

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE/TERRITORY: WYOMING

REQUIREMENTS FOR ADVANCE DIRECTIVES UNDER STATE PLANS
FOR MEDICAL ASSISTANCE

The following is a written description of the law of the State (whether statutory or as recognized by the courts of the State) concerning advance directives. If applicable State should include definitions of living will, durable power of attorney for health care, durable power of attorney, witness requirements, special State limitations on living will declarations, proxy designation, process information and State forms, and identify whether the State law allows for a health care provider or agent of the provider to object to the implementation of advance directives on the basis of conscience.

State law provides for a health care provider or agent of the provider to object to the implementation of advance directives on the basis of conscience.

THE LIVING WILL (Wyoming Statutes 35-22-101-109: The Wyoming Living Will allows an adult to execute a declaration which directs the withholding or withdrawal of life-sustaining procedures when he/she is in a terminal condition. The declaration made must be in writing, dated and signed by the person making the declaration and must be executed in the presence of two or more adult witnesses. The witnesses cannot be related to the person for whom the living will is made, entitled to any portion of the estate of the person for whom the living will is made, or directly financially responsible for the medical care of the person for whom the living will is made. NOTE: The form is not effective if the patient is pregnant.

For the living will to be effective, two physicians must personally examine the patient and determine that the patient has a terminal illness. The physicians must agree that death will occur whether or not the medical procedure or intervention is done.

Durable Power of Attorney For Health Care (Wyoming Statutes 3-5-101-103 and 3-5-201-203): A durable power of attorney for health care is a document in which a person gives someone else the right to make health care decisions for them when they are unable to decide for themselves. The person who would make the decisions is known as an "agent" and can be any adult except a physician or other health care provider (including people who own, direct or work for hospitals and other health care providers).

The powers which can be granted to the agent include making decisions in most matters of health care both before and after death for the person except when that person is able to make his/her own informed decisions. The agent can make a disposition for organ donation and direct the disposition of remains of the patient.

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The agent cannot make decisions not authorized by the Durable Power of Attorney for Health Care, cannot make decisions objected to by the person or authorize consent to commitment to or placement in a mental health treatment facility, convulsive treatment or psychosurgery.

The agent and health care providers must follow the patient's expressed wishes, including those of the patient's Living Will.

To be effective, the document must be notarized or witnessed by two adults who are not related to and who will not inherit from the person signing the document.

*Description provided on attachment.

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**What Should I Do If I
Want to Make an
Advance Directive?**

A representative of the health care provider will talk to you about your patient rights and your right to make advance directives. You also have the right not to make an advance directive. That is your choice. If you choose to make advance directives, the health care provider may be able to provide the necessary forms for making a Living Will or assigning a Durable Power of Attorney for Health Care. If the health care provider is unable to provide the forms, contact your attorney, local senior citizens center or county social services agency who may be able to assist you. You do not need a lawyer in order to make an advance directive. However, legal advice is certainly appropriate.

**Who Should I Tell About
My Advance Directives?**

If you make an advance directive, you are responsible for making sure that your physician(s) and family members have copies of it. Without copies of your advance directives, they will not know your personal wishes and will be unable to comply with your directives.

**What If I Am Unable, Due to
Physical Limitations, to Sign
an Advance Directive?**

If, because of physical limitations, you are unable to sign an advance directive, you can have someone sign it for you. The person who signs for you must sign at your express direction, in your presence, and in the presence of the witnesses or notary (if the advance directive is a Durable Power of Attorney for Health Care.)

If you change your mind about your advance directive at a later date, you may do so. You can revoke old document(s) and make new advance directives that must also be witnessed or notarized. A Living Will may be revoked by destroying the document, signing a written revocation or by telling an adult that the document no longer expresses your wishes. For a verbal revocation to be effective, the adult who heard the verbal revocation must confirm it in writing. This document must be given to the attending physician. A Durable Power of Attorney for Health Care may be revoked by giving written notice to your appointed agent that the appointment is revoked, by giving written notice to your health care providers that the authority of the agent is revoked, or by making a new Durable Power of Attorney for Health Care. A divorce revokes the appointment of a spouse as the agent. Any revocation of either a Living Will or a Durable Power of Attorney for Health Care should be communicated to all health care providers.

**Where Can I Get More
Information About
Advance Directives?**

If you have further questions, would like more information about advance directives, or would like to obtain the appropriate forms, contact your lawyer, local social services agencies or senior citizens center.

This pamphlet was prepared with cooperation from the following agencies:

Wyoming Health Care Financing Division
Wyoming Hospital Association
Wyoming Legal Services Developer Program
Wyoming Long-Term Care Ombudsman Program
Wyoming Medical Society
Wyoming State Bar

**PLANNING FOR
HEALTH CARE
DECISIONS IN
WYOMING**



**The Patient Self-Determination
Act of 1990**

The Patient Self-Determination Act is a federal law that requires certain health care providers to "provide written information to adult patients concerning a patient's right under state law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives." To help patients make these choices, Wyoming law provides for advance directives. This brochure outlines what advance directives are and what Wyoming laws require.

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Advance Directives

Advance Directives are documents that state a patient's choices about treatment including decisions such as refusing treatment, being placed on life-support, and stopping treatment at a point the patient chooses. They can include requests for life-sustaining treatment, if that is wanted.

There are several kinds of advance directives. There are two that are recognized by Wyoming law. One is called a Living Will and the other is called a Durable Power of Attorney for Health Care. Through Advance Directives, patients can make legally valid decisions about their medical treatment before they are unable to make these decisions for themselves.

Do I Have to Make an Advance Directive Now?

No. It is best to make Advance Directives when you are not confined to a health care institution. This would be a time when you can relax, think clearly and make well-thought-out decisions about your future.

The Living Will

The Wyoming Living Will allows an adult to make a decision about withholding or withdrawing life-sustaining procedures when he/she is in a terminal condition. The decision must be put into writing, preferably on a living will form, dated and signed by the adult person who is making this decision and must be done in the presence of two or more adult witnesses. The witnesses cannot be 1) related to 2) entitled to any portion of the estate of, or 3) directly financially responsible for the medical care of the person who is making the Living Will. (Note the form is not effective during the pregnancy of the patient.)

Through a Living Will, you may also appoint someone else to make health care decisions for you.

For the living will to be enforced, the patient's attending physician and one other physician must personally examine the patient and determine that he/she has a terminal condition. The physicians must agree that death will occur whether or not the medical procedure or intervention is done.

Durable Power of Attorney for Health Care

A Durable Power of Attorney for Health Care is a document in which a person gives someone else the right to make health care decisions for them when they are unable to decide for themselves. The person who would make the decisions is known as an "agent" and can be any adult except a physician or other health care provider (including people who work, own or are directors for hospitals and other health care providers.)

The powers which can be granted to the agent include making decisions in most matters of health care both before and after death for the person except when that person is able to make their own decisions. The agent can make decisions on organ donation and direct the disposition of the remains of the patient.

The agent cannot make decisions not authorized by the Durable Power of Attorney for Health Care, cannot make decisions objected to by the person or authorize consent (regardless of the language of the Durable Power of Attorney) to commitment to, or placement in a mental health treatment facility, convulsive treatment or psychosurgery.

The agent and the health care providers must follow the patient's expressed wishes including those of the patient's Living Will.

To be effective, the Durable Power of Attorney for Health Care must be notarized or witnessed by two adults who are not related to and who will not inherit from the person signing the document.

What Are My Rights?

You have the right to information about your medical condition, diagnosis, prognosis and possible treatments. You may also have the right to refuse any treatment including life-saving medical treatment.

What Choices Do I Have with Advance Directives?

You may choose between a Durable Power of Attorney for Health Care and a Living Will, or you may choose both. The basic difference between the two is that the Durable Power of Attorney for Health Care designates a particular person to make decisions for you when you are not able to decide for yourself. It can cover most health care decisions. A Living Will states your wishes about withholding or withdrawing life-sustaining care if you are in a terminal condition.

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DECLARATION

TO MY FAMILY, MY PHYSICIAN, MY LAWYER and ALL OTHERS WHOM IT MAY CONCERN

Declaration made this _____ day of _____, 19 ____.

I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease or other illness certified to be a terminal condition by two (2) physicians who have personally examined me, one (1) of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized and where the application of life-sustaining procedures would serve only to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care.

I specifically direct that all artificially introduced nourishment (food) and hydration (water) be withheld or withdrawn.

I hereby designate _____ to make treatment decisions for me in the event I am comatose or otherwise unable to make such decisions for myself.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family and physician(s) and agent as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal. I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.

Signed _____

Address _____

City, County and State of Residence

The declarant has been personally known to me and I believe him or her to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am not related to the declarant by blood or marriage, entitled to any portion of the estate of the declarant according to the laws of intestate succession or under any will of declarant or codicil thereto, or directly financially responsible for declarant's medical care.

Witness _____ Date _____

Witness _____ Date _____

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DURABLE POWER OF ATTORNEY FOR HEALTH CARE

1. I KNOW ALL PERSONS BY THESE PRESENTS, that I,

_____, residing at _____,
_____, Wyoming, make, constitute and appoint
_____, residing at _____,
_____ to be my lawful
attorney-in-fact for health care decisions.

2. As authorized by Wyoming Statutes §§ 3-5-201 et.
seq., as currently enacted and as amended in the future,
I authorize my attorney-in-fact to make any and all lawful
health care decisions for me, including but not limited to:

- (A) consent to health care;
- (B) refusal of health care;
- (C) cessation or withdrawal of health care;
- (D) request and receive health care information;
- (E) request, receive and review health care records;
- (F) consent to disclosure of health care records;
- (G) employ or discharge health care providers;
- (H) admit me into or remove me from any health
care facility.

3. This durable power of attorney for health care shall
not be affected by any subsequent disability or incapacity
from which I may suffer.

DATED this _____ day of _____, 19__.

STATE OF WYOMING)
)
COUNTY OF _____)

Subscribed to and acknowledged before me, a Notary Public,
by _____, this _____ day of _____,
19__.

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Notary Public

DURABLE POWER OF ATTORNEY FOR HEALTH CARE

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_____, residing at _____,
_____, Wyoming, make, constitute and appoint
_____, residing at _____,
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2. As authorized by Wyoming Statutes §§ 3-5-201 et.
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- (E) request, receive and review health care records;
- (F) consent to disclosure of health care records;
- (G) employ or discharge health care providers;
- (H) admit me into or remove me from any health
care facility.

3. This durable power of attorney for health care shall
not be affected by any subsequent disability or incapacity
from which I may suffer.

DATED this _____ day of _____, 19__.

"I declare under penalty of perjury under the laws of
Wyoming that the person who signed or acknowledged this docu-
ment is personally known to me to be the principal, that
the principal signed or acknowledged this durable power of
attorney in my presence, that the principal appears to be
of sound mind and under no duress, fraud or undue influence,
that I am not the person appointed as attorney-in-fact by
this document, and that I am not a treating health care provid-
er, an employee of a treating health care provider, the opera-

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tor of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility, nor an employee of an operator of a residential care facility.

"I further declare under penalty of perjury under the laws of Wyoming that I am not related to the principal by blood, marriage or adoption, and, to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law."

Witness #1

Witness #2