

# HEALTH CARE POWER OF ATTORNEY and COMBINED ADVANCE DIRECTIVE LEGISLATION

AS OF SEPTEMBER 1, 2008

| STATE  | TYPE  | FORM   | LIMITS ON AGENT'S POWERS   | PROHIBITED AGENTS  | FORMALITIES OF EXECUTION  | PROHIBITED WITNESSES<br>Note: "Provider" includes employees of provider  | REGISTRY FOR ADVANCE DIRECTIVES          | COMITY PROVISION                            | POLST PROTOCOL STATE WIDE |
|--|---|--|--|--|---|--|--|---|---------------------------|
| <b>1. ALABAMA</b><br>ALA. STAT. § 22-8A-2 to -14 (West 2007). "Natural Death Act"<br><br>See also Durable Power of Attorney Act, § 26-1-2<br><br>Separate Living Will Statute: NO                            | Combined Advance Directive<br>[Modeled on UHCDA]*   | YES<br>Must be substantially followed  | <ul style="list-style-type: none"> <li>▪ Mental health facility admission and treatments</li> <li>▪ Psycho-surgery</li> <li>▪ Sterilization</li> <li>▪ Abortion</li> <li>▪ Pregnancy limitation</li> <li>▪ Nutrition &amp; hydration – refusal permitted if expressly authorized</li> </ul>  | <ul style="list-style-type: none"> <li>▪ Indiv. Provider *</li> </ul> * Exception for relatives employed by the provider | <ul style="list-style-type: none"> <li>▪ 2 or more witnesses age 19 or older</li> </ul> | <ul style="list-style-type: none"> <li>▪ Minor = 18</li> <li>▪ Agent</li> <li>▪ Proxy signor</li> <li>▪ Relative/Spouse</li> <li>▪ Heir/Beneficiary</li> <li>▪ Person responsible for care costs</li> </ul>                  |  | YES   |                           |
| <b>2. ALASKA</b><br>ALASKA STAT. § 13.52.010 to -.395 (West 2007)<br>"Health Care Decisions Act"<br><br>Separate Living Will Statute: NO   | Combined Advance Directive<br>[Modeled on UHCDA]* plus incorporates mental health directive | YES<br>Optional  | <ul style="list-style-type: none"> <li>▪ Psycho-surgery*</li> <li>▪ Sterilization*</li> <li>▪ Abortion*</li> <li>▪ Removal of bodily organs*</li> <li>▪ Temporary admission to mental health facility*</li> <li>▪ Electro-convulsive therapy*</li> <li>▪ Psychotropic mediation*</li> <li>▪ Life-sustaining procedures*</li> <li>▪ Pregnancy limitation</li> </ul> * Consent/refusal permitted only if expressly authorized. | <ul style="list-style-type: none"> <li>• Facility provider*</li> </ul> * Exception for relatives                         | <ul style="list-style-type: none"> <li>• 2 witness or notarized</li> </ul>              | <ul style="list-style-type: none"> <li>• Agent</li> <li>• Facility provider</li> </ul> One may not be: <ul style="list-style-type: none"> <li>• Relative/Spouse</li> <li>• Heir/Beneficiary</li> </ul>                       |  | YES   |                           |
| <b>3. ARIZONA</b><br>Ariz. Rev. Stat. Ann. §36-3201 to -3262 (West 2007)   | Combined Advance Directive  | YES<br>Optional  | None specified   | None specified   | <ul style="list-style-type: none"> <li>• 1 witness or notarized</li> </ul>              | <ul style="list-style-type: none"> <li>• Agent</li> <li>• Provider</li> </ul> If only <u>one</u> witness, person may not be: <ul style="list-style-type: none"> <li>• Relative/Spouse</li> <li>• Heir/Beneficiary</li> </ul> | Ariz. Rev. Stat. Ann. §§36-3291 to -3297 | YES   |                           |
| <b>4. ARKANSAS</b><br>Ark. Code. Ann. § 20-13-104 (2007)<br>"Durable Power of Attorney for Health Care Act"<br><br>See also Ark. Code Ann. §20-17-201 to -218 (proxy appointment in Living Will Declaration) | Special DPA   | NO<br>(But proxy appointment in Living Will Declaration does have optional form) | <ul style="list-style-type: none"> <li>• Life-sustaining treatment -- unless the DPA incorporates a proxy authorization from the Living Will Declaration statute, §20-17-202</li> <li>• Pregnancy limitation</li> </ul>  | None specified   | <ul style="list-style-type: none"> <li>• 2 witnesses</li> </ul>                         | None specified   |  | YES, if part of a (living will) declaration |                           |

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|--|---|-----------------|---|---|--|--|-----------------------------------|------------------|--|
| <b>5. CALIFORNIA</b><br>Cal. Probate Code §4600 to –4948 806 (West 2007)<br><br><i>Separate Living Will Statute: NO</i>  | Combined Advance Directive                        | YES<br>Optional | <ul style="list-style-type: none"> <li>• Civil commitment</li> <li>• Electro-convulsive therapy</li> <li>• Psycho-surgery</li> <li>• Sterilization</li> <li>• Abortion</li> </ul>   | <ul style="list-style-type: none"> <li>• Supervising Individ. Provider*</li> <li>• Facility Provider*</li> <li>• Conservator – unless conditions are met.</li> </ul> <p>* Exception for relatives who are employees of.</p>   | <ul style="list-style-type: none"> <li>• 2 witnesses or notarized</li> <li>• Special institutional requirements</li> </ul> | <ul style="list-style-type: none"> <li>• Agent</li> <li>• Individ. Provider</li> <li>• Facility Provider</li> </ul> <p>One may not be:</p> <ul style="list-style-type: none"> <li>• Relative/Spouse</li> <li>• Heir/Beneficiary</li> </ul> | Cal. Prob. Code Ann. §§ 4800-4802 | YES              | YES<br>Cal. Probate Code §§4780 – 4785 (8/4/08)<br><br>"Physician Order for Life-Sustaining Treatment" |
| <b>6. COLORADO</b><br>Colo. Rev. Stat. §15-14-503 to –509 (West 2007)<br>"Colorado Patient Autonomy Act"<br><br>See also §15-14-501 to –502 and §15-14-601 to –611 re DPA<br><br><i>Separate Living Will Statute: Colo. Rev. Stat. §15-18-101 to -113</i>      | Special DPA                                       | NO              | None specified  | None specified  | None specified   | N/A  |                                   | YES              |  |
| <b>7. CONNECTICUT</b><br>Conn. Gen. Stat. §19a-570 to –580d (West 2007)<br><br>Se also Conn. Gen. Stat. §1-43 et seq. (2007) (statutory short form DPA) and § 1-56r (Designation of person for decision-making)<br><br><i>Separate Living Will Statute: NO</i> | Combined Advance Directive                        | YES<br>Optional | <ul style="list-style-type: none"> <li>• None specified (but authority is described as authority to "convey" principal's wishes, rather than to make decisions for principal.)</li> <li>▪ Pregnancy limitation</li> </ul> | <ul style="list-style-type: none"> <li>• Facility Provider*</li> <li>• Attending physician</li> <li>• Administrator or employee of gov't agency financially responsible for care*</li> </ul> <p>* Exception for relatives</p> | <ul style="list-style-type: none"> <li>• 2 witnesses</li> <li>• Special institutional requirements</li> </ul>              | <ul style="list-style-type: none"> <li>• Agent</li> </ul>  |                                   | NO               |  |
| <b>8. DELAWARE</b><br>Del. Code Ann. tit. 16, §2501 to 2518 (2007)<br><br><i>Separate Living Will Statute: NO</i>  | Combined Advance Directive<br>[Modeled on UHCDA]* | YES<br>Optional | <ul style="list-style-type: none"> <li>• Pregnancy limitation</li> </ul>  | <ul style="list-style-type: none"> <li>▪ Residential LTC Facility Provider*</li> </ul> <p>* Exception for relatives</p>   | <ul style="list-style-type: none"> <li>• 2 witnesses</li> <li>• Special institutional requirements</li> </ul>              | <ul style="list-style-type: none"> <li>• Facility provider</li> <li>• Relative/Spouse</li> <li>• Heir/Beneficiary</li> <li>• Creditor</li> <li>• Person responsible for care costs</li> </ul>  |                                   | YES              |  |

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| <b>9. DISTRICT OF COLUMBIA</b><br>D.C. Code Ann. §21-2201 to -2213 (2007)<br><br><i>Separate Living Will Statute:</i><br>D.C. Code Ann. §7-621 to -630 (2007)     | Special DPA                                       | YES<br>Optional | <ul style="list-style-type: none"> <li>Decision to medicate defendant to render him/her competent to stand trial</li> </ul>  | <ul style="list-style-type: none"> <li>Indiv. Provider</li> <li>Facility Provider</li> </ul>   | <ul style="list-style-type: none"> <li>2 witnesses</li> </ul>  | <ul style="list-style-type: none"> <li>Principal</li> <li>Individual Provider</li> <li>Facility Provider</li> <li>One may not be Relative/Spouse or Heir/Beneficiary</li> </ul>   |                                 | NO               |                           |
| <b>10. FLORIDA</b><br>Fla. Stat. Ann. §765.101 to -.404 (West 2007)<br><br><i>Separate Living Will Statute: NO</i>  | Combined Advance Directive                        | YES<br>Optional | <ul style="list-style-type: none"> <li>Mental health facility admission*</li> <li>Electro-convulsive therapy*</li> <li>Psycho-surgery*</li> <li>Sterilization*</li> <li>Abortion*</li> <li>Experimental treatments not approved by IRB*</li> <li>Life-sustaining procedures while pregnant*</li> <li>Pregnancy limitation*</li> </ul> <p>* Consent/refusal permissible if expressly authorized</p> | None specified   | <ul style="list-style-type: none"> <li>2 witnesses</li> </ul>  | <ul style="list-style-type: none"> <li>Agent</li> <li>One may not be Relative/Spouse</li> </ul>   |                                 | YES              |                           |
| <b>11. GEORGIA</b><br>Ga. Code Ann. §§ 31-32-1 to -8 (West 2008)<br><br>New law. Eff. 7/1/07<br><br><i>Separate LW Statute: NO</i>                                | Combined Advance Directive                        | YES<br>Optional | <ul style="list-style-type: none"> <li>Mental health facility admission or treatment (incl. mental retardation or addiction)</li> <li>Psycho-surgery</li> <li>Sterilization</li> <li>Pregnancy limitation</li> </ul>   | <ul style="list-style-type: none"> <li>Indiv. Provider directly or indirectly involved</li> </ul>  | <ul style="list-style-type: none"> <li>2 witnesses</li> <li>Special institutional requirements</li> <li>Electronic signature prohibited</li> </ul> | <ul style="list-style-type: none"> <li>Agent</li> <li>Heir/Beneficiary</li> <li>Indiv. Provider</li> </ul> <p>One may not be</p> <ul style="list-style-type: none"> <li>Institutional provider</li> </ul>                     |                                 | YES              |                           |
| <b>12. HAWAII</b><br>Hawaii Rev. Stat. §327E-1 to -16 (2007)<br>See also Hawaii Rev. Stat. §551D-2.5 re DPA for health care<br><br><i>Separate LW Statute: NO</i> | Combined Advance Directive<br>[Modeled on UHCDA]* | YES<br>Optional | None specified   | <ul style="list-style-type: none"> <li>Facility Provider*</li> </ul> <p>* Exception for relatives</p>  | <ul style="list-style-type: none"> <li>2 witnesses or notarized</li> </ul>   | <ul style="list-style-type: none"> <li>Indiv. provider</li> <li>Facility provider</li> <li>Agent</li> </ul> <p>One may not be</p> <ul style="list-style-type: none"> <li>Relative/Spouse</li> <li>Heir/Beneficiary</li> </ul> |                                 | YES              |                           |
| <b>13. IDAHO</b><br>Idaho Code §39-4501 to -4509 (West 2007), specifically §39-4505.<br><br><i>Separate LW Statute: NO</i>  | Combined Advance Directive                        | YES<br>Optional | Pregnancy limitation   | <ul style="list-style-type: none"> <li>Indiv. Provider*</li> <li>Community Care Facility Provider*</li> </ul> <p>* Exception for relatives who are employees of.</p> | <ul style="list-style-type: none"> <li>2 witnesses or notarized</li> </ul>   | <ul style="list-style-type: none"> <li>Agent</li> <li>Indiv. Provider</li> <li>Community Care Facility</li> </ul> <p>One may not be</p> <ul style="list-style-type: none"> <li>Relative/Spouse or Heir/Beneficiary</li> </ul> | Idaho Code §39-4515             | NO               | YES                       |

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|---|---|--|---|---|----------------------------|--|---------------------------------|------------------|---------------------------|
| <b>14. ILLINOIS</b><br>755 ILCS 45/4-1 through 4-12 (West 2007)<br><br><i>Separate LW Statute: 755 ILCS 35/1 to 35/10</i>   | Special DPA   | YES<br>Optional  | None specified  | • Indiv. Provider   | None specified             | None specified   |                                 | YES              |                           |
| <b>15. INDIANA</b><br>Ind. Code §§30-5-1-1 to 30-5-5-19 (West 2007), specifically §30-5-5-16 and -17, AND<br>Ind. Code §§16-36-1-1 thru -19, specifically §16-36-1-6 and -7<br><br><i>Separate LW Statute: Ind. Code Ann. §16-36-4-1 to -21</i> | General DPA with health powers.   | NO<br>But mandatory language for authority re life-sustaining treatment (§30-5-5-17) | None specified  | 4<br>None specified   | ▪ Notarized or one witness | Agent  |                                 | YES              |                           |
|   | Health Care Consent Statute including appointment of health care representative | NO<br>But mandatory language above is incorporated by reference at §16-36-1-14       | None specified  | None specified  | ▪ 1 witness                | ▪ Agent  |                                 | NO               |                           |
| <b>16. IOWA</b><br>Iowa Code Ann. §144B.1 to .12 (West 2007)<br><br><i>Separate LW Statute: Iowa Code Ann. §144A.1 to .12</i>   | Special DPA   | YES<br>Optional  | • None specified  | • Indiv. Provider*<br><br>*Exception for relatives  | • 2 witnesses or notarized | • Agent<br>• Indiv. Provider<br><br><u>One</u> may not be Relative/Spouse  |                                 | YES              |                           |
| <b>17. KANSAS</b><br>Kan. Stat. Ann. §58-625 to -632 (2003)<br><br><i>Separate LW Statute: Kan. Stat. Ann. §65-28,101 to 28,109</i>   | Special DPA   | YES<br>Must be substantially followed  | • Cannot revoke previous living will  | • Indiv. Provider*<br>• Facility Provider*<br>* Exception for relatives & religious community members | • 2 witnesses or notarized | • Agent<br>• Relative/Spouse<br>• Heir/Beneficiary<br>• Person responsible for care costs                                  |                                 | YES              |                           |
| <b>18. KENTUCKY</b><br>Ky. Rev. Stat. §311.621 to .643 (Baldwin 2007)<br><br><i>Separate LW Statute: NO</i>   | Combined Advanced Directive (but called "Living Will Directive")                | YES<br>Must be substantially followed  | • Nutrition & hydration*<br>• Pregnancy limitation<br><br>* Refusal permissible if specified conditions are met | • Facility provider*<br><br>* Exception for relatives   | • 2 witnesses or notarized | • Relative/Spouse<br>• Facility Provider<br>• Attg. physician<br>• Heir/Beneficiary<br>• Person responsible for care costs |                                 | NO               |                           |

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|---|--|-----------------------------|--|--|---|--|--|------------------|--|
| <b>19. LOUISIANA</b><br>La. Rev. Stat. Ann 40:1299.58.1 to .10 (West 2007)<br><br>See also DPA ("Procurator") statute:<br>La. Civ. Code Ann. Art 2985 to 3034 (West 2007), specifically art. 2997<br><br><i>Separate LW Statute: NO</i> | Proxy contained in Living Will statute         | YES<br>Optional             | <ul style="list-style-type: none"> <li>• Powers implicitly limited to executing a living will declaration on behalf of principal.</li> </ul> However, a DPA (a "procurator") may confer health decision powers generally on an agent (a "mandatory") | None specified   | 2 witnesses   | <ul style="list-style-type: none"> <li>• Relative/Spouse</li> <li>• Heir/Beneficiary</li> </ul>  | La. Rev. Stat. Ann. §1299.58.3D            | YES              |  |
| <b>20. MAINE</b><br>Me. Rev. Stat. Ann. tit. 18A, §5-801 to §5-817 (West 2007)<br><br><i>Separate LW Statute: NO</i>  | Combined Advance Directive [Modeled on UHCDA]* | YES<br>Optional             | <ul style="list-style-type: none"> <li>• Mental health facility admission, consent permissible if expressly authorized</li> </ul>  | <ul style="list-style-type: none"> <li>• LTC Facility provider*</li> </ul> * Exception for relatives | • 2 witnesses   | None specified   |  | YES              |  |
| <b>21. MARYLAND</b><br>Md. Code Ann. [Health-Gen.] §5-601 to -618 (2007)<br><br><i>Separate LW Statute: NO</i>  | Combined Advance Directive                     | YES<br>Optional             | <ul style="list-style-type: none"> <li>• None specified</li> </ul>   | <ul style="list-style-type: none"> <li>• Facility provider*</li> </ul> * Exception for relatives     | <ul style="list-style-type: none"> <li>• 2 witnesses</li> <li>• Also recognizes oral directive to a physician with one witness</li> </ul> | <ul style="list-style-type: none"> <li>• Agent</li> <li>• <u>One</u> must not be: Heir, or have any other financial interest in person's death</li> </ul>  | Md Code Ann. [Health-Gen] §§ 5-619 to -626 | YES              | YES §5-608.1 "Instructions on Current Life-Sustaining Treatment Options" |
| <b>22. MASSACHUSETTS</b><br>Mass. Gen. Laws Ann. Ch. 201D (West 2007)<br><br><i>Separate LW Statute: None</i>   | Special DPA                                    | NO                          | <ul style="list-style-type: none"> <li>• None specified</li> </ul>   | <ul style="list-style-type: none"> <li>• Facility provider*</li> </ul> * Exception for relatives     | • 2 witnesses   | <ul style="list-style-type: none"> <li>• Agent</li> </ul>  |  | YES              |  |
| <b>23. MICHIGAN</b><br>Mich. Comp. Laws Ann. §700.5506 to 5512 (West 2007)<br><br><i>Separate LW Statute: None</i>  | Special DPA                                    | Only for agent's acceptance | <ul style="list-style-type: none"> <li>• Pregnancy limitation</li> <li>• Life-sustaining procedures*</li> </ul> * Refusal permissible if expressly authorized  | None specified   | <ul style="list-style-type: none"> <li>• 2 witnesses</li> </ul> Agent must accept in writing before acting as agent ("patient advocate")  | <ul style="list-style-type: none"> <li>• Agent</li> <li>• Relative/Spouse</li> <li>• Heir/Beneficiary</li> <li>• Indiv. Provider</li> <li>• Facility Provider</li> <li>• Employee of life/health insurance provider for patient</li> </ul> |  | NO               |  |

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|--|---|-----------------|--|---|---|--|------------------------------------|---|---------------------------|
| <b>24. MINNESOTA</b><br>Minn. Stat. Ann. §145C.01 to .16 (West 2007)<br><br><i>Separate LW Statute:</i> Minn. Stat. §145B.01 to .17 (West 2007)  | Combined Advance Directive                        | YES<br>Optional | <ul style="list-style-type: none"> <li>None specified</li> </ul>   | <ul style="list-style-type: none"> <li>Indiv. Provider*</li> <li>Facility Provider*</li> </ul><br>* Exception for relatives   | 2 witnesses or notarized  | <ul style="list-style-type: none"> <li>Agent</li> <li><u>One</u> may not be provider</li> </ul>  |                                    | YES   |                           |
| <b>25. MISSISSIPPI</b><br>Miss. Code Ann. §41-41-201 to -229 (West 2007)<br><br><i>Separate LW Statute:</i> NO   | Combined Advance Directive<br>[Modeled on UHCDA]* | YES<br>Optional | <ul style="list-style-type: none"> <li>Mental health facility admission, consent permissible if expressly authorized</li> </ul>  | <ul style="list-style-type: none"> <li>LTC Facility</li> </ul><br>* Exception for relatives   | 2 witnesses or notarized  | <ul style="list-style-type: none"> <li>Agent</li> <li>Indiv. Provider</li> <li>Facility Provider</li> <li><u>One</u> may not be Relative/Spouse or Heir/Beneficiary</li> </ul>                       |                                    | YES, but only if directive complies with this Act |                           |
| <b>26. MISSOURI</b><br>Mo. Ann. Stat. §404.800 - .872 (West 2007) and cross-referenced parts of §404.700 to .735 (DPA statute)<br><br><i>Separate LW Statute:</i> Mo. Ann. Stat. §459.010 to 459.055 (West 2007) | Special DPA                                       | NO              | <ul style="list-style-type: none"> <li>Nutrition &amp; hydration*</li> </ul><br>* Refusal permissible if expressly authorized  | <ul style="list-style-type: none"> <li>Att. Physician*</li> <li>Facility Provider*</li> </ul><br>* Exception for relatives and members of same religious community                        | <ul style="list-style-type: none"> <li>Must contain language of durability and be acknowledged as conveyance of real estate (§404.705)</li> </ul> | None specified   |                                    | YES   |                           |
| <b>27. MONTANA</b><br>Mont. Code Ann. §50-9-101 to -206 (2007).<br>Also incorporates by reference §72-5-501 and -502 (DPA statute)<br><br><i>Separate LW Statute:</i> NO   | Proxy contained in Living Will statute            | YES<br>Optional | <ul style="list-style-type: none"> <li>Pregnancy limitation</li> </ul>   | None specified  | <ul style="list-style-type: none"> <li>2 witnesses under LW statute</li> <li>DPA statute: none, although customarily notarized</li> </ul>         | None specified   | Mont. Code Ann. §§50-9-501 to -505 | YES   |                           |
| <b>28. NEBRASKA</b><br>Neb. Rev. Stat. §30-3401 to -3432 (2007)<br><br><i>Separate LW Statute:</i> Neb. Rev. Stat. §20-401 to -416 (2007)  | Special DPA                                       | YES<br>Optional | <ul style="list-style-type: none"> <li>Life-sustaining procedures*</li> <li>Nutrition &amp; hydration*</li> <li>Pregnancy limitation</li> </ul><br>* Refusal permissible if expressly authorized | <ul style="list-style-type: none"> <li>Att. Physician*</li> <li>Facility*</li> <li>Any agent serving 10 or more principals*</li> </ul><br>* Exception for relatives who are employees of. | 2 witnesses or notarized  | <ul style="list-style-type: none"> <li>Agent</li> <li>Relative/Spouse</li> <li>Heir/Beneficiary</li> <li>Att. Physician</li> <li>Insurer</li> <li><u>One</u> may not be Facility provider</li> </ul> |                                    | YES   |                           |

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| <b>29. NEVADA</b><br>Nev. Rev. Stat. §449.800 to .860 (2007)<br><br><i>Separate LW Statute:</i> Nev. Rev. Stat.449.535 to 690 (2007) with proxy designation.<br>NB. LW statute recognizes an agent under a regular DPA with authority to w/h or w/d life-sustaining treatment. | Special DPA                                       | YES<br>Form with disclosure statement must be substantially followed | <ul style="list-style-type: none"> <li>• Mental health facility admission</li> <li>• Electro-convulsive therapy</li> <li>• Aversive intervention</li> <li>• Psycho-surgery</li> <li>• Sterilization</li> <li>• Abortion</li> </ul>   | <ul style="list-style-type: none"> <li>• Indiv. Provider*</li> <li>• Facility Provider*</li> </ul><br>* Exception for relatives  | • 2 witnesses or notarized   | <ul style="list-style-type: none"> <li>• Agent</li> <li>• Indiv. Provider</li> <li>• Facility Provider</li> <li>• <u>One</u> may not be Relative/Spouse or Heir/Beneficiary</li> </ul>     | Nev. Rev. Stat. §449.915 to -.965 | NO  |  |
| <b>30. NEW HAMPSHIRE</b><br>N.H. Rev. Stat. Ann. §137-J:1 to -J:16 (2007)<br><br><i>LW Statute: Repealed</i>   | Combined Advanced Directive                       | Form and disclosure statement must be substantially followed.        | <ul style="list-style-type: none"> <li>• Mental health facility admission</li> <li>• Sterilization</li> <li>• Pregnancy limitation</li> <li>• Nutrition &amp; hydration*</li> </ul><br>* Refusal permissible if expressly authorized | <ul style="list-style-type: none"> <li>• Facility Provider*</li> </ul><br>* Exception for relatives who are employees of   | <ul style="list-style-type: none"> <li>• 2 witnesses or notarized</li> <li>• Principal must acknowledge receipt of mandatory notice</li> </ul> | <ul style="list-style-type: none"> <li>• Agent</li> <li>• Spouse</li> <li>• Heir/Beneficiary</li> <li>• AH Physician</li> <li>• <u>One</u> may not be residential care provider</li> </ul> |                                   | YES   |  |
| <b>31. NEW JERSEY</b><br>N.J. Stat. Ann. §26:2H-53 to -81 (West 2007)<br><br><i>Separate LW Statute: NO</i>  | Combined Advance Directive                        | NO   | • None specified   | <ul style="list-style-type: none"> <li>• Att. Physician</li> <li>• Facility Provider</li> </ul><br>* Exception for relatives   | • 2 witnesses or notarized   | • Agent  |                                   | YES   |  |
| <b>32. NEW MEXICO</b><br>N.M. Stat. Ann. §24-7A-1 to -18 (West 2007)<br><br><i>Separate LW Statute: NO</i>   | Combined Advance Directive<br>[Modeled on UHCDA]* | YES<br>Optional  | • Mental health facility admission   | <ul style="list-style-type: none"> <li>• LTC Facility Provider</li> </ul><br>* Exception for relatives   | • 2 witnesses recommended, but not required  | None specified   |                                   | YES, but only if directive complies with this Act |  |
| <b>33. NEW YORK</b><br>N.Y. Pub. Health Law §2980 to 2994 (McKinney 2007)<br><br><i>Separate LW Statute: None</i>  | Special DPA                                       | YES<br>Optional  | <ul style="list-style-type: none"> <li>• Nutrition &amp; hydration*</li> </ul><br>* Principal must make his/her wishes "reasonably known"  | <ul style="list-style-type: none"> <li>• Att. Physician*</li> <li>• Facility Provider*</li> <li>• Any agent serving 10 or more principals*</li> </ul><br>* Exception for relatives who are employees of. | <ul style="list-style-type: none"> <li>• 2 witnesses</li> <li>• Special institutional requirements</li> </ul>                                  | • Agent  |                                   | YES   | YES<br>N.Y. Surr. Ct. Pro. §1750-b<br><br>"Medical Orders for Life-Sustaining Treatment" |

| STATE  | TYPE                       | FORM  | LIMITS ON AGENT'S POWERS   | PROHIBITED AGENTS  | FORMALITIES OF EXECUTION  | PROHIBITED WITNESSES<br>Note: "Provider" includes employees of provider  | REGISTRY FOR ADVANCE DIRECTIVES         | COMITY PROVISION | POLST PROTOCOL STATE WIDE  |
|--|----------------------------|---|--|--|---|--|---|------------------|--|
| <b>34. NORTH CAROLINA</b><br>N.C. Gen. Stat. §32A-15 to -26 (2007)<br><br><i>Separate LW Statute:</i><br>N.C. Gen. Stat. § 90-320 to -322 (2007) | Special DPA                | YES<br>Optional   | <ul style="list-style-type: none"> <li>None specified</li> </ul>   | None specified   | <ul style="list-style-type: none"> <li>2 witnesses <u>and</u> notarized</li> </ul>  | <ul style="list-style-type: none"> <li>Relative/Spouse</li> <li>Heir/Beneficiary</li> <li>Indiv. Provider</li> <li>Facility Provider</li> <li>Creditor</li> </ul>  | N.C. Gen. Stat. Ann. §§130A-465 to -471 | YES              | YES §90-21.17<br><br>"Medical Orders for Scope of Treatment"         |
| <b>35. NORTH DAKOTA</b><br>N.D. Cent. Code §23-06.5-01 to -18 (2007)   | Special DPA                | YES<br>Optional   | <ul style="list-style-type: none"> <li>Mental health facility admission &gt;45 days</li> <li>Psycho-surgery</li> <li>Abortion</li> <li>Sterilization</li> </ul>  | <ul style="list-style-type: none"> <li>Indiv. Provider*</li> <li>Facility Provider*</li> </ul><br>* Exception for relatives who are employees of         | <ul style="list-style-type: none"> <li>2 witnesses <u>or</u> notarized</li> <li>Agent must accept in writing</li> </ul>                         | <ul style="list-style-type: none"> <li>Agent *</li> <li>Relative/Spouse *</li> <li>Heir/Beneficiary *</li> <li>Creditor *</li> </ul> One may <u>not</u> be: <ul style="list-style-type: none"> <li>Indiv. Provider</li> <li>Facility Provider</li> </ul><br>* Also disqualifies notary |   | YES              |  |
| <b>36. OHIO</b><br>Ohio Rev. Code §1337.11 to .17 (West 2007)<br><br><i>Separate LW Statute:</i><br>Ohio Rev. Code §2133.01 to .15 (West 2007)   | Special DPA                | Only for mandatory disclosure statement   | <ul style="list-style-type: none"> <li>Life-sustaining procedures*</li> <li>Nutrition &amp; hydration*</li> <li>Pregnancy limitation</li> </ul><br>* Refusal permissible if specified conditions are met   | <ul style="list-style-type: none"> <li>Att. Physician*</li> <li>Nursing home administrator*</li> </ul><br>* Exception for relatives who are employees of | <ul style="list-style-type: none"> <li>2 witnesses <u>or</u> notarized</li> </ul>   | <ul style="list-style-type: none"> <li>Agent</li> <li>Relative/Spouse</li> <li>Att. Physician</li> <li>Nursing home administrator</li> </ul>   |   | YES              |  |
| <b>37. OKLAHOMA</b><br>Okla. Stat. Ann. tit. 63, §3101.1 to .16 (West 2007)<br><br><i>Separate LW Statute: NO</i>                                | Combined Advance Directive | YES<br>Must be substantially followed   | <ul style="list-style-type: none"> <li>Nutrition &amp; hydration*</li> <li>Pregnancy limitation</li> </ul><br>* Refusal permissible if expressly authorized  | None specified   | <ul style="list-style-type: none"> <li>2 witnesses</li> </ul>   | <ul style="list-style-type: none"> <li>Heir/Beneficiary</li> </ul>   |   | YES              |  |
| <b>38. OREGON</b><br>Or. Rev. Stat. §127.505 to .660 and 127.995 (2007)<br><br><i>Separate LW Statute: NO</i>                                    | Combined Advance Directive | YES<br>Must be followed<br><br>But recognizes that any other form "constitutes evidence of the patient's desires and interests" | <ul style="list-style-type: none"> <li>Mental health facility admission</li> <li>Electro-convulsive therapy</li> <li>Psycho-surgery</li> <li>Sterilization</li> <li>Abortion</li> <li>Life-sustaining procedures*</li> <li>Nutrition &amp; hydration*</li> </ul><br>* Refusal permissible if expressly authorized or if specified conditions are met | <ul style="list-style-type: none"> <li>Attending physician*</li> <li>Facility provider*</li> </ul><br>* Exception for relatives                          | <ul style="list-style-type: none"> <li>2 witnesses</li> <li>Agent must accept in writing</li> <li>Special institutional requirements</li> </ul> | <ul style="list-style-type: none"> <li>Agent</li> <li>Att. physician</li> <li>One may not be Relative/Spouse Heir/Beneficiary, or facility provider</li> </ul>   | 2007 Or. Law Ch. 697 (S.B. 329)         | YES              | YES<br>No statute<br>"Physician Order for Life-Sustaining Treatment" |



| STATE   | TYPE   | FORM  | LIMITS ON AGENT'S POWERS   | PROHIBITED AGENTS   | FORMALITIES OF EXECUTION   | PROHIBITED WITNESSES<br>Note: "Provider" includes employees of provider  | REGISTRY FOR ADVANCE DIRECTIVES | COMITY PROVISION  | POLST PROTOCOL STATE WIDE |
|---|--|---|--|---|--|--|---------------------------------|---|---------------------------|
| <b>39. PENNSYLVANIA</b><br>Pa. Stat. Ann. tit. 20, §5401 to 5416 (West 2007).<br><br><i>And</i><br>20 Pa. Cons. Stat. Ann. §5601 to 5611 (DPA)  | Living Will Statute<br><br>Statutory Form DPA includes health decisions powers | YES<br>Optional   | LW: Unclear whether agent is permitted to act <u>only</u> if principal is in a <ul style="list-style-type: none"> <li>terminal condition, or</li> <li>state of permanent unconsciousness</li> <li>Nutrition &amp; hydration*</li> <li>Pregnancy limitation</li> </ul> * Refusal permissible if expressly authorized<br>Statutory Form DPA defines powers specifically. | None specified  | <ul style="list-style-type: none"> <li>LW: 2 witnesses</li> <li>Statutory Form DPA: None required</li> </ul>   | <ul style="list-style-type: none"> <li>LW: Person who signs declaration on declarant's behalf</li> <li>Statutory Form DPA: None specified</li> </ul>   |                                 | <ul style="list-style-type: none"> <li>LW: NO</li> <li>Statutory Form DPA: YES</li> </ul> |                           |
| <b>40. RHODE ISLAND</b><br>R.I. Gen. Laws §23-4.10-1 to -12 (2007)<br><br><i>Separate LW Statute:</i><br>R.I. Gen Laws § 23-4.11-1 to -15 (2007)  | Special DPA  | YES<br>NOT clear whether optional or mandatory  | <ul style="list-style-type: none"> <li>None specified</li> </ul>   | <ul style="list-style-type: none"> <li>Indiv. Provider*</li> <li>Community Care Facility*</li> </ul> * Exception for relatives who are employees of     | <ul style="list-style-type: none"> <li>2 witnesses</li> <li>Principal must be Rhode Island resident</li> </ul> | <ul style="list-style-type: none"> <li>Agent</li> <li>Indiv. Provider</li> <li>Community Care Facility</li> <li>One may not be Relative/Spouse or Heir/Beneficiary</li> </ul>  |                                 | YES   |                           |
| <b>41. SOUTH CAROLINA</b><br>S.C. Code §62-5-501 to -505 (2007), particularly §62-5-504.<br><br><i>Separate LW Statute:</i><br>S. C. Code § 44-77-10 to -160 (also permits appointment of agent)                  | Special DPA (within general DPA statute)                                       | YES<br>Must be substantially followed<br><br>(but conventional DPAs may also contain health powers) | <ul style="list-style-type: none"> <li>Nutrition &amp; hydration "necessary for comfort care or alleviation of pain"*</li> <li>Pregnancy limitation</li> </ul> * Refusal permissible if expressly authorized   | <ul style="list-style-type: none"> <li>Indiv. Provider*</li> <li>Facility Provider*</li> <li>Spouse of a Provider*</li> </ul> * Exception for relatives | <ul style="list-style-type: none"> <li>2 witnesses</li> </ul>  | <ul style="list-style-type: none"> <li>Agent</li> <li>Relative/Spouse</li> <li>Heir/Beneficiary</li> <li>Attending physician</li> <li>Creditor</li> <li>Life insurance beneficiary</li> <li>Person responsible for care costs</li> <li>One may not be facility provider</li> </ul> |                                 | YES   |                           |
| <b>42. SOUTH DAKOTA</b><br>S.D. Codified Laws §59-7-1 to -9 (2007)<br>See also §34-12C-1 to -8 (Health care consent procedures)<br><br><i>Separate LW Statute:</i><br>S.D. Codified Laws § 34-12D-1 to -22 (2007) | General DPA that permits health decisions authority                            | NO  | <ul style="list-style-type: none"> <li>Pregnancy limitation</li> <li>Nutrition &amp; hydration*</li> </ul> * Refusal permissible if expressly authorized or other conditions are met   | None specified  | None specified   | None specified   |                                 | YES   |                           |

| STATE  | TYPE   | FORM   | LIMITS ON AGENT'S POWERS  | PROHIBITED AGENTS  | FORMALITIES OF EXECUTION  | PROHIBITED WITNESSES<br>Note: "Provider" includes employees of provider   | REGISTRY FOR ADVANCE DIRECTIVES                              | COMITY PROVISION | POLST PROTOCOL STATE WIDE               |
|--|--|--|---|--|---|---|--|------------------|---|
| <b>43. TENNESSEE</b><br>Tenn. Code Ann §68-11-1801 to -- 1815 (2007)<br><br><i>Separate LW Statute: NO</i>                 | Combined Advance Directive                   | NO   | None specified  | None specified   | • 2 witnesses or notarized  | <ul style="list-style-type: none"> <li>• Agent</li> <li>• Provider</li> <li>• Facility</li> <li>• One may not be Relative/Spouse or Heir/Beneficiary</li> </ul>   |  | YES              |   |
| <b>44. TEXAS</b><br>Tex. [Health & Safety] Code Ann. §166.001 to -.166 (Vernon 2007)<br><br><i>Separate LW Statute: NO</i> | (1) Special DPA<br>(2) Proxy contained in LW | (1) Special DPA: (Medical PoA): YES. Must be substantially followed plus mandatory disclosure statement.<br>(2) LW: YES Optional | <ul style="list-style-type: none"> <li>• Mental health facility admission</li> <li>• Electro-convulsive therapy</li> <li>• Psycho-surgery</li> <li>• Abortion</li> <li>• Comfort care</li> </ul>                                | <ul style="list-style-type: none"> <li>• Indiv. Provider*</li> <li>• Facility Provider*</li> </ul> <p>* Exception for relatives who are employees of</p>   | • 2 witnesses   | <p>One may not be:</p> <ul style="list-style-type: none"> <li>• Agent</li> <li>• Att. Physician</li> <li>• Relative/Spouse</li> <li>• Facility</li> <li>• Heir/Beneficiary</li> <li>• Creditor</li> </ul>   |  | YES              |   |
| <b>45. UTAH</b><br>Utah Code Ann. §75-2A-101 to -125 (2008)<br>New Law. Eff. 1/1/08<br><br><i>Separate LW Statute: NO</i>  | Combined Advance Directive                   | NO   | <ul style="list-style-type: none"> <li>• Pregnancy limitation</li> <li>• Long-term custodial placement in licensed facility other than for assessment, rehabilitative, or respite care.</li> </ul>                              | <ul style="list-style-type: none"> <li>• Indiv. Provider*</li> <li>• Facility Provider*</li> </ul> <p>* Exception for relatives who are employees of</p>   | • One witness   | <ul style="list-style-type: none"> <li>• Agent</li> <li>• Relative/Spouse</li> <li>• Provider</li> <li>• Facility</li> <li>• Heir/Beneficiary</li> <li>• Person responsible for care costs</li> </ul>   |  | YES              | YES 75-2a-106 "Life with Dignity Order" |
| <b>46. VERMONT</b><br>Vt. Stat. Ann. tit. 18, §5263 to 5278 (2007)   | Combined Advance Directive                   | YES<br><br>Disclosure statement must be substantially followed<br><br>Form optional  | <ul style="list-style-type: none"> <li>• Mental health facility admission</li> </ul>  | <ul style="list-style-type: none"> <li>• Indiv. Provider*</li> <li>• Residential Care Provider*</li> <li>• Funeral/crematory/cemetery representative (if authorized to dispose of remains or donate organs)</li> </ul> <p>* Exception for relatives who are employees of</p> | <ul style="list-style-type: none"> <li>• Warning disclosure</li> <li>• 2 witnesses</li> <li>• Special institutional requirements</li> </ul> | <ul style="list-style-type: none"> <li>• Agent</li> <li>• Indiv. Provider</li> <li>• Residential Care Provider</li> <li>• Spouse</li> <li>• Heir/Beneficiary</li> <li>• Creditor</li> <li>• Funeral/crematory /cemetery representative</li> </ul> | Vt. Stat. Ann. tit. 18, §§9701, 9704, 9709, 9712, 9714, 9719 | YES              |   |
| <b>47. VIRGINIA</b><br>Va. Code §54.1-2981 to --2993 (West 2007)<br><br><i>Separate LW Statute: NO</i>                     | Combined Advance Directive                   | YES Optional   | <ul style="list-style-type: none"> <li>• Mental health facility admission</li> <li>• Psycho-surgery</li> <li>• Sterilization</li> <li>• Abortion</li> <li>• Decisions about "visitation" unless expressly authorized</li> </ul> | None specified   | • 2 witnesses   | • Relative/Spouse   | Va. Code §54.1-2994 to -2996                                 | YES              |   |

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|--|---|--|---|--|---|--|----------------------------------|---|---|
| <b>48. WASHINGTON</b><br>Wash. Rev. Code Ann. §11.94.010 to .900 (West 2007)<br><br><i>Separate LW Statute:</i><br>Wash. Rev. Code Ann. § 70.122.010 to -.920 (West 2007)                                      | General DPA   | NO   | Cross reference to guardianship law [RCWA 11.92.043(5)]:<br>• Electro-convulsive therapy<br>• Psycho-surgery<br>• Other psychiatric<br>• Amputation   | • Indiv. Provider*<br>• Facility Provider*<br><br>* Exception for relatives                      | None specified                            | N/A  | Wash. Rev. Code Ann. §70.122.130 | YES   | YES<br>Wash. Rev. Code Ann. §43.70.480<br><br>"Physician Order for Life-Sustaining Treatment" |
| <b>49. WEST VIRGINIA</b><br>W. VA. Code Ann. §16-30-1 to -25 (West 2007)<br><br><i>Separate LW Statute:</i> No   | Combined Advance Directive<br><br>(i.e. but maintains separate Living Will and Medical Power of Attorney documents) | YES<br>Optional  | • Limit on agent's authority to revoke a pre-need funeral contract  | • Indiv. Provider*<br>• Facility Provider*<br><br>* Exception for relatives who are employees of | • 2 witnesses and notarized               | • Agent<br>• Att. Physician<br>• Principal's signatory<br>• Relative/Spouse<br>• Heir/Beneficiary<br>• Person responsible for care costs   |                                  | YES   | YES<br>§16-30-25 and others<br><br>"Physician Order for Scope of Treatment"                   |
| <b>50. WISCONSIN</b><br>Wis. Stat. Ann. §155.01 to .80 (West 2007)<br><br>See DPA cross reference §243.07(6m) (West 2007)<br><br><i>Separate LW Statute:</i><br>Wisc. Stat. Ann. §§ 154.01 to -.15 (West 2007) | Special DPA   | YES<br>Optional, but disclosure statement is mandatory | • Admission to facility for mental health/retardation or other listed conditions<br>• Electro-convulsive therapy<br>• Mental health research<br>• Drastic mental health treatment<br>• Admission to nursing home or residential facility – very limited unless expressly authorized in the document<br>• Nutrition & hydration*<br>• Pregnancy limitation<br><br>* Refusal permissible only if specified conditions are met | • Indiv. Provider*<br>• Facility Provider*<br><br>* Exception for relatives                      | • 2 witnesses                             | • Agent<br>• Indiv. Provider<br>• Facility provider*<br>• Relative/Spouse<br>• Heir/Beneficiary<br>• Person responsible for care costs<br><br>* Exception for chaplains & social workers |                                  | YES   |   |
| <b>51. WYOMING</b><br>Wyo. Stat. §35-22-401 to -416 (2004)<br><i>Separate LW Statute:</i><br>Wyo. Stat §§ 35-22-101 to -109 (2004)   | Combined Advance Directive  | YES<br>Optional  | None specified  | • Residential or Community Care Provider*<br><br>* Exception for relatives who are employees of  | • 2 witnesses or notarized                | • Agent<br>• Indiv. Provider<br>• Facility Provider  |                                  | NO  |   |
| <b>UNIFORM HEALTH-CARE DECISIONS ACT</b><br><br><i>Separate LW Statute:</i> NO   | Combined Advance Directive  | YES<br>Optional  | • Mental health facility admission, consent permissible if expressly authorized   | • LTC Facility Provider  | 2 witnesses recommended, but not required | None   |                                  | YES, but only if directive complies with this Act |   |

**Abbreviations:** LW = Living Will DPA = Durable Power of Attorney UHCDA = Uniform Health Care Decisions Act  
POLST = Physician Order for Life sustaining Treatment, or similar protocol

CAUTION: The descriptions and limitations listed in this chart are broad characterizations for comparison purposes and not as precise quotations from legislative language.

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