

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Purposes and construction. This Act shall be
5 construed consistently with what is reasonable under the
6 circumstances and to effectuate the following purposes:

7 (1) To enable an individual to easily document and share
8 the individual's advance care planning wishes.

9 (2) To facilitate electronic capture, transmission, and
10 storage of an individual's advance care planning wishes by
11 means of a reliable electronic solution.

12 (3) To facilitate and promote the sharing of an
13 individual's advance care planning wishes among care providers
14 by eliminating barriers resulting from paper documents
15 containing these wishes that are not easily transferred and
16 accessed, thus promoting the opportunity for the patient's
17 wishes to be known in all of the health care settings the
18 patient may encounter.

19 Section 5. The Electronic Commerce Security Act is amended
20 by changing Sections 5-115 and 5-120 as follows:

21 (5 ILCS 175/5-115)

22 Sec. 5-115. Electronic records.

1 (a) Where a rule of law requires information to be
2 "written" or "in writing", or provides for certain consequences
3 if it is not, an electronic record satisfies that rule of law.

4 (b) The provisions of this Section shall not apply:

5 (1) when its application would involve a construction
6 of a rule of law that is clearly inconsistent with the
7 manifest intent of the lawmaking body or repugnant to the
8 context of the same rule of law, provided that the mere
9 requirement that information be "in writing", "written",
10 or "printed" shall not by itself be sufficient to establish
11 such intent;

12 (2) to any rule of law governing the creation or
13 execution of a will or trust, ~~living will, or healthcare~~
14 ~~power of attorney~~; and

15 (3) to any record that serves as a unique and
16 transferable instrument of rights and obligations
17 including, without limitation, negotiable instruments and
18 other instruments of title wherein possession of the
19 instrument is deemed to confer title, unless an electronic
20 version of such record is created, stored, and transferred
21 in a manner that allows for the existence of only one
22 unique, identifiable, and unalterable original with the
23 functional attributes of an equivalent physical
24 instrument, that can be possessed by only one person, and
25 which cannot be copied except in a form that is readily
26 identifiable as a copy.

1 (Source: P.A. 90-759, eff. 7-1-99.)

2 (5 ILCS 175/5-120)

3 Sec. 5-120. Electronic signatures.

4 (a) Where a rule of law requires a signature, or provides
5 for certain consequences if a document is not signed, an
6 electronic signature satisfies that rule of law.

7 (a-5) In the course of exercising any permitting,
8 licensing, or other regulatory function, a municipality may
9 accept, but shall not require, documents with an electronic
10 signature, including, but not limited to, the technical
11 submissions of a design professional with an electronic
12 signature.

13 (b) An electronic signature may be proved in any manner,
14 including by showing that a procedure existed by which a party
15 must of necessity have executed a symbol or security procedure
16 for the purpose of verifying that an electronic record is that
17 of such party in order to proceed further with a transaction.

18 (c) The provisions of this Section shall not apply:

19 (1) when its application would involve a construction
20 of a rule of law that is clearly inconsistent with the
21 manifest intent of the lawmaking body or repugnant to the
22 context of the same rule of law, provided that the mere
23 requirement of a "signature" or that a record be "signed"
24 shall not by itself be sufficient to establish such intent;

25 (2) to any rule of law governing the creation or

1 execution of a will or trust, ~~living will, or healthcare~~
2 ~~power of attorney~~; and

3 (3) to any record that serves as a unique and
4 transferable instrument of rights and obligations
5 including, without limitation, negotiable instruments and
6 other instruments of title wherein possession of the
7 instrument is deemed to confer title, unless an electronic
8 version of such record is created, stored, and transferred
9 in a manner that allows for the existence of only one
10 unique, identifiable, and unalterable original with the
11 functional attributes of an equivalent physical
12 instrument, that can be possessed by only one person, and
13 which cannot be copied except in a form that is readily
14 identifiable as a copy.

15 (Source: P.A. 98-289, eff. 1-1-14.)

16 Section 10. The Department of Public Health Powers and
17 Duties Law of the Civil Administrative Code of Illinois is
18 amended by changing Section 2310-600 as follows:

19 (20 ILCS 2310/2310-600)

20 Sec. 2310-600. Advance directive information.

21 (a) The Department of Public Health shall prepare and
22 publish the summary of advance directives law, as required by
23 the federal Patient Self-Determination Act, and related forms.
24 Publication may be limited to the World Wide Web. The summary

1 required under this subsection (a) must include the Department
2 of Public Health Uniform POLST form.

3 (b) The Department of Public Health shall publish Spanish
4 language versions of the following:

5 (1) The statutory Living Will Declaration form.

6 (2) The Illinois Statutory Short Form Power of Attorney
7 for Health Care.

8 (3) The statutory Declaration of Mental Health
9 Treatment Form.

10 (4) The summary of advance directives law in Illinois.

11 (5) The Department of Public Health Uniform POLST form.

12 Publication may be limited to the World Wide Web.

13 (b-5) In consultation with a statewide professional
14 organization representing physicians licensed to practice
15 medicine in all its branches, statewide organizations
16 representing physician assistants, advanced practice
17 registered nurses, nursing homes, registered professional
18 nurses, and emergency medical systems, and a statewide
19 organization representing hospitals, the Department of Public
20 Health shall develop and publish a uniform form for
21 practitioner cardiopulmonary resuscitation (CPR) or
22 life-sustaining treatment orders that may be utilized in all
23 settings. The form shall meet the published minimum
24 requirements to nationally be considered a practitioner orders
25 for life-sustaining treatment form, or POLST, and may be
26 referred to as the Department of Public Health Uniform POLST

1 form. An electronic version of the Uniform POLST form under
2 this Act may be created, signed, or revoked electronically
3 using a generic, technology-neutral system in which each user
4 is assigned a unique identifier that is securely maintained and
5 in a manner that meets the regulatory requirements for a
6 digital or electronic signature. Compliance with the standards
7 defined in the Electronic Commerce Security Act or the
8 implementing rules of the Hospital Licensing Act for medical
9 record entry authentication for author validation of the
10 documentation, content accuracy, and completeness meets this
11 standard. This form does not replace a physician's or other
12 practitioner's authority to make a do-not-resuscitate (DNR)
13 order.

14 (b-10) In consultation with a statewide professional
15 organization representing physicians licensed to practice
16 medicine in all its branches, statewide organizations
17 representing physician assistants, advanced practice
18 registered nurses, nursing homes, registered professional
19 nurses, and emergency medical systems, a statewide bar
20 association, a national bar association with an Illinois
21 chapter that concentrates in elder and disability law, a
22 not-for-profit organ procurement organization that coordinates
23 organ and tissue donation, a statewide committee or group
24 responsible for stakeholder education about POLST issues, and a
25 statewide organization representing hospitals, the Department
26 of Public Health shall study the feasibility of creating a

1 statewide registry of advance directives and POLST forms. The
2 registry would allow residents of this State to submit the
3 forms and for the forms to be made available to health care
4 providers and professionals in a timely manner for the
5 provision of care or services. This study must be filed with
6 the General Assembly on or before January 1, 2021.

7 (c) (Blank).

8 (d) The Department of Public Health shall publish the
9 Department of Public Health Uniform POLST form reflecting the
10 changes made by this amendatory Act of the 98th General
11 Assembly no later than January 1, 2015.

12 (Source: P.A. 99-319, eff. 1-1-16; 99-581, eff. 1-1-17;
13 100-513, eff. 1-1-18.)

14 Section 15. The Illinois Living Will Act is amended by
15 changing Sections 2, 5, and 9 as follows:

16 (755 ILCS 35/2) (from Ch. 110 1/2, par. 702)

17 Sec. 2. Definitions:

18 (a) "Attending physician" means the physician selected by,
19 or assigned to, the patient who has primary responsibility for
20 the treatment and care of the patient.

21 (b) "Declaration" means a witnessed document in writing, in
22 a hard copy or electronic format, voluntarily executed by the
23 declarant in accordance with the requirements of Section 3.

24 (c) "Health-care provider" means a person who is licensed,

1 certified or otherwise authorized by the law of this State to
2 administer health care in the ordinary course of business or
3 practice of a profession.

4 (d) "Death delaying procedure" means any medical procedure
5 or intervention which, when applied to a qualified patient, in
6 the judgement of the attending physician would serve only to
7 postpone the moment of death. In appropriate circumstances,
8 such procedures include, but are not limited to, assisted
9 ventilation, artificial kidney treatments, intravenous feeding
10 or medication, blood transfusions, tube feeding and other
11 procedures of greater or lesser magnitude that serve only to
12 delay death. However, this Act does not affect the
13 responsibility of the attending physician or other health care
14 provider to provide treatment for a patient's comfort care or
15 alleviation of pain. Nutrition and hydration shall not be
16 withdrawn or withheld from a qualified patient if the
17 withdrawal or withholding would result in death solely from
18 dehydration or starvation rather than from the existing
19 terminal condition.

20 (e) "Person" means an individual, corporation, business
21 trust, estate, trust, partnership, association, government,
22 governmental subdivision or agency, or any other legal entity.

23 (f) "Physician" means a person licensed to practice
24 medicine in all its branches.

25 (g) "Qualified patient" means a patient who has executed a
26 declaration in accordance with this Act and who has been

1 diagnosed and verified in writing to be afflicted with a
2 terminal condition by his or her attending physician who has
3 personally examined the patient. A qualified patient has the
4 right to make decisions regarding death delaying procedures as
5 long as he or she is able to do so.

6 (h) "Terminal condition" means an incurable and
7 irreversible condition which is such that death is imminent and
8 the application of death delaying procedures serves only to
9 prolong the dying process.

10 (Source: P.A. 95-331, eff. 8-21-07.)

11 (755 ILCS 35/5) (from Ch. 110 1/2, par. 705)

12 Sec. 5. Revocation. (a) A declaration may be revoked at any
13 time by the declarant, without regard to declarant's mental or
14 physical condition, by any of the following methods:

15 (1) By being obliterated, burnt, torn or otherwise
16 destroyed or defaced in a manner indicating intention to
17 cancel;

18 (2) By a written revocation of the declaration signed and
19 dated by the declarant or person acting at the direction of the
20 declarant, regardless of whether the written revocation is in
21 electronic or hard copy format; ~~or~~

22 (3) By an ~~a~~ oral or any other expression of the intent to
23 revoke the declaration, in the presence of a witness 18 years
24 of age or older who signs and dates a writing confirming that
25 such expression of intent was made; or ~~or~~

1 (4) For an electronic declaration, by deleting in a manner
2 indicating the intention to revoke. An electronic declaration
3 may be revoked electronically using a generic,
4 technology-neutral system in which each user is assigned a
5 unique identifier that is securely maintained and in a manner
6 that meets the regulatory requirements for a digital or
7 electronic signature. Compliance with the standards defined in
8 the Electronic Commerce Security Act or the implementing rules
9 of the Hospital Licensing Act for medical record entry
10 authentication for author validation of the documentation,
11 content accuracy, and completeness meets this standard.

12 (b) A revocation is effective upon communication to the
13 attending physician by the declarant or by another who
14 witnessed the revocation. The attending physician shall record
15 in the patient's medical record the time and date when and the
16 place where he or she received notification of the revocation.

17 (c) There shall be no criminal or civil liability on the
18 part of any person for failure to act upon a revocation made
19 pursuant to this Section unless that person has actual
20 knowledge of the revocation.

21 (Source: P.A. 85-860.)

22 (755 ILCS 35/9) (from Ch. 110 1/2, par. 709)

23 Sec. 9. General provisions. (a) The withholding or
24 withdrawal of death delaying procedures from a qualified
25 patient in accordance with the provisions of this Act shall

1 not, for any purpose, constitute a suicide.

2 (b) The making of a declaration pursuant to Section 3 shall
3 not affect in any manner the sale, procurement, or issuance of
4 any policy of life insurance, nor shall it be deemed to modify
5 the terms of an existing policy of life insurance. No policy of
6 life insurance shall be legally impaired or invalidated in any
7 manner by the withholding or withdrawal of death delaying
8 procedures from an insured qualified patient, notwithstanding
9 any term of the policy to the contrary.

10 (c) No physician, health care facility, or other health
11 care provider, and no health care service plan, health
12 maintenance organization, insurer issuing disability
13 insurance, self-insured employee ~~employe~~ welfare benefit plan,
14 nonprofit medical service corporation or mutual nonprofit
15 hospital service corporation shall require any person to
16 execute a declaration as a condition for being insured for, or
17 receiving, health care services.

18 (d) Nothing in this Act shall impair or supersede any legal
19 right or legal responsibility which any person may have to
20 effect the withholding or withdrawal of death delaying
21 procedures in any lawful manner. In such respect the provisions
22 of this Act are cumulative.

23 (e) This Act shall create no presumption concerning the
24 intention of an individual who has not executed a declaration
25 to consent to the use or withholding of death delaying
26 procedures in the event of a terminal condition.

1 (f) Nothing in this Act shall be construed to condone,
2 authorize or approve mercy killing or to permit any affirmative
3 or deliberate act or omission to end life other than to permit
4 the natural process of dying as provided in this Act.

5 (g) An instrument executed before the effective date of
6 this Act that substantially complies with ~~subsection~~ ~~paragraph~~
7 (e) of Section 3 shall be given effect pursuant to the
8 provisions of this Act.

9 (h) A declaration executed in another state in compliance
10 with the law of that state or this State is validly executed
11 for purposes of this Act, and such declaration shall be applied
12 in accordance with the provisions of this Act.

13 (i) Documents, writings, forms, and copies referred to in
14 this Act may be in hard copy or electronic format. Nothing in
15 this Act is intended to prevent the population of a
16 declaration, document, writing, or form with electronic data.
17 Electronic documents under this Act may be created, signed, or
18 revoked electronically using a generic, technology-neutral
19 system in which each user is assigned a unique identifier that
20 is securely maintained and in a manner that meets the
21 regulatory requirements for a digital or electronic signature.
22 Compliance with the standards defined in the Electronic
23 Commerce Security Act or the implementing rules of the Hospital
24 Licensing Act for medical record entry authentication for
25 author validation of the documentation, content accuracy, and
26 completeness meets this standard.

1 (Source: P.A. 85-860.)

2 Section 20. The Health Care Surrogate Act is amended by
3 adding Section 70 as follows:

4 (755 ILCS 40/70 new)

5 Sec. 70. Format. The affidavit, medical record, documents,
6 and forms referred to in this Act may be in hard copy or
7 electronic format. Nothing in this Act is intended to prevent
8 the population of an affidavit, medical record, document, or
9 form with electronic data. A living will, mental health
10 treatment preferences declaration, practitioner orders for
11 life-sustaining treatment (POLST), or power of attorney for
12 health care that is populated with electronic data is
13 operative. Electronic documents under this Act may be created,
14 signed, or revoked electronically using a generic,
15 technology-neutral system in which each user is assigned a
16 unique identifier that is securely maintained and in a manner
17 that meets the regulatory requirements for a digital or
18 electronic signature. Compliance with the standards defined in
19 the Electronic Commerce Security Act or the implementing rules
20 of the Hospital Licensing Act for medical record entry
21 authentication for author validation of the documentation,
22 content accuracy, and completeness meets this standard.

23 Section 25. The Mental Health Treatment Preference

1 Declaration Act is amended by changing Sections 5, 20, and 50
2 and by adding Section 23 as follows:

3 (755 ILCS 43/5)

4 Sec. 5. Definitions. As used in this Act:

5 (1) "Adult" shall have the same meaning as provided in
6 Section 10 of the Health Care Surrogate Act.

7 (2) "Attending physician" shall have the same meaning as
8 provided in Section 10 of the Healthcare Surrogate Act.

9 (3) "Attorney-in-fact" means an adult validly appointed
10 under this Act to make mental health treatment decisions for a
11 principal under a declaration for mental health treatment and
12 also means an alternative attorney-in-fact.

13 (4) "Declaration" means a document, in hard copy or
14 electronic format, making a declaration of preferences or
15 instructions regarding mental health treatment.

16 (5) "Incapable" means that, in the opinion of 2 physicians
17 or the court, a person's ability to receive and evaluate
18 information effectively or communicate decisions is impaired
19 to such an extent that the person currently lacks the capacity
20 to make mental health treatment decisions.

21 (6) "Mental Health Facility" shall have the same meaning as
22 provided in Section 1-114 of the Mental Health and
23 Developmental Disabilities Code.

24 (7) "Mental health treatment" means electroconvulsive
25 treatment, treatment of mental illness with psychotropic

1 medication, and admission to and retention in a mental health
2 facility for a period not to exceed 17 days for care or
3 treatment of mental illness.

4 (8) "Physician" means a physician or psychiatrist as
5 defined in Sections 1-120 and 1-121, respectively, of the
6 Mental Health and Developmental Disabilities Code.

7 (9) "Principal" means the person making a declaration for
8 his or her personal mental health treatment.

9 (10) "Provider" means any mental health facility or any
10 other person which is devoted in whole or part to providing
11 mental health services.

12 (Source: P.A. 89-439, eff. 6-1-96.)

13 (755 ILCS 43/20)

14 Sec. 20. Signatures required.

15 (a) A declaration is effective only if it is signed by the
16 principal, and 2 competent adult witnesses. The witnesses must
17 attest that the principal is known to them, signed the
18 declaration in their presence and appears to be of sound mind
19 and not under duress, fraud or undue influence. Persons
20 specified in Section 65 of this Act may not act as witnesses.

21 (b) The signature and execution requirements set forth in
22 this Act are satisfied by: (i) written signatures or initials;
23 or (ii) electronic signatures or computer-generated signature
24 codes. Electronic documents under this Act may be created,
25 signed, or revoked electronically using a generic,

1 technology-neutral system in which each user is assigned a
2 unique identifier that is securely maintained and in a manner
3 that meets the regulatory requirements for a digital or
4 electronic signature. Compliance with the standards defined in
5 the Electronic Commerce Security Act or the implementing rules
6 of the Hospital Licensing Act for medical record entry
7 authentication for author validation of the documentation,
8 content accuracy, and completeness meets this standard.

9 (Source: P.A. 89-439, eff. 6-1-96.)

10 (755 ILCS 43/23 new)

11 Sec. 23. Format. Documents, writings, and forms referred to
12 in this Act may be in hard copy or electronic format. Nothing
13 in this Act is intended to prevent the population of a
14 declaration, document, writing, or form with electronic data.

15 (755 ILCS 43/50)

16 Sec. 50. Revocation. A declaration may be revoked in whole
17 or in part by written statement at any time by the principal if
18 the principal is not incapable, regardless of whether the
19 written revocation is in an electronic or hard copy format. A
20 written statement of revocation is effective when signed by the
21 principal and a physician and the principal delivers the
22 revocation to the attending physician. An electronic
23 declaration may be revoked electronically using a generic,
24 technology-neutral system in which each user is assigned a

1 unique identifier that is securely maintained and in a manner
2 that meets the regulatory requirements for a digital or
3 electronic signature. Compliance with the standards defined in
4 the Electronic Commerce Security Act or the implementing rules
5 of the Hospital Licensing Act for medical record entry
6 authentication for author validation of the documentation,
7 content accuracy, and completeness meets this standard. The
8 attending physician shall note the revocation as part of the
9 principal's medical record.

10 (Source: P.A. 89-439, eff. 6-1-96.)

11 Section 30. The Illinois Power of Attorney Act is amended
12 by changing Sections 4-4, 4-6, 4-9, and 4-10 and by adding
13 Section 4-4.1 as follows:

14 (755 ILCS 45/4-4) (from Ch. 110 1/2, par. 804-4)

15 Sec. 4-4. Definitions. As used in this Article:

16 (a) "Attending physician" means the physician who has
17 primary responsibility at the time of reference for the
18 treatment and care of the patient.

19 (b) "Health care" means any care, treatment, service or
20 procedure to maintain, diagnose, treat or provide for the
21 patient's physical or mental health or personal care.

22 (c) "Health care agency" means an agency governing any type
23 of health care, anatomical gift, autopsy or disposition of
24 remains for and on behalf of a patient and refers, in either

1 hard copy or electronic format, to the power of attorney or
2 other written instrument defining the agency or the agency,
3 itself, as appropriate to the context.

4 (d) "Health care provider", "health care professional", or
5 "provider" means the attending physician and any other person
6 administering health care to the patient at the time of
7 reference who is licensed, certified, or otherwise authorized
8 or permitted by law to administer health care in the ordinary
9 course of business or the practice of a profession, including
10 any person employed by or acting for any such authorized
11 person.

12 (e) "Patient" means the principal or, if the agency governs
13 health care for a minor child of the principal, then the child.

14 (e-5) "Health care agent" means an individual at least 18
15 years old designated by the principal to make health care
16 decisions of any type, including, but not limited to,
17 anatomical gift, autopsy, or disposition of remains for and on
18 behalf of the individual. A health care agent is a personal
19 representative under state and federal law. The health care
20 agent has the authority of a personal representative under both
21 state and federal law unless restricted specifically by the
22 health care agency.

23 (f) (Blank).

24 (g) (Blank).

25 (h) (Blank).

26 (Source: P.A. 98-1113, eff. 1-1-15.)

1 (755 ILCS 45/4-4.1 new)

2 Sec. 4-4.1. Format. Documents, writings, forms, and copies
3 referred to in this Article may be in hard copy or electronic
4 format. Nothing in this Article is intended to prevent the
5 population of a written instrument of a health care agency,
6 document, writing, or form with electronic data.

7 (755 ILCS 45/4-6) (from Ch. 110 1/2, par. 804-6)

8 Sec. 4-6. Revocation and amendment of health care agencies.

9 (a) Every health care agency may be revoked by the
10 principal at any time, without regard to the principal's mental
11 or physical condition, by any of the following methods:

12 1. By being obliterated, burnt, torn or otherwise destroyed
13 or defaced in a manner indicating intention to revoke;

14 2. By a written revocation of the agency signed and dated
15 by the principal or person acting at the direction of the
16 principal, regardless of whether the written revocation is in
17 an electronic or hard copy format; ~~or~~

18 3. By an oral or any other expression of the intent to
19 revoke the agency in the presence of a witness 18 years of age
20 or older who signs and dates a writing confirming that such
21 expression of intent was made; or ~~or~~

22 4. For an electronic health care agency, by deleting in a
23 manner indicating the intention to revoke. An electronic health
24 care agency may be revoked electronically using a generic,

1 technology-neutral system in which each user is assigned a
2 unique identifier that is securely maintained and in a manner
3 that meets the regulatory requirements for a digital or
4 electronic signature. Compliance with the standards defined in
5 the Electronic Commerce Security Act or the implementing rules
6 of the Hospital Licensing Act for medical record entry
7 authentication for author validation of the documentation,
8 content accuracy, and completeness meets this standard.

9 (b) Every health care agency may be amended at any time by
10 a written amendment signed and dated by the principal or person
11 acting at the direction of the principal.

12 (c) Any person, other than the agent, to whom a revocation
13 or amendment is communicated or delivered shall make all
14 reasonable efforts to inform the agent of that fact as promptly
15 as possible.

16 (Source: P.A. 85-701.)

17 (755 ILCS 45/4-9) (from Ch. 110 1/2, par. 804-9)

18 Sec. 4-9. Penalties. All persons shall be subject to the
19 following sanctions in relation to health care agencies, in
20 addition to all other sanctions applicable under any other law
21 or rule of professional conduct:

22 (a) Any person shall be civilly liable who, without the
23 principal's consent: (i) ~~τ~~ wilfully conceals, cancels, or
24 alters a health care agency or any amendment or revocation of
25 the agency; (ii) ~~or who~~ falsifies or forges a health care

1 agency, amendment, or revocation; or (iii) enters information
2 in an electronic system under the persona of the principal.

3 (b) A person who falsifies or forges a health care agency,
4 enters information in an electronic system under the persona of
5 the principal, or wilfully conceals or withholds personal
6 knowledge of an amendment or revocation of a health care agency
7 with the intent to cause a withholding or withdrawal of
8 life-sustaining or death-delaying procedures contrary to the
9 intent of the principal and thereby, because of such act,
10 directly causes life-sustaining or death-delaying procedures
11 to be withheld or withdrawn and death to the patient to be
12 hastened shall be subject to prosecution for involuntary
13 manslaughter.

14 (c) Any person who requires or prevents execution of a
15 health care agency as a condition of insuring or providing any
16 type of health care services to the patient shall be civilly
17 liable and guilty of a Class A misdemeanor.

18 (Source: P.A. 85-701.)

19 (755 ILCS 45/4-10) (from Ch. 110 1/2, par. 804-10)

20 Sec. 4-10. Statutory short form power of attorney for
21 health care.

22 (a) The form prescribed in this Section (sometimes also
23 referred to in this Act as the "statutory health care power")
24 may be used to grant an agent powers with respect to the
25 principal's own health care; but the statutory health care

1 power is not intended to be exclusive nor to cover delegation
2 of a parent's power to control the health care of a minor
3 child, and no provision of this Article shall be construed to
4 invalidate or bar use by the principal of any other or
5 different form of power of attorney for health care.
6 Nonstatutory health care powers must be executed by the
7 principal, designate the agent and the agent's powers, and
8 comply with the limitations in Section 4-5 of this Article, but
9 they need not be witnessed or conform in any other respect to
10 the statutory health care power.

11 No specific format is required for the statutory health
12 care power of attorney other than the notice must precede the
13 form. The statutory health care power may be included in or
14 combined with any other form of power of attorney governing
15 property or other matters.

16 The signature and execution requirements set forth in this
17 Article are satisfied by: (i) written signatures or initials;
18 or (ii) electronic signatures or computer-generated signature
19 codes. Electronic documents under this Act may be created,
20 signed, or revoked electronically using a generic,
21 technology-neutral system in which each user is assigned a
22 unique identifier that is securely maintained and in a manner
23 that meets the regulatory requirements for a digital or
24 electronic signature. Compliance with the standards defined in
25 the Electronic Commerce Security Act or the implementing rules
26 of the Hospital Licensing Act for medical record entry

1 authentication for author validation of the documentation,
2 content accuracy, and completeness meets this standard.

3 (b) The Illinois Statutory Short Form Power of Attorney for
4 Health Care shall be substantially as follows:

5 NOTICE TO THE INDIVIDUAL SIGNING

6 THE POWER OF ATTORNEY FOR HEALTH CARE

7 No one can predict when a serious illness or accident might
8 occur. When it does, you may need someone else to speak or make
9 health care decisions for you. If you plan now, you can
10 increase the chances that the medical treatment you get will be
11 the treatment you want.

12 In Illinois, you can choose someone to be your "health care
13 agent". Your agent is the person you trust to make health care
14 decisions for you if you are unable or do not want to make them
15 yourself. These decisions should be based on your personal
16 values and wishes.

17 It is important to put your choice of agent in writing. The
18 written form is often called an "advance directive". You may
19 use this form or another form, as long as it meets the legal
20 requirements of Illinois. There are many written and on-line
21 resources to guide you and your loved ones in having a
22 conversation about these issues. You may find it helpful to
23 look at these resources while thinking about and discussing
24 your advance directive.

1 WHAT ARE THE THINGS I WANT MY
2 HEALTH CARE AGENT TO KNOW?

3 The selection of your agent should be considered carefully,
4 as your agent will have the ultimate decision-making ~~decision~~
5 ~~making~~ authority once this document goes into effect, in most
6 instances after you are no longer able to make your own
7 decisions. While the goal is for your agent to make decisions
8 in keeping with your preferences and in the majority of
9 circumstances that is what happens, please know that the law
10 does allow your agent to make decisions to direct or refuse
11 health care interventions or withdraw treatment. Your agent
12 will need to think about conversations you have had, your
13 personality, and how you handled important health care issues
14 in the past. Therefore, it is important to talk with your agent
15 and your family about such things as:

16 (i) What is most important to you in your life?

17 (ii) How important is it to you to avoid pain and
18 suffering?

19 (iii) If you had to choose, is it more important to you
20 to live as long as possible, or to avoid prolonged
21 suffering or disability?

22 (iv) Would you rather be at home or in a hospital for
23 the last days or weeks of your life?

24 (v) Do you have religious, spiritual, or cultural
25 beliefs that you want your agent and others to consider?

26 (vi) Do you wish to make a significant contribution to

1 medical science after your death through organ or whole
2 body donation?

3 (vii) Do you have an existing advance ~~advanced~~
4 directive, such as a living will, that contains your
5 specific wishes about health care that is only delaying
6 your death? If you have another advance directive, make
7 sure to discuss with your agent the directive and the
8 treatment decisions contained within that outline your
9 preferences. Make sure that your agent agrees to honor the
10 wishes expressed in your advance directive.

11 WHAT KIND OF DECISIONS CAN MY AGENT MAKE?

12 If there is ever a period of time when your physician
13 determines that you cannot make your own health care decisions,
14 or if you do not want to make your own decisions, some of the
15 decisions your agent could make are to:

16 (i) talk with physicians and other health care
17 providers about your condition.

18 (ii) see medical records and approve who else can see
19 them.

20 (iii) give permission for medical tests, medicines,
21 surgery, or other treatments.

22 (iv) choose where you receive care and which physicians
23 and others provide it.

24 (v) decide to accept, withdraw, or decline treatments
25 designed to keep you alive if you are near death or not

1 likely to recover. You may choose to include guidelines
2 and/or restrictions to your agent's authority.

3 (vi) agree or decline to donate your organs or your
4 whole body if you have not already made this decision
5 yourself. This could include donation for transplant,
6 research, and/or education. You should let your agent know
7 whether you are registered as a donor in the First Person
8 Consent registry maintained by the Illinois Secretary of
9 State or whether you have agreed to donate your whole body
10 for medical research and/or education.

11 (vii) decide what to do with your remains after you
12 have died, if you have not already made plans.

13 (viii) talk with your other loved ones to help come to
14 a decision (but your designated agent will have the final
15 say over your other loved ones).

16 Your agent is not automatically responsible for your health
17 care expenses.

18 WHOM SHOULD I CHOOSE TO BE MY HEALTH CARE AGENT?

19 You can pick a family member, but you do not have to. Your
20 agent will have the responsibility to make medical treatment
21 decisions, even if other people close to you might urge a
22 different decision. The selection of your agent should be done
23 carefully, as he or she will have ultimate decision-making
24 authority for your treatment decisions once you are no longer
25 able to voice your preferences. Choose a family member, friend,

1 or other person who:

2 (i) is at least 18 years old;

3 (ii) knows you well;

4 (iii) you trust to do what is best for you and is
5 willing to carry out your wishes, even if he or she may not
6 agree with your wishes;

7 (iv) would be comfortable talking with and questioning
8 your physicians and other health care providers;

9 (v) would not be too upset to carry out your wishes if
10 you became very sick; and

11 (vi) can be there for you when you need it and is
12 willing to accept this important role.

13 WHAT IF MY AGENT IS NOT AVAILABLE OR IS

14 UNWILLING TO MAKE DECISIONS FOR ME?

15 If the person who is your first choice is unable to carry
16 out this role, then the second agent you chose will make the
17 decisions; if your second agent is not available, then the
18 third agent you chose will make the decisions. The second and
19 third agents are called your successor agents and they function
20 as back-up agents to your first choice agent and may act only
21 one at a time and in the order you list them.

22 WHAT WILL HAPPEN IF I DO NOT

23 CHOOSE A HEALTH CARE AGENT?

24 If you become unable to make your own health care decisions

1 and have not named an agent in writing, your physician and
2 other health care providers will ask a family member, friend,
3 or guardian to make decisions for you. In Illinois, a law
4 directs which of these individuals will be consulted. In that
5 law, each of these individuals is called a "surrogate".

6 There are reasons why you may want to name an agent rather
7 than rely on a surrogate:

8 (i) The person or people listed by this law may not be
9 who you would want to make decisions for you.

10 (ii) Some family members or friends might not be able
11 or willing to make decisions as you would want them to.

12 (iii) Family members and friends may disagree with one
13 another about the best decisions.

14 (iv) Under some circumstances, a surrogate may not be
15 able to make the same kinds of decisions that an agent can
16 make.

17 WHAT IF THERE IS NO ONE AVAILABLE

18 WHOM I TRUST TO BE MY AGENT?

19 In this situation, it is especially important to talk to
20 your physician and other health care providers and create
21 written guidance about what you want or do not want, in case
22 you are ever critically ill and cannot express your own wishes.
23 You can complete a living will. You can also write your wishes
24 down and/or discuss them with your physician or other health
25 care provider and ask him or her to write it down in your

1 chart. You might also want to use written or on-line resources
2 to guide you through this process.

3 WHAT DO I DO WITH THIS FORM ONCE I COMPLETE IT?

4 Follow these instructions after you have completed the
5 form:

6 (i) Sign the form in front of a witness. See the form
7 for a list of who can and cannot witness it.

8 (ii) Ask the witness to sign it, too.

9 (iii) There is no need to have the form notarized.

10 (iv) Give a copy to your agent and to each of your
11 successor agents.

12 (v) Give another copy to your physician.

13 (vi) Take a copy with you when you go to the hospital.

14 (vii) Show it to your family and friends and others who
15 care for you.

16 WHAT IF I CHANGE MY MIND?

17 You may change your mind at any time. If you do, tell
18 someone who is at least 18 years old that you have changed your
19 mind, and/or destroy your document and any copies. If you wish,
20 fill out a new form and make sure everyone you gave the old
21 form to has a copy of the new one, including, but not limited
22 to, your agents and your physicians.

23 WHAT IF I DO NOT WANT TO USE THIS FORM?

1 In the event you do not want to use the Illinois statutory
 2 form provided here, any document you complete must be executed
 3 by you, designate an agent who is over 18 years of age and not
 4 prohibited from serving as your agent, and state the agent's
 5 powers, but it need not be witnessed or conform in any other
 6 respect to the statutory health care power.

7 If you have questions about the use of any form, you may
 8 want to consult your physician, other health care provider,
 9 and/or an attorney.

10 MY POWER OF ATTORNEY FOR HEALTH CARE

11 THIS POWER OF ATTORNEY REVOKES ALL PREVIOUS POWERS OF ATTORNEY
 12 FOR HEALTH CARE. (You must sign this form and a witness must
 13 also sign it before it is valid)

14 My name (Print your full name):

15 My address:

16 I WANT THE FOLLOWING PERSON TO BE MY HEALTH CARE AGENT

17 (an agent is your personal representative under state and
 18 federal law):

19 (Agent name)

20 (Agent address)

21 (Agent phone number)

1 (Please check box if applicable) If a guardian of my
2 person is to be appointed, I nominate the agent acting under
3 this power of attorney as guardian.

4 SUCCESSOR HEALTH CARE AGENT(S) (optional):

5 If the agent I selected is unable or does not want to make
6 health care decisions for me, then I request the person(s) I
7 name below to be my successor health care agent(s). Only one
8 person at a time can serve as my agent (add another page if you
9 want to add more successor agent names):

10

11 (Successor agent #1 name, address and phone number)

12

13 (Successor agent #2 name, address and phone number)

14 MY AGENT CAN MAKE HEALTH CARE DECISIONS FOR ME, INCLUDING:

15 (i) Deciding to accept, withdraw or decline treatment
16 for any physical or mental condition of mine, including
17 life-and-death decisions.

18 (ii) Agreeing to admit me to or discharge me from any
19 hospital, home, or other institution, including a mental
20 health facility.

21 (iii) Having complete access to my medical and mental
22 health records, and sharing them with others as needed,
23 including after I die.

24 (iv) Carrying out the plans I have already made, or, if

1 I have not done so, making decisions about my body or
2 remains, including organ, tissue or whole body donation,
3 autopsy, cremation, and burial.

4 The above grant of power is intended to be as broad as
5 possible so that my agent will have the authority to make any
6 decision I could make to obtain or terminate any type of health
7 care, including withdrawal of nutrition and hydration and other
8 life-sustaining measures.

9 I AUTHORIZE MY AGENT TO (please check any one box):

10 Make decisions for me only when I cannot make them for
11 myself. The physician(s) taking care of me will determine
12 when I lack this ability.

13 (If no box is checked, then the box above shall be
14 implemented.) OR

15 Make decisions for me only when I cannot make them for
16 myself. The physician(s) taking care of me will determine
17 when I lack this ability. Starting now, for the purpose of
18 assisting me with my health care plans and decisions, my
19 agent shall have complete access to my medical and mental
20 health records, the authority to share them with others as
21 needed, and the complete ability to communicate with my
22 personal physician(s) and other health care providers,
23 including the ability to require an opinion of my physician
24 as to whether I lack the ability to make decisions for
25 myself. OR

1 Make decisions for me starting now and continuing
2 after I am no longer able to make them for myself. While I
3 am still able to make my own decisions, I can still do so
4 if I want to.

5 The subject of life-sustaining treatment is of particular
6 importance. Life-sustaining treatments may include tube
7 feedings or fluids through a tube, breathing machines, and CPR.
8 In general, in making decisions concerning life-sustaining
9 treatment, your agent is instructed to consider the relief of
10 suffering, the quality as well as the possible extension of
11 your life, and your previously expressed wishes. Your agent
12 will weigh the burdens versus benefits of proposed treatments
13 in making decisions on your behalf.

14 Additional statements concerning the withholding or
15 removal of life-sustaining treatment are described below.
16 These can serve as a guide for your agent when making decisions
17 for you. Ask your physician or health care provider if you have
18 any questions about these statements.

19 SELECT ONLY ONE STATEMENT BELOW THAT BEST EXPRESSES YOUR WISHES
20 (optional):

21 The quality of my life is more important than the
22 length of my life. If I am unconscious and my attending
23 physician believes, in accordance with reasonable medical
24 standards, that I will not wake up or recover my ability to

1 think, communicate with my family and friends, and
 2 experience my surroundings, I do not want treatments to
 3 prolong my life or delay my death, but I do want treatment
 4 or care to make me comfortable and to relieve me of pain.

5 Staying alive is more important to me, no matter how
 6 sick I am, how much I am suffering, the cost of the
 7 procedures, or how unlikely my chances for recovery are. I
 8 want my life to be prolonged to the greatest extent
 9 possible in accordance with reasonable medical standards.

10 SPECIFIC LIMITATIONS TO MY AGENT'S DECISION-MAKING AUTHORITY:

11 The above grant of power is intended to be as broad as
 12 possible so that your agent will have the authority to make any
 13 decision you could make to obtain or terminate any type of
 14 health care. If you wish to limit the scope of your agent's
 15 powers or prescribe special rules or limit the power to
 16 authorize autopsy or dispose of remains, you may do so
 17 specifically in this form.

18

19

20 My signature:.....

21 Today's date:.....

22 HAVE YOUR WITNESS AGREE TO WHAT IS WRITTEN BELOW, AND THEN
 23 COMPLETE THE SIGNATURE PORTION:

1 I am at least 18 years old. (check one of the options
2 below):

- 3 I saw the principal sign this document, or
- 4 the principal told me that the signature or mark on
- 5 the principal signature line is his or hers.

6 I am not the agent or successor agent(s) named in this
7 document. I am not related to the principal, the agent, or the
8 successor agent(s) by blood, marriage, or adoption. I am not
9 the principal's physician, advanced practice registered nurse,
10 dentist, podiatric physician, optometrist, psychologist, or a
11 relative of one of those individuals. I am not an owner or
12 operator (or the relative of an owner or operator) of the
13 health care facility where the principal is a patient or
14 resident.

15 Witness printed name:

16 Witness address:

17 Witness signature:

18 Today's date:

19 (c) The statutory short form power of attorney for health
20 care (the "statutory health care power") authorizes the agent
21 to make any and all health care decisions on behalf of the
22 principal which the principal could make if present and under
23 no disability, subject to any limitations on the granted powers
24 that appear on the face of the form, to be exercised in such
25 manner as the agent deems consistent with the intent and

1 desires of the principal. The agent will be under no duty to
2 exercise granted powers or to assume control of or
3 responsibility for the principal's health care; but when
4 granted powers are exercised, the agent will be required to use
5 due care to act for the benefit of the principal in accordance
6 with the terms of the statutory health care power and will be
7 liable for negligent exercise. The agent may act in person or
8 through others reasonably employed by the agent for that
9 purpose but may not delegate authority to make health care
10 decisions. The agent may sign and deliver all instruments,
11 negotiate and enter into all agreements and do all other acts
12 reasonably necessary to implement the exercise of the powers
13 granted to the agent. Without limiting the generality of the
14 foregoing, the statutory health care power shall include the
15 following powers, subject to any limitations appearing on the
16 face of the form:

17 (1) The agent is authorized to give consent to and
18 authorize or refuse, or to withhold or withdraw consent to,
19 any and all types of medical care, treatment or procedures
20 relating to the physical or mental health of the principal,
21 including any medication program, surgical procedures,
22 life-sustaining treatment or provision of food and fluids
23 for the principal.

24 (2) The agent is authorized to admit the principal to
25 or discharge the principal from any and all types of
26 hospitals, institutions, homes, residential or nursing

1 facilities, treatment centers and other health care
2 institutions providing personal care or treatment for any
3 type of physical or mental condition. The agent shall have
4 the same right to visit the principal in the hospital or
5 other institution as is granted to a spouse or adult child
6 of the principal, any rule of the institution to the
7 contrary notwithstanding.

8 (3) The agent is authorized to contract for any and all
9 types of health care services and facilities in the name of
10 and on behalf of the principal and to bind the principal to
11 pay for all such services and facilities, and to have and
12 exercise those powers over the principal's property as are
13 authorized under the statutory property power, to the
14 extent the agent deems necessary to pay health care costs;
15 and the agent shall not be personally liable for any
16 services or care contracted for on behalf of the principal.

17 (4) At the principal's expense and subject to
18 reasonable rules of the health care provider to prevent
19 disruption of the principal's health care, the agent shall
20 have the same right the principal has to examine and copy
21 and consent to disclosure of all the principal's medical
22 records that the agent deems relevant to the exercise of
23 the agent's powers, whether the records relate to mental
24 health or any other medical condition and whether they are
25 in the possession of or maintained by any physician,
26 psychiatrist, psychologist, therapist, hospital, nursing

1 home or other health care provider. The authority under
2 this paragraph (4) applies to any information governed by
3 the Health Insurance Portability and Accountability Act of
4 1996 ("HIPAA") and regulations thereunder. The agent
5 serves as the principal's personal representative, as that
6 term is defined under HIPAA and regulations thereunder.

7 (5) The agent is authorized: to direct that an autopsy
8 be made pursuant to Section 2 of the Autopsy Act ~~"An Act in~~
9 ~~relation to autopsy of dead bodies", approved August 13,~~
10 ~~1965, including all amendments;~~ to make a disposition of
11 any part or all of the principal's body pursuant to the
12 Illinois Anatomical Gift Act, as now or hereafter amended;
13 and to direct the disposition of the principal's remains.

14 (6) At any time during which there is no executor or
15 administrator appointed for the principal's estate, the
16 agent is authorized to continue to pursue an application or
17 appeal for government benefits if those benefits were
18 applied for during the life of the principal.

19 (d) A physician may determine that the principal is unable
20 to make health care decisions for himself or herself only if
21 the principal lacks decisional capacity, as that term is
22 defined in Section 10 of the Health Care Surrogate Act.

23 (e) If the principal names the agent as a guardian on the
24 statutory short form, and if a court decides that the
25 appointment of a guardian will serve the principal's best
26 interests and welfare, the court shall appoint the agent to

1 serve without bond or security.

2 (Source: P.A. 99-328, eff. 1-1-16; 100-513, eff. 1-1-18;

3 revised 10-4-18.)