

ASSEMBLY BILL NO. 471—ASSEMBLYWOMAN FREEMAN

MARCH 19, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing declaration to withhold or withdraw life-sustaining treatment and durable power of attorney for health care. (BDR 40-867)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to health care; revising the provisions governing a declaration to withhold or withdraw life-sustaining treatment; revising the provisions governing a durable power of attorney for health care and other powers of attorney concerning the withholding or withdrawal of life-sustaining treatment; providing penalties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 449 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 and 3 of this act.
- 3 **Sec. 2.** *“Facility for long-term care” has the meaning ascribed to it*
- 4 *in NRS 427A.028.*
- 5 **Sec. 3.** *“Incurable or terminal condition or illness” means a medical*
- 6 *condition or illness that cannot be cured by any known medical therapy*
- 7 *or treatment as determined by an attending physician.*
- 8 **Sec. 4.** NRS 449.540 is hereby amended to read as follows:
- 9 449.540 As used in NRS 449.535 to 449.690, inclusive, *and sections 2*
- 10 *and 3 of this act*, unless the context otherwise requires, the words and
- 11 terms defined in NRS 449.550 to ~~449.590,~~ *449.585*, inclusive, *and*
- 12 *sections 2 and 3 of this act* have the meanings ascribed to them in those
- 13 sections.
- 14 **Sec. 5.** NRS 449.585 is hereby amended to read as follows:
- 15 449.585 “Qualified patient” means a patient 18 or more years of age
- 16 who ~~has~~:
- 17 1. *Has* executed a declaration *or a durable power of attorney for*
- 18 *health care, or who has otherwise designated an attorney in fact to make*
- 19 *decisions regarding the withholding or withdrawal of life-sustaining*
- 20 *treatment;* and ~~who has~~

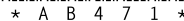


22 If I should have an incurable ~~and irreversible condition that, without the~~  
23 ~~administration of life sustaining treatment, will, in the opinion of my~~  
24 ~~attending physician, cause my death within a relatively short time,] or~~  
25 ***terminal condition or illness*** and I am no longer able to make decisions  
26 regarding my medical treatment, I direct my attending physician, pursuant  
27 to NRS 449.535 to 449.690, inclusive, ***and sections 2 and 3 of this act,***  
28 to withhold or withdraw treatment that only prolongs the process of dying and  
29 is not necessary for my comfort or to alleviate pain.

31 If you wish to include ~~this statement~~ *any of the following statements* in  
32 this declaration, you must INITIAL ~~the~~ *each* statement *you wish to*  
33 *include* in the box provided:

35 1. Withholding or withdrawal of artificial  
36 nutrition and hydration may result in death by  
37 starvation or dehydration. ~~Initial this box if~~  
38 ~~you want~~ *I desire* to receive or continue  
39 receiving artificial nutrition and hydration by  
40 way of the gastro-intestinal tract after all other  
41 treatment is withheld pursuant to this  
42 declaration.

[.....]





1     *On this ..... day of ....., in the year ..., before me,*  
2     *..... (here insert the name of the notary public) personally*  
3     *appeared ..... (here insert the name of the principal)*  
4     *personally known to me (or proved to me on the basis of satisfactory*  
5     *evidence) to be the person whose name is subscribed to this instrument,*  
6     *and acknowledged that he or she executed it. I declare under penalty of*  
7     *perjury that the person whose name is ascribed to this instrument*  
8     *appears to be of sound mind and under no duress, fraud or undue*  
9     *influence.*

10  
11     **NOTARY SEAL**

12  
13     .....  
14     *(Signature of Notary Public)*

15     **Sec. 8.** NRS 449.613 is hereby amended to read as follows:

16     449.613 1. A declaration that designates another person to make  
17     decisions governing the withholding or withdrawal of life-sustaining  
18     treatment may, but need not, be in the following form:

19  
20                     **DECLARATION**

21     If I should have an incurable ~~and irreversible condition that, without the~~  
22     ~~administration of life sustaining treatment, will, in the opinion of my~~  
23     ~~attending physician, cause my death within a relatively short time.~~ *or*  
24     *terminal condition or illness* and I am no longer able to make decisions  
25     regarding my medical treatment, I appoint ..... or, if he or  
26     she is not reasonably available or is unwilling to serve, .....,  
27     to make decisions on my behalf regarding withholding or withdrawal of  
28     treatment that only prolongs the process of dying and is not necessary for  
29     my comfort or to alleviate pain, pursuant to NRS 449.535 to 449.690,  
30     inclusive ~~H~~ *, and sections 2 and 3 of this act.* (If the person or persons I  
31     have so appointed are not reasonably available or are unwilling to serve, I  
32     direct my attending physician, pursuant to those sections, to withhold or  
33     withdraw treatment that only prolongs the process of dying and is not  
34     necessary for my comfort or to alleviate pain.)  
35     Strike language in parentheses if you do not desire it.

36     If you wish to include ~~this statement~~ *any of the following statements* in  
37     this declaration, you must INITIAL ~~the~~ *each* statement *you wish to*  
38     *include* in the box provided:

39     1. Withholding or withdrawal of artificial  
40     nutrition and hydration may result in death by  
41     starvation or dehydration. ~~Initial this box if~~  
42     ~~you want~~ *I desire* to receive or continue  
43     receiving artificial nutrition and hydration by  
44     way of the gastro-intestinal tract after all other  
45     treatment is withheld pursuant to this  
46     declaration.

47                                     [ ..... ]





*(Signature of Notary Public)*

Address .....

**Sec. 9.** NRS 449.617 is hereby amended to read as follows:

**Sec. 10.** NRS 449.622 is hereby amended to read as follows:

**Sec. 11.** NRS 449.626 is hereby amended to read as follows:

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1 (a) Has been determined by the attending physician to ~~be in a~~ *have an*  
2 *incurable or* terminal condition *or illness* and no longer *to be* able to make  
3 decisions regarding administration of life-sustaining treatment; and  
4 (b) Has no effective declaration.  
5 2. The authority to consent or to withhold consent under subsection 1  
6 may be exercised by the following persons, in order of priority:  
7 (a) The spouse of the patient;  
8 (b) An adult child of the patient or, if there is more than one adult child,  
9 a majority of the adult children who are reasonably available for  
10 consultation;  
11 (c) The parents of the patient;  
12 (d) An adult sibling of the patient or, if there is more than one adult  
13 sibling, a majority of the adult siblings who are reasonably available for  
14 consultation; ~~or~~  
15 (e) The nearest other adult relative of the patient by blood or adoption  
16 who is reasonably available for consultation ~~or~~; *or*  
17 *(f) A guardian of the patient who has been appointed by a court of*  
18 *competent jurisdiction.*  
19 3. If a class entitled to decide whether to consent is not reasonably  
20 available for consultation and competent to decide, or declines to decide,  
21 the next class is authorized to decide, but an equal division in a class does  
22 not authorize the next class to decide.  
23 4. A decision to grant or withhold consent must be made in good faith.  
24 A consent is not valid if it conflicts with the expressed intention of the  
25 patient.  
26 5. A decision of the attending physician acting in good faith that a  
27 consent is valid or invalid is conclusive.  
28 6. Life-sustaining treatment must not be withheld or withdrawn  
29 pursuant to this section from a patient known to the attending physician to  
30 be pregnant so long as it is probable that the fetus will develop to the point  
31 of live birth with continued application of life-sustaining treatment.  
32 **Sec. 12.** NRS 449.628 is hereby amended to read as follows:  
33 449.628 An attending physician or other provider of health care who is  
34 unwilling to comply with *the provisions of* NRS 449.535 to 449.690,  
35 inclusive, *and sections 2 and 3 of this act, or with an authorized decision*  
36 *of an attorney in fact who has been so designated in a durable power of*  
37 *attorney for health care or who has been otherwise designated an*  
38 *attorney in fact to make decisions on behalf of a principal regarding the*  
39 *withholding or withdrawal of life-sustaining treatment*, shall ~~take all~~  
40 ~~reasonable steps as promptly as practicable to~~ transfer care of the  
41 declarant *or principal* to another physician or provider of health care.  
42 **Sec. 13.** NRS 449.630 is hereby amended to read as follows:  
43 449.630 1. A physician or other provider of health care is not subject  
44 to civil or criminal liability, or discipline for unprofessional conduct, for  
45 giving effect to ~~it~~ ;  
46 *(a) A* declaration or the direction of a person designated pursuant to  
47 NRS 449.600 , in the absence of knowledge of the revocation of ~~a~~  
48 ~~declaration, or for giving effect to a~~ *the declaration;*  
49 *(b) A* written consent under NRS 449.626 ~~it~~ ; *or*



\* A B 4 7 1 \*

1 (c) *A durable power of attorney for health care or an authorized*  
2 *decision of an attorney in fact who has been so designated in a durable*  
3 *power of attorney for health care or who has been otherwise designated*  
4 *an attorney in fact to make decisions on behalf of a principal regarding*  
5 *the withholding or withdrawal of life-sustaining treatment, in the*  
6 *absence of knowledge of the revocation of the durable power of attorney*  
7 *for health care or other power of attorney.*

8 2. A physician or other provider of health care, whose action pursuant  
9 to NRS 449.535 to 449.690, inclusive, *and sections 2 and 3 of this act, or*  
10 *pursuant to an authorized decision of an attorney in fact who has been so*  
11 *designated in a durable power of attorney for health care or who has*  
12 *been otherwise designated an attorney in fact to make decisions on*  
13 *behalf of a principal regarding the withholding or withdrawal of life-*  
14 *sustaining treatment,* is in accord with reasonable medical standards, is not  
15 subject to civil or criminal liability, or discipline for unprofessional  
16 conduct, with respect to that action.

17 3. A physician or other provider of health care ~~is, whose decision~~  
18 ~~about~~ *who makes a decision in good faith concerning* the validity of  
19 consent under NRS 449.626 ~~is made in good faith,~~ *or concerning the*  
20 *validity of a decision of an attorney in fact who has been so designated in*  
21 *a durable power of attorney for health care or who has been otherwise*  
22 *designated an attorney in fact to make decisions on behalf of a principal*  
23 *regarding the withholding or withdrawal of life-sustaining treatment,* is  
24 not subject to civil or criminal liability, or discipline for unprofessional  
25 conduct, with respect to that decision.

26 4. A person designated pursuant to NRS 449.600, ~~or~~ a person  
27 authorized to consent pursuant to NRS 449.626, *or an attorney in fact who*  
28 *has been so designated in a durable power of attorney for health care or*  
29 *who has been otherwise designated an attorney in fact to make decisions*  
30 *on behalf of a principal regarding the withholding or withdrawal of life-*  
31 *sustaining treatment,* whose decision is made or consent is given in good  
32 faith pursuant to NRS 449.535 to 449.690, inclusive, *and sections 2 and 3*  
33 *of this act, or 449.800 to 449.860, inclusive, or pursuant to the terms of*  
34 *the durable power of attorney for health care or other power of attorney,*  
35 is not subject to civil or criminal liability, or discipline for unprofessional  
36 conduct, with respect to that decision.

37 **Sec. 14.** NRS 449.640 is hereby amended to read as follows:

38 449.640 1. If a patient ~~in a~~ *who has an incurable or* terminal  
39 condition *or illness* has a declaration, *a durable power of attorney for*  
40 *health care or other power of attorney designating an attorney in fact to*  
41 *make decisions on behalf of the patient regarding the withholding or*  
42 *withdrawal of life-sustaining treatment* in effect and becomes comatose or  
43 is otherwise rendered incapable of communicating with his attending  
44 physician, the physician ~~must~~ *shall* give weight to the declaration *or*  
45 *power of attorney* as evidence of the patient's directions regarding the  
46 application of life-sustaining treatments, but the attending physician may  
47 also consider other factors in determining whether the circumstances  
48 warrant following the directions.





1 2. No hospital or other medical facility, physician or person working  
2 under the direction of a physician is subject to criminal or civil liability for  
3 failure to follow the directions of the patient to withhold or withdraw life-  
4 sustaining treatments.

5 **Sec. 15.** NRS 449.645 is hereby amended to read as follows:

6 449.645 1. Unless he has knowledge to the contrary, a physician or  
7 other provider of health care may assume that a declaration complies with  
8 *the provisions of NRS 449.535 to 449.690, inclusive, and sections 2 and 3*  
9 *of this act, a durable power of attorney for health care complies with the*  
10 *provisions of NRS 449.800 to 449.860, inclusive, and any other power of*  
11 *attorney designating an attorney in fact to make decisions on behalf of a*  
12 *patient regarding the withholding or withdrawal of life-sustaining*  
13 *treatment complies with all applicable law, and is valid.*

14 2. *The provisions of NRS 449.535 to 449.690, inclusive, and sections*  
15 *2 and 3 of this act, and 449.800 to 449.860, inclusive, create no*  
16 *presumption concerning the intention of a person who has revoked or has*  
17 *not executed a declaration or durable power of attorney for health care*  
18 *with respect to the use, withholding or withdrawal of life-sustaining*  
19 *treatment in the event of ~~an~~ an incurable or terminal condition ~~or~~ or*  
20 *illness.*

21 **Sec. 16.** NRS 449.650 is hereby amended to read as follows:

22 449.650 1. Death resulting from the withholding or withdrawal of  
23 life-sustaining treatment in accordance with NRS 449.535 to 449.690,  
24 inclusive, *and sections 2 and 3 of this act, a durable power of attorney for*  
25 *health care or other power of attorney designating an attorney in fact to*  
26 *make decisions on behalf of a patient regarding the withholding or*  
27 *withdrawal of life-sustaining treatment* does not constitute, for any  
28 purpose, a suicide or homicide.

29 2. The making of a declaration pursuant to NRS 449.600 , *a durable*  
30 *power of attorney for health care or other power of attorney designating*  
31 *an attorney in fact to make decisions on behalf of a patient regarding the*  
32 *withholding or withdrawal of life-sustaining treatment* does not affect the  
33 sale, procurement or issuance of a policy of life insurance or annuity, nor  
34 does it affect, impair or modify the terms of an existing policy of life  
35 insurance or annuity. A policy of life insurance or annuity is not legally  
36 impaired or invalidated by the withholding or withdrawal of life-sustaining  
37 treatment from an insured, notwithstanding any term to the contrary.

38 3. A person ~~may~~ *shall* not prohibit or require the execution of a  
39 declaration , *a durable power of attorney for health care or other power*  
40 *of attorney designating an attorney in fact to make decisions on behalf of*  
41 *a patient regarding the withholding or withdrawal of life-sustaining*  
42 *treatment* as a condition for being insured for, or receiving, health care.

43 **Sec. 17.** NRS 449.660 is hereby amended to read as follows:

44 449.660 1. A physician or other provider of health care who willfully  
45 fails to transfer the care of a patient in accordance with NRS 449.628 is  
46 guilty of a gross misdemeanor.

47 2. A physician who willfully fails to record a determination of *an*  
48 *incurable or* terminal condition or *illness*, the terms of a declaration , *or*  
49 *the terms of a durable power of attorney for health care or other power*



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1 *of attorney designating an attorney in fact to make decisions on behalf of*  
2 *a patient regarding the withholding or withdrawal of life-sustaining*  
3 *treatment* in accordance with NRS 449.622 is guilty of a misdemeanor.

4 3. A person who ~~willfully~~ :  
5 (a) *Willfully* conceals, cancels, defaces or obliterates the declaration of  
6 another without the declarant's consent or ~~who falsifies~~ *a durable power*  
7 *of attorney for health care or other power of attorney designating an*  
8 *attorney in fact to make decisions on behalf of a principal regarding the*  
9 *withholding or withdrawal of life-sustaining treatment without the*  
10 *principal's consent; or*

11 (b) *Falsifies* or forges a revocation of ~~the declaration of another~~ *such*  
12 *a declaration or power of attorney,*  
13 is guilty of a misdemeanor.

14 4. A person who falsifies or forges the declaration of another ~~or~~ *or a*  
15 *durable power of attorney for health care or other power of attorney*  
16 *designating an attorney in fact to make decisions on behalf of a principal*  
17 *regarding the withholding or withdrawal of life-sustaining treatment,* or  
18 willfully conceals or withholds personal knowledge of ~~a revocation~~ *the*  
19 *revocation of such a document,* with the intent to cause a withholding or  
20 withdrawal of life-sustaining treatment contrary to the wishes of the  
21 declarant *or principal,* and thereby directly causes life-sustaining treatment  
22 to be withheld or withdrawn and death to be hastened , is guilty of murder.

23 5. A person who requires or prohibits the execution of a declaration *or*  
24 *a durable power of attorney for health care or other power of attorney*  
25 *designating an attorney in fact to make decisions on behalf of a principal*  
26 *regarding the withholding or withdrawal of life-sustaining treatment* as a  
27 condition of being insured for, or receiving, health care is guilty of a  
28 misdemeanor.

29 6. A person who coerces or fraudulently induces another to execute a  
30 declaration ~~or~~ *or a durable power of attorney for health care or other*  
31 *power of attorney designating an attorney in fact to make decisions on*  
32 *behalf of a principal regarding the withholding or withdrawal of life-*  
33 *sustaining treatment,* or who falsifies or forges the declaration of another  
34 *or a durable power of attorney for health care or other power of attorney*  
35 *designating an attorney in fact to make decisions on behalf of a principal*  
36 *regarding the withholding or withdrawal of life-sustaining treatment,*  
37 except as *otherwise* provided in subsection 4, is guilty of a gross  
38 misdemeanor.

39 7. The penalties provided in this section do not displace any sanction  
40 applicable under other law.

41 **Sec. 18.** NRS 449.680 is hereby amended to read as follows:

42 449.680 *The provisions of* NRS 449.535 to 449.690, inclusive, *and*  
43 *sections 2 and 3 of this act, and 449.800 to 449.860, inclusive,* do not  
44 affect the right of a patient to make decisions regarding *the* use of life-  
45 sustaining treatment, so long as he is able to do so, or impair or supersede a  
46 right or responsibility that any person has to effect the withholding or  
47 withdrawal of medical care.



1     **Sec. 19.** NRS 449.690 is hereby amended to read as follows:  
2     449.690 1. A declaration executed in another state in compliance  
3     with the law of that state or of this state is valid for *the* purposes of NRS  
4     449.535 to 449.690, inclusive ~~H~~, *and sections 2 and 3 of this act.*

5     2. An instrument executed anywhere before July 1, 1977, which  
6     clearly expresses the intent of the declarant to direct the withholding or  
7     withdrawal of life-sustaining treatment from him when he ~~is in a~~ *has an*  
8     *incurable or* terminal condition *or illness* and becomes comatose or is  
9     otherwise rendered incapable of communicating with his attending  
10    physician, if executed in a manner which attests voluntary execution, or  
11    executed anywhere before October 1, 1991, which substantially complies  
12    with NRS 449.600, and has not been subsequently revoked, is effective  
13    under NRS 449.535 to 449.690, inclusive ~~H~~, *and sections 2 and 3 of this*  
14    *act.*

15    3. As used in this section, "state" includes the District of Columbia,  
16    the Commonwealth of Puerto Rico, and a territory or insular possession  
17    subject to the jurisdiction of the United States.

18    **Sec. 20.** NRS 449.800 is hereby amended to read as follows:  
19    449.800 As used in NRS 449.800 to 449.860, inclusive, unless the  
20    context otherwise requires:

21    1. *"Facility for long-term care" has the meaning ascribed to it in*  
22    *NRS 427A.028.*

23    2. "Health care facility" includes:

- 24    (a) Any medical facility; and  
25    (b) Any facility for the dependent.

26    ~~2-3~~ 3. *"Incurable or terminal condition or illness" means a medical*  
27    *condition or illness that cannot be cured by any known medical therapy*  
28    *or treatment as determined by an attending physician.*

29    4. *"Mentally ill person" has the meaning ascribed to it in NRS*  
30    *433A.115.*

31    5. "Power of attorney" means a power of attorney for a disabled  
32    principal.

33    ~~3-4~~ 6. "Principal" means a natural person who has executed a power of  
34    attorney for a disabled principal.

35    ~~4-4~~ 7. "Provider of health care" has the meaning ascribed to it in NRS  
36    629.031.

37    **Sec. 21.** NRS 449.830 is hereby amended to read as follows:  
38    449.830 The form of a power of attorney for a disabled principal must  
39    be substantially as follows:

40  
41                   DURABLE POWER OF ATTORNEY  
42                   FOR HEALTH CARE DECISIONS

43  
44                   WARNING TO PERSON EXECUTING THIS DOCUMENT

45  
46                   THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A  
47                   DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE  
48                   EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE  
49                   IMPORTANT FACTS:



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1 1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS  
2 YOUR ATTORNEY-IN-FACT THE POWER TO MAKE HEALTH  
3 CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY  
4 LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU  
5 INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH  
6 CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL  
7 OF CONSENT, OR WITHDRAWAL OF CONSENT TO ANY CARE,  
8 TREATMENT, SERVICE **H** OR PROCEDURE TO MAINTAIN,  
9 DIAGNOSE **H** OR TREAT A PHYSICAL OR MENTAL CONDITION.  
10 YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF  
11 TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

12 2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A  
13 DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN  
14 THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR  
15 DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

16 3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS  
17 DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO  
18 MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE  
19 POWER TO CONSENT TO YOUR DOCTOR NOT GIVING  
20 TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP  
21 YOU ALIVE.

22 4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS  
23 DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM  
24 THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE  
25 UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF,  
26 THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN  
27 YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR  
28 YOURSELF.

29 5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE  
30 RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE  
31 DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE  
32 INFORMED CONSENT WITH RESPECT TO THE PARTICULAR  
33 DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO  
34 YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY  
35 TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

36 6. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT  
37 OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE  
38 HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT  
39 PERSON OF THE REVOCATION ORALLY OR IN WRITING.

40 7. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY  
41 GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT  
42 TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING  
43 THE TREATING PHYSICIAN, HOSPITAL **H** OR OTHER PROVIDER  
44 OF HEALTH CARE ORALLY OR IN WRITING.

45 8. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE  
46 HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO  
47 EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO  
48 THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS  
49 DOCUMENT.



\* A B 4 7 1 \*

1 9. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER  
2 OF ATTORNEY FOR HEALTH CARE.

3 10. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU  
4 DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO  
5 EXPLAIN IT TO YOU.

6  
7 1. DESIGNATION OF HEALTH CARE AGENT.

8  
9 I, .....  
10 (insert your name) do hereby designate and appoint:

11 Name: .....

12 Address: .....

13 Telephone Number: .....

14  
15 as my attorney-in-fact to make health care decisions for me as authorized  
16 in this document.

17 (Insert the name and address of the person you wish to designate as your  
18 attorney-in-fact to make health care decisions for you. Unless the person is  
19 also your spouse, legal guardian or the person most closely related to you  
20 by blood, none of the following may be designated as your attorney-in-fact:

21 (1) your treating provider of health care, (2) an employee of your treating  
22 provider of health care, (3) an operator of a health care facility, or (4) an  
23 employee of an operator of a health care facility.)

24 2. CREATION OF DURABLE POWER OF ATTORNEY FOR  
25 HEALTH CARE.

26 By this document I intend to create a durable power of attorney by  
27 appointing the person designated above to make health care decisions for  
28 me. This power of attorney ~~shall not be~~ *is not* affected by my subsequent  
29 incapacity.

30 3. GENERAL STATEMENT OF AUTHORITY GRANTED.

31 In the event that I am incapable of giving informed consent with respect  
32 to health care decisions, I hereby grant to the attorney-in-fact named above  
33 full power and authority to make health care decisions for me before ~~H~~ or  
34 after my death, including ~~H~~ consent, refusal of consent, or withdrawal of  
35 consent to any care, treatment, service ~~H~~ or procedure to maintain,  
36 diagnose ~~H~~ or treat a physical or mental condition, *including placement in  
37 a facility for long-term care, and short-term placement in a mental  
38 health facility for not more than 14 consecutive days for the purpose of  
39 determining the need for placement or the need for minimal impact drug  
40 therapy or other therapy necessary to control aggressive or other  
41 behavior resulting from Alzheimer's disease, senile dementia, age-related  
42 dementia or complications from stroke*, subject only to the limitations and  
43 special provisions, if any, set forth in paragraph 4 or 6.

44 4. SPECIAL PROVISIONS AND LIMITATIONS.

45 (Your attorney-in-fact is not permitted to consent to ~~any of the  
46 following:~~ *your* commitment to or placement in a mental health ~~treatment  
47 facility,~~ *facility as a mentally ill person pursuant to NRS 433A.115 to  
48 433A.330, inclusive, or to* convulsive treatment, psychosurgery,  
49 sterilization ~~H~~ or abortion. If there are any other types of treatment or



\* A B 4 7 1 \*

1 placement that you do not want *to authorize* your ~~attorney-in-fact's~~  
2 ~~authority~~ *attorney-in-fact* to give consent for or other restrictions you  
3 wish to place on ~~this or her attorney-in-fact's authority, you should~~ *the*  
4 *authority of your attorney-in-fact*, list them in the space below. If you do  
5 not ~~write any limitations,~~ *list any restrictions*, your attorney-in-fact will  
6 have the broad powers to make health care decisions on your behalf which  
7 are set forth in paragraph 3, except to the extent that there are limits  
8 provided by law.)

9 In exercising the authority under this durable power of attorney for  
10 health care, the authority of my attorney-in-fact is subject to the following  
11 special provisions and limitations:

12 .....  
13 .....  
14 .....  
15 .....

16 5. DURATION.

17 I understand that this power of attorney will exist indefinitely from the  
18 date I execute this document unless I establish a shorter time. If I am  
19 unable to make health care decisions for myself when this power of  
20 attorney expires, the authority I have granted my attorney-in-fact will  
21 continue to exist until the time when I become able to make health care  
22 decisions for myself.

23 (IF APPLICABLE)

24 I wish to have this power of attorney end on the  
25 following  
26 date: .....

27 6. STATEMENT OF DESIRES.

28 (With respect to decisions to withhold or withdraw life-sustaining  
29 treatment, your attorney-in-fact must make health care decisions that are  
30 consistent with your known desires. You can, but are not required to,  
31 indicate your desires below. If your desires are unknown, your attorney-in-  
32 fact has the duty to act in your best interests ~~is~~ and, under some  
33 circumstances, a judicial proceeding may be necessary so that a court can  
34 determine the health care decision that is in your best interests. If you wish  
35 to indicate your desires, you may INITIAL the statement or statements that  
36 reflect your desires ~~and/or~~ *and you may* write your own statements in the  
37 space below.)

38  
39 (If the statement  
40 reflects your desires,  
41 initial the box next to  
the statement.)

42 1. I desire that my life be prolonged to the  
43 greatest extent possible, without regard to my  
44 condition, the chances I have for recovery or  
45 long-term survival, or the cost of the  
46 procedures. [ ..... ]



- 1       2. If I am in a coma ~~{which}~~ *that* my  
2       doctors have reasonably concluded is  
3       irreversible, I desire that life-sustaining or  
4       prolonging treatments not be used ~~{}~~ ,  
5       *including cardiopulmonary resuscitation and*  
6       *other resuscitative procedures, and that my*  
7       *medical chart be marked as "No Code" or*  
8       *"Do Not Resuscitate."* ~~{(Also)}~~ You should  
9       also utilize *the* provisions of NRS 449.535 to  
10      449.690, inclusive, *and sections 2 and 3 of*  
11      *this act*, if this subparagraph is initialed.) [ .....]  
12      3. If I have an incurable or terminal  
13      condition or illness and no reasonable hope of  
14      long-term recovery or survival, I desire that  
15      life-sustaining or prolonging treatments not be  
16      used ~~{(Also)}~~ , *including cardiopulmonary*  
17      *resuscitation and other resuscitative*  
18      *procedures, and that my medical chart be*  
19      *marked as "No Code" or "Do Not*  
20      *Resuscitate."* (You should also utilize *the*  
21      provisions of NRS 449.535 to 449.690,  
22      inclusive, *and sections 2 and 3 of this act*, if  
23      this subparagraph is initialed.) [ .....]  
24      4. Withholding or withdrawal of artificial  
25      nutrition and hydration may result in death by  
26      starvation or dehydration. I ~~{want}~~ *desire* to  
27      receive or continue receiving artificial  
28      nutrition and hydration by way of the gastro-  
29      intestinal tract after all other treatment is  
30      withheld. [ .....]  
31      5. I do not desire treatment to be provided  
32      ~~{and/or}~~ *or* continued if the burdens of the  
33      treatment outweigh the expected benefits. My  
34      attorney-in-fact is to consider the relief of  
35      suffering, the preservation or restoration of  
36      functioning, and the quality as well as the  
37      extent of the possible extension of my life. [ .....]  
38      6. *I desire my attending physician to*  
39      *administer such medication to me as will*  
40      *alleviate any suffering I might experience,*  
41      *regardless of whether the medication is*  
42      *highly addictive or may shorten my*  
43      *remaining life.* [ .....]  
44      7. *If I am in a nursing home or facility*  
45      *for long-term care with little or no chance of*  
46      *recovery or returning to my home, I desire*  
47      *that all resuscitative and preventive care be*  
48      *discontinued, including the use of, or*  
49      *treatment involving, antibiotics.* [ .....]





(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)  
Other or Additional Statements of Desires:

7. DESIGNATION OF ~~{ALTERNATE}~~ *ALTERNATIVE* ATTORNEY-IN-FACT.

(You are not required to designate any alternative attorney-in-fact, but you may do so. Any alternative attorney-in-fact you designate will be able to make the same health care decisions as ~~{the attorney-in-fact designated in paragraph 1, page 2, in the event that}~~ *your designated attorney-in-fact* if he or she is unable or unwilling to act as your attorney-in-fact. Also, if ~~{the attorney-in-fact designated in paragraph 1}~~ *your designated attorney-in-fact* is your spouse, his or her designation as your attorney-in-fact is automatically revoked by law if your marriage is dissolved.)

If ~~{the person designated in paragraph 1 as}~~ my *designated* attorney-in-fact is unable to make health care decisions for me, then I designate the following persons to serve as my *alternative* attorney-in-fact to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternative Attorney-in-fact

Name: .....

Address: .....

Telephone Number: .....

B. Second Alternative Attorney-in-fact

Name: .....

Address: .....

Telephone Number: .....

8. *WAIVER OF CONFLICT OF INTEREST. If my designated attorney-in-fact is my spouse or one of my children, I hereby waive any conflict of interest in carrying out the provisions of this durable power of attorney that my spouse or child may have by being a beneficiary of my estate.*

9. *CHALLENGES. If the legality of any provision of this durable power of attorney is questioned by my physician, my attorney-in-fact or any other interested person, I hereby authorize my attorney-in-fact to commence an action for a declaratory judgment as to the legality of the provision, with the costs of the action to be paid from my estate. This durable power of attorney must be construed and interpreted in accordance with the laws of the State of Nevada.*





1 **10. INCIDENTAL NECESSITIES. I hereby authorize my attorney-**  
2 ***in-fact to make all decisions concerning the provision of food, clothing,***  
3 ***shelter and all incidental necessities relating to my physical or mental***  
4 ***health care and treatment.***

5 **11. PRIOR DESIGNATIONS REVOKED.** I revoke any prior durable  
6 power of attorney for health care.

7  
8 (YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)  
9

10 I sign my name to this Durable Power of Attorney for Health ~~care~~ Care on  
11 ..... (date) at ..... (city),  
12 ..... (state)  
13 .....  
14 (Signature)  
15

16 (THIS POWER OF ATTORNEY WILL NOT BE VALID FOR  
17 MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1)  
18 SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE  
19 PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN  
20 YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2)  
21 ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)  
22

23 CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC  
24

25 (You may use acknowledgment before a notary public instead of the  
26 statement of witnesses.)  
27

28 State of Nevada }  
29 } ss.  
30 County of..... }

31 On this ..... day of ....., in the year ..., before me,  
32 ..... (here insert **the** name of **the** notary public) personally  
33 appeared ..... (here insert **the** name of **the** principal)  
34 personally known to me (or proved to me on the basis of satisfactory  
35 evidence) to be the person whose name is subscribed to this instrument,  
36 and acknowledged that he or she executed it. I declare under penalty of  
37 perjury that the person whose name is ascribed to this instrument appears  
38 to be of sound mind and under no duress, fraud ~~H~~ or undue influence.  
39

40 NOTARY SEAL .....  
41 (Signature of Notary Public)  
42

43 STATEMENT OF WITNESSES  
44

45 (You should carefully read and follow this witnessing procedure. This  
46 document will not be valid unless you comply with the witnessing  
47 procedure. If you elect to use witnesses instead of having this document  
48 notarized , you must use two qualified adult witnesses. None of the  
49 following may be used as a witness: (1) a person you designate as the



1 attorney-in-fact, (2) a provider of health care, (3) an employee of a  
2 provider of health care, (4) the operator of a health care facility, *or* (5) an  
3 employee of an operator of a health care facility. At least one of the  
4 witnesses must make the additional declaration set out following the place  
5 where the witnesses sign.)

6 I declare under penalty of perjury that the principal is personally known  
7 to me, that the principal signed or acknowledged this durable power of  
8 attorney in my presence, that the principal appears to be of sound mind and  
9 under no duress, fraud ~~+~~ or undue influence, that I am not the person  
10 appointed as attorney-in-fact by this document, and that I am not a provider  
11 of health care, an employee of a provider of health care, the operator of a  
12 ~~community~~ *health* care facility, ~~+~~ *or* an employee of an operator of a  
13 health care facility.

14 Signature: ..... Residence Address: .....  
15 Print Name: .....  
16 Date: .....  
17

18 Signature: ..... Residence Address: .....  
19 Print Name: .....  
20 Date: .....  
21

22 (AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN  
23 THE FOLLOWING DECLARATION.)  
24

25 I declare under penalty of perjury that I am not related to the principal  
26 by blood, marriage ~~+~~ or adoption, and to the best of my knowledge, I am  
27 not entitled to any part of the estate of the principal upon the death of the  
28 principal under a will now existing or by operation of law.

29 Signature: .....  
30

31 Signature: .....  
32

33 .....  
34 Names: ..... Address: .....  
35 Print Name: .....  
36 Date: .....  
37

38 COPIES: You should retain an executed copy of this document and give  
39 one to your attorney-in-fact. The power of attorney should be available so a  
40 copy may be given to your providers of health care.

41 **Sec. 22.** NRS 449.850 is hereby amended to read as follows:

42 449.850 1. The attorney in fact may not consent to:

43 (a) Commitment or placement of the principal in a ~~facility for~~  
44 ~~treatment of mental illness;~~ *mental health facility as a mentally ill person*  
45 *pursuant to NRS 433A.115 to 433A.330, inclusive;*  
46

47 (b) Convulsive treatment;

48 (c) Psychosurgery;

49 (d) Sterilization;



- 1 (e) Abortion;
- 2 (f) Aversive intervention, as that term is defined in NRS 449.766; or
- 3 (g) Any other treatment to which the principal, in the power of attorney,
- 4 states that the attorney in fact may not consent.

5 2. The attorney in fact ~~must~~ *shall* make decisions concerning the use  
6 or nonuse of ~~life-sustaining treatment which~~ *life-sustaining treatment*  
7 *that* conform to the known desires of the principal. The principal may  
8 make ~~these~~ *those* desires known in the power of attorney.

9 **Sec. 23.** NRS 450B.520 is hereby amended to read as follows:

10 450B.520 1. A qualified patient may apply to the health authority for  
11 a do-not-resuscitate identification by submitting an application on a form  
12 provided by the health authority. To obtain a do-not-resuscitate  
13 identification, the patient must comply with the requirements prescribed by  
14 the board and sign a form which states that he has informed each member  
15 of his family within the first degree of consanguinity or affinity, whose  
16 whereabouts are known to him, or if no such members are living, his legal  
17 guardian, if any, or if he has no such members living and has no legal  
18 guardian, his caretaker, if any, of his decision to apply for an identification.

19 2. An application must include, without limitation:

20 (a) Certification by the patient's attending physician that the patient  
21 suffers from ~~an~~ *an incurable or* terminal condition ~~or illness~~;

22 (b) Certification by the patient's attending physician that the patient:

23 (1) Is capable of making an informed decision; or

24 (2) When he was capable of making an informed decision, executed:

25 (I) A written directive that life-resuscitating treatment be withheld  
26 under certain circumstances; or

27 (II) A durable power of attorney for health care pursuant to NRS  
28 449.800 to 449.860, inclusive;

29 (c) A statement that the patient does not wish that life-resuscitating  
30 treatment be undertaken in the event of a cardiac or respiratory arrest;

31 (d) The name, signature and telephone number of the patient's attending  
32 physician; and

33 (e) The name and signature of the patient or the attorney in fact who is  
34 authorized to make health care decisions on the patient's behalf pursuant to  
35 a durable power of attorney for health care.

36 **Sec. 24.** NRS 159.079 is hereby amended to read as follows:

37 159.079 1. Except as otherwise ordered by the court, a guardian of  
38 the person has the care, custody and control of the person of the ward, and  
39 has the authority and, subject to subsection 2, shall perform the duties  
40 necessary for the proper care, maintenance, education and support of the  
41 ward, including the following:

42 (a) Supplying the ward with food, clothing, shelter and all incidental  
43 necessities.

44 (b) Authorizing medical, surgical, dental, psychiatric, psychological,  
45 hygienic or other remedial care and treatment for the ward.

46 (c) Seeing that the ward is properly trained and educated and that he has  
47 the opportunity to learn a trade, occupation or profession.

48 2. In the performance of the duties enumerated in subsection 1 by a  
49 guardian of the person, due regard must be given to the extent of the estate



\* A B 4 7 1 \*

1 of the ward. A guardian of the person is not required to incur expenses on  
2 behalf of the ward except to the extent that the estate of the ward is  
3 sufficient to reimburse the guardian. This section does not relieve a parent  
4 or other person of any duty required by law to provide for the care, support  
5 and maintenance of any dependent.

6 *3. If the ward is determined to have an incurable or terminal*  
7 *condition or illness, the guardian may authorize the withholding or*  
8 *withdrawal of medical treatment that only prolongs the death of the ward*  
9 *and is not necessary for the comfort of the ward or to alleviate the pain of*  
10 *the ward. The guardian may consult with the spouse, parents, adult*  
11 *children or adult siblings of the ward before authorizing the withholding*  
12 *or withdrawal of treatment.*

13 *4. As used in this section "incurable or terminal condition or illness"*  
14 *has the meaning ascribed to it in section 3 of this act.*

15 **Sec. 25.** NRS 433A.115 is hereby amended to read as follows:

16 433A.115 1. As used in NRS ~~433A.120~~ 433A.115 to 433A.330,  
17 inclusive, unless the context otherwise requires, "mentally ill person"  
18 means any person whose capacity to exercise self-control, judgment and  
19 discretion in the conduct of his affairs and social relations or to care for his  
20 personal needs is diminished, as a result of a mental illness, to the extent  
21 that he presents a clear and present danger of harm to himself or others, but  
22 does not include any person in whom that capacity is diminished by  
23 epilepsy, mental retardation, Alzheimer's disease, *senile dementia, age-*  
24 *related dementia, complications from stroke*, brief periods of intoxication  
25 caused by alcohol or drugs, or dependence upon or addiction to alcohol or  
26 drugs, unless a mental illness that can be diagnosed is also present which  
27 contributes to the diminished capacity of the person.

28 2. A person presents a clear and present danger of harm to himself if,  
29 within the next preceding 30 days, he has, as a result of a mental illness:

30 (a) Acted in a manner from which it may reasonably be inferred that,  
31 without the care, supervision or continued assistance of others, he will be  
32 unable to satisfy his need for nourishment, personal or medical care,  
33 shelter, self-protection or safety, and if there exists a reasonable probability  
34 that his death, serious bodily injury or physical debilitation will occur  
35 within the next following 30 days unless he is admitted to a mental health  
36 facility pursuant to the provisions of NRS ~~433A.120~~ 433A.115 to  
37 433A.330, inclusive, and adequate treatment is provided to him;

38 (b) Attempted or threatened to commit suicide or committed acts in  
39 furtherance of a threat to commit suicide, and if there exists a reasonable  
40 probability that he will commit suicide unless he is admitted to a mental  
41 health facility pursuant to the provisions of NRS ~~433A.120~~ 433A.115 to  
42 433A.330, inclusive, and adequate treatment is provided to him; or

43 (c) Mutilated himself, attempted or threatened to mutilate himself or  
44 committed acts in furtherance of a threat to mutilate himself, and if there  
45 exists a reasonable probability that he will mutilate himself unless he is  
46 admitted to a mental health facility pursuant to the provisions of NRS  
47 ~~433A.120~~ 433A.115 to 433A.330, inclusive, and adequate treatment is  
48 provided to him.



- 1     3. A person presents a clear and present danger of harm to others if,  
2 within the next preceding 30 days, he has, as a result of a mental illness,  
3 inflicted or attempted to inflict serious bodily harm on any other person, or  
4 made threats to inflict harm and committed acts in furtherance of those  
5 threats, and if there exists a reasonable probability that he will do so again  
6 unless he is admitted to a mental health facility pursuant to the provisions  
7 of NRS ~~433A.120~~ **433A.115** to 433A.330, inclusive, and adequate  
8 treatment is provided to him.
- 9     **Sec. 26.** NRS 449.590 is hereby repealed.
- 10    **Sec. 27.** The provisions of this act do not affect the validity of any  
11 declaration executed in accordance with the requirements of NRS 449.560,  
12 durable power of attorney for health care or other power of attorney  
13 designating an attorney in fact to make decisions on behalf of a principal  
14 regarding the withholding or withdrawal of life-sustaining treatment that  
15 was executed on or before June 30, 2001.
- 16    **Sec. 28.** This act becomes effective on July 1, 2001.

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#### TEXT OF REPEALED SECTION

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**449.590 “Terminal condition” defined.** “Terminal condition” means an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of the attending physician, result in death within a relatively short time.

