

CALIFORNIA PROBATE CODE

§ 4600. Short title

This division may be cited as the Health Care Decisions Law.

§ 4603. Definitions governing construction of this division

Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this division.

§ 4605. Advance health care directive

“Advance health care directive” or “advance directive” means either an individual health care instruction or a power of attorney for health care.

§ 4606. Repealed by Stats.1999, c. 658, § 38, operative July 1, 2000

§ 4607. Agent

(a) “Agent” means an individual designated in a power of attorney for health care to make a health care decision for the principal, regardless of whether the person is known as an agent or attorney-in-fact, or by some other term.

(b) “Agent” includes a successor or alternate agent.

§ 4609. Capacity

“Capacity” means a person's ability to understand the nature and consequences of a decision and to make and communicate a decision, and includes in the case of proposed health care, the ability to understand its significant benefits, risks, and alternatives.

§ 4611. Community care facility

“Community care facility” means a “community care facility” as defined in Section 1502 of the Health and Safety Code.

§ 4612. Repealed by Stats.1999, c. 658 (A.B.891), § 38, operative July 1, 2000

§ 4613. Conservator

“Conservator” means a court-appointed conservator having authority to make a health care decision for a patient.

§ 4615. Health care

“Health care” means any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a patient's physical or mental condition.

§ 4617. Health care decision

“Health care decision” means a decision made by a patient or the patient's agent, conservator, or surrogate, regarding the patient's health care, including the following:

- (a) Selection and discharge of health care providers and institutions.
- (b) Approval or disapproval of diagnostic tests, surgical procedures, and programs of medication.
- (c) Directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care, including cardiopulmonary resuscitation.

§ 4618. Repealed by Stats.1999, c. 658 (A.B.891), § 38, operative July 1, 2000

§ 4619. Health care institution

“Health care institution” means an institution, facility, or agency licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of business.

§ 4621. Health care provider

“Health care provider” means an individual licensed, certified, or otherwise authorized or permitted by the law of this state to provide health care in the ordinary course of business or practice of a profession.

§ 4623. Individual health care instruction

“Individual health care instruction” or “individual instruction” means a patient's written or oral direction concerning a health care decision for the patient.

§ 4625. Patient

“Patient” means an adult whose health care is under consideration, and includes a principal under a power of attorney for health care and an adult who has given an individual health care instruction or designated a surrogate.

§ 4627. Physician

“Physician” means a physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California.

§ 4629. Power of attorney for health care

“Power of attorney for health care” means a written instrument designating an agent to make health care decisions for the principal.

§ 4631. Primary physician

“Primary physician” means a physician designated by a patient or the patient's agent, conservator, or surrogate, to have primary responsibility for the patient's health care or, in the absence of a designation or if the designated physician is not reasonably available or declines to act as primary physician, a physician who undertakes the responsibility.

§ 4633. Principal

“Principal” means an adult who executes a power of attorney for health care.

§ 4635. Reasonably available

“Reasonably available” means readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs.

§ 4637. Residential care facility for the elderly

“Residential care facility for the elderly” means a “residential care facility for the elderly” as defined in Section 1569.2 of the Health and Safety Code.

§ 4639. Skilled nursing facility

“Skilled nursing facility” means a “skilled nursing facility” as defined in Section 1250 of the Health and Safety Code.

§ 4641. Supervising health care provider

“Supervising health care provider” means the primary physician or, if there is no primary physician or the primary physician is not reasonably available, the health care provider who has undertaken primary responsibility for a patient’s health care.

§ 4643. Surrogate

“Surrogate” means an adult, other than a patient’s agent or conservator, authorized under this division to make a health care decision for the patient.

§ 4650. Legislative findings

The Legislature finds the following:

(a) In recognition of the dignity and privacy a person has a right to expect, the law recognizes that an adult has the fundamental right to control the decisions relating to his or her own health care, including the decision to have life-sustaining treatment withheld or withdrawn.

(b) Modern medical technology has made possible the artificial prolongation of human life beyond natural limits. In the interest of protecting individual autonomy, this prolongation of the process of dying for a person for whom continued health care does not improve the prognosis for recovery may violate patient dignity and cause unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the person.

(c) In the absence of controversy, a court is normally not the proper forum in which to make health care decisions, including decisions regarding life-sustaining treatment.

§ 4651. Application; exemptions

(a) Except as otherwise provided, this division applies to health care decisions for adults who lack capacity to make health care decisions for themselves.

(b) This division does not affect any of the following:

(1) The right of an individual to make health care decisions while having the capacity to do so.

(2) The law governing health care in an emergency.

(3) The law governing health care for unemancipated minors.

§ 4652. Scope

This division does not authorize consent to any of the following on behalf of a patient:

- (a) Commitment to or placement in a mental health treatment facility.
- (b) Convulsive treatment (as defined in Section 5325 of the Welfare and Institutions Code).
- (c) Psychosurgery (as defined in Section 5325 of the Welfare and Institutions Code).
- (d) Sterilization.
- (e) Abortion.

§ 4653. Mercy killing, assisted suicide, or euthanasia

Nothing in this division shall be construed to condone, authorize, or approve mercy killing, assisted suicide, or euthanasia. This division is not intended to permit any affirmative or deliberate act or omission to end life other than withholding or withdrawing health care pursuant to an advance health care directive, by a surrogate, or as otherwise provided, so as to permit the natural process of dying.

§ 4654. Health care contrary to generally accepted health care standards

This division does not authorize or require a health care provider or health care institution to provide health care contrary to generally accepted health care standards applicable to the health care provider or health care institution

- (a) This division does not create a presumption concerning the intention of a patient who has not made or who has revoked an advance health care directive.
- (b) In making health care decisions under this division, a patient's attempted suicide shall not be construed to indicate a desire of the patient that health care be restricted or inhibited.

§ 4656. Effect of death resulting from withholding or withdrawing health care

Death resulting from withholding or withdrawing health care in accordance with this division does not for any purpose constitute a suicide or homicide or legally impair or invalidate a policy of insurance or an annuity providing a death benefit, notwithstanding any term of the policy or annuity to the contrary.

§ 4657. Presumption of capacity

A patient is presumed to have the capacity to make a health care decision, to give or revoke an advance health care directive, and to designate or disqualify a surrogate. This presumption is a presumption affecting the burden of proof.

§ 4658. Determination regarding patient's capacity to be made by primary physician

Unless otherwise specified in a written advance health care directive, for the purposes of this division, a determination that a patient lacks or has recovered capacity, or that another condition exists that affects an individual health care instruction or the authority of an agent or surrogate, shall be made by the primary physician.

§ 4659. Persons excluded from making decisions under this division

(a) Except as provided in subdivision (b), none of the following persons may make health care decisions as an agent under a power of attorney for health care or a surrogate under this division:

(1) The supervising health care provider or an employee of the health care institution where the patient is receiving care.

(2) An operator or employee of a community care facility or residential care facility where the patient is receiving care.

(b) The prohibition in subdivision (a) does not apply to the following persons:

(1) An employee, other than the supervising health care provider, who is related to the patient by blood, marriage, or adoption, or is a registered domestic partner of the patient.

(2) An employee, other than the supervising health care provider, who is employed by the same health care institution, community care facility, or residential care facility for the elderly as the patient.

(c) A conservator under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) may not be designated as an agent or surrogate to make health care decisions by the conservatee, unless all of the following are satisfied:

(1) The advance health care directive is otherwise valid.

(2) The conservatee is represented by legal counsel.

(3) The lawyer representing the conservatee signs a certificate stating in substance:

"I am a lawyer authorized to practice law in the state where this advance health care directive was executed, and the principal or patient was my client at the time this advance directive was executed. I have advised my client concerning his or her rights in connection with this advance directive and the

applicable law and the consequences of signing or not signing this advance directive, and my client, after being so advised, has executed this advance directive.”

§ 4660. Copy of directive; effect

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

§ 4665. Application of division

Except as otherwise provided by statute:

(a) On and after July 1, 2000, this division applies to all advance health care directives, including, but not limited to, durable powers of attorney for health care and declarations under the Natural Death Act (former Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code), regardless of whether they were given or executed before, on, or after July 1, 2000.

(b) This division applies to all proceedings concerning advance health care directives commenced on or after July 1, 2000.

(c) This division applies to all proceedings concerning written advance health care directives commenced before July 1, 2000, unless the court determines that application of a particular provision of this division would substantially interfere with the effective conduct of the proceedings or the rights of the parties and other interested persons, in which case the particular provision of this division does not apply and prior law applies.

(d) Nothing in this division affects the validity of an advance health care directive executed before July 1, 2000, that was valid under prior law.

(e) Nothing in this division affects the validity of a durable power of attorney for health care executed on a printed form that was valid under prior law, regardless of whether execution occurred before, on, or after July 1, 2000.

§ 4670. Persons entitled to give individual health care instruction; method; conditions

An adult having capacity may give an individual health care instruction. The individual instruction may be oral or written. The individual instruction may be limited to take effect only if a specified condition arises.

§ 4671. Persons entitled to execute power of attorney for health care; scope authority granted

(a) An adult having capacity may execute a power of attorney for health care, as provided in Article 2 (commencing with Section 4680). The power of attorney for health care may authorize the agent to make health care decisions and may also include individual health care instructions.

(b) The principal in a power of attorney for health care may grant authority to make decisions relating to the personal care of the principal, including, but not limited to, determining where the principal will live, providing meals, hiring household employees, providing transportation, handling mail, and arranging recreation and entertainment.

§ 4672. Nomination of conservator

(a) A written advance health care directive may include the individual's nomination of a conservator of the person or estate or both, or a guardian of the person or estate or both, for consideration by the court if protective proceedings for the individual's person or estate are thereafter commenced.

(b) If the protective proceedings are conservatorship proceedings in this state, the nomination has the effect provided in Section 1810 and the court shall give effect to the most recent writing executed in accordance with Section 1810, whether or not the writing is a written advance health care directive.

§ 4673. Sufficiency of written or electronic directive

(a) A written advance health care directive is legally sufficient if all of the following requirements are satisfied:

(1) The advance directive contains the date of its execution.

(2) The advance directive is signed either by the patient or in the patient's name by another adult in the patient's presence and at the patient's direction.

(3) The advance directive is either acknowledged before a notary public or signed by at least two witnesses who satisfy the requirements of Sections 4674 and 4675.

(b) An electronic advance health care directive or power of attorney for health care is legally sufficient if the requirements in subdivision (a) are satisfied, except that for the purposes of paragraph (3) of subdivision (a), an acknowledgment before a notary public shall be required, and if a digital signature is used, it meets all of the following requirements:

(1) The digital signature either meets the requirements of Section 16.5 of the Government Code and Chapter 10 (commencing with Section 22000) of Division 7 of Title 2 of the California Code of Regulations or the digital signature uses an algorithm approved by the National Institute of Standards and Technology.

(2) The digital signature is unique to the person using it.

- (3) The digital signature is capable of verification.
- (4) The digital signature is under the sole control of the person using it.
- (5) The digital signature is linked to data in such a manner that if the data are changed, the digital signature is invalidated.
- (6) The digital signature persists with the document and not by association in separate files.
- (7) The digital signature is bound to a digital certificate.

§ 4674. Requirements

If the written advance health care directive is signed by witnesses, as provided in Section 4673, the following requirements shall be satisfied:

- (a) The witnesses shall be adults.
- (b) Each witness signing the advance directive shall witness either the signing of the advance directive by the patient or the patient's acknowledgment of the signature or the advance directive.
- (c) None of the following persons may act as a witness:
 - (1) The patient's health care provider or an employee of the patient's health care provider.
 - (2) The operator or an employee of a community care facility.
 - (3) The operator or an employee of a residential care facility for the elderly.
 - (4) The agent, where the advance directive is a power of attorney for health care.
- (d) Each witness shall make the following declaration in substance:

“I declare under penalty of perjury under the laws of California (1) that the individual who signed or acknowledged this advance health care directive is personally known to me, or that the individual's identity was proven to me by convincing evidence, (2) that the individual signed or acknowledged this advance directive in my presence, (3) that the individual appears to be of sound mind and under no duress, fraud, or undue influence, (4) that I am not a person appointed as agent by this advance directive, and (5) that I am not the individual's health care provider, an employee of the individual's health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility for the elderly, nor an employee of an operator of a residential care facility for the elderly.”
- (e) At least one of the witnesses shall be an individual who is neither related to the patient by blood, marriage, or adoption, nor entitled to any portion of the patient's estate upon the patient's death under a will existing when the advance directive is executed or by operation of law then existing.

(f) The witness satisfying the requirement of subdivision (e) shall also sign the following declaration in substance:

“I further declare under penalty of perjury under the laws of California that I am not related to the individual executing this advance health care directive by blood, marriage, or adoption, and, to the best of my knowledge, I am not entitled to any part of the individual's estate upon his or her death under a will now existing or by operation of law.”

(g) The provisions of this section applicable to witnesses do not apply to a notary public before whom an advance health care directive is acknowledged.

§ 4675. Patients in skilled nursing facilities; witnesses

(a) If an individual is a patient in a skilled nursing facility when a written advance health care directive is executed, the advance directive is not effective unless a patient advocate or ombudsman, as may be designated by the Department of Aging for this purpose pursuant to any other applicable provision of law, signs the advance directive as a witness, either as one of two witnesses or in addition to notarization. The patient advocate or ombudsman shall declare that he or she is serving as a witness as required by this subdivision. It is the intent of this subdivision to recognize that some patients in skilled nursing facilities are insulated from a voluntary decisionmaking role, by virtue of the custodial nature of their care, so as to require special assurance that they are capable of willfully and voluntarily executing an advance directive.

(b) A witness who is a patient advocate or ombudsman may rely on the representations of the administrators or staff of the skilled nursing facility, or of family members, as convincing evidence of the identity of the patient if the patient advocate or ombudsman believes that the representations provide a reasonable basis for determining the identity of the patient.

§ 4676. Instruments from another state or jurisdiction; validity

(a) A written advance health care directive or similar instrument executed in another state or jurisdiction in compliance with the laws of that state or jurisdiction or of this state, is valid and enforceable in this state to the same extent as a written advance directive validly executed in this state.

(b) In the absence of knowledge to the contrary, a physician or other health care provider may presume that a written advance health care directive or similar instrument, whether executed in another state or jurisdiction or in this state, is valid.

§ 4677. Requiring execution or revocation of directive as condition for providing health care

A health care provider, health care service plan, health care institution, disability insurer, self-insured employee welfare plan, or nonprofit hospital plan or a similar insurance plan may not require or prohibit the execution or revocation of an advance health care directive as a condition for providing health care, admission to a facility, or furnishing insurance.

§ 4678. Examination and disclosure of medical information

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

§ 4680. Sufficiency of power of attorney

A power of attorney for health care is legally sufficient if it satisfies the requirements of Section 4673.

§ 4681. Limitations on statutory authority

(a) Except as provided in subdivision (b), the principal may limit the application of any provision of this division by an express statement in the power of attorney for health care or by providing an inconsistent rule in the power of attorney.

(b) A power of attorney for health care may not limit either the application of a statute specifically providing that it is not subject to limitation in the power of attorney or a statute concerning any of the following:

- (1) Statements required to be included in a power of attorney.
- (2) Operative dates of statutory enactments or amendments.
- (3) Formalities for execution of a power of attorney for health care.
- (4) Qualifications of witnesses.
- (5) Qualifications of agents.
- (6) Protection of third persons from liability.

§ 4682. Authority of agent

Unless otherwise provided in a power of attorney for health care, the authority of an agent becomes effective only on a determination that the principal lacks capacity, and ceases to be effective on a determination that the principal has recovered capacity.

§ 4683. Scope of agent's authority

Subject to any limitations in the power of attorney for health care:

(a) An agent designated in the power of attorney may make health care decisions for the principal to the same extent the principal could make health care decisions if the principal had the capacity to do so.

(b) The agent may also make decisions that may be effective after the principal's death, including the following:

(1) Making a disposition under the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

(2) Authorizing an autopsy under Section 7113 of the Health and Safety Code.

(3) Directing the disposition of remains under Section 7100 of the Health and Safety Code.

(4) Authorizing the release of the records of the principal to the extent necessary for the agent to fulfill his or her duties as set forth in this division.

§ 4684. Decisions to be made in principal's best interests

An agent shall make a health care decision in accordance with the principal's individual health care instructions, if any, and other wishes to the extent known to the agent. Otherwise, the agent shall make the decision in accordance with the agent's determination of the principal's best interest. In determining the principal's best interest, the agent shall consider the principal's personal values to the extent known to the agent.

§ 4685. Agent; priority in making health care decisions

Unless the power of attorney for health care provides otherwise, the agent designated in the power of attorney who is known to the health care provider to be reasonably available and willing to make health care decisions has priority over any other person in making health care decisions for the principal.

§ 4686. Lapse of time since execution of power of attorney; effect

Unless the power of attorney for health care provides a time of termination, the authority of the agent is exercisable notwithstanding any lapse of time since execution of the power of attorney.

§ 4687. Rights of agent apart from power of attorney

Nothing in this division affects any right the person designated as an agent under a power of attorney for health care may have, apart from the power of attorney, to make or participate in making health care decisions for the principal.

§ 4688. Law of agency; application

Where this division does not provide a rule governing agents under powers of attorney, the law of agency applies.

§ 4689. Objection to agent's health care decision by principal; effect

Nothing in this division authorizes an agent under a power of attorney for health care to make a health care decision if the principal objects to the decision. If the principal objects to the health care decision of the agent under a power of attorney, the matter shall be governed by the law that would apply if there were no power of attorney for health care.

§ 4690. Incapacity of principal; determination; disclosure of information agent requires to carry out his or her duties

(a) If the principal becomes wholly or partially incapacitated, or if there is a question concerning the capacity of the principal, the agent may consult with a person previously designated by the principal for this purpose, and may also consult with and obtain information needed to carry out the agent's duties from the principal's spouse, physician, supervising health care provider, attorney, a member of the principal's family, or other person, including a business entity or government agency, with respect to matters covered by the power of attorney for health care.

(b) A person described in subdivision (a) from whom information is requested shall disclose information that the agent requires to carry out his or her duties. Disclosure under this section is not a waiver of any privilege that may apply to the information disclosed.

§ 4695. Persons entitled to revoke advance directives; method

(a) A patient having capacity may revoke the designation of an agent only by a signed writing or by personally informing the supervising health care provider.

(b) A patient having capacity may revoke all or part of an advance health care directive, other than the designation of an agent, at any time and in any manner that communicates an intent to revoke.

§ 4696. Communication of fact of revocation

A health care provider, agent, conservator, or surrogate who is informed of a revocation of an advance health care directive shall promptly communicate the fact of the revocation to the supervising health care provider and to any health care institution where the patient is receiving care.

§ 4697. Dissolution of marriage; effect

(a) If after executing a power of attorney for health care the principal's marriage to the agent is dissolved or annulled, the principal's designation of the former spouse as an agent to make health care decisions for the principal is revoked.

(b) If the agent's authority is revoked solely by subdivision (a), it is revived by the principal's remarriage to the agent.

§ 4698. Conflicting directives

An advance health care directive that conflicts with an earlier advance directive revokes the earlier advance directive to the extent of the conflict.

§ 4700. Use of particular form not required; effect of form or other writing

The form provided in Section 4701 may, but need not, be used to create an advance health care directive. The other sections of this division govern the effect of the form or any other writing used to create an advance health care directive. An individual may complete or modify all or any part of the form in Section 4701.

§ 4701. Statutory form

The statutory advance health care directive form is as follows:

ADVANCE HEALTH CARE DIRECTIVE

(California Probate Code Section 4701)

Explanation

You have the right to give instructions about your own health care. You also have the right to name someone else to make health care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding donation of organs and the designation of your primary physician. If you use this form, you may complete or modify all or any part of it. You are free to use a different form.

Part 1 of this form is a power of attorney for health care. Part 1 lets you name another individual as agent to make health care decisions for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable. You may also name an alternate agent to act for you if your first choice is not willing, able, or reasonably available to make decisions for you. (Your agent may not be an operator or employee of a community care facility or a residential care facility where you are receiving care, or your supervising health care provider or employee of the health care institution where you are receiving care, unless your agent is related to you or is a coworker.)

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

(a) Consent or refuse consent to any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a physical or mental condition.

(b) Select or discharge health care providers and institutions.

(c) Approve or disapprove diagnostic tests, surgical procedures, and programs of medication.

(d) Direct the provision, withholding, or withdrawal of artificial nutrition and hydration and all other forms of health care, including cardiopulmonary resuscitation.

(e) Make anatomical gifts, authorize an autopsy, and direct disposition of remains.

Part 2 of this form lets you give specific instructions about any aspect of your health care, whether or not you appoint an agent. Choices are provided for you to express your wishes regarding the provision, withholding, or withdrawal of treatment to keep you alive, as well as the provision of pain relief. Space is also provided for you to add to the choices you have made or for you to write out any additional wishes. If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill out Part 2 of this form.

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

Part 4 of this form lets you designate a physician to have primary responsibility for your health care.

After completing this form, sign and date the form at the end. The form must be signed by two qualified witnesses or acknowledged before a notary public. Give a copy of the signed and completed form to your physician, to any other health care providers you may have, to any health care institution at which you are receiving care, and to any health care agents you have named. You should talk to the person you have named as agent to make sure that he or she understands your wishes and is willing to take the responsibility.

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

PART 1

POWER OF ATTORNEY FOR HEALTH CARE

(1.1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health care decisions for me:

(name of individual you choose as agent)

(address)

(city)

(state)

(ZIP Code)

(home phone)

(work phone)

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

(name of individual you choose as first alternate agent)

(address)

(city)

(state)
(ZIP Code)

(home phone)
(work phone)

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

(name of individual you choose as second alternate agent)

(address)
(city)
(state)
(ZIP Code)

(home phone)
(work phone)

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

(Add additional sheets if needed.)

(1.3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's authority becomes effective when my primary physician determines that I am unable to make my own health care decisions unless I mark the following box. If I mark this box [], my agent's authority to make health care decisions for me takes effect immediately.

(1.4) AGENT'S OBLIGATION: My agent shall make health care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part 2 of this form, and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

(1.5) AGENT'S POSTDEATH AUTHORITY: My agent is authorized to make anatomical gifts, authorize an autopsy, and direct disposition of my remains, except as I state here or in Part 3 of this form:

(Add additional sheets if needed.)

(1.6) NOMINATION OF CONSERVATOR: If a conservator of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able, or reasonably available to act as conservator, I nominate the alternate agents whom I have named, in the order designated.

PART 2
INSTRUCTIONS FOR HEALTH CARE

If you fill out this part of the form, you may strike any wording you do not want.

(2.1) END-OF-LIFE DECISIONS: I direct that my health care providers and others involved in my care provide, withhold, or withdraw treatment in accordance with the choice I have marked below:

(a) Choice Not To Prolong Life

I do not want my life to be prolonged if (1) I have an incurable and irreversible condition that will result in my death within a relatively short time, (2) I become unconscious and, to a reasonable degree of medical certainty, I will not regain consciousness, or (3) the likely risks and burdens of treatment would outweigh the expected benefits, OR

(b) Choice To Prolong Life

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

(2.2) RELIEF FROM PAIN: Except as I state in the following space, I direct that treatment for alleviation of pain or discomfort be provided at all times, even if it hastens my death:

(Add additional sheets if needed.)

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

(Add additional sheets if needed.)

PART 3

DONATION OF ORGANS AT DEATH

(OPTIONAL)

(3.1) Upon my death (mark applicable box):

(a)

I give any needed organs, tissues, or parts, OR

(b)

I give the following organs, tissues, or parts only.

(c)

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

(1)

Transplant

(2)

Therapy

(3)

Research

(4)

Education

PART 4

PRIMARY PHYSICIAN

(OPTIONAL)

(4.1) I designate the following physician as my primary physician:

(name of physician)

(address)
(city)
(state)
(ZIP Code)

(phone)

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

(name of physician)

(address)
(city)
(state)
(ZIP Code)

(phone)

* * * * *

PART 5

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

(5.2) SIGNATURE: Sign and date the form here:

(date)
(sign your name)

(address)
(print your name)

(city)
(state)

(5.3) STATEMENT OF WITNESSES: I declare under penalty of perjury under the laws of California (1) that the individual who signed or acknowledged this advance health care directive is personally known to me, or that the individual's identity was proven to me by convincing evidence, (2) that the individual signed or acknowledged this advance directive in my presence, (3) that the individual appears to be of sound mind and under no duress, fraud, or undue influence, (4) that I am not a person appointed as agent by this advance directive, and (5) that I am not the individual's health care provider, an employee of the individual's health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility for the elderly, nor an employee of an operator of a residential care facility for the elderly.

First witness
Second witness

(print name)
(print name)

(address)
(address)

(city)
(state)
(city)
(state)

(signature of witness)
(signature of witness)

(date)
(date)

(5.4) ADDITIONAL STATEMENT OF WITNESSES: At least one of the above witnesses must also sign the following declaration:

I further declare under penalty of perjury under the laws of California that I am not related to the individual executing this advance health care directive by blood, marriage, or adoption, and to the best of my knowledge, I am not entitled to any part of the individual's estate upon his or her death under a will now existing or by operation of law.

(signature of witness)
(signature of witness)

PART 6
SPECIAL WITNESS REQUIREMENT

(6.1) The following statement is required only if you are a patient in a skilled nursing facility--a health care facility that provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. The patient advocate or ombudsman must sign the following statement:

STATEMENT OF PATIENT ADVOCATE OR OMBUDSMAN

I declare under penalty of perjury under the laws of California that I am a patient advocate or ombudsman as designated by the State Department of Aging and that I am serving as a witness as required by Section 4675 of the Probate Code.

(date)
(sign your name)

(address)
(print your name)

(city)
(state)

§§ 4702 to 4704. Repealed by Stats.1999, c. 658 (A.B.891), § 38, operative July 1, 2000

§§ 4702 to 4704. Repealed by Stats.1999, c. 658 (A.B.891), § 38, operative July 1, 2000

§ 4711. Designation of surrogate for health care decisions; expiration; priority and revocation

(a) A patient may designate an adult as a surrogate to make health care decisions by personally informing the supervising health care provider. The designation of a surrogate shall be promptly recorded in the patient's health care record.

(b) Unless the patient specifies a shorter period, a surrogate designation under subdivision (a) is effective only during the course of treatment or illness or during the stay in the health care institution when the surrogate designation is made, or for 60 days, whichever period is shorter.

(c) The expiration of a surrogate designation under subdivision (b) does not affect any role the person designated under subdivision (a) may have in making health care decisions for the patient under any other law or standards of practice.

(d) If the patient has designated an agent under a power of attorney for health care, the surrogate designated under subdivision (a) has priority over the agent for the period provided in subdivision (b), but the designation of a surrogate does not revoke the designation of an agent unless the patient communicates the intention to revoke in compliance with subdivision (a) of Section 4695.

§ 4714. Decisions based on patient's best interests

A surrogate, including a person acting as a surrogate, shall make a health care decision in accordance with the patient's individual health care instructions, if any, and other wishes to the extent known to the surrogate. Otherwise, the surrogate shall make the decision in accordance with the surrogate's determination of the patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal values to the extent known to the surrogate.

§ 4715. Disqualification of person from acting as surrogate

A patient having capacity at any time may disqualify another person, including a member of the patient's family, from acting as the patient's surrogate by a signed writing or by personally informing the supervising health care provider of the disqualification.

§ 4716. Domestic partner of patient

(a) If a patient lacks the capacity to make a health care decision, the patient's domestic partner shall have the same authority as a spouse has to make a health care decision for his or her incapacitated spouse. This section may not be construed to expand or restrict the ability of a spouse to make a health care decision for an incapacitated spouse.

(b) For the purposes of this section, the following definitions shall apply:

(1) "Capacity" has the same meaning as defined in Section 4609.

(2) "Health care" has the same meaning as defined in Section 4615.

(3) "Health care decision" has the same meaning as defined in Section 4617.

(4) "Domestic partner" has the same meaning as that term is used in Section 297 of the Family Code.

§ 4717. Authority to make health care decisions on behalf of patient who is unconscious or incapable of communication; duty of hospital to make reasonable efforts to contact patient's agent, surrogate or family member; exceptions

(a) Notwithstanding any other provision of law, within 24 hours of the arrival in the emergency department of a general acute care hospital of a patient who is unconscious or otherwise incapable of communication, the hospital shall make reasonable efforts to contact the patient's agent, surrogate, or a family member or other person the hospital reasonably believes has the authority to make health care decisions on behalf of the patient. A hospital shall be deemed to have made reasonable efforts, and to have discharged its duty under this section, if it does all of the following:

(1) Examines the personal effects, if any, accompanying the patient and any medical records regarding the patient in its possession, and reviews any verbal or written report made by emergency medical technicians or the police, to identify the name of any agent, surrogate, or a family member or other person the hospital reasonably believes has the authority to make health care decisions on behalf of the patient.

(2) Contacts or attempts to contact any agent, surrogate, or a family member or other person the hospital reasonably believes has the authority to make health care decisions on behalf of the patient, as identified in paragraph (1).

(3) Contacts the Secretary of State directly or indirectly, including by voice mail or facsimile, to inquire whether the patient has registered an advance health care directive with the Advance Health Care Directive Registry, if the hospital finds evidence of the patient's Advance Health Care Directive Registry identification card either from the patient or from the patient's family or authorized agent.

(b) The hospital shall document in the patient's medical record all efforts made to contact any agent, surrogate, or a family member or other person the hospital reasonably believes has the authority to make health care decisions on behalf of the patient.

(c) Application of this section shall be suspended during any period in which the hospital implements its disaster and mass casualty program, or its fire and internal disaster program.

§§ 4720 to 4727. Repealed by Stats.1999, c. 658 (A.B.891), § 38, operative July 1, 2000

§§ 4720 to 4727. Repealed by Stats.1999, c. 658 (A.B.891), § 38, operative July 1, 2000

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§ 4730. Communication to patient

Before implementing a health care decision made for a patient, a supervising health care provider, if possible, shall promptly communicate to the patient the decision made and the identity of the person making the decision.

§ 4731. Recording of information in patient's health care record; notification to agent or surrogate regarding revocation or disqualification

(a) A supervising health care provider who knows of the existence of an advance health care directive, a revocation of an advance health care directive, or a designation or disqualification of a surrogate, shall promptly record its existence in the patient's health care record and, if it is in writing, shall request a copy. If a copy is furnished, the supervising health care provider shall arrange for its maintenance in the patient's health care record.

(b) A supervising health care provider who knows of a revocation of a power of attorney for health care or a disqualification of a surrogate shall make a reasonable effort to notify the agent or surrogate of the revocation or disqualification.

§ 4732. Primary physician; duty to record information regarding patient's capacity

A primary physician who makes or is informed of a determination that a patient lacks or has recovered capacity, or that another condition exists affecting an individual health care instruction or the authority of an agent, conservator of the person, or surrogate, shall promptly record the determination in the

patient's health care record and communicate the determination to the patient, if possible, and to a person then authorized to make health care decisions for the patient.

§ 4733. Compliance with health care instructions and health care decisions

Except as provided in Sections 4734 and 4735, a health care provider or health care institution providing care to a patient shall do the following:

(a) Comply with an individual health care instruction of the patient and with a reasonable interpretation of that instruction made by a person then authorized to make health care decisions for the patient.

(b) Comply with a health care decision for the patient made by a person then authorized to make health care decisions for the patient to the same extent as if the decision had been made by the patient while having capacity.

§ 4734. Declining to comply with health care instruction or decision due to reasons of conscience

(a) A health care provider may decline to comply with an individual health care instruction or health care decision for reasons of conscience.

(b) A health care institution may decline to comply with an individual health care instruction or health care decision if the instruction or decision is contrary to a policy of the institution that is expressly based on reasons of conscience and if the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient.

§ 4735. Declining to comply with health care instruction or decision that is medically ineffective

A health care provider or health care institution may decline to comply with an individual health care instruction or health care decision that requires medically ineffective health care or health care contrary to generally accepted health care standards applicable to the health care provider or institution.

§ 4736. Duties upon declining to comply with health care instruction or decision

A health care provider or health care institution that declines to comply with an individual health care instruction or health care decision shall do all of the following:

(a) Promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient.

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

(c) Provide continuing care to the patient until a transfer can be accomplished or until it appears that a transfer cannot be accomplished. In all cases, appropriate pain relief and other palliative care shall be continued.

§ 4740. Health care provider or institution; immunity from civil or criminal liability

A health care provider or health care institution acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for any actions in compliance with this division, including, but not limited to, any of the following conduct:

(a) Complying with a health care decision of a person that the health care provider or health care institution believes in good faith has the authority to make a health care decision for a patient, including a decision to withhold or withdraw health care.

(b) Declining to comply with a health care decision of a person based on a belief that the person then lacked authority.

(c) Complying with an advance health care directive and assuming that the directive was valid when made and has not been revoked or terminated.

(d) Declining to comply with an individual health care instruction or health care decision, in accordance with Sections 4734 to 4736, inclusive.

§ 4741. Agent or surrogate; immunity from civil or criminal liability

A person acting as agent or surrogate under this part is not subject to civil or criminal liability or to discipline for unprofessional conduct for health care decisions made in good faith.

§ 4742. Intentional violations and acts; liability; damages

(a) A health care provider or health care institution that intentionally violates this part is subject to liability to the aggrieved individual for damages of two thousand five hundred dollars (\$2,500) or actual damages resulting from the violation, whichever is greater, plus reasonable attorney's fees.

(b) A person who intentionally falsifies, forges, conceals, defaces, or obliterates an individual's advance health care directive or a revocation of an advance health care directive without the individual's consent, or who coerces or fraudulently induces an individual to give, revoke, or not to give an advance health care directive, is subject to liability to that individual for damages of ten thousand dollars (\$10,000) or actual damages resulting from the action, whichever is greater, plus reasonable attorney's fees.

(c) The damages provided in this section are cumulative and not exclusive of any other remedies provided by law.

§ 4743. Altering or forging health care directive; criminal liability

Any person who alters or forges a written advance health care directive of another, or willfully conceals or withholds personal knowledge of a revocation of an advance directive, with the intent to cause a withholding or withdrawal of health care necessary to keep the patient alive contrary to the desires of the patient, and thereby directly causes health care necessary to keep the patient alive to be withheld or withdrawn and the death of the patient thereby to be hastened, is subject to prosecution for unlawful homicide as provided in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 of the Penal Code.

§ 4750. Necessity of judicial intervention or approval

Subject to this division:

- (a) An advance health care directive is effective and exercisable free of judicial intervention.
- (b) A health care decision made by an agent for a principal is effective without judicial approval.
- (c) A health care decision made by a surrogate for a patient is effective without judicial approval.

§ 4751. Cumulative nature of remedies

The remedies provided in this part are cumulative and not exclusive of any other remedies provided by law.

§ 4752. Ability to limit judicial intervention or authority

Except as provided in Section 4753, this part is not subject to limitation in an advance health care directive.

§ 4753. Limitation on ability of person to petition court; requirements; restrictions

(a) Subject to subdivision (b), an advance health care directive may expressly eliminate the authority of a person listed in Section 4765 to petition the court for any one or more of the purposes enumerated in Section 4766, if both of the following requirements are satisfied:

(1) The advance directive is executed by an individual having the advice of a lawyer authorized to practice law in the state where the advance directive is executed.

(2) The individual's lawyer signs a certificate stating in substance:

"I am a lawyer authorized to practice law in the state where this advance health care directive was executed, and _____ [insert name] was my client at the time this advance directive was executed. I have advised my client concerning his or her rights in connection with this advance directive and the

applicable law and the consequences of signing or not signing this advance directive, and my client, after being so advised, has executed this advance directive.”

(b) An advance health care directive may not limit the authority of the following persons to petition under this part:

(1) The conservator of the person, with respect to a petition relating to an advance directive, for a purpose specified in subdivision (b) or (d) of Section 4766.

(2) The agent, with respect to a petition relating to a power of attorney for health care, for a purpose specified in subdivision (b) or (c) of Section 4766.

§ 4754. Jury trial

There is no right to a jury trial in proceedings under this division.

§ 4755. Application of Division 3

Except as otherwise provided in this division, the general provisions in Division 3 (commencing with Section 1000) apply to proceedings under this division.

§ 4760. Superior court jurisdiction

(a) The superior court has jurisdiction in proceedings under this division.

(b) The court in proceedings under this division is a court of general jurisdiction and the court, or a judge of the court, has the same power and authority with respect to the proceedings as otherwise provided by law for a superior court, or a judge of the superior court, including, but not limited to, the matters authorized by Section 128 of the Code of Civil Procedure.

§ 4761. Exercise of jurisdiction

The court may exercise jurisdiction in proceedings under this division on any basis permitted by Section 410.10 of the Code of Civil Procedure.

§ 4762. Agent or surrogate subject to personal jurisdiction

Without limiting Section 4761, a person who acts as an agent under a power of attorney for health care or as a surrogate under this division is subject to personal jurisdiction in this state with respect to matters relating to acts and transactions of the agent or surrogate performed in this state or affecting a patient in this state.

§ 4763. Venue

The proper county for commencement of a proceeding under this division shall be determined in the following order of priority:

- (a) The county in which the patient resides.
- (b) The county in which the agent or surrogate resides.
- (c) Any other county that is in the patient's best interest.

§ 4765. Persons entitled to file petition

Subject to Section 4753, a petition may be filed under this part by any of the following persons:

- (a) The patient.
- (b) The patient's spouse, unless legally separated.
- (c) A relative of the patient.
- (d) The patient's agent or surrogate.
- (e) The conservator of the person of the patient.
- (f) The court investigator, described in Section 1454, of the county where the patient resides.
- (g) The public guardian of the county where the patient resides.
- (h) The supervising health care provider or health care institution involved with the patient's care.
- (i) Any other interested person or friend of the patient.

§ 4766. Purposes for filing petition

A petition may be filed under this part for any one or more of the following purposes:

- (a) Determining whether or not the patient has capacity to make health care decisions.
- (b) Determining whether an advance health care directive is in effect or has terminated.
- (c) Determining whether the acts or proposed acts of an agent or surrogate are consistent with the patient's desires as expressed in an advance health care directive or otherwise made known to the court or, where the patient's desires are unknown or unclear, whether the acts or proposed acts of the agent or surrogate are in the patient's best interest.

(d) Declaring that the authority of an agent or surrogate is terminated, upon a determination by the court that the agent or surrogate has made a health care decision for the patient that authorized anything illegal or upon a determination by the court of both of the following:

(1) The agent or surrogate has violated, has failed to perform, or is unfit to perform, the duty under an advance health care directive to act consistent with the patient's desires or, where the patient's desires are unknown or unclear, is acting (by action or inaction) in a manner that is clearly contrary to the patient's best interest.

(2) At the time of the determination by the court, the patient lacks the capacity to execute or to revoke an advance health care directive or disqualify a surrogate.

(e) Compelling a third person to honor individual health care instructions or the authority of an agent or surrogate.

§ 4767. Commencement of proceeding

A proceeding under this part is commenced by filing a petition stating facts showing that the petition is authorized under this part, the grounds of the petition, and, if known to the petitioner, the terms of any advance health care directive in question.

§ 4768. Dismissal of petition

The court may dismiss a petition if it appears that the proceeding is not reasonably necessary for the protection of the interests of the patient and shall stay or dismiss the proceeding in whole or in part when required by Section 410.30 of the Code of Civil Procedure.

§ 4769. Notice of time and place of hearing

(a) Subject to subdivision (b), at least 15 days before the time set for hearing, the petitioner shall serve notice of the time and place of the hearing, together with a copy of the petition, on the following:

(1) The agent or surrogate, if not the petitioner.

(2) The patient, if not the petitioner.

(b) In the case of a petition to compel a third person to honor individual health care instructions or the authority of an agent or surrogate, notice of the time and place of the hearing, together with a copy of the petition, shall be served on the third person in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

§ 4770. Temporary order prescribing health care

The court in its discretion, on a showing of good cause, may issue a temporary order prescribing the health care of the patient until the disposition of the petition filed under Section 4766. If a power of attorney for health care is in effect and a conservator (including a temporary conservator) of the person is appointed for the principal, the court that appoints the conservator in its discretion, on a showing of good cause, may issue a temporary order prescribing the health care of the principal, the order to continue in effect for the period ordered by the court but in no case longer than the period necessary to permit the filing and determination of a petition filed under Section 4766.

§ 4771. Attorney's fees

In a proceeding under this part commenced by the filing of a petition by a person other than the agent or surrogate, the court may in its discretion award reasonable attorney's fees to one of the following:

- (a) The agent or surrogate, if the court determines that the proceeding was commenced without any reasonable cause.
- (b) The person commencing the proceeding, if the court determines that the agent or surrogate has clearly violated the duties under the advance health care directive.

§§ 4772 to 4779. Repealed by Stats.1999, c. 658 (A.B.891), § 38, operative July 1, 2000

§§ 4772 to 4779. Repealed by Stats.1999, c. 658 (A.B.891), § 38, operative July 1, 2000

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§§ 4772 to 4779. Repealed by Stats.1999, c. 658 (A.B.891), § 38, operative July 1, 2000

§ 4780. Definitions

(a) As used in this part:

(1) "Request regarding resuscitative measures" means a written document, signed by (A) an individual with capacity, or a legally recognized health care decisionmaker, and (B) the individual's physician, that directs a health care provider regarding resuscitative measures. A request regarding resuscitative measures is not an advance health care directive.

(2) "Request regarding resuscitative measures" includes one, or both of, the following:

(A) A prehospital "do not resuscitate" form as developed by the Emergency Medical Services Authority or other substantially similar form.

(B) A Physician Orders for Life Sustaining Treatment form, as approved by the Emergency Medical Services Authority.

(3) "Physician Orders for Life Sustaining Treatment form" means a request regarding resuscitative measures that directs a health care provider regarding resuscitative and life-sustaining measures.

(b) A legally recognized health care decisionmaker may execute the Physician Orders for Life Sustaining Treatment form only if the individual lacks capacity, or the individual has designated that the decisionmaker's authority is effective pursuant to Section 4682.

(c) The Physician Orders for Life Sustaining Treatment form and medical intervention and procedures offered by the form shall be explained by a health care provider, as defined in Section 4621. The form shall be completed by a health care provider based on patient preferences and medical indications, and signed by a physician and the patient or his or her legally recognized health care decisionmaker. The health care provider, during the process of completing the Physician Orders for Life Sustaining Treatment form, should inform the patient about the difference between an advance health care directive and the Physician Orders for Life Sustaining Treatment form.

(d) An individual having capacity may revoke a Physician Orders for Life Sustaining Treatment form at any time and in any manner that communicates an intent to revoke, consistent with Section 4695.

(e) A request regarding resuscitative measures may also be evidenced by a medallion engraved with the words "do not resuscitate" or the letters "DNR," a patient identification number, and a 24-hour toll-free telephone number, issued by a person pursuant to an agreement with the Emergency Medical Services Authority.

§ 4781. "Health care provider"

As used in this part, "health care provider" includes, but is not limited to, the following:

(a) Persons described in Section 4621.

(b) Emergency response employees, including, but not limited to, firefighters, law enforcement officers, emergency medical technicians I and II, paramedics, and employees and volunteer members of legally organized and recognized volunteer organizations, who are trained in accordance with standards adopted as regulations by the Emergency Medical Services Authority pursuant to Sections 1797.170, 1797.171, 1797.172, 1797.182, and 1797.183 of the Health and Safety Code to respond to medical emergencies in the course of performing their volunteer or employee duties with the organization.

§ 4781.2. Physician Orders for Life Sustaining Treatment form; treatment

(a) A health care provider shall treat an individual in accordance with a Physician Orders for Life Sustaining Treatment form.

(b) Subdivision (a) does not apply if the Physician Orders for Life Sustaining Treatment form requires medically ineffective health care or health care contrary to generally accepted health care standards applicable to the health care provider or institution.

(c) A physician may conduct an evaluation of the individual and, if possible, in consultation with the individual, or the individual's legally recognized health care decisionmaker, issue a new order consistent with the most current information available about the individual's health status and goals of care.

(d) The legally recognized health care decisionmaker of an individual without capacity shall consult with the physician who is, at that time, the individual's treating physician prior to making a request to modify that individual's Physician Orders for Life Sustaining Treatment form.

(e) An individual with capacity may, at any time, request alternative treatment to that treatment that was ordered on the form.

§ 4781.4. Conflict of orders

If the orders in an individual's request regarding resuscitative measures directly conflict with his or her individual health care instruction, as defined in Section 4623, then, to the extent of the conflict, the most recent order or instruction is effective.

§ 4781.5. Health care decisionmaker

The legally recognized health care decisionmaker shall make health care decisions pursuant to this part in accordance with Sections 4684 and 4714.

§ 4782. Immunity from criminal or civil liability or other sanction

A health care provider who honors a request regarding resuscitative measures is not subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction, as a result of his or her reliance on the request, if the health care provider (a) believes in good faith that the action or decision is consistent with this part, and (b) has no knowledge that the action or decision would be inconsistent with a health care decision that the individual signing the request would have made on his or her own behalf under like circumstances.

§ 4783. Forms; contents

(a) Forms for requests regarding resuscitative measures printed after January 1, 1995, shall contain the following:

“By signing this form, the legally recognized health care decisionmaker acknowledges that this request regarding resuscitative measures is consistent with the known desires of, and with the best interest of, the individual who is the subject of the form.”

(b) A printed form substantially similar to that described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 4780 is valid and enforceable if all of the following conditions are met:

(1) The form is signed by the individual, or the individual's legally recognized health care decisionmaker, and a physician.

(2) The form directs health care providers regarding resuscitative measures.

(3) The form contains all other information required by this section.

§ 4784. Presumption of validity or request

In the absence of knowledge to the contrary, a health care provider may presume that a request regarding resuscitative measures is valid and unrevoked.

§ 4785. Persons within or outside of hospital; application of part

This part applies regardless of whether the individual executing a request regarding resuscitative measures is within or outside a hospital or other health care institution.

§ 4786. Effect on other laws

This part does not repeal or narrow laws relating to health care decisionmaking.

Part 5. Advance Health Care Directive Registry (Refs & Annos)

§ 4800. Registry system; establishment

(a) The Secretary of State shall establish a registry system through which a person who has executed a written advance health care directive may register in a central information center, information regarding the advance directive, making that information available upon request to any health care provider, the public guardian, or the legal representative of the registrant. A request for information pursuant to this section shall state the need for the information.

(b) The Secretary of State shall respond by the close of business on the next business day to a request for information made pursuant to Section 4717 by the emergency department of a general acute care hospital.

(c) Information that may be received is limited to the registrant's name, social security number, driver's license number, or other individual identifying number established by law, if any, address, date and place of birth, the registrant's advance health care directive, an intended place of deposit or safekeeping of a written advance health care directive, and the name and telephone number of the agent and any alternative agent. Information that may be released upon request may not include the registrant's social security number except when necessary to verify the identity of the registrant.

(d) When the Secretary of State receives information from a registrant, the secretary shall issue the registrant an Advance Health Care Directive Registry identification card indicating that an advance health care directive, or information regarding an advance health care directive, has been deposited with the registry. Costs associated with issuance of the card shall be offset by the fee charged by the Secretary of State to receive and register information at the registry.

(e) The Secretary of State, at the request of the registrant or his or her legal representative, shall transmit the information received regarding the written advance health care directive to the registry system of another jurisdiction as identified by the registrant, or his or her legal representative.

(f) The Secretary of State shall charge a fee to each registrant in an amount such that, when all fees charged to registrants are aggregated, the aggregated fees do not exceed the actual cost of establishing and maintaining the registry.

§ 4801. Procedures to verify identities; fees

The Secretary of State shall establish procedures to verify the identities of health care providers, the public guardian, and other authorized persons requesting information pursuant to Section 4800. No fee shall be charged to any health care provider, the public guardian, or other authorized person requesting information pursuant to Section 4800.

§ 4802. Procedures to advise registrants of certain matters

The Secretary of State shall establish procedures to advise each registrant of the following:

- (a) A health care provider may not honor a written advance health care directive until it receives a copy from the registrant.
- (b) Each registrant must notify the registry upon revocation of the advance directive.
- (c) Each registrant must reregister upon execution of a subsequent advance directive.

§ 4803. Failure to register; effect on validity of directive

Failure to register with the Secretary of State does not affect the validity of any advance health care directive.

§ 4804. Effect of registration on ability to revoke directive

Registration with the Secretary of State does not affect the ability of the registrant to revoke the registrant's advance health care directive or a later executed advance directive, nor does registration raise any presumption of validity or superiority among any competing advance directives or revocations.

§ 4805. Duties of health care providers; effect of part

Nothing in this part shall be construed to affect the duty of a health care provider to provide information to a patient regarding advance health care directives pursuant to any provision of federal law.

§ 4806. Advance Directives and Terminal Illness Decisions Program

(a) The Secretary of State shall work with the State Department of Health Services and the office of the Attorney General to develop information about end of life care, advance health care directives, and registration of the advance health care directives at the registry established pursuant to subdivision (a) of Section 4800. This information shall be developed utilizing existing information developed by the office of the Attorney General.

(b) Links to the information specified in subdivision (a) and to the registry shall be available on the Web sites of the Secretary of State, the State Department of Health Services, the office of the Attorney General, the Department of Managed Health Care, the Department of Insurance, the Board of Registered Nursing, and the Medical Board of California.