

28 (f) designate an executive secretary from within the department to assist the committee in
29 carrying out its powers and responsibilities;

30 (g) establish reasonable standards for criminal background checks by public and private
31 entities;

32 (h) recognize those public and private entities which meet the standards established in
33 Subsection (1)(g); [and]

34 (i) prepare standardized forms for medical directives in accordance with Section 26-21-23;
35 and

36 [(†)] (j) provide necessary administrative and staff support to the committee.

37 (2) The department may:

38 (a) exercise all incidental powers necessary to carry out the purposes of this chapter;

39 (b) review architectural plans and specifications of proposed health-care facilities or
40 renovations of health-care facilities to ensure that the plans and specifications conform to rules
41 established by the committee; and

42 (c) make rules as necessary to implement the provisions of this chapter, except as authority
43 is specifically delegated to the committee.

44 Section 2. Section **26-21-23** is enacted to read:

45 **26-21-23. Medical directives on department-prepared forms.**

46 (1) In an effort to create a single set of medical directive forms to be used in and
47 transferred among health care facilities, the department shall, in consultation with the committee,
48 prepare the following standard forms:

49 (a) a directive for medical services that is consistent with the requirements of Subsections
50 75-2-1104(2) and (3);

51 (b) a directive for medical services after injury or illness has occurred that is consistent
52 with the requirements of Subsections 75-2-1105(2), (3), (4)(b), and (4)(c); and

53 (c) a standard medical worksheet to assist individuals and their families in identifying the
54 desired outcome of medical services in view of the individual's health condition.

55 (2) The department may, in consultation with the committee, approve other directives for
56 medical services that are consistent with the requirements of Subsection 75-2-1104(2) and (3) or
57 Subsections 75-2-1105(2), (3), (4)(b), and (4)(c).

58 (3) At the time of admission:

- 59 (a) a hospital shall:
- 60 (i) ask whether the individual has a directive for medical services; and
- 61 (ii) if the individual does not have a directive for medical services:
- 62 (A) offer to provide the individual with information about forms that are prepared or
- 63 approved by the department; and
- 64 (B) provide any department prepared or approved form requested by the individual; and
- 65 (b) a nursing care facility shall:
- 66 (i) ask whether the individual has a directive for medical services; and
- 67 (ii) if the individual does not have a directive for medical services:
- 68 (A) provide to the individual:
- 69 (I) a medical outcome work sheet prepared in accordance with Subsection (2); and
- 70 (II) the appropriate medical directive form prepared in accordance with Subsection (1);
- 71 (B) explain the nature of the forms; and
- 72 (C) request that the forms be completed and a copy submitted to the nursing care facility
- 73 at the earliest convenience of the individual.

74 (4) Forms that are prepared or approved by the department and properly completed shall
 75 be fully transferrable within the health care system.

76 (5) Medical directives completed on department prepared or approved forms shall have
 77 the same legal status as any other medical directive prepared in accordance with, and governed by,
 78 Title 75, Chapter 2, Part 11, Personal Choice and Living Will Act.

79 Section 3. Section **75-2-1104** is amended to read:

80 **75-2-1104. Directive for medical services.**

- 81 (1) A person 18 years of age or older may execute a directive under this part. The directive
- 82 is binding upon attending physicians and all other providers of medical services.
- 83 (2) The directive shall be:
- 84 (a) in writing;
- 85 (b) signed by the declarant or by another person in the declarant's presence and by the
- 86 declarant's expressed direction;
- 87 (c) dated; and
- 88 (d) signed in the presence of two or more witnesses 18 years of age or older.
- 89 (3) Neither of the witnesses may be:

- 90 (a) the person who signed the directive on behalf of the declarant;
- 91 (b) related to the declarant by blood or marriage;
- 92 (c) entitled to any portion of the estate of the declarant according to the laws of intestate
- 93 succession of this state or under any will or codicil of the declarant;
- 94 (d) directly financially responsible for the declarant's medical care; or
- 95 (e) any agent of any health care facility in which the declarant is a patient at the time the
- 96 directive is executed.

97 (4) The directive shall be on a form prepared or approved by the Department of Health
 98 pursuant to Section 26-21-23, in substantially the following form, or in a form substantially similar
 99 to the form approved by prior Utah law:

100 DIRECTIVE TO PHYSICIANS AND PROVIDERS OF MEDICAL SERVICES

101 (Pursuant to Section 75-2-1104, UCA)

102 This directive is made this ____ day of _____, _____.

103 1. I, _____, being of sound mind, willfully and voluntarily make known my desire
 104 that my life not be artificially prolonged by life-sustaining procedures except as I may otherwise
 105 provide in this directive.

106 2. I declare that if at any time I should have an injury, disease, or illness, which is certified
 107 in writing to be a terminal condition or persistent vegetative state by two physicians who have
 108 personally examined me, and in the opinion of those physicians the application of life-sustaining
 109 procedures would serve only to unnaturally prolong the moment of my death and to unnaturally
 110 postpone or prolong the dying process, I direct that these procedures be withheld or withdrawn and
 111 my death be permitted to occur naturally.

112 3. I expressly intend this directive to be a final expression of my legal right to refuse
 113 medical or surgical treatment and to accept the consequences from this refusal which shall remain
 114 in effect notwithstanding my future inability to give current medical directions to treating
 115 physicians and other providers of medical services.

116 4. I understand that the term "life-sustaining procedure" includes artificial nutrition and
 117 hydration and any other procedures that I specify below to be considered life-sustaining but does
 118 not include the administration of medication or the performance of any medical procedure which
 119 is intended to provide comfort care or to alleviate pain:

121 5. I reserve the right to give current medical directions to physicians and other providers
122 of medical services so long as I am able, even though these directions may conflict with the above
123 written directive that life-sustaining procedures be withheld or withdrawn.

124 6. I understand the full import of this directive and declare that I am emotionally and
125 mentally competent to make this directive.

126 _____
127 Declarant's signature

128 _____
129 City, County, and State of Residence

130 We witnesses certify that each of us is 18 years of age or older and each personally
131 witnessed the declarant sign or direct the signing of this directive; that we are acquainted with the
132 declarant and believe him to be of sound mind; that the declarant's desires are as expressed above;
133 that neither of us is a person who signed the above directive on behalf of the declarant; that we are
134 not related to the declarant by blood or marriage nor are we entitled to any portion of declarant's
135 estate according to the laws of intestate succession of this state or under any will or codicil of
136 declarant; that we are not directly financially responsible for declarant's medical care; and that we
137 are not agents of any health care facility in which the declarant may be a patient at the time of
138 signing this directive.

139 _____
140 Signature of Witness

Signature of Witness

141 _____
142 Address of Witness

Address of Witness

143 Section 4. Section **75-2-1105** is amended to read:

144 **75-2-1105. Directive for medical services after injury or illness is incurred.**

145 (1) (a) A person 18 years of age or older may, after incurring an injury, disease, or illness,
146 direct his care by means of a directive made under this section, which is binding upon attending
147 physicians and other providers of medical services.

148 (b) When a declarant has executed a directive under Section 75-2-1104 and is in a terminal
149 condition or a persistent vegetative state, that directive takes precedence over a nonconflicting
150 directive executed under this section. A directive executed by an attorney-in-fact appointed under
151 Section 75-2-1106 takes precedence over all earlier signed directives.

152 (2) A directive made under this section shall be:
153 (a) in writing;
154 (b) signed by the declarant or by another person in the declarant's presence and by the
155 declarant's expressed direction, or if the declarant does not have the ability to give current
156 directions concerning his care and treatment, by the following persons, as proxy, in the following
157 order of priority if no person in a prior class is available, willing, and competent to act:
158 (i) an attorney-in-fact appointed under Section 75-2-1106;
159 (ii) any previously appointed legal guardian of the declarant;
160 (iii) the person's spouse if not legally separated;
161 (iv) the parents or surviving parent;
162 (v) the person's child 18 years of age or older, or if the person has more than one child, by
163 a majority of the children 18 years of age or older who are reasonably available for consultation
164 upon good faith efforts to secure participation of all those children;
165 (vi) by the declarant's nearest reasonably available living relative 18 years of age or older
166 if the declarant has no parent or child living; or
167 (vii) by a legal guardian appointed for the purposes of this section;
168 (c) dated;
169 (d) signed, completed, and certified by the declarant's attending physician; and
170 (e) signed pursuant to Subsection (2)(b) above in the presence of two or more witnesses
171 18 years of age or older.
172 (3) Neither of the witnesses may be:
173 (a) the person who signed the directive on behalf of the declarant;
174 (b) related to the declarant by blood or marriage;
175 (c) entitled to any portion of the declarant's estate according to the laws of intestate
176 succession of this state or under any will or codicil of the declarant;
177 (d) directly financially responsible for declarant's medical care; or
178 (e) an agent of any health care facility in which the declarant is a patient or resident at the
179 time of executing the directive.
180 (4) A directive executed under this section shall:
181 (a) be on a form prepared or approved by the Department of Health pursuant to Section
182 26-21-23, in substantially the following form, or in a form substantially similar to the form

183 approved by prior Utah law; and [shall]

184 (b) contain a description by the attending physician of the declarant's injury, disease, or
185 illness[. It shall]; and

186 (c) include specific directions for care and treatment or withholding of treatment.

187 DIRECTIVE TO PHYSICIANS AND PROVIDERS OF MEDICAL SERVICES

188 (Pursuant to Section 75-2-1105, UCA)

189 I, _____, certify that I am serving as the attending physician for
190 _____ of _____, who has been under my care since the ____ day of
191 _____, _____.

192 1. This declarant, _____, is currently suffering from the
193 following injury, disease, or illness:

194 _____
195 _____
196 _____

197 2. I certify that I have explained to the declarant to the extent he is able to understand, and
198 to the available persons acting as proxy, the reasonable available alternatives for his care and
199 treatment.

200 3. I certify that the care and treatment alternatives directed below are:

201 _____ (a) directed by the declarant; or

202 _____ (b) that the declarant has a physical or mental condition which renders him unable
203 to give personal directions for care and treatment and that the care and treatment alternatives
204 directed below are in my opinion, and in the opinion of the declarant's proxy, what the declarant
205 would probably decide if able to give current directions concerning his care and treatment.

206 Date: _____

207 Signature of attending physician

208 The following care and treatment or withholding of treatment is directed with respect to
209 the declarant:

210 _____
211 _____
212 _____
213 _____

214 Relationship to declarant
215 of person signing on
216 declarant's behalf,
217 if applicable.

Signature of declarant or person
authorized by law to sign
directive as a proxy on
behalf of declarant

218

219

Address of Signer

220

221

City, County, and State of

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residence of Signer

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We witnesses certify that each of us is 18 years of age or older; that we personally witnessed the declarant or a proxy sign this directive; that we are acquainted with the declarant and believe that care and treatment alternatives directed above are what the declarant has decided for himself concerning his care and treatment, or, if the foregoing was signed by a proxy, that we are acquainted with the proxy and believe that the proxy sincerely believes that the care and treatment alternatives directed above are what the declarant would probably decide for himself if he were able to give current directions concerning his care and treatment; that neither of us signed the above directive for or on behalf of declarant; that we are not related to the declarant by blood or marriage nor are we entitled to any portion of declarant's estate according to the laws of intestate succession of this state or under any will or codicil of the declarant; that we are not directly financially responsible for declarant's medical care; and that we are not agents of any health care facility in which declarant may be a patient at the time of signing this directive.

235

236

237

238

Signature of Witness

Signature of Witness

Address of Witness

Address of Witness

Legislative Review Note
as of 1-27-00 11:04 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel