

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **Senate Bill 551**

BY SENATORS MARONEY, ROBERTS, RUCKER, AND

STOLLINGS

[Introduced March 3, 2021; referred  
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-30-3 and §16-30-4 of the Code of West Virginia, 1931, as  
 2 amended, all relating to health care decisions; revising definitions; revising forms of a living  
 3 will, medical power of attorney, and combined medical power of attorney and living will  
 4 and specific provisions; providing clarifying language regarding the effect of signing a  
 5 living will on the availability of medically administered food and fluids; requiring oral food  
 6 and fluids be provided as desired and tolerated; providing for forms in effect prior to  
 7 effective date of this bill are not affected by these amendments; and providing for effective  
 8 date.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 30. WEST VIRGINIA HEALTH CARE DECISIONS ACT.**

**§16-30-3. Definitions.**

1 For the purposes of this article:

2 (a) "Actual knowledge" means the possession of information of the person's wishes  
 3 communicated to the health care provider orally or in writing by the person, the person's medical  
 4 power of attorney representative, the person's health care surrogate, or other individuals resulting  
 5 in the health care provider's personal cognizance of these wishes. Constructive notice and other  
 6 forms of imputed knowledge are not actual knowledge.

7 (b) "Adult" means a person who is 18 years of age or older, an emancipated minor who  
 8 has been established as such pursuant to the provisions of §49-4-115 of this code, or a mature  
 9 minor.

10 (c) "Advanced nurse practitioner" means a registered nurse with substantial theoretical  
 11 knowledge in a specialized area of nursing practice and proficient clinical utilization of the  
 12 knowledge in implementing the nursing process, and who has met the further requirements of the  
 13 West Virginia Board of Examiners for registered professional nurses rule, advanced practice  
 14 registered nurse, 19 CSR 7, who has a mutually agreed upon association in writing with a  
 15 physician, and has been selected by or assigned to the person and has primary responsibility for

16 treatment and care of the person.

17       ~~(d)~~ “Attending physician” means the physician selected by or assigned to the person who  
18 has primary responsibility for treatment and care of the person and who is a licensed physician.  
19 If more than one physician shares that responsibility, any of those physicians may act as the  
20 attending physician under this article.

21       ~~(e)~~ “Capable adult” means an adult who is physically and mentally capable of making  
22 health care decisions and who is not considered a protected person pursuant to ~~the provisions of~~  
23 chapter 44A of this code.

24       ~~(f)~~ “Close friend” means any adult who has exhibited significant care and concern for an  
25 incapacitated person who is willing and able to become involved in the incapacitated person’s  
26 health care and who has maintained regular contact with the incapacitated person so as to be  
27 familiar with his or her activities, health, and religious and moral beliefs.

28       ~~(g)~~ “Death” means a finding made in accordance with accepted medical standards of  
29 either: (1) The irreversible cessation of circulatory and respiratory functions; or (2) the irreversible  
30 cessation of all functions of the entire brain, including the brain stem.

31       ~~(h)~~ “Guardian” means a person appointed by a court pursuant to ~~the provisions of~~ chapter  
32 44A of this code who is responsible for the personal affairs of a protected person and includes a  
33 limited guardian or a temporary guardian.

34       ~~(i)~~ “Health care decision” means a decision to give, withhold, or withdraw informed consent  
35 to any type of health care, including, but not limited to, medical and surgical treatments, including  
36 life-prolonging interventions, psychiatric treatment, nursing care, hospitalization, treatment in a  
37 nursing home or other facility, home health care, and organ or tissue donation.

38       ~~(j)~~ “Health care facility” means a facility commonly known by a wide variety of titles,  
39 including, but not limited to, hospital, psychiatric hospital, medical center, ambulatory health care  
40 facility, physicians’ office and clinic, extended care facility operated in connection with a hospital,  
41 nursing home, a hospital extended care facility operated in connection with a rehabilitation center,

42 hospice, home health care, and other facility established to administer health care in its ordinary  
43 course of business or practice.

44 ~~(k)~~ "Health care provider" means any licensed physician, dentist, nurse, physician's  
45 assistant, paramedic, psychologist, or other person providing medical, dental, nursing,  
46 psychological or other health care services of any kind.

47 ~~(l)~~ "Incapacity" means the inability because of physical or mental impairment to appreciate  
48 the nature and implications of a health care decision, to make an informed choice regarding the  
49 alternatives presented, and to communicate that choice in an unambiguous manner.

50 ~~(m)~~ "Life-prolonging intervention" means any medical procedure or intervention that, when  
51 applied to a person, would serve to artificially prolong the dying process. Life-prolonging  
52 intervention includes, among other things, nutrition and hydration administered intravenously or  
53 through a feeding tube. The term "life-prolonging intervention" does not include the administration  
54 of medication or the performance of any other medical procedure considered necessary to provide  
55 comfort or to alleviate pain.

56 ~~(n)~~ "Living will" means a written, witnessed advance directive governing the withholding or  
57 withdrawing of life-prolonging intervention, voluntarily executed by a person in accordance with  
58 the requirements of §16-30-4 of this code.

59 ~~(o)~~ "Mature minor" means a person, less than 18 years of age, who has been determined  
60 by a qualified physician, a qualified psychologist, or an advanced nurse practitioner to have the  
61 capacity to make health care decisions.

62 ~~(p)~~ "Medical information" or "medical records" means and includes without restriction any  
63 information recorded in any form of medium that is created or received by a health care provider,  
64 health care facility, health plan, public health authority, employer, life insurer, school, or university  
65 or health care clearinghouse that relates to the past, present or future physical or mental health  
66 of the person, the provision of health care to the person, or the past, present, or future payment  
67 for the provision of health care to the person.

68           ~~(q)~~ “Medical power of attorney representative” or “representative” means a person, 18  
69 years of age or older, appointed by another person to make health care decisions pursuant to ~~the~~  
70 ~~provisions of §16-30-6 of this code or similar act of another state and recognized as valid under~~  
71 the laws of this state.

72           ~~(r)~~ “Parent” means a person who is another person’s natural or adoptive mother or father  
73 or who has been granted parental rights by valid court order and whose parental rights have not  
74 been terminated by a court of law.

75           ~~“Persistent vegetative state” means an irreversible state as diagnosed by the attending~~  
76 ~~physician or a qualified physician in which the person has intact brain stem function but no higher~~  
77 ~~cortical function and has neither self-awareness nor awareness of the surroundings in a learned~~  
78 ~~manner~~

79           ~~(s)~~ “Person” means an individual, a corporation, a business trust, a trust, a partnership, an  
80 association, a government, a governmental subdivision or agency, or any other legal entity.

81           ~~(t)~~ “Physician orders for scope of treatment (POST) form” means a standardized form  
82 containing orders by a qualified physician that details a person’s life-sustaining wishes as  
83 provided by §16-30-25 of this code.

84           ~~(u)~~ “Principal” means a person who has executed a living will, ~~or~~ medical power of attorney,  
85 or combined medical power of attorney and living will.

86           ~~(v)~~ “Protected person” means an adult who, pursuant to ~~the provisions of chapter 44A of~~  
87 this code, has been found by a court, because of mental impairment, to be unable to receive and  
88 evaluate information effectively or to respond to people, events, and environments to an extent  
89 that the individual lacks the capacity to: (1) Meet the essential requirements for his or her health,  
90 care, safety, habilitation, or therapeutic needs without the assistance or protection of a guardian;  
91 or (2) manage property or financial affairs to provide for his or her support or for the support of  
92 legal dependents without the assistance or protection of a conservator.

93           ~~(w)~~ “Qualified physician” means a physician licensed to practice medicine who has

94 personally examined the person.

95 ~~(x)~~ “Qualified psychologist” means a psychologist licensed to practice psychology who has  
 96 personally examined the person.

97 ~~(y)~~ “Surrogate decisionmaker” or “surrogate” means an individual 18 years of age or older  
 98 who is reasonably available, is willing to make health care decisions on behalf of an incapacitated  
 99 person, possesses the capacity to make health care decisions, and is identified or selected by  
 100 the attending physician or advanced nurse practitioner in accordance with the provisions of this  
 101 article as the person who is to make those decisions in accordance with the provisions of this  
 102 article.

103 ~~(z)~~ “Terminal condition” means an incurable or irreversible condition as diagnosed by the  
 104 attending physician or a qualified physician for which the administration of life-prolonging  
 105 intervention will serve only to prolong the dying process.

**§16-30-4. Executing a living will, ~~or~~ medical power of attorney, or combined medical power  
 of attorney and living will.**

1 (a) Any competent adult may execute at any time a living will, ~~or~~ medical power of attorney,  
 2 or combined medical power of attorney and living will. A living will, ~~or~~ medical power of attorney,  
 3 or combined medical power of attorney and living will made pursuant to this article shall be: (1)  
 4 In writing; (2) executed by the principal or by another person in the principal’s presence at the  
 5 principal’s express direction if the principal is physically unable to do so; (3) dated; (4) signed in  
 6 the presence of two or more witnesses at least 18 years of age; and (5) signed and attested by  
 7 such witnesses whose signatures and attestations shall be acknowledged before a notary public.  
 8 ~~as provided in subsection (d) of this section.~~

9 (b) In addition, a witness may not be:

10 (1) The person who signed the living will, ~~or~~ medical power of attorney, or combined  
 11 medical power of attorney and living will on behalf of and at the direction of the principal;

12 (2) Related to the principal by blood or marriage;

13 (3) Entitled to any portion of the estate of the principal under any will of the principal or  
14 codicil thereto: *Provided*, That the validity of the living will, ~~or~~ medical power of attorney, or  
15 combined medical power of attorney and living will ~~shall~~ may not be affected when a witness at  
16 the time of witnessing such ~~the~~ the living will, ~~or~~ medical power of attorney, or combined medical  
17 power of attorney and living will was unaware of being a named beneficiary of the principal's will;

18 (4) Directly financially responsible for the principal's medical care;

19 (5) The attending physician; or

20 (6) The principal's medical power of attorney representative or successor medical power  
21 of attorney representative.

22 (c) The following persons may not serve as a medical power of attorney representative or  
23 successor medical power of attorney representative: (1) A treating health care provider of the  
24 principal; (2) an employee of a treating health care provider not related to the principal; (3) an  
25 operator of a health care facility serving the principal; or (4) any person who is an employee of an  
26 operator of a health care facility serving the principal and who is not related to the principal.

27 (d) It ~~shall be~~ is the responsibility of the principal or his or her representative to provide for  
28 notification to his or her attending physician and other health care providers of the existence of  
29 the living will, ~~or~~ medical power of attorney, or combined medical power of attorney and living will  
30 or a revocation of the living will, ~~or~~ medical power of attorney, or combined medical power of  
31 attorney and living will. An attending physician or other health care provider, when presented with  
32 the living will, ~~or~~ medical power of attorney, or combined medical power of attorney and living will  
33 or the revocation of a living will, ~~or~~ medical power of attorney, or combined medical power of  
34 attorney and living will, shall make the living will, medical power of attorney, or combined medical  
35 power of attorney and living will or a copy of ~~either~~ any or a revocation of ~~either~~ any a part of the  
36 principal's medical records.

37 (e) At the time of admission to any health care facility, each person shall be advised of the  
38 existence and availability of living will, ~~and~~ medical power of attorney, and combined medical

39 power of attorney and living will forms and shall be given assistance in completing such forms if  
 40 the person desires: *Provided*, That under no circumstances may admission to a health care facility  
 41 be predicated upon a person having completed ~~either~~ a medical power of attorney, ~~or~~ living will,  
 42 or combined medical power of attorney and living will.

43 (f) The provision of living will, ~~or~~ medical power of attorney, or combined medical power of  
 44 attorney and living will forms substantially in compliance with this article by health care providers,  
 45 medical practitioners, social workers, social service agencies, senior citizens centers, hospitals,  
 46 nursing homes, personal care homes, community care facilities or any other similar person or  
 47 group, without separate compensation, does not constitute the unauthorized practice of law.

48 (g) The living will may, but need not, be in the following form and may include other specific  
 49 directions not inconsistent with other provisions of this article. Should any of the other specific  
 50 directions be held to be invalid, ~~such~~ the ~~invalidity shall~~ may not affect other directions of the living  
 51 will which can be given effect without the invalid direction and to this end the directions in the  
 52 living will are severable.

53 **STATE OF WEST VIRGINIA**

54 **LIVING WILL**

55 **The Kind of Medical Treatment I Want and Don't Want**

56 **If I Have a Terminal Condition**

57

58 Living will made this \_\_\_\_\_ day of  
 59 \_\_\_\_\_(month, year).

60 I, \_\_\_\_\_, (*Insert your name*)

61 being of sound mind, willfully and voluntarily declare that I want my wishes to be respected  
 62 if I am very sick and ~~not able~~ unable to communicate my wishes for myself. In the absence of my  
 63 ability to give directions regarding the use of life-prolonging ~~medical~~ intervention, it is my desire  
 64 that my dying shall not be prolonged.

65 (1) If I am very sick and ~~not able~~ unable to communicate my wishes for myself and I am  
 66 certified by one physician, who has personally examined me, to have a terminal condition ~~or to~~  
 67 ~~be in a persistent vegetative state (I am unconscious and am neither aware of my environment~~  
 68 ~~nor able to interact with others),~~ I direct that life-prolonging medical intervention that would serve  
 69 solely to prolong the dying process ~~or maintain me in a persistent vegetative state~~ be withheld or  
 70 withdrawn. I understand that this would also mean the removal of any medically administered  
 71 food and fluids, such as might be provided intravenously or by feeding tube. I want to be allowed  
 72 to die naturally and only be given medications or other medical procedures necessary to keep me  
 73 comfortable. I want to receive as much medication as is necessary to alleviate my pain.  
 74 Nevertheless, oral food and fluids, such as may be provided by spoon or by straw, shall be offered  
 75 as desired and can be tolerated.

76 I give the following SPECIAL DIRECTIVES OR LIMITATIONS: (Comments about ~~tube~~  
 77 ~~feedings, breathing machines, cardiopulmonary resuscitation, dialysis, funeral arrangements,~~  
 78 ~~autopsy, and mental health treatment,~~ and organ donation may be placed here. My failure to  
 79 provide special directives or limitations does not mean that I want or refuse certain treatments.)

80 \_\_\_\_\_  
 81 \_\_\_\_\_

82 It is my intention that this living will be honored as the final expression of my legal right to  
 83 refuse medical or surgical treatment and accept the consequences resulting from such refusal.

84 I understand the full import of this living will.

85 \_\_\_\_\_  
 86 \_\_\_\_\_

87 Signed

88 \_\_\_\_\_

89 \_\_\_\_\_

90 \_\_\_\_\_

91 Address

92 I did not sign the principal's signature above for or at the direction of the principal. I am at  
93 least 18 years of age and am not related to the principal by blood or marriage, nor entitled to any  
94 portion of the estate of the principal to the best of my knowledge under any will of principal or  
95 codicil thereto, ~~or~~ nor directly financially responsible for principal's medical care. I am not the  
96 principal's attending physician or the principal's medical power of attorney representative or  
97 successor medical power of attorney representative under a medical power of attorney.

98 \_\_\_\_\_

99 Witness DATE

100 \_\_\_\_\_

101 Witness DATE

102 STATE OF

103 \_\_\_\_\_

104 COUNTY OF

105 I, \_\_\_\_\_, a Notary Public of said County, do certify that  
106 \_\_\_\_\_, as principal,  
107 and \_\_\_\_\_ and \_\_\_\_\_, as witnesses, whose names  
108 are signed to the writing above bearing date on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
109 have this day acknowledged the same before me.

110 Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

111 My commission expires: \_\_\_\_\_

112 \_\_\_\_\_

113 Notary Public

114 (h) A medical power of attorney may, but need not, be in the following form, and may  
115 include other specific directions not inconsistent with other provisions of this article. Should any  
116 of the other specific directions be held to be invalid, such invalidity shall not affect other directions

117 of the medical power of attorney which can be given effect without the invalid direction and to this  
118 end the directions in the medical power of attorney are severable.

119 **STATE OF WEST VIRGINIA**

120 **MEDICAL POWER OF ATTORNEY**

121 **The Person I Want to Make Health Care Decisions**

122 **For Me When I Can't Make Them for Myself**

123

124 Dated: \_\_\_\_\_, 20\_\_\_\_\_

125 I, \_\_\_\_\_, hereby

126 (Insert your name and address)

127 hereby appoint as my representative to act on my behalf to give, withhold or withdraw  
128 informed consent to health care decisions in the event that I am ~~not~~ unable to do so myself.

129 **The person I choose as my representative is:**

130 \_\_\_\_\_  
131 \_\_\_\_\_

132 *(Insert the name, address, area code and telephone number of the person you wish to*  
133 *designate as your representative.)* ~~*(Please insert only one name.)*~~

134

135 **If my representative is unable, unwilling, or disqualified to serve, then I appoint as**  
136 **my successor representative: ~~The person I choose as my successor representative~~**  
137 **is:**

138  
139 ~~If my representative is unable, unwilling or disqualified to serve, then I appoint:~~  
140 \_\_\_\_\_  
141 \_\_\_\_\_

142 *(Insert the name, address, area code, and telephone number of the person you wish to*

143 *designate as your successor representative.) Please insert only one name*

144

145 This appointment shall extend to, but not be limited to, health care decisions relating to  
146 medical treatment, surgical treatment, nursing care, medication, hospitalization, care and  
147 treatment in a nursing home or other facility, and home health care. The representative appointed  
148 by this document is specifically authorized to be granted access to my medical records and other  
149 health information and to act on my behalf to consent to, refuse or withdraw any and all medical  
150 treatment or diagnostic procedures, or autopsy if my representative determines that I, if able to  
151 do so, would consent to, refuse, or withdraw such treatment or procedures. ~~Such~~ This authority  
152 shall include, but not be limited to, decisions regarding the withholding or withdrawal of life-  
153 prolonging interventions.

154 I appoint this representative because I believe this person understands my wishes and  
155 values and will act to carry into effect the health care decisions that I would make if I were able to  
156 do so and because I also believe that this person will act in my best interest when my wishes are  
157 unknown. It is my intent that my family, my physician, and all legal authorities be bound by the  
158 decisions that are made by the representative appointed by this document and it is my intent that  
159 these decisions should not be the subject of review by any health care provider or administrative  
160 or judicial agency.

161 It is my intent that this document be legally binding and effective and that this document  
162 be taken as a formal statement of my desire concerning the method by which any health care  
163 decisions should be made on my behalf during any period when I am unable to make such  
164 decisions.

165 In exercising the authority under this medical power of attorney, my representative shall  
166 act consistently with my special directives or limitations as stated below.

167 ~~I am giving the following~~ SPECIAL DIRECTIVES OR LIMITATIONS ON THIS POWER:  
168 (Comments about tube feedings, breathing machines, cardiopulmonary resuscitation, dialysis,

169 mental health treatment, funeral arrangements, autopsy and organ donation may be placed here.  
 170 My failure to provide special directives or limitations does not mean that I want or refuse certain  
 171 treatments.)

172 \_\_\_\_\_  
 173 \_\_\_\_\_

174 THIS MEDICAL POWER OF ATTORNEY SHALL BECOME EFFECTIVE ONLY UPON  
 175 MY INCAPACITY TO GIVE, WITHHOLD OR WITHDRAW INFORMED CONSENT TO MY OWN  
 176 MEDICAL CARE.

177 \_\_\_\_\_  
 178 Signature of the Principal

179 \_\_\_\_\_  
 180 Address of Principal

181 I did not sign the principal's signature above. I am at least eighteen years of age and am  
 182 not related to the principal by blood or marriage. I am not entitled to any portion of the estate of  
 183 the principal or to the best of my knowledge under any will of the principal or codicil thereto, ~~or~~  
 184 nor legally responsible for the costs of the principal's medical or other care. I am not the principal's  
 185 attending physician, nor am I the representative or successor representative of the principal.

186 \_\_\_\_\_ DATE  
 187 Witness:

188 \_\_\_\_\_  
 189 \_\_\_\_\_ DATE

190 Witness: DATE  
 191

192 \_\_\_\_\_  
 193 STATE OF

194

195 \_\_\_\_\_

196 COUNTY OF

197

198 I, \_\_\_\_\_, a Notary Public of said

199 County, do certify that \_\_\_\_\_, as principal,

200 and \_\_\_\_\_ and \_\_\_\_\_, as witnesses, whose names are

201 signed to the writing above bearing date on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

202 have this day acknowledged the same before me.

203 Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

204 My commission expires: \_\_\_\_\_

205 \_\_\_\_\_

206 Notary Public

207 (i) A combined medical power of attorney and living will may, but need not, be in the  
208 following form, and may include other specific directions not inconsistent with other provisions of  
209 this article. Should any of the other specific directions be held to be invalid, ~~such~~ the invalidity  
210 does not affect other directions of the combined medical power of attorney and living will which  
211 can be given effect without the invalid direction and to this end the directions in the combined  
212 medical power of attorney and living will are severable.

213 **STATE OF WEST VIRGINIA**

214 **COMBINED MEDICAL POWER OF ATTORNEY**

215 **AND LIVING WILL**

216 **The Person I Want to Make Health Care Decisions For Me When I Can't Make**

217 **Them for Myself And The Kind of Medical Treatment I Want and Don't Want**

218 **If I Have a Terminal Condition**

219

220 Dated: \_\_\_\_\_, 20\_\_\_\_

221 I, \_\_\_\_\_, hereby (*Insert*  
 222 *your name and address*) hereby appoint as my representative to act on my behalf to give, withhold  
 223 or withdraw informed consent to health care decisions in the event that I am ~~not~~ unable to do so  
 224 myself.

225 **The person I choose as my representative is:**

226 \_\_\_\_\_  
 227 \_\_\_\_\_

228 (*Insert the name, address, area code and telephone number of the person you wish to*  
 229 *designate as your representative. Please insert only one name.*).

230 **If my representative is unable, unwilling, or disqualified to serve, then I appoint as**  
 231 **my successor representative:**

232 \_\_\_\_\_  
 233 \_\_\_\_\_

234 (*Insert the name, address, area code and telephone number of the person you wish to*  
 235 *designate as your successor representative. Please insert only one name.*).

236 This appointment shall extend to, but not be limited to, health care decisions relating to  
 237 medical treatment, surgical treatment, nursing care, medication, hospitalization, care and  
 238 treatment in a nursing home or other facility, and home health care. The representative appointed  
 239 by this document is specifically authorized to be granted access to my medical records and other  
 240 health information and to act on my behalf to consent to, refuse, or withdraw any and all medical  
 241 treatment or diagnostic procedures, or autopsy if my representative determines that I, if able to  
 242 do so, would consent to, refuse, or withdraw such treatment or procedures. Such authority shall  
 243 include, but not be limited to, decisions regarding the withholding or withdrawal of life-prolonging  
 244 interventions, subject to the special directives and limitations as stated below:

245 1. If I am very sick and ~~not~~ unable to communicate my wishes for myself and I am certified  
 246 by one physician, who has personally examined me, to have a terminal condition, ~~to be in a~~

247 ~~persistent vegetative state (I am unconscious and am neither aware of my environment nor able~~  
 248 ~~to interact with others.)~~, I direct that life-prolonging medical intervention that would serve solely to  
 249 prolong the dying process ~~or maintain me in a persistent vegetative state~~ be withheld or  
 250 withdrawn. I understand that this would also mean the removal of any medically administered  
 251 food and fluids, such as might be provided intravenously or by feeding tube. I want to be allowed  
 252 to die naturally and only be given medications or other medical procedures necessary to keep me  
 253 comfortable. I want to receive as much medication as is necessary to alleviate my pain.  
 254 Nevertheless, oral food and fluids, such as may be provided by spoon or by straw, shall be offered  
 255 as desired and can be tolerated.

256 In exercising the authority under this medical power of attorney, my representative shall  
 257 act consistently with my special directives or limitations as stated below.

258 2. ADDITIONAL SPECIAL DIRECTIVES OR LIMITATIONS ON THIS POWER:

259 Comments about feeding tubes, breathing machines, cardiopulmonary resuscitation, dialysis,  
 260 mental health treatment, funeral arrangements, autopsy, and organ donation may be placed here.  
 261 My failure to provide special directives or limitations does not mean that I want or refuse certain  
 262 treatments.

263 Other directives: \_\_\_\_\_  
 264 \_\_\_\_\_  
 265 \_\_\_\_\_  
 266 \_\_\_\_\_  
 267 \_\_\_\_\_

268 I appoint this representative because I believe this person understands my wishes and  
 269 values and will act to carry into effect the health care decisions that I would make if I were able to  
 270 do so, and because I also believe that this person will act in my best interest when my wishes are  
 271 unknown. It is my intent that my family, my physician, and all legal authorities be bound by the  
 272 decisions that are made by the representative appointed by this document, and it is my intent that

273 these decisions should not be the subject of review by any health care provider or administrative  
274 or judicial agency.

275 It is my intent that this document be legally binding and effective and that this document  
276 be taken as a formal statement of my desire concerning the method by which any health care  
277 decisions should be made on my behalf during any period when I am unable to make such  
278 decisions.

279 ~~I am giving the following SPECIAL DIRECTIVES OR LIMITATIONS ON THIS POWER:~~  
280 ~~(Comments about tube feedings, breathing machines, cardiopulmonary resuscitation, dialysis,~~  
281 ~~mental health treatment, funeral arrangements, autopsy, and organ donation may be placed here.~~  
282 ~~My failure to provide special directives or limitations does not mean that I want or refuse certain~~  
283 ~~treatments).~~

284 THIS MEDICAL POWER OF ATTORNEY SHALL BECOME EFFECTIVE ONLY UPON  
285 MY INCAPACITY TO GIVE, WITHHOLD OR WITHDRAW INFORMED CONSENT TO MY OWN  
286 MEDICAL CARE.

287 \_\_\_\_\_

288 Signature of the Principal

289 \_\_\_\_\_

290 Address of Principal

291 I did not sign the principal's signature above. I am at least 18 years of age and am not  
292 related to the principal by blood or marriage. I am not entitled to any portion of the estate of the  
293 principal or to the best of my knowledge under any will of the principal or codicil thereto, ~~or~~ nor  
294 legally responsible for the costs of the principal's medical ~~or~~ nor other care. I am not the principal's  
295 attending physician, nor am I the representative or successor representative of the principal.

296 Witness \_\_\_\_\_ DATE \_\_\_\_\_

297 Witness \_\_\_\_\_ DATE \_\_\_\_\_

298 STATE OF \_\_\_\_\_

299 COUNTY OF \_\_\_\_\_

300 I, \_\_\_\_\_, a Notary Public of said county, do certify  
301 that \_\_\_\_\_, as principal, and \_\_\_\_\_ and  
302 \_\_\_\_\_, as witnesses, whose names are signed to the writing above bearing  
303 date on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, have this day acknowledged the same before  
304 me.

305 Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

306 My commission expires: \_\_\_\_\_

307 \_\_\_\_\_

308 Signature of Notary Public

309 (j) Any and all living will, medical power of attorney, and combined medical power of  
310 attorney and living will documents executed pursuant to §16-30-3 and §16-30-4 of this code,  
311 before the effective date of the amendments to these sections, are not affected by these  
312 amendments and remain in full force and effect. This section is effective for a living will, medical  
313 power of attorney, and combined medical power of attorney and living will document executed,  
314 amended or adjusted on or after January 1, 2022. Accordingly, all health care facilities and health  
315 care providers using a living will, medical power of attorney, and combined medical power of  
316 attorney and living will form referenced in §16-30-4 of this code shall update their forms on or  
317 before January 1, 2022.

NOTE: The purpose of this bill is to remove the persistent vegetative state from the living will. Oral food and fluids shall be provided as tolerated in all instances.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.