

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Purposes and construction. This Act shall be construed consistently with what is reasonable under the circumstances and to effectuate the following purposes:

(1) To enable an individual to easily document and share the individual's advance care planning wishes.

(2) To facilitate electronic capture, transmission, and storage of an individual's advance care planning wishes by means of a reliable electronic solution.

(3) To facilitate and promote the sharing of an individual's advance care planning wishes among care providers by eliminating barriers resulting from paper documents containing these wishes that are not easily transferred and accessed, thus promoting the opportunity for the patient's wishes to be known in all of the health care settings the patient may encounter.

Section 5. The Electronic Commerce Security Act is amended by changing Sections 5-115 and 5-120 as follows:

(5 ILCS 175/5-115)

Sec. 5-115. Electronic records.

(a) Where a rule of law requires information to be "written" or "in writing", or provides for certain consequences if it is not, an electronic record satisfies that rule of law.

(b) The provisions of this Section shall not apply:

(1) when its application would involve a construction of a rule of law that is clearly inconsistent with the manifest intent of the lawmaking body or repugnant to the context of the same rule of law, provided that the mere requirement that information be "in writing", "written", or "printed" shall not by itself be sufficient to establish such intent;

(2) to any rule of law governing the creation or execution of a will or trust, ~~living will, or healthcare power of attorney~~; and

(3) to any record that serves as a unique and transferable instrument of rights and obligations including, without limitation, negotiable instruments and other instruments of title wherein possession of the instrument is deemed to confer title, unless an electronic version of such record is created, stored, and transferred in a manner that allows for the existence of only one unique, identifiable, and unalterable original with the functional attributes of an equivalent physical instrument, that can be possessed by only one person, and which cannot be copied except in a form that is readily identifiable as a copy.

(Source: P.A. 90-759, eff. 7-1-99.)

(5 ILCS 175/5-120)

Sec. 5-120. Electronic signatures.

(a) Where a rule of law requires a signature, or provides for certain consequences if a document is not signed, an electronic signature satisfies that rule of law.

(a-5) In the course of exercising any permitting, licensing, or other regulatory function, a municipality may accept, but shall not require, documents with an electronic signature, including, but not limited to, the technical submissions of a design professional with an electronic signature.

(b) An electronic signature may be proved in any manner, including by showing that a procedure existed by which a party must of necessity have executed a symbol or security procedure for the purpose of verifying that an electronic record is that of such party in order to proceed further with a transaction.

(c) The provisions of this Section shall not apply:

(1) when its application would involve a construction of a rule of law that is clearly inconsistent with the manifest intent of the lawmaking body or repugnant to the context of the same rule of law, provided that the mere requirement of a "signature" or that a record be "signed" shall not by itself be sufficient to establish such intent;

(2) to any rule of law governing the creation or

execution of a will or trust, ~~living will, or healthcare power of attorney~~; and

(3) to any record that serves as a unique and transferable instrument of rights and obligations including, without limitation, negotiable instruments and other instruments of title wherein possession of the instrument is deemed to confer title, unless an electronic version of such record is created, stored, and transferred in a manner that allows for the existence of only one unique, identifiable, and unalterable original with the functional attributes of an equivalent physical instrument, that can be possessed by only one person, and which cannot be copied except in a form that is readily identifiable as a copy.

(Source: P.A. 98-289, eff. 1-1-14.)

Section 10. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by changing Section 2310-600 as follows:

(20 ILCS 2310/2310-600)

Sec. 2310-600. Advance directive information.

(a) The Department of Public Health shall prepare and publish the summary of advance directives law, as required by the federal Patient Self-Determination Act, and related forms. Publication may be limited to the World Wide Web. The summary

required under this subsection (a) must include the Department of Public Health Uniform POLST form.

(b) The Department of Public Health shall publish Spanish language versions of the following:

(1) The statutory Living Will Declaration form.

(2) The Illinois Statutory Short Form Power of Attorney for Health Care.

(3) The statutory Declaration of Mental Health Treatment Form.

(4) The summary of advance directives law in Illinois.

(5) The Department of Public Health Uniform POLST form.

Publication may be limited to the World Wide Web.

(b-5) In consultation with a statewide professional organization representing physicians licensed to practice medicine in all its branches, statewide organizations representing physician assistants, advanced practice registered nurses, nursing homes, registered professional nurses, and emergency medical systems, and a statewide organization representing hospitals, the Department of Public Health shall develop and publish a uniform form for practitioner cardiopulmonary resuscitation (CPR) or life-sustaining treatment orders that may be utilized in all settings. The form shall meet the published minimum requirements to nationally be considered a practitioner orders for life-sustaining treatment form, or POLST, and may be referred to as the Department of Public Health Uniform POLST

form. An electronic version of the Uniform POLST form under this Act may be created, signed, or revoked electronically using a generic, technology-neutral system in which each user is assigned a unique identifier that is securely maintained and in a manner that meets the regulatory requirements for a digital or electronic signature. Compliance with the standards defined in the Electronic Commerce Security Act or the implementing rules of the Hospital Licensing Act for medical record entry authentication for author validation of the documentation, content accuracy, and completeness meets this standard. This form does not replace a physician's or other practitioner's authority to make a do-not-resuscitate (DNR) order.

(b-10) In consultation with a statewide professional organization representing physicians licensed to practice medicine in all its branches, statewide organizations representing physician assistants, advanced practice registered nurses, nursing homes, registered professional nurses, and emergency medical systems, a statewide bar association, a national bar association with an Illinois chapter that concentrates in elder and disability law, a not-for-profit organ procurement organization that coordinates organ and tissue donation, a statewide committee or group responsible for stakeholder education about POLST issues, and a statewide organization representing hospitals, the Department of Public Health shall study the feasibility of creating a

statewide registry of advance directives and POLST forms. The registry would allow residents of this State to submit the forms and for the forms to be made available to health care providers and professionals in a timely manner for the provision of care or services. This study must be filed with the General Assembly on or before January 1, 2021.

(c) (Blank).

(d) The Department of Public Health shall publish the Department of Public Health Uniform POLST form reflecting the changes made by this amendatory Act of the 98th General Assembly no later than January 1, 2015.

(Source: P.A. 99-319, eff. 1-1-16; 99-581, eff. 1-1-17; 100-513, eff. 1-1-18.)

Section 15. The Illinois Living Will Act is amended by changing Sections 2, 5, and 9 as follows:

(755 ILCS 35/2) (from Ch. 110 1/2, par. 702)

Sec. 2. Definitions:

(a) "Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

(b) "Declaration" means a witnessed document in writing, in a hard copy or electronic format, voluntarily executed by the declarant in accordance with the requirements of Section 3.

(c) "Health-care provider" means a person who is licensed,

certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

(d) "Death delaying procedure" means any medical procedure or intervention which, when applied to a qualified patient, in the judgement of the attending physician would serve only to postpone the moment of death. In appropriate circumstances, such procedures include, but are not limited to, assisted ventilation, artificial kidney treatments, intravenous feeding or medication, blood transfusions, tube feeding and other procedures of greater or lesser magnitude that serve only to delay death. However, this Act does not affect the responsibility of the attending physician or other health care provider to provide treatment for a patient's comfort care or alleviation of pain. Nutrition and hydration shall not be withdrawn or withheld from a qualified patient if the withdrawal or withholding would result in death solely from dehydration or starvation rather than from the existing terminal condition.

(e) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, government, governmental subdivision or agency, or any other legal entity.

(f) "Physician" means a person licensed to practice medicine in all its branches.

(g) "Qualified patient" means a patient who has executed a declaration in accordance with this Act and who has been

diagnosed and verified in writing to be afflicted with a terminal condition by his or her attending physician who has personally examined the patient. A qualified patient has the right to make decisions regarding death delaying procedures as long as he or she is able to do so.

(h) "Terminal condition" means an incurable and irreversible condition which is such that death is imminent and the application of death delaying procedures serves only to prolong the dying process.

(Source: P.A. 95-331, eff. 8-21-07.)

(755 ILCS 35/5) (from Ch. 110 1/2, par. 705)

Sec. 5. Revocation. (a) A declaration may be revoked at any time by the declarant, without regard to declarant's mental or physical condition, by any of the following methods:

(1) By being obliterated, burnt, torn or otherwise destroyed or defaced in a manner indicating intention to cancel;

(2) By a written revocation of the declaration signed and dated by the declarant or person acting at the direction of the declarant, regardless of whether the written revocation is in electronic or hard copy format; ~~or~~

(3) By an ~~a~~ oral or any other expression of the intent to revoke the declaration, in the presence of a witness 18 years of age or older who signs and dates a writing confirming that such expression of intent was made; or ~~or~~

(4) For an electronic declaration, by deleting in a manner indicating the intention to revoke. An electronic declaration may be revoked electronically using a generic, technology-neutral system in which each user is assigned a unique identifier that is securely maintained and in a manner that meets the regulatory requirements for a digital or electronic signature. Compliance with the standards defined in the Electronic Commerce Security Act or the implementing rules of the Hospital Licensing Act for medical record entry authentication for author validation of the documentation, content accuracy, and completeness meets this standard.

(b) A revocation is effective upon communication to the attending physician by the declarant or by another who witnessed the revocation. The attending physician shall record in the patient's medical record the time and date when and the place where he or she received notification of the revocation.

(c) There shall be no criminal or civil liability on the part of any person for failure to act upon a revocation made pursuant to this Section unless that person has actual knowledge of the revocation.

(Source: P.A. 85-860.)

(755 ILCS 35/9) (from Ch. 110 1/2, par. 709)

Sec. 9. General provisions. (a) The withholding or withdrawal of death delaying procedures from a qualified patient in accordance with the provisions of this Act shall

not, for any purpose, constitute a suicide.

(b) The making of a declaration pursuant to Section 3 shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of death delaying procedures from an insured qualified patient, notwithstanding any term of the policy to the contrary.

(c) No physician, health care facility, or other health care provider, and no health care service plan, health maintenance organization, insurer issuing disability insurance, self-insured employee ~~employe~~ welfare benefit plan, nonprofit medical service corporation or mutual nonprofit hospital service corporation shall require any person to execute a declaration as a condition for being insured for, or receiving, health care services.

(d) Nothing in this Act shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of death delaying procedures in any lawful manner. In such respect the provisions of this Act are cumulative.

(e) This Act shall create no presumption concerning the intention of an individual who has not executed a declaration to consent to the use or withholding of death delaying procedures in the event of a terminal condition.

(f) Nothing in this Act shall be construed to condone, authorize or approve mercy killing or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying as provided in this Act.

(g) An instrument executed before the effective date of this Act that substantially complies with subsection ~~paragraph~~ (e) of Section 3 shall be given effect pursuant to the provisions of this Act.

(h) A declaration executed in another state in compliance with the law of that state or this State is validly executed for purposes of this Act, and such declaration shall be applied in accordance with the provisions of this Act.

(i) Documents, writings, forms, and copies referred to in this Act may be in hard copy or electronic format. Nothing in this Act is intended to prevent the population of a declaration, document, writing, or form with electronic data. Electronic documents under this Act may be created, signed, or revoked electronically using a generic, technology-neutral system in which each user is assigned a unique identifier that is securely maintained and in a manner that meets the regulatory requirements for a digital or electronic signature. Compliance with the standards defined in the Electronic Commerce Security Act or the implementing rules of the Hospital Licensing Act for medical record entry authentication for author validation of the documentation, content accuracy, and completeness meets this standard.

(Source: P.A. 85-860.)

Section 20. The Health Care Surrogate Act is amended by adding Section 70 as follows:

(755 ILCS 40/70 new)

Sec. 70. Format. The affidavit, medical record, documents, and forms referred to in this Act may be in hard copy or electronic format. Nothing in this Act is intended to prevent the population of an affidavit, medical record, document, or form with electronic data. A living will, mental health treatment preferences declaration, practitioner orders for life-sustaining treatment (POLST), or power of attorney for health care that is populated with electronic data is operative. Electronic documents under this Act may be created, signed, or revoked electronically using a generic, technology-neutral system in which each user is assigned a unique identifier that is securely maintained and in a manner that meets the regulatory requirements for a digital or electronic signature. Compliance with the standards defined in the Electronic Commerce Security Act or the implementing rules of the Hospital Licensing Act for medical record entry authentication for author validation of the documentation, content accuracy, and completeness meets this standard.

Section 25. The Mental Health Treatment Preference

Declaration Act is amended by changing Sections 5, 20, and 50 and by adding Section 23 as follows:

(755 ILCS 43/5)

Sec. 5. Definitions. As used in this Act:

(1) "Adult" shall have the same meaning as provided in Section 10 of the Health Care Surrogate Act.

(2) "Attending physician" shall have the same meaning as provided in Section 10 of the Healthcare Surrogate Act.

(3) "Attorney-in-fact" means an adult validly appointed under this Act to make mental health treatment decisions for a principal under a declaration for mental health treatment and also means an alternative attorney-in-fact.

(4) "Declaration" means a document, in hard copy or electronic format, making a declaration of preferences or instructions regarding mental health treatment.

(5) "Incapable" means that, in the opinion of 2 physicians or the court, a person's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to make mental health treatment decisions.

(6) "Mental Health Facility" shall have the same meaning as provided in Section 1-114 of the Mental Health and Developmental Disabilities Code.

(7) "Mental health treatment" means electroconvulsive treatment, treatment of mental illness with psychotropic

medication, and admission to and retention in a mental health facility for a period not to exceed 17 days for care or treatment of mental illness.

(8) "Physician" means a physician or psychiatrist as defined in Sections 1-120 and 1-121, respectively, of the Mental Health and Developmental Disabilities Code.

(9) "Principal" means the person making a declaration for his or her personal mental health treatment.

(10) "Provider" means any mental health facility or any other person which is devoted in whole or part to providing mental health services.

(Source: P.A. 89-439, eff. 6-1-96.)

(755 ILCS 43/20)

Sec. 20. Signatures required.

(a) A declaration is effective only if it is signed by the principal, and 2 competent adult witnesses. The witnesses must attest that the principal is known to them, signed the declaration in their presence and appears to be of sound mind and not under duress, fraud or undue influence. Persons specified in Section 65 of this Act may not act as witnesses.

(b) The signature and execution requirements set forth in this Act are satisfied by: (i) written signatures or initials; or (ii) electronic signatures or computer-generated signature codes. Electronic documents under this Act may be created, signed, or revoked electronically using a generic,

technology-neutral system in which each user is assigned a unique identifier that is securely maintained and in a manner that meets the regulatory requirements for a digital or electronic signature. Compliance with the standards defined in the Electronic Commerce Security Act or the implementing rules of the Hospital Licensing Act for medical record entry authentication for author validation of the documentation, content accuracy, and completeness meets this standard.

(Source: P.A. 89-439, eff. 6-1-96.)

(755 ILCS 43/23 new)

Sec. 23. Format. Documents, writings, and forms referred to in this Act may be in hard copy or electronic format. Nothing in this Act is intended to prevent the population of a declaration, document, writing, or form with electronic data.

(755 ILCS 43/50)

Sec. 50. Revocation. A declaration may be revoked in whole or in part by written statement at any time by the principal if the principal is not incapable, regardless of whether the written revocation is in an electronic or hard copy format. A written statement of revocation is effective when signed by the principal and a physician and the principal delivers the revocation to the attending physician. An electronic declaration may be revoked electronically using a generic, technology-neutral system in which each user is assigned a

unique identifier that is securely maintained and in a manner that meets the regulatory requirements for a digital or electronic signature. Compliance with the standards defined in the Electronic Commerce Security Act or the implementing rules of the Hospital Licensing Act for medical record entry authentication for author validation of the documentation, content accuracy, and completeness meets this standard. The attending physician shall note the revocation as part of the principal's medical record.

(Source: P.A. 89-439, eff. 6-1-96.)

Section 30. The Illinois Power of Attorney Act is amended by changing Sections 4-4, 4-6, 4-9, and 4-10 and by adding Section 4-4.1 as follows:

(755 ILCS 45/4-4) (from Ch. 110 1/2, par. 804-4)

Sec. 4-4. Definitions. As used in this Article:

(a) "Attending physician" means the physician who has primary responsibility at the time of reference for the treatment and care of the patient.

(b) "Health care" means any care, treatment, service or procedure to maintain, diagnose, treat or provide for the patient's physical or mental health or personal care.

(c) "Health care agency" means an agency governing any type of health care, anatomical gift, autopsy or disposition of remains for and on behalf of a patient and refers, in either

hard copy or electronic format, to the power of attorney or other written instrument defining the agency or the agency, itself, as appropriate to the context.

(d) "Health care provider", "health care professional", or "provider" means the attending physician and any other person administering health care to the patient at the time of reference who is licensed, certified, or otherwise authorized or permitted by law to administer health care in the ordinary course of business or the practice of a profession, including any person employed by or acting for any such authorized person.

(e) "Patient" means the principal or, if the agency governs health care for a minor child of the principal, then the child.

(e-5) "Health care agent" means an individual at least 18 years old designated by the principal to make health care decisions of any type, including, but not limited to, anatomical gift, autopsy, or disposition of remains for and on behalf of the individual. A health care agent is a personal representative under state and federal law. The health care agent has the authority of a personal representative under both state and federal law unless restricted specifically by the health care agency.

(f) (Blank).

(g) (Blank).

(h) (Blank).

(Source: P.A. 98-1113, eff. 1-1-15.)

(755 ILCS 45/4-4.1 new)

Sec. 4-4.1. Format. Documents, writings, forms, and copies referred to in this Article may be in hard copy or electronic format. Nothing in this Article is intended to prevent the population of a written instrument of a health care agency, document, writing, or form with electronic data.

(755 ILCS 45/4-6) (from Ch. 110 1/2, par. 804-6)

Sec. 4-6. Revocation and amendment of health care agencies.

(a) Every health care agency may be revoked by the principal at any time, without regard to the principal's mental or physical condition, by any of the following methods:

1. By being obliterated, burnt, torn or otherwise destroyed or defaced in a manner indicating intention to revoke;

2. By a written revocation of the agency signed and dated by the principal or person acting at the direction of the principal, regardless of whether the written revocation is in an electronic or hard copy format; ~~or~~

3. By an oral or any other expression of the intent to revoke the agency in the presence of a witness 18 years of age or older who signs and dates a writing confirming that such expression of intent was made; or ~~or~~

4. For an electronic health care agency, by deleting in a manner indicating the intention to revoke. An electronic health care agency may be revoked electronically using a generic,

technology-neutral system in which each user is assigned a unique identifier that is securely maintained and in a manner that meets the regulatory requirements for a digital or electronic signature. Compliance with the standards defined in the Electronic Commerce Security Act or the implementing rules of the Hospital Licensing Act for medical record entry authentication for author validation of the documentation, content accuracy, and completeness meets this standard.

(b) Every health care agency may be amended at any time by a written amendment signed and dated by the principal or person acting at the direction of the principal.

(c) Any person, other than the agent, to whom a revocation or amendment is communicated or delivered shall make all reasonable efforts to inform the agent of that fact as promptly as possible.

(Source: P.A. 85-701.)

(755 ILCS 45/4-9) (from Ch. 110 1/2, par. 804-9)

Sec. 4-9. Penalties. All persons shall be subject to the following sanctions in relation to health care agencies, in addition to all other sanctions applicable under any other law or rule of professional conduct:

(a) Any person shall be civilly liable who, without the principal's consent: (i) ~~τ~~ wilfully conceals, cancels, or alters a health care agency or any amendment or revocation of the agency; (ii) ~~or who~~ falsifies or forges a health care

agency, amendment, or revocation; or (iii) enters information in an electronic system under the persona of the principal.

(b) A person who falsifies or forges a health care agency, enters information in an electronic system under the persona of the principal, or wilfully conceals or withholds personal knowledge of an amendment or revocation of a health care agency with the intent to cause a withholding or withdrawal of life-sustaining or death-delaying procedures contrary to the intent of the principal and thereby, because of such act, directly causes life-sustaining or death-delaying procedures to be withheld or withdrawn and death to the patient to be hastened shall be subject to prosecution for involuntary manslaughter.

(c) Any person who requires or prevents execution of a health care agency as a condition of insuring or providing any type of health care services to the patient shall be civilly liable and guilty of a Class A misdemeanor.

(Source: P.A. 85-701.)

(755 ILCS 45/4-10) (from Ch. 110 1/2, par. 804-10)

Sec. 4-10. Statutory short form power of attorney for health care.

(a) The form prescribed in this Section (sometimes also referred to in this Act as the "statutory health care power") may be used to grant an agent powers with respect to the principal's own health care; but the statutory health care

power is not intended to be exclusive nor to cover delegation of a parent's power to control the health care of a minor child, and no provision of this Article shall be construed to invalidate or bar use by the principal of any other or different form of power of attorney for health care. Nonstatutory health care powers must be executed by the principal, designate the agent and the agent's powers, and comply with the limitations in Section 4-5 of this Article, but they need not be witnessed or conform in any other respect to the statutory health care power.

No specific format is required for the statutory health care power of attorney other than the notice must precede the form. The statutory health care power may be included in or combined with any other form of power of attorney governing property or other matters.

The signature and execution requirements set forth in this Article are satisfied by: (i) written signatures or initials; or (ii) electronic signatures or computer-generated signature codes. Electronic documents under this Act may be created, signed, or revoked electronically using a generic, technology-neutral system in which each user is assigned a unique identifier that is securely maintained and in a manner that meets the regulatory requirements for a digital or electronic signature. Compliance with the standards defined in the Electronic Commerce Security Act or the implementing rules of the Hospital Licensing Act for medical record entry

authentication for author validation of the documentation, content accuracy, and completeness meets this standard.

(b) The Illinois Statutory Short Form Power of Attorney for Health Care shall be substantially as follows:

NOTICE TO THE INDIVIDUAL SIGNING

THE POWER OF ATTORNEY FOR HEALTH CARE

No one can predict when a serious illness or accident might occur. When it does, you may need someone else to speak or make health care decisions for you. If you plan now, you can increase the chances that the medical treatment you get will be the treatment you want.

In Illinois, you can choose someone to be your "health care agent". Your agent is the person you trust to make health care decisions for you if you are unable or do not want to make them yourself. These decisions should be based on your personal values and wishes.

It is important to put your choice of agent in writing. The written form is often called an "advance directive". You may use this form or another form, as long as it meets the legal requirements of Illinois. There are many written and on-line resources to guide you and your loved ones in having a conversation about these issues. You may find it helpful to look at these resources while thinking about and discussing your advance directive.

WHAT ARE THE THINGS I WANT MY
HEALTH CARE AGENT TO KNOW?

The selection of your agent should be considered carefully, as your agent will have the ultimate decision-making ~~decision making~~ authority once this document goes into effect, in most instances after you are no longer able to make your own decisions. While the goal is for your agent to make decisions in keeping with your preferences and in the majority of circumstances that is what happens, please know that the law does allow your agent to make decisions to direct or refuse health care interventions or withdraw treatment. Your agent will need to think about conversations you have had, your personality, and how you handled important health care issues in the past. Therefore, it is important to talk with your agent and your family about such things as:

- (i) What is most important to you in your life?
- (ii) How important is it to you to avoid pain and suffering?
- (iii) If you had to choose, is it more important to you to live as long as possible, or to avoid prolonged suffering or disability?
- (iv) Would you rather be at home or in a hospital for the last days or weeks of your life?
- (v) Do you have religious, spiritual, or cultural beliefs that you want your agent and others to consider?
- (vi) Do you wish to make a significant contribution to

medical science after your death through organ or whole body donation?

(vii) Do you have an existing advance ~~advanced~~ directive, such as a living will, that contains your specific wishes about health care that is only delaying your death? If you have another advance directive, make sure to discuss with your agent the directive and the treatment decisions contained within that outline your preferences. Make sure that your agent agrees to honor the wishes expressed in your advance directive.

WHAT KIND OF DECISIONS CAN MY AGENT MAKE?

If there is ever a period of time when your physician determines that you cannot make your own health care decisions, or if you do not want to make your own decisions, some of the decisions your agent could make are to:

(i) talk with physicians and other health care providers about your condition.

(ii) see medical records and approve who else can see them.

(iii) give permission for medical tests, medicines, surgery, or other treatments.

(iv) choose where you receive care and which physicians and others provide it.

(v) decide to accept, withdraw, or decline treatments designed to keep you alive if you are near death or not

likely to recover. You may choose to include guidelines and/or restrictions to your agent's authority.

(vi) agree or decline to donate your organs or your whole body if you have not already made this decision yourself. This could include donation for transplant, research, and/or education. You should let your agent know whether you are registered as a donor in the First Person Consent registry maintained by the Illinois Secretary of State or whether you have agreed to donate your whole body for medical research and/or education.

(vii) decide what to do with your remains after you have died, if you have not already made plans.

(viii) talk with your other loved ones to help come to a decision (but your designated agent will have the final say over your other loved ones).

Your agent is not automatically responsible for your health care expenses.

WHOM SHOULD I CHOOSE TO BE MY HEALTH CARE AGENT?

You can pick a family member, but you do not have to. Your agent will have the responsibility to make medical treatment decisions, even if other people close to you might urge a different decision. The selection of your agent should be done carefully, as he or she will have ultimate decision-making authority for your treatment decisions once you are no longer able to voice your preferences. Choose a family member, friend,

or other person who:

(i) is at least 18 years old;

(ii) knows you well;

(iii) you trust to do what is best for you and is willing to carry out your wishes, even if he or she may not agree with your wishes;

(iv) would be comfortable talking with and questioning your physicians and other health care providers;

(v) would not be too upset to carry out your wishes if you became very sick; and

(vi) can be there for you when you need it and is willing to accept this important role.

WHAT IF MY AGENT IS NOT AVAILABLE OR IS
UNWILLING TO MAKE DECISIONS FOR ME?

If the person who is your first choice is unable to carry out this role, then the second agent you chose will make the decisions; if your second agent is not available, then the third agent you chose will make the decisions. The second and third agents are called your successor agents and they function as back-up agents to your first choice agent and may act only one at a time and in the order you list them.

WHAT WILL HAPPEN IF I DO NOT
CHOOSE A HEALTH CARE AGENT?

If you become unable to make your own health care decisions

and have not named an agent in writing, your physician and other health care providers will ask a family member, friend, or guardian to make decisions for you. In Illinois, a law directs which of these individuals will be consulted. In that law, each of these individuals is called a "surrogate".

There are reasons why you may want to name an agent rather than rely on a surrogate:

(i) The person or people listed by this law may not be who you would want to make decisions for you.

(ii) Some family members or friends might not be able or willing to make decisions as you would want them to.

(iii) Family members and friends may disagree with one another about the best decisions.

(iv) Under some circumstances, a surrogate may not be able to make the same kinds of decisions that an agent can make.

WHAT IF THERE IS NO ONE AVAILABLE

WHOM I TRUST TO BE MY AGENT?

In this situation, it is especially important to talk to your physician and other health care providers and create written guidance about what you want or do not want, in case you are ever critically ill and cannot express your own wishes. You can complete a living will. You can also write your wishes down and/or discuss them with your physician or other health care provider and ask him or her to write it down in your

chart. You might also want to use written or on-line resources to guide you through this process.

WHAT DO I DO WITH THIS FORM ONCE I COMPLETE IT?

Follow these instructions after you have completed the form:

- (i) Sign the form in front of a witness. See the form for a list of who can and cannot witness it.
- (ii) Ask the witness to sign it, too.
- (iii) There is no need to have the form notarized.
- (iv) Give a copy to your agent and to each of your successor agents.
- (v) Give another copy to your physician.
- (vi) Take a copy with you when you go to the hospital.
- (vii) Show it to your family and friends and others who care for you.

WHAT IF I CHANGE MY MIND?

You may change your mind at any time. If you do, tell someone who is at least 18 years old that you have changed your mind, and/or destroy your document and any copies. If you wish, fill out a new form and make sure everyone you gave the old form to has a copy of the new one, including, but not limited to, your agents and your physicians.

WHAT IF I DO NOT WANT TO USE THIS FORM?

In the event you do not want to use the Illinois statutory form provided here, any document you complete must be executed by you, designate an agent who is over 18 years of age and not prohibited from serving as your agent, and state the agent's powers, but it need not be witnessed or conform in any other respect to the statutory health care power.

If you have questions about the use of any form, you may want to consult your physician, other health care provider, and/or an attorney.

MY POWER OF ATTORNEY FOR HEALTH CARE

THIS POWER OF ATTORNEY REVOKES ALL PREVIOUS POWERS OF ATTORNEY FOR HEALTH CARE. (You must sign this form and a witness must also sign it before it is valid)

My name (Print your full name):

My address:

I WANT THE FOLLOWING PERSON TO BE MY HEALTH CARE AGENT

(an agent is your personal representative under state and federal law):

(Agent name)

(Agent address)

(Agent phone number)

(Please check box if applicable) If a guardian of my person is to be appointed, I nominate the agent acting under this power of attorney as guardian.

SUCCESSOR HEALTH CARE AGENT(S) (optional):

If the agent I selected is unable or does not want to make health care decisions for me, then I request the person(s) I name below to be my successor health care agent(s). Only one person at a time can serve as my agent (add another page if you want to add more successor agent names):

.....
(Successor agent #1 name, address and phone number)

.....
(Successor agent #2 name, address and phone number)

MY AGENT CAN MAKE HEALTH CARE DECISIONS FOR ME, INCLUDING:

(i) Deciding to accept, withdraw or decline treatment for any physical or mental condition of mine, including life-and-death decisions.

(ii) Agreeing to admit me to or discharge me from any hospital, home, or other institution, including a mental health facility.

(iii) Having complete access to my medical and mental health records, and sharing them with others as needed, including after I die.

(iv) Carrying out the plans I have already made, or, if

I have not done so, making decisions about my body or remains, including organ, tissue or whole body donation, autopsy, cremation, and burial.

The above grant of power is intended to be as broad as possible so that my agent will have the authority to make any decision I could make to obtain or terminate any type of health care, including withdrawal of nutrition and hydration and other life-sustaining measures.

I AUTHORIZE MY AGENT TO (please check any one box):

.... Make decisions for me only when I cannot make them for myself. The physician(s) taking care of me will determine when I lack this ability.

(If no box is checked, then the box above shall be implemented.) OR

.... Make decisions for me only when I cannot make them for myself. The physician(s) taking care of me will determine when I lack this ability. Starting now, for the purpose of assisting me with my health care plans and decisions, my agent shall have complete access to my medical and mental health records, the authority to share them with others as needed, and the complete ability to communicate with my personal physician(s) and other health care providers, including the ability to require an opinion of my physician as to whether I lack the ability to make decisions for myself. OR

.... Make decisions for me starting now and continuing after I am no longer able to make them for myself. While I am still able to make my own decisions, I can still do so if I want to.

The subject of life-sustaining treatment is of particular importance. Life-sustaining treatments may include tube feedings or fluids through a tube, breathing machines, and CPR. In general, in making decisions concerning life-sustaining treatment, your agent is instructed to consider the relief of suffering, the quality as well as the possible extension of your life, and your previously expressed wishes. Your agent will weigh the burdens versus benefits of proposed treatments in making decisions on your behalf.

Additional statements concerning the withholding or removal of life-sustaining treatment are described below. These can serve as a guide for your agent when making decisions for you. Ask your physician or health care provider if you have any questions about these statements.

SELECT ONLY ONE STATEMENT BELOW THAT BEST EXPRESSES YOUR WISHES (optional):

.... The quality of my life is more important than the length of my life. If I am unconscious and my attending physician believes, in accordance with reasonable medical standards, that I will not wake up or recover my ability to

think, communicate with my family and friends, and experience my surroundings, I do not want treatments to prolong my life or delay my death, but I do want treatment or care to make me comfortable and to relieve me of pain.

.... Staying alive is more important to me, no matter how sick I am, how much I am suffering, the cost of the procedures, or how unlikely my chances for recovery are. I want my life to be prolonged to the greatest extent possible in accordance with reasonable medical standards.

SPECIFIC LIMITATIONS TO MY AGENT'S DECISION-MAKING AUTHORITY:

The above grant of power is intended to be as broad as possible so that your agent will have the authority to make any decision you could make to obtain or terminate any type of health care. If you wish to limit the scope of your agent's powers or prescribe special rules or limit the power to authorize autopsy or dispose of remains, you may do so specifically in this form.

.....
.....

My signature:.....

Today's date:.....

HAVE YOUR WITNESS AGREE TO WHAT IS WRITTEN BELOW, AND THEN COMPLETE THE SIGNATURE PORTION:

I am at least 18 years old. (check one of the options below):

.... I saw the principal sign this document, or

.... the principal told me that the signature or mark on the principal signature line is his or hers.

I am not the agent or successor agent(s) named in this document. I am not related to the principal, the agent, or the successor agent(s) by blood, marriage, or adoption. I am not the principal's physician, advanced practice registered nurse, dentist, podiatric physician, optometrist, psychologist, or a relative of one of those individuals. I am not an owner or operator (or the relative of an owner or operator) of the health care facility where the principal is a patient or resident.

Witness printed name:

Witness address:

Witness signature:

Today's date:

(c) The statutory short form power of attorney for health care (the "statutory health care power") authorizes the agent to make any and all health care decisions on behalf of the principal which the principal could make if present and under no disability, subject to any limitations on the granted powers that appear on the face of the form, to be exercised in such manner as the agent deems consistent with the intent and

desires of the principal. The agent will be under no duty to exercise granted powers or to assume control of or responsibility for the principal's health care; but when granted powers are exercised, the agent will be required to use due care to act for the benefit of the principal in accordance with the terms of the statutory health care power and will be liable for negligent exercise. The agent may act in person or through others reasonably employed by the agent for that purpose but may not delegate authority to make health care decisions. The agent may sign and deliver all instruments, negotiate and enter into all agreements and do all other acts reasonably necessary to implement the exercise of the powers granted to the agent. Without limiting the generality of the foregoing, the statutory health care power shall include the following powers, subject to any limitations appearing on the face of the form:

(1) The agent is authorized to give consent to and authorize or refuse, or to withhold or withdraw consent to, any and all types of medical care, treatment or procedures relating to the physical or mental health of the principal, including any medication program, surgical procedures, life-sustaining treatment or provision of food and fluids for the principal.

(2) The agent is authorized to admit the principal to or discharge the principal from any and all types of hospitals, institutions, homes, residential or nursing

facilities, treatment centers and other health care institutions providing personal care or treatment for any type of physical or mental condition. The agent shall have the same right to visit the principal in the hospital or other institution as is granted to a spouse or adult child of the principal, any rule of the institution to the contrary notwithstanding.

(3) The agent is authorized to contract for any and all types of health care services and facilities in the name of and on behalf of the principal and to bind the principal to pay for all such services and facilities, and to have and exercise those powers over the principal's property as are authorized under the statutory property power, to the extent the agent deems necessary to pay health care costs; and the agent shall not be personally liable for any services or care contracted for on behalf of the principal.

(4) At the principal's expense and subject to reasonable rules of the health care provider to prevent disruption of the principal's health care, the agent shall have the same right the principal has to examine and copy and consent to disclosure of all the principal's medical records that the agent deems relevant to the exercise of the agent's powers, whether the records relate to mental health or any other medical condition and whether they are in the possession of or maintained by any physician, psychiatrist, psychologist, therapist, hospital, nursing

home or other health care provider. The authority under this paragraph (4) applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations thereunder. The agent serves as the principal's personal representative, as that term is defined under HIPAA and regulations thereunder.

(5) The agent is authorized: to direct that an autopsy be made pursuant to Section 2 of the Autopsy Act ~~"An Act in relation to autopsy of dead bodies", approved August 13, 1965, including all amendments~~; to make a disposition of any part or all of the principal's body pursuant to the Illinois Anatomical Gift Act, as now or hereafter amended; and to direct the disposition of the principal's remains.

(6) At any time during which there is no executor or administrator appointed for the principal's estate, the agent is authorized to continue to pursue an application or appeal for government benefits if those benefits were applied for during the life of the principal.

(d) A physician may determine that the principal is unable to make health care decisions for himself or herself only if the principal lacks decisional capacity, as that term is defined in Section 10 of the Health Care Surrogate Act.

(e) If the principal names the agent as a guardian on the statutory short form, and if a court decides that the appointment of a guardian will serve the principal's best interests and welfare, the court shall appoint the agent to

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serve without bond or security.

(Source: P.A. 99-328, eff. 1-1-16; 100-513, eff. 1-1-18;
revised 10-4-18.)