

1 Article 3.

2 Health Care Powers of Attorney.

3 **§ 32A-15. General purpose of this Article.**

4 (a) The General Assembly recognizes as a matter of public policy the fundamental right  
5 of an individual to control the decisions relating to his or her medical care, and that this right  
6 may be exercised on behalf of the individual by an agent chosen by the individual.

7 (b) The purpose of this Article is to establish an additional, nonexclusive method for an  
8 individual to exercise his or her right to give, withhold, or withdraw consent to medical  
9 treatment, including mental health treatment, when the individual lacks sufficient  
10 understanding or capacity to make or communicate health care decisions.

11 (c) This Article is intended and shall be construed to be consistent with the provisions  
12 of Article 23 of Chapter 90 of the General Statutes provided that in the event of a conflict  
13 between the provisions of this Article and Article 23 of Chapter 90, the provisions of Article 23  
14 of Chapter 90 control. No conflict between these Chapters exists when either a health care  
15 power of attorney or a declaration provides that the declaration is subject to decisions of a  
16 health care agent. If no declaration has been executed by the principal as provided in G.S.  
17 90-321 that expressly covers the principal's present condition and if the health care agent has  
18 been given the specific authority in a health care power of attorney to authorize the withholding  
19 or discontinuing of life-prolonging measures when the principal is in such condition, the  
20 measures may be withheld or discontinued as provided in the health care power of attorney  
21 upon the direction and under the supervision of the attending physician, as G.S. 90-322 shall  
22 not apply in such case. Nothing in this Article shall be construed to authorize any affirmative or  
23 deliberate act or omission to end life other than to permit the natural process of dying.

24 (d) This Article is intended and shall be construed to be consistent with the provisions  
25 of Part 3A of Article 16 of Chapter 130A of the General Statutes. In the event of a conflict  
26 between the provisions of this Article and Part 3A of Article 16 of Chapter 130A, the  
27 provisions of Part 3A of Article 16 of Chapter 130A control. (1991, c. 639, s. 1; 1993, c. 523,  
28 s. 1; 1998-198, s. 1; 1998-217, s. 53; 2007-502, s. 1; 2008-153, s. 4.)

29  
30 **§ 32A-16. Definitions.**

31 The following definitions apply in this Article:

- 32 (1) Disposition of remains. – The decision to bury or cremate human remains, as  
33 human remains are defined in G.S. 90-210.121, and, subject to G.S.  
34 32A-19(b), arrangements relating to burial or cremation.
- 35 (1a) Health care. – Any care, treatment, service, or procedure to maintain,  
36 diagnose, treat, or provide for the principal's physical or mental health or  
37 personal care and comfort including life-prolonging measures. "Health care"  
38 includes mental health treatment as defined in subdivision (8) of this section.
- 39 (2) Health care agent. – The person appointed as a health care attorney-in-fact.
- 40 (3) Health care power of attorney. – A written instrument that substantially  
41 meets the requirements of this Article, that is signed in the presence of two  
42 qualified witnesses, and acknowledged before a notary public, pursuant to  
43 which an attorney-in-fact or agent is appointed to act for the principal in  
44 matters relating to the health care of the principal. The notary who takes the  
45 acknowledgement may but is not required to be a paid employee of the  
46 attending physician or mental health treatment provider, a paid employee of  
47 a health facility in which the principal is a patient, or a paid employee of a  
48 nursing home or any adult care home in which the principal resides.
- 49 (4) Life-prolonging measures. – Medical procedures or interventions which in  
50 the judgment of the attending physician would serve only to postpone  
51 artificially the moment of death by sustaining, restoring, or supplanting a

1 vital function, including mechanical ventilation, dialysis, antibiotics,  
2 artificial nutrition and hydration, and similar forms of treatment.  
3 Life-prolonging measures do not include care necessary to provide comfort  
4 or to alleviate pain.

5 (5) Principal. – The person making the health care power of attorney.

6 (6) Qualified witness. – A witness in whose presence the principal has executed  
7 the health care power of attorney, who believes the principal to be of sound  
8 mind, and who states that he or she (i) is not related within the third degree  
9 to the principal nor to the principal's spouse, (ii) does not know nor have a  
10 reasonable expectation that he or she would be entitled to any portion of the  
11 estate of the principal upon the principal's death under any existing will or  
12 codicil of the principal or under the Intestate Succession Act as it then  
13 provides, (iii) is not the attending physician or mental health treatment  
14 provider of the principal, nor a licensed health care provider who is a paid  
15 employee of the attending physician or mental health treatment provider, nor  
16 a paid employee of a health facility in which the principal is a patient, nor a  
17 paid employee of a nursing home or any adult care home in which the  
18 principal resides, and (iv) does not have a claim against any portion of the  
19 estate of the principal at the time of the principal's execution of the health  
20 care power of attorney.

21 (7) Advance instruction for mental health treatment or advance instruction. – As  
22 defined in G.S. 122C-72(1).

23 (8) Mental health treatment. – The process of providing for the physical,  
24 emotional, psychological, and social needs of the principal for the principal's  
25 mental illness. "Mental health treatment" includes electroconvulsive  
26 treatment, treatment of mental illness with psychotropic medication, and  
27 admission to and retention in a facility for care or treatment of mental  
28 illness. (1991, c. 639, s. 1; 1998-198, s. 1; 1998-217, s. 53; 2005-351, s. 1;  
29 2006-226, s. 32; 2007-502, s. 2.)  
30

31 **§ 32A-17. Who may make a health care power of attorney.**

32 Any person having understanding and capacity to make and communicate health care  
33 decisions, who is 18 years of age or older, may make a health care power of attorney. (1991, c.  
34 639, s. 1.)  
35

36 **§ 32A-18. Who may act as a health care attorney-in-fact.**

37 Any competent person who is not engaged in providing health care to the principal for  
38 remuneration, and who is 18 years of age or older, may act as a health care agent. (1991, c.  
39 639, s. 1.)  
40

41 **§ 32A-19. Extent of authority; limitations of authority.**

42 (a) A principal, pursuant to a health care power of attorney, may grant to the health care  
43 agent full power and authority to make health care decisions to the same extent that the  
44 principal could make those decisions for himself or herself if he or she had capacity to make  
45 and communicate health care decisions, including without limitation, the power to authorize  
46 withholding or discontinuing life-prolonging measures and the power to authorize the giving or  
47 withholding of mental health treatment. A health care power of attorney may also contain or  
48 incorporate by reference any lawful guidelines or directions relating to the health care of the  
49 principal as the principal deems appropriate.

50 (a1) A health care power of attorney may incorporate or be combined with an advance  
51 instruction for mental health treatment prepared pursuant to Part 2 of Article 3 of Chapter 122C

1 of the General Statutes. A health care agent's decisions about mental health treatment shall be  
2 consistent with any statements the principal has expressed in an advance instruction for mental  
3 health treatment if one so exists, and if none exists, shall be consistent with what the agent  
4 believes in good faith to be the manner in which the principal would act if the principal did not  
5 lack capacity to make or communicate health care decisions. A health care agent is not subject  
6 to criminal prosecution, civil liability, or professional disciplinary action for any action taken in  
7 good faith pursuant to an advance instruction for mental health treatment.

8 (b) A health care power of attorney may authorize the health care agent to exercise any  
9 and all rights the principal may have with respect to anatomical gifts, the authorization of any  
10 autopsy, and the disposition of remains; provided this authority is limited to incurring  
11 reasonable costs related to exercising these powers, and a health care power of attorney does  
12 not give the health care agent general authority over a principal's property or financial affairs.

13 (c) A health care power of attorney may contain, and the authority of the health care  
14 agent shall be subject to, the specific limitations or restrictions as the principal deems  
15 appropriate.

16 (d) The powers and authority granted to the health care agent pursuant to a health care  
17 power of attorney shall be limited to the matters addressed in it, and, except as necessary to  
18 exercise such powers and authority relating to health care, shall not confer any power or  
19 authority with respect to the property or financial affairs of the principal.

20 (e) This Article shall not be construed to invalidate a power of attorney that authorizes  
21 an agent to make health care decisions for the principal, which was executed prior to October 1,  
22 1991.

23 (f) A health care power of attorney does not limit any authority in Article 5 of Chapter  
24 122C of the General Statutes either to take a person into custody or to admit, retain, or treat a  
25 person in a facility. (1991, c. 639, s. 1; 1998-198, s. 1; 1998-217, s. 53; 2007-502, s. 3.)  
26

### 27 **§ 32A-20. Effectiveness and duration; revocation.**

28 (a) A health care power of attorney shall become effective when and if the physician or  
29 physicians or, in the case of mental health treatment, physician or eligible psychologist as  
30 defined in G.S. 122C-3(13d), designated by the principal determine in writing that the principal  
31 lacks sufficient understanding or capacity to make or communicate decisions relating to the  
32 health care of the principal, and shall continue in effect during the incapacity of the principal.  
33 The determination shall be made by the principal's attending physician or eligible psychologist  
34 if the physician or physicians or eligible psychologist designated by the principal is unavailable  
35 or is otherwise unable or unwilling to make this determination or if the principal failed to  
36 designate a physician or physicians or eligible psychologist to make this determination. A  
37 health care power of attorney may include a provision that, if the principal does not designate a  
38 physician for reasons based on his religious or moral beliefs as specified in the health care  
39 power of attorney, a person designated by the principal in the health care power of attorney  
40 may certify in writing, acknowledged before a notary public, that the principal lacks sufficient  
41 understanding or capacity to make or communicate decisions relating to his health care. The  
42 person so designated must be a competent person 18 years of age or older, not engaged in  
43 providing health care to the principal for remuneration, and must be a person other than the  
44 health care agent. For purposes of exercising authority described in G.S. 32A-19(b), however, a  
45 health care power of attorney shall be effective following the death of the principal without  
46 regard to the principal's understanding or capacity when the principal was living. Nothing in  
47 this section shall be construed to prevent a principal from revoking a health care power of  
48 attorney.

49 (b) Except for purposes of exercising authority granted by a health care power of  
50 attorney with respect to anatomical gifts, autopsy, or disposition of remains as provided in G.S.  
51 32A-19(b), a health care power of attorney is revoked by the death of the principal. A health

1 care power of attorney may be revoked by the principal at any time, so long as the principal is  
2 capable of making and communicating health care decisions. The principal may exercise this  
3 right of revocation by executing and acknowledging an instrument of revocation, by executing  
4 and acknowledging a subsequent health care power of attorney, or in any other manner by  
5 which the principal is able to communicate an intent to revoke. This revocation becomes  
6 effective only upon communication by the principal to each health care agent named in the  
7 revoked health care power of attorney and to the principal's attending physician or eligible  
8 psychologist.

9 (c) The authority of a health care agent who is the spouse of the principal shall be  
10 revoked upon the entry by a court of a decree of divorce or separation between the principal  
11 and the health care agent; provided that if the health care power of attorney designates a  
12 successor health care agent, the successor shall serve as the health care agent, and the health  
13 care power of attorney shall not be revoked. (1991, c. 639, s. 1; 1993, c. 523, s. 2; 1998-198, s.  
14 1; 1998-217, s. 53; 2005-351, s. 2; 2006-226, s. 32; 2011-344, s. 10.)  
15

16 **§ 32A-21. Appointment, resignation, removal, and substitution.**

17 (a) A health care power of attorney may contain provisions relating to the appointment,  
18 resignation, removal and substitution of the health care agent.

19 (b) If all health care agents named in the instrument or substituted, die or for any reason  
20 fail or refuse to act, and all methods of substitution have been exhausted, the health care power  
21 of attorney shall cease to be effective. (1991, c. 639, s. 1.)  
22

23 **§ 32A-22. Relation of the health care agent to a court-appointed fiduciary and to a**  
24 **general attorney-in-fact.**

25 (a) If, following the execution of a health care power of attorney, a court of competent  
26 jurisdiction appoints a guardian of the person of the principal, or a general guardian with  
27 powers over the person of the principal, the guardian may petition the court, after giving notice  
28 to the health care agent, to suspend the authority of the health care agent during the  
29 guardianship. The court may suspend the authority of the health care agent for good cause  
30 shown, provided that the court's order must direct whether the guardian shall act consistently  
31 with the health care power of attorney or whether and in what respect the guardian may deviate  
32 from it. Any order suspending the authority of the health care agent must set forth the court's  
33 findings of fact and conclusions of law. The guardian shall act consistently with G.S.  
34 35A-1201(a)(5). A health care provider shall be fully protected from liability in relying on a  
35 health care power of attorney until given actual notice of the court's order suspending the  
36 authority of the health care agent.

37 (b) A principal may nominate, by a health care power of attorney, the guardian of the  
38 person of the principal if a guardianship proceeding is thereafter commenced. The court shall  
39 make its appointment in accordance with the principal's most recent nomination in an  
40 unrevoked health care power of attorney, except for good cause shown.

41 (c) The execution of a health care power of attorney shall not revoke, restrict or  
42 otherwise affect any nonhealth care powers granted by the principal to an attorney-in-fact  
43 pursuant to a general power of attorney; provided that the powers granted to the health care  
44 agent with respect to health care matters shall be superior to any similar powers granted by the  
45 principal to an attorney-in-fact under a general power of attorney.

46 (d) A health care power of attorney may be combined with or incorporated into a  
47 general power of attorney which is executed in accordance with the requirements of this  
48 Article. (1991, c. 639, s. 1; 1998-198, s. 1; 1998-217, s. 53; 2007-502, s. 4.)  
49

50 **§ 32A-23. Article 2, Chapter 32A, not applicable.**

1 The provisions of Article 2 of this Chapter shall not be applicable to a health care power of  
2 attorney executed pursuant to this Article. (1991, c. 639, s. 1.)

3  
4 **§ 32A-24. Reliance on health care power of attorney; defense.**

5 (a) Any physician or other health care provider involved in the medical care of the  
6 principal may rely upon the authority of the health care agent contained in a signed and  
7 acknowledged health care power of attorney in the absence of actual knowledge of revocation  
8 of the health care power of attorney. The physician or health care provider may rely upon a  
9 copy of the health care power of attorney obtained from the Advance Health Care Directive  
10 Registry maintained by the Secretary of State pursuant to Article 21 of Chapter 130A of the  
11 General Statutes to the same extent that the individual may rely upon the original document.

12 (b) All health care decisions made by a health care agent pursuant to a health care  
13 power of attorney during any period following a determination that the principal lacks  
14 understanding or capacity to make or communicate health care decisions shall have the same  
15 effect as if the principal were not incapacitated and were present and acting on his or her own  
16 behalf. Any health care provider relying in good faith on the authority of a health care agent  
17 shall be protected to the full extent of the power conferred upon the health care agent, and no  
18 person so relying on the authority of the health care agent shall be liable, by reason of his  
19 reliance, for actions taken pursuant to a decision of the health care agent.

20 (c) The withholding or withdrawal of life-prolonging measures by or under the orders  
21 of a physician pursuant to the authorization of a health care agent shall not be considered  
22 suicide or the cause of death for any civil or criminal purpose nor shall it be considered  
23 unprofessional conduct or a lack of professional competence. Any person, institution or facility,  
24 including without limitation the health care agent and the attending physician, against whom  
25 criminal or civil liability is asserted because of conduct described in this section, may interpose  
26 this section as a defense.

27 (d) The protections of this section extend to any valid health care power of attorney,  
28 including a document valid under G.S. 32A-27; these protections are not limited to health care  
29 powers of attorney prepared in accordance with the statutory form provided in G.S. 32A-25.1,  
30 or to health care powers of attorney filed with the Advance Health Care Directive Registry  
31 maintained by the Secretary of State. A health care provider may rely in good faith on an oral  
32 or written statement by legal counsel that a document appears to meet applicable statutory  
33 requirements for a health care power of attorney. These protections also extend to a document  
34 executed in another jurisdiction that is valid as a health care power of attorney under G.S.  
35 32A-27. A health care provider shall have no liability for acting in accordance with a revoked  
36 health care power of attorney unless that provider has actual notice of the revocation. (1991, c.  
37 639, s. 1; 2001-455, s. 3; 2001-513, s. 30(b); 2007-502, ss. 5(a), (b).)

38  
39 **§ 32A-25:** Repealed by Session Laws 2007-502, s. 6(a), effective October 1, 2007.

40  
41 **§ 32A-25.1. Statutory form health care power of attorney.**

42 (a) The use of the following form in the creation of a health care power of attorney is  
43 lawful and, when used, it shall meet the requirements of and be construed in accordance with  
44 the provisions of this Article:

45  
46 **HEALTH CARE POWER OF ATTORNEY**

47  
48 **NOTE: YOU SHOULD USE THIS DOCUMENT TO NAME A PERSON AS YOUR**  
49 **HEALTH CARE AGENT IF YOU ARE COMFORTABLE GIVING THAT PERSON**  
50 **BROAD AND SWEEPING POWERS TO MAKE HEALTH CARE DECISIONS FOR**

1 **YOU. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A**  
2 **HEALTH CARE POWER OF ATTORNEY.**

3  
4 ***EXPLANATION:** You have the right to name someone to make health care decisions for you*  
5 *when you cannot make or communicate those decisions. This form may be used to create a*  
6 *health care power of attorney, and meets the requirements of North Carolina law. However,*  
7 *you are not required to use this form, and North Carolina law allows the use of other forms*  
8 *that meet certain requirements. If you prepare your own health care power of attorney, you*  
9 *should be very careful to make sure it is consistent with North Carolina law.*

10  
11 *This document gives the person you designate as your health care agent **broad powers** to make*  
12 *health care decisions for you when you cannot make the decision yourself or cannot*  
13 *communicate your decision to other people. You should discuss your wishes concerning*  
14 *life-prolonging measures, mental health treatment, and other health care decisions with your*  
15 *health care agent. Except to the extent that you express specific limitations or restrictions in*  
16 *this form, your health care agent may make any health care decision you could make yourself.*

17  
18 *This form does not impose a duty on your health care agent to exercise granted powers, but*  
19 *when a power is exercised, your health care agent will be obligated to use due care to act in*  
20 *your best interests and in accordance with this document.*

21  
22 *This Health Care Power of Attorney form is intended to be valid in any jurisdiction in which it*  
23 *is presented, but places outside North Carolina may impose requirements that this form does*  
24 *not meet.*

25  
26 *If you want to use this form, you must complete it, sign it, and have your signature witnessed by*  
27 *two qualified witnesses and proved by a notary public. Follow the instructions about which*  
28 *choices you can initial very carefully. **Do not sign this form until** two witnesses and a notary*  
29 *public are present to watch you sign it. You then should give a copy to your health care agent*  
30 *and to any alternates you name. You should consider filing it with the Advance Health Care*  
31 *Directive Registry maintained by the North Carolina Secretary of State:*  
32 <http://www.nclifelinks.org/ahcdr/>

33  
34 **1. Designation of Health Care Agent.**

35  
36 I, \_\_\_\_\_, being of sound mind, hereby appoint the following person(s) to serve  
37 as my health care agent(s) to act for me and in my name (in any way I could act in person) to  
38 make health care decisions for me as authorized in this document. My designated health care  
39 agent(s) shall serve alone, in the order named.

40  
41 A. Name: \_\_\_\_\_ Home Telephone: \_\_\_\_\_  
42 Home Address: \_\_\_\_\_ Work Telephone: \_\_\_\_\_  
43 \_\_\_\_\_ Cellular Telephone: \_\_\_\_\_

44  
45 B. Name: \_\_\_\_\_ Home Telephone: \_\_\_\_\_  
46 Home Address: \_\_\_\_\_ Work Telephone: \_\_\_\_\_  
47 \_\_\_\_\_ Cellular Telephone: \_\_\_\_\_

48  
49 C. Name: \_\_\_\_\_ Home Telephone: \_\_\_\_\_  
50 Home Address: \_\_\_\_\_ Work Telephone: \_\_\_\_\_  
51 \_\_\_\_\_ Cellular Telephone: \_\_\_\_\_

1  
2 Any successor health care agent designated shall be vested with the same power and duties as if  
3 originally named as my health care agent, and shall serve any time his or her predecessor is not  
4 reasonably available or is unwilling or unable to serve in that capacity.  
5

6 **2. Effectiveness of Appointment.**  
7

8 My designation of a health care agent expires only when I revoke it. Absent revocation, the  
9 authority granted in this document shall become effective when and if one of the physician(s)  
10 listed below determines that I lack capacity to make or communicate decisions relating to my  
11 health care, and will continue in effect during that incapacity, or until my death, except if I  
12 authorize my health care agent to exercise my rights with respect to anatomical gifts, autopsy,  
13 or disposition of my remains, this authority will continue after my death to the extent necessary  
14 to exercise that authority.  
15

16 1. \_\_\_\_\_ (*Physician*)  
17

18 2. \_\_\_\_\_ (*Physician*)  
19

20 If I have not designated a physician, or no physician(s) named above is reasonably available,  
21 the determination that I lack capacity to make or communicate decisions relating to my health  
22 care shall be made by my attending physician.  
23

24 **3. Revocation.**  
25

26 Any time while I am competent, I may revoke this power of attorney in a writing I sign or by  
27 communicating my intent to revoke, in any clear and consistent manner, to my health care  
28 agent or my health care provider.  
29

30 **4. General Statement of Authority Granted.**  
31

32 Subject to any restrictions set forth in Section 5 below, I grant to my health care agent full  
33 power and authority to make and carry out all health care decisions for me. These decisions  
34 include, but are not limited to:  
35

36 A. Requesting, reviewing, and receiving any information, verbal or written,  
37 regarding my physical or mental health, including, but not limited to,  
38 medical and hospital records, and to consent to the disclosure of this  
39 information.  
40

41 B. Employing or discharging my health care providers.  
42

43 C. Consenting to and authorizing my admission to and discharge from a  
44 hospital, nursing or convalescent home, hospice, long-term care facility, or  
45 other health care facility.  
46

47 D. Consenting to and authorizing my admission to and retention in a facility for  
48 the care or treatment of mental illness.  
49

- 1 E. Consenting to and authorizing the administration of medications for mental  
2 health treatment and electroconvulsive treatment (ECT) commonly referred  
3 to as "shock treatment."  
4
- 5 F. Giving consent for, withdrawing consent for, or withholding consent for,  
6 X-ray, anesthesia, medication, surgery, and all other diagnostic and  
7 treatment procedures ordered by or under the authorization of a licensed  
8 physician, dentist, podiatrist, or other health care provider. This  
9 authorization specifically includes the power to consent to measures for  
10 relief of pain.  
11
- 12 G. Authorizing the withholding or withdrawal of life-prolonging measures.  
13
- 14 H. Providing my medical information at the request of any individual acting as  
15 my attorney-in-fact under a durable power of attorney or as a Trustee or  
16 successor Trustee under any Trust Agreement of which I am a Grantor or  
17 Trustee, or at the request of any other individual whom my health care agent  
18 believes should have such information. I desire that such information be  
19 provided whenever it would expedite the prompt and proper handling of my  
20 affairs or the affairs of any person or entity for which I have some  
21 responsibility. In addition, I authorize my health care agent to take any and  
22 all legal steps necessary to ensure compliance with my instructions  
23 providing access to my protected health information. Such steps shall  
24 include resorting to any and all legal procedures in and out of courts as may  
25 be necessary to enforce my rights under the law and shall include attempting  
26 to recover attorneys' fees against anyone who does not comply with this  
27 health care power of attorney.  
28
- 29 I. To the extent I have not already made valid and enforceable arrangements  
30 during my lifetime that have not been revoked, exercising any right I may  
31 have to authorize an autopsy or direct the disposition of my remains.  
32
- 33 J. Taking any lawful actions that may be necessary to carry out these decisions,  
34 including, but not limited to: (i) signing, executing, delivering, and  
35 acknowledging any agreement, release, authorization, or other document that  
36 may be necessary, desirable, convenient, or proper in order to exercise and  
37 carry out any of these powers; (ii) granting releases of liability to medical  
38 providers or others; and (iii) incurring reasonable costs on my behalf related  
39 to exercising these powers, provided that this health care power of attorney  
40 shall not give my health care agent general authority over my property or  
41 financial affairs.  
42

## 43 **5. Special Provisions and Limitations.** 44

45 (Notice: The authority granted in this document is intended to be as broad as possible so that  
46 your health care agent will have authority to make any decisions you could make to obtain or  
47 terminate any type of health care treatment or service. If you wish to limit the scope of your  
48 health care agent's powers, you may do so in this section. If none of the following are initialed,  
49 there will be no special limitations on your agent's authority.)  
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*(Initial)*

A. Limitations about Artificial Nutrition or Hydration: In exercising the authority to make health care decisions on my behalf, my health care agent:  
shall NOT have the authority to withhold artificial nutrition (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
*(Initial)*

shall NOT have the authority to withhold artificial hydration (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:

\_\_\_\_\_  
\_\_\_\_\_

**NOTE: If you initial either block but do not insert any special provisions, your health care agent shall have NO AUTHORITY to withhold artificial nutrition or hydration.**

\_\_\_\_\_  
*(Initial)*

B. Limitations Concerning Health Care Decisions. In exercising the authority to make health care decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any specific provisions you deem appropriate such as: your own definition of when life-prolonging measures should be withheld or discontinued, or instructions to refuse any specific types of treatment that are inconsistent with your religious beliefs, or are unacceptable to you for any other reason.)

\_\_\_\_\_  
\_\_\_\_\_

**NOTE: DO NOT initial unless you insert a limitation.**

\_\_\_\_\_  
*(Initial)*

C. Limitations Concerning Mental Health Decisions. In exercising the authority to make mental health decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any specific provisions you deem appropriate such as: limiting the grant of authority to make only mental health treatment decisions, your own instructions regarding the administration or withholding of psychotropic medications and electroconvulsive treatment (ECT), instructions regarding your admission to and retention in a health care facility for mental health treatment, or instructions to refuse any specific types of treatment that are unacceptable to you.)

\_\_\_\_\_  
\_\_\_\_\_

**NOTE: DO NOT initial unless you insert a limitation.**

\_\_\_\_\_  
*(Initial)*

D. Advance Instruction for Mental Health Treatment. (Notice: This health care power of attorney may incorporate or be combined with an advance instruction for mental health treatment, executed in accordance with Part 2 of Article 3 of

Chapter 122C of the General Statutes, which you may use to state your instructions regarding mental health treatment in the event you lack capacity to make or communicate mental health treatment decisions. Because your health care agent's decisions must be consistent with any statements you have expressed in an advance instruction, you should indicate here whether you have executed an advance instruction for mental health treatment):

\_\_\_\_\_  
\_\_\_\_\_

**NOTE: DO NOT initial unless you insert a limitation.**

\_\_\_\_\_  
*(Initial)*

E. Autopsy and Disposition of Remains. In exercising the authority to make decisions regarding autopsy and disposition of remains on my behalf, the authority of my health care agent is subject to the following special provisions and limitations. (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding burial or cremation):

\_\_\_\_\_  
\_\_\_\_\_

**NOTE: DO NOT initial unless you insert a limitation.**

**6. Organ Donation.**

To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, my health care agent may exercise any right I may have to:

\_\_\_\_\_  
*(Initial)*

donate any needed organs or parts; or

\_\_\_\_\_  
*(Initial)*

donate only the following organs or parts:

**NOTE: DO NOT INITIAL BOTH BLOCKS ABOVE.**

\_\_\_\_\_  
*(Initial)*

donate my body for anatomical study if needed.

\_\_\_\_\_  
*(Initial)*

In exercising the authority to make donations, my health care agent is subject to the following special provisions and limitations: (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding gifts of the body or body parts.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTE: DO NOT initial unless you insert a limitation.**

1                   **NOTE: NO AUTHORITY FOR ORGAN DONATION IS GRANTED IN**  
2                   **THIS INSTRUMENT WITHOUT YOUR INITIALS.**

3  
4   **7. Guardianship Provision.**

5  
6   If it becomes necessary for a court to appoint a guardian of my person, I nominate the persons  
7   designated in Section 1, in the order named, to be the guardian of my person, to serve without  
8   bond or security. The guardian shall act consistently with G.S. 35A-1201(a)(5).  
9

10   **8. Reliance of Third Parties on Health Care Agent.**

- 11  
12           A.   No person who relies in good faith upon the authority of or any  
13           representations by my health care agent shall be liable to me, my estate, my  
14           heirs, successors, assigns, or personal representatives, for actions or  
15           omissions in reliance on that authority or those representations.  
16           B.   The powers conferred on my health care agent by this document may be  
17           exercised by my health care agent alone, and my health care agent's  
18           signature or action taken under the authority granted in this document may  
19           be accepted by persons as fully authorized by me and with the same force  
20           and effect as if I were personally present, competent, and acting on my own  
21           behalf. All acts performed in good faith by my health care agent pursuant to  
22           this power of attorney are done with my consent and shall have the same  
23           validity and effect as if I were present and exercised the powers myself, and  
24           shall inure to the benefit of and bind me, my estate, my heirs, successors,  
25           assigns, and personal representatives. The authority of my health care agent  
26           pursuant to this power of attorney shall be superior to and binding upon my  
27           family, relatives, friends, and others.  
28

29   **9. Miscellaneous Provisions.**

- 30  
31           A.   Revocation of Prior Powers of Attorney. I revoke any prior health care  
32           power of attorney. The preceding sentence is not intended to revoke any  
33           general powers of attorney, some of the provisions of which may relate to  
34           health care; however, this power of attorney shall take precedence over any  
35           health care provisions in any valid general power of attorney I have not  
36           revoked.  
37  
38           B.   Jurisdiction, Severability, and Durability. This Health Care Power of  
39           Attorney is intended to be valid in any jurisdiction in which it is presented.  
40           The powers delegated under this power of attorney are severable, so that the  
41           invalidity of one or more powers shall not affect any others. This power of  
42           attorney shall not be affected or revoked by my incapacity or mental  
43           incompetence.  
44  
45           C.   Health Care Agent Not Liable. My health care agent and my health care  
46           agent's estate, heirs, successors, and assigns are hereby released and forever  
47           discharged by me, my estate, my heirs, successors, assigns, and personal  
48           representatives from all liability and from all claims or demands of all kinds  
49           arising out of my health care agent's acts or omissions, except for my health  
50           care agent's willful misconduct or gross negligence.  
51

1 D. No Civil or Criminal Liability. No act or omission of my health care agent,  
2 or of any other person, entity, institution, or facility acting in good faith in  
3 reliance on the authority of my health care agent pursuant to this Health Care  
4 Power of Attorney shall be considered suicide, nor the cause of my death for  
5 any civil or criminal purposes, nor shall it be considered unprofessional  
6 conduct or as lack of professional competence. Any person, entity,  
7 institution, or facility against whom criminal or civil liability is asserted  
8 because of conduct authorized by this Health Care Power of Attorney may  
9 interpose this document as a defense.

10  
11 E. Reimbursement. My health care agent shall be entitled to reimbursement for  
12 all reasonable expenses incurred as a result of carrying out any provision of  
13 this directive.

14  
15 By signing here, I indicate that I am mentally alert and competent, fully informed as to the  
16 contents of this document, and understand the full import of this grant of powers to my health  
17 care agent.

18  
19 This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

20  
21 \_\_\_\_\_(SEAL)  
22

23 I hereby state that the principal, \_\_\_\_\_, being of sound mind, signed (or directed  
24 another to sign on the principal's behalf) the foregoing health care power of attorney in my  
25 presence, and that I am not related to the principal by blood or marriage, and I would not be  
26 entitled to any portion of the estate of the principal under any existing will or codicil of the  
27 principal or as an heir under the Intestate Succession Act, if the principal died on this date  
28 without a will. I also state that I am not the principal's attending physician, nor a licensed health  
29 care provider or mental health treatment provider who is (1) an employee of the principal's  
30 attending physician or mental health treatment provider, (2) an employee of the health facility  
31 in which the principal is a patient, or (3) an employee of a nursing home or any adult care home  
32 where the principal resides. I further state that I do not have any claim against the principal or  
33 the estate of the principal.

34  
35 Date: \_\_\_\_\_ Witness: \_\_\_\_\_  
36

37 Date: \_\_\_\_\_ Witness: \_\_\_\_\_  
38

39 \_\_\_\_\_COUNTY, \_\_\_\_\_STATE  
40

41 Sworn to (or affirmed) and subscribed before me this day by \_\_\_\_\_  
42 *(type/print name of signer)*

43  
44 \_\_\_\_\_  
45 *(type/print name of witness)*

46  
47 \_\_\_\_\_  
48 *(type/print name of witness)*

49  
50  
51 Date: \_\_\_\_\_

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*(Official Seal)*

*Signature of Notary Public*

\_\_\_\_\_, Notary Public  
*Printed or typed name*

My commission expires: \_\_\_\_\_

(b) Use of the statutory form prescribed in this section is an optional and nonexclusive method for creating a health care power of attorney and does not affect the use of other forms of health care powers of attorney, including previous statutory forms. (1991, c. 639, s. 1; 1993, c. 523, s. 3; 1998-198, s. 1; 1998-217, s. 53; 2005-351, s. 3; 2006-226, s. 32; 2007-502, s. 6(b); 2008-187, s. 37(a).)

**§ 32A-26. Health care power of attorney and declaration of desire for natural death.**

A health care power of attorney meeting the requirements of this Article may be combined with or incorporated into a Declaration of A Desire For A Natural Death which meets the requirements of Article 23 of Chapter 90 of the General Statutes. (1991, c. 639, s. 1.)

**§ 32A-27. Health care powers of attorney executed in other jurisdictions.**

Notwithstanding G.S. 32A-16(3), a health care power of attorney or similar document executed in a jurisdiction other than North Carolina shall be valid as a health care power of attorney in this State if it appears to have been executed in accordance with the applicable requirements of that jurisdiction or of this State. (2007-502, s. 7.)