

**Renumbered 9/1/2024**

**75-2a-107 Advance health care directive -- Appointment of agent -- Powers of agent -- Health care directions.**

- (1)
  - (a) An adult may make an advance health care directive in which the adult may:
    - (i) appoint a health care agent or choose not to appoint a health care agent;
    - (ii) give directions for the care of the adult after the adult loses health care decision making capacity;
    - (iii) choose not to give directions;
    - (iv) state conditions that must be met before life sustaining treatment may be withheld or withdrawn;
    - (v) authorize an agent to consent to the adult's participation in medical research;
    - (vi) nominate a guardian;
    - (vii) authorize an agent to consent to organ donation;
    - (viii) expand or limit the powers of a health care agent; and
    - (ix) designate the agent's access to the adult's medical records.
  - (b) An advance health care directive may be oral or written.
  - (c) An advance health care directive shall be witnessed by a disinterested adult. The witness may not be:
    - (i) the person who signed the directive on behalf of the declarant;
    - (ii) related to the declarant by blood or marriage;
    - (iii) entitled to any portion of the declarant's estate according to the laws of intestate succession of this state or under any will or codicil of the declarant;
    - (iv) the beneficiary of any of the following that are held, owned, made, or established by, or on behalf of, the declarant:
      - (A) a life insurance policy;
      - (B) a trust;
      - (C) a qualified plan;
      - (D) a pay on death account; or
      - (E) a transfer on death deed;
    - (v) entitled to benefit financially upon the death of the declarant;
    - (vi) entitled to a right to, or interest in, real or personal property upon the death of the declarant;
    - (vii) directly financially responsible for the declarant's medical care;
    - (viii) a health care provider who is:
      - (A) providing care to the declarant; or
      - (B) an administrator at a health care facility in which the declarant is receiving care; or
    - (ix) the appointed agent.
  - (d) The witness to an oral advance health care directive shall state the circumstances under which the directive was made.
- (2) An agent appointed under the provisions of this section may not be a health care provider for the declarant, or an owner, operator, or employee of the health care facility at which the declarant is receiving care unless the agent is related to the declarant by blood, marriage, or adoption.

Amended by Chapter 107, 2008 General Session