Effective 1/1/2026

Chapter 9
Uniform Health Care Decisions Act

75A-9-101 Definitions.

As used in this chapter:

(1)
  (a) "Advance health care directive" means a power of attorney for health care, health care instruction, or both.
  (b) "Advance health care directive" includes an advance mental health care directive.

(2) "Advance mental health care" directive means a power of attorney for health care, health care instruction, or both, created under Section 75A-9-108.

(3)
  (a) "Agent" means an individual appointed under a power of attorney for health care to make a health care decision for the individual who made the appointment.
  (b) "Agent" includes a co-agent or alternate agent appointed under Section 75A-9-119.

(4) "Capacity" means having capacity under Section 75A-9-102.

(5) "Cohabitant" means each of two individuals who have been living together as a couple for at least one year after each became an adult or was emancipated and who are not married to each other.

(6) "Default surrogate" means an individual authorized under Section 75A-9-111 to make a health care decision for another individual.

(7) "Emergency medical services provider" means a person that is licensed, designated, or certified under Title 53, Chapter 2d, Emergency Medical Services Act.

(8) "Family member" means a spouse, adult child, parent, or grandparent, or an adult descendant of a spouse, child, parent, or grandparent.

(9)
  (a) "Health care" means care or treatment or a service or procedure to maintain, monitor, diagnose, or otherwise affect an individual's physical or mental illness, injury, or condition.
  (b) "Health care" includes mental health care.

(10) "Health care decision" means a decision made by an individual or the individual's surrogate regarding the individual's health care, including:
  (a) selection or discharge of a health care professional or health care institution;
  (b) approval or disapproval of a diagnostic test, surgical procedure, medication, therapeutic intervention, or other health care; and
  (c) direction to provide, withhold, or withdraw artificial nutrition or hydration, mechanical ventilation, or other health care.

(11) "Health care institution" means a facility or agency licensed, certified, or otherwise authorized or permitted by other law to provide health care in this state in the ordinary course of business.

(12)
  (a) "Health care instruction" means a direction, whether or not in a record, made by an individual that indicates the individual's goals, preferences, or wishes concerning the provision, withholding, or withdrawal of health care.
  (b) "Health care instruction" includes a direction intended to be effective if a specified condition arises.

(13) "Health care professional" means a physician or other individual licensed, certified, or otherwise authorized or permitted by other law of this state to provide health care in this state in the ordinary course of business or the practice of the physician's or individual's profession.
(14) "Individual" means an adult or emancipated minor.
(15) "Mental health care" means care or treatment or a service or procedure to maintain, monitor, diagnose, or otherwise affect an individual's mental illness or other psychiatric, psychological, or psychosocial condition.
(16) "Nursing home" means a nursing facility as defined in Section 1919(a)(1) of the Social Security Act, 42 U.S.C. Sec. 1396r(a)(1), as amended or skilled nursing facility as defined in Section 1819(a)(1) of the Social Security Act, 42 U.S.C. Sec. 1395i3(a)(1), as amended.
(17) "Person interested in the welfare of the individual" means:
(a) the individual's surrogate;
(b) a family member of the individual;
(c) the cohabitant of the individual;
(d) a public entity providing health care case management or protective services to the individual;
(e) a person appointed under other law to make decisions for the individual under a power of attorney for finances; or
(f) a person that has an ongoing personal or professional relationship with the individual, including a person that has provided educational or health care services or supported decision making to the individual.
(18) "Physician" means an individual licensed to practice as a physician or osteopath under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
(19) "Power of attorney for health care" means a record in which an individual appoints an agent to make health care decisions for the individual.
(20) "Reasonably available" means being able to be contacted without undue effort and being willing and able to act in a timely manner considering the urgency of an individual's health care situation. When used to refer to an agent or default surrogate, the term includes being willing and able to comply with the duties under Section 75A-9-116 in a timely manner considering the urgency of an individual's health care situation.
(21) "Responsible health care professional" means:
(a) a health care professional designated by an individual or the individual's surrogate to have primary responsibility for the individual's health care or for overseeing a course of treatment; or
(b) in the absence of a designation under Subsection (21)(a) or, if the professional designated under Subsection (21)(a) is not reasonably available, a health care professional who has primary responsibility for overseeing the individual's health care or for overseeing a course of treatment.
(22) "Supported decision making" means assistance, from one or more persons of an individual's choosing, that helps the individual make or communicate a decision, including by helping the individual understand the nature and consequences of the decision.
(23) "Surrogate" means:
(a) an agent;
(b) a default surrogate; or
(c) a guardian authorized to make health care decisions.

Enacted by Chapter 439, 2025 General Session

75A-9-102 Capacity.

(1) An individual has capacity for the purpose of this chapter if the individual:
  (a) is willing and able to communicate a decision independently or with appropriate services, technological assistance, supported decision making, or other reasonable accommodation; and
  (b) in making or revoking:
    (i) a health care decision, understands the nature and consequences of the decision, including the primary risks and benefits of the decision;
    (ii) a health care instruction, understands the nature and consequences of the instruction, including the primary risks and benefits of the choices expressed in the instruction; and
    (iii) an appointment of an agent under a health care power of attorney or identification of a default surrogate under Section 75A-9-111, recognizes the identity of the individual being appointed or identified and understands the general nature of the relationship of the individual making the appointment or identification with the individual being appointed or identified.
(2) The right of an individual who has capacity to make a decision about the individual's health care is not affected by whether the individual creates or revokes an advance health care directive.

Enacted by Chapter 439, 2025 General Session

75A-9-103 Presumption of capacity -- Overcoming presumption.

(1) An individual is presumed to have capacity to make or revoke a health care decision, health care instruction, and power of attorney for health care unless:
  (a) a court has found the individual lacks capacity to do so; or
  (b) the presumption is rebutted under Subsection (2).
(2) Subject to Sections 75A-9-104 and 75A-9-105, a presumption under Subsection (1) may be rebutted by a finding that the individual lacks capacity:
  (a) subject to Subsection (3), made on the basis of a contemporaneous examination by any of the following:
    (i) a physician;
    (ii) a psychologist licensed or otherwise authorized to practice in this state;
    (iii) an individual with training and expertise in the finding of lack of capacity who is licensed or otherwise authorized to practice in this state as:
      (A) a physician assistant; or
      (B) an advanced practice registered nurse; or
    (iv) a responsible health care professional not described in Subsections (2)(a)(i) through (iii) if:
      (A) the individual about whom the finding is to be made is experiencing a health condition requiring a decision regarding health care treatment to be made promptly to avoid loss of life or serious harm to the health of the individual; and
      (B) an individual described in Subsections (2)(a)(i) through (iii) is not reasonably available;
  (b) made in accordance with accepted standards of the profession and the scope of practice of the individual making the finding and to a reasonable degree of certainty; and
  (c) documented in a record signed by the individual making the finding that includes an opinion of the cause, nature, extent, and probable duration of the lack of capacity.
(3) The finding under Subsection (2) may not be made by:
  (a) a family member of the individual presumed to have capacity;
  (b) the cohabitant of the individual or a descendant of the cohabitant; or
  (c) the individual's surrogate, a family member of the surrogate, or a descendant of the surrogate.

(4) If the finding under Subsection (2) was based on a condition the individual no longer has or a responsible health care professional subsequently has good cause to believe the individual has capacity, the individual is presumed to have capacity unless a court finds the individual lacks capacity or the presumption is rebutted under Subsection (2).

Enacted by Chapter 439, 2025 General Session

75A-9-104 Notice of finding of lack of capacity -- Right to object.

(1) As soon as reasonably feasible, an individual who makes a finding under Subsection 75A-9-103(2) shall inform the individual about whom the finding was made or the individual's responsible health care professional of the finding.

(2) As soon as reasonably feasible, a responsible health care professional who is informed of a finding under Subsection 75A-9-103(2) shall inform the individual about whom the finding was made and the individual's surrogate.

(3) An individual found under Subsection 75A-9-103(2) to lack capacity may object to the finding:

(a) by orally informing a responsible health care professional;

(b) in a record provided to a responsible health care professional or the health care institution in which the individual resides or is receiving care; or

(c) by another act that clearly indicates the individual's objection.

(4) If the individual objects under Subsection (3), the finding under Subsection 75A-9-103(2) is not sufficient to rebut a presumption of capacity in Subsection 75A-9-103(1) and the individual must be treated as having capacity unless:

(a) the individual withdraws the objection;

(b) a court finds the individual lacks the presumed capacity;

(c) the individual is experiencing a health condition requiring a decision regarding health care treatment to be made promptly to avoid imminent loss of life or serious harm to the health of the individual; or

(d) subject to Subsection (5), the finding is confirmed by a second finding made by an individual authorized under Subsection 75A-9-103(2)(a) who:

(i) did not make the first finding;

(ii) is not a family member of the individual who made the first finding; and

(iii) is not the cohabitant of the individual who made the first finding or a descendant of the cohabitant.

(5) A second finding that the individual lacks capacity under Subsection (4)(d) is not sufficient to rebut the presumption of capacity if the individual is requesting the provision or continuation of life-sustaining treatment and the finding is being used to make a decision to withhold or withdraw the treatment.

(6) As soon as reasonably feasible, a health care professional who is informed of an objection under Subsection (3) shall:

(a) communicate the objection to a responsible health care professional; and

(b) document the objection and the date of the objection in the individual's medical record or communicate the objection and the date of the objection to an administrator with responsibility for medical records of the health care institution providing health care to the individual, who shall document the objection and the date of the objection in the individual's medical record.

Enacted by Chapter 439, 2025 General Session

75A-9-105 Judicial review of finding of lack of capacity.

(1) An individual found under Subsection 75A-9-103(2) to lack capacity, a responsible health care professional, the health care institution providing health care to the individual, or a person interested in the welfare of the individual may petition the court in the county in which the individual resides or is located to determine whether the individual lacks capacity.
(2)
(a) The court in which a petition under Subsection (1) is filed shall appoint legal counsel to represent the individual if the individual does not have legal counsel.
(b) The court shall hear the petition as soon as possible.
(c) As soon as possible the court shall determine whether the individual lacks capacity.
(d) The court may determine the individual lacks capacity only if the court finds by clear and convincing evidence that the individual lacks capacity.

Enacted by Chapter 439, 2025 General Session

75A-9-106 Health care instructions.
(1) An individual may create a health care instruction that expresses the individual's preferences for future health care, including preferences regarding:
(a) health care professionals or health care institutions;
(b) how a health care decision will be made and communicated;
(c) persons that should or should not be consulted regarding a health care decision;
(d) a person to serve as guardian for the individual if one is appointed; and
(e) an individual to serve as a default surrogate.
(2) A health care professional to whom an individual communicates or provides an instruction under Subsection (1) shall document the instruction and the date of the instruction in the individual's medical record or communicate the instruction and date of the instruction to an administrator with responsibility for medical records of the health care institution providing health care to the individual, who shall document the instruction and the date of the instruction in the individual's medical record.
(3) A health care instruction made by an individual that conflicts with an earlier health care instruction made by the individual, including an instruction documented in a medical order, revokes the earlier instruction to the extent of the conflict.
(4) A health care instruction may be in the same record as a power of attorney for health care.

Enacted by Chapter 439, 2025 General Session

75A-9-107 Power of attorney for health care.
(1) An individual may create a power of attorney for health care to appoint an agent to make health care decisions for the individual.
(2) An individual is disqualified from acting as agent for an individual who lacks capacity to make health care decisions if:
(a) a court finds that the potential agent poses a danger to the individual's well-being, even if the court does not issue a protective order against the potential agent; or
(b) the potential agent is an owner, operator, employee, or contractor of a nursing home or assisted living facility in which the individual resides or is receiving care, unless the owner, operator, employee, or contractor is a family member of the individual, the cohabitant of the individual, or a descendant of the cohabitant.
(3) A health care decision made by an agent is effective without judicial approval.

(4) A power of attorney for health care must be in a record, signed by the individual creating the power, and signed by an adult witness who:
(a) reasonably believes the act of the individual to create the power of attorney is voluntary and knowing;
(b) is not:
(i) the agent appointed by the individual;
(ii) the agent's spouse or cohabitant; or
(iii) if the individual resides or is receiving care in a nursing home or assisted living facility, the owner, operator, employee, or contractor of the nursing home or assisted living facility; and
(c) is present when the individual signs the power of attorney or when the individual represents that the power of attorney reflects the individual's wishes.
(5) A witness under Subsection (4) is considered present if the witness and the individual are:
(a) physically present in the same location;
(b) using electronic means that allow for real time audio and visual transmission and communication in real time to the same extent as if the witness and the individual were physically present in the same location; or
(c) able to speak to and hear each other in real time through audio connection if:
(i) the identity of the individual is personally known to the witness; or
(ii) the witness is able to authenticate the identity of the individual by receiving accurate answers from the individual that enable the authentication.
(6) A power of attorney for health care may include a health care instruction.

Enacted by Chapter 439, 2025 General Session

75A-9-108 Advance mental health care directive.
(1)
(a) An individual may create an advance health care directive that addresses only mental health care for the individual.
(b) The directive may include a health care instruction, a power of attorney for health care, or both.
(2) A health care instruction under this section may include the individual's:
(a) general philosophy and objectives regarding mental health care; or
(b) specific goals, preferences, and wishes regarding the provision, withholding, or withdrawal of a form of mental health care, including:
(i) preferences regarding professionals, programs, and facilities;
(ii) admission to a mental-health facility, including duration of admission;
(iii) preferences regarding medications;
(iv) refusal to accept a specific type of mental health care, including a medication; and
(v) preferences regarding crisis intervention.
(3) A power of attorney for health care under this section may appoint an agent to make decisions only for mental health care.

Enacted by Chapter 439, 2025 General Session

75A-9-109 Relationship of advance mental health care directive and other advance health care directive.

(1) If a direction in an advance mental health care directive of an individual conflicts with a direction in another advance health care directive of the individual, the later direction revokes the earlier direction to the extent of the conflict.

(2)

(a) An appointment of an agent to make decisions only for mental health care for an individual does not revoke an earlier appointment of an agent to make other health care decisions for the individual.

(b) A later appointment revokes the authority of an agent under the earlier appointment to make decisions about mental health care unless otherwise specified in the power of attorney making the later appointment.

(3) An appointment of an agent to make health care decisions for an individual other than decisions about mental health care made after appointment of an agent authorized to make only mental health care decisions does not revoke the appointment of the agent authorized to make only mental health care decisions.

Enacted by Chapter 439, 2025 General Session

75A-9-110 Optional form.

The following form may be used to create an advance health care directive:

ADVANCE HEALTH CARE DIRECTIVE

HOW YOU CAN USE THIS FORM

You can use this form if you wish to name someone to make health care decisions for you in case you cannot make decisions for yourself. This is called giving the person a power of attorney for health care. This person is called your Agent.

You can also use this form to state your wishes, preferences, and goals for health care, and to say if you want to be an organ donor after you die.

YOUR NAME AND DATE OF BIRTH

Name:

Date of birth:

PART A: NAMING AN AGENT

This part lets you name someone else to make health care decisions for you. You may leave any item blank.

1. NAMING AN AGENT

I want the following person to make health care decisions for me if I cannot make decisions for myself:

Name:

Optional contact information (it is helpful to include information such as address, phone, and email):

2. NAMING AN ALTERNATE AGENT

I want the following person to make health care decisions for me if I cannot and my Agent is not able or available to make them for me:

Name:

Optional contact information (it is helpful to include information such as address, phone, and email):

3. LIMITING YOUR AGENT'S AUTHORITY

I give my Agent the power to make all health care decisions for me if I cannot make those decisions for myself, except the following:

(If you do not add a limitation here, your Agent will be able to make all health care decisions that an Agent is permitted to make under state law.)

PART B: HEALTH CARE INSTRUCTIONS

This part lets you state your priorities for health care and to state types of health care you do and do not want.

1. INSTRUCTIONS ABOUT LIFE-SUSTAINING TREATMENT

This section gives you the opportunity to say how you want your Agent to act while making decisions for you. You may mark or initial each choice. You also may leave any choice blank.

Treatment. Medical treatment needed to keep me alive but not needed for comfort or any other purpose should (mark or initial all that apply):

(____) Always be given to me. (If you mark or initial this choice, you should not mark or initial other choices in this "treatment" section.)

(____) Not be given to me if I have a condition that is not curable and is expected to cause my death soon, even if treated.

(____) Not be given to me if I am unconscious and I am not expected to be conscious again.

(____) Not be given to me if I have a medical condition from which I am not expected to recover that prevents me from communicating with people I care about, caring for myself, and recognizing family and friends.

(____) Other (write what you want or do not want):

Food and liquids. If I can't swallow and staying alive requires me to get food or liquids through a tube or other means for the rest of my life, then food or liquids should (mark or initial all that apply):

(____) Always be given to me. (If you mark or initial this choice, you should not mark or initial other choices in this food and liquids section.)

(____) Not be given to me if I have a condition that is not curable and is expected to cause me to die soon, even if treated.

(____) Not be given to me if I am unconscious and am not expected to be conscious again.

(____) Not be given to me if I have a medical condition from which I am not expected to recover that prevents me from communicating with people I care about, caring for myself, and recognizing family and friends.

(____) Other (write what you want or do not want):

Pain relief. If I am in significant pain, care that will keep me comfortable but is likely to shorten my life should (mark or initial all that apply):

(____) Always be given to me. (If you mark or initial this choice, you should not mark or initial other choices in this pain relief section.)

(____) Never be given to me. (If you mark or initial this choice, you should not mark or initial other choices in this pain relief section.)

(____) Be given to me if I have a condition that is not curable and is expected to cause me to die soon, even if treated.

(____) Be given to me if I am unconscious and am not expected to be conscious again.

(____) Be given to me if I have a medical condition from which I am not expected to recover that prevents me from communicating with people I care about, caring for myself, and recognizing family and friends.

(____) Other (write what you want or do not want):

2. MY PRIORITIES

You can use this section to indicate what is important to you, and what is not important to you. This information can help your Agent make decisions for you if you cannot. It also helps others understand your preferences.

You may mark or initial each choice. You also may leave any choice blank.
Staying alive as long as possible even if I have substantial physical limitations is:
(____) Very important
(____) Somewhat important
(____) Not important
Staying alive as long as possible even if I have substantial mental limitations is:
(____) Very important
(____) Somewhat important
(____) Not important
Being free from significant pain is:
(____) Very important
(____) Somewhat important
(____) Not important
Being independent is:
(____) Very important
(____) Somewhat important
(____) Not important
Having my Agent talk with my family before making decisions about my care is:
(____) Very important
(____) Somewhat important
(____) Not important
Having my Agent talk with my friends before making decisions about my care is:
(____) Very important
(____) Somewhat important
(____) Not important
3. OTHER INSTRUCTIONS

You can write in this section more information about your goals, values, and preferences for treatment, including care you want or do not want. You can also use this section to name anyone who you do not want to make decisions for you under any conditions.

PART C: OPTIONAL SPECIAL POWERS AND GUIDANCE

This part lets you give your Agent additional powers and provide more guidance about your wishes. You may mark or initial each choice. You also may leave any choice blank.
1. OPTIONAL SPECIAL POWERS

My Agent can do the following things ONLY if I have marked or initialed them below:

(____) Admit me as a voluntary patient to a facility for mental health treatment for up to _____ days (write in the number of days you want like 7, 14, 30, or another number).

(If I do not mark or initial this choice, my Agent MAY NOT admit me as a voluntary patient to this type of facility.)

(____) Place me in a nursing home for more than 100 days even if my needs can be met somewhere else, I am not terminally ill, and I object.

(If I do not mark or initial this choice, my Agent MAY NOT do this.)
2. ACCESS TO MY HEALTH INFORMATION

My Agent may obtain, examine, and share information about my health needs and health care if I am not able to make decisions for myself. If I mark or initial below, my Agent may also do that at any time my Agent thinks it will help me.

(____) I give my Agent permission to obtain, examine, and share information about my health needs and health care whenever my Agent thinks it will help me.

3. FLEXIBILITY FOR MY AGENT

Mark or initial below if you want to give your Agent flexibility in following instructions you provide in this form. If you do not, your Agent must follow the instructions even if your Agent thinks something else would be better for you.

(____) I give my Agent permission to be flexible in applying these instructions if my Agent thinks it would be in my best interest based on what my Agent knows about me.

4. NOMINATION OF GUARDIAN

You can say who you would want as your guardian if you needed one. A guardian is a person appointed by a court to make decisions for someone who cannot make decisions. Filling this out does NOT mean you want or need a guardian.

If a court appoints a guardian to make personal decisions for me, I want the court to choose:

(____) My Agent named in this form. If my Agent cannot be a guardian, I want the Alternate Agent named in this form.

(____) Other (write who you would want and their contact information):

PART D: ORGAN DONATION

This part lets you donate your organs after you die. You may leave any item blank.

1. DONATION

You may mark or initial only one choice.

(____) I donate my organs, tissues, and other body parts after I die, even if it requires maintaining treatments that conflict with other instructions I have put in this form, EXCEPT for those I list below (list any body parts you do NOT want to donate):

(____) I do not want my organs, tissues, or body parts donated to anybody for any reason. (If you mark or initial this choice, you should skip the purpose of donation section.)

2. PURPOSE OF DONATION

You may mark or initial all that apply. (If you do not mark or initial any of the purposes below, your donation can be used for all of them.)

Organs, tissues, or body parts that I donate may be used for:

(____) Transplant
(____) Therapy
(____) Research
(____) Education
(____) All of the above

PART E: SIGNATURES

YOUR SIGNATURE

Sign your name:

Today's date:

City/Town/Village and State (optional):

SIGNATURE OF A WITNESS

You need a witness if you are using this form to name an Agent. The witness must be an adult and cannot be the person you are naming as Agent or the Agent's spouse or someone the Agent lives with as a couple. If you live or are receiving care in a nursing home, the witness cannot be an employee or contractor of the home or someone who owns or runs the home.

Name of Witness:

Signature of Witness: (Only sign as a witness if you think the person signing above is doing it voluntarily.)
Date witness signed:

PART F: INFORMATION FOR AGENTS

1. If this form names you as an Agent, you can make decisions about health care for the person who named you when the person cannot make their own.
2. If you make a decision for the person, follow any instructions the person gave, including any in this form.
3. If you do not know what the person would want, make the decision that you think is in the person's best interest. To figure out what is in the person's best interest, consider the person's values, preferences, and goals if you know them or can learn them. Some of these preferences may be in this form. You should also consider any behavior or communication from the person that indicates what the person currently wants.
4. If this form names you as an Agent, you can also get and share the person's health information. But unless the person has said so in this form, you can get or share this information only when the person cannot make decisions about the person's health care.

Enacted by Chapter 439, 2025 General Session

75A-9-111 Default surrogate.

(1) A default surrogate may make a health care decision for an individual who lacks capacity to make health care decisions and for whom an agent, or guardian authorized to make health care decisions, has not been appointed or is not reasonably available.
(2) Unless the individual has an advance health care directive that indicates otherwise, a member of the following classes, in descending order of priority, who is reasonably available and not disqualified under Section 75A-9-113, may act as a default surrogate for the individual:
  (a) an adult the individual has identified, other than in a power of attorney for health care, to make a health care decision for the individual if the individual cannot make the decision;
  (b) the individual's spouse unless:
    (i) a petition for annulment, divorce, dissolution of marriage, legal separation, or termination has been filed and not dismissed or withdrawn;
    (ii) a decree of annulment, divorce, dissolution of marriage, legal separation, or termination has been issued;
    (iii) the individual and the spouse have agreed in a record to a legal separation; or
    (iv) the spouse has willfully deserted the individual for more than one year;
  (c) the individual's adult child or parent;
  (d) the individual's cohabitant;
  (e) the individual's adult sibling;
  (f) the individual's adult grandchild or grandparent;
  (g) an adult not listed in Subsections (2)(a) through (f) who has assisted the individual with supported decision making routinely during the preceding six months;
  (h) the individual's adult stepchild not listed in Subsections (2)(a) through (g) whom the individual actively parented during the stepchild's minor years and with whom the individual has an ongoing relationship;
  (i) an adult not listed in Subsections (2)(a) through (h) who has exhibited special care and concern for the individual and is familiar with the individual's personal values; or
  (j) a physician designated in accordance with Subsection (6).
(3)

(a) A responsible health care professional may require an individual who assumes authority to act as a default surrogate to provide a declaration in a record under penalty of perjury stating facts and circumstances reasonably sufficient to establish the authority.
(b) The Department of Health and Human Services shall create a uniform form to be used in accordance with Subsection (3)(a).
(4) If a responsible health care professional reasonably determines that an individual who assumed authority to act as a default surrogate is not willing or able to comply with a duty under Section 75A-9-116 or fails to comply with the duty in a timely manner, the professional may recognize the individual next in priority under Subsection (2) as the default surrogate.
(5) A health care decision made by a default surrogate is effective without judicial approval.
(6) If an individual resides in or is receiving care in a health care institution, and is determined to lack capacity to make a health care decision, the responsible health care professional may designate a willing physician to make the decision on behalf of the individual if:
(a) the responsible health care professional, or person acting under the supervision of the responsible health care professional, after using best efforts cannot identify and locate:
(i) an agent who has been appointed by the individual to make health care decisions;
(ii) a guardian authorized to make health care decisions for the individual; or
(iii) a default surrogate under Subsections (2)(a) through (i);
(b)
(i) the responsible health care professional has consulted with and obtained a consensus on the designation with the medical ethics committee of the health care institution where the individual resides or is receiving care; or
(ii) if no medical ethics committee exists within the health care institution, has consulted with and obtained consensus from a similar entity utilized by the health care institution;
(c) the physician designated to act as default surrogate under this subsection is not:
(i) providing health care to the individual;
(ii) under the actual or constructive authority of the responsible health care professional;
(iii) a family member or cohabitant of the responsible health care professional; or
(iv) disqualified from acting as default surrogate under Section 75A-9-113;
(d) the responsible health care professional informs the individual of the designation of a willing physician, the identity of the designated physician, and of the individual's right to object to the designation; and
(e) the identity of the physician designated by the responsible health care professional is documented in the individual's medical record.
(7) The power of a physician designated under Subsection (6) to act as default surrogate terminates if:
(a) a person listed in Subsections (2)(a) through (i) is identified and located and is reasonably available and willing to serve as default surrogate;
(b) the individual no longer is residing in or receiving care from the health care institution; or
(c) the conditions in Subsection (1) do not exist.
(8) If the authority of the responsible health care professional to make the designation under Subsection (6) or the authority of the physician designated by the responsible health care professional to make a health care decision for the individual terminates for any reason, including a reason designated in Subsection (7), the responsible health care professional shall document the termination and the reason in the individual's medical record.
(9) In making a health care decision on behalf of the individual, a physician designated to act as default surrogate under Subsection (6):
(a) shall comply with the duties of a default surrogate set forth in Section 75A-9-116; and

(b) may consult with the medical ethics committee or similar entity and rely on the committee or entity's evaluation of the individual's best interest if the goals, preferences, and wishes of the individual regarding a health care decision are not known or reasonably ascertainable by the physician.

Enacted by Chapter 439, 2025 General Session

75A-9-112 Disagreement among default surrogates.

(1) A default surrogate who assumes authority under Section 75A-9-111 shall inform a responsible health care professional if two or more members of a class under Subsection 75A-9-111(2) have assumed authority to act as default surrogates and the members do not agree on a health care decision.

(2) A responsible health care professional shall comply with the decision of a majority of the members of the class with highest priority under Subsection 75A-9-111(2) who have communicated their views to the professional and the professional reasonably believes are acting consistent with their duties under Section 75A-9-116.

(3)

(a) If a responsible health care professional is informed that the members of the class who have communicated their views to the professional are evenly divided concerning the health care decision, the default surrogate who assumes authority under Section 75A-9-111 shall make a reasonable effort to solicit the views of members of the class who are reasonably available but have not yet communicated their views to the professional.

(b) The professional, after the solicitation, shall comply with the decision of a majority of the members who have communicated their views to the professional and the professional reasonably believes are acting consistent with their duties under Section 75A-9-116.

(4) If the class remains evenly divided after the effort is made under Subsection (3), the health care decision must be made as provided by other law of this state regarding the treatment of an individual who is found to lack capacity.

Enacted by Chapter 439, 2025 General Session

75A-9-113 Disqualification to act as default surrogate.

(1)

(a) An individual for whom a health care decision would be made may disqualify another individual from acting as default surrogate for the first individual.

(b) The disqualification must be in a record signed by the first individual or communicated verbally or nonverbally to the individual being disqualified, another individual, or a responsible health care professional.

(c) Disqualification under this subsection is effective even if made by an individual who lacks capacity to make an advance directive if the individual clearly communicates a desire that the individual being disqualified not make health care decisions for the individual.

(2) An individual is disqualified from acting as a default surrogate for an individual who lacks capacity to make health care decisions if:

(a) a court finds that the potential default surrogate poses a danger to the individual's well-being, even if the court does not issue a protective order against the potential surrogate;

(b) the potential default surrogate is an owner, operator, employee, or contractor of a nursing home or assisted living facility in which the individual is residing or receiving care unless the

owner, operator, employee, or contractor is a family member of the individual, the cohabitant of the individual, or a descendant of the cohabitant; or

(c) the potential default surrogate refuses to provide a timely declaration under Subsection 75A-9-111(3).

Enacted by Chapter 439, 2025 General Session

75A-9-114 Revocation.

(1) An individual may revoke the appointment of an agent, the designation of a default surrogate, or a health care instruction in whole or in part, unless:

(a) a court finds the individual lacks capacity to do so; or

(b) the individual is found under Subsection 75A-9-103(2) to lack capacity to do so and, if the individual objects to the finding, the finding is confirmed under Subsection 75A-9-104(4)(d).

(2) Revocation under Subsection (1) may be by any act of the individual that clearly indicates that the individual intends to revoke the appointment, designation, or instruction, including an oral statement to a health care professional.

(3) Except as provided in Section 75A-9-109, an advance health care directive of an individual that conflicts with another advance health care directive of the individual revokes the earlier directive to the extent of the conflict.

(4) Unless otherwise provided in an individual's advance health care directive appointing an agent, the appointment of a spouse of an individual as agent for the individual is revoked if:

(a) a petition for annulment, divorce, dissolution of marriage, legal separation, or termination has been filed and not dismissed or withdrawn;

(b) a decree of annulment, divorce, dissolution of marriage, legal separation, or termination has been issued;

(c) the individual and the spouse have agreed in a record to a legal separation; or

(d) the spouse has willfully deserted the individual for more than one year.

Enacted by Chapter 439, 2025 General Session

75A-9-115 Validity of advance health care directive -- Conflict with other law.

(1) An advance health care directive created outside this state is valid if it complies with:

(a) the law of the state specified in the directive or, if a state is not specified, the state in which the individual created the directive; or

(b) this chapter.

(2) A person may assume without inquiry that an advance health care directive is genuine, valid, and still in effect, and may implement and rely on it, unless the person has good cause to believe the directive is invalid or has been revoked.

(3) An advance health care directive, revocation of a directive, or a signature on a directive or revocation may not be denied legal effect or enforceability solely because it is in electronic form.

(4) Evidence relating to an advance health care directive, revocation of a directive, or a signature on a directive or revocation may not be excluded in a proceeding solely because the evidence is in electronic form.

(5) This chapter does not affect the validity of an electronic record or signature that is valid under Title 46, Chapter 4, Uniform Electronic Transactions Act.

(6) If this chapter conflicts with other law of this state relating to the creation, execution, implementation, or revocation of an advance health care directive, this chapter prevails.

Enacted by Chapter 439, 2025 General Session

75A-9-116 Duties of agent or default surrogate.

(1) An agent or default surrogate has a fiduciary duty to the individual for whom the agent or default surrogate is acting when exercising or purporting to exercise a power under Section 75A-9-117.

(2) An agent or default surrogate shall make a health care decision in accordance with the direction of the individual in an advance health care directive and other goals, preferences, and wishes of the individual to the extent known or reasonably ascertainable by the agent or default surrogate.

(3) If there is not a direction in an advance health care directive and the goals, preferences, and wishes of the individual regarding a health care decision are not known or reasonably ascertainable by the agent or default surrogate, the agent or default surrogate shall make the decision in accordance with the agent's or default surrogate's determination of the individual's best interest.

(4) In determining the individual's best interest under Subsection (3), the agent or default surrogate shall:

(a) give primary consideration to the individual's contemporaneous communications, including verbal and nonverbal expressions;

(b) consider the individual's values to the extent known or reasonably ascertainable by the agent or default surrogate; and

(c) consider the risks and benefits of the potential health care decision.

(5) As soon as reasonably feasible, an agent or default surrogate who is informed of a revocation of an advance health care directive or disqualification of the agent or default surrogate shall communicate the revocation or disqualification to a responsible health care professional.

Enacted by Chapter 439, 2025 General Session

75A-9-117 Powers of agent and default surrogate.

(1)

(a) Except as provided in Subsection (3), the power of an agent or default surrogate commences when the individual is found under Subsection 75A-9-103(2) or by a court to lack capacity to make a health care decision.

(b) The power ceases if the individual later is found to have capacity to make a health care decision, or the individual objects under Subsection 75A-9-104(3) to the finding of lack of capacity under Subsection 75A-9-103(2).

(c) The power resumes if:

(i) the power ceased because the individual objected under Subsection 75A-9-104(3); and

(ii) the finding of lack of capacity is confirmed under Subsection 75A-9-104(4)(d) or a court finds that the individual lacks capacity to make a health care decision.

(2) An agent or default surrogate may request, receive, examine, copy, and consent to the disclosure of medical and other health care information about the individual if the individual would have the right to request, receive, examine, copy, or consent to the disclosure of the information.

(3) A power of attorney for health care may provide that the power of an agent under Subsection (1) commences on appointment.

(4)

(a) If no other person is authorized to do so, an agent or default surrogate may apply for public or private health insurance and benefits on behalf of the individual.
(b) An agent or default surrogate who may apply for insurance and benefits does not, solely by reason of the power, have a duty to apply for the insurance or benefits.
(5) An agent or default surrogate may not consent to voluntary admission of the individual to a facility for mental health treatment unless:
(a) voluntary admission is specifically authorized by the individual in an advance health care directive in a record; and
(b) the admission is for no more than the maximum of the number of days specified in the directive.
(6) Except as provided in Subsection (7), an agent or default surrogate may not consent to placement of the individual in a nursing home if the placement is intended to be for more than 100 days if:
(a) an alternative living arrangement is reasonably feasible;
(b) the individual objects to the placement; or
(c) the individual is not terminally ill.
(7) If specifically authorized by the individual in an advance health care directive in a record, an agent or default surrogate may consent to placement of the individual in a nursing home for more than 100 days even if:
(a) an alternative living arrangement is reasonably feasible;
(b) the individual objects to the placement; and
(c) the individual is not terminally ill.

Enacted by Chapter 439, 2025 General Session

75A-9-118 Limitations on powers.

(1) If an individual has a long-term disability requiring routine treatment by artificial nutrition, hydration, or mechanical ventilation and a history of using the treatment without objection, an agent or default surrogate may not consent to withhold or withdraw the treatment unless:
(a) the treatment is not necessary to sustain the individual's life or maintain the individual's well-being;
(b) the individual has expressly authorized the withholding or withdrawal in a health care instruction that has not been revoked; or
(c) the individual has experienced a major reduction in health or functional ability from which the individual is not expected to recover, even with other appropriate treatment, and the individual has not:
(i) given a direction inconsistent with withholding or withdrawal; or
(ii) communicated by verbal or nonverbal expression a desire for artificial nutrition, hydration, or mechanical ventilation.
(2) A default surrogate may not make a health care decision if, under other law of this state, the decision:
(a) may not be made by a guardian; or
(b) may be made by a guardian only if the court appointing the guardian specifically authorizes the guardian to make the decision.

Enacted by Chapter 439, 2025 General Session

75A-9-119 Co-agents -- Alternate agent.

(1)
(a) An individual in a power of attorney for health care may appoint multiple individuals as co-agents.
(b) Unless the power of attorney provides otherwise, each co-agent may exercise independent authority.
(2) An individual in a power of attorney for health care may appoint one or more individuals to act as alternate agents if a predecessor agent resigns, dies, becomes disqualified, is not reasonably available, or otherwise is unwilling or unable to act as agent.
(3) Unless the power of attorney provides otherwise, an alternate agent has the same authority as the original agent:
(a) at any time the original agent is not reasonably available or is otherwise unwilling or unable to act, for the duration of the unavailability, unwillingness, or inability to act; or
(b) if the original agent and all other predecessor agents have resigned or died or are disqualified from acting as agent.

Enacted by Chapter 439, 2025 General Session

75A-9-120 Duties of health care professional, responsible health care professional, and health care institution.

(1) A responsible health care professional who is aware that an individual has been found to lack capacity to make a decision shall make a reasonable effort to determine if the individual has a surrogate.
(2) If possible before implementing a health care decision made by a surrogate, a responsible health care professional as soon as reasonably feasible shall communicate to the individual the decision made and the identity of the surrogate.
(3) A responsible health care professional who makes or is informed of a finding that an individual lacks capacity to make a health care decision or no longer lacks capacity, or that other circumstances exist that affect a health care instruction or the authority of a surrogate, as soon as reasonably feasible, shall:
(a) document the finding or circumstance in the individual's medical record; and
(b) if possible, communicate to the individual and the individual's surrogate the finding or circumstance and that the individual may object under Subsection 75A-9-104(3) to the finding under Subsection 75A-9-103(2).
(4) A responsible health care professional who is informed that an individual has created or revoked an advance health care directive, or that a surrogate for an individual has been appointed, designated, or disqualified, shall:
(a) document the information as soon as reasonably feasible in the individual's medical record; and
(b) if evidence of the directive, revocation, appointment, designation, or disqualification is in a record, request a copy and, on receipt, cause the copy to be included in the individual's medical record.
(5) Except as provided in Subsections (6) and (7), a health care professional or health care institution providing health care to an individual shall comply with:
(a) a health care instruction given by the individual regarding the individual's health care;
(b) a reasonable interpretation by the individual's surrogate of an instruction given by the individual; and

(c) a health care decision for the individual made by the individual's surrogate in accordance with Sections 75A-9-116 and 75A-9-117 to the same extent as if the decision had been made by the individual at a time when the individual had capacity.

(6) A health care professional or a health care institution may refuse to provide health care consistent with a health care instruction or health care decision if:

(a) the instruction or decision is contrary to a policy of the health care institution providing care to the individual that is based expressly on reasons of conscience and the policy was timely communicated to the individual or to the individual's surrogate;

(b) the care would require health care that is not available to the professional or institution; or

(c) compliance with the instruction or decision would:

(i) require the professional to provide care that is contrary to the professional's religious belief or moral conviction if other law permits the professional to refuse to provide care for that reason;

(ii) require the professional or institution to provide care that is contrary to generally accepted health care standards applicable to the professional or institution; or

(iii) violate a court order or other law.

(7) A health care professional or health care institution that refuses to provide care under Subsection (6) shall:

(a) as soon as reasonably feasible, inform the individual, if possible, and the individual's surrogate of the refusal;

(b) immediately make a reasonable effort to transfer the individual to another health care professional or health care institution that is willing to comply with the instruction or decision; and

(c) either:

(i) if care is refused under Subsection (6)(a) or (b), provide life-sustaining care and care needed to keep or make the individual comfortable, consistent with accepted medical standards to the extent feasible, until a transfer is made; or

(ii) if care is refused under Subsection (6)(c), provide life-sustaining care and care needed to keep or make the individual comfortable, consistent with accepted medical standards, until a transfer is made or, if the professional or institution reasonably believes that a transfer cannot be made, for at least 10 days after the refusal.

Enacted by Chapter 439, 2025 General Session

75A-9-121 Decision by guardian.

(1) A guardian may refuse to comply with or revoke the individual's advance health care directive only if the court appointing the guardian expressly orders the noncompliance or revocation.

(2) Unless a court orders otherwise, a health care decision made by an agent appointed by an individual subject to guardianship prevails over a decision of the guardian appointed for the individual.

Enacted by Chapter 439, 2025 General Session

75A-9-122 Immunity.

(1) A health care professional or health care institution acting in good faith is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

(a) complying with a health care decision made for an individual by another person if compliance is based on a reasonable belief that the person has authority to make the decision, including a decision to withhold or withdraw health care;
(b) refusing to comply with a health care decision made for an individual by another person if the refusal is based on a reasonable belief that the person lacked authority or capacity to make the decision;
(c) complying with an advance health care directive based on a reasonable belief that the directive is valid;
(d) refusing to comply with an advance health care directive based on a reasonable belief that the directive is not valid, including a reasonable belief that the directive was not made by the individual or, after its creation, was substantively altered by a person other than the individual who created it; or
(e) determining that an individual who otherwise might be authorized to act as an agent or default surrogate is not reasonably available.

(2) An agent, default surrogate, or individual with a reasonable belief that the individual is an agent or a default surrogate is not subject to civil or criminal liability or to discipline for unprofessional conduct for a health care decision made in a good faith effort to comply with Section 75A-9-116.

Enacted by Chapter 439, 2025 General Session

75A-9-123 Prohibited conduct -- Damages.

(1) A person may not:
(a) intentionally falsify, in whole or in part, an advance health care directive;
(b) for the purpose of frustrating the intent of the individual who created an advance health care directive or with knowledge that doing so is likely to frustrate the intent:
(i) intentionally conceal, deface, obliterate, or delete the directive or a revocation of the directive without consent of the individual who created or revoked the directive; or
(ii) intentionally withhold knowledge of the existence or revocation of the directive from a responsible health care professional or health care institution providing health care to the individual who created or revoked the directive;
(c) coerce or fraudulently induce an individual to create, revoke, or refrain from creating or revoking an advance health care directive or a part of a directive; or
(d) require or prohibit the creation or revocation of an advance health care directive as a condition for providing health care.

(2) An individual who is the subject of conduct prohibited under Subsection (1), or the individual's estate, has a cause of action against a person that violates Subsection (1) for statutory damages of $25,000 or actual damages resulting from the violation, whichever is greater.

(3) Subject to Subsection (4), an individual who makes a health care instruction, or the individual's estate, has a cause of action against a health care professional or health care institution that intentionally violates Section 75A-9-120 for statutory damages of $50,000 or actual damages resulting from the violation, whichever is greater.

(4) A health care professional who is an emergency medical services provider is not liable under Subsection (3) for a violation of Subsection 75A-9-120(5) if:
(a) the violation occurs in the course of providing care to an individual experiencing a health condition for which the emergency medical services provider reasonably believes the care was appropriate to avoid imminent loss of life or serious harm to the individual;
(b) the failure to comply is consistent with accepted standards of the profession of the emergency medical services provider; and

(c) the provision of care does not begin in a health care institution in which the individual resides or was receiving care.
(5) In an action under this section, a prevailing plaintiff may recover reasonable attorney fees, court costs, and other reasonable litigation expenses.
(6) A cause of action or remedy under this section is in addition to any cause of action or remedy under other law.

Enacted by Chapter 439, 2025 General Session

75A-9-124 Effect of copy -- Certified physical copy.
(1) A physical or electronic copy of an advance health care directive, revocation of an advance health care directive, or appointment, designation, or disqualification of a surrogate has the same effect as the original.
(2) An individual may create a certified physical copy of an advance health care directive or revocation of an advance health care directive that is in electronic form by affirming under penalty of perjury that the physical copy is a complete and accurate copy of the directive or revocation.

Enacted by Chapter 439, 2025 General Session

75A-9-125 Judicial relief.
(1) On petition of an individual, the individual's surrogate, a health care professional or health care institution providing health care to the individual, or a person interested in the welfare of the individual, the court may:
(a) enjoin implementation of a health care decision made by an agent or default surrogate on behalf of the individual, on a finding that the decision is inconsistent with Section 75A-9-116 or 75A-9-117;
(b) enjoin an agent from making a health care decision for the individual, on a finding that the individual's appointment of the agent has been revoked or the agent:
(i) is disqualified under Subsection 75A-9-107(2);
(ii) is unwilling or unable to comply with Section 75A-9-116; or
(iii) poses a danger to the individual's well-being;
(c) enjoin another individual from acting as a default surrogate, on a finding that the other individual:
(i) acting as a default surrogate did not comply with Section 75A-9-111;
(ii) is disqualified under Section 75A-9-113;
(iii) is unwilling or unable to comply with Section 75A-9-116;
(iv) poses a danger to the first individual's well-being; or
(d) order implementation of a health care decision made:
(i) by and for the individual; or
(ii) by an agent or default surrogate who is acting in compliance with the powers and duties of the agent or default surrogate.
(2) In this chapter, advocacy for the withholding or withdrawal of health care or mental health care from an individual is not itself evidence that an agent or default surrogate, or a potential agent or default surrogate, poses a danger to the individual's well-being.
(3) A proceeding under this chapter is governed by the Utah Rules of Civil Procedure and shall be expedited by the court.

Enacted by Chapter 439, 2025 General Session

75A-9-126 Construction.

(1) This chapter does not authorize mercy killing, assisted suicide, or euthanasia.
(2) This chapter does not affect other law of this state governing treatment for mental illness of an individual involuntarily committed under Section 26B-5-332.
(3) Death of an individual caused by withholding or withdrawing health care in accordance with this chapter does not constitute a suicide or homicide or legally impair or invalidate a policy of insurance or an annuity providing a death benefit, notwithstanding any term of the policy or annuity.
(4) This chapter does not create a presumption concerning the intention of an individual who has not created an advance health care directive.
(5) An advance health care directive created before, on, or after January 1, 2026, shall be interpreted in accordance with law of this state, excluding the state's choice-of-law rules, at the time the directive is implemented.

Enacted by Chapter 439, 2025 General Session

75A-9-127 Uniformity of application and construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

Enacted by Chapter 439, 2025 General Session

75A-9-128 Saving provision.

(1) An advance health care directive created before January 1, 2026, is valid if it complies with this chapter or complied at the time of creation with the law of the state in which it was created.
(2) This chapter does not affect the validity or effect of an act done before January 1, 2026.
(3) An individual who assumed authority to act as default surrogate before January 1, 2026, may continue to act as default surrogate until the individual for whom the default surrogate is acting has capacity or the default surrogate is disqualified, whichever occurs first.

Enacted by Chapter 439, 2025 General Session

75A-9-129 Transitional provision.

This chapter applies to an advance health care directive created before, on, or after January 1, 2026.

Enacted by Chapter 439, 2025 General Session