

## SURROGATE CONSENT IN THE ABSENCE OF AN ADVANCE DIRECTIVE

June 2007

State & Citation	General Type of Statute	Priority of Surrogates (in absence of an appointed agent or guardian with health powers)	Limitations on Types of Decisions	Provides Standard for Decision-Making	Disagreement Process Among Equal Priority Surrogates
<b>1. ALABAMA</b>  Ala. Code 1975 §22-8A-11 and – 6 (2007)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>▪ Spouse</li> <li>▪ Adult child</li> <li>▪ Parent</li> <li>▪ Sibling</li> <li>▪ Nearest relative</li> <li>▪ Attending physician &amp; ethics committee</li> </ul>	Patient must be in terminal condition or permanently unconscious. Certification requirements.	Yes §22-8A-11(c)	None provided
<b>2. ALASKA</b>  Alaska Stat. §13.52.030 (West 2007)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>▪ Individual orally designated by patient</li> <li>▪ Spouse</li> <li>▪ Adult child</li> <li>▪ Parent</li> <li>▪ Adult Sibling</li> <li>▪ Close friend</li> </ul>	N/A to withholding or withdrawing life-sustaining procedures UNLESS patient is in “terminal condition” or “permanent unconsciousness.” Certification requirements.  Mental health treatment limitations.	Yes §13.52.030(g)	Majority rule for adult children, parents, or siblings; and if deadlock, then primary physician decides.
<b>3. ARIZONA</b>  Ariz. Rev. Stat. Ann. §36-3231 (West 2007)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>▪ Spouse</li> <li>▪ Adult child</li> <li>▪ Parent</li> <li>▪ Domestic partner, if unmarried and no other person has assumed any financial responsibility for the patient.</li> <li>▪ Sibling</li> <li>▪ Close friend</li> <li>▪ Attending physician in consult with ethics committee or, if none, 2<sup>nd</sup> physician</li> </ul>	N/A to decisions to withdraw nutrition or hydration  Mental health treatment limitations	Yes §36-3203(C)	Majority rule for adult children. Judicial recourse for all others.
<b>4. ARKANSAS</b>  Ark. Code Ann. §20-17-214 (2007)	Living Will Statute	<ul style="list-style-type: none"> <li>▪ Parents of unmarried minor</li> <li>▪ Spouse</li> <li>▪ An Adult child</li> <li>▪ Parents</li> <li>▪ An Adult Sibling</li> <li>▪ Persons standing in loco parentis to the patient</li> <li>▪ Adult heirs</li> </ul>	Limited to executing a Declaration (LW) for a patient determined to be in a terminal condition or permanently unconscious.  Pregnancy limitation	No	Majority rule for adult children, siblings, or adult heirs at law who participate in the decision.
<b>5. CALIFORNIA</b>  Cal. Probate Code §4711 – 4716 (West 2007)	Comprehensive Health Care Decisions Act	An individual orally designated as surrogate.  Note: The surrogate has priority over a concurrently appointed health care agent during the period the surrogate designation is in effect.	Effective “only during the course of treatment or illness or during the stay in the health care institution when the designation is made, or for 60 days, whichever period is shorter.”  N/A to civil commitment, electro-convulsive therapy, psychosurgery, sterilization, and abortion.	Yes §4714	N/A since orally designated surrogate is presumably one person
Cal. Health & Safety Code §24178 (West 2007), enacted 2002	Medical experiment regulatory act	<ul style="list-style-type: none"> <li>▪ Spouse</li> <li>▪ Domestic partner</li> <li>▪ Adult child</li> <li>▪ Custodial parent</li> <li>▪ Adult sibling</li> <li>▪ Adult grandchild</li> <li>▪ Adult relative with the closest degree of kinship</li> </ul> Note: Different rules apply to emergency room experimental consent	Consent is restricted to medical experiments that relate to the cognitive impairment, lack of capacity, or serious, or life threatening diseases and conditions of research participants.  This provision N/A to persons involuntarily committed or voluntarily committed by a conservator under the Welfare & Institutions Code	Yes §24178(g)	Consensus required

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<b>6. COLORADO</b>  Colo. Rev. Stat. Ann. §15-18.5-101 to -1033 (West 2007)	Separate Surrogate Consent Act	The following "interested persons" must decide who among them shall be surrogate decision-maker: <ul style="list-style-type: none"> <li>• Spouse</li> <li>• Parent</li> <li>• Adult child</li> <li>• Sibling</li> <li>• Grandchild</li> <li>• Close friend</li> </ul>	N/A to withholding or withdrawal of artificial nourishment and hydration unless “the attending physician and a second independent physician trained in neurology or neurosurgery certify in the patient's medical record that the provision or continuation of artificial nourishment or hydration is merely prolonging the act of dying and is unlikely to result in the restoration of the patient to independent neurological functioning.”	No, but requires that the person selected to act as proxy should be one who has a close relationship with the patient and most likely to be currently informed of the patient's wishes re medical treatment §15-18.5-103(4)(a)	Consensus required on selection of the surrogate.
<b>7. CONNECTICUT</b>  Conn. Gen. Stat. Ann. §19a-571 (West 2007)	Comprehensive Health Care Decisions Act	Physician, in consultation with next of kin, any of the following, in the order of priority listed: (A) The spouse of the patient; (B) an adult son or daughter of the patient; (C) either parent of the patient; (D) an adult brother or sister of the patient; and (E) a grandparent of the patient	Limited to the removal or withholding of life support systems, and patient is in terminal condition or permanently unconscious  Pregnancy limitation	Yes §19a-571(a)	None provided
<b>8. DELAWARE</b>  Del. Code Ann. tit. 16, §2507 (2006)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>• An individual orally designated as surrogate</li> <li>• Spouse, unless petition for divorce</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult Sibling</li> <li>• Adult Grandchild</li> <li>• Adult Niece of Nephew</li> <li>• Close friend</li> </ul> NOTE: Surrogate is disqualified if protective order against the individual is filed or in existence.	Patient must be in terminal condition or permanently unconscious  Pregnancy limitation	Yes tit. 16, §2507(a)(7)	If in health care institution, refer to “appropriate committee” for a recommendation
<b>9. DISTRICT OF COLUMBIA</b>  D.C. Code 1981 §21-2210 (2007)	Durable Power of Attorney for Health Care Act	<ul style="list-style-type: none"> <li>• Spouse or domestic partner</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult Sibling</li> <li>• Religious superior if in religious order or a diocesan priest</li> <li>• Close friend*</li> <li>• Nearest living relative</li> </ul> * Close friend may not be an Individual Provider or Facility Provider	N/A to abortion, sterilization, or psycho-surgery, convulsive therapy or behavior modification programs involving aversive stimuli are excluded  At least 1 witness must be present whenever surrogate grants, refuses or withdraws consent on behalf of the patient.	Yes 21-2210(b)	None provided
<b>10. FLORIDA</b>  Fla. Stat Ann. §765.401 (West 2007)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult Sibling</li> <li>• Close adult relative</li> <li>• Close friend</li> <li>• Licensed clinical social worker selected by bioethics committee</li> </ul>	N/A to abortion, sterilization, electroshock therapy, psychosurgery, experimental treatment not approved by IRB, or voluntary admission to a mental health facility.  Pregnancy limitation	Yes §765.401(2)	Majority rule for adult children or siblings

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<b>11. GEORGIA</b> Ga. Code Ann. §31-9-2 (2007)	Informed Consent Statute	<ul style="list-style-type: none"> <li>Spouse; or any parent, adult or minor of minor child</li> <li>Person standing in loco parentis for minor child or ward</li> <li>Adult child</li> <li>Parent</li> <li>Sibling</li> <li>Grandparent</li> </ul>	Not explicitly applicable to <i>refusals</i> of treatment, but nevertheless should be applicable.	Yes §31-9-2(b)	None provided
Ga. Code Ann. §31-36-1 to -7, enacted 2007	“Temporary Health Care Placement Decision Maker for an Adult Act”	Similar to above but priority list continues with: <ul style="list-style-type: none"> <li>Adult grandchild</li> <li>Adult Uncle or Aunt</li> <li>Adult nephew or niece</li> </ul>	Applies only to decisions regarding admission to or discharge from one health care facility or placement, or transfer to another health care facility or placement.  Excludes involuntary placement for mental illness.	Yes 31-36A-6(b)	None provided
<b>12. HAWAII</b> Hawaii Rev. Stat. §§327E-2 and E-5 (2007)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>An individual orally designated as surrogate</li> <li>If none, the following "interested persons" must decide who among them shall be surrogate decision-maker: <ul style="list-style-type: none"> <li>Spouse</li> <li>Reciprocal beneficiary</li> <li>Adult child</li> <li>Parent</li> <li>Adult Sibling</li> <li>Adult Grandchild</li> <li>Close friend</li> </ul> </li> </ul>	None for orally designated surrogate, but an “interested person” may make a decision to withhold or withdraw nutrition and hydration only if two physicians certify that providing it will merely prolong the act of dying and the patient is highly unlikely to have any neurological response in the future.	Yes §327E-5(g)	Consensus required on the selection of the surrogate
<b>13. IDAHO</b> Idaho Code § 39-4503 (2006)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>Spouse</li> <li>Parent</li> <li>A relative representing self as appropriate, responsible person</li> <li>Other individual representing self to be responsible for the person’s health care</li> <li>In a medical emergency, attending physician or dentist may authorize and/or provide such care, treatment or procedure as he or she deems appropriate, and all persons, agencies and institutions thereafter furnishing the same, including such physician or dentist, may proceed as if informed, valid consent therefor had been otherwise duly given</li> </ul>	None listed	Indirect in statement of policy: “Any authentic expression of a person's wishes with respect to health care should be honored.” ICS 39-4508(3)	None provided
<b>14. ILLINOIS</b> 755 ILCS 40/1 to 40/65, specifically 40/25 (Smith-Hurd 2007)	Separate Surrogate Consent Act	<ul style="list-style-type: none"> <li>Spouse</li> <li>Adult child</li> <li>Parent</li> <li>Adult Sibling</li> <li>Adult grandchild</li> <li>Close friend</li> <li>Guardian of the estate</li> </ul>	N/A to admission to mental health facility, psychotropic medication or electro-convulsive therapy (see 405 ILCS 5/1-121.5; 5/2-102; 5/3-601.2, amended 1997)  If decision concerns forgoing life-sustaining treatment, patient must be in terminal condition, permanently unconscious, or incurable or irreversible condition	Yes §40/20(b)	Majority rule for children, siblings and grandchildren.

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<b>15. INDIANA</b> Ind. Code Ann. §16-36-1-1 to – 14 (West 2006)	Health Care Agency (durable power) and Surrogate Consent Act	Any of the following: <ul style="list-style-type: none"> <li>• Spouse</li> <li>• Parent</li> <li>• Adult child</li> <li>• Adult Sibling</li> <li>• Religious superior if the individual is a member of a religious order</li> </ul>	None listed	Yes § 16-36-1-5(d)	None provided
<b>16. IOWA</b> Iowa Code Ann. §144A.7 (West 2007)	Living Will Statute	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parent or parents</li> <li>• Adult sibling</li> </ul>	Limited to the withholding or withdrawal of life-sustaining procedures, and patient is in terminal condition or comatose  A witness must “be present at the time of the consultation when that decision is made”  Pregnancy limitation	Yes §144A.7(1)	Majority rule for adult children.
<b>17. KANSAS</b> K.S.A. § 65-4974 2005)	Specialized provision, applicable only to consent to medical research	<ul style="list-style-type: none"> <li>• Spouse, unless legally separated</li> <li>• Adult child</li> <li>• Parent</li> <li>• A relative</li> </ul> Note: Authority of guardian or agent with authority to make health care decisions is specifically acknowledged.	Consent is restricted to research protocols that have been approved by an institutional review board.  Cannot consent if contrary to the incapacitated person's permission, expressed orally or in writing	No	None provided
<b>17. KENTUCKY</b> Ky. Rev. Stat. §311.631 (Baldwin 2007)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parents</li> <li>• Nearest adult relative</li> </ul>	N/A to withholding or withdrawal artificial nutrition and hydration unless specified conditions are met	Yes §311.631(3)	Majority rule for adult children and nearest relative.
<b>18. LOUISIANA</b> La. Rev. Stat. Ann. §40:1299.58.1 to .10 (West 2007), specifically §40:1299.58.5	Living Will Statute	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parents</li> <li>• Sibling</li> <li>• Other relatives</li> </ul>	Limited to executing a LW (“Declaration”) for patient in terminal and irreversible condition or comatose.	No	Consensus required
<b>19. MAINE</b> Me. Rev. Stat. Ann tit. 18-A, §5-801 to §5-817 (West 2007), specifically §5-805.	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult in spouse-like relationship</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult sibling</li> <li>• Adult grandchild</li> <li>• Adult niece or nephew</li> <li>• Adult aunt or uncle</li> <li>• Adult relative familiar with patient's values</li> <li>• Close friend</li> </ul>	If decision pertains to withdrawal or withholding of life-sustaining treatment , patient must be in terminal condition or persistent vegetative state  N/A to denial of surgery, procedures, or other interventions that are deemed medically necessary.  Admission to mental health institution	Yes §5-805(f)	Majority rule if more than one member of any class assumes authority.  Provider may refer them “to a neutral 3 <sup>rd</sup> party for assistance in resolving the dispute”

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<b>20. MARYLAND</b> Md. Health-Gen. Code Ann., §5-605 (2007)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult sibling</li> <li>• Close friend or relative who has maintained regular contact with the patient</li> </ul>	N/A to sterilization or treatment for mental disorder Applicable to life-sustaining procedure only if the patient as been certified to be in a terminal condition, persistent vegetative state, or end-stage condition	Yes §5-605(c)	If in hospital or nursing home, refer to ethics committee  If elsewhere, consensus required
MASSACHUSETTS	None				
<b>21. MICHIGAN</b> Mich. Comp. Laws Ann. §333.5651 to 5661 (West 2007), particularly §333.5653(g) and .5655(b)	Health Care disclosure and consent act.	<ul style="list-style-type: none"> <li>▪ “a member of the immediate family, the next of kin, or the guardian” (priority not specified)</li> </ul>	Applies when patient has a “reduced life expectancy due to advanced illness”	No	None provided
MINNESOTA	None				
<b>22. MISSISSIPPI</b> Miss. Code Ann. §§41-41-201 to -229 (West 2007), particularly §§41-41-203(s), -211, and -215(9)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>• Individual orally designated by patient</li> <li>• Spouse</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult sibling</li> <li>• Close friend</li> <li>• Owner, operator, or employee of residential long-term care institution (but see limitations)</li> </ul>	Admission to mental health institution.  If surrogate is owner, operator, or employee of residential long-term care institution, then the authority does not extend to decisions to withhold or discontinue life support, nutrition, hydration, or other treatment, care, or support. §41-41-215(9)	Yes §§41-41-211(6)	Majority rule if more than one member of any class assumes authority
MISSOURI	None				
<b>23. MONTANA</b> Mont. Code Ann. §50-9-106 (2007)	Living Will Statute	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parents</li> <li>• Adult sibling</li> <li>• Nearest adult relative</li> </ul>	Limited to withholding or withdrawal of life-sustaining treatment , and patient is in terminal condition  Pregnancy limitation	Yes §50-9-106(4)	Majority rule for adult children and siblings
NEBRASKA	None				
<b>24. NEVADA</b> Nev. Rev. Stat. §449.626 (2007)	Living Will Statute	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parents</li> <li>• Adult sibling</li> <li>• Nearest adult relative</li> </ul>	Limited to withholding or withdrawal of life-sustaining treatment, and patient is in terminal condition  Pregnancy limitation	Yes §§449.626(4)	Majority rule for adult children and sibling
NEW HAMPSHIRE	None				
NEW JERSEY	None				
<b>25. NEW MEXICO</b> N.M. Stat. Ann. 1978 §24-7A-5 (West 2007)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>• An individual designated as surrogate</li> <li>• Spouse</li> <li>• Individual in long-term spouse-like relationship</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult sibling</li> <li>• Grandparent</li> <li>• Close friend</li> </ul>	Admission to mental health facility	Yes §24-7A-5(F)	Majority rule if more than one member of any class assumes authority

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<b>26. NEW YORK</b> N.Y. Pub. Health Law §2965 (McKinney 2007)	Specialized Surrogate Consent Statute (applicable only to <b>DNR</b> orders)	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult sibling</li> <li>• Close friend</li> </ul>	Limited to consent to a DNR order, and patient is in terminal condition, or permanently unconscious, or where resuscitation is futile or extraordinarily burdensome	Yes §2965(3)(a)	Refer to dispute mediation system
<b>27. NORTH CAROLINA</b> N.C. Gen. Stat. §90-322 (2007)	Living Will Statute	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Relatives of the first degree</li> <li>• Attending physician</li> </ul>	Limited to the withholding or discontinuance of extraordinary means or artificial nutrition or hydration, and patient is in terminal condition, or persistent vegetative state, and meets other conditions	No	Majority rule for relatives of the first degree
<b>28. NORTH DAKOTA</b> N.D. Cent. Code §23-12-13 (2007)	Informed Consent Statute	<ul style="list-style-type: none"> <li>• Spouse who has maintained significant contacts with incapacitated person</li> <li>• Adult children who have maintained significant contacts with incapacitated person</li> <li>• Parents, including stepparent who has maintained significant contacts with incapacitated person</li> <li>• Adult siblings who have maintained significant contacts with incapacitated person</li> <li>• Grandparents who have maintained significant contacts with incapacitated person</li> <li>• Adult grandchildren who have maintained significant contacts with incapacitated person</li> <li>• Close adult relative or friend who have maintained significant contacts with incapacitated person</li> </ul>	<p>Not explicitly applicable to refusals of treatment, but nevertheless should be applicable.</p> <p>N/A to sterilization, abortion, psychosurgery, and admission to a state mental facility for &gt; 45 days</p>	Yes §23-12-13(3)	None provided
<b>29. OHIO</b> Ohio Rev. Code Ann. §2133.08 (West 2007)	Living Will Statute	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parents</li> <li>• Adult sibling</li> <li>• Nearest adult relative</li> </ul>	<p>Limited to consent for withdrawal or withholding of life-sustaining treatment, and patient is in terminal condition or permanently unconscious</p> <p>Nutrition and hydration may be withheld <i>only</i> upon the issuance of an order of the probate court</p> <p>Pregnancy limitation</p>	Yes §2133.08(D)(3)	Majority rule for adult children and siblings
<b>30. OKLAHOMA</b> Okla. Stat. Ann. tit. 63 §3102A (West 2007)	Specialized provision (applicable only to experimental treatments)	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult sibling</li> <li>• Relative by blood or marriage</li> </ul>	Limited to experimental treatment, test or drug approved by a local institutional review board.	No	None listed

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<b>31. OREGON</b>  Or. Rev. Stat. §127.635 (2007) and §127.505(12) and 127.535(4)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult designated by others on this list, without objection by anyone on list</li> <li>• Adult child</li> <li>• Parent</li> <li>• Sibling</li> <li>• Adult relative or adult friend</li> <li>• Attending physician</li> </ul>	Limited to withdrawal or withholding of life-sustaining procedures for a patient in a terminal condition or permanently unconscious, or who meets other conditions related to pain or advanced progressive illness	Yes §127.535(4)	Majority rule for adult children and siblings
<b>32. PENNSYLVANIA</b>  Pa. Stat. Ann. tit. 20, §5461 (West 2007) (eff. January 29, 2007)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult designated by others on this list, without objection by anyone on list</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult sibling</li> <li>• Adult grandchild</li> <li>• Close friend</li> </ul> <p>Note: Individual may provide for a different order of priority, by signed writing.</p>	Pregnancy limitation	Yes Tit. 20, §§5456 & 5461	Majority rule if more than one member of any class assumes authority
RHODE ISLAND	None				
<b>32. SOUTH CAROLINA</b>  S.C. Code Ann. §44-66-10 to -80 (2007)	Separate Surrogate Consent Act	<ul style="list-style-type: none"> <li>• Person given priority to make health-care decisions for the patient by another statute</li> <li>• Spouse</li> <li>• Parent or adult child</li> <li>• Adult sibling, grandparent, or adult grandchild</li> <li>• Other close relative</li> <li>• Person given authority to make health-care decisions for the patient by another statutory provision</li> </ul>	N/A if patient's inability to consent is temporary and delay of treatment will not result in significant detriment to the patient's health	Yes §44-66-30(F)	Consensus required
<b>33. SOUTH DAKOTA</b>  S.D. Codified Laws §34-12C-1 to -8 (2007)	Separate Surrogate Consent Act	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult sibling</li> <li>• Grandparent or adult grandchild</li> <li>• Aunt or uncle or adult niece or nephew</li> </ul> <p>(An authorized surrogate may delegate authority to another person in same or succeeding class)</p>	None listed	Yes §34-12C-3	Consensus required

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<b>34. TENNESSE</b> Tenn. Code Ann §68-11-1801 to – 1815 (2007), particularly §68-11-1806	Comprehensive Health Care Decisions Act	Supervising health care provider selects from the following order of preference under criteria provided: <ul style="list-style-type: none"> <li>• Individual designated by patient</li> <li>• Spouse</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult sibling</li> <li>• Other adult relative</li> <li>• Close friend</li> <li>• Primary Physician, in consultation with ethics committee or independent 2<sup>nd</sup> physician</li> </ul> Disqualified surrogates: <ul style="list-style-type: none"> <li>• Indiv. Provider</li> <li>• Facility Provider</li> </ul>	Any matter governed by the mental health code.  Except for individual designated by the patient, other surrogates cannot make decision to w/h or w/d artificial nutrition & hydration without certification by 2 physicians of medical prerequisites.	Yes §68-11-1806(d)	Not applicable since provider selects surrogate
<b>35. TEXAS</b>  Tex. [Health & Safety] Code Ann. §166.039 (Vernon 2007)	Comprehensive Health Care Decisions Act	Physician and: <ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult children</li> <li>• Parents</li> <li>• Nearest relative</li> </ul> Att. Physician, with concurrence of independent 2 <sup>nd</sup> physician or physician member of ethics committee	Pregnancy limitation	Yes §166.039(c)	None provided
Tex. [Health & Safety] Code Ann. §166.081 to .101, specifically §166.088(b) (Vernon 2007)	Specialized provision (applicable to <b>DNR</b> orders)	(Same as above. Incorporates the terms of §166.039)	(Same as above)	Yes §166.088(c)	None listed
<b>36. UTAH</b>  Utah Code Ann. §75-2-1105, -1105.5, -1107 (2007)	Comprehensive Health Care Decisions Act	Surrogates authorized to sign LW Declaration on behalf of patient: <ul style="list-style-type: none"> <li>• Spouse</li> <li>• Parents</li> <li>• Adult child</li> <li>• Nearest adult relative</li> </ul> When patient is terminal or in a permanent vegetative state: <ul style="list-style-type: none"> <li>• Spouse</li> <li>• Parent</li> <li>• Adult children</li> </ul>	Pregnancy limitation	No	Majority rule for children
<b>VERMONT</b>	None				
<b>37. VIRGINIA</b>  Va. Code §54.1-2986 (West 2006)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parents</li> <li>• Adult sibling</li> <li>• Other relative in the descending order of blood relationship</li> </ul>	N/A to non-therapeutic sterilization, abortion, psychosurgery, or admission to a mental retardation facility or psychiatric hospital	Yes §54.1-2986(A)(6)	Majority rule if more than one member of any class assumes authority

State & Citation	General Type of Statute	Priority of Surrogates (in absence of an appointed agent or guardian with health powers)	Limitations on Types of Decisions	Provides Standard for Decision-Making	Disagreement Process Among Equal Priority Surrogates
<p><b>38. WASHINGTON</b></p> <p>Wash. Rev. Code Ann. §7.70.065 (West 2005)</p>	<p>Informed Consent Statute</p>	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult children</li> <li>• Parents</li> <li>• Adult siblings</li> </ul>	<p>Not explicitly applicable to refusals of treatment, but nevertheless should be applicable.</p>	<p>Yes §7.70.065(1)(c)</p>	<p>Consensus required</p>
<p><b>39. WEST VIRGINIA</b></p> <p>W. VA. Code Ann. §16-30-8 (West 2007)</p>	<p>Comprehensive Health Care Decisions Act</p>	<p>Att. Physician or Advanced Nurse Practitioner selects from the following order of preference under criteria provided:</p> <ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parents</li> <li>• Adult sibling</li> <li>• Adult grandchild</li> <li>• Close friend</li> <li>• Any other person or entity according to DHHR rules</li> </ul> <p>Ineligible surrogates:</p> <ul style="list-style-type: none"> <li>▪ Indiv. Provider*</li> <li>▪ Facility Provider*</li> </ul> <p>* Exception for relatives who are employees of</p>	<p>None listed</p>	<p>Yes §16-30-8(b)(1)(A) § 16-30-5(d)</p>	<p>Not applicable since provider selects surrogate.</p>
<p><b>40. WISCONSIN</b></p> <p>Wisc. Stat. Ann. §50.06 (West 2007)</p>	<p>Specialized Surrogate Consent Statute (applicable only for certain facility admissions)</p>	<ul style="list-style-type: none"> <li>• Spouse</li> <li>• Adult child</li> <li>• Parent</li> <li>• Adult sibling</li> <li>• Grandparent</li> <li>• Adult grandchild</li> <li>• Adult close friend</li> </ul>	<p>Limited to consent to admission to nursing home and certain community-based residential facilities for up to 60 days, with 30 day extension possible, and only if:</p> <ol style="list-style-type: none"> <li>1. The incapacitated person is not diagnosed as developmentally disabled or having a mental illness at time of admission</li> <li>2. Petitions for guardianship and protective placement are filed <i>prior</i> to admission</li> </ol>	<p>No</p>	<p>Consensus required</p>
<p><b>41. WYOMING</b></p> <p>Wyo. Stat. §35-22-406 (2006)</p>	<p>Comprehensive Health Care Decisions Act</p>	<ul style="list-style-type: none"> <li>• Individual designated by personally informing the supervising health care provider</li> <li>• Spouse, unless legally separated</li> <li>• Adult child</li> <li>• Parent</li> <li>• Grandparent</li> <li>• Adult sibling</li> <li>• Adult grandchild</li> <li>• Close friend</li> </ul>	<p>None listed</p>	<p>Yes §35-22-406(f)</p>	<p>Majority rule if more than one member of any class assumes authority</p>
<p><i>UNIFORM HEALTH-CARE DECISIONS ACT</i></p>	<p>Comprehensive Health Care Decisions Act</p>	<ul style="list-style-type: none"> <li>• Individual orally designated by patient</li> <li>• Spouse</li> <li>• Adult child</li> <li>• Parent</li> <li>• Sibling</li> <li>• Close friend</li> </ul>	<p>None listed</p>	<p>Yes §5(f)</p>	<p>Majority rule if more than one member of any class assumes authority</p>

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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