



## 101ST GENERAL ASSEMBLY

### State of Illinois

### 2019 and 2020

### SB0182

Introduced 1/30/2019, by Sen. Julie A. Morrison

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2310/2310-600	
755 ILCS 35/2	from Ch. 110 1/2, par. 702
755 ILCS 35/5	from Ch. 110 1/2, par. 705
755 ILCS 35/9	from Ch. 110 1/2, par. 709
755 ILCS 40/70 new	
755 ILCS 43/5	
755 ILCS 43/20	
755 ILCS 43/23 new	
755 ILCS 43/50	
755 ILCS 45/4-4	from Ch. 110 1/2, par. 804-4
755 ILCS 45/4-4.1 new	
755 ILCS 45/4-6	from Ch. 110 1/2, par. 804-6
755 ILCS 45/4-9	from Ch. 110 1/2, par. 804-9
755 ILCS 45/4-10	from Ch. 110 1/2, par. 804-10

Amends the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois. Provides that the Department of Public Health shall study the feasibility of creating a statewide registry of advance directives and Practitioner Order for Life-Sustaining Treatment forms. Amends the Illinois Living Will Act, the Health Care Surrogate Act, the Mental Health Treatment Preferences Declaration Act, and the Powers of Attorney for Health Care Law of the Illinois Power of Attorney Act. Provides that various types of documents may be in hard copy or electronic format. Provides that electronic declarations may be revoked, among other things, by deletion in a manner indicating the intention to revoke and in a manner that meets the requirements for a deletion by a provider deleting an entry in the electronic medical record. Provides that signature and execution requirements are satisfied by written signatures or initials and electronic signatures or computer-generated signature codes that meet the requirements for a signature by a provider making an entry into the electronic medical record. Provides that a person who enters information in an electronic system under the persona of the principal shall be held civilly liable. Makes conforming changes.

LRB101 04969 LNS 49978 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Purposes and construction. This Act shall be  
5 construed consistently with what is reasonable under the  
6 circumstances and to effectuate the following purposes:

7 (1) To enable an individual to easily document and share  
8 the individual's advance care planning wishes.

9 (2) To facilitate electronic capture, transmission, and  
10 storage of an individual's advance care planning wishes by  
11 means of a reliable electronic solution.

12 (3) To facilitate and promote the sharing of an  
13 individual's advance care planning wishes among care providers  
14 by eliminating barriers resulting from paper documents  
15 containing these wishes that are not easily transferred and  
16 accessed, thus promoting the opportunity for the patient's  
17 wishes to be known in all of the health care settings the  
18 patient may encounter.

19 Section 5. The Department of Public Health Powers and  
20 Duties Law of the Civil Administrative Code of Illinois is  
21 amended by changing Section 2310-600 as follows:

22 (20 ILCS 2310/2310-600)

1           Sec. 2310-600. Advance directive information.

2           (a) The Department of Public Health shall prepare and  
3 publish the summary of advance directives law, as required by  
4 the federal Patient Self-Determination Act, and related forms.  
5 Publication may be limited to the World Wide Web. The summary  
6 required under this subsection (a) must include the Department  
7 of Public Health Uniform POLST form.

8           (b) The Department of Public Health shall publish Spanish  
9 language versions of the following:

10           (1) The statutory Living Will Declaration form.

11           (2) The Illinois Statutory Short Form Power of Attorney  
12 for Health Care.

13           (3) The statutory Declaration of Mental Health  
14 Treatment Form.

15           (4) The summary of advance directives law in Illinois.

16           (5) The Department of Public Health Uniform POLST form.  
17 Publication may be limited to the World Wide Web.

18           (b-5) In consultation with a statewide professional  
19 organization representing physicians licensed to practice  
20 medicine in all its branches, statewide organizations  
21 representing physician assistants, advanced practice  
22 registered nurses, nursing homes, registered professional  
23 nurses, and emergency medical systems, and a statewide  
24 organization representing hospitals, the Department of Public  
25 Health shall develop and publish a uniform form for  
26 practitioner cardiopulmonary resuscitation (CPR) or

1 life-sustaining treatment orders that may be utilized in all  
2 settings. The form shall meet the published minimum  
3 requirements to nationally be considered a practitioner orders  
4 for life-sustaining treatment form, or POLST, and may be  
5 referred to as the Department of Public Health Uniform POLST  
6 form. This form does not replace a physician's or other  
7 practitioner's authority to make a do-not-resuscitate (DNR)  
8 order.

9 (b-10) In consultation with a statewide professional  
10 organization representing physicians licensed to practice  
11 medicine in all its branches, statewide organizations  
12 representing physician assistants, advanced practice  
13 registered nurses, nursing homes, registered professional  
14 nurses, and emergency medical systems, and a statewide  
15 organization representing hospitals, the Department of Public  
16 Health shall study the feasibility of creating a statewide  
17 registry of advance directives and POLST forms. The registry  
18 would allow residents of this State to submit the forms and for  
19 the forms to be made available to health care providers and  
20 professionals in a timely manner for the provision of care or  
21 services.

22 (c) (Blank).

23 (d) The Department of Public Health shall publish the  
24 Department of Public Health Uniform POLST form reflecting the  
25 changes made by this amendatory Act of the 98th General  
26 Assembly no later than January 1, 2015.

1 (Source: P.A. 99-319, eff. 1-1-16; 99-581, eff. 1-1-17;  
2 100-513, eff. 1-1-18.)

3 Section 10. The Illinois Living Will Act is amended by  
4 changing Sections 2, 5, and 9 as follows:

5 (755 ILCS 35/2) (from Ch. 110 1/2, par. 702)

6 Sec. 2. Definitions:

7 (a) "Attending physician" means the physician selected by,  
8 or assigned to, the patient who has primary responsibility for  
9 the treatment and care of the patient.

10 (b) "Declaration" means a witnessed document in writing, in  
11 a hard copy or electronic format, voluntarily executed by the  
12 declarant in accordance with the requirements of Section 3.

13 (c) "Health-care provider" means a person who is licensed,  
14 certified or otherwise authorized by the law of this State to  
15 administer health care in the ordinary course of business or  
16 practice of a profession.

17 (d) "Death delaying procedure" means any medical procedure  
18 or intervention which, when applied to a qualified patient, in  
19 the judgement of the attending physician would serve only to  
20 postpone the moment of death. In appropriate circumstances,  
21 such procedures include, but are not limited to, assisted  
22 ventilation, artificial kidney treatments, intravenous feeding  
23 or medication, blood transfusions, tube feeding and other  
24 procedures of greater or lesser magnitude that serve only to

1 delay death. However, this Act does not affect the  
2 responsibility of the attending physician or other health care  
3 provider to provide treatment for a patient's comfort care or  
4 alleviation of pain. Nutrition and hydration shall not be  
5 withdrawn or withheld from a qualified patient if the  
6 withdrawal or withholding would result in death solely from  
7 dehydration or starvation rather than from the existing  
8 terminal condition.

9 (e) "Person" means an individual, corporation, business  
10 trust, estate, trust, partnership, association, government,  
11 governmental subdivision or agency, or any other legal entity.

12 (f) "Physician" means a person licensed to practice  
13 medicine in all its branches.

14 (g) "Qualified patient" means a patient who has executed a  
15 declaration in accordance with this Act and who has been  
16 diagnosed and verified in writing to be afflicted with a  
17 terminal condition by his or her attending physician who has  
18 personally examined the patient. A qualified patient has the  
19 right to make decisions regarding death delaying procedures as  
20 long as he or she is able to do so.

21 (h) "Terminal condition" means an incurable and  
22 irreversible condition which is such that death is imminent and  
23 the application of death delaying procedures serves only to  
24 prolong the dying process.

25 (Source: P.A. 95-331, eff. 8-21-07.)

1 (755 ILCS 35/5) (from Ch. 110 1/2, par. 705)

2 Sec. 5. Revocation. (a) A declaration may be revoked at any  
3 time by the declarant, without regard to declarant's mental or  
4 physical condition, by any of the following methods:

5 (1) By being obliterated, burnt, torn or otherwise  
6 destroyed or defaced in a manner indicating intention to  
7 cancel;

8 (2) By a written revocation of the declaration signed and  
9 dated by the declarant or person acting at the direction of the  
10 declarant, regardless of whether the written revocation is in  
11 electronic or hard copy format; ~~or~~

12 (3) By an ~~a~~ oral or any other expression of the intent to  
13 revoke the declaration, in the presence of a witness 18 years  
14 of age or older who signs and dates a writing confirming that  
15 such expression of intent was made; or ~~or~~

16 (4) For an electronic declaration, by deleting in a manner  
17 indicating the intention to revoke and in a manner that meets  
18 the requirements for a deletion by a provider deleting an entry  
19 in the electronic medical record.

20 (b) A revocation is effective upon communication to the  
21 attending physician by the declarant or by another who  
22 witnessed the revocation. The attending physician shall record  
23 in the patient's medical record the time and date when and the  
24 place where he or she received notification of the revocation.

25 (c) There shall be no criminal or civil liability on the  
26 part of any person for failure to act upon a revocation made

1 pursuant to this Section unless that person has actual  
2 knowledge of the revocation.

3 (Source: P.A. 85-860.)

4 (755 ILCS 35/9) (from Ch. 110 1/2, par. 709)

5 Sec. 9. General provisions. (a) The withholding or  
6 withdrawal of death delaying procedures from a qualified  
7 patient in accordance with the provisions of this Act shall  
8 not, for any purpose, constitute a suicide.

9 (b) The making of a declaration pursuant to Section 3 shall  
10 not affect in any manner the sale, procurement, or issuance of  
11 any policy of life insurance, nor shall it be deemed to modify  
12 the terms of an existing policy of life insurance. No policy of  
13 life insurance shall be legally impaired or invalidated in any  
14 manner by the withholding or withdrawal of death delaying  
15 procedures from an insured qualified patient, notwithstanding  
16 any term of the policy to the contrary.

17 (c) No physician, health care facility, or other health  
18 care provider, and no health care service plan, health  
19 maintenance organization, insurer issuing disability  
20 insurance, self-insured employe welfare benefit plan,  
21 nonprofit medical service corporation or mutual nonprofit  
22 hospital service corporation shall require any person to  
23 execute a declaration as a condition for being insured for, or  
24 receiving, health care services.

25 (d) Nothing in this Act shall impair or supersede any legal



1 right or legal responsibility which any person may have to  
2 effect the withholding or withdrawal of death delaying  
3 procedures in any lawful manner. In such respect the provisions  
4 of this Act are cumulative.

5 (e) This Act shall create no presumption concerning the  
6 intention of an individual who has not executed a declaration  
7 to consent to the use or withholding of death delaying  
8 procedures in the event of a terminal condition.

9 (f) Nothing in this Act shall be construed to condone,  
10 authorize or approve mercy killing or to permit any affirmative  
11 or deliberate act or omission to end life other than to permit  
12 the natural process of dying as provided in this Act.

13 (g) An instrument executed before the effective date of  
14 this Act that substantially complies with ~~subsection paragraph~~  
15 (e) of Section 3 shall be given effect pursuant to the  
16 provisions of this Act.

17 (h) A declaration executed in another state in compliance  
18 with the law of that state or this State is validly executed  
19 for purposes of this Act, and such declaration shall be applied  
20 in accordance with the provisions of this Act.

21 (i) Documents, writings, forms, and copies referred to in  
22 this Act may be in hard copy or electronic format. Nothing in  
23 this Act is intended to prevent the population of a  
24 declaration, document, writing, or form with electronic data.

25 (Source: P.A. 85-860.)

1 Section 15. The Health Care Surrogate Act is amended by  
2 adding Section 70 as follows:

3 (755 ILCS 40/70 new)

4 Sec. 70. Format. The affidavit, medical record, documents,  
5 and forms referred to in this Act may be in hard copy or  
6 electronic format. Nothing in this Act is intended to prevent  
7 the population of an affidavit, medical record, document, or  
8 form with electronic data. A living will, mental health  
9 treatment preferences declaration, or power of attorney for  
10 health care that is populated with electronic data is  
11 operative.

12 Section 20. The Mental Health Treatment Preference  
13 Declaration Act is amended by changing Sections 5, 20, and 50  
14 and by adding Section 23 as follows:

15 (755 ILCS 43/5)

16 Sec. 5. Definitions. As used in this Act:

17 (1) "Adult" shall have the same meaning as provided in  
18 Section 10 of the Health Care Surrogate Act.

19 (2) "Attending physician" shall have the same meaning as  
20 provided in Section 10 of the Healthcare Surrogate Act.

21 (3) "Attorney-in-fact" means an adult validly appointed  
22 under this Act to make mental health treatment decisions for a  
23 principal under a declaration for mental health treatment and

1 also means an alternative attorney-in-fact.

2 (4) "Declaration" means a document, in hard copy or  
3 electronic format, making a declaration of preferences or  
4 instructions regarding mental health treatment.

5 (5) "Incapable" means that, in the opinion of 2 physicians  
6 or the court, a person's ability to receive and evaluate  
7 information effectively or communicate decisions is impaired  
8 to such an extent that the person currently lacks the capacity  
9 to make mental health treatment decisions.

10 (6) "Mental Health Facility" shall have the same meaning as  
11 provided in Section 1-114 of the Mental Health and  
12 Developmental Disabilities Code.

13 (7) "Mental health treatment" means electroconvulsive  
14 treatment, treatment of mental illness with psychotropic  
15 medication, and admission to and retention in a mental health  
16 facility for a period not to exceed 17 days for care or  
17 treatment of mental illness.

18 (8) "Physician" means a physician or psychiatrist as  
19 defined in Sections 1-120 and 1-121, respectively, of the  
20 Mental Health and Developmental Disabilities Code.

21 (9) "Principal" means the person making a declaration for  
22 his or her personal mental health treatment.

23 (10) "Provider" means any mental health facility or any  
24 other person which is devoted in whole or part to providing  
25 mental health services.

26 (Source: P.A. 89-439, eff. 6-1-96.)

1 (755 ILCS 43/20)

2 Sec. 20. Signatures required.

3 (a) A declaration is effective only if it is signed by the  
4 principal, and 2 competent adult witnesses. The witnesses must  
5 attest that the principal is known to them, signed the  
6 declaration in their presence and appears to be of sound mind  
7 and not under duress, fraud or undue influence. Persons  
8 specified in Section 65 of this Act may not act as witnesses.

9 (b) The signature and execution requirements set forth in  
10 this Act are satisfied by: (i) written signatures or initials;  
11 or (ii) electronic signatures or computer-generated signature  
12 codes that meet the requirements for a signature by a provider  
13 making an entry into the electronic medical record. An  
14 electronic signature may be proved in any manner, including by  
15 showing that a procedure existed by which the principal  
16 executed a symbol or security procedure for the purpose of  
17 verifying that an electronic record is that of the principal in  
18 order to proceed further with the electronic completion of  
19 information to populate the declaration.

20 (Source: P.A. 89-439, eff. 6-1-96.)

21 (755 ILCS 43/23 new)

22 Sec. 23. Format. Documents, writings, and forms referred to  
23 in this Act may be in hard copy or electronic format. Nothing  
24 in this Act is intended to prevent the population of a

1 declaration, document, writing, or form with electronic data.

2 (755 ILCS 43/50)

3 Sec. 50. Revocation. A declaration may be revoked in whole  
4 or in part by written statement at any time by the principal if  
5 the principal is not incapable, regardless of whether the  
6 written revocation is in an electronic or hard copy format. A  
7 written statement of revocation is effective when signed by the  
8 principal and a physician and the principal delivers the  
9 revocation to the attending physician. An electronic  
10 declaration may also be revoked by the principal's deletion in  
11 a manner indicating the intention to revoke and in a manner  
12 that meets the requirements for a deletion by a provider  
13 deleting an entry in the electronic medical records. The  
14 attending physician shall note the revocation as part of the  
15 principal's medical record.

16 (Source: P.A. 89-439, eff. 6-1-96.)

17 Section 25. The Illinois Power of Attorney Act is amended  
18 by changing Sections 4-4, 4-6, 4-9, and 4-10 and by adding  
19 Section 4-4.1 as follows:

20 (755 ILCS 45/4-4) (from Ch. 110 1/2, par. 804-4)

21 Sec. 4-4. Definitions. As used in this Article:

22 (a) "Attending physician" means the physician who has  
23 primary responsibility at the time of reference for the

1 treatment and care of the patient.

2 (b) "Health care" means any care, treatment, service or  
3 procedure to maintain, diagnose, treat or provide for the  
4 patient's physical or mental health or personal care.

5 (c) "Health care agency" means an agency governing any type  
6 of health care, anatomical gift, autopsy or disposition of  
7 remains for and on behalf of a patient and refers, in either  
8 hard copy or electronic format, to the power of attorney or  
9 other written instrument defining the agency or the agency,  
10 itself, as appropriate to the context.

11 (d) "Health care provider", "health care professional", or  
12 "provider" means the attending physician and any other person  
13 administering health care to the patient at the time of  
14 reference who is licensed, certified, or otherwise authorized  
15 or permitted by law to administer health care in the ordinary  
16 course of business or the practice of a profession, including  
17 any person employed by or acting for any such authorized  
18 person.

19 (e) "Patient" means the principal or, if the agency governs  
20 health care for a minor child of the principal, then the child.

21 (e-5) "Health care agent" means an individual at least 18  
22 years old designated by the principal to make health care  
23 decisions of any type, including, but not limited to,  
24 anatomical gift, autopsy, or disposition of remains for and on  
25 behalf of the individual. A health care agent is a personal  
26 representative under state and federal law. The health care

1 agent has the authority of a personal representative under both  
2 state and federal law unless restricted specifically by the  
3 health care agency.

4 (f) (Blank).

5 (g) (Blank).

6 (h) (Blank).

7 (Source: P.A. 98-1113, eff. 1-1-15.)

8 (755 ILCS 45/4-4.1 new)

9 Sec. 4-4.1. Format. Documents, writings, forms, and copies  
10 referred to in this Article may be in hard copy or electronic  
11 format. Nothing in this Article is intended to prevent the  
12 population of a written instrument of a health care agency,  
13 document, writing, or form with electronic data.

14 (755 ILCS 45/4-6) (from Ch. 110 1/2, par. 804-6)

15 Sec. 4-6. Revocation and amendment of health care agencies.

16 (a) Every health care agency may be revoked by the  
17 principal at any time, without regard to the principal's mental  
18 or physical condition, by any of the following methods:

19 1. By being obliterated, burnt, torn or otherwise destroyed  
20 or defaced in a manner indicating intention to revoke;

21 2. By a written revocation of the agency signed and dated  
22 by the principal or person acting at the direction of the  
23 principal, regardless of whether the written revocation is in  
24 an electronic or hard copy format; ~~or~~

1           3. By an oral or any other expression of the intent to  
2 revoke the agency in the presence of a witness 18 years of age  
3 or older who signs and dates a writing confirming that such  
4 expression of intent was made; or ~~τ~~

5           4. For an electronic health care agency, by deleting in a  
6 manner indicating the intention to revoke in a manner that  
7 meets the requirements for a deletion by a provider deleting an  
8 entry in the electronic medical record.

9           (b) Every health care agency may be amended at any time by  
10 a written amendment signed and dated by the principal or person  
11 acting at the direction of the principal.

12           (c) Any person, other than the agent, to whom a revocation  
13 or amendment is communicated or delivered shall make all  
14 reasonable efforts to inform the agent of that fact as promptly  
15 as possible.

16           (Source: P.A. 85-701.)

17           (755 ILCS 45/4-9) (from Ch. 110 1/2, par. 804-9)

18           Sec. 4-9. Penalties. All persons shall be subject to the  
19 following sanctions in relation to health care agencies, in  
20 addition to all other sanctions applicable under any other law  
21 or rule of professional conduct:

22           (a) Any person shall be civilly liable who, without the  
23 principal's consent: (i) ~~τ~~ wilfully conceals, cancels, l or  
24 alters a health care agency or any amendment or revocation of  
25 the agency; (ii) ~~or who~~ falsifies or forges a health care



1 agency, amendment, or revocation; or (iii) enters information  
2 in an electronic system under the persona of the principal.

3 (b) A person who falsifies or forges a health care agency,  
4 enters information in an electronic system under the persona of  
5 the principal, or wilfully conceals or withholds personal  
6 knowledge of an amendment or revocation of a health care agency  
7 with the intent to cause a withholding or withdrawal of  
8 life-sustaining or death-delaying procedures contrary to the  
9 intent of the principal and thereby, because of such act,  
10 directly causes life-sustaining or death-delaying procedures  
11 to be withheld or withdrawn and death to the patient to be  
12 hastened shall be subject to prosecution for involuntary  
13 manslaughter.

14 (c) Any person who requires or prevents execution of a  
15 health care agency as a condition of insuring or providing any  
16 type of health care services to the patient shall be civilly  
17 liable and guilty of a Class A misdemeanor.

18 (Source: P.A. 85-701.)

19 (755 ILCS 45/4-10) (from Ch. 110 1/2, par. 804-10)

20 Sec. 4-10. Statutory short form power of attorney for  
21 health care.

22 (a) The form prescribed in this Section (sometimes also  
23 referred to in this Act as the "statutory health care power")  
24 may be used to grant an agent powers with respect to the  
25 principal's own health care; but the statutory health care

1 power is not intended to be exclusive nor to cover delegation  
2 of a parent's power to control the health care of a minor  
3 child, and no provision of this Article shall be construed to  
4 invalidate or bar use by the principal of any other or  
5 different form of power of attorney for health care.  
6 Nonstatutory health care powers must be executed by the  
7 principal, designate the agent and the agent's powers, and  
8 comply with the limitations in Section 4-5 of this Article, but  
9 they need not be witnessed or conform in any other respect to  
10 the statutory health care power.

11 No specific format is required for the statutory health  
12 care power of attorney other than the notice must precede the  
13 form. The statutory health care power may be included in or  
14 combined with any other form of power of attorney governing  
15 property or other matters.

16 The signature and execution requirements set forth in this  
17 Article are satisfied by: (i) written signatures or initials;  
18 or (ii) electronic signatures or computer-generated signature  
19 codes that meet the requirements for a signature by a provider  
20 making an entry into the electronic medical record. An  
21 electronic signature may be proved in any manner, including by  
22 showing that a procedure existed by which the principal  
23 executed a symbol or security procedure for the purpose of  
24 verifying that an electronic record is that of the principal in  
25 order to proceed further with the electronic completion of  
26 information to populate the agency.

1 (b) The Illinois Statutory Short Form Power of Attorney for  
2 Health Care shall be substantially as follows:

3 NOTICE TO THE INDIVIDUAL SIGNING

4 THE POWER OF ATTORNEY FOR HEALTH CARE

5 No one can predict when a serious illness or accident might  
6 occur. When it does, you may need someone else to speak or make  
7 health care decisions for you. If you plan now, you can  
8 increase the chances that the medical treatment you get will be  
9 the treatment you want.

10 In Illinois, you can choose someone to be your "health care  
11 agent". Your agent is the person you trust to make health care  
12 decisions for you if you are unable or do not want to make them  
13 yourself. These decisions should be based on your personal  
14 values and wishes.

15 It is important to put your choice of agent in writing. The  
16 written form is often called an "advance directive". You may  
17 use this form or another form, as long as it meets the legal  
18 requirements of Illinois. There are many written and on-line  
19 resources to guide you and your loved ones in having a  
20 conversation about these issues. You may find it helpful to  
21 look at these resources while thinking about and discussing  
22 your advance directive.

23 WHAT ARE THE THINGS I WANT MY

24 HEALTH CARE AGENT TO KNOW?

1           The selection of your agent should be considered carefully,  
2 as your agent will have the ultimate decision-making ~~decision~~  
3 ~~making~~ authority once this document goes into effect, in most  
4 instances after you are no longer able to make your own  
5 decisions. While the goal is for your agent to make decisions  
6 in keeping with your preferences and in the majority of  
7 circumstances that is what happens, please know that the law  
8 does allow your agent to make decisions to direct or refuse  
9 health care interventions or withdraw treatment. Your agent  
10 will need to think about conversations you have had, your  
11 personality, and how you handled important health care issues  
12 in the past. Therefore, it is important to talk with your agent  
13 and your family about such things as:

14           (i) What is most important to you in your life?

15           (ii) How important is it to you to avoid pain and  
16 suffering?

17           (iii) If you had to choose, is it more important to you  
18 to live as long as possible, or to avoid prolonged  
19 suffering or disability?

20           (iv) Would you rather be at home or in a hospital for  
21 the last days or weeks of your life?

22           (v) Do you have religious, spiritual, or cultural  
23 beliefs that you want your agent and others to consider?

24           (vi) Do you wish to make a significant contribution to  
25 medical science after your death through organ or whole  
26 body donation?

1           (vii) Do you have an existing advance ~~advanced~~  
2           directive, such as a living will, that contains your  
3           specific wishes about health care that is only delaying  
4           your death? If you have another advance directive, make  
5           sure to discuss with your agent the directive and the  
6           treatment decisions contained within that outline your  
7           preferences. Make sure that your agent agrees to honor the  
8           wishes expressed in your advance directive.

9                           WHAT KIND OF DECISIONS CAN MY AGENT MAKE?

10           If there is ever a period of time when your physician  
11           determines that you cannot make your own health care decisions,  
12           or if you do not want to make your own decisions, some of the  
13           decisions your agent could make are to:

14                   (i) talk with physicians and other health care  
15           providers about your condition.

16                   (ii) see medical records and approve who else can see  
17           them.

18                   (iii) give permission for medical tests, medicines,  
19           surgery, or other treatments.

20                   (iv) choose where you receive care and which physicians  
21           and others provide it.

22                   (v) decide to accept, withdraw, or decline treatments  
23           designed to keep you alive if you are near death or not  
24           likely to recover. You may choose to include guidelines  
25           and/or restrictions to your agent's authority.

1           (vi) agree or decline to donate your organs or your  
2 whole body if you have not already made this decision  
3 yourself. This could include donation for transplant,  
4 research, and/or education. You should let your agent know  
5 whether you are registered as a donor in the First Person  
6 Consent registry maintained by the Illinois Secretary of  
7 State or whether you have agreed to donate your whole body  
8 for medical research and/or education.

9           (vii) decide what to do with your remains after you  
10 have died, if you have not already made plans.

11           (viii) talk with your other loved ones to help come to  
12 a decision (but your designated agent will have the final  
13 say over your other loved ones).

14           Your agent is not automatically responsible for your health  
15 care expenses.

16           WHOM SHOULD I CHOOSE TO BE MY HEALTH CARE AGENT?

17           You can pick a family member, but you do not have to. Your  
18 agent will have the responsibility to make medical treatment  
19 decisions, even if other people close to you might urge a  
20 different decision. The selection of your agent should be done  
21 carefully, as he or she will have ultimate decision-making  
22 authority for your treatment decisions once you are no longer  
23 able to voice your preferences. Choose a family member, friend,  
24 or other person who:

25           (i) is at least 18 years old;

1 (ii) knows you well;

2 (iii) you trust to do what is best for you and is  
3 willing to carry out your wishes, even if he or she may not  
4 agree with your wishes;

5 (iv) would be comfortable talking with and questioning  
6 your physicians and other health care providers;

7 (v) would not be too upset to carry out your wishes if  
8 you became very sick; and

9 (vi) can be there for you when you need it and is  
10 willing to accept this important role.

11 WHAT IF MY AGENT IS NOT AVAILABLE OR IS

12 UNWILLING TO MAKE DECISIONS FOR ME?

13 If the person who is your first choice is unable to carry  
14 out this role, then the second agent you chose will make the  
15 decisions; if your second agent is not available, then the  
16 third agent you chose will make the decisions. The second and  
17 third agents are called your successor agents and they function  
18 as back-up agents to your first choice agent and may act only  
19 one at a time and in the order you list them.

20 WHAT WILL HAPPEN IF I DO NOT

21 CHOOSE A HEALTH CARE AGENT?

22 If you become unable to make your own health care decisions  
23 and have not named an agent in writing, your physician and  
24 other health care providers will ask a family member, friend,

1 or guardian to make decisions for you. In Illinois, a law  
2 directs which of these individuals will be consulted. In that  
3 law, each of these individuals is called a "surrogate".

4 There are reasons why you may want to name an agent rather  
5 than rely on a surrogate:

6 (i) The person or people listed by this law may not be  
7 who you would want to make decisions for you.

8 (ii) Some family members or friends might not be able  
9 or willing to make decisions as you would want them to.

10 (iii) Family members and friends may disagree with one  
11 another about the best decisions.

12 (iv) Under some circumstances, a surrogate may not be  
13 able to make the same kinds of decisions that an agent can  
14 make.

15 WHAT IF THERE IS NO ONE AVAILABLE

16 WHOM I TRUST TO BE MY AGENT?

17 In this situation, it is especially important to talk to  
18 your physician and other health care providers and create  
19 written guidance about what you want or do not want, in case  
20 you are ever critically ill and cannot express your own wishes.  
21 You can complete a living will. You can also write your wishes  
22 down and/or discuss them with your physician or other health  
23 care provider and ask him or her to write it down in your  
24 chart. You might also want to use written or on-line resources  
25 to guide you through this process.



1           WHAT DO I DO WITH THIS FORM ONCE I COMPLETE IT?

2           Follow these instructions after you have completed the  
3 form:

4           (i) Sign the form in front of a witness. See the form  
5 for a list of who can and cannot witness it.

6           (ii) Ask the witness to sign it, too.

7           (iii) There is no need to have the form notarized.

8           (iv) Give a copy to your agent and to each of your  
9 successor agents.

10          (v) Give another copy to your physician.

11          (vi) Take a copy with you when you go to the hospital.

12          (vii) Show it to your family and friends and others who  
13 care for you.

14                   WHAT IF I CHANGE MY MIND?

15          You may change your mind at any time. If you do, tell  
16 someone who is at least 18 years old that you have changed your  
17 mind, and/or destroy your document and any copies. If you wish,  
18 fill out a new form and make sure everyone you gave the old  
19 form to has a copy of the new one, including, but not limited  
20 to, your agents and your physicians.

21                   WHAT IF I DO NOT WANT TO USE THIS FORM?

22          In the event you do not want to use the Illinois statutory  
23 form provided here, any document you complete must be executed

1 by you, designate an agent who is over 18 years of age and not  
2 prohibited from serving as your agent, and state the agent's  
3 powers, but it need not be witnessed or conform in any other  
4 respect to the statutory health care power.

5 If you have questions about the use of any form, you may  
6 want to consult your physician, other health care provider,  
7 and/or an attorney.

8 MY POWER OF ATTORNEY FOR HEALTH CARE

9 THIS POWER OF ATTORNEY REVOKES ALL PREVIOUS POWERS OF ATTORNEY  
10 FOR HEALTH CARE. (You must sign this form and a witness must  
11 also sign it before it is valid)

12 My name (Print your full name): .....

13 My address: .....

14 I WANT THE FOLLOWING PERSON TO BE MY HEALTH CARE AGENT

15 (an agent is your personal representative under state and  
16 federal law):

17 (Agent name) .....

18 (Agent address) .....

19 (Agent phone number) .....

20 (Please check box if applicable) .... If a guardian of my  
21 person is to be appointed, I nominate the agent acting under

1 this power of attorney as guardian.

2 SUCCESSOR HEALTH CARE AGENT(S) (optional):

3 If the agent I selected is unable or does not want to make  
4 health care decisions for me, then I request the person(s) I  
5 name below to be my successor health care agent(s). Only one  
6 person at a time can serve as my agent (add another page if you  
7 want to add more successor agent names):

8 .....

9 (Successor agent #1 name, address and phone number)

10 .....

11 (Successor agent #2 name, address and phone number)

12 MY AGENT CAN MAKE HEALTH CARE DECISIONS FOR ME, INCLUDING:

13 (i) Deciding to accept, withdraw or decline treatment  
14 for any physical or mental condition of mine, including  
15 life-and-death decisions.

16 (ii) Agreeing to admit me to or discharge me from any  
17 hospital, home, or other institution, including a mental  
18 health facility.

19 (iii) Having complete access to my medical and mental  
20 health records, and sharing them with others as needed,  
21 including after I die.

22 (iv) Carrying out the plans I have already made, or, if  
23 I have not done so, making decisions about my body or  
24 remains, including organ, tissue or whole body donation,

1 autopsy, cremation, and burial.

2 The above grant of power is intended to be as broad as  
3 possible so that my agent will have the authority to make any  
4 decision I could make to obtain or terminate any type of health  
5 care, including withdrawal of nutrition and hydration and other  
6 life-sustaining measures.

7 I AUTHORIZE MY AGENT TO (please check any one box):

8 .... Make decisions for me only when I cannot make them for  
9 myself. The physician(s) taking care of me will determine  
10 when I lack this ability.

11 (If no box is checked, then the box above shall be  
12 implemented.) OR

13 .... Make decisions for me only when I cannot make them for  
14 myself. The physician(s) taking care of me will determine  
15 when I lack this ability. Starting now, for the purpose of  
16 assisting me with my health care plans and decisions, my  
17 agent shall have complete access to my medical and mental  
18 health records, the authority to share them with others as  
19 needed, and the complete ability to communicate with my  
20 personal physician(s) and other health care providers,  
21 including the ability to require an opinion of my physician  
22 as to whether I lack the ability to make decisions for  
23 myself. OR

24 .... Make decisions for me starting now and continuing  
25 after I am no longer able to make them for myself. While I

1           am still able to make my own decisions, I can still do so  
2           if I want to.

3           The subject of life-sustaining treatment is of particular  
4           importance. Life-sustaining treatments may include tube  
5           feedings or fluids through a tube, breathing machines, and CPR.  
6           In general, in making decisions concerning life-sustaining  
7           treatment, your agent is instructed to consider the relief of  
8           suffering, the quality as well as the possible extension of  
9           your life, and your previously expressed wishes. Your agent  
10          will weigh the burdens versus benefits of proposed treatments  
11          in making decisions on your behalf.

12          Additional statements concerning the withholding or  
13          removal of life-sustaining treatment are described below.  
14          These can serve as a guide for your agent when making decisions  
15          for you. Ask your physician or health care provider if you have  
16          any questions about these statements.

17          SELECT ONLY ONE STATEMENT BELOW THAT BEST EXPRESSES YOUR WISHES  
18          (optional):

19                 .... The quality of my life is more important than the  
20                 length of my life. If I am unconscious and my attending  
21                 physician believes, in accordance with reasonable medical  
22                 standards, that I will not wake up or recover my ability to  
23                 think, communicate with my family and friends, and  
24                 experience my surroundings, I do not want treatments to

1           prolong my life or delay my death, but I do want treatment  
2           or care to make me comfortable and to relieve me of pain.

3           .... Staying alive is more important to me, no matter how  
4           sick I am, how much I am suffering, the cost of the  
5           procedures, or how unlikely my chances for recovery are. I  
6           want my life to be prolonged to the greatest extent  
7           possible in accordance with reasonable medical standards.

8           SPECIFIC LIMITATIONS TO MY AGENT'S DECISION-MAKING AUTHORITY:

9           The above grant of power is intended to be as broad as  
10          possible so that your agent will have the authority to make any  
11          decision you could make to obtain or terminate any type of  
12          health care. If you wish to limit the scope of your agent's  
13          powers or prescribe special rules or limit the power to  
14          authorize autopsy or dispose of remains, you may do so  
15          specifically in this form.

16          .....  
17          .....

18          My signature:.....

19          Today's date:.....

20          HAVE YOUR WITNESS AGREE TO WHAT IS WRITTEN BELOW, AND THEN  
21          COMPLETE THE SIGNATURE PORTION:

22                 I am at least 18 years old. (check one of the options  
23          below):

1           .... I saw the principal sign this document, or  
 2           .... the principal told me that the signature or mark on  
 3           the principal signature line is his or hers.

4           I am not the agent or successor agent(s) named in this  
 5           document. I am not related to the principal, the agent, or the  
 6           successor agent(s) by blood, marriage, or adoption. I am not  
 7           the principal's physician, advanced practice registered nurse,  
 8           dentist, podiatric physician, optometrist, psychologist, or a  
 9           relative of one of those individuals. I am not an owner or  
 10          operator (or the relative of an owner or operator) of the  
 11          health care facility where the principal is a patient or  
 12          resident.

13          Witness printed name: .....

14          Witness address: .....

15          Witness signature: .....

16          Today's date: .....

17           (c) The statutory short form power of attorney for health  
 18           care (the "statutory health care power") authorizes the agent  
 19           to make any and all health care decisions on behalf of the  
 20           principal which the principal could make if present and under  
 21           no disability, subject to any limitations on the granted powers  
 22           that appear on the face of the form, to be exercised in such  
 23           manner as the agent deems consistent with the intent and  
 24           desires of the principal. The agent will be under no duty to  
 25           exercise granted powers or to assume control of or

1 responsibility for the principal's health care; but when  
2 granted powers are exercised, the agent will be required to use  
3 due care to act for the benefit of the principal in accordance  
4 with the terms of the statutory health care power and will be  
5 liable for negligent exercise. The agent may act in person or  
6 through others reasonably employed by the agent for that  
7 purpose but may not delegate authority to make health care  
8 decisions. The agent may sign and deliver all instruments,  
9 negotiate and enter into all agreements and do all other acts  
10 reasonably necessary to implement the exercise of the powers  
11 granted to the agent. Without limiting the generality of the  
12 foregoing, the statutory health care power shall include the  
13 following powers, subject to any limitations appearing on the  
14 face of the form:

15 (1) The agent is authorized to give consent to and  
16 authorize or refuse, or to withhold or withdraw consent to,  
17 any and all types of medical care, treatment or procedures  
18 relating to the physical or mental health of the principal,  
19 including any medication program, surgical procedures,  
20 life-sustaining treatment or provision of food and fluids  
21 for the principal.

22 (2) The agent is authorized to admit the principal to  
23 or discharge the principal from any and all types of  
24 hospitals, institutions, homes, residential or nursing  
25 facilities, treatment centers and other health care  
26 institutions providing personal care or treatment for any



1 type of physical or mental condition. The agent shall have  
2 the same right to visit the principal in the hospital or  
3 other institution as is granted to a spouse or adult child  
4 of the principal, any rule of the institution to the  
5 contrary notwithstanding.

6 (3) The agent is authorized to contract for any and all  
7 types of health care services and facilities in the name of  
8 and on behalf of the principal and to bind the principal to  
9 pay for all such services and facilities, and to have and  
10 exercise those powers over the principal's property as are  
11 authorized under the statutory property power, to the  
12 extent the agent deems necessary to pay health care costs;  
13 and the agent shall not be personally liable for any  
14 services or care contracted for on behalf of the principal.

15 (4) At the principal's expense and subject to  
16 reasonable rules of the health care provider to prevent  
17 disruption of the principal's health care, the agent shall  
18 have the same right the principal has to examine and copy  
19 and consent to disclosure of all the principal's medical  
20 records that the agent deems relevant to the exercise of  
21 the agent's powers, whether the records relate to mental  
22 health or any other medical condition and whether they are  
23 in the possession of or maintained by any physician,  
24 psychiatrist, psychologist, therapist, hospital, nursing  
25 home or other health care provider. The authority under  
26 this paragraph (4) applies to any information governed by

1 the Health Insurance Portability and Accountability Act of  
2 1996 ("HIPAA") and regulations thereunder. The agent  
3 serves as the principal's personal representative, as that  
4 term is defined under HIPAA and regulations thereunder.

5 (5) The agent is authorized: to direct that an autopsy  
6 be made pursuant to Section 2 of the Autopsy Act ~~"An Act in~~  
7 ~~relation to autopsy of dead bodies", approved August 13,~~  
8 ~~1965, including all amendments;~~ to make a disposition of  
9 any part or all of the principal's body pursuant to the  
10 Illinois Anatomical Gift Act, as now or hereafter amended;  
11 and to direct the disposition of the principal's remains.

12 (6) At any time during which there is no executor or  
13 administrator appointed for the principal's estate, the  
14 agent is authorized to continue to pursue an application or  
15 appeal for government benefits if those benefits were  
16 applied for during the life of the principal.

17 (d) A physician may determine that the principal is unable  
18 to make health care decisions for himself or herself only if  
19 the principal lacks decisional capacity, as that term is  
20 defined in Section 10 of the Health Care Surrogate Act.

21 (e) If the principal names the agent as a guardian on the  
22 statutory short form, and if a court decides that the  
23 appointment of a guardian will serve the principal's best  
24 interests and welfare, the court shall appoint the agent to  
25 serve without bond or security.

26 (Source: P.A. 99-328, eff. 1-1-16; 100-513, eff. 1-1-18;

SB0182

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1 revised 10-4-18.)