

HEALTH CARE POWER OF ATTORNEY and COMBINED ADVANCE DIRECTIVE LEGISLATION

JANUARY 2008

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

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5. CALIFORNIA Cal. Probate Code §4600 to –4948 806 (West 2007) <i>Separate Living Will Statute: NO</i>	Combined Advance Directive	YES Optional	<ul style="list-style-type: none"> • Civil commitment • Electro-convulsive therapy • Psycho-surgery • Sterilization • Abortion 	<ul style="list-style-type: none"> • Supervising Individ. Provider* • Facility Provider* • Conservator – unless conditions are met. <p>* Exception for relatives who are employees of.</p>	<ul style="list-style-type: none"> • 2 witnesses or notarized • Special institutional requirements 	<ul style="list-style-type: none"> • Agent • Individ. Provider • Facility Provider <p>One may not be:</p> <ul style="list-style-type: none"> • Relative • Heir 	Autopsy Organ donation Disposition of remains	YES	
6. COLORADO Colo. Rev. Stat. §15-14-503 to –509 (West 2007) “Colorado Patient Autonomy Act” See also §15-14-501 to –502 and §15-14-601 to –611 re DPA <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	NO	YES	
7. CONNECTICUT Conn. Gen. Stat. §19a-570 to –580d (West 2007) Se also Conn. Gen. Stat. §1-43 et seq. (2007) (statutory short form DPA) and § 1-56r (Designation of person for decision-making) <i>Separate Living Will Statute: NO</i>	Combined Advance Directive	YES Optional	<ul style="list-style-type: none"> • None specified (but authority is described as authority to "convey" principal's wishes, rather than to make decisions for principal.) <ul style="list-style-type: none"> ▪ Pregnancy limitation 	<ul style="list-style-type: none"> • Facility Provider* • Attending physician • Administrator or employee of gov't agency financially responsible for care* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses • Special institutional requirements 	<ul style="list-style-type: none"> • Agent 	NO	NO	
8. DELAWARE Del. Code Ann. tit. 16, §2501 to 2518 (2007) <i>Separate Living Will Statute: NO</i>	Combined Advance Directive [Modeled on UHCDA]*	YES Optional	<ul style="list-style-type: none"> • Pregnancy limitation 	<ul style="list-style-type: none"> ▪ Residential LTC Facility Provider* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses • Special institutional requirements 	<ul style="list-style-type: none"> • Facility provider • Relative • Heir • Creditor • Person responsible for care costs 	NO	YES	
9. DISTRICT OF COLUMBIA D.C. Code Ann. §21-2201 to -2213 (2007) <i>Separate Living Will Statute: D.C. Code Ann. §7-621 to –630 (2007)</i>	Special DPA	YES Optional	<ul style="list-style-type: none"> • Decision to medicate defendant to render him/her competent to stand trial 	<ul style="list-style-type: none"> • Individ. Provider • Facility Provider 	<ul style="list-style-type: none"> • 2 witnesses 	<ul style="list-style-type: none"> • Principal • Individual Provider • Facility Provider <p>• <u>One</u> may not be relative or heir</p>	NO	NO	

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10. FLORIDA Fla. Stat. Ann. §765.101 to -.404 (West 2007) <i>Separate Living Will Statute: NO</i>	Combined Advance Directive	YES Optional	<ul style="list-style-type: none"> • Mental health facility admission* • Electro-convulsive therapy* • Psycho-surgery* • Sterilization* • Abortion* • Experimental treatments not approved by IRB* • Life-sustaining procedures while pregnant* • Pregnancy limitation* <p>* Consent/refusal permissible if expressly authorized</p>	None specified	• 2 witnesses	<ul style="list-style-type: none"> • Agent • <u>One</u> may not be spouse or relative 	Autopsy (see F.S.A. §872.04) Organ donation	YES	
11. GEORGIA Ga. Code Ann. §31-36A-1 to -13 (West 2007) <i>Separate Living Will Statute: §31-32-1 – 12 (West 2007)</i>	Special DPA	YES Optional	<ul style="list-style-type: none"> • Mental health facility admission or treatment under Title 37 of Code • Psycho-surgery • Sterilization 	• Indiv. Provider directly or indirectly involved	<ul style="list-style-type: none"> • 2 witnesses • Special institutional requirements • Electronic signature prohibited 	None	Autopsy Organ Donation Disposition of remains	NO	
12. HAWAII Hawaii Rev. Stat. §327E-1 to -16 (2007) <i>See also Hawaii Rev. Stat. §551D-2.5 re DPA for health care</i> <i>Separate LW Statute: NO</i>	Combined Advance Directive [Modeled on UHCDA]*	YES Optional	None specified	<ul style="list-style-type: none"> • Facility Provider* <p>* Exception for relatives</p>	• 2 witnesses or notarized	<ul style="list-style-type: none"> • Indiv. provider • Facility provider • Agent <p><u>One</u> may not be</p> <ul style="list-style-type: none"> • Relative • Heir 	NO	YES	
13. IDAHO Idaho Code §39-4501 to -4509 (West 2007), specifically §39-4505. <i>Separate LW Statute: NO</i>	Combined Advance Directive	YES Optional	Pregnancy limitation	<ul style="list-style-type: none"> • Indiv. Provider* • Community Care Facility Provider* • Exception for relatives who are employees of. 	• 2 witnesses or notarized	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Community Care Facility • <u>One</u> may not be relative or heir 	NO	NO	YES
14. ILLINOIS 755 ILCS 45/4-1 through 4-12 (West 2007) <i>Separate LW Statute: 755 ILCS 35/1 to 35/10</i>	Special DPA	YES Optional	None specified	• Indiv. Provider	None specified	None specified	Autopsy Organ donation Disposition of remains	YES	

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15. INDIANA Ind. Code §§30-5-1-1 to 30-5-5-19 (West 2007), specifically §30-5-5-16 and -17, AND Ind. Code §§16-36-1-1 thru -19, specifically §16-36-1-6 and -7 <i>Separate LW Statute:</i> Ind. Code Ann. §16-36-4-1 to -21	General DPA with health powers.	NO But mandatory language for authority re life-sustaining treatment (§30-5-5-17)	None specified	None specified	▪ Notarized <u>or</u> one witness	Agent	Autopsy Organ donation Disposition of remains (but powers terminate upon death of principal)	YES	
Ind. Code Ann. §16-36-1-1 to -14 (West 2007)	Health Care Consent Statute including appointment of health care representative	NO But mandatory language above is incorporated by reference at §16-36-1-14	None specified	None specified	▪ 1 witness	▪ Agent	NO	NO	
16. IOWA Iowa Code Ann. §144B.1 to .12 (West 2007) <i>Separate LW Statute:</i> Iowa Code Ann. §144A.1 to .12	Special DPA	YES Optional	• None specified	• Indiv. Provider* *Exception for relatives	• 2 witnesses <u>or</u> notarized	• Agent • Indiv. Provider <u>One</u> may not be relative	NO	YES	
17. KANSAS Kan. Stat. Ann. §58-625 to -632 (2003) <i>Separate LW Statute:</i> Kan. Stat. Ann. §65-28,101 to 28,109	Special DPA	YES Must be substantially followed	• Cannot revoke previous living will	• Indiv. Provider* • Facility Provider* * Exception for relatives & religious community members	• 2 witnesses <u>or</u> notarized	• Agent • Relative • Heir • Person responsible for care costs	Autopsy Organ donation Disposition of remains	YES	
18. KENTUCKY Ky. Rev. Stat. §311.621 to .643 (Baldwin 2007) <i>Separate LW Statute: NO</i>	Combined Advanced Directive (but called "Living Will Directive")	YES Must be substantially followed	• Nutrition & hydration* • Pregnancy limitation * Refusal permissible if specified conditions are met	• Facility provider* * Exception for relatives	• 2 witnesses <u>or</u> notarized	• Relative • Facility Provider • Attg. physician • Heir • Person responsible for care costs	NO	NO	
19. LOUISIANA La. Rev. Stat. Ann 40:1299.58.1 to .10 (West 2007) See also DPA ("Procuration") statute: La. Civ. Code Ann. Art 2985 to 3034 (West 2007), specifically art. 2997 <i>Separate LW Statute: NO</i>	Proxy contained in Living Will statute	YES Optional	• Powers implicitly limited to executing a living will declaration on behalf of principal. However, a DPA (a "procuration") may confer health decision powers generally on an agent (a "mandatory")	None specified	2 witnesses	• Relative • Heir	NO	YES	

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20. MAINE Me. Rev. Stat. Ann. tit. 18A, §5-801 to §5-817 (West 2007) <i>Separate LW Statute: NO</i>	Combined Advance Directive [Modeled on UHCDA]*	YES Optional	<ul style="list-style-type: none"> Mental health facility admission, consent permissible if expressly authorized 	<ul style="list-style-type: none"> LTC Facility provider* * Exception for relatives	<ul style="list-style-type: none"> 2 witnesses 	None specified	NO	YES	
21. MARYLAND Md. Code Ann. [Health-Gen.] §5-601 to –618 (2007) <i>Separate LW Statute: NO</i>	Combined Advance Directive	YES Optional	<ul style="list-style-type: none"> None specified 	<ul style="list-style-type: none"> Facility provider* * Exception for relatives	<ul style="list-style-type: none"> 2 witnesses Also recognizes oral directive to a physician with one witness 	<ul style="list-style-type: none"> Agent <u>One</u> must not be: Heir, or have any other financial interest in person's death 	NO	YES	YES §5-608.1
22. MASSACHUSETTS Mass. Gen. Laws Ann. Ch. 201D (West 2007) <i>Separate LW Statute: None</i>	Special DPA	NO	<ul style="list-style-type: none"> None specified 	<ul style="list-style-type: none"> Facility provider* * Exception for relatives	<ul style="list-style-type: none"> 2 witnesses 	<ul style="list-style-type: none"> Agent 	NO	YES	
23. MICHIGAN Mich. Comp. Laws Ann. §700.5506 to 5512 (West 2007) <i>Separate LW Statute: None</i>	Special DPA	Only for agent's acceptance	<ul style="list-style-type: none"> Pregnancy limitation Life-sustaining procedures* * Refusal permissible if expressly authorized	None specified	<ul style="list-style-type: none"> 2 witnesses Agent must accept in writing before acting as agent ("patient advocate")	<ul style="list-style-type: none"> Agent Relative Heir Indiv. Provider Facility Provider Employee of life/health insurance provider for patient 	Organ donation	NO	
24. MINNESOTA Minn. Stat. Ann. §145C.01 to .16 (West 2007) <i>Separate LW Statute: Minn. Stat. §145B.01 to .17 (West 2007)</i>	Combined Advance Directive	YES Optional	<ul style="list-style-type: none"> None specified 	<ul style="list-style-type: none"> Indiv.Provider* Facility Provider* * Exception for relatives	<ul style="list-style-type: none"> 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> Agent <u>One</u> may not be provider 	Organ donation Disposition of remains	YES	
25. MISSISSIPPI Miss. Code Ann. §41-41-201 to -229 (West 2007) <i>Separate LW Statute: NO</i>	Combined Advance Directive [Modeled on UHCDA]*	YES Optional	<ul style="list-style-type: none"> Mental health facility admission, consent permissible if expressly authorized 	<ul style="list-style-type: none"> LTC Facility * Exception for relatives	<ul style="list-style-type: none"> 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> Agent Indiv. Provider Facility Provider <u>One</u> may not be relative or heir 	NO	YES, but only if directive complies with this Act	

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<p>26. MISSOURI Mo. Ann. Stat. §404.800 - .872 (West 2007) and cross-referenced parts of §404.700 to .735 (DPA statute)</p> <p><i>Separate LW Statute:</i> Mo. Ann. Stat. §459.010 to 459.055 (West 2007)</p>	Special DPA	NO	<ul style="list-style-type: none"> • Nutrition & hydration* <p>* Refusal permissible if expressly authorized</p>	<ul style="list-style-type: none"> • Att. Physician* • Facility Provider* <p>* Exception for relatives and members of same religious community</p>	<ul style="list-style-type: none"> • Must contain language of durability and be acknowledged as conveyance of real estate (§404.705) 	None specified	NO	YES	
<p>27. MONTANA Mont. Code Ann. §50-9-101 to -206 (2007). Also incorporates by reference §72-5-501 and -502 (DPA statute)</p> <p><i>Separate LW Statute: NO</i></p>	Proxy contained in Living Will statute	YES Optional	<ul style="list-style-type: none"> • Pregnancy limitation 	None specified	<ul style="list-style-type: none"> • 2 witnesses under LW statute • DPA statute: none, although customarily notarized 	None specified	NO	YES	
<p>28. NEBRASKA Neb. Rev. Stat. §30-3401 to -3432 (2007)</p> <p><i>Separate LW Statute:</i> Neb. Rev. Stat. §20-401 to -416 (2007)</p>	Special DPA	YES Optional	<ul style="list-style-type: none"> • Life-sustaining procedures* • Nutrition & hydration* • Pregnancy limitation <p>* Refusal permissible if expressly authorized</p>	<ul style="list-style-type: none"> • Att. Physician* • Facility* • Any agent serving 10 or more principals* <p>* Exception for relatives who are employees of.</p>	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> • Agent • Spouse • Relative • Heir • Att. Physician • Insurer • <u>One</u> may not be Facility provider 	NO	YES	
<p>29. NEVADA Nev. Rev. Stat. §449.800 to .860 (2007)</p> <p><i>Separate LW Statute:</i> Nev. Rev. Stat.449.535 to 690 (2007) with proxy designation. NB. LW statute recognizes an agent under a regular DPA with authority to w/h or w/d life-sustaining treatment.</p>	Special DPA	YES Form with disclosure statement must be substantially followed	<ul style="list-style-type: none"> • Mental health facility admission • Electro-convulsive therapy • Aversive intervention • Psycho-surgery • Sterilization • Abortion 	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* <p>* Exception for relatives</p>	<ul style="list-style-type: none"> • 2 witnesses <u>or</u> notarized 	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Facility Provider • <u>One</u> may not be relative or heir 	NO	NO	
<p>30. NEW HAMPSHIRE N.H. Rev. Stat. Ann. §137-J:1 to -J:16 (2007)</p> <p><i>LW Statute: Repealed</i></p>	Combined Advanced Directive	Form and disclosure statement must be substantially followed.	<ul style="list-style-type: none"> • Mental health facility admission • Sterilization • Pregnancy limitation • Nutrition & hydration* <p>* Refusal permissible if expressly authorized</p>	<ul style="list-style-type: none"> • Facility Provider* <p>* Exception for relatives who are employees of</p>	<ul style="list-style-type: none"> • 2 witnesses or notarized • Principal must acknowledge receipt of mandatory notice 	<ul style="list-style-type: none"> • Agent • Spouse • Heir • AH Physician • <u>One</u> may not be residential care provider 	NO	YES	

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31. NEW JERSEY N.J. Stat. Ann. §26:2H-53 to –81 (West 2007) <i>Separate LW Statute: NO</i>	Combined Advance Directive	NO	<ul style="list-style-type: none"> None specified 	<ul style="list-style-type: none"> Att. Physician Facility Provider * Exception for relatives	2 witnesses <u>or</u> notarized	<ul style="list-style-type: none"> Agent 	NO	YES	
32. NEW MEXICO N.M. Stat. Ann. §24-7A-1 to –18 (West 2007) <i>Separate LW Statute: NO</i>	Combined Advance Directive [Modeled on UHCDA]*	YES Optional	<ul style="list-style-type: none"> Mental health facility admission 	<ul style="list-style-type: none"> LTC Facility Provider * Exception for relatives	2 witnesses recommended, but not required	None specified	NO	YES, but only if directive complies with this Act	
33. NEW YORK N.Y. Pub. Health Law §2980 to 2994 (McKinney 2007) <i>Separate LW Statute: None</i>	Special DPA	YES Optional	<ul style="list-style-type: none"> Nutrition & hydration* * Principal must make his/her wishes "reasonably known"	<ul style="list-style-type: none"> Att. Physician* Facility Provider* Any agent serving 10 or more principals* * Exception for relatives who are employees of.	<ul style="list-style-type: none"> 2 witnesses Special institutional requirements 	<ul style="list-style-type: none"> Agent 	NO	YES	YES
34. NORTH CAROLINA N.C. Gen. Stat. §32A-15 to -26 (2007) <i>Separate LW Statute:</i> N.C. Gen. Stat. § 90-320 to –322 (2007)	Special DPA	YES Optional	<ul style="list-style-type: none"> None specified 	<ul style="list-style-type: none"> Indiv. Provider 	2 witnesses <u>and</u> notarized	<ul style="list-style-type: none"> Relative Heir Att. Physician Facility Provider (unpaid facility volunteers may witness) Creditor 	YES (but authority terminates on death of principal)	NO	YES §90-21.17
35. NORTH DAKOTA N.D. Cent. Code §23-06.5-01 to -18 (2007)	Special DPA	YES Optional	<ul style="list-style-type: none"> Mental health facility admission >45 days Psycho-surgery Abortion Sterilization 	<ul style="list-style-type: none"> Indiv. Provider* Facility Provider* * Exception for relatives who are employees of	<ul style="list-style-type: none"> 2 witnesses <u>or</u> notarized Agent must accept in writing 	<ul style="list-style-type: none"> Agent * Spouse * Heir * Relative * Creditor * One may <u>not</u> be: <ul style="list-style-type: none"> Indiv. Provider Facility Provider * Also disqualifies notary	NO	YES	

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36. OHIO Ohio Rev. Code §1337.11 to .17 (West 2007) <i>Separate LW Statute:</i> Ohio Rev. Code §2133.01 to .15 (West 2007)	Special DPA	Only for mandatory disclosure statement	<ul style="list-style-type: none"> Life-sustaining procedures* Nutrition & hydration* Pregnancy limitation * Refusal permissible if specified conditions are met	<ul style="list-style-type: none"> Att. Physician* Nursing home administrator* * Exception for relatives who are employees of	• 2 witnesses or notarized	<ul style="list-style-type: none"> Agent Relative Att. Physician Nursing home administrator 	NO	YES	
37. OKLAHOMA Okla. Stat. Ann. tit. 63, §3101.1 to .16 (West 2007) <i>Separate LW Statute: NO</i>	Combined Advance Directive	YES Must be substantially followed	<ul style="list-style-type: none"> Nutrition & hydration* Pregnancy limitation * Refusal permissible if expressly authorized	None specified	• 2 witnesses	• Heir	NO	YES	
38. OREGON Or. Rev. Stat. §127.505 to .660 and 127.995 (2007) <i>Separate LW Statute: NO</i>	Combined Advance Directive	YES Must be followed But recognizes that any other form “constitutes evidence of the patient’s desires and interests”	<ul style="list-style-type: none"> Mental health facility admission Electro-convulsive therapy Psycho-surgery Sterilization Abortion Life-sustaining procedures* Nutrition & hydration* * Refusal permissible if expressly authorized or if specified conditions are met	<ul style="list-style-type: none"> Attending physician* Facility provider* * Exception for relatives	<ul style="list-style-type: none"> 2 witnesses Agent must accept in writing Special institutional requirements 	<ul style="list-style-type: none"> Agent Att. physician One may not be relative, heir, or facility provider 	NO	YES	YES
39. PENNSYLVANIA Pa. Stat. Ann. tit. 20, §5401 to 5416 (West 2007). <i>And</i> 20 Pa. Cons. Stat. Ann. §5601 to 5611 (DPA)	Living Will Statute Statutory Form DPA includes health decisions powers	YES Optional	LW: Unclear whether agent is permitted to act <u>only</u> if principal is in a <ul style="list-style-type: none"> terminal condition, or state of permanent unconsciousness Nutrition & hydration* Pregnancy limitation * Refusal permissible if expressly authorized Statutory Form DPA defines powers specifically.	None specified	<ul style="list-style-type: none"> LW: 2 witnesses Statutory Form DPA: None required 	<ul style="list-style-type: none"> LW: Person who signs declaration on declarant's behalf Statutory Form DPA: None specified 	<ul style="list-style-type: none"> LW: None Statutory Form DPA: Organ Donation 	<ul style="list-style-type: none"> LW: NO Statutory Form DPA: YES 	
40. RHODE ISLAND R.I. Gen. Laws §23-4.10-1 to -12 (2007) <i>Separate LW Statute:</i> R.I. Gen Laws § 23-4.11-1 to -15 (2007)	Special DPA	YES NOT clear whether optional or mandatory	• None specified	<ul style="list-style-type: none"> Indiv. Provider* Community Care Facility* * Exception for relatives who are employees of	<ul style="list-style-type: none"> 2 witnesses Principal must be Rhode Island resident 	<ul style="list-style-type: none"> Agent Indiv. Provider Community Care Facility One may not be relative or heir 	NO	YES	

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<p>41. SOUTH CAROLINA S.C. Code §62-5-501 to -505 (2007), particularly §62-5-504.</p> <p><i>Separate LW Statute:</i> S. C. Code § 44-77-10 to -160 (also permits appointment of agent)</p>	Special DPA (within general DPA statute)	<p>YES Must be substantially followed</p> <p>(but conventional DPAs may also contain health powers)</p>	<ul style="list-style-type: none"> • Nutrition & hydration "necessary for comfort care or alleviation of pain"* • Pregnancy limitation <p>* Refusal permissible if expressly authorized</p>	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* • Spouse of a Provider* <p>* Exception for relatives</p>	• 2 witnesses	<ul style="list-style-type: none"> • Agent • Spouse • Relative • Heir • Attending physician • Creditor • Life insurance beneficiary • Person responsible for care costs • <u>One</u> may not be facility provider 	Organ donation	YES	
<p>42. SOUTH DAKOTA S.D. Codified Laws §59-7-1 to -9 (2007) See also §34-12C-1 to -8 (Health care consent procedures)</p> <p><i>Separate LW Statute:</i> S.D. Codified Laws § 34-12D-1 to -22 (2007)</p>	General DPA that permits health decisions authority	NO	<ul style="list-style-type: none"> • Pregnancy limitation • Nutrition & hydration* <p>* Refusal permissible if expressly authorized or other conditions are met</p>	None specified	None specified	None specified	NO	YES	
<p>43. TENNESSEE Tenn. Code Ann §68-11-1801 to -1815 (2007)</p> <p><i>Separate LW Statute: NO</i></p>	Combined Advance Directive	NO	None specified	None specified	• 2 witnesses or notarized	<ul style="list-style-type: none"> • Agent • Provider • Facility • <u>One</u> may not be relative or heir 	NO	YES	
<p>44. TEXAS Tex. [Health & Safety] Code Ann. §166.001 to -166 (Vernon 2007)</p> <p><i>Separate LW Statute: NO</i></p>	(1) Special DPA (2) Proxy contained in LW	(1) Special DPA: (Medical PoA): YES. Must be substantially followed plus mandatory disclosure statement. (2) LW: YES Optional	<ul style="list-style-type: none"> • Mental health facility admission • Electro-convulsive therapy • Psycho-surgery • Abortion • Comfort care 	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* <p>* Exception for relatives who are employees of</p>	• 2 witnesses	<p><u>One</u> may not be:</p> <ul style="list-style-type: none"> • Agent • Att. Physician • Relative • Facility • Heir • Creditor 	NO	YES	

STATE	TYPE	FORM	LIMITS ON AGENT'S POWERS	PROHIBITED AGENTS	FORMALITIES OF EXECUTION	PROHIBITED WITNESSES	AUTHORITY OVER AUTOPSY, ORGAN DONATION OR REMAINS	COMITY PROVISION	POLST PROTOCOL STATE WIDE
45. UTAH Utah Code Ann. §75-2A-1101 to -1119 (2007) <i>Separate LW Statute: NO</i>	Combined Advance Directive	NO	<ul style="list-style-type: none"> • Pregnancy limitation • Long-term custodial placement in licensed facility other than for assessment, rehabilitative, or respite care. 	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* * Exception for relatives who are employees of	<ul style="list-style-type: none"> • One witness 	<ul style="list-style-type: none"> • Agent • Relative • Provider • Facility • Heir • Person responsible for care costs 	NO	YES	YES 75-2a-106
46. VERMONT Vt. Stat. Ann. tit. 18, §5263 to 5278 (2007)	Combined Advance Directive	YES Disclosure statement must be substantially followed Form optional	<ul style="list-style-type: none"> • Mental health facility admission 	<ul style="list-style-type: none"> • Indiv. Provider* • Residential Care Provider* • Funeral/crematory/cemetery representative (if authorized to dispose of remains or donate organs) * Exception for relatives who are employees of	<ul style="list-style-type: none"> • Warning disclosure • 2 witnesses • Special institutional requirements 	<ul style="list-style-type: none"> • Agent • Indiv. Provider • Residential Care Provider • Spouse • Heir • Creditor • Funeral/crematory /cemetery representative 	Organ donation Disposition of remains	YES	
47. VIRGINIA Va. Code §54.1-2981 to –2993 (West 2007) <i>Separate LW Statute: NO</i>	Combined Advance Directive	YES Optional	<ul style="list-style-type: none"> • Mental health facility admission • Psycho-surgery • Sterilization • Abortion • Decisions about “visitation” unless expressly authorized 	None specified	<ul style="list-style-type: none"> • 2 witnesses 	<ul style="list-style-type: none"> • Spouse • Relative 	Organ donation	YES	
48. WASHINGTON Wash. Rev. Code Ann. §11.94.010 to .900 (West 2007) <i>Separate LW Statute:</i> Wash. Rev. Code Ann. § 70.122.010 to -.920 (West 2007)	General DPA	NO	Cross reference to guardianship law [RCWA 11.92.043(5)]: <ul style="list-style-type: none"> • Electro-convulsive therapy • Psycho-surgery • Other psychiatric • Amputation 	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* * Exception for relatives	None specified	N/A	NO	YES	YES
49. WEST VIRGINIA W. VA. Code Ann. §16-30-1 to -25 (West 2007) <i>Separate LW Statute: No</i>	Combined Advance Directive (but maintains separate Living Will and Medical Power of Attorney documents)	YES Optional	<ul style="list-style-type: none"> • Limit on agent’s authority to revoke a pre-need funeral contract 	<ul style="list-style-type: none"> • Indiv. Provider* • Facility Provider* * Exception for relatives who are employees of	<ul style="list-style-type: none"> • 2 witnesses <u>and</u> notarized 	<ul style="list-style-type: none"> • Agent • Att. Physician • Principal’s signatory • Relative • Heir • Person responsible for care costs 	Autopsy Organ donation Disposition of remains	YES	YES

STATE	TYPE	FORM	LIMITS ON AGENT'S POWERS	PROHIBITED AGENTS	FORMALITIES OF EXECUTION	PROHIBITED WITNESSES	AUTHORITY OVER AUTOPSY, ORGAN DONATION OR REMAINS	COMITY PROVISION	POLST PROTOCOL STATE WIDE
50. WISCONSIN Wis. Stat. Ann. §155.01 to .80 (West 2007) See DPA cross reference §243.07(6m) (West 2007) <i>Separate LW Statute:</i> Wisc. Stat. Ann. §§ 154.01 to -.15 (West 2007)	Special DPA	YES Optional, but disclosure statement is mandatory	<ul style="list-style-type: none"> Admission to facility for mental health/retardation or other listed conditions Electro-convulsive therapy Mental health research Drastic mental health treatment Admission to nursing home or residential facility – very limited unless expressly authorized in the document Nutrition & hydration* Pregnancy limitation * Refusal permissible only if specified conditions are met	<ul style="list-style-type: none"> Indiv. Provider* Facility Provider* * Exception for relatives	• 2 witnesses	<ul style="list-style-type: none"> Agent Indiv. Provider Facility provider* Relative Heir Person responsible for care costs * Exception for chaplains & social workers	Organ donation	YES	
51. WYOMING Wyo. Stat. §35-22-401 to -416 (2004) <i>Separate LW Statute:</i> Wyo. Stat §§ 35-22-101 to –109 (2004)	Combined Advance Directive	YES Optional	None specified	<ul style="list-style-type: none"> Residential or Community Care Provider* * Exception for relatives who are employees of	• 2 witnesses or notarized	<ul style="list-style-type: none"> Agent Indiv. Provider Facility Provider 	NO	NO	
UNIFORM HEALTH-CARE DECISIONS ACT <i>Separate LW Statute: NO</i>	Combined Advance Directive	YES Optional	<ul style="list-style-type: none"> Mental health facility admission, consent permissible if expressly authorized 	<ul style="list-style-type: none"> LTC Facility Provider 	2 witnesses recommended, but not required	None	NO	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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