacity.

23 (c) The finding under subsection (b) of this section may not be made
24 by:

25 (1) a family member of the individual presumed to have capacity;

26 (2) the cohabitant of the individual or a descendant of the
27 cohabitant; or

28 (3) the individual's surrogate, a family member of the surrogate, or
29 a descendant of the surrogate.

30 (d) If the finding under subsection (b) of this section was based on
31 a condition the individual no longer has or a responsible health-care

1 professional subsequently has good cause to believe the individual has
2 capacity, the individual is presumed to have capacity unless a court
3 finds the individual lacks capacity or the presumption is rebutted under
4 subsection (b) of this section.

5 **Sec. 5.** (a) As soon as reasonably feasible, an individual who makes
6 a finding under subsection (b) of section 4 of this act shall inform the
7 individual about whom the finding was made or the individual's
8 responsible health-care professional of the finding.

9 (b) As soon as reasonably feasible, a responsible health-care
10 professional who is informed of a finding under subsection (b) of section
11 4 of this act shall inform the individual about whom the finding was made
12 and the individual's surrogate.

13 (c) An individual found under subsection (b) of section 4 of this
14 act to lack capacity may object to the finding:

15 (1) by orally informing a responsible health-care professional;

16 (2) in a record provided to a responsible health-care professional
17 or the health-care institution in which the individual resides or is
18 receiving care; or

19 (3) by another act that clearly indicates the individual's
20 objection.

21 (d) If the individual objects under subsection (c) of this section,
22 the finding under subsection (b) of section 4 of this act is not
23 sufficient to rebut a presumption of capacity in subsection (a) of
24 section 4 of this act and the individual must be treated as having
25 capacity unless:

26 (1) the individual withdraws the objection;

27 (2) a court finds the individual lacks the presumed capacity;

28 (3) the individual is experiencing a health condition requiring a
29 decision regarding health-care treatment to be made promptly to avoid
30 imminent loss of life or serious harm to the health of the individual; or

31 (4) subject to subsection (e) of this section, the finding is

1 confirmed by a second finding made by an individual authorized under
2 subdivision (b)(1) of section 4 of this act who:

3 (A) did not make the first finding;

4 (B) is not a family member of the individual who made the first
5 finding; and

6 (C) is not the cohabitant of the individual who made the first
7 finding or a descendant of the cohabitant.

8 (e) A second finding that the individual lacks capacity under
9 subdivision (d)(4) of this section is not sufficient to rebut the
10 presumption of capacity if the individual is requesting the provision or
11 continuation of life-sustaining treatment and the finding is being used
12 to make a decision to withhold or withdraw the treatment.

13 (f) As soon as reasonably feasible, a health-care professional who
14 is informed of an objection under subsection (c) of this section shall:

15 (1) communicate the objection to a responsible health-care
16 professional; and

17 (2) document the objection and the date of the objection in the
18 individual's medical record or communicate the objection and the date of
19 the objection to an administrator with responsibility for medical records
20 of the health-care institution providing health care to the individual,
21 who shall document the objection and the date of the objection in the
22 individual's medical record.

23 **Sec. 6.** (a) An individual found under subsection (b) of section 4
24 of this act to lack capacity, a responsible health-care professional, the
25 health-care institution providing health care to the individual, or a
26 person interested in the welfare of the individual may petition the
27 county court in the county in which the individual resides or is located
28 to determine whether the individual lacks capacity.

29 (b) The court in which a petition under subsection (a) of this
30 section is filed shall appoint legal counsel to represent the individual
31 if the individual does not have legal counsel. The court shall hear the

1 petition as soon as possible, but not later than seven days after the
2 petition is filed. As soon as possible, but not later than seven days
3 after the hearing, the court shall determine whether the individual lacks
4 capacity. The court may determine the individual lacks capacity only if
5 the court finds by clear and convincing evidence that the individual
6 lacks capacity.

7 **Sec. 7.** (a) An individual may create a health-care instruction that
8 expresses the individual's preferences for future health care, including
9 preferences regarding:

10 (1) health-care professionals or health-care institutions;

11 (2) how a health-care decision will be made and communicated;

12 (3) persons that should or should not be consulted regarding a
13 health-care decision;

14 (4) a person to serve as guardian for the individual if one is
15 appointed; and

16 (5) an individual to serve as a default surrogate.

17 (b) A health-care professional to whom an individual communicates or
18 provides an instruction under subsection (a) of this section shall
19 document the instruction and the date of the instruction in the
20 individual's medical record or communicate the instruction and date of
21 the instruction to an administrator with responsibility for medical
22 records of the health-care institution providing health care to the
23 individual, who shall document the instruction and the date of the
24 instruction in the individual's medical record.

25 (c) A health-care instruction made by an individual that conflicts
26 with an earlier health-care instruction made by the individual, including
27 an instruction documented in a medical order, revokes the earlier
28 instruction to the extent of the conflict.

29 (d) A health-care instruction may be in the same record as a power
30 of attorney for health care.

31 **Sec. 8.** (a) An individual may create a power of attorney for health

1 care to appoint an agent to make health-care decisions for the
2 individual.

3 (b) An individual is disqualified from acting as agent for an
4 individual who lacks capacity to make health-care decisions if:

5 (1) a court finds that the potential agent poses a danger to the
6 individual's well-being, even if the court does not issue a protection
7 order against the potential agent; or

8 (2) the potential agent is an owner, operator, employee, or
9 contractor of a nursing home or an assisted-living facility as defined in
10 section 71-5903 in which the individual resides or is receiving care,
11 unless the owner, operator, employee, or contractor is a family member of
12 the individual, the cohabitant of the individual, or a descendant of the
13 cohabitant.

14 (c) A health-care decision made by an agent is effective without
15 judicial approval.

16 (d) A power of attorney for health care must be in a record, signed
17 by the individual creating the power, and signed by an adult witness who:

18 (1) reasonably believes the act of the individual to create the
19 power of attorney is voluntary and knowing;

20 (2) is not:

21 (A) the agent appointed by the individual;

22 (B) the agent's spouse or cohabitant;

23 (C) if the individual resides or is receiving care in a nursing home
24 or an assisted-living facility as defined in section 71-5903, the owner,
25 operator, employee, or contractor of the nursing home or assisted-living
26 facility; and

27 (3) is present when the individual signs the power of attorney or
28 when the individual represents that the power of attorney reflects the
29 individual's wishes.

30 (e) A witness under subsection (d) of this section is considered
31 present if the witness and the individual are:

1 (1) physically present in the same location;

2 (2) using electronic means that allow for real-time audio and visual
3 transmission and communication in real time to the same extent as if the
4 witness and the individual were physically present in the same location;

5 or

6 (3) able to speak to and hear each other in real time through audio
7 connection if:

8 (A) the identity of the individual is personally known to the
9 witness; or

10 (B) the witness is able to authenticate the identity of the
11 individual by receiving accurate answers from the individual that enable
12 the authentication.

13 (f) A power of attorney for health care may include a health-care
14 instruction.

15 **Sec. 9.** (a) An individual may create an advance health-care
16 directive that addresses only mental health care for the individual. The
17 directive may include a health-care instruction, a power of attorney for
18 health care, or both.

19 (b) A health-care instruction under this section may include the
20 individual's:

21 (1) general philosophy and objectives regarding mental health care;
22 and

23 (2) specific goals, preferences, and wishes regarding the provision,
24 withholding, or withdrawal of a form of mental health care, including:

25 (A) preferences regarding professionals, programs, and facilities;

26 (B) admission to a mental-health facility, including duration of
27 admission;

28 (C) preferences regarding medications;

29 (D) refusal to accept a specific type of mental health care,
30 including a medication; and

31 (E) preferences regarding crisis intervention.

1 (c) A power of attorney for health care under this section may
2 appoint an agent to make decisions only for mental health care.

3 (d) An individual may direct in an advance mental health-care
4 directive that, if the individual is experiencing a psychiatric or
5 psychological event specified in the directive, the individual may not
6 revoke the directive or a part of the directive.

7 (e) If an advance mental health-care directive includes a direction
8 under subsection (d) of this section, the advance mental health-care
9 directive must be in a record that is separate from any other advance
10 health-care directive created by the individual and signed by the
11 individual creating the advance mental health-care directive and at least
12 two adult witnesses who:

13 (1) attest that to the best of their knowledge the individual:

14 (A) understood the nature and consequences of the direction,
15 including its risks and benefits; and

16 (B) made the direction voluntarily and without coercion or undue
17 influence;

18 (2) are not:

19 (A) the agent appointed by the individual;

20 (B) the agent's spouse or cohabitant; and

21 (C) if the individual resides in a nursing home or an assisted-
22 living facility as defined in section 71-5903, the owner, operator,
23 employee, or contractor of the nursing home or assisted-living facility
24 as defined in section 71-5903; and

25 (3) are physically present in the same location as the individual.

26 **Sec. 10.** (a) If a direction in an advance mental health-care
27 directive of an individual conflicts with a direction in another advance
28 health-care directive of the individual, the later direction revokes the
29 earlier direction to the extent of the conflict.

30 (b) An appointment of an agent to make decisions only for mental
31 health care for an individual does not revoke an earlier appointment of

1 an agent to make other health-care decisions for the individual. A later
2 appointment revokes the authority of an agent under the earlier
3 appointment to make decisions about mental health care unless otherwise
4 specified in the power of attorney making the later appointment.

5 (c) An appointment of an agent to make health-care decisions for an
6 individual other than decisions about mental health care made after
7 appointment of an agent authorized to make only mental health-care
8 decisions does not revoke the appointment of the agent authorized to make
9 only mental health-care decisions.

10 **Sec. 11.** The following form may be used to create an advance
11 health-care directive:

12 ADVANCE HEALTH-CARE DIRECTIVE
13 HOW YOU CAN USE THIS FORM

14 You can use this form if you wish to name someone to make health-
15 care decisions for you in case you cannot make decisions for yourself.
16 This is called giving the person a power of attorney for health care.
17 This person is called your Agent.

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

21 YOUR NAME AND DATE OF BIRTH

22 Name:

23 Date of birth:

24 PART A: NAMING AN AGENT

25 This part lets you name someone else to make health-care decisions
26 for you. You may leave any item blank.

27 1. NAMING AN AGENT

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

30 Name:

31 Optional contact information (it is helpful to include information

1 such as address, phone, and email):

2

3 2. NAMING AN ALTERNATE AGENT

4 I want the following person to make health-care decisions for me if
5 I cannot and my Agent is not able or available to make them for me:

6 Name:

7 Optional contact information (it is helpful to include information
8 such as address, phone, and email):

9

10 3. LIMITING YOUR AGENT'S AUTHORITY

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

13 (If you do not add a limitation here, your Agent will be able to
14 make all health-care decisions that an Agent is permitted to make under
15 state law.)

16 PART B: HEALTH-CARE INSTRUCTIONS

17 This part lets you state your priorities for health care and to
18 state types of health care you do and do not want.

19 1. INSTRUCTIONS ABOUT LIFE-SUSTAINING TREATMENT

20 This section gives you the opportunity to say how you want your
21 Agent to act while making decisions for you. You may mark or initial each
22 choice. You also may leave any choice blank.

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

25 (....) Always be given to me. (If you mark or initial this choice,
26 you should not mark or initial other choices in this "treatment"
27 section.)

28 (....) Not be given to me if I have a condition that is not curable
29 and is expected to cause my death soon, even if treated.

30 (....) Not be given to me if I am unconscious and I am not expected
31 to be conscious again.

1 (....) Not be given to me if I have a medical condition from which I
2 am not expected to recover that prevents me from communicating with
3 people I care about, caring for myself, and recognizing family and
4 friends.

5 (....) Other (write what you want or do not want):

6 Food and liquids. If I can't swallow and staying alive requires me
7 to get food or liquids through a tube or other means for the rest of my
8 life, then food or liquids should (mark or initial all that apply):

9 (....) Always be given to me. (If you mark or initial this choice,
10 you should not mark or initial other choices in this "food and liquids"
11 section.)

12 (....) Not be given to me if I have a condition that is not curable
13 and is expected to cause me to die soon, even if treated.

14 (....) Not be given to me if I am unconscious and am not expected to
15 be conscious again.

16 (....) Not be given to me if I have a medical condition from which I
17 am not expected to recover that prevents me from communicating with
18 people I care about, caring for myself, and recognizing family and
19 friends.

20 (....) Other (write what you want or do not want):

21 Pain relief. If I am in significant pain, care that will keep me
22 comfortable but is likely to shorten my life should (mark or initial all
23 that apply):

24 (....) Always be given to me. (If you mark or initial this choice,
25 you should not mark or initial other choices in this "pain relief"
26 section.)

27 (....) Never be given to me. (If you mark or initial this choice,
28 you should not mark or initial other choices in this "pain relief"
29 section.)

30 (....) Be given to me if I have a condition that is not curable and
31 is expected to cause me to die soon, even if treated.

1 (....) Be given to me if I am unconscious and am not expected to be
2 conscious again.

3 (....) Be given to me if I have a medical condition from which I am
4 not expected to recover that prevents me from communicating with people I
5 care about, caring for myself, and recognizing family and friends.

6 (....) Other (write what you want or do not want):

7 2. MY PRIORITIES

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

12 You may mark or initial each choice. You also may leave any choice
13 blank.

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

16 (....) Very important

17 (....) Somewhat important

18 (....) Not important

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

21 (....) Very important

22 (....) Somewhat important

23 (....) Not important

24 Being free from significant pain is:

25 (....) Very important

26 (....) Somewhat important

27 (....) Not important

28 Being independent is:

29 (....) Very important

30 (....) Somewhat important

31 (....) Not important

1 Having my Agent talk with my family before making decisions about my
2 care is:

3 (....) Very important

4 (....) Somewhat important

5 (....) Not important

6 Having my Agent talk with my friends before making decisions about
7 my care is:

8 (....) Very important

9 (....) Somewhat important

10 (....) Not important

11 3. OTHER INSTRUCTIONS

12 You can write in this section more information about your goals,
13 values, and preferences for treatment, including care you want or do not
14 want. You can also use this section to name anyone who you do not want to
15 make decisions for you under any conditions.

16
17

18 PART C: OPTIONAL SPECIAL POWERS AND GUIDANCE

19 This part lets you give your Agent additional powers, and to provide
20 more guidance about your wishes. You may mark or initial each choice. You
21 also may leave any choice blank.

22 1. OPTIONAL SPECIAL POWERS

23 My Agent can do the following things ONLY if I have marked or
24 initialled them below:

25 (....) Admit me as a voluntary patient to a facility for mental
26 health treatment for up to days (write in the number of days you
27 want like 7, 14, 30 or another number).

28 (If I do not mark or initial this choice, my Agent MAY NOT admit me
29 as a voluntary patient to this type of facility.)

30 (....) Place me in a nursing home for more than one hundred days
31 even if my needs can be met somewhere else, I am not terminally ill, and

1 I object.

2 (If I do not mark or initial this choice, my Agent MAY NOT do this.)

3 2. ACCESS TO MY HEALTH INFORMATION

4 My Agent may obtain, examine, and share information about my health
5 needs and health care if I am not able to make decisions for myself. If I
6 mark or initial below, my Agent may also do that at any time my Agent
7 thinks it will help me.

8 (....) I give my Agent permission to obtain, examine, and share
9 information about my health needs and health care whenever my Agent
10 thinks it will help me.

11 3. FLEXIBILITY FOR MY AGENT

12 Mark or initial below if you want to give your Agent flexibility in
13 following instructions you provide in this form. If you do not, your
14 Agent must follow the instructions even if your Agent thinks something
15 else would be better for you.

16 (....) I give my Agent permission to be flexible in applying these
17 instructions if my Agent thinks it would be in my best interest based on
18 what my Agent knows about me.

19 4. NOMINATION OF GUARDIAN

20 You can say who you would want as your guardian if you needed one. A
21 guardian is a person appointed by a court to make decisions for someone
22 who cannot make decisions. Filling this out does NOT mean you want or
23 need a guardian.

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

26 (....) My Agent named in this form. If my Agent cannot be a
27 guardian, I want the Alternate Agent named in this form.

28 (....) Other (write who you would want and their contact
29 information):

30 PART D: ORGAN DONATION

31 This part lets you donate your organs after you die. You may leave

1 any item blank.

2 1. DONATION

3 You may mark or initial only one choice.

4 (....) I donate my organs, tissues, and other body parts after I
5 die, even if it requires maintaining treatments that conflict with other
6 instructions I have put in this form, EXCEPT for those I list below (list
7 any body parts you do NOT want to donate):

8 (....) I do not want my organs, tissues, or body parts donated to
9 anybody for any reason. (If you mark or initial this choice, you should
10 skip the "purpose of donation" section.)

11 2. PURPOSE OF DONATION

12 You may mark or initial all that apply. (If you do not mark or
13 initial any of the purposes below, your donation can be used for all of
14 them.)

15 Organs, tissues, or body parts that I donate may be used for:

- 16 (....) Transplant
- 17 (....) Therapy
- 18 (....) Research
- 19 (....) Education
- 20 (....) All of the above

21 PART E: SIGNATURES

22 YOUR SIGNATURE

23 Sign your name:

24 Today's date:

25 City/Village and State (optional):

26 SIGNATURE OF A WITNESS

27 You need a witness if you are using this form to name an Agent. The
28 witness must be an adult and cannot be the person you are naming as Agent
29 or the Agent's spouse or someone the Agent lives with as a couple. If you
30 live or are receiving care in a nursing home or an assisted living
31 facility, the witness cannot be an employee or contractor of the home or

1 someone who owns or runs the home.

2 Name of Witness:

3 Signature of Witness:

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

6 Date witness signed:

7 PART F: INFORMATION FOR AGENTS

8 1. If this form names you as an Agent, you can make decisions about
9 health care for the person who named you when the person cannot make
10 their own.

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

13 3. If you do not know what the person would want, make the decision
14 that you think is in the person's best interest. To figure out what is in
15 the person's best interest, consider the person's values, preferences,
16 and goals if you know them or can learn them. Some of these preferences
17 may be in this form. You should also consider any behavior or
18 communication from the person that indicates what the person currently
19 wants.

20 4. If this form names you as an Agent, you can also get and share
21 the person's health information. But unless the person has said so in
22 this form, you can get or share this information only when the person
23 cannot make decisions about the person's health care.

24 **Sec. 12.** (a) A default surrogate may make a health-care decision
25 for an individual who lacks capacity to make health-care decisions and
26 for whom an agent, or guardian authorized to make health-care decisions,
27 has not been appointed or is not reasonably available.

28 (b) Unless the individual has an advance health-care directive that
29 indicates otherwise, a member of the following classes, in descending
30 order of priority, who is reasonably available and not disqualified under
31 section 14 of this act, may act as a default surrogate for the

1 individual:

2 (1) an adult the individual has identified, other than in a power of
3 attorney for health care, to make a health-care decision for the
4 individual if the individual cannot make the decision;

5 (2) the individual's spouse, unless:

6 (A) a petition for annulment, divorce, dissolution of marriage,
7 legal separation, or termination has been filed and not dismissed or
8 withdrawn;

9 (B) a decree of annulment, divorce, dissolution of marriage, legal
10 separation, or termination has been issued;

11 (C) the individual and the spouse have agreed in a record to a legal
12 separation; or

13 (D) the spouse has abandoned the individual for more than one year;

14 (3) the individual's adult child or parent;

15 (4) the individual's cohabitant;

16 (5) the individual's adult sibling;

17 (6) the individual's adult grandchild or grandparent;

18 (7) an adult not listed in subdivisions (1) through (6) who has
19 assisted the individual with supported decision making routinely during
20 the preceding six months;

21 (8) the individual's adult stepchild not listed in subdivisions (1)
22 through (7) whom the individual actively parented during the stepchild's
23 minor years and with whom the individual has an ongoing relationship; or

24 (9) an adult not listed in subdivisions (1) through (8) who has
25 exhibited special care and concern for the individual and is familiar
26 with the individual's personal values.

27 (c) A responsible health-care professional may require an individual
28 who assumes authority to act as a default surrogate to provide a
29 declaration in a record under penalty of perjury stating facts and
30 circumstances reasonably sufficient to establish the authority.

31 (d) If a responsible health-care professional reasonably determines

1 that an individual who assumed authority to act as a default surrogate is
2 not willing or able to comply with a duty under section 17 of this act or
3 fails to comply with the duty in a timely manner, the professional may
4 recognize the individual next in priority under subsection (b) of this
5 section as the default surrogate.

6 (e) A health-care decision made by a default surrogate is effective
7 without judicial approval.

8 **Sec. 13.** (a) A default surrogate who assumes authority under
9 section 12 of this act shall inform a responsible health-care
10 professional if two or more members of a class under subsection (b) of
11 section 12 of this act have assumed authority to act as default
12 surrogates and the members do not agree on a health-care decision.

13 (b) A responsible health-care professional shall comply with the
14 decision of a majority of the members of the class with highest priority
15 under subsection (b) of section 12 of this act who have communicated
16 their views to the professional and the professional reasonably believes
17 are acting consistent with their duties under section 17 of this act.

18 (c) If a responsible health-care professional is informed that the
19 members of the class who have communicated their views to the
20 professional are evenly divided concerning the health-care decision, the
21 professional shall make a reasonable effort to solicit the views of
22 members of the class who are reasonably available but have not yet
23 communicated their views to the professional. The professional, after the
24 solicitation, shall comply with the decision of a majority of the members
25 who have communicated their views to the professional and the
26 professional reasonably believes are acting consistent with their duties
27 under section 17 of this act.

28 (d) If the class remains evenly divided after the effort is made
29 under subsection (c) of this section, the health-care decision must be
30 made as provided by other law of this state regarding the treatment of an
31 individual who is found to lack capacity.

1 **Sec. 14.** (a) An individual for whom a health-care decision would be
2 made may disqualify another individual from acting as default surrogate
3 for the first individual. The disqualification must be in a record signed
4 by the first individual or communicated verbally or nonverbally to the
5 individual being disqualified, another individual, or a responsible
6 health-care professional. Disqualification under this subsection is
7 effective even if made by an individual who lacks capacity to make an
8 advance directive if the individual clearly communicates a desire that
9 the individual being disqualified not make health-care decisions for the
10 individual.

11 (b) An individual is disqualified from acting as a default surrogate
12 for an individual who lacks capacity to make health-care decisions if:

13 (1) a court finds that the potential default surrogate poses a
14 danger to the individual's well-being, even if the court does not issue a
15 protection order against the potential surrogate;

16 (2) the potential default surrogate is an owner, operator, employee,
17 or contractor of a nursing home or an assisted-living facility as defined
18 in section 71-5903 in which the individual is residing or receiving care
19 unless the owner, operator, employee, or contractor is a family member of
20 the individual, the cohabitant of the individual, or a descendant of the
21 cohabitant; or

22 (3) the potential default surrogate refuses to provide a timely
23 declaration under subsection (c) of section 12 of this act.

24 **Sec. 15.** (a) An individual may revoke the appointment of an agent,
25 the designation of a default surrogate, or a health-care instruction in
26 whole or in part, unless:

27 (1) a court finds the individual lacks capacity to do so;

28 (2) the individual is found under subsection (b) of section 4 of
29 this act to lack capacity to do so and, if the individual objects to the
30 finding, the finding is confirmed under subdivision (d)(4) of section 5
31 of this act; or

1 (3) the individual created an advance mental health-care directive
2 that includes the provision under subsection (d) of section 9 of this act
3 and the individual is experiencing the psychiatric or psychological event
4 specified in the directive.

5 (b) Revocation under subsection (a) of this section may be by any
6 act of the individual that clearly indicates that the individual intends
7 to revoke the appointment, designation, or instruction, including an oral
8 statement to a health-care professional.

9 (c) Except as provided in section 10 of this act, an advance health-
10 care directive of an individual that conflicts with another advance
11 health-care directive of the individual revokes the earlier directive to
12 the extent of the conflict.

13 (d) Unless otherwise provided in an individual's advance health-care
14 directive appointing an agent, the appointment of a spouse of an
15 individual as agent for the individual is revoked if:

16 (1) a petition for annulment, divorce, dissolution of marriage,
17 legal separation, or termination has been filed and not dismissed or
18 withdrawn;

19 (2) a decree of annulment, divorce, dissolution of marriage, legal
20 separation, or termination has been issued;

21 (3) the individual and the spouse have agreed in a record to a legal
22 separation; or

23 (4) the spouse has abandoned the individual for more than one year.

24 **Sec. 16.** (a) An advance health-care directive created outside this
25 state is valid if it complies with:

26 (1) the law of the state specified in the directive or, if a state
27 is not specified, the state in which the individual created the
28 directive; or

29 (2) the Uniform Health-Care Decisions Act.

30 (b) A person may assume without inquiry that an advance health-care
31 directive is genuine, valid, and still in effect, and may implement and

1 rely on it, unless the person has good cause to believe the directive is
2 invalid or has been revoked.

3 (c) An advance health-care directive, revocation of a directive, or
4 a signature on a directive or revocation may not be denied legal effect
5 or enforceability solely because it is in electronic form.

6 (d) Evidence relating to an advance health-care directive,
7 revocation of a directive, or a signature on a directive or revocation
8 may not be excluded in a proceeding solely because the evidence is in
9 electronic form.

10 (e) The Uniform Health-Care Decisions Act does not affect the
11 validity of an electronic record or signature that is valid under the
12 Uniform Electronic Transactions Act.

13 (f) If the Uniform Health-Care Decisions Act conflicts with other
14 law of this state relating to the creation, execution, implementation, or
15 revocation of an advance health-care directive, the Uniform Health-Care
16 Decisions Act prevails.

17 **Sec. 17.** (a) An agent or default surrogate has a fiduciary duty to
18 the individual for whom the agent or default surrogate is acting when
19 exercising or purporting to exercise a power under section 18 of this
20 act.

21 (b) An agent or default surrogate shall make a health-care decision
22 in accordance with the direction of the individual in an advance health-
23 care directive and other goals, preferences, and wishes of the individual
24 to the extent known or reasonably ascertainable by the agent or default
25 surrogate.

26 (c) If there is not a direction in an advance health-care directive
27 and the goals, preferences, and wishes of the individual regarding a
28 health-care decision are not known or reasonably ascertainable by the
29 agent or default surrogate, the agent or default surrogate shall make the
30 decision in accordance with the agent's or default surrogate's
31 determination of the individual's best interest.

1 (d) In determining the individual's best interest under subsection
2 (c) of this section, the agent or default surrogate shall:

3 (1) give primary consideration to the individual's contemporaneous
4 communications, including verbal and nonverbal expressions;

5 (2) consider the individual's values to the extent known or
6 reasonably ascertainable by the agent or default surrogate; and

7 (3) consider the risks and benefits of the potential health-care
8 decision.

9 (e) As soon as reasonably feasible, an agent or default surrogate
10 who is informed of a revocation of an advance health-care directive or
11 disqualification of the agent or default surrogate shall communicate the
12 revocation or disqualification to a responsible health-care professional.

13 **Sec. 18.** (a) Except as provided in subsection (c) of this section,
14 the power of an agent or default surrogate commences when the individual
15 is found under subsection (b) of section 4 of this act or by a court to
16 lack capacity to make a health-care decision. The power ceases if the
17 individual later is found to have capacity to make a health-care
18 decision, or the individual objects under subsection (c) of section 5 of
19 this act to the finding of lack of capacity under subsection (b) of
20 section 4 of this act. The power resumes if:

21 (1) the power ceased because the individual objected under
22 subsection (c) of section 5 of this act; and

23 (2) the finding of lack of capacity is confirmed under subdivision
24 (d)(4) of section 5 of this act or a court finds that the individual
25 lacks capacity to make a health-care decision.

26 (b) An agent or default surrogate may request, receive, examine,
27 copy, and consent to the disclosure of medical and other health-care
28 information about the individual if the individual would have the right
29 to request, receive, examine, copy, or consent to the disclosure of the
30 information.

31 (c) A power of attorney for health care may provide that the power

1 of an agent under subsection (b) of this section commences on
2 appointment.

3 (d) If no other person is authorized to do so, an agent or default
4 surrogate may apply for public or private health insurance and benefits
5 on behalf of the individual. An agent or default surrogate who may apply
6 for insurance and benefits does not, solely by reason of the power, have
7 a duty to apply for the insurance or benefits.

8 (e) An agent or default surrogate may not consent to voluntary
9 admission of the individual to a facility for mental health treatment
10 unless:

11 (1) voluntary admission is specifically authorized by the individual
12 in an advance health-care directive in a record; and

13 (2) the admission is for no more than the maximum of the number of
14 days specified in the directive or [insert the number of days a guardian
15 may commit an adult subject to guardianship without using the state's
16 involuntary commitment procedure], whichever is less.

17 (f) Except as provided in subsection (g) of this section, an agent
18 or default surrogate may not consent to placement of the individual in a
19 nursing home if the placement is intended to be for more than one hundred
20 days if:

21 (1) an alternative living arrangement is reasonably feasible;

22 (2) the individual objects to the placement; or

23 (3) the individual is not terminally ill.

24 (g) If specifically authorized by the individual in an advance
25 health-care directive in a record, an agent or default surrogate may
26 consent to placement of the individual in a nursing home for more than
27 one hundred days even if:

28 (1) an alternative living arrangement is reasonably feasible;

29 (2) the individual objects to the placement; and

30 (3) the individual is not terminally ill.

31 **Sec. 19.** (a) If an individual has a long-term disability requiring

1 routine treatment by artificial nutrition, hydration, or mechanical
2 ventilation and a history of using the treatment without objection, an
3 agent or default surrogate may not consent to withhold or withdraw the
4 treatment unless:

5 (1) the treatment is not necessary to sustain the individual's life
6 or maintain the individual's well-being;

7 (2) the individual has expressly authorized the withholding or
8 withdrawal in a health-care instruction that has not been revoked; or

9 (3) the individual has experienced a major reduction in health or
10 functional ability from which the individual is not expected to recover,
11 even with other appropriate treatment, and the individual has not:

12 (A) given a direction inconsistent with withholding or withdrawal;
13 or

14 (B) communicated by verbal or nonverbal expression a desire for
15 artificial nutrition, hydration, or mechanical ventilation.

16 (b) A default surrogate may not make a health-care decision if,
17 under other law of this state, the decision:

18 (1) may not be made by a guardian; or

19 (2) may be made by a guardian only if the court appointing the
20 guardian specifically authorizes the guardian to make the decision.

21 **Sec. 20.** (a) An individual in a power of attorney for health care
22 may appoint multiple individuals as co-agents. Unless the power of
23 attorney provides otherwise, each co-agent may exercise independent
24 authority.

25 (b) An individual in a power of attorney for health care may appoint
26 one or more individuals to act as alternate agents if a predecessor agent
27 resigns, dies, becomes disqualified, is not reasonably available, or
28 otherwise is unwilling or unable to act as agent.

29 (c) Unless the power of attorney provides otherwise, an alternate
30 agent has the same authority as the original agent:

31 (1) at any time the original agent is not reasonably available or is

1 otherwise unwilling or unable to act, for the duration of the
2 unavailability, unwillingness, or inability to act; or

3 (2) if the original agent and all other predecessor agents have
4 resigned or died or are disqualified from acting as agent.

5 **Sec. 21.** (a) A responsible health-care professional who is aware
6 that an individual has been found to lack capacity to make a decision
7 shall make a reasonable effort to determine if the individual has a
8 surrogate.

9 (b) If possible before implementing a health-care decision made by a
10 surrogate, a responsible health-care professional as soon as reasonably
11 feasible shall communicate to the individual the decision made and the
12 identity of the surrogate.

13 (c) A responsible health-care professional who makes or is informed
14 of a finding that an individual lacks capacity to make a health-care
15 decision or no longer lacks capacity, or that other circumstances exist
16 that affect a health-care instruction or the authority of a surrogate, as
17 soon as reasonably feasible, shall:

18 (1) document the finding or circumstance in the individual's medical
19 record; and

20 (2) if possible, communicate to the individual and the individual's
21 surrogate the finding or circumstance and that the individual may object
22 under subsection (c) of section 5 of this act to the finding under
23 subsection (b) of section 4 of this act.

24 (d) A responsible health-care professional who is informed that an
25 individual has created or revoked an advance health-care directive, or
26 that a surrogate for an individual has been appointed, designated, or
27 disqualified, shall:

28 (1) document the information as soon as reasonably feasible in the
29 individual's medical record; and

30 (2) if evidence of the directive, revocation, appointment,
31 designation, or disqualification is in a record, request a copy and, on

1 receipt, cause the copy to be included in the individual's medical
2 record.

3 (e) Except as provided in subsections (f) and (g) of this section, a
4 health-care professional or health-care institution providing health care
5 to an individual shall comply with:

6 (1) a health-care instruction given by the individual regarding the
7 individual's health care;

8 (2) a reasonable interpretation by the individual's surrogate of an
9 instruction given by the individual; and

10 (3) a health-care decision for the individual made by the
11 individual's surrogate in accordance with sections 17 and 18 of this act
12 to the same extent as if the decision had been made by the individual at
13 a time when the individual had capacity.

14 (f) A health-care professional or a health-care institution may
15 refuse to provide health care consistent with a health-care instruction
16 or health-care decision if:

17 (1) the instruction or decision is contrary to a policy of the
18 health-care institution providing care to the individual that is based
19 expressly on reasons of conscience and the policy was timely communicated
20 to the individual or to the individual's surrogate;

21 (2) the care would require health care that is not available to the
22 professional or institution; or

23 (3) compliance with the instruction or decision would:

24 (A) require the professional to provide care that is contrary to the
25 professional's religious belief or moral conviction if other law permits
26 the professional to refuse to provide care for that reason;

27 (B) require the professional or institution to provide care that is
28 contrary to generally accepted health-care standards applicable to the
29 professional or institution; or

30 (C) violate a court order or other law.

31 (g) A health-care professional or health-care institution that

1 refuses to provide care under subsection (f) of this section shall:

2 (1) as soon as reasonably feasible, inform the individual, if
3 possible, and the individual's surrogate of the refusal;

4 (2) immediately make a reasonable effort to transfer the individual
5 to another health-care professional or health-care institution that is
6 willing to comply with the instruction or decision; and

7 (3) either:

8 (A) if care is refused under subdivision (f)(1) or (2) of this
9 section, provide life-sustaining care and care needed to keep or make the
10 individual comfortable, consistent with accepted medical standards to the
11 extent feasible, until a transfer is made; or

12 (B) if care is refused under subdivision (f)(3) of this section,
13 provide life-sustaining care and care needed to keep or make the
14 individual comfortable, consistent with accepted medical standards, until
15 a transfer is made or, if the professional or institution reasonably
16 believes that a transfer cannot be made, for at least ten days after the
17 refusal.

18 **Sec. 22.** (a) A guardian may refuse to comply with or revoke the
19 individual's advance health-care directive only if the court appointing
20 the guardian expressly orders the noncompliance or revocation.

21 (b) Unless a court orders otherwise, a health-care decision made by
22 an agent appointed by an individual subject to guardianship prevails over
23 a decision of the guardian appointed for the individual.

24 **Sec. 23.** (a) A health-care professional or health-care institution
25 acting in good faith is not subject to civil or criminal liability or to
26 discipline for unprofessional conduct for:

27 (1) complying with a health-care decision made for an individual by
28 another person if compliance is based on a reasonable belief that the
29 person has authority to make the decision, including a decision to
30 withhold or withdraw health care;

31 (2) refusing to comply with a health-care decision made for an

1 individual by another person if the refusal is based on a reasonable
2 belief that the person lacked authority or capacity to make the decision;

3 (3) complying with an advance health-care directive based on a
4 reasonable belief that the directive is valid;

5 (4) refusing to comply with an advance health-care directive based
6 on a reasonable belief that the directive is not valid, including a
7 reasonable belief that the directive was not made by the individual or,
8 after its creation, was substantively altered by a person other than the
9 individual who created it;

10 (5) determining that an individual who otherwise might be authorized
11 to act as an agent or default surrogate is not reasonably available; or

12 (6) complying with an individual's direction under subsection (d) of
13 section 9 of this act.

14 (b) An agent, default surrogate, or individual with a reasonable
15 belief that the individual is an agent or a default surrogate is not
16 subject to civil or criminal liability or to discipline for
17 unprofessional conduct for a health-care decision made in a good faith
18 effort to comply with section 17 of this act.

19 **Sec. 24.** (a) A person may not:

20 (1) intentionally falsify, in whole or in part, an advance health-
21 care directive;

22 (2) for the purpose of frustrating the intent of the individual who
23 created an advance health-care directive or with knowledge that doing so
24 is likely to frustrate the intent:

25 (A) intentionally conceal, deface, obliterate, or delete the
26 directive or a revocation of the directive without consent of the
27 individual who created or revoked the directive; or

28 (B) intentionally withhold knowledge of the existence or revocation
29 of the directive from a responsible health-care professional or health-
30 care institution providing health care to the individual who created or
31 revoked the directive;

1 (3) coerce or fraudulently induce an individual to create, revoke,
2 or refrain from creating or revoking an advance health-care directive or
3 a part of a directive; or

4 (4) require or prohibit the creation or revocation of an advance
5 health-care directive as a condition for providing health care.

6 (b) An individual who is the subject of conduct prohibited under
7 subsection (a) of this section, or the individual's estate, has a cause
8 of action against a person that violates subsection (a) of this section
9 for statutory damages of twenty-five thousand dollars or actual damages
10 resulting from the violation, whichever is greater.

11 (c) Subject to subsection (d) of this section, an individual who
12 makes a health-care instruction, or the individual's estate, has a cause
13 of action against a health-care professional or health-care institution
14 that intentionally violates section 21 of this act for statutory damages
15 of fifty thousand dollars or actual damages resulting from the violation,
16 whichever is greater.

17 (d) A health-care professional who is an emergency medical responder
18 is not liable under subsection (c) of this section for a violation of
19 subsection (e) of section 21 of this act if:

20 (1) the violation occurs in the course of providing care to an
21 individual experiencing a health condition for which the professional
22 reasonably believes the care was appropriate to avoid imminent loss of
23 life or serious harm to the individual;

24 (2) the failure to comply is consistent with accepted standards of
25 the profession of the professional; and

26 (3) the provision of care does not begin in a health-care
27 institution in which the individual resides or was receiving care.

28 (e) In an action under this section, a prevailing plaintiff may
29 recover reasonable attorney's fees, court costs, and other reasonable
30 litigation expenses.

31 (f) A cause of action or remedy under this section is in addition to

1 any cause of action or remedy under other law.

2 **Sec. 25.** (a) A physical or electronic copy of an advance health-
3 care directive, revocation of an advance health-care directive, or
4 appointment, designation, or disqualification of a surrogate has the same
5 effect as the original.

6 (b) An individual may create a certified physical copy of an advance
7 health-care directive or revocation of an advance health-care directive
8 that is in electronic form by affirming under penalty of perjury that the
9 physical copy is a complete and accurate copy of the directive or
10 revocation.

11 **Sec. 26.** (a) On petition of an individual, the individual's
12 surrogate, a health-care professional or health-care institution
13 providing health care to the individual, or a person interested in the
14 welfare of the individual, the court may:

15 (1) enjoin implementation of a health-care decision made by an agent
16 or default surrogate on behalf of the individual, on a finding that the
17 decision is inconsistent with section 17 or 18 of this act;

18 (2) enjoin an agent from making a health-care decision for the
19 individual, on a finding that the individual's appointment of the agent
20 has been revoked or the agent:

21 (A) is disqualified under subsection (b) of section 8 of this act;

22 (B) is unwilling or unable to comply with section 17 of this act; or

23 (C) poses a danger to the individual's well-being;

24 (3) enjoin another individual from acting as a default surrogate, on
25 a finding that the other individual acting as a default surrogate did not
26 comply with section 12 of this act or the other individual:

27 (A) is disqualified under section 14 of this act;

28 (B) is unwilling or unable to comply with section 17 of this act; or

29 (C) poses a danger to the first individual's well-being; or

30 (4) order implementation of a health-care decision made:

31 (A) by and for the individual; or

1 (B) by an agent or default surrogate who is acting in compliance
2 with the powers and duties of the agent or default surrogate.

3 (b) In the Uniform Health-Care Decisions Act, advocacy for the
4 withholding or withdrawal of health care or mental health care from an
5 individual is not itself evidence that an agent or default surrogate, or
6 a potential agent or default surrogate, poses a danger to the
7 individual's well-being.

8 (c) A proceeding under this section is governed by [cite to the
9 state's rules of procedure or statutory provisions governing expedited
10 proceedings and proceedings affecting persons found or alleged to lack
11 capacity].

12 **Sec. 27.** (a) The Uniform Health-Care Decisions Act does not
13 authorize mercy killing, assisted suicide, or euthanasia.

14 (b) The Uniform Health-Care Decisions Act does not affect other law
15 of this state governing treatment for mental illness of an individual
16 involuntarily committed for treatment under the Nebraska Mental Health
17 Commitment Act or the Sex Offender Commitment Act.

18 (c) Death of an individual caused by withholding or withdrawing
19 health care in accordance with the Uniform Health-Care Decisions Act does
20 not constitute a suicide or homicide or legally impair or invalidate a
21 policy of insurance or an annuity providing a death benefit,
22 notwithstanding any term of the policy or annuity.

23 (d) The Uniform Health-Care Decisions Act does not create a
24 presumption concerning the intention of an individual who has not created
25 an advance health-care directive.

26 (e) An advance health-care directive created before, on, or after
27 the effective date of this act must be interpreted in accordance with
28 other law of this state, excluding the state's choice-of-law rules, at
29 the time the directive is implemented.

30 **Sec. 28.** In applying and construing the Uniform Health-Care
31 Decisions Act, a court shall consider the promotion of uniformity of the

1 law among jurisdictions that enact it.

2 **Sec. 29.** (a) An advance health-care directive created before the
3 effective date of this act is valid if it complies with the Uniform
4 Health-Care Decisions Act or complied at the time of creation with the
5 law of the state in which it was created.

6 (b) The Uniform Health-Care Decisions Act does not affect the
7 validity or effect of an act done before the effective date of this act.

8 (c) An individual who assumed authority to act as default surrogate
9 before the effective date of this act may continue to act as default
10 surrogate until the individual for whom the default surrogate is acting
11 has capacity or the default surrogate is disqualified, whichever occurs
12 first.

13 **Sec. 30.** The Uniform Health-Care Decisions Act applies to an
14 advance health-care directive created before, on, or after the effective
15 date of this act.

16 **Sec. 31.** If any section in this act or any part of any section is
17 declared invalid or unconstitutional, the declaration shall not affect
18 the validity or constitutionality of the remaining portions.