

**WORKING DRAFT**

SENATE FILE NO. \_\_\_\_\_

Uniform health care decisions.

Sponsored by: SDRAFT

A BILL

for

1 AN ACT relating to health care; creating a uniform health  
2 care decisions act; authorizing and prescribing sample  
3 forms for advance health care directives; authorizing and  
4 prescribing sample forms for powers of attorney for health  
5 care; prescribing duties of health care surrogates and  
6 health care providers as specified; providing for immunity,  
7 monetary damages and injunctive relief; providing  
8 statements of legislative intent; repealing the durable  
9 power of attorney for health care statute and living will  
10 statute; and providing for an effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.** W.S. 35-22-401 through 35-22-417 are  
15 created to read:

1

2

**ARTICLE 4. WYOMING HEALTH-CARE DECISIONS ACT**

3

4

**35-22-401. Short title.**

5

6

This act may be cited as the Wyoming Health-Care  
7 Decisions Act.

8

9

**35-22-402. Definitions.**

10

11

(a) As used in this act:

12

13

14

15

(i) "Advance health-care directive" means an  
individual instruction or a power of attorney for health  
care, or both.

16

17

18

19

(ii) "Agent" means an individual designated in a  
power of attorney for health care to make a health-care  
decision for the individual granting the power.

1

2 (iii) "Artificial nutrition and hydration" means  
3 supplying food and water through a conduit, such as a tube  
4 or an intravenous line where the recipient is not required  
5 to chew or swallow voluntarily, including, but not limited  
6 to, nasogastric tubes, gastrostomies, jejunostomies, and  
7 intravenous infusions. Artificial nutrition and hydration  
8 does not include assisted feeding, such as spoon or bottle  
9 feeding.

10

11 (iv) "Capacity" means an individual's ability to  
12 understand the significant benefits, risks, and  
13 alternatives to proposed health care and to make and  
14 communicate a health-care decision.

15

16 (v) "Community care facility" means a public or  
17 private facility responsible for the day-to-day care of a  
18 disabled individual.

19

1           (vi) "Emancipated minor" means a minor who has  
2 become emancipated as provided in W.S. 14-1-201 through 14-  
3 1-206.

4           (vii) "Guardian" means a judicially appointed  
5 guardian or conservator having authority to make a health-  
6 care decision for an individual.

7  
8           (viii) "Health care" means any care, treatment,  
9 service, or procedure to maintain, diagnose, or otherwise  
10 affect an individual's physical or mental condition.

11  
12           (ix) "Health-care decision" means a decision  
13 made by an individual or the individual's agent, guardian,  
14 or surrogate, regarding the individual's health care,  
15 including:

16  
17           (A) Selection and discharge of health-care  
18 providers and institutions;

19

1                   (B) Approval or disapproval of diagnostic  
2 tests, surgical procedures, programs of medication, and  
3 orders not to resuscitate; and

4

5                   (C) Directions to provide, withhold, or  
6 withdraw artificial nutrition and hydration and all other  
7 forms of health care.

8

9                   (x) "Health-care institution" means an  
10 institution, facility, or agency licensed, certified, or  
11 otherwise authorized or permitted by law to provide health  
12 care in the ordinary course of business.

13

14                   (xi) "Health-care provider" means any person  
15 licensed under the Wyoming statutes and practicing within  
16 the scope of that license as a podiatrist, chiropractor,  
17 dentist, nurse, optometrist, pharmacist, physical  
18 therapist, physician, surgeon, psychologist or respiratory  
19 care practitioner.

20

1           (xii) "Individual instruction" means an  
2 individual's direction concerning a health-care decision  
3 for the individual.

4

5           (xiii) "Physician" means an individual  
6 authorized to practice medicine under W.S. 33-26-301 et  
7 seq.

8

9           (xiv) "Power of attorney for health care" means  
10 the designation of an agent to make health-care decisions  
11 for the individual granting the power.

12

13           (xv) "Primary physician" means a physician  
14 designated by an individual or the individual's agent,  
15 guardian, or surrogate, to have primary responsibility for  
16 the individual's health care or, in the absence of a  
17 designation or if the designated physician is not  
18 reasonably available, a physician who undertakes the  
19 responsibility.

20

1           (xvi) "Reasonably available" means readily  
2 available to be contacted without undue effort and willing  
3 and able to act in a timely manner considering the urgency  
4 of the patient's health-care needs.

5

6           (xvii) "Residential care facility" means a  
7 public or private facility providing for the residential  
8 and health care needs of the elderly, the developmentally  
9 disabled or the chronic mentally ill.

10

11           (xviii) "State" means a state of the United  
12 States, the District of Columbia, the Commonwealth of  
13 Puerto Rico, or a territory or insular possession subject  
14 to the jurisdiction of the United States.

15

16           (xix) "Supervising health-care provider" means  
17 the health-care provider who has undertaken primary  
18 responsibility for an individual's health care.

19

20           (xx) "Surrogate" means an adult individual or  
21 individuals who:

1

2

(A) Have capacity;

3

4

(B) Are reasonably available;

5

6

(C) Are willing to make health-care decisions, including decisions to initiate, refuse to initiate, continue or discontinue the use of a life sustaining procedure on behalf of a patient who lacks capacity; and

11

12

(D) Are identified by the supervising health care provider in accordance with this act as the person or persons who are to make those decisions in accordance with this act.

16

17

**35-22-403. Advance health care directives.**

18

19

(a) An adult or emancipated minor may give an individual instruction for an advance health-care

20



1 directive. The instruction may be oral or written. The  
2 instruction may be limited to take effect only if a  
3 specified condition arises.

4

5 (b) An adult or emancipated minor may execute a power  
6 of attorney for health care, which may authorize the agent  
7 to make any health-care decision the principal could have  
8 made while having capacity. The power must be in writing  
9 and signed by the principal or by another person in the  
10 principal's presence and at the principal's expressed  
11 direction. The power remains in effect notwithstanding the  
12 principal's later incapacity and may include individual  
13 instructions. Unless related to the principal by blood,  
14 marriage, or adoption, an agent may not be an owner,  
15 operator, or employee of a residential or community care  
16 facility at which the principal is receiving care. The  
17 durable power of attorney must either be sworn and  
18 acknowledged before a notary public or must be signed by at  
19 least two (2) witnesses, each of whom witnessed either the  
20 signing of the instrument by the principal or the  
21 principal's acknowledgement of the signature or of the  
22 instrument, each witness making the following declaration  
23 in substance:

1 I declare under penalty of perjury under the laws  
2 of Wyoming that the person who signed or  
3 acknowledged this document is personally known to  
4 me to be the principal, that the principal signed  
5 or acknowledge this document in my presence, that  
6 the Principal appears to be of sound mind and  
7 under no duress, fraud or undue influence, that I  
8 am not the person appointed as attorney-in-fact  
9 by this document, and that I am not a treating  
10 health care provider, an employee of a treating  
11 health care provider, the operator of a community  
12 care facility, an employee of an operator of a  
13 community care facility, the operator of a  
14 residential care facility, nor an employee of an  
15 operator of a residential care facility.

16

17 (c) None of the following shall be used as a witness  
18 for a power of attorney for health care:

19

20 (i) A treating health care provider or employee  
21 of the provider;

22

1           (ii) The attorney-in-fact nominated in the  
2 writing;

3

4           (iii) The operator of a community care facility  
5 or employee of the operator or facility;

6

7           (iv) The operator of a residential care facility  
8 or employee of the operator or facility.

9

10          (d) Unless otherwise specified in a power of attorney  
11 for health care, the authority of an agent becomes  
12 effective only upon a determination that the principal  
13 lacks capacity, and ceases to be effective upon a  
14 determination that the principal has recovered capacity.

15

16          (e) Unless otherwise specified in a written advance  
17 health-care directive, a determination that an individual  
18 lacks or has recovered capacity, or that another condition  
19 exists that affects an individual instruction or the  
20 authority of an agent, must be made by the supervising  
21 health care provider.

1

2 (f) An agent shall make a health-care decision in  
3 accordance with the principal's individual instructions, if  
4 any, and other wishes to the extent known to the agent.  
5 Otherwise, the agent shall make the decision in accordance  
6 with the agent's determination of the principal's best  
7 interest. In determining the principal's best interest, the  
8 agent shall consider the principal's personal values to the  
9 extent known to the agent.

10

11 (g) A health-care decision made by an agent for a  
12 principal is effective without judicial approval.

13

14 (h) A written advance health-care directive may  
15 include the individual's nomination of a guardian of the  
16 person.

17

18 (j) An advance health-care directive is valid for  
19 purposes of this act if it complies with this act,  
20 regardless of when or where executed or communicated.

21

1           **35-22-404. Revocation of advance health care**  
2 **directive.**

3

4           (a) An individual may revoke the designation of an  
5 agent only by a signed writing or by personally informing  
6 the supervising health-care provider.

7

8           (b) An individual may revoke all or part of an  
9 advance health-care directive, other than the designation  
10 of an agent, at any time and in any manner that  
11 communicates an intent to revoke.

12

13           (c) A health-care provider, agent, guardian, or  
14 surrogate who is informed of a revocation shall promptly  
15 communicate the fact of the revocation to the supervising  
16 health-care provider and to any health-care institution at  
17 which the patient is receiving care.

18

19           (d) A decree of annulment, divorce, dissolution of  
20 marriage, or legal separation revokes a previous

1 designation of a spouse as agent unless otherwise specified  
2 in the decree or in a power of attorney for health care.

3

4 (e) An advance health-care directive that conflicts  
5 with an earlier advance health-care directive revokes the  
6 earlier directive to the extent of the conflict.

7

8 **35-22-405. Optional form.**

9

10 (a) The following form may, but need not, be used to  
11 create an advance health-care directive. The other sections  
12 of this act govern the effect of this or any other writing  
13 used to create an advance health-care directive. An  
14 individual may complete or modify all or any part of the  
15 following form:

16 ADVANCE HEALTH-CARE DIRECTIVE

17

18 Explanation

19 You have the right to give instructions about your own  
20 health care. You also have the right to name someone else  
21 to make health-care decisions for you. This form lets you

1 do either or both of these things. It also lets you express  
2 your wishes regarding donation of organs and the  
3 designation of your supervising health care provider. If  
4 you use this form, you may complete or modify all or any  
5 part of it. You are free to use a different form.

6 Part 1 of this form is a power of attorney for health care.  
7 Part 1 lets you name another individual as agent to make  
8 health-care decisions for you if you become incapable of  
9 making your own decisions or if you want someone else to  
10 make those decisions for you now even though you are still  
11 capable.

12 **\*\*\* STAFF COMMENTS \*\*\***  
13

14 **The preceding statement is also consistent with**  
15 **existing statutes on durable powers of attorney**  
16 **for health care, which allow the principal to**  
17 **give a power of attorney that is immediately**  
18 **effective or that only becomes effective in the**  
19 **event of specified conditions. W.S. 3-5-204.**  
20 **Nevertheless, subcommittee members thought that**  
21 **inclusion of the statement in the statutorily-**  
22 **approved form may be confusing for most lay**  
23 **persons.**  
24

25 You may also name an alternate agent to act for you if  
26 your first choice is not willing, able, or reasonably  
27 available to make decisions for you. Unless related to you,  
28 your agent may not be an owner, operator, or employee of a

1 residential or community care facility at which you are  
2 receiving care.

3 Unless the form you sign limits the authority of your  
4 agent, your agent may make all health-care decisions for  
5 you. This form has a place for you to limit the authority  
6 of your agent. You need not limit the authority of your  
7 agent if you wish to rely on your agent for all health-care  
8 decisions that may have to be made. If you choose not to  
9 limit the authority of your agent, your agent will have the  
10 right to:

11 (a) consent or refuse consent to any care, treatment,  
12 service, or procedure to maintain, diagnose, or otherwise  
13 affect a physical or mental condition;

14

15 (b) select or discharge health-care providers and  
16 institutions;

17

18 (c) approve or disapprove diagnostic tests, surgical  
19 procedures, programs of medication, and orders not to  
20 resuscitate; and

21



1           (d) direct the provision, withholding, or withdrawal  
2 of artificial nutrition and hydration and all other forms  
3 of health care.

4 Part 2 of this form lets you give specific instructions  
5 about any aspect of your health care. Choices are provided  
6 for you to express your wishes regarding the provision,  
7 withholding, or withdrawal of treatment to keep you alive,  
8 including the provision of artificial nutrition and  
9 hydration, as well as the provision of pain relief. Space  
10 is also provided for you to add to the choices you have  
11 made or for you to write out any additional wishes.

12 Part 3 of this form lets you express an intention to donate  
13 your bodily organs and tissues following your death.

14 Part 4 of this form lets you designate a supervising health  
15 care provider to have primary responsibility for your  
16 health care.

17 After completing this form, sign and date the form at the  
18 end. This form must either be signed before a notary public  
19 or, in the alternative, be witnessed by two witnesses. Give  
20 a copy of the signed and completed form to your physician,  
21 to any other health-care providers you may have, to any  
22 health-care institution at which you are receiving care,

1 and to any health-care agents you have named. You should  
 2 talk to the person you have named as agent to make sure  
 3 that he or she understands your wishes and is willing to  
 4 take the responsibility.

5 You have the right to revoke this advance health-care  
 6 directive or replace this form at any time.

7

8 \* \* \* \* \*

9

10

PART 1

11

POWER OF ATTORNEY FOR HEALTH CARE

12

13 (1) DESIGNATION OF AGENT: I designate the following  
 14 individual as my agent to make health-care decisions for  
 15 me:

16 \_\_\_\_\_

17 (name of individual you choose as agent)

18 \_\_\_\_\_

19 (address) (city) (state) (zip code)

20 \_\_\_\_\_

21 (home phone)

(work phone)

1 OPTIONAL: If I revoke my agent's authority or if my agent  
 2 is not willing, able, or reasonably available to make a  
 3 health-care decision for me, I designate as my first  
 4 alternate agent:

5 \_\_\_\_\_

6 (name of individual you choose as first alternate agent)

7 \_\_\_\_\_

8 (address) (city) (state) (zip code)

9 \_\_\_\_\_

10 (home phone) (work phone)

11 OPTIONAL: If I revoke the authority of my agent and first  
 12 alternate agent or if neither is willing, able, or  
 13 reasonably available to make a health-care decision for me,  
 14 I designate as my second alternate agent:

15 \_\_\_\_\_

16 (name of individual you choose as second alternate agent)

17 \_\_\_\_\_

18 (address) (city) (state) (zip code)

19 \_\_\_\_\_

20 (home phone) (work phone)

1 (2) AGENT'S AUTHORITY: My agent is authorized to make all  
 2 health-care decisions for me, including decisions to  
 3 provide, withhold, or withdraw artificial nutrition and  
 4 hydration and all other forms of health care to keep me  
 5 alive, except as I state here:

6 \_\_\_\_\_  
 7 \_\_\_\_\_  
 8 \_\_\_\_\_

9 (Add additional sheets if needed.)

10 (3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's  
 11 authority becomes effective when my supervising health care  
 12 provider determines that I lack the capacity to make my own  
 13 health-care decisions unless I initial the following box.  
 14 If I initial this box [ ], my agent's authority to make  
 15 health-care decisions for me takes effect immediately.

16 (4) AGENT'S OBLIGATION: My agent shall make health-care  
 17 decisions for me in accordance with this power of attorney  
 18 for health care, any instructions I give in Part 2 of this  
 19 form, and my other wishes to the extent known to my agent.  
 20 To the extent my wishes are unknown, my agent shall make  
 21 health-care decisions for me in accordance with what my  
 22 agent determines to be in my best interest. In determining

1 my best interest, my agent shall consider my personal  
2 values to the extent known to my agent.

3 (5) NOMINATION OF GUARDIAN: If a guardian of my person  
4 needs to be appointed for me by a court, (please initial  
5 one):

6 [ ] I nominate the agent(s) whom I named in this  
7 form in the order designated to act as guardian.

8

9 [ ] I nominate the following to be guardian in the  
10 order designated:

11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_

14 [ ] I do not nominate anyone to be  
15 guardian.

16

17 PART 2

18 INSTRUCTIONS FOR HEALTH CARE

19

20 Please strike any wording that you do not want.

1

2 (6) END-OF-LIFE DECISIONS: I direct that my health-care  
3 providers and others involved in my care provide, withhold,  
4 or withdraw treatment in accordance with the choice I have  
5 initialed below:

6 [ ] (a) Choice Not To Prolong Life

7 I do not want my life to be prolonged if (i) I have an  
8 incurable and irreversible condition that will result in my  
9 death within a relatively short time, (ii) I become  
10 unconscious and, to a reasonable degree of medical  
11 certainty, I will not regain consciousness, or (iii) the  
12 likely risks and burdens of treatment would outweigh the  
13 expected benefits, OR

14 [ ] (b) Choice To Prolong Life

15 I want my life to be prolonged as long as possible within  
16 the limits of generally accepted health-care standards.

17

18 (7) ARTIFICIAL NUTRITION AND HYDRATION: Artificial  
19 nutrition and hydration must be provided, withheld, or  
20 withdrawn in accordance with the choice I have made in  
21 paragraph (6) unless I initial the following box. If I

1 initial this box [ ], artificial nutrition must be  
 2 provided regardless of my condition and regardless of the  
 3 choice I have made in paragraph (6). If I initial this box  
 4 [ ], artificial hydration must be provided regardless of  
 5 my condition and regardless of the choice I have made in  
 6 paragraph (6).

7

8 (8) RELIEF FROM PAIN: Except as I state in the following  
 9 space, I direct that treatment for alleviation of pain or  
 10 discomfort be provided at all times:

11 \_\_\_\_\_  
 \_\_\_\_\_

12

13 (9) OTHER WISHES: (If you do not agree with any of the  
 14 optional choices above and wish to write your own, or if  
 15 you wish to add to the instructions you have given above,  
 16 you may do so here.) I direct that:

17 \_\_\_\_\_  
 18 \_\_\_\_\_

19 (Add additional sheets if needed.)

20

21

1  
2  
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18  
19

PART 3

DONATION OF ORGANS AT DEATH

(OPTIONAL)

(10) Upon my death (initial applicable box)

[ ] (a) I give my body, or

[ ] (b) I give any needed organs, tissues, or  
parts, or

[ ] (c) I give the following organs, tissues, or  
parts only

---

(d) My gift is for the following purposes (strike any  
of the following you do not want)

- (i) Any purpose authorized by law
- (ii) Transplantation
- (iii) Therapy
- (iv) Research
- (v) Medical education



1

2

PART 4

3

PRIMARY PHYSICIAN

4

5 (11) I designate the following physician as my primary  
6 physician:

7

---

8 (name of physician)

9

---

10 (address) (city) (state) (zip code)

11

---

12 (phone)

13

14 If the physician I have designated above is not willing,  
15 able, or reasonably available to act as my primary  
16 physician, I designate the following as my primary  
17 physician:

18

---

19 (name of physician)

1 \_\_\_\_\_

2 (address) (city) (state) (zip code)

3 \_\_\_\_\_

4 (phone)

5

6 \* \* \* \* \*

7

8 (12) EFFECT OF COPY: A copy of this form has the same  
9 effect as the original.

10 (13) SIGNATURES: Sign and date the form here:

11 \_\_\_\_\_

12 \_\_\_\_\_ (date)

13 (sign your name)

14 \_\_\_\_\_

15 \_\_\_\_\_ (address)

16 (print your name)

17

\_\_\_\_\_

18 (city) (state)

19 (Optional) SIGNATURES OF WITNESSES:

20 First witness

1

2

\_\_\_\_\_

3

(print name)

(address)

4

\_\_\_\_\_

5

(signature of witness)

6

\_\_\_\_\_

7

(date)

8

9

10

Second witness

\_\_\_\_\_

11

12

\_\_\_\_\_

13

(print name)

(address)

14

\_\_\_\_\_

15

(signature of witness)

16

\_\_\_\_\_

17

(date)

18

19

\_\_\_\_\_

20

(Signature of notary public in lieu of witnesses)

21

\_\_\_\_\_

1 (date)

2

3 **35-22-406. Decisions by surrogate.**

4

5 (a) A surrogate may make a health-care decision for a  
6 patient who is an adult or emancipated minor if the patient  
7 has been determined by the supervising health care provider  
8 to lack capacity and no agent or guardian has been  
9 appointed or the agent or guardian is not reasonably  
10 available.

11

12 (b) An adult or emancipated minor may designate any  
13 individual to act as surrogate by personally informing the  
14 supervising health-care provider. In the absence of a  
15 designation, or if the designee is not reasonably  
16 available, any member of the following classes of the  
17 patient's family who is reasonably available, in descending  
18 order of priority, may act as surrogate:

19 (i) The spouse, unless legally separated;

20 (ii) An adult child;

21 (iii) A parent;

1

2 (iv) A grandparent;

3 (v) An adult brother or sister;

4 (vi) An adult grandchild.

5 (c) If none of the individuals eligible to act as  
6 surrogate under subsection (b) is reasonably available, an  
7 adult who has exhibited special care and concern for the  
8 patient, who is familiar with the patient's personal  
9 values, and who is reasonably available may act as  
10 surrogate.

11

12 (d) A surrogate shall communicate his or her  
13 assumption of authority as promptly as practicable to the  
14 members of the patient's family specified in subsection (b)  
15 who can be readily contacted.

16

17 (e) If more than one member of a class assumes  
18 authority to act as surrogate, and they do not agree on a  
19 health-care decision and the supervising health-care  
20 provider is so informed, the supervising health-care  
21 provider shall comply with the decision of a majority of

1 the members of that class who have communicated their views  
2 to the provider. If the class is evenly divided concerning  
3 the health-care decision and the supervising health-care  
4 provider is so informed, that class and all individuals  
5 having lower priority are disqualified from making the  
6 decision.

7

8 (f) A surrogate shall make a health-care decision in  
9 accordance with the patient's individual instructions, if  
10 any, and other wishes to the extent known to the surrogate.  
11 Otherwise, the surrogate shall make the decision in  
12 accordance with the surrogate's determination of the  
13 patient's best interest. In determining the patient's best  
14 interest, the surrogate shall consider the patient's  
15 personal, philosophical, religious, and ethical values to  
16 the extent known to the surrogate and reliable oral or  
17 written statements previously made by the patient,  
18 including, but not limited to, statements made to family  
19 members, friends, health-care providers, or religious  
20 leaders.

21

1           (g) A health-care decision made by a surrogate for a  
2 patient is effective without judicial approval.

3

4           (h) The patient at any time may disqualify another,  
5 including a member of the individual's family, from acting  
6 as the individual's surrogate by a signed writing or by  
7 personally informing the supervising health-care provider  
8 of the disqualification.

9

10           (i) Unless related to the patient by blood, marriage,  
11 or adoption, a surrogate may not be an owner, operator, or  
12 employee of a residential or community care facility at  
13 which the patient is receiving care.

14

15           (j) A supervising health-care provider may require an  
16 individual claiming the right to act as surrogate for a  
17 patient to provide a written declaration under penalty of  
18 perjury stating facts and circumstances reasonably  
19 sufficient to establish the claimed authority.

20

21           **35-22-407. Decisions by guardian.**

1           (a) A guardian shall comply with the ward's  
2 individual instructions and may not revoke the ward's  
3 advance health-care directive unless the appointing court  
4 expressly so authorizes.

5

6           (b) Absent a court order to the contrary, a health-  
7 care decision of an agent takes precedence over that of a  
8 guardian.

9

10           (c) A health care decision of a guardian takes  
11 precedence over that of a surrogate.

12

13           (d) A health-care decision made by a guardian for the  
14 ward is effective without judicial approval.

15

16           **35-22-408. Obligations of health care provider.**

17

18           (a) Before implementing a health-care decision made  
19 for a patient, a supervising health-care provider, if  
20 possible, shall promptly communicate to the patient the



1 decision made and the identity of the person making the  
2 decision.

3

4 (b) A supervising health-care provider who knows of  
5 the existence of an advance health-care directive, a  
6 revocation of an advance health-care directive, or a  
7 designation or disqualification of a surrogate, shall  
8 promptly record its existence in the patient's health-care  
9 record and, if it is in writing, shall request a copy and  
10 if one is furnished shall arrange for its maintenance in  
11 the health-care record.

12

13 (c) A supervising health care provider who makes or  
14 is informed of a determination that a patient lacks or has  
15 recovered capacity, or that another condition exists which  
16 affects an individual instruction or the authority of an  
17 agent, guardian, or surrogate, shall promptly record the  
18 determination in the patient's health-care record and  
19 communicate the determination to the patient, if possible,  
20 and to any person then authorized to make health-care  
21 decisions for the patient.

22

1           (d) Except as provided in subsections (e) and (f), a  
2 health-care provider or institution providing care to a  
3 patient shall:

4

5           (i) Comply with an individual instruction of the  
6 patient and with a reasonable interpretation of that  
7 instruction made by a person then authorized to make  
8 health-care decisions for the patient; and

9

10           (ii) Comply with a health-care decision for the  
11 patient made by a person then authorized to make health-  
12 care decisions for the patient to the same extent as if the  
13 decision had been made by the patient while having  
14 capacity.

15

16           (e) A health-care provider may decline to comply with  
17 an individual instruction or health-care decision for  
18 reasons of conscience. A health-care institution may  
19 decline to comply with an individual instruction or health-  
20 care decision if the instruction or decision is contrary to  
21 a written policy of the institution which is expressly

1 based on reasons of conscience and if the policy was timely  
2 communicated to the patient or to a person then authorized  
3 to make health-care decisions for the patient. The  
4 provider or institution shall deliver the written policy  
5 upon receipt of the patient's advance directive that may  
6 conflict with the policy or upon notice from the  
7 supervising health care provider that the patient's  
8 instruction or decision may be in conflict with the health  
9 care institution's policy.

10 (f) A health-care provider or institution may decline  
11 to comply with an individual instruction or health-care  
12 decision that requires medically ineffective health care or  
13 health care contrary to generally accepted health-care  
14 standards applicable to the health-care provider or  
15 institution.

16

17 (g) A health-care provider or institution that  
18 declines to comply with an individual instruction or  
19 health-care decision shall:

20

1           (i) Promptly so inform the patient, if possible,  
2 and any person then authorized to make health-care  
3 decisions for the patient;

4

5           (ii) Provide continuing care, including  
6 continuing life sustaining care, to the patient until a  
7 transfer can be effected; and

8

9           (iii) Unless the patient or person then  
10 authorized to make health-care decisions for the patient  
11 refuses assistance, immediately make all reasonable efforts  
12 to assist in the transfer of the patient to another health-  
13 care provider or institution that is willing to comply with  
14 the instruction or decision.

15

16           (h) A health-care provider or institution may not  
17 require or prohibit the execution or revocation of an  
18 advance health-care directive as a condition for providing  
19 health care.

20

21           **35-22-409. Health care information.**

1

2           Unless otherwise specified in an advance health-care  
3 directive, a person then authorized to make health-care  
4 decisions for a patient has the same rights as the patient  
5 to request, receive, examine, copy, and consent to the  
6 disclosure of medical or any other health-care information.

7

8           **35-22-410. Immunities.**

9

10           (a) A health-care provider or institution acting in  
11 good faith and in accordance with generally accepted  
12 health-care standards applicable to the health-care  
13 provider or institution is not subject to civil or criminal  
14 liability or to discipline for unprofessional conduct for:

15

16           (i) Complying with a health-care decision of a  
17 person apparently having authority to make a health-care  
18 decision for a patient, including a decision to withhold or  
19 withdraw health care;

20

1           (ii) Declining to comply with a health-care  
2 decision of a person based on a belief that the person then  
3 lacked authority;

4

5           (iii) Complying with an advance health-care  
6 directive and assuming that the directive was valid when  
7 made and has not been revoked or terminated;

8

9           (iv) Providing life-sustaining treatment in an  
10 emergency situation when the existence of a health-care  
11 directive is unknown; or

12

13           (v) Declining to comply with a health-care  
14 decision or advance health-care directive because the  
15 instruction is contrary to the conscience or good faith  
16 medical judgment of the health-care provider, or the  
17 written policies of the institution.

18

19           (b) An individual acting as agent or surrogate under  
20 this act is not subject to civil or criminal liability or

1 to discipline for unprofessional conduct for health-care  
2 decisions made in good faith.

3

4 **35-22-411. Statutory damages.**

5

6 (a) A health-care provider or institution that  
7 violates this act willfully or with reckless disregard of  
8 the patient's instruction or health care decision is  
9 subject to liability to the aggrieved individual for  
10 damages of \$500 or actual damages resulting from the  
11 violation, whichever is greater, plus reasonable attorney's  
12 fees.

13

14 (b) A person who intentionally falsifies, forges,  
15 conceals, defaces, or obliterates an individual's advance  
16 health-care directive or a revocation of an advance health-  
17 care directive without the individual's consent, or who  
18 coerces or fraudulently induces an individual to give,  
19 revoke, or not to give an advance health-care directive, is  
20 subject to liability to that individual for damages of

1 \$2,500 or actual damages resulting from the action,  
2 whichever is greater, plus reasonable attorney's fees.

3

4 **35-22-412. Capacity.**

5

6 (a) This act does not affect the right of an  
7 individual to make health-care decisions while having  
8 capacity to do so.

9

10 (b) An individual is presumed to have capacity to  
11 make a health-care decision, to give or revoke an advance  
12 health-care directive, and to designate or disqualify a  
13 surrogate.

14

15 **35-22-413. Effect of copy.**

16

17 A copy of a written advance health-care directive,  
18 revocation of an advance health-care directive, or  
19 designation or disqualification of a surrogate has the same  
20 effect as the original.



1

2       **35-22-414. Effect of act.**

3           (a) This act does not create a presumption concerning  
4 the intention of an individual who has not made or who has  
5 revoked an advance health-care directive.

6

7           (b) Death resulting from the withholding or  
8 withdrawal of health care in accordance with this act does  
9 not for any purpose constitute a suicide or homicide or  
10 legally impair or invalidate a policy of insurance or an  
11 annuity providing a death benefit, notwithstanding any term  
12 of the policy or annuity to the contrary.

13

14           (c) This act does not authorize mercy killing,  
15 assisted suicide, euthanasia, or the provision,  
16 withholding, or withdrawal of health care, to the extent  
17 prohibited by other statutes of this State.

18

19           (d) This act does not authorize or require a health-  
20 care provider or institution to provide health care

1 contrary to generally accepted health-care standards  
2 applicable to the health-care provider or institution.

3

4 (e) This act does not affect other statutes of this  
5 state governing treatment for mental illness of an  
6 individual involuntarily committed to a mental health-care  
7 institution pursuant to law or a psychiatric advance  
8 directive executed in accordance with W.S. 35-22-301  
9 through 35-22-308.

10

11 **35-22-415. Judicial relief.**

12

13 On petition of a patient, the patient's agent,  
14 guardian, or surrogate, a health-care provider or  
15 institution involved with the patient's care, or an  
16 individual described in W.S. 35-22-105(b) or (c), the  
17 district court may enjoin or direct a health-care decision  
18 or order other equitable relief. A proceeding under this  
19 section is governed by the Wyoming Rules of Civil  
20 Procedure.

21

1           **35-22-416. Uniformity of application and**  
2 **construction.**

3

4           This act shall be applied and construed to effectuate  
5 its general purpose to make uniform the law with respect to  
6 the subject matter of this act among States enacting it.

7

8           **35-22-417. Severability.**

9

10           If any provision of this act or its application to any  
11 person or circumstance is held invalid, the invalidity does  
12 not affect other provisions or applications of this act  
13 which can be given effect without the invalid provision or  
14 application, and to this end the provisions of this act are  
15 severable.

16

17           **Section 2.** W.S. 3-5-201 through 3-5-213 and W.S. 35-  
18 22-101 through 35-22-109 are repealed.

19

20           **Section 3.** This act is effective July 1, 2005

21

1

(END)