



Sen. Julie A. Morrison

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1 AMENDMENT TO SENATE BILL 182

2 AMENDMENT NO. _____. Amend Senate Bill 182 by replacing
3 everything after the enacting clause with the following:

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

1 patient may encounter.

2 Section 5. The Electronic Commerce Security Act is amended
3 by changing Sections 5-115 and 5-120 as follows:

4 (5 ILCS 175/5-115)

5 Sec. 5-115. Electronic records.

6 (a) Where a rule of law requires information to be
7 "written" or "in writing", or provides for certain consequences
8 if it is not, an electronic record satisfies that rule of law.

9 (b) The provisions of this Section shall not apply:

10 (1) when its application would involve a construction
11 of a rule of law that is clearly inconsistent with the
12 manifest intent of the lawmaking body or repugnant to the
13 context of the same rule of law, provided that the mere
14 requirement that information be "in writing", "written",
15 or "printed" shall not by itself be sufficient to establish
16 such intent;

17 (2) to any rule of law governing the creation or
18 execution of a will or trust, ~~living will, or healthcare~~
19 ~~power of attorney~~; and

20 (3) to any record that serves as a unique and
21 transferable instrument of rights and obligations
22 including, without limitation, negotiable instruments and
23 other instruments of title wherein possession of the
24 instrument is deemed to confer title, unless an electronic

1 version of such record is created, stored, and transferred
2 in a manner that allows for the existence of only one
3 unique, identifiable, and unalterable original with the
4 functional attributes of an equivalent physical
5 instrument, that can be possessed by only one person, and
6 which cannot be copied except in a form that is readily
7 identifiable as a copy.

8 (Source: P.A. 90-759, eff. 7-1-99.)

9 (5 ILCS 175/5-120)

10 Sec. 5-120. Electronic signatures.

11 (a) Where a rule of law requires a signature, or provides
12 for certain consequences if a document is not signed, an
13 electronic signature satisfies that rule of law.

14 (a-5) In the course of exercising any permitting,
15 licensing, or other regulatory function, a municipality may
16 accept, but shall not require, documents with an electronic
17 signature, including, but not limited to, the technical
18 submissions of a design professional with an electronic
19 signature.

20 (b) An electronic signature may be proved in any manner,
21 including by showing that a procedure existed by which a party
22 must of necessity have executed a symbol or security procedure
23 for the purpose of verifying that an electronic record is that
24 of such party in order to proceed further with a transaction.

25 (c) The provisions of this Section shall not apply:

1 (1) when its application would involve a construction
2 of a rule of law that is clearly inconsistent with the
3 manifest intent of the lawmaking body or repugnant to the
4 context of the same rule of law, provided that the mere
5 requirement of a "signature" or that a record be "signed"
6 shall not by itself be sufficient to establish such intent;

7 (2) to any rule of law governing the creation or
8 execution of a will or trust, ~~living will, or healthcare~~
9 ~~power of attorney~~; and

10 (3) to any record that serves as a unique and
11 transferable instrument of rights and obligations
12 including, without limitation, negotiable instruments and
13 other instruments of title wherein possession of the
14 instrument is deemed to confer title, unless an electronic
15 version of such record is created, stored, and transferred
16 in a manner that allows for the existence of only one
17 unique, identifiable, and unalterable original with the
18 functional attributes of an equivalent physical
19 instrument, that can be possessed by only one person, and
20 which cannot be copied except in a form that is readily
21 identifiable as a copy.

22 (Source: P.A. 98-289, eff. 1-1-14.)

23 Section 10. The Department of Public Health Powers and
24 Duties Law of the Civil Administrative Code of Illinois is
25 amended by changing Section 2310-600 as follows:

1 (20 ILCS 2310/2310-600)

2 Sec. 2310-600. Advance directive information.

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

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

11 (1) The statutory Living Will Declaration form.

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

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

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

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

19 (b-5) In consultation with a statewide professional
20 organization representing physicians licensed to practice
21 medicine in all its branches, statewide organizations
22 representing physician assistants, advanced practice
23 registered nurses, nursing homes, registered professional
24 nurses, and emergency medical systems, and a statewide
25 organization representing hospitals, the Department of Public

1 Health shall develop and publish a uniform form for
2 practitioner cardiopulmonary resuscitation (CPR) or
3 life-sustaining treatment orders that may be utilized in all
4 settings. The form shall meet the published minimum
5 requirements to nationally be considered a practitioner orders
6 for life-sustaining treatment form, or POLST, and may be
7 referred to as the Department of Public Health Uniform POLST
8 form. An electronic version of the Uniform POLST form under
9 this Act may be created, signed, or revoked electronically
10 using a generic, technology-neutral system in which each user
11 is assigned a unique identifier that is securely maintained and
12 in a manner that meets the regulatory requirements for a
13 digital or electronic signature. Compliance with the standards
14 defined in the Electronic Commerce Security Act or the
15 implementing rules of the Hospital Licensing Act for medical
16 record entry authentication for author validation of the
17 documentation, content accuracy, and completeness meets this
18 standard. This form does not replace a physician's or other
19 practitioner's authority to make a do-not-resuscitate (DNR)
20 order.

21 (b-10) In consultation with a statewide professional
22 organization representing physicians licensed to practice
23 medicine in all its branches, statewide organizations
24 representing physician assistants, advanced practice
25 registered nurses, nursing homes, registered professional
26 nurses, and emergency medical systems, a statewide bar

1 association, a national bar association with an Illinois
2 chapter that concentrates in elder and disability law, a
3 not-for-profit organ procurement organization that coordinates
4 organ and tissue donation, a statewide committee or group
5 responsible for stakeholder education about POLST issues, and a
6 statewide organization representing hospitals, the Department
7 of Public Health shall study the feasibility of creating a
8 statewide registry of advance directives and POLST forms. The
9 registry would allow residents of this State to submit the
10 forms and for the forms to be made available to health care
11 providers and professionals in a timely manner for the
12 provision of care or services. This study must be filed with
13 the General Assembly on or before January 1, 2021.

14 (c) (Blank).

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

19 (Source: P.A. 99-319, eff. 1-1-16; 99-581, eff. 1-1-17;
20 100-513, eff. 1-1-18.)

21 Section 15. The Illinois Living Will Act is amended by
22 changing Sections 2, 5, and 9 as follows:

23 (755 ILCS 35/2) (from Ch. 110 1/2, par. 702)

24 Sec. 2. Definitions:

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

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

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

11 (d) "Death delaying procedure" means any medical procedure
12 or intervention which, when applied to a qualified patient, in
13 the judgement of the attending physician would serve only to
14 postpone the moment of death. In appropriate circumstances,
15 such procedures include, but are not limited to, assisted
16 ventilation, artificial kidney treatments, intravenous feeding
17 or medication, blood transfusions, tube feeding and other
18 procedures of greater or lesser magnitude that serve only to
19 delay death. However, this Act does not affect the
20 responsibility of the attending physician or other health care
21 provider to provide treatment for a patient's comfort care or
22 alleviation of pain. Nutrition and hydration shall not be
23 withdrawn or withheld from a qualified patient if the
24 withdrawal or withholding would result in death solely from
25 dehydration or starvation rather than from the existing
26 terminal condition.

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

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

6 (g) "Qualified patient" means a patient who has executed a
7 declaration in accordance with this Act and who has been
8 diagnosed and verified in writing to be afflicted with a
9 terminal condition by his or her attending physician who has
10 personally examined the patient. A qualified patient has the
11 right to make decisions regarding death delaying procedures as
12 long as he or she is able to do so.

13 (h) "Terminal condition" means an incurable and
14 irreversible condition which is such that death is imminent and
15 the application of death delaying procedures serves only to
16 prolong the dying process.

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

18 (755 ILCS 35/5) (from Ch. 110 1/2, par. 705)

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

22 (1) By being obliterated, burnt, torn or otherwise
23 destroyed or defaced in a manner indicating intention to
24 cancel;

25 (2) By a written revocation of the declaration signed and

1 dated by the declarant or person acting at the direction of the
2 declarant, regardless of whether the written revocation is in
3 electronic or hard copy format; ~~or~~

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

8 (4) For an electronic declaration, by deleting in a manner
9 indicating the intention to revoke. An electronic declaration
10 may be revoked electronically using a generic,
11 technology-neutral system in which each user is assigned a
12 unique identifier that is securely maintained and in a manner
13 that meets the regulatory requirements for a digital or
14 electronic signature. Compliance with the standards defined in
15 the Electronic Commerce Security Act or the implementing rules
16 of the Hospital Licensing Act for medical record entry
17 authentication for author validation of the documentation,
18 content accuracy, and completeness meets this standard.

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

24 (c) There shall be no criminal or civil liability on the
25 part of any person for failure to act upon a revocation made
26 pursuant to this Section unless that person has actual

1 knowledge of the revocation.

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

3 (755 ILCS 35/9) (from Ch. 110 1/2, par. 709)

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

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

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

24 (d) Nothing in this Act shall impair or supersede any legal
25 right or legal responsibility which any person may have to

1 effect the withholding or withdrawal of death delaying
2 procedures in any lawful manner. In such respect the provisions
3 of this Act are cumulative.

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

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

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

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

20 (i) Documents, writings, forms, and copies referred to in
21 this Act may be in hard copy or electronic format. Nothing in
22 this Act is intended to prevent the population of a
23 declaration, document, writing, or form with electronic data.
24 Electronic documents under this Act may be created, signed, or
25 revoked electronically using a generic, technology-neutral
26 system in which each user is assigned a unique identifier that

1 is securely maintained and in a manner that meets the
2 regulatory requirements for a digital or electronic signature.
3 Compliance with the standards defined in the Electronic
4 Commerce Security Act or the implementing rules of the Hospital
5 Licensing Act for medical record entry authentication for
6 author validation of the documentation, content accuracy, and
7 completeness meets this standard.

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

9 Section 20. The Health Care Surrogate Act is amended by
10 adding Section 70 as follows:

11 (755 ILCS 40/70 new)

12 Sec. 70. Format. The affidavit, medical record, documents,
13 and forms referred to in this Act may be in hard copy or
14 electronic format. Nothing in this Act is intended to prevent
15 the population of an affidavit, medical record, document, or
16 form with electronic data. A living will, mental health
17 treatment preferences declaration, practitioner orders for
18 life-sustaining treatment (POLST), or power of attorney for
19 health care that is populated with electronic data is
20 operative. Electronic documents under this Act may be created,
21 signed, or revoked electronically using a generic,
22 technology-neutral system in which each user is assigned a
23 unique identifier that is securely maintained and in a manner
24 that meets the regulatory requirements for a digital or

1 electronic signature. Compliance with the standards defined in
2 the Electronic Commerce Security Act or the implementing rules
3 of the Hospital Licensing Act for medical record entry
4 authentication for author validation of the documentation,
5 content accuracy, and completeness meets this standard.

6 Section 25. The Mental Health Treatment Preference
7 Declaration Act is amended by changing Sections 5, 20, and 50
8 and by adding Section 23 as follows:

9 (755 ILCS 43/5)

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

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

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

15 (3) "Attorney-in-fact" means an adult validly appointed
16 under this Act to make mental health treatment decisions for a
17 principal under a declaration for mental health treatment and
18 also means an alternative attorney-in-fact.

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

22 (5) "Incapable" means that, in the opinion of 2 physicians
23 or the court, a person's ability to receive and evaluate
24 information effectively or communicate decisions is impaired

1 to such an extent that the person currently lacks the capacity
2 to make mental health treatment decisions.

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

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

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

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

16 (10) "Provider" means any mental health facility or any
17 other person which is devoted in whole or part to providing
18 mental health services.

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

20 (755 ILCS 43/20)

21 Sec. 20. Signatures required.

22 (a) A declaration is effective only if it is signed by the
23 principal, and 2 competent adult witnesses. The witnesses must
24 attest that the principal is known to them, signed the
25 declaration in their presence and appears to be of sound mind

1 and not under duress, fraud or undue influence. Persons
2 specified in Section 65 of this Act may not act as witnesses.

3 (b) The signature and execution requirements set forth in
4 this Act are satisfied by: (i) written signatures or initials;
5 or (ii) electronic signatures or computer-generated signature
6 codes. Electronic documents under this Act may be created,
7 signed, or revoked electronically using a generic,
8 technology-neutral system in which each user is assigned a
9 unique identifier that is securely maintained and in a manner
10 that meets the regulatory requirements for a digital or
11 electronic signature. Compliance with the standards defined in
12 the Electronic Commerce Security Act or the implementing rules
13 of the Hospital Licensing Act for medical record entry
14 authentication for author validation of the documentation,
15 content accuracy, and completeness meets this standard.

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

17 (755 ILCS 43/23 new)

18 Sec. 23. Format. Documents, writings, and forms referred to
19 in this Act may be in hard copy or electronic format. Nothing
20 in this Act is intended to prevent the population of a
21 declaration, document, writing, or form with electronic data.

22 (755 ILCS 43/50)

23 Sec. 50. Revocation. A declaration may be revoked in whole
24 or in part by written statement at any time by the principal if

1 the principal is not incapable, regardless of whether the
2 written revocation is in an electronic or hard copy format. A
3 written statement of revocation is effective when signed by the
4 principal and a physician and the principal delivers the
5 revocation to the attending physician. An electronic
6 declaration may be revoked electronically using a generic,
7 technology-neutral system in which each user is assigned a
8 unique identifier that is securely maintained and in a manner
9 that meets the regulatory requirements for a digital or
10 electronic signature. Compliance with the standards defined in
11 the Electronic Commerce Security Act or the implementing rules
12 of the Hospital Licensing Act for medical record entry
13 authentication for author validation of the documentation,
14 content accuracy, and completeness meets this standard. The
15 attending physician shall note the revocation as part of the
16 principal's medical record.

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

18 Section 30. The Illinois Power of Attorney Act is amended
19 by changing Sections 4-4, 4-6, 4-9, and 4-10 and by adding
20 Section 4-4.1 as follows:

21 (755 ILCS 45/4-4) (from Ch. 110 1/2, par. 804-4)

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

23 (a) "Attending physician" means the physician who has
24 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 -

5 4. For an electronic health care agency, by deleting in a
6 manner indicating the intention to revoke. An electronic health
7 care agency may be revoked electronically using a generic,
8 technology-neutral system in which each user is assigned a
9 unique identifier that is securely maintained and in a manner
10 that meets the regulatory requirements for a digital or
11 electronic signature. Compliance with the standards defined in
12 the Electronic Commerce Security Act or the implementing rules
13 of the Hospital Licensing Act for medical record entry
14 authentication for author validation of the documentation,
15 content accuracy, and completeness meets this standard.

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

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

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

24 (755 ILCS 45/4-9) (from Ch. 110 1/2, par. 804-9)

25 Sec. 4-9. Penalties. All persons shall be subject to the

1 following sanctions in relation to health care agencies, in
2 addition to all other sanctions applicable under any other law
3 or rule of professional conduct:

4 (a) Any person shall be civilly liable who, without the
5 principal's consent: (i) wilfully conceals, cancels, or
6 alters a health care agency or any amendment or revocation of
7 the agency; (ii) ~~or who~~ falsifies or forges a health care
8 agency, amendment, or revocation; or (iii) enters information
9 in an electronic system under the persona of the principal.

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

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

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

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

2 Sec. 4-10. Statutory short form power of attorney for
3 health care.

4 (a) The form prescribed in this Section (sometimes also
5 referred to in this Act as the "statutory health care power")
6 may be used to grant an agent powers with respect to the
7 principal's own health care; but the statutory health care
8 power is not intended to be exclusive nor to cover delegation
9 of a parent's power to control the health care of a minor
10 child, and no provision of this Article shall be construed to
11 invalidate or bar use by the principal of any other or
12 different form of power of attorney for health care.
13 Nonstatutory health care powers must be executed by the
14 principal, designate the agent and the agent's powers, and
15 comply with the limitations in Section 4-5 of this Article, but
16 they need not be witnessed or conform in any other respect to
17 the statutory health care power.

18 No specific format is required for the statutory health
19 care power of attorney other than the notice must precede the
20 form. The statutory health care power may be included in or
21 combined with any other form of power of attorney governing
22 property or other matters.

23 The signature and execution requirements set forth in this
24 Article are satisfied by: (i) written signatures or initials;
25 or (ii) electronic signatures or computer-generated signature
26 codes. Electronic documents under this Act may be created,

1 signed, or revoked electronically using a generic,
2 technology-neutral system in which each user is assigned a
3 unique identifier that is securely maintained and in a manner
4 that meets the regulatory requirements for a digital or
5 electronic signature. Compliance with the standards defined in
6 the Electronic Commerce Security Act or the implementing rules
7 of the Hospital Licensing Act for medical record entry
8 authentication for author validation of the documentation,
9 content accuracy, and completeness meets this standard.

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

12 NOTICE TO THE INDIVIDUAL SIGNING

13 THE POWER OF ATTORNEY FOR HEALTH CARE

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

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

24 It is important to put your choice of agent in writing. The
25 written form is often called an "advance directive". You may

1 use this form or another form, as long as it meets the legal
2 requirements of Illinois. There are many written and on-line
3 resources to guide you and your loved ones in having a
4 conversation about these issues. You may find it helpful to
5 look at these resources while thinking about and discussing
6 your advance directive.

7 WHAT ARE THE THINGS I WANT MY
8 HEALTH CARE AGENT TO KNOW?

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

- 22 (i) What is most important to you in your life?
23 (ii) How important is it to you to avoid pain and
24 suffering?
25 (iii) If you had to choose, is it more important to you

1 to live as long as possible, or to avoid prolonged
2 suffering or disability?

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

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

7 (vi) Do you wish to make a significant contribution to
8 medical science after your death through organ or whole
9 body donation?

10 (vii) Do you have an existing advance ~~advanced~~
11 directive, such as a living will, that contains your
12 specific wishes about health care that is only delaying
13 your death? If you have another advance directive, make
14 sure to discuss with your agent the directive and the
15 treatment decisions contained within that outline your
16 preferences. Make sure that your agent agrees to honor the
17 wishes expressed in your advance directive.

18 WHAT KIND OF DECISIONS CAN MY AGENT MAKE?

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

23 (i) talk with physicians and other health care
24 providers about your condition.

25 (ii) see medical records and approve who else can see

1 them.

2 (iii) give permission for medical tests, medicines,
3 surgery, or other treatments.

4 (iv) choose where you receive care and which physicians
5 and others provide it.

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

10 (vi) agree or decline to donate your organs or your
11 whole body if you have not already made this decision
12 yourself. This could include donation for transplant,
13 research, and/or education. You should let your agent know
14 whether you are registered as a donor in the First Person
15 Consent registry maintained by the Illinois Secretary of
16 State or whether you have agreed to donate your whole body
17 for medical research and/or education.

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

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

23 Your agent is not automatically responsible for your health
24 care expenses.

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

1 You can pick a family member, but you do not have to. Your
2 agent will have the responsibility to make medical treatment
3 decisions, even if other people close to you might urge a
4 different decision. The selection of your agent should be done
5 carefully, as he or she will have ultimate decision-making
6 authority for your treatment decisions once you are no longer
7 able to voice your preferences. Choose a family member, friend,
8 or other person who:

9 (i) is at least 18 years old;

10 (ii) knows you well;

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

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

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

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

20 WHAT IF MY AGENT IS NOT AVAILABLE OR IS

21 UNWILLING TO MAKE DECISIONS FOR ME?

22 If the person who is your first choice is unable to carry
23 out this role, then the second agent you chose will make the
24 decisions; if your second agent is not available, then the
25 third agent you chose will make the decisions. The second and

1 third agents are called your successor agents and they function
2 as back-up agents to your first choice agent and may act only
3 one at a time and in the order you list them.

4 WHAT WILL HAPPEN IF I DO NOT
5 CHOOSE A HEALTH CARE AGENT?

6 If you become unable to make your own health care decisions
7 and have not named an agent in writing, your physician and
8 other health care providers will ask a family member, friend,
9 or guardian to make decisions for you. In Illinois, a law
10 directs which of these individuals will be consulted. In that
11 law, each of these individuals is called a "surrogate".

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

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

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

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

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

23 WHAT IF THERE IS NO ONE AVAILABLE
24 WHOM I TRUST TO BE MY AGENT?

1 In this situation, it is especially important to talk to
2 your physician and other health care providers and create
3 written guidance about what you want or do not want, in case
4 you are ever critically ill and cannot express your own wishes.
5 You can complete a living will. You can also write your wishes
6 down and/or discuss them with your physician or other health
7 care provider and ask him or her to write it down in your
8 chart. You might also want to use written or on-line resources
9 to guide you through this process.

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

11 Follow these instructions after you have completed the
12 form:

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

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

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

17 (iv) Give a copy to your agent and to each of your
18 successor agents.

19 (v) Give another copy to your physician.

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

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

23 WHAT IF I CHANGE MY MIND?

24 You may change your mind at any time. If you do, tell

1 someone who is at least 18 years old that you have changed your
 2 mind, and/or destroy your document and any copies. If you wish,
 3 fill out a new form and make sure everyone you gave the old
 4 form to has a copy of the new one, including, but not limited
 5 to, your agents and your physicians.

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

7 In the event you do not want to use the Illinois statutory
 8 form provided here, any document you complete must be executed
 9 by you, designate an agent who is over 18 years of age and not
 10 prohibited from serving as your agent, and state the agent's
 11 powers, but it need not be witnessed or conform in any other
 12 respect to the statutory health care power.

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

16 MY POWER OF ATTORNEY FOR HEALTH CARE

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

20 My name (Print your full name):

21 My address:

1 I WANT THE FOLLOWING PERSON TO BE MY HEALTH CARE AGENT
2 (an agent is your personal representative under state and
3 federal law):

4 (Agent name)

5 (Agent address)

6 (Agent phone number)

7 (Please check box if applicable) If a guardian of my
8 person is to be appointed, I nominate the agent acting under
9 this power of attorney as guardian.

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

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

16

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

18

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

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

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

1 (ii) Agreeing to admit me to or discharge me from any
2 hospital, home, or other institution, including a mental
3 health facility.

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

7 (iv) Carrying out the plans I have already made, or, if
8 I have not done so, making decisions about my body or
9 remains, including organ, tissue or whole body donation,
10 autopsy, cremation, and burial.

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

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

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

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

22 Make decisions for me only when I cannot make them for
23 myself. The physician(s) taking care of me will determine
24 when I lack this ability. Starting now, for the purpose of
25 assisting me with my health care plans and decisions, my

1 agent shall have complete access to my medical and mental
2 health records, the authority to share them with others as
3 needed, and the complete ability to communicate with my
4 personal physician(s) and other health care providers,
5 including the ability to require an opinion of my physician
6 as to whether I lack the ability to make decisions for
7 myself. OR

8 Make decisions for me starting now and continuing
9 after I am no longer able to make them for myself. While I
10 am still able to make my own decisions, I can still do so
11 if I want to.

12 The subject of life-sustaining treatment is of particular
13 importance. Life-sustaining treatments may include tube
14 feedings or fluids through a tube, breathing machines, and CPR.
15 In general, in making decisions concerning life-sustaining
16 treatment, your agent is instructed to consider the relief of
17 suffering, the quality as well as the possible extension of
18 your life, and your previously expressed wishes. Your agent
19 will weigh the burdens versus benefits of proposed treatments
20 in making decisions on your behalf.

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

1 SELECT ONLY ONE STATEMENT BELOW THAT BEST EXPRESSES YOUR WISHES
2 (optional):

3 The quality of my life is more important than the
4 length of my life. If I am unconscious and my attending
5 physician believes, in accordance with reasonable medical
6 standards, that I will not wake up or recover my ability to
7 think, communicate with my family and friends, and
8 experience my surroundings, I do not want treatments to
9 prolong my life or delay my death, but I do want treatment
10 or care to make me comfortable and to relieve me of pain.

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

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

17 The above grant of power is intended to be as broad as
18 possible so that your agent will have the authority to make any
19 decision you could make to obtain or terminate any type of
20 health care. If you wish to limit the scope of your agent's
21 powers or prescribe special rules or limit the power to
22 authorize autopsy or dispose of remains, you may do so
23 specifically in this form.

24

1
.....

2 My signature:.....

3 Today's date:.....

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

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

8 I saw the principal sign this document, or

9 the principal told me that the signature or mark on
10 the principal signature line is his or hers.

11 I am not the agent or successor agent(s) named in this
12 document. I am not related to the principal, the agent, or the
13 successor agent(s) by blood, marriage, or adoption. I am not
14 the principal's physician, advanced practice registered nurse,
15 dentist, podiatric physician, optometrist, psychologist, or a
16 relative of one of those individuals. I am not an owner or
17 operator (or the relative of an owner or operator) of the
18 health care facility where the principal is a patient or
19 resident.

20 Witness printed name:.....

21 Witness address:

22 Witness signature:

23 Today's date:.....

1 (c) The statutory short form power of attorney for health
2 care (the "statutory health care power") authorizes the agent
3 to make any and all health care decisions on behalf of the
4 principal which the principal could make if present and under
5 no disability, subject to any limitations on the granted powers
6 that appear on the face of the form, to be exercised in such
7 manner as the agent deems consistent with the intent and
8 desires of the principal. The agent will be under no duty to
9 exercise granted powers or to assume control of or
10 responsibility for the principal's health care; but when
11 granted powers are exercised, the agent will be required to use
12 due care to act for the benefit of the principal in accordance
13 with the terms of the statutory health care power and will be
14 liable for negligent exercise. The agent may act in person or
15 through others reasonably employed by the agent for that
16 purpose but may not delegate authority to make health care
17 decisions. The agent may sign and deliver all instruments,
18 negotiate and enter into all agreements and do all other acts
19 reasonably necessary to implement the exercise of the powers
20 granted to the agent. Without limiting the generality of the
21 foregoing, the statutory health care power shall include the
22 following powers, subject to any limitations appearing on the
23 face of the form:

24 (1) The agent is authorized to give consent to and
25 authorize or refuse, or to withhold or withdraw consent to,
26 any and all types of medical care, treatment or procedures

1 relating to the physical or mental health of the principal,
2 including any medication program, surgical procedures,
3 life-sustaining treatment or provision of food and fluids
4 for the principal.

5 (2) The agent is authorized to admit the principal to
6 or discharge the principal from any and all types of
7 hospitals, institutions, homes, residential or nursing
8 facilities, treatment centers and other health care
9 institutions providing personal care or treatment for any
10 type of physical or mental condition. The agent shall have
11 the same right to visit the principal in the hospital or
12 other institution as is granted to a spouse or adult child
13 of the principal, any rule of the institution to the
14 contrary notwithstanding.

15 (3) The agent is authorized to contract for any and all
16 types of health care services and facilities in the name of
17 and on behalf of the principal and to bind the principal to
18 pay for all such services and facilities, and to have and
19 exercise those powers over the principal's property as are
20 authorized under the statutory property power, to the
21 extent the agent deems necessary to pay health care costs;
22 and the agent shall not be personally liable for any
23 services or care contracted for on behalf of the principal.

24 (4) At the principal's expense and subject to
25 reasonable rules of the health care provider to prevent
26 disruption of the principal's health care, the agent shall

1 have the same right the principal has to examine and copy
2 and consent to disclosure of all the principal's medical
3 records that the agent deems relevant to the exercise of
4 the agent's powers, whether the records relate to mental
5 health or any other medical condition and whether they are
6 in the possession of or maintained by any physician,
7 psychiatrist, psychologist, therapist, hospital, nursing
8 home or other health care provider. The authority under
9 this paragraph (4) applies to any information governed by
10 the Health Insurance Portability and Accountability Act of
11 1996 ("HIPAA") and regulations thereunder. The agent
12 serves as the principal's personal representative, as that
13 term is defined under HIPAA and regulations thereunder.

14 (5) The agent is authorized: to direct that an autopsy
15 be made pursuant to Section 2 of the Autopsy Act ~~"An Act in~~
16 ~~relation to autopsy of dead bodies", approved August 13,~~
17 ~~1965, including all amendments;~~ to make a disposition of
18 any part or all of the principal's body pursuant to the
19 Illinois Anatomical Gift Act, as now or hereafter amended;
20 and to direct the disposition of the principal's remains.

21 (6) At any time during which there is no executor or
22 administrator appointed for the principal's estate, the
23 agent is authorized to continue to pursue an application or
24 appeal for government benefits if those benefits were
25 applied for during the life of the principal.

26 (d) A physician may determine that the principal is unable

1 to make health care decisions for himself or herself only if
2 the principal lacks decisional capacity, as that term is
3 defined in Section 10 of the Health Care Surrogate Act.

4 (e) If the principal names the agent as a guardian on the
5 statutory short form, and if a court decides that the
6 appointment of a guardian will serve the principal's best
7 interests and welfare, the court shall appoint the agent to
8 serve without bond or security.

9 (Source: P.A. 99-328, eff. 1-1-16; 100-513, eff. 1-1-18;
10 revised 10-4-18.)".