

ENROLLED ACT NO. 92, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

AN ACT relating to health care; creating a uniform health care decisions act; authorizing and prescribing sample forms for advance health care directives; authorizing and prescribing sample forms for powers of attorney for health care; prescribing duties of health care surrogates and health care providers as specified; providing for immunity, monetary damages and injunctive relief; providing statements of legislative intent; repealing the durable power of attorney for health care statute and living will statute; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-22-401 through 35-22-416 are created to read:

ARTICLE 4
WYOMING HEALTH CARE DECISIONS ACT

35-22-401. Short title.

This act may be cited as the "Wyoming Health Care Decisions Act."

35-22-402. Definitions.

(a) As used in this act:

(i) "Advance health care directive" means an individual instruction or a power of attorney for health care, or both;

(ii) "Agent" means an individual designated in a power of attorney for health care to make a health care decision for the individual granting the power;

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(iii) "Artificial nutrition and hydration" means supplying food and water through a conduit, such as a tube or an intravenous line where the recipient is not required to chew or swallow voluntarily, including, but not limited to, nasogastric tubes, gastrostomies, jejunostomies and intravenous infusions. Artificial nutrition and hydration does not include assisted feeding, such as spoon or bottle feeding;

(iv) "Capacity" means an individual's ability to understand the significant benefits, risks and alternatives to proposed health care and to make and communicate a health care decision;

(v) "Community care facility" means a public or private facility responsible for the day-to-day care of persons with disabilities;

(vi) "Emancipated minor" means a minor who has become emancipated as provided in W.S. 14-1-201 through 14-1-206;

(vii) "Guardian" means a judicially appointed guardian or conservator having authority to make a health care decision for an individual;

(viii) "Health care" means any care, treatment, service or procedure to maintain, diagnose or otherwise affect an individual's physical or mental condition;

(ix) "Health care decision" means a decision made by an individual or the individual's agent, guardian, or surrogate, regarding the individual's health care, including:

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(A) Selection and discharge of health care providers and institutions;

(B) Approval or disapproval of diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and

(C) Directions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care.

(x) "Health care institution" means an institution, facility or agency licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business;

(xi) "Individual instruction" means an individual's direction concerning a health care decision for the individual;

(xii) "Physician" means an individual authorized to practice medicine under the Wyoming Medical Practice Act;

(xiii) "Power of attorney for health care" means the designation of an agent to make health care decisions for the individual granting the power;

(xiv) "Primary health care provider" means any person licensed under the Wyoming statutes practicing within the scope of that license as a licensed physician, licensed physician's assistant or licensed advanced practice registered nurse;

(xv) "Primary physician" means a physician designated by an individual or the individual's agent,

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guardian or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes the responsibility;

(xvi) "Reasonably available" means able to be contacted with a level of diligence appropriate to the seriousness and urgency of a patient's health care needs and willing and able to act in a timely manner considering the urgency of the patient's health care needs;

(xvii) "Residential care facility" means a public or private facility providing for the residential and health care needs of the elderly or persons with disabilities or chronic mental illness;

(xviii) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a territory or insular possession subject to the jurisdiction of the United States;

(xix) "Supervising health care provider" means the primary health care provider who has undertaken primary responsibility for an individual's health care;

(xx) "Surrogate" means an adult individual or individuals who:

(A) Have capacity;

(B) Are reasonably available;

(C) Are willing to make health care decisions, including decisions to initiate, refuse to initiate, continue or discontinue the use of a life

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sustaining procedure on behalf of a patient who lacks capacity; and

(D) Are identified by the supervising health care provider in accordance with this act as the person or persons who are to make those decisions in accordance with this act.

(xxi) "This act" means W.S. 35-22-401 through 35-22-416.

35-22-403. Advance health care directives.

(a) An adult or emancipated minor may give an individual instruction. The instruction may be oral or written. The instruction may be limited to take effect only if a specified condition arises.

(b) An adult or emancipated minor may execute a power of attorney for health care, which may authorize the agent to make any health care decision the principal could have made while having capacity. The power must be in writing and signed by the principal or by another person in the principal's presence and at the principal's expressed direction. The power remains in effect notwithstanding the principal's later incapacity and may include individual instructions. Unless related to the principal by blood, marriage or adoption, an agent may not be an owner, operator or employee of a residential or community care facility at which the principal is receiving care. The durable power of attorney must either be sworn and acknowledged before a notary public or must be signed by at least two (2) witnesses, each of whom witnessed either the signing of the instrument by the principal or the principal's acknowledgement of the signature or of the

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instrument, each witness making the following declaration in substance:

I declare under penalty of perjury under the laws of Wyoming that the person who signed or acknowledged this document is personally known to me to be the principal, that the principal signed or acknowledged this document in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as attorney-in-fact by this document, and that I am not a treating health care provider, an employee of a treating health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility, nor an employee of an operator of a residential care facility.

(c) None of the following shall be used as a witness for a power of attorney for health care:

(i) A treating health care provider or employee of the provider;

(ii) The attorney-in-fact nominated in the writing;

(iii) The operator of a community care facility or employee of the operator or facility;

(iv) The operator of a residential care facility or employee of the operator or facility.

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(d) Unless otherwise specified in a power of attorney for health care, the authority of an agent becomes effective only upon a determination that the principal lacks capacity, and ceases to be effective upon a determination that the principal has recovered capacity.

(e) Unless otherwise specified in a written advance health care directive, a determination that an individual lacks or has recovered capacity, or that another condition exists that affects an individual instruction or the authority of an agent, shall be made by the primary physician, but the supervising health care provider may make the decision if the primary physician is unavailable.

(f) An agent shall make a health care decision in accordance with the principal's advance health care directive and other wishes to the extent known to the agent. Otherwise, the agent shall make the decision in accordance with the agent's determination of the principal's best interest. In determining the principal's best interest, the agent shall consider the principal's personal values to the extent known to the agent.

(g) A health care decision made by an agent for a principal is effective without judicial approval.

(h) A written advance health care directive may include the individual's nomination of a guardian of the person.

(j) An advance health care directive is valid for purposes of this act if it complied with the applicable law at the time of execution or communication.

35-22-404. Revocation of advance health care directive.

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(a) An individual with capacity may revoke the designation of an agent only by a signed writing.

(b) An individual with capacity may revoke all or part of an advance health care directive, other than the designation of an agent, at any time and in any manner that communicates an intention to revoke. Any oral revocation shall, as soon as possible after the revocation, be documented in a writing signed and dated by the individual or a witness to the revocation.

(c) A health care provider, agent, guardian or surrogate who is informed of a revocation shall promptly communicate the fact of the revocation to the supervising health care provider and to any health care institution at which the patient is receiving care.

(d) A decree of annulment, divorce, dissolution of marriage or legal separation revokes a previous designation of a spouse as agent unless otherwise specified in the decree or in a power of attorney for health care.

(e) An advance health care directive that conflicts with an earlier advance health care directive revokes the earlier directive to the extent of the conflict.

35-22-405. Optional form.

(a) An advance health care directive may be substantially in the following form, but in addition may include other specific directions. The other sections of this act govern the effect of this or any other writing used to create an advance health care directive. If any of the other specific directions are held to be invalid, the invalidity shall not affect other directions of the

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directive that can be given effect without the invalid direction and to this end the directions in the directive are severable:

ADVANCE HEALTH CARE DIRECTIVE
Explanation

You have the right to give instructions about your own health care. You also have the right to name someone else to make health care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding donation of organs and the designation of your supervising health care provider. If you use this form, you may complete or modify all or any part of it. You are free to use a different form.

Part 1 of this form is a power of attorney for health care. Part 1 lets you name another individual as agent to make health care decisions for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable.

You may also name an alternate agent to act for you if your first choice is not willing, able or reasonably available to make decisions for you. Unless related to you, your agent may not be an owner, operator or employee of a residential or community care facility at which you are receiving care.

Unless the form you sign limits the authority of your agent, your agent may make all health care decisions for you. This form has a place for you to limit the authority of your agent. You need not limit the authority of your agent if you wish to rely on your agent for all health care decisions that may have to be made. If you choose not to

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limit the authority of your agent, your agent will have the right to:

(a) Consent or refuse consent to any care, treatment, service or procedure to maintain, diagnose or otherwise affect a physical or mental condition;

(b) Select or discharge health care providers and institutions;

(c) Approve or disapprove diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and

(d) Direct the provision, withholding or withdrawal of artificial nutrition and hydration and all other forms of health care.

Part 2 of this form lets you give specific instructions about any aspect of your health care. Choices are provided for you to express your wishes regarding the provision, withholding or withdrawal of treatment to keep you alive, including the provision of artificial nutrition and hydration, as well as the provision of pain relief. Space is also provided for you to add to the choices you have made or for you to write out any additional wishes.

Part 3 of this form lets you express an intention to donate your bodily organs and tissues following your death.

Part 4 of this form lets you designate a supervising health care provider to have primary responsibility for your health care.

After completing this form, sign and date the form at the end. This form must either be signed before a notary public or, in the alternative, be witnessed by two (2) witnesses.

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Give a copy of the signed and completed form to your physician, to any other health care providers you may have, to any health care institution at which you are receiving care, and to any health care agents you have named. You should talk to the person you have named as agent to make sure that he or she understands your wishes and is willing to take the responsibility.

You have the right to revoke this advance health care directive or replace this form at any time.

* * * * *

PART 1
POWER OF ATTORNEY FOR HEALTH CARE

(1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health care decisions for me:

(name of individual you choose as agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

OPTIONAL: If I revoke my agent's authority or if my agent is not willing, able or reasonably available to make a health care decision for me, I designate as my first alternate agent:

(name of individual you choose as first alternate agent)

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(address) (city) (state) (zip code)

(home phone)

(work phone)

OPTIONAL: If I revoke the authority of my agent and first alternate agent or if neither is willing, able or reasonably available to make a health care decision for me, I designate as my second alternate agent:

(name of individual you choose as second alternate agent)

(address) (city) (state) (zip code)

(home phone)

(work phone)

(2) AGENT'S AUTHORITY: My agent is authorized to make all health care decisions for me, including decisions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care to keep me alive, except as I state here:

(Add additional sheets if needed.)

(3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's authority becomes effective when my supervising health care provider determines that I lack the capacity to make my own health care decisions unless I initial the following box.

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If I initial this box [], my agent's authority to make health care decisions for me takes effect immediately.

(4) AGENT'S OBLIGATION: My agent shall make health care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part 2 of this form, and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

(5) NOMINATION OF GUARDIAN: If a guardian of my person needs to be appointed for me by a court, (please initial one):

[] I nominate the agent(s) whom I named in this form in the order designated to act as guardian.

[] I nominate the following to be guardian in the order designated:

[] I do not nominate anyone to be guardian.

PART 2
INSTRUCTIONS FOR HEALTH CARE

Please strike any wording that you do not want.

(6) END-OF-LIFE DECISIONS: I direct that my health care providers and others involved in my care provide, withhold

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or withdraw treatment in accordance with the choice I have
initialed below:

(a) Choice Not To Prolong Life

I do not want my life to be prolonged if (i) I have an
incurable and irreversible condition that will result in my
death within a relatively short time, (ii) I become
unconscious and, to a reasonable degree of medical
certainty, I will not regain consciousness, or (iii) the
likely risks and burdens of treatment would outweigh the
expected benefits, OR

(b) Choice To Prolong Life

I want my life to be prolonged as long as possible within
the limits of generally accepted health care standards.

(7) ARTIFICIAL NUTRITION AND HYDRATION: Artificial
nutrition and hydration must be provided, withheld or
withdrawn in accordance with the choice I have made in
paragraph (6) unless I initial the following box. If I
initial this box , artificial nutrition must be provided
regardless of my condition and regardless of the choice I
have made in paragraph (6). If I initial this box ,
artificial hydration must be provided regardless of my
condition and regardless of the choice I have made in
paragraph (6).

(8) RELIEF FROM PAIN: Except as I state in the following
space, I direct that treatment for alleviation of pain or
discomfort be provided at all times:

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(9) OTHER WISHES: (If you do not agree with any of the optional choices above and wish to write your own, or if you wish to add to the instructions you have given above, you may do so here.) I direct that:

(Add additional sheets if needed.)

PART 3
DONATION OF ORGANS AT DEATH

(OPTIONAL)

(10) Upon my death (initial applicable box):

(a) I give my body, or

(b) I give any needed organs, tissues or parts,
or

(c) I give the following organs, tissues or
parts only

(d) My gift is for the following purposes (strike any of the following you do not want):

(i) Any purpose authorized by law;

(ii) Transplantation;

(iii) Therapy;

(iv) Research;

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(v) Medical education.

(11) I designate the following physician as my primary physician:

(name of physician)

(address) (city) (state) (zip code)

(phone)

If the physician I have designated above is not willing, able or reasonably available to act as my primary physician, I designate the following as my primary physician:

(name of physician)

(address) (city) (state) (zip code)

(phone)

* * * * *

(12) EFFECT OF COPY: A copy of this form has the same effect as the original.

(13) SIGNATURES: Sign and date the form here:

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_____ (date)
(sign your name)

_____ (address)
(print your name)

(city) (state)

(Optional) SIGNATURES OF WITNESSES:

First witness

_____ (print name) _____ (address)

(signature of witness)

(date)

Second witness

_____ (print name) _____ (address)

(signature of witness)

(date)

(Signature of notary public in lieu of witnesses)

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(date)

(b) Subsection (a) of this section is repealed effective June 30, 2009. Thereafter, an advance health care directive may be in any form not inconsistent with this act.

35-22-406. Decisions by surrogate.

(a) A surrogate may make a health care decision for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician or the supervising health care provider to lack capacity and no agent or guardian has been appointed or the agent or guardian is not reasonably available.

(b) An adult or emancipated minor may designate any individual to act as surrogate by personally informing the supervising health care provider. In the absence of a designation, or if the designee is not reasonably available, it is suggested that any member of the following classes of the patient's family who is reasonably available, in descending order of priority, may act as surrogate:

- (i) The spouse, unless legally separated;
- (ii) An adult child;
- (iii) A parent;
- (iv) A grandparent;
- (v) An adult brother or sister;

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(vi) An adult grandchild.

(c) If none of the individuals eligible to act as surrogate under subsection (b) of this section is reasonably available, an adult who has exhibited special care and concern for the patient, who is familiar with the patient's personal values, and who is reasonably available may act as surrogate.

(d) A surrogate shall communicate his assumption of authority as promptly as practicable to the members of the patient's family specified in subsection (b) of this section who can be readily contacted.

(e) If more than one (1) member of a class assumes authority to act as surrogate, and they do not agree on a health care decision and the supervising health care provider is so informed, the supervising health care provider shall comply with the decision of a majority of the members of that class who have communicated their views to the provider. If the class is evenly divided concerning the health care decision and the supervising health care provider is so informed, that class and all individuals having lower priority are disqualified from making the decision.

(f) A surrogate shall make a health care decision in accordance with the patient's individual instructions, if any, and other wishes to the extent known to the surrogate. Otherwise, the surrogate shall make the decision in accordance with the surrogate's determination of the patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal, philosophical, religious and ethical values to the extent known to the surrogate and reliable oral or written statements previously made by the patient,

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including, but not limited to, statements made to family members, friends, health care providers or religious leaders.

(g) A health care decision made by a surrogate for a patient is effective without judicial approval.

(h) The patient at any time may disqualify another, including a member of the individual's family, from acting as the individual's surrogate by a signed writing or by personally informing the supervising health care provider of the disqualification.

(j) Unless related to the patient by blood, marriage or adoption, a surrogate may not be an owner, operator or employee of a residential or community care facility at which the patient is receiving care.

(k) A supervising health care provider may require an individual claiming the right to act as surrogate for a patient to provide a written declaration under penalty of perjury stating facts and circumstances reasonably sufficient to establish the claimed authority.

35-22-407. Decisions by guardian.

(a) A guardian shall comply with the ward's individual instructions and may not revoke the ward's advance health care directive unless the appointing court expressly so authorizes.

(b) Absent a court order to the contrary, a health care decision of an agent takes precedence over that of a guardian.

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(c) A health care decision of a guardian takes precedence over that of a surrogate.

(d) A health care decision made by a guardian for the ward is effective without judicial approval.

35-22-408. Obligations of health care provider.

(a) Before implementing a health care decision made for a patient, a supervising health care provider, if possible, shall promptly communicate to the patient the decision made and the identity of the person making the decision.

(b) A supervising health care provider who knows of the existence of an advance health care directive, a revocation of an advance health care directive, or a designation or disqualification of a surrogate, shall promptly record its existence in the patient's health care record and, if it is in writing, shall request a copy and if one is furnished shall arrange for its maintenance in the health care record.

(c) A supervising health care provider who makes or is informed of a determination that a patient lacks or has recovered capacity, or that another condition exists which affects an individual instruction or the authority of an agent, guardian or surrogate, shall promptly record the determination in the patient's health care record and communicate the determination to the patient, if possible, and to any person then authorized to make health care decisions for the patient.

(d) Except as provided in subsections (e) and (f) of this section, a health care provider or institution providing care to a patient shall:

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(i) Comply with an individual instruction of the patient and with a reasonable interpretation of that instruction made by a person then authorized to make health care decisions for the patient; and

(ii) Comply with a health care decision for the patient made by a person then authorized to make health care decisions for the patient to the same extent as if the decision had been made by the patient while having capacity.

(e) A health care provider may decline to comply with an individual instruction or health care decision for reasons of conscience. A health care institution may decline to comply with an individual instruction or health care decision if the instruction or decision is contrary to a written policy of the institution which is expressly based on reasons of conscience and if the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient. The provider or institution shall deliver the written policy upon receipt of the patient's advance directive that may conflict with the policy or upon notice from the supervising health care provider that the patient's instruction or decision may be in conflict with the health care institution's policy.

(f) A health care provider or institution may decline to comply with an individual instruction or health care decision that requires medically ineffective health care or health care contrary to generally accepted health care standards applicable to the health care provider or institution.

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(g) A health care provider or institution that declines to comply with an individual instruction or health care decision shall:

(i) Promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient;

(ii) Provide continuing care, including continuing life sustaining care, to the patient until a transfer can be effected; and

(iii) Unless the patient or person then authorized to make health care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health care provider or institution that is willing to comply with the instruction or decision.

(h) A health care provider or institution may not require or prohibit the execution or revocation of an advance health care directive as a condition for providing health care.

35-22-409. Health care information.

Unless otherwise specified in an advance health care directive, a person then authorized to make health care decisions for a patient has the same rights as the patient to request, receive, examine, copy and consent to the disclosure of medical or any other health care information.

35-22-410. Immunities.

(a) A health care provider or institution acting in good faith and in accordance with generally accepted health

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care standards applicable to the health care provider or institution is not subject to civil or criminal liability or to discipline for:

(i) Complying with a health care decision of a person apparently having authority to make a health care decision for a patient, including a decision to withhold or withdraw health care;

(ii) Declining to comply with a health care decision of a person based on a belief that the person then lacked authority;

(iii) Complying with an advance health care directive and assuming that the directive was valid when made and has not been revoked or terminated;

(iv) Providing life-sustaining treatment in an emergency situation when the existence of a health care directive is unknown; or

(v) Declining to comply with a health care decision or advance health care directive because the instruction is contrary to the conscience or good faith medical judgment of the health care provider, or the written policies of the institution.

(b) An individual acting as agent or surrogate under this act is not subject to civil or criminal liability or to discipline for unprofessional conduct for health care decisions made in good faith.

35-22-411. Statutory damages.

(a) A health care provider or institution that violates this act willfully or with reckless disregard of

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the patient's instruction or health care decision is subject to liability to the aggrieved individual for damages of five hundred dollars (\$500.00) or actual damages resulting from the violation, whichever is greater, plus reasonable attorney's fees.

(b) A person who intentionally falsifies, forges, conceals, defaces or obliterates an individual's advance health care directive or a revocation of an advance health care directive without the individual's consent, or who coerces or fraudulently induces an individual to give, revoke or not to give an advance health care directive, is subject to liability to that individual for damages of two thousand five hundred dollars (\$2,500.00) or actual damages resulting from the action, whichever is greater, plus reasonable attorney's fees.

35-22-412. Capacity.

(a) This act does not affect the right of an individual to make health care decisions while having capacity to do so.

(b) An individual is presumed to have capacity to make a health care decision, to give or revoke an advance health care directive, and to designate or disqualify a surrogate.

35-22-413. Effect of copy.

A copy of a written advance health care directive, revocation of an advance health care directive, or designation or disqualification of a surrogate has the same effect as the original.

35-22-414. Effect of act.

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(a) This act does not create a presumption concerning the intention of an individual who has not made or who has revoked an advance health care directive.

(b) Death resulting from the withholding or withdrawal of health care in accordance with this act does not for any purpose constitute a suicide or homicide or legally impair or invalidate a policy of insurance or an annuity providing a death benefit, notwithstanding any term of the policy or annuity to the contrary.

(c) This act does not authorize mercy killing, assisted suicide, euthanasia or the provision, withholding or withdrawal of health care, to the extent prohibited by other statutes of this state.

(d) This act does not authorize or require a health care provider or institution to provide health care contrary to generally accepted health care standards applicable to the health care provider or institution.

(e) This act does not affect other statutes of this state governing treatment for mental illness of an individual involuntarily committed to a mental health care institution pursuant to law or a psychiatric advance directive executed in accordance with W.S. 35-22-301 through 35-22-308.

(f) Any cardiopulmonary resuscitation directives developed under W.S. 35-22-201 through 35-22-208 shall remain in effect unless specifically revoked by the advance health care directive.

35-22-415. Judicial relief.

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On petition of a patient, the patient's agent, guardian or surrogate, a health care provider or institution involved with the patient's care, or an individual described in W.S. 35-22-105(b) or (c), the district court may enjoin or direct a health care decision or order other equitable relief. A proceeding under this section is governed by the Wyoming Rules of Civil Procedure.

35-22-416. Uniformity of application and construction.

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject matter of this act among states enacting it.

Section 2. W.S. 3-2-106(e)(i) and (ii), 3-2-202(a)(iv), 3-5-101(b), 35-20-102(a)(xi)(B) and 35-20-103(e) are amended to read:

3-2-106. Appointment of a temporary or emergency guardian.

(e) An emergency guardian may be appointed without notice to the proposed ward or the guardian ad litem only if the court finds by a preponderance of the evidence from affidavit or testimony that the proposed ward will be substantially harmed before a hearing on the appointment can be held. If the court appoints an emergency guardian immediately, without notice to the proposed ward or the guardian ad litem, the proposed ward and guardian ad litem shall be given notice of the appointment within forty-eight (48) hours after the appointment. The court shall hold a hearing on the appropriateness of the appointment within seventy-two (72) hours after the appointment. Emergency guardians appointed without notice and hearing shall have authority to make medical and medically related decisions

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only, except emergency guardians shall not have authority with respect to a person who has been made a ward pursuant to this subsection or subsection (d) of this section to:

(i) Execute a durable power of attorney for healthcare for the ward pursuant to W.S. ~~3-5-202~~ 35-22-403(b);

(ii) Execute ~~a living will~~ an individual instruction for the ward pursuant to W.S. ~~35-22-102~~ 35-22-403(a);

3-2-202. Powers of the guardian subject to approval of the court.

(a) Upon order of the court, after notice and hearing and appointment of a guardian ad litem, the guardian may:

(iv) Execute any appropriate advance medical directives, including durable power of attorney for health care under W.S. ~~3-5-201 et seq.~~ 35-22-403(b) and ~~living will~~ an individual instruction under W.S. ~~35-22-101 et seq.~~ 35-22-403(a).

3-5-101. When power of attorney not affected by disability.

(b) Subject to the restrictions in W.S. ~~3-5-202~~ 35-22-403, the authority of the attorney in fact or agent may be exercised by him on behalf of the principal according to the terms stated in the power of attorney instrument notwithstanding the subsequent disability or incapacity of the principal or uncertainty concerning whether the principal is alive or deceased.

35-20-102. Definitions.

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(a) As used in this act:

(xi) "Neglect" means the deprivation of, or failure to provide, the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a vulnerable adult's life or health, or which may result in a life-threatening situation. The withholding of health care from a vulnerable adult is not neglect if:

(B) The withholding of health care is in accordance with a declaration executed pursuant to W.S. ~~35-22-101 through 35-22-109~~ 35-22-401 through 35-22-416.

35-20-103. Reports of abuse, neglect or exploitation of vulnerable adult; reports maintained in central registry.

(e) Any report or notification to the department that a vulnerable adult is, or is suspected of being, abused, neglected, exploited or abandoned, or is committing self neglect, shall be investigated, a determination shall be made whether protective services are necessary and, whether ~~a valid declaration~~ an individual instruction exists under W.S. ~~35-22-101 through 35-22-109~~ 35-22-401 through 35-22-416. If determined necessary, protective services shall be furnished by the department within three (3) days from the time the report or notice is received by the department. The investigation may include a visit to the facility in which the vulnerable adult resides and an interview with the vulnerable adult.

Section 3. W.S. 3-5-201 through 3-5-213 and 35-22-101 through 35-22-109 are repealed.

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Section 4. This act is effective July 1, 2005.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk