

**Superseded 5/5/2021**

**75-2a-103 Definitions.**

As used in this chapter:

- (1) "Adult" means a person who is:
  - (a) at least 18 years of age; or
  - (b) an emancipated minor.
- (2) "Advance health care directive":
  - (a) includes:
    - (i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or
    - (ii) an expression of preferences about health care decisions;
  - (b) may take one of the following forms:
    - (i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or
    - (ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and
  - (c) does not include a life with dignity order.
- (3) "Agent" means a person designated in an advance health care directive to make health care decisions for the declarant.
- (4) "APRN" means a person who is:
  - (a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2) (d);
  - (b) an independent practitioner;
  - (c) acting under a consultation and referral plan with a physician; and
  - (d) acting within the scope of practice for that person, as provided by law, rule, and specialized certification and training in that person's area of practice.
- (5) "Best interest" means that the benefits to the person resulting from a treatment outweigh the burdens to the person resulting from the treatment, taking into account:
  - (a) the effect of the treatment on the physical, emotional, and cognitive functions of the person;
  - (b) the degree of physical pain or discomfort caused to the person by the treatment or the withholding or withdrawal of treatment;
  - (c) the degree to which the person's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the person by subjecting the person to humiliation and dependency;
  - (d) the effect of the treatment on the life expectancy of the person;
  - (e) the prognosis of the person for recovery with and without the treatment;
  - (f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and
  - (g) the religious beliefs and basic values of the person receiving treatment, to the extent these may assist the decision maker in determining the best interest.
- (6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular person as agent.
- (7) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.
- (8) "Default surrogate" means the adult who may make decisions for an individual when either:
  - (a) an agent or guardian has not been appointed; or
  - (b) an agent is not able, available, or willing to make decisions for an adult.
- (9) "Emergency medical services provider" means a person who is licensed, designated, or certified under Title 26, Chapter 8a, Utah Emergency Medical Services System Act.

- (10) "Generally accepted health care standards":
  - (a) is defined only for the purpose of:
    - (i) this chapter and does not define the standard of care for any other purpose under Utah law; and
    - (ii) enabling health care providers to interpret the statutory form set forth in Section 75-2a-117; and
  - (b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:
    - (i) will not prevent or reduce the deterioration in the health or functional status of a person;
    - (ii) will not prevent the impending death of a person; or
    - (iii) will impose more burden on the person than any expected benefit to the person.
- (11) "Health care" means any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect a person's physical or mental condition.
- (12) "Health care decision":
  - (a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;
  - (b) includes:
    - (i) selection and discharge of a health care provider and a health care facility;
    - (ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and
    - (iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and
  - (c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.
- (13) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:
  - (a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;
  - (b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and
  - (c) the ability to communicate a decision.
- (14) "Health care facility" means:
  - (a) a health care facility as defined in Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and
  - (b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.
- (15) "Health care provider" is as defined in Section 78B-3-403, except that it does not include an emergency medical services provider.
- (16)
  - (a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.
  - (b) "Life sustaining care" does not include care provided for the purpose of keeping a person comfortable.
- (17) "Life with dignity order" means an order, designated by the Department of Health under Section 75-2a-106(5)(a), that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the person to whom the order relates.

- (18) "Minor" means a person who:
  - (a) is under 18 years of age; and
  - (b) is not an emancipated minor.
- (19) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.
- (20) "Physician assistant" means a person licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.
- (21) "Reasonably available" means:
  - (a) readily able to be contacted without undue effort; and
  - (b) willing and able to act in a timely manner considering the urgency of the circumstances.
- (22) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:
  - (a) specific preferences expressed by the adult:
    - (i) when the adult had the capacity to make health care decisions; and
    - (ii) at the time the decision is being made;
  - (b) the surrogate's understanding of the adult's health care preferences;
  - (c) the surrogate's understanding of what the adult would have wanted under the circumstances; and
  - (d) to the extent that the preferences described in Subsections (22)(a) through (c) are unknown, the best interest of the adult.
- (23) "Surrogate" means a health care decision maker who is:
  - (a) an appointed agent;
  - (b) a default surrogate under the provisions of Section 75-2a-108; or
  - (c) a guardian.