

SENATE BILL NO. 206—SENATOR MATHEWS

MARCH 21, 2005

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Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to declarations concerning withholding or withdrawal of life-sustaining treatment and durable powers of attorney for health care. (BDR 40-857)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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

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AN ACT relating to health; authorizing the State Board of Health, with the advice of the Ethics Institute established by the Board of Regents of the University of Nevada, to prescribe by regulation a form for a declaration governing the withholding or withdrawal of life-sustaining treatment; revising certain terms used to describe parties to a power of attorney for decisions concerning the provision of health care; requiring the State Board of Health, with the advice of the Ethics Institute, to prescribe by regulation a form for a durable power of attorney for health care decisions; authorizing an agent of a power of attorney to make decisions concerning the use or nonuse of life-sustaining treatment for a principal of the power of attorney which are contrary to the known desires of the principal if such decisions are in the best interests of the principal; and providing other matters properly relating thereto.



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

**Section 1.** Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Board may, with the advice of the Ethics Institute established by the Board of Regents of the University of Nevada pursuant to NRS 396.797, prescribe by regulation a form for a declaration.*

*2. Any form for a declaration which is prescribed by regulation must comply with the provisions governing declarations set forth in NRS 449.535 to 449.690, inclusive, and section 1 of this act.*

**Sec. 2.** NRS 449.535 is hereby amended to read as follows:

449.535 1. NRS 449.535 to 449.690, inclusive, *and section 1 of this act* may be cited as the Uniform Act on Rights of the Terminally Ill.

2. NRS 449.535 to 449.690, inclusive, *and section 1 of this act* must be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of those sections among states enacting the Uniform Act on Rights of the Terminally Ill.

**Sec. 3.** NRS 449.540 is hereby amended to read as follows:

449.540 As used in NRS 449.535 to 449.690, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 449.550 to 449.590, inclusive, have the meanings ascribed to them in those sections.

**Sec. 4.** NRS 449.610 is hereby amended to read as follows:

449.610 A declaration directing a physician to withhold or withdraw life-sustaining treatment may ~~[, but need not,]~~ be *in a form prescribed by the Board by regulation pursuant to section 1 of this act or may be* in the following form:

DECLARATION

If I should have an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of my attending physician, cause my death within a relatively short time, and I am no longer able to make decisions regarding my medical treatment, I direct my attending physician, pursuant to NRS 449.535 to 449.690, inclusive, *and section 1 of this act* to withhold or withdraw treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain.



If you wish to include this statement in this declaration, you must  
INITIAL the statement in the box provided:

Withholding or withdrawal of  
artificial nutrition and hydration may  
result in death by starvation or  
dehydration. Initial this box if you want  
to receive or continue receiving artificial  
nutrition and hydration by way of the  
gastrointestinal tract after all other  
treatment is withheld pursuant to this  
declaration.

[ ..... ]

Signed this ..... day of ....., .....

Signature.....  
Address.....

The declarant voluntarily signed this writing in my presence.

Witness .....  
Address.....

Witness .....  
Address.....

**Sec. 5.** NRS 449.613 is hereby amended to read as follows:

449.613 1. A declaration that designates another person to  
make decisions governing the withholding or withdrawal of life-  
sustaining treatment may ~~[, but need not,]~~ be *in a form prescribed  
by the Board by regulation pursuant to section 1 of this act or may  
be* in the following form:

### DECLARATION

If I should have an incurable and irreversible condition that, without  
the administration of life-sustaining treatment, will, in the opinion of  
my attending physician, cause my death within a relatively short  
time, and I am no longer able to make decisions regarding my  
medical treatment, I appoint ..... or, if he or she is  
not reasonably available or is unwilling to serve, .....,  
to make decisions on my behalf regarding withholding or  
withdrawal of treatment that only prolongs the process of dying and  
is not necessary for my comfort or to alleviate pain, pursuant to



NRS 449.535 to 449.690, inclusive ~~H~~, *and section 1 of this act.* (If the person or persons I have so appointed are not reasonably available or are unwilling to serve, I direct my attending physician, pursuant to those sections, to withhold or withdraw treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain.)

Strike language in parentheses if you do not desire it.

If you wish to include this statement in this declaration, you must INITIAL the statement in the box provided:

Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. Initial this box if you want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld pursuant to this declaration.

[.....]

Signed this ..... day of ....., .....

Signature.....

Address.....

The declarant voluntarily signed this writing in my presence.

Witness .....

Address.....

Witness .....

Address.....

Name and address of each designee.

Name .....

Address.....

2. The designation of an attorney-in-fact *or agent* pursuant to NRS 111.460 or 449.800 to 449.860, inclusive, or the judicial appointment of a guardian, who is authorized to make decisions regarding the withholding or withdrawal of life-sustaining treatment, constitutes for the purpose of NRS 449.535 to 449.690,



1 inclusive, *and section 1 of this act*, a declaration designating  
2 another person to act for the declarant pursuant to subsection 1.

3 **Sec. 6.** NRS 449.624 is hereby amended to read as follows:

4 449.624 1. A qualified patient may make decisions regarding  
5 life-sustaining treatment so long as he is able to do so.

6 2. NRS 449.535 to 449.690, inclusive, *and section 1 of this act*  
7 do not affect the responsibility of the attending physician or other  
8 provider of health care to provide treatment for a patient's comfort  
9 or alleviation of pain.

10 3. Artificial nutrition and hydration by way of the  
11 gastrointestinal tract shall be deemed a life-sustaining treatment and  
12 must be withheld or withdrawn from a qualified patient unless a  
13 different desire is expressed in writing by the patient. ~~For a patient~~  
14 ~~who has no effective declaration, artificial nutrition and hydration~~  
15 ~~must not be withheld unless a different desire is expressed in writing~~  
16 ~~by his authorized representative or the family member with the~~  
17 ~~authority to consent or withhold consent.]~~

18 4. Life-sustaining treatment must not be withheld or withdrawn  
19 pursuant to a declaration from a qualified patient known to the  
20 attending physician to be pregnant so long as it is probable that the  
21 fetus will develop to the point of live birth with continued  
22 application of life-sustaining treatment.

23 **Sec. 7.** NRS 449.800 is hereby amended to read as follows:

24 449.800 As used in NRS 449.800 to 449.860, inclusive, unless  
25 the context otherwise requires:

26 1. *"Agent" means a person who is authorized pursuant to the*  
27 *provisions of a power of attorney to make decisions concerning the*  
28 *provision of health care to a principal.*

29 2. "Health care facility" includes:

30 (a) Any medical facility; and

31 (b) Any facility for the dependent.

32 ~~[2.]~~ 3. "Power of attorney" means a power of attorney ~~for a~~  
33 ~~disabled principal.~~

34 ~~—3.]~~ *executed in accordance with the provisions of NRS 449.800*  
35 *to 449.860, inclusive, to authorize an agent to make decisions*  
36 *concerning the provision of health care to a principal.*

37 4. "Principal" means a natural person who *is incapable of*  
38 *giving informed consent concerning the provision of health care*  
39 *to the principal and who* has executed a power of attorney for ~~a~~  
40 ~~disabled principal.~~

41 ~~—4.]~~ *an agent to make decisions concerning the provision of*  
42 *health care to the principal.*

43 5. "Provider of health care" has the meaning ascribed to it in  
44 NRS 629.031.



1     **Sec. 8.** NRS 449.810 is hereby amended to read as follows:

2     449.810 Any adult person may execute a power of attorney  
3     ~~{for a disabled principal}~~ enabling the ~~{attorney in fact}~~ *agent*  
4     named in the power of attorney to make decisions concerning *the*  
5     *provision of* health care for the principal who executed the power of  
6     attorney if that principal becomes incapable of giving informed  
7     consent concerning such decisions.

8     **Sec. 9.** NRS 449.820 is hereby amended to read as follows:

9     449.820 1. Except as otherwise provided in subsection 2, a  
10    ~~{principal}~~ *person* may not name as ~~{attorney in fact}~~ *his agent* in a  
11    power of attorney:

- 12    (a) His provider of health care;  
13    (b) An employee of his provider of health care;  
14    (c) An operator of a health care facility; or  
15    (d) An employee of a health care facility.

16    2. A ~~{principal}~~ *person* may name as ~~{attorney in fact}~~ *his*  
17    *agent in a power of attorney* any person identified in subsection 1 if  
18    that person is the spouse, legal guardian or next of kin of the  
19    ~~{principal}~~ *person*.

20    **Sec. 10.** NRS 449.830 is hereby amended to read as follows:

21    449.830 1. The *Board shall, with the advice of the Ethics*  
22    *Institute established by the Board of Regents of the University of*  
23    *Nevada pursuant to NRS 396.797, prescribe by regulation a* form  
24    ~~{of}~~ *for* a *durable* power of attorney for ~~{a disabled principal must~~  
25    ~~be substantially as follows:~~

26  
27                   ~~DURABLE POWER OF ATTORNEY~~  
28                   ~~FOR HEALTH CARE DECISIONS~~

29  
30           ~~WARNING TO PERSON EXECUTING THIS DOCUMENT~~

31  
32    ~~—THIS IS AN IMPORTANT LEGAL DOCUMENT. IT~~  
33    ~~CREATES A DURABLE POWER OF ATTORNEY FOR~~  
34    ~~HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT,~~  
35    ~~YOU SHOULD KNOW THESE IMPORTANT FACTS:~~

36    ~~—1. THIS DOCUMENT GIVES THE PERSON YOU~~  
37    ~~DESIGNATE AS YOUR ATTORNEY IN FACT THE POWER~~  
38    ~~TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS~~  
39    ~~POWER IS SUBJECT TO ANY LIMITATIONS OR~~  
40    ~~STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN~~  
41    ~~THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE~~  
42    ~~DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL~~  
43    ~~OF CONSENT, OR WITHDRAWAL OF CONSENT TO ANY~~  
44    ~~CARE, TREATMENT, SERVICE, OR PROCEDURE TO~~  
45    ~~MAINTAIN, DIAGNOSE, OR TREAT A PHYSICAL OR~~



1 ~~MENTAL CONDITION. YOU MAY STATE IN THIS~~  
2 ~~DOCUMENT ANY TYPES OF TREATMENT OR~~  
3 ~~PLACEMENTS THAT YOU DO NOT DESIRE.~~

4 ~~— 2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT~~  
5 ~~HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES~~  
6 ~~AS STATED IN THIS DOCUMENT OR OTHERWISE MADE~~  
7 ~~KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN~~  
8 ~~YOUR BEST INTERESTS.~~

9 ~~— 3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS~~  
10 ~~DOCUMENT, THE POWER OF THE PERSON YOU~~  
11 ~~DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR~~  
12 ~~YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR~~  
13 ~~DOCTOR NOT GIVING TREATMENT OR STOPPING~~  
14 ~~TREATMENT WHICH WOULD KEEP YOU ALIVE.~~

15 ~~— 4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS~~  
16 ~~DOCUMENT, THIS POWER WILL EXIST INDEFINITELY~~  
17 ~~FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF~~  
18 ~~YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS~~  
19 ~~FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST~~  
20 ~~UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE~~  
21 ~~HEALTH CARE DECISIONS FOR YOURSELF.~~

22 ~~— 5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE~~  
23 ~~THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH~~  
24 ~~CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN~~  
25 ~~GIVE INFORMED CONSENT WITH RESPECT TO THE~~  
26 ~~PARTICULAR DECISION. IN ADDITION, NO TREATMENT~~  
27 ~~MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND~~  
28 ~~HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY~~  
29 ~~NOT BE STOPPED IF YOU OBJECT.~~

30 ~~— 6. YOU HAVE THE RIGHT TO REVOKE THE~~  
31 ~~APPOINTMENT OF THE PERSON DESIGNATED IN THIS~~  
32 ~~DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR~~  
33 ~~YOU BY NOTIFYING THAT PERSON OF THE REVOCATION~~  
34 ~~ORALLY OR IN WRITING.~~

35 ~~— 7. YOU HAVE THE RIGHT TO REVOKE THE~~  
36 ~~AUTHORITY GRANTED TO THE PERSON DESIGNATED IN~~  
37 ~~THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS~~  
38 ~~FOR YOU BY NOTIFYING THE TREATING PHYSICIAN,~~  
39 ~~HOSPITAL, OR OTHER PROVIDER OF HEALTH CARE~~  
40 ~~ORALLY OR IN WRITING.~~

41 ~~— 8. THE PERSON DESIGNATED IN THIS DOCUMENT TO~~  
42 ~~MAKE HEALTH CARE DECISIONS FOR YOU HAS THE~~  
43 ~~RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO~~  
44 ~~CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT~~  
45 ~~THIS RIGHT IN THIS DOCUMENT.~~



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

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

~~1. DESIGNATION OF HEALTH CARE AGENT.~~

~~I,.....  
(insert your name) do hereby designate and appoint:~~

~~Name: .....~~

~~Address: .....~~

~~Telephone Number:.....~~

~~as my attorney in fact to make health care decisions for me as  
authorized in this document.~~

~~(Insert the name and address of the person you wish to designate  
as your attorney in fact to make health care decisions for you.  
Unless the person is also your spouse, legal guardian or the person  
most closely related to you by blood, none of the following may be  
designated as your attorney in fact: (1) your treating provider of  
health care, (2) an employee of your treating provider of health care,  
(3) an operator of a health care facility, or (4) an employee of an  
operator of a health care facility.)~~

~~2. CREATION OF DURABLE POWER OF ATTORNEY  
FOR HEALTH CARE.~~

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

~~3. GENERAL STATEMENT OF AUTHORITY GRANTED.~~

~~In the event that I am incapable of giving informed consent with  
respect to health care decisions, I hereby grant to the attorney in fact  
named above full power and authority to make health care decisions  
for me before, or after my death, including: consent, refusal of  
consent, or withdrawal of consent to any care, treatment, service, or  
procedure to maintain, diagnose, or treat a physical or mental  
condition, subject only to the limitations and special provisions, if  
any, set forth in paragraph 4 or 6.~~

~~4. SPECIAL PROVISIONS AND LIMITATIONS.~~

~~(Your attorney in fact is not permitted to consent to any of the  
following: commitment to or placement in a mental health treatment  
facility, convulsive treatment, psychosurgery, sterilization, or  
abortion. If there are any other types of treatment or placement that  
you do not want your attorney in fact's authority to give consent for~~





~~or other restrictions you wish to place on his or her attorney in fact's authority, you should list them in the space below. If you do not write any limitations, your attorney in fact will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)~~

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

~~.....  
.....  
.....  
.....~~

~~—5. DURATION.~~

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

(IF APPLICABLE)

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

~~—6. STATEMENT OF DESIRES.~~

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

(If the statement reflects your desires, initial the box next to the statement.)

~~—1. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for~~



~~recovery or long term survival, or the cost of the procedures. [.]~~

~~2. If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initiated.) [.]~~

~~3. If I have an incurable or terminal condition or illness and no reasonable hope of long term recovery or survival, I desire that life sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initiated.) [.]~~

~~4. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld. [.]~~

~~5. I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My attorney in fact is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life. [.]~~

~~(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 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 he or she is unable or unwilling to act as your attorney in fact. Also, if the attorney in fact designated in paragraph 1 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 attorney in fact is unable to make health care decisions for me, then I designate the following persons to serve as my 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. PRIOR DESIGNATIONS REVOKED.~~

~~I revoke any prior durable power of attorney for health care.~~

~~(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)~~

~~I sign my name to this Durable Power of Attorney  
for Health care on ..... (date) ..... at  
..... (city),  
..... (state)~~

~~..... (Signature)~~

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



**CERTIFICATE OF ACKNOWLEDGMENT  
OF NOTARY PUBLIC**

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

State of Nevada \_\_\_\_\_ }  
\_\_\_\_\_ } ss.  
County of \_\_\_\_\_ }

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

NOTARY SEAL \_\_\_\_\_  
\_\_\_\_\_  
(Signature of Notary Public)

**STATEMENT OF WITNESSES**

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the attorney in fact, (2) a provider of health care, (3) an employee of a provider of health care, (4) the operator of a health care facility, (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

— I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as attorney in fact by this document, and that I am not a provider of health care, an employee of a provider of health care, the operator of a community care facility, nor an employee of an operator of a health care facility.



Signature:.....Residence Address:.....  
Print Name:.....  
Date:.....

Signature:.....Residence Address:.....  
Print Name:.....  
Date:.....

~~— (AT LEAST ONE OF THE ABOVE WITNESSES MUST  
ALSO SIGN THE FOLLOWING DECLARATION.)~~

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

Signature:.....

Signature:.....

Names:.....Address:.....  
Print Name:.....  
Date:.....

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

*2. The form for a durable power of attorney for health care  
decisions which is prescribed by regulation must comply with the  
provisions governing durable powers of attorney for health care  
decisions set forth in NRS 449.800 to 449.860, inclusive.*

**Sec. 11.** NRS 449.840 is hereby amended to read as follows:

449.840 1. The principal's signature on the power of attorney  
must:

(a) Be acknowledged before a notary public; or  
(b) Witnessed by two adult witnesses who know the principal  
personally.

2. Neither of the witnesses to a principal's signature may be:

- (a) A provider of health care;
- (b) An employee of a provider of health care;
- (c) An operator of a health care facility;
- (d) An employee of a health care facility; or



1 (e) The ~~attorney-in-fact.~~ agent.

2 3. At least one of the witnesses to a principal's signature must  
3 be a person who is:

4 (a) Not related to the principal by blood, marriage or adoption;  
5 and

6 (b) To the best of the witnesses knowledge, not entitled to any  
7 part of the estate of the principal upon the death of the principal.

8 **Sec. 12.** NRS 449.850 is hereby amended to read as follows:

9 449.850 1. The ~~attorney-in-fact~~ agent may not consent to:

10 (a) Commitment or placement of the principal in a facility for  
11 treatment of mental illness;

12 (b) Convulsive treatment;

13 (c) Psychosurgery;

14 (d) Sterilization;

15 (e) Abortion;

16 (f) Aversive intervention, as that term is defined in NRS  
17 449.766; or

18 (g) Any other treatment to which the principal, in the power of  
19 attorney, states that the ~~attorney-in-fact~~ agent may not consent.

20 2. ~~the attorney-in-fact must~~ *Except as otherwise provided in*  
21 *this subsection, the agent shall* make decisions concerning the use  
22 or nonuse of life-sustaining treatment which conform to the known  
23 desires of the principal. The principal may make these desires  
24 known in the power of attorney. *If the agent believes, based on the*  
25 *circumstances of the principal, that the best interests of the*  
26 *principal would be better served in a manner which is contrary to*  
27 *the desires indicated in the power of attorney, the agent may make*  
28 *decisions concerning the use or nonuse of life-sustaining*  
29 *treatment which are contrary to the desires indicated in the power*  
30 *of attorney.*

31 **Sec. 13.** NRS 449.860 is hereby amended to read as follows:

32 449.860 1. ~~The principal~~ A person may designate an  
33 alternate ~~attorney-in-fact.~~ agent in a power of attorney.

34 2. If a ~~principal~~ person designates his spouse as the ~~attorney-~~  
35 ~~in-fact~~ agent or as an alternate ~~in~~ in a power of attorney, that  
36 designation is automatically revoked if the ~~principal~~ person and  
37 his spouse are divorced.

38 3. An execution of a power of attorney automatically revokes  
39 any previous power of attorney.

40 4. A power of attorney remains valid indefinitely unless:

41 (a) The ~~principal~~ person executing the power of attorney  
42 designates a shorter period for which it is to remain valid; or

43 (b) It is revoked.

44 5. If a power of attorney expires while the principal is unable  
45 to make decisions concerning health care, the power of attorney



1 remains valid until the principal is again able to make such  
2 decisions.

3 **Sec. 14.** NRS 450B.520 is hereby amended to read as follows:

4 450B.520 Except as otherwise provided in NRS 450B.525:

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

15 2. An application must include, without limitation:

16 (a) Certification by the patient's attending physician that the  
17 patient suffers from a terminal condition;

18 (b) Certification by the patient's attending physician that the  
19 patient is capable of making an informed decision or, when he was  
20 capable of making an informed decision:

21 (1) He executed:

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

24 (II) A durable power of attorney for health care *decisions*  
25 pursuant to NRS 449.800 to 449.860, inclusive; or

26 (2) He was issued a do-not-resuscitate order pursuant to  
27 NRS 450B.510;

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

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

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

37 **Sec. 15.** NRS 159.044 is hereby amended to read as follows:

38 159.044 1. Except as otherwise provided in NRS 127.045, a  
39 proposed ward, a governmental agency, a nonprofit corporation or  
40 any interested person may petition the court for the appointment of a  
41 guardian.

42 2. To the extent the petitioner knows or reasonably may  
43 ascertain or obtain, the petition must include, without limitation:

44 (a) The name and address of the petitioner.



(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

➤ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 60 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

- (1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and
- (2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:





1 (1) A certificate signed by a physician who is licensed to  
2 practice medicine in this State stating the need for a guardian;

3 (2) A letter signed by any governmental agency in this State  
4 which conducts investigations stating the need for a guardian; or

5 (3) A certificate signed by any other person whom the court  
6 finds qualified to execute a certificate stating the need for a  
7 guardian.

8 (k) Whether the appointment of a general or a special guardian  
9 is sought.

10 (l) A general description and the probable value of the property  
11 of the proposed ward and any income to which the proposed ward is  
12 or will be entitled, if the petition is for the appointment of a  
13 guardian of the estate or a special guardian. If any money is paid or  
14 is payable to the proposed ward by the United States through the  
15 Department of Veterans Affairs, the petition must so state.

16 (m) The name and address of any person or care provider having  
17 the care, custody or control of the proposed ward.


18 (n) The relationship, if any, of the petitioner to the proposed  
19 ward and the interest, if any, of the petitioner in the appointment.

20 (o) Requests for any of the specific powers set forth in NRS  
21 159.117 to 159.175, inclusive, necessary to enable the guardian to  
22 carry out the duties of the guardianship.

23 (p) Whether the guardianship is sought as the result of an  
24 investigation of a report of abuse or neglect that is conducted  
25 pursuant to chapter 432B of NRS by an agency which provides  
26 child welfare services. As used in this paragraph, "agency which  
27 provides child welfare services" has the meaning ascribed to it in  
28 NRS 432B.030.

29 (q) Whether the proposed ward is a party to any pending  
30 criminal or civil litigation.

31 (r) Whether the guardianship is sought for the purpose of  
32 initiating litigation.

33 (s) Whether the proposed ward has executed a durable power of  
34 attorney for health care  *decisions*, a durable power of attorney for  
35 financial matters or a written nomination of guardian and, if so, who  
36 the named agents are for each document.

37 **Sec. 16.** NRS 200.495 is hereby amended to read as follows:

38 200.495 1. A professional caretaker who fails to provide such  
39 service, care or supervision as is reasonable and necessary to  
40 maintain the health or safety of a patient is guilty of criminal neglect  
41 of a patient if:

42 (a) The act or omission is aggravated, reckless or gross;

43 (b) The act or omission is such a departure from what would be  
44 the conduct of an ordinarily prudent, careful person under the same



1 circumstances that it is contrary to a proper regard for danger to  
2 human life or constitutes indifference to the resulting consequences;

3 (c) The consequences of the negligent act or omission could  
4 have reasonably been foreseen; and

5 (d) The danger to human life was not the result of inattention,  
6 mistaken judgment or misadventure, but the natural and probable  
7 result of an aggravated reckless or grossly negligent act or omission.

8 2. Unless a more severe penalty is prescribed by law for the act  
9 or omission which brings about the neglect, a person who commits  
10 criminal neglect of a patient:

11 (a) If the neglect results in death, is guilty of a category B felony  
12 and shall be punished by imprisonment in the state prison for a  
13 minimum term of not less than 1 year and a maximum term of not  
14 more than 20 years.

15 (b) If the neglect results in substantial bodily harm, is guilty of a  
16 category B felony and shall be punished by imprisonment in the  
17 state prison for a minimum term of not less than 1 year and a  
18 maximum term of not more than 6 years, or by a fine of not more  
19 than \$5,000, or by both fine and imprisonment.

20 (c) If the neglect does not result in death or substantial bodily  
21 harm, is guilty of a gross misdemeanor.

22 3. For the purposes of this section, a patient is not neglected for  
23 the sole reason that:

24 (a) According to his desire, he is being furnished with treatment  
25 by spiritual means through prayer alone in accordance with the  
26 tenets and practices of a church or religious denomination.  
27 Subsection 1 does not authorize or require any medical care or  
28 treatment over the implied or express objection of such a patient.

29 (b) Life-sustaining treatment was withheld or withdrawn in  
30 accordance with a valid declaration by the patient or his ~~attorney-~~  
31 ~~in-fact~~ **agent** pursuant to NRS 449.810.

32 4. Upon the conviction of a person for a violation of the  
33 provisions of subsection 1, the Attorney General shall give notice of  
34 the conviction to the licensing boards which:

35 (a) Licensed the facility in which the criminal neglect occurred;  
36 and

37 (b) If applicable, licensed the person so convicted.

38 5. As used in this section:

39 (a) "Medical facility" has the meaning ascribed to it in  
40 NRS 449.0151.

41 (b) "Patient" means a person who resides or receives health care  
42 in a medical facility.

43 (c) "Professional caretaker" means a person who:

44 (1) Holds a license, registration or permit issued pursuant to  
45 ~~title 54 or~~ chapter 449 **or title 54** of NRS;



(2) Is employed by, an agent of or under contract to perform services for, a medical facility; and

(3) Has responsibility to provide care to patients.

➔ The term does not include a person who is not involved in the day-to-day operation or management of a medical facility unless that person has actual knowledge of the criminal neglect of a patient and takes no action to cure such neglect.

**Sec. 17.** NRS 240.003 is hereby amended to read as follows:

240.003 "In a representative capacity" means:

1. For and on behalf of a corporation, partnership, trust or other entity, as an authorized officer, agent, partner, trustee or other representative;

2. As a public officer, personal representative, guardian or other representative, in the capacity recited in the instrument;

3. As an attorney-in-fact *or agent* for a principal; or

4. In any other capacity as an authorized representative of another.

**Sec. 18.** NRS 240.1667 is hereby amended to read as follows:

240.1667 Upon compliance with the requirements of NRS 240.1655, the following certificate is sufficient for an acknowledgment that contains a power of attorney:

State of Nevada

County of .....

This instrument was acknowledged before me on .....(date)..... by.....(name of person holding power of attorney)..... as attorney-in-fact *or agent* for.....(name of principal/person whose name is in the document).....

.....  
(Signature of notarial officer)

(Seal, if any)

.....  
(Title and rank (optional))

**Sec. 19.** The amendatory provisions of this act do not invalidate a valid durable power of attorney that is executed in accordance with the provisions of NRS 449.800 to 449.860, inclusive, before October 1, 2005.

**Sec. 20.** 1. This section and section 19 become effective upon passage and approval.

2. Sections 1 to 9, inclusive, and 11 to 14, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2005, for all other purposes.



1       3. Section 10 of this act becomes effective upon passage and  
2 approval for the purpose of adopting regulations and on the date the  
3 regulation adopted by the State Board of Health pursuant to the  
4 amendatory provisions of section 10 of this act, with the advice of  
5 the Ethics Institute established by the Board of Regents of the  
6 University of Nevada pursuant to NRS 396.797, becomes effective,  
7 unless a later effective date is otherwise specified in the regulation.

