

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 492 Session of  
2003

INTRODUCED BY GREENLEAF, LEMMOND, COSTA, M. WHITE, O'PAKE,  
MOWERY, EARLL, C. WILLIAMS, THOMPSON AND RAFFERTY,  
MARCH 14, 2003

SENATOR MOWERY, PUBLIC HEALTH AND WELFARE, AS AMENDED,  
JUNE 8, 2004

## AN ACT

~~1 Amending Titles 18 (Crimes and Offenses) and 20 (Decedents,~~ <—  
~~2 Estates and Fiduciaries) of the Pennsylvania Consolidated~~  
~~3 Statutes, providing for living wills and health care powers~~  
~~4 of attorney; further providing for implementation of out-of-~~  
~~5 hospital nonresuscitation; and making conforming amendments.~~  
6 AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 20 (DECEDENTS, <—  
7 ESTATES AND FIDUCIARIES) OF THE PENNSYLVANIA CONSOLIDATED  
8 STATUTES, PROVIDING FOR THE OFFENSES OF NEGLECT OF CARE-  
9 DEPENDENT PERSON AND FOR LIVING WILLS AND HEALTH CARE POWERS  
10 OF ATTORNEY; FURTHER PROVIDING FOR IMPLEMENTATION OF OUT-OF-  
11 HOSPITAL NONRESUSCITATION; AND MAKING CONFORMING AMENDMENTS.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 ~~Section 1. Section 2713(c) of Title 18 of the Pennsylvania~~ <—  
15 ~~Consolidated Statutes is amended to read:~~  
16 ~~§ 2713. Neglect of care dependent person.~~

17 \* \* \*

18 ~~(c) Treatment in conformance with care dependent person's~~  
19 ~~right to accept or refuse services. A caretaker or any other~~  
20 ~~individual or facility may offer an affirmative defense to~~  
21 ~~charges filed pursuant to this section if the caretaker,~~

~~individual or facility can demonstrate through a preponderance of the evidence that the alleged violations result directly from:~~

~~(1) the caretaker's, individual's or facility's lawful compliance with a care dependent person's [advance directive for health care] living will as provided in 20 Pa.C.S. Ch. 54 (relating to [advance directive for] health care);~~

~~(2) the caretaker's, individual's or facility's lawful compliance with the care dependent person's written, signed and witnessed instructions, composed when the care dependent person is competent as to the treatment he wishes to receive;~~

~~(3) the caretaker's, individual's or facility's lawful compliance with the direction of the care dependent person's [attorney in fact] agent acting pursuant to a lawful durable power of attorney; [or]~~

~~(4) the caretaker's, individual's or facility's lawful compliance with a "Do Not Resuscitate" order written and signed by the care dependent person's [attending physician.] primary physician; or~~

~~(5) the caretaker's, individual's or facility's lawful compliance with the direction of the care dependent person's health care agent acting pursuant to a lawful health care power of attorney.~~

~~\* \* \*~~

~~Section 2. Section 711(22) of Title 20 is amended to read:~~

~~§ 711. Mandatory exercise of jurisdiction through orphans' court division in general.~~

~~Except as provided in section 712 (relating to nonmandatory exercise of jurisdiction through the orphans' court division) and section 713 (relating to special provisions for Philadelphia~~

County), the jurisdiction of the court of common pleas over the following shall be exercised through its orphans' court division:

\* \* \*

(22) Agents. All matters pertaining to the exercise of powers by agents acting under powers of attorney as provided in Chapter 56 (relating to powers of attorney) or in Subchapter C of Chapter 54 (relating to health care powers of attorney).

Section 3. Chapter 54 of Title 20 is repealed and Title 20 is amended by adding a chapter to read:

#### CHAPTER 54

#### HEALTH CARE

##### Subchapter

A. General Provisions

B. Living Wills

C. Health Care Powers of Attorney

D. Out of Hospital Nonresuscitation

#### SUBCHAPTER A

#### GENERAL PROVISIONS

Sec.

5421. Applicability.

5422. Definitions.

5423. Legislative findings and intent.

5424. Compliance.

5425. Death not suicide or homicide.

5426. Life insurance.

5427. Health care instruments optional.

5428. Pregnancy.

5429. Liability.

1 ~~5430.—Penalties.~~

2 ~~5431.—Forms.~~

3 ~~§ 5421.—Applicability.~~

4 ~~(a) General rule.—This chapter applies to living wills and~~  
5 ~~health care powers of attorney.~~

6 ~~(b) Preservation of existing rights.—The provisions of this~~  
7 ~~chapter shall not impair or supersede any existing rights or~~  
8 ~~responsibilities not addressed in this chapter.~~

9 ~~§ 5422.—Definitions.~~

10 ~~The following words and phrases when used in this chapter~~  
11 ~~shall have the meanings given to them in this section unless the~~  
12 ~~context clearly indicates otherwise:~~

13 ~~"Health care."—Any care, treatment, service or procedure to~~  
14 ~~maintain, diagnose, treat or provide for physical or mental~~  
15 ~~health, custodial or personal care, including any medication~~  
16 ~~program, therapeutical and surgical procedure and life-~~  
17 ~~sustaining treatment.~~

18 ~~"Health care agent."—An individual designated by a principal~~  
19 ~~in a health care power of attorney.~~

20 ~~"Health care decision."—A decision regarding an individual's~~  
21 ~~health care, including, but not limited to, the following:~~

22 ~~(1) Selection and discharge of a health care provider.~~

23 ~~(2) Approval or disapproval of a diagnostic test,~~  
24 ~~surgical procedure or program of medication.~~

25 ~~(3) Directions to initiate, continue, withhold or~~  
26 ~~withdraw all forms of life sustaining treatment, including~~  
27 ~~instructions not to resuscitate.~~

28 ~~"Health care power of attorney."—A writing made by a~~  
29 ~~principal designating an individual to make health care~~  
30 ~~decisions for the principal.~~

~~"Health care provider." A person who is licensed, certified or otherwise authorized by the laws of this Commonwealth to administer or provide health care in the ordinary course of business or practice of a profession. The term includes personnel recognized under the act of July 3, 1985 (P.L.164, No.45), known as the Emergency Medical Services Act.~~

~~"Incompetent." Lacking sufficient capacity to make or communicate decisions concerning oneself.~~

~~"Life sustaining treatment." Any medical procedure or intervention that, when administered to a principal who has been determined to be in a terminal condition or permanently unconscious, will serve only to prolong the process of dying or maintain the individual in a state of permanent unconsciousness. The term includes nutrition and hydration administered by gastric tube or intravenously or any other artificial or invasive means if the living will or health care power of attorney of the individual so specifically provides.~~

~~"Living will." A writing made in accordance with this chapter which expresses a principal's wishes and instructions for health care and health care directions when the principal is determined to be incompetent and in a terminal condition or in a state of permanent unconsciousness.~~

~~"Medical command physician." A licensed physician who is authorized to give medical command under the act of July 3, 1985 (P.L.164, No.45), known as the Emergency Medical Services Act.~~

~~"Permanently unconscious." A medical condition that has been diagnosed in accordance with currently accepted medical standards and with reasonable medical certainty as total and irreversible loss of consciousness and capacity for interaction with the environment. The term includes, without limitation, an~~

~~irreversible vegetative state or irreversible coma.~~

~~"Person."— Any individual, corporation, partnership,  
association or other similar entity, or any Federal, State or  
local government or governmental agency.~~

~~"Primary physician."— A physician designated by a principal  
or the principal's agent to have primary responsibility for the  
health care of the principal, or in the absence of a designation  
or if the designated physician is not reasonably available, a  
physician who undertakes that responsibility.~~

~~"Principal."— An individual who executes a living will or a  
health care power of attorney in accordance with this chapter.~~

~~"Reasonably available."— 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.~~

~~"Terminal condition."— An incurable and irreversible medical  
condition in an advanced state caused by injury, disease or  
physical illness which will, in the opinion of the primary  
physician to a reasonable degree of medical certainty, result in  
death regardless of the continued application of life sustaining  
treatment.~~

~~§ 5423.— Legislative findings and intent.~~

~~(a)— Intent.— This chapter provides a statutory means for  
competent adults to control their health care either directly  
through instructions written in advance or indirectly through a  
health care agent. Nothing in this chapter is intended to:~~

~~(1)— condone, authorize or approve mercy killing,  
euthanasia or aided suicide; or~~

~~(2)— permit any affirmative or deliberate act or omission  
to end life other than as defined in this chapter.~~

~~(b)— Presumption not created.— This chapter does not create~~

~~any presumption regarding the intent of an individual who has not executed a living will or health care power of attorney to consent to the use or withholding of life sustaining treatment in the event of a terminal condition or state of permanent unconsciousness.~~

~~(c) Findings in general. The General Assembly finds that individuals have a qualified right to make decisions relating to their own health care. This right is subject to certain interests of society, such as the maintenance of ethical standards in the medical profession and the preservation and protection of human life. Modern medical technological procedures make possible the prolongation of human life beyond natural limits. The application of some procedures to an individual suffering a difficult and uncomfortable process of dying may cause loss of patient dignity and secure only continuation of a precarious and burdensome prolongation of life.~~

~~§ 5424. Compliance.~~

~~(a) Notification by primary physician or health care provider. If a primary physician or other health care provider cannot in good conscience comply with a living will or health care decision of a health care agent or if the policies of a health care provider preclude compliance with a living will or health care decision of a health care agent, the primary physician or health care provider shall so inform the following:~~

~~(1) The principal, if the principal is competent.~~

~~(2) The substitute named in the living will, if the principal is incompetent.~~

~~(3) The family, guardian or other representative of the principal, if the principal is incompetent and a substitute~~

~~is not named in the living will.~~

~~(4) The health care agent of the principal.~~

~~(b) Transfer. The primary physician or health care provider under subsection (a) shall make every reasonable effort to assist in the transfer of the principal to another physician or health care provider who will comply with the living will or health care decision of the health care agent.~~

~~(c) Employee or staff member of health care provider.~~

~~(1) An employee or a staff member of a health care provider may not be required to:~~

~~(i) Participate in the withholding or withdrawal of life sustaining treatment.~~

~~(ii) Comply with a health care decision of a health care agent if the good conscience of the employee or staff member dictates otherwise.~~

~~(2) A health care provider that is an employer may not discharge or in any other manner discriminate against its employee or staff member who informs the employer of either of the following:~~

~~(i) A wish not to participate in the withholding or withdrawal of life sustaining treatment.~~

~~(ii) An unwillingness to comply with a health care decision of a health care agent based on the good conscience of the employee or staff member.~~

~~(3) A health care provider that is an employer may require its employee or staff member to express in writing the wishes or unwillingness of the employee or staff member as set forth in this subsection.~~

~~(d) Liability. If transfer under subsection (b) is impossible, the provision of life sustaining treatment to a~~



~~principal may not subject a primary physician or a health care provider to criminal or civil liability or administrative sanction for failure to carry out either the provisions of a living will or a health care decision of a health care agent.~~

~~§ 5425. — Death not suicide or homicide.~~

~~The withholding or withdrawal of life sustaining treatment from a principal resulting in death, in accordance with the provisions of this chapter, shall not, for any purpose, constitute suicide or homicide.~~

~~§ 5426. — Life insurance.~~

~~The making of or failure to make a living will or health care power of attorney in accordance with this chapter shall not affect in any manner the sale, procurement or issuance of a policy of life insurance nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of life sustaining treatment from an insured principal, notwithstanding a term of the policy to the contrary.~~

~~§ 5427. — Health care instruments optional.~~

~~A health care provider, a health care service plan, a health maintenance organization, an insurer issuing disability insurance, a self insured employee welfare benefit plan, a nonprofit hospital plan and a Federal, State or local government sponsored or operated program may not do the following:~~

~~(1) Require an individual to execute a living will or health care power of attorney as a condition for being insured for or receiving health care services.~~

~~(2) Charge an individual a different rate or fee whether or not the individual executes or has executed a living will~~

~~or health care power of attorney.~~

~~§ 5428. — Pregnancy.~~

~~(a) — Living wills and health care decisions. — Notwithstanding the existence of a living will, a health care decision by a health care agent or any other direction to the contrary, life-sustaining treatment, nutrition and hydration shall be provided to a pregnant patient who is incompetent and has a terminal condition or who is permanently unconscious unless, to a reasonable degree of medical certainty as certified on the pregnant patient's medical record by the pregnant patient's primary physician and an obstetrician who has examined the pregnant patient, life-sustaining treatment, nutrition and hydration:~~

~~(1) — will not maintain the pregnant patient in such a way as to permit the continuing development and live birth of the unborn child;~~

~~(2) — will be physically harmful to the pregnant patient;~~  
~~or~~

~~(3) — will cause pain to the pregnant patient which cannot be alleviated by medication.~~

~~(b) — Pregnancy test. — Nothing in this chapter shall require a physician to perform a pregnancy test unless the physician has reason to believe that the patient may be pregnant.~~

~~(c) — Payment of expenses by Commonwealth. —~~

~~(1) — Notwithstanding the existence of a living will, a health care decision by a health care agent or any other direction to the contrary, if treatment, nutrition and hydration are provided to a pregnant patient who is incompetent and has a terminal condition or who is permanently unconscious, the Commonwealth shall pay all~~

1     ~~usual, customary and reasonable expenses directly and~~  
2     ~~indirectly incurred by the pregnant patient to whom the~~  
3     ~~treatment, nutrition and hydration are provided.~~

4         ~~(2) The Commonwealth shall have the right of subrogation~~  
5     ~~against all moneys paid by any third party health insurer on~~  
6     ~~behalf of the pregnant patient.~~

7         ~~(3) The expenditures incurred on behalf of the pregnant~~  
8     ~~patient constitute a grant, and a lien may not be placed upon~~  
9     ~~the property of the pregnant patient, her estate or her~~  
10    ~~heirs.~~

11   ~~§ 5429. Liability.~~

12         ~~(a) General rule. A health care provider or another person~~  
13     ~~that acts in good faith and consistent with this chapter may not~~  
14     ~~be subject to criminal or civil liability, discipline for~~  
15     ~~unprofessional conduct or administrative sanctions and may not~~  
16     ~~be found to have committed an act of unprofessional conduct as a~~  
17     ~~result of any of the following:~~

18             ~~(1) Causing or participating in the initiating,~~  
19     ~~continuing, withholding or withdrawal of life sustaining~~  
20     ~~treatment from a principal who has been determined to be in a~~  
21     ~~terminal condition or to be permanently unconscious and who~~  
22     ~~is incompetent, if the primary physician or other health care~~  
23     ~~provider has followed the wishes of the principal as~~  
24     ~~expressed in a living will made under this chapter.~~

25             ~~(2) Complying with a direction or decision of an~~  
26     ~~individual who the health care provider believes in good~~  
27     ~~faith has authority to act as a principal's health care agent~~  
28     ~~so long as the direction or decision is not clearly contrary~~  
29     ~~to the terms of the health care power of attorney.~~

30             ~~(3) Refusing to comply with a direction or decision of~~

~~an individual based on a good faith belief that the individual lacks authority to act as a principal's health care agent.~~

~~(4) Complying with a health care power of attorney under the assumption that it was valid when made and has not been amended or revoked.~~

~~(5) Disclosing health care information to another person based upon a good faith belief that the disclosure is authorized, permitted or required by this chapter.~~

~~(b) Same effect as if dealing with principal. Any primary physician, health care provider and other person acting under subsection (a) is protected and released to the same extent as if dealing directly with a competent principal.~~

~~(c) Good faith of health care agent. A health care agent acting according to the terms of a health care power of attorney may not be subject to civil or criminal liability for acting in good faith for a principal or failing in good faith to act for a principal.~~

~~§ 5430. Penalties.~~

~~(a) Felonies of the third degree. A person commits a felony of the third degree if that person willfully:~~

~~(1) conceals, cancels, alters, defaces, obliterates or damages a living will or health care power of attorney without the consent of the principal;~~

~~(2) causes a person to execute a living will or health care power of attorney under this chapter by undue influence, fraud or duress; or~~

~~(3) falsifies or forges a living will or health care power of attorney or any amendment or revocation thereof, the result of which is a direct change in the health care~~

~~provided to the principal.~~

~~(b) Prosecution for criminal homicide. A person shall be subject to prosecution for criminal homicide as provided in 18 Pa.C.S. Ch. 25 (relating to criminal homicide), if the person intends to cause the withholding or withdrawal of life sustaining treatment contrary to the wishes of the principal and, because of that action, directly causes life sustaining treatment to be withheld or withdrawn and death to be hastened and:~~

~~(1) falsifies or forges the living will or the health care power of attorney of another individual; or~~

~~(2) willfully conceals or withholds personal knowledge of a revocation of a living will or health care power of attorney under this chapter.~~

~~§ 5431. Forms.~~

~~(a) Form. A living will and health care power of attorney may be in the forms provided under this chapter or in any other written form which contains the information required under Subchapters B (relating to living wills) and C (relating to health care powers of attorney).~~

~~(b) Combining forms. A living will and health care power of attorney may be combined into one health care document.~~

#### ~~SUBCHAPTER B~~

#### ~~LIVING WILLS~~

~~Sec.~~

~~5441. Short title of subchapter.~~

~~5442. Execution.~~

~~5443. Form.~~

~~5444. When living will operative.~~

~~5445. Revocation.~~

1 ~~5446.—Emergency medical services.~~

2 ~~5447.—Validity.~~

3 ~~§ 5441.—Short title of subchapter.~~

4 ~~This subchapter shall be known and may be cited as the Living~~  
5 ~~Will Act.~~

6 ~~§ 5442.—Execution.~~

7 ~~(a) Who may make.—An individual of sound mind may make a~~  
8 ~~living will governing the initiation, continuation, withholding~~  
9 ~~or withdrawal of life sustaining treatment if the individual:~~

10 ~~(1) is 18 years of age or older;~~

11 ~~(2) has graduated from high school; or~~

12 ~~(3) has married.~~

13 ~~(b) Requirements.—A living will must be:~~

14 ~~(1) dated and signed by the principal by signature or~~  
15 ~~mark or by another individual on behalf of and at the~~  
16 ~~direction of the principal; and~~

17 ~~(2) witnessed by two individuals, each of whom is 18~~  
18 ~~years of age or older.~~

19 ~~(c) Witnesses.—~~

20 ~~(1) An individual who signs a living will on behalf of~~  
21 ~~and at the direction of a principal may not witness the~~  
22 ~~living will.~~

23 ~~(2) A health care provider and its agent may not sign a~~  
24 ~~living will on behalf of and at the direction of a principal~~  
25 ~~if the health care provider or agent provides health care~~  
26 ~~services to the principal.~~

27 ~~§ 5443.—Form.~~

28 ~~A living will may be in the following form or any other~~  
29 ~~written form expressing the wishes of a principal regarding the~~  
30 ~~initiation, continuation, withholding or withdrawal of life~~

~~sustaining treatment and may include other specific directions,  
including, but not limited to, designation of another individual  
to make health care decisions for the principal if the principal  
is incompetent and determined to be either in a terminal  
condition or permanently unconscious.~~

~~LIVING WILL~~

~~I, ....., born on ..... (birth  
date), being of sound mind, willfully and voluntarily make  
this living will.~~

~~If I am not able to make an informed decision regarding  
my health care, I direct my health care providers to follow  
my instructions as set forth below. (Initial those statements  
you wish to be included in the document and cross through  
those statements that do not apply.)~~

~~If my death from a terminal condition is imminent as a  
result of an injury, disease or physical illness, regardless  
of the continued application of life sustaining treatment,  
and there is no reasonable expectation of my recovery, or if  
I am determined to be permanently unconscious, then:~~

~~a. General instructions:~~

~~( ) I direct that my life not be extended by life sustaining  
procedures, including the administration of nutrition and  
hydration artificially.~~

~~( ) I direct that my treatment be limited to measures that  
keep me comfortable and relieve my pain, including any pain  
which may occur as a result of the withholding or withdrawal  
of life sustaining treatment.~~

~~( ) I direct that my life not be extended by life sustaining  
procedures, except that if I am unable to take food by mouth,  
I wish to receive nutrition and hydration artificially.~~

1     ~~( ) I direct that, even in a terminal condition, I be given~~  
2     ~~all available medical treatment in accordance with accepted~~  
3     ~~health care standards.~~

4     ~~( ) I direct that upon my death, I wish to make an~~  
5     ~~anatomical gift of all or part of my body. I wish to donate:~~  
6         ~~Any needed organs, tissues, or eyes.~~  
7         ~~Only the following organs, tissues or eyes:~~

8     ~~( ) I authorize the use of my organs, tissues or eyes:~~  
9         ~~For transplantation~~  
10        ~~For therapy~~  
11        ~~For research~~  
12        ~~For medical education~~  
13        ~~For any purpose authorized by law.~~

14    ~~( ) I understand that my estate will not be charged for any~~  
15    ~~costs associated with my decision to donate my organs,~~  
16    ~~tissues or eyes or the actual disposition of my organs,~~  
17    ~~tissues or eyes.~~

18        ~~b. Additional instructions:~~

19    ~~( ) I designate the following physician as my primary~~  
20    ~~physician:~~  
21    ~~Name of Primary Physician.....~~  
22    ~~Address and Telephone of Primary Physician.....~~  
23    ~~.....~~

24    ~~( ) If the physician I have designated above is not willing,~~  
25    ~~able or reasonably available to act as my primary physician,~~  
26    ~~I designate the following physician as my primary physician:~~  
27    ~~Name of Physician.....~~  
28    ~~Address and Telephone of Physician.....~~  
29    ~~.....~~

30    ~~( ) I designate the following individual to make medical~~



1 ~~treatment decisions for me:~~  
2 Name.....  
3 Address and Telephone.....  
4 .....

5 ~~( ) If the individual designated above is unable or~~  
6 ~~unwilling to serve as the designated individual, then I~~  
7 ~~designate the following individual:~~

8 Name.....  
9 Address and Telephone.....  
10 .....

11 ~~c. Revocation and execution:~~

12 ~~( ) I understand that I may revoke this living will at any~~  
13 ~~time and in any manner, regardless of my mental or physical~~  
14 ~~condition. I understand that my revocation is effective upon~~  
15 ~~communication to my primary physician or other health care~~  
16 ~~provider, either by me or a witness to my revocation.~~

17 ~~( ) By signing below, I indicate that I am competent to make~~  
18 ~~this living will and that I understand its purpose and~~  
19 ~~effect.~~

20 Date ..... Signature of Principal .....  
21 Address of Principal.....  
22 .....

23 ~~This living will must be witnessed by two individuals,~~  
24 ~~each of whom is 18 years of age or older.~~

25 ~~The principal signed or acknowledged signing the~~  
26 ~~foregoing living will in my presence and based upon personal~~  
27 ~~observation appears to be a competent individual.~~

28 Name and Address of Witness 1.....  
29 .....  
30 Date.....

1     ~~Name and Address of Witness 2.....~~  
2     ~~.....~~

3     ~~Date.....~~

4     ~~REMINDER: Keep this document with your personal papers in a~~  
5     ~~safe place, but not in a safe deposit box. Give signed copies~~  
6     ~~to your doctors, family, close friends and health care agent,~~  
7     ~~if one is designated. Make sure your doctor is willing to~~  
8     ~~follow your wishes. This document should be part of your~~  
9     ~~medical record at your physician's office and at the facility~~  
10    ~~where you receive your care.~~

11   ~~§ 5444. When living will operative.~~

12     ~~(a) When operative. A living will becomes operative when:~~

13         ~~(1) a copy is provided to the primary physician; and~~

14         ~~(2) the principal is determined by the primary physician~~  
15     ~~to be incompetent and in a terminal condition or in a state~~  
16     ~~of permanent unconsciousness.~~

17     ~~(b) Compliance. When a living will becomes operative, the~~  
18     ~~primary physician and other health care providers shall act in~~  
19     ~~accordance with its provisions or comply with the transfer~~  
20     ~~provisions of section 5424 (relating to compliance).~~

21     ~~(c) Invalidity of specific direction. If a specific~~  
22     ~~direction in a living will is held to be invalid, the invalidity~~  
23     ~~does not negate other directions in the living will that can be~~  
24     ~~effected without the invalid direction.~~

25     ~~(d) Medical record. Any health care provider to whom a copy~~  
26     ~~of a living will is furnished shall make it a part of the~~  
27     ~~medical record of the living will and, if unwilling to comply~~  
28     ~~with the living will, promptly so advise the principal.~~

29     ~~(e) Duration. Unless a living will states a time of~~  
30     ~~termination, it is valid until revoked by the principal,~~

1 ~~notwithstanding the lapse of time since its execution.~~

2 ~~(f) Absence of living will. If an individual does not make~~  
3 ~~a living will, a presumption does not arise regarding the intent~~  
4 ~~of the individual to consent to or to refuse the initiation,~~  
5 ~~continuation, withholding or withdrawal of life sustaining~~  
6 ~~treatment.~~

7 ~~(g) Duty of physician to confirm terminal condition.—~~  
8 ~~Without delay after a diagnosis that the principal is in a~~  
9 ~~terminal condition or in a state of permanent unconsciousness,~~  
10 ~~the primary physician shall certify in writing that the~~  
11 ~~principal is in a terminal condition or in a state of permanent~~  
12 ~~unconsciousness and arrange for the physical examination and~~  
13 ~~confirmation of the terminal condition or state of permanent~~  
14 ~~unconsciousness of the principal by a second physician.~~

15 ~~§ 5445. Revocation.~~

16 ~~(a) When living will may be revoked. A living will may be~~  
17 ~~revoked at any time and in any manner by the principal~~  
18 ~~regardless of the mental or physical condition of the principal.~~

19 ~~(b) Effect of revocation. A revocation is effective upon~~  
20 ~~communication to the primary physician or other health care~~  
21 ~~provider by the principal or a witness to the revocation.~~

22 ~~(c) Medical record. The primary physician or other health~~  
23 ~~care provider shall make the revocation part of the medical~~  
24 ~~record of the principal.~~

25 ~~§ 5446. Emergency medical services.~~

26 ~~(a) General rule. An emergency medical services provider~~  
27 ~~shall, in the course of providing care to a principal, at all~~  
28 ~~times comply with the instructions of an authorized medical~~  
29 ~~command physician to withhold or discontinue cardiopulmonary~~  
30 ~~resuscitation for a principal whose living will has become~~

1 ~~operative under section 5444(a) (relating to when living will~~  
2 ~~operative).~~

3 ~~(b) Applicability. This section is applicable only in those~~  
4 ~~instances where an out of hospital DNR order is not in effect~~  
5 ~~under section 5474 (relating to orders, bracelets and~~  
6 ~~necklaces).~~

7 ~~§ 5447. Validity.~~

8 ~~(a) Living will executed prior to effective date of~~  
9 ~~subchapter. This subchapter does not limit the validity of a~~  
10 ~~living will executed prior to the effective date of this~~  
11 ~~subchapter.~~

12 ~~(b) Living will executed in another state or jurisdiction.~~  
13 ~~A living will executed in another state or jurisdiction and in~~  
14 ~~conformity with the laws of that state or jurisdiction shall be~~  
15 ~~considered valid in this Commonwealth, except to the extent that~~  
16 ~~the living will executed in another state or jurisdiction would~~  
17 ~~allow a principal to direct procedures inconsistent with the~~  
18 ~~laws of this Commonwealth.~~

19 ~~SUBCHAPTER C~~

20 ~~HEALTH CARE POWERS OF ATTORNEY~~

21 ~~Sec.~~

22 ~~5451. Short title of subchapter.~~

23 ~~5452. Execution.~~

24 ~~5453. Form.~~

25 ~~5454. When health care power of attorney operative.~~

26 ~~5455. Appointment of health care agents.~~

27 ~~5456. Authority of health care agent.~~

28 ~~5457. Countermand.~~

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1 ~~5460.—Revocation.~~

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4 ~~5462.—Duties of primary physician and health care provider.~~

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6 ~~5464.—Conflicting health care powers of attorney.~~

7 ~~5465.—Validity.~~

8 ~~§ 5451.—Short title of subchapter.~~

9 ~~This subchapter shall be known and may be cited as the Health~~  
10 ~~Care Powers of Attorney Act.~~

11 ~~§ 5452.—Execution.~~

12 ~~(a) Who may make.—An individual of sound mind may make a~~  
13 ~~health care power of attorney if the individual:~~

14 ~~(1) is 18 years of age or older;~~

15 ~~(2) has graduated from high school; or~~

16 ~~(3) has married.~~

17 ~~(b) Requirements.—A health care power of attorney must be:~~

18 ~~(1) dated and signed by the principal by signature or~~  
19 ~~mark or by another on behalf of and at the direction of the~~  
20 ~~principal; and~~

21 ~~(2) witnessed by two individuals, each of whom is 18~~  
22 ~~years of age or older.~~

23 ~~(c) Witnesses.—~~

24 ~~(1) An individual who signs a health care power of~~  
25 ~~attorney on behalf of and at the direction of a principal may~~  
26 ~~not witness the health care power of attorney.~~

27 ~~(2) A health care provider and its agent may not sign a~~  
28 ~~health care power of attorney on behalf of and at the~~  
29 ~~direction of a principal if the health care provider or agent~~  
30 ~~provides health care services to the principal.~~

~~§ 5453. Form.~~

~~(a) Requirements. A health care power of attorney must do the following:~~

~~(1) Identify the principal and appoint the health care agent.~~

~~(2) Declare that the principal authorizes the health care agent to make health care decisions on behalf of the principal.~~

~~(b) Optional provisions. A health care power of attorney may, but need not, do the following:~~

~~(1) Describe any limitations that the principal imposes upon the authority of the health care agent.~~

~~(2) Indicate the intent of the principal regarding the initiation, continuation, withholding or withdrawal of life-sustaining treatment.~~

~~(3) Indicate whether the principal wants tube feeding or any other artificial or invasive form of nutrition or hydration.~~

~~(4) Nominate a guardian of the person of the principal as provided in section 5461 (relating to relation of health care agent to court appointed guardian and other agents).~~

~~(5) Contain other provisions as the principal may specify regarding the implementation of health care decisions and related actions by the health care agent.~~

~~(c) Written form. A health care power of attorney may be in the following form or any other written form identifying the principal, appointing a health care agent and declaring that the principal authorizes the health care agent to make health care decisions on behalf of the principal.~~

~~HEALTH CARE POWER OF ATTORNEY~~

1           ~~I, ....., being of sound mind,~~  
2           ~~willfully and voluntarily, make this health care power of~~  
3           ~~attorney.~~

4           ~~I reside at.....~~

5           ~~1. I appoint the following individual as my health care~~  
6           ~~agent to make health care decisions for me:~~  
7           ~~(Full name, address and telephone number).....~~

8           ~~.....~~  
9           ~~If this health care agent is unavailable or is unable or~~  
10           ~~unwilling to act as my agent, or if I revoke my agent's~~  
11           ~~authority, then I appoint the following individual to act as~~  
12           ~~my first alternate agent in this capacity:~~

13           ~~(Full name, address and telephone number of first~~  
14           ~~alternate agent).....~~

15           ~~.....~~  
16           ~~If my first alternate agent is neither willing, able or~~  
17           ~~reasonably available to make a health care decision for me,~~  
18           ~~then I appoint the following individual to act as my second~~  
19           ~~alternate agent:~~

20           ~~(Full name, address and telephone number of second~~  
21           ~~alternate agent).....~~

22           ~~.....~~  
23           ~~2. My health care agent has full power and authority to~~  
24           ~~make health care decisions for me, including the power to:~~

25           ~~a. Request, receive and review any information, oral or~~  
26           ~~written, regarding my physical or mental health, including,~~  
27           ~~but not limited to, medical and hospital records, and consent~~  
28           ~~to disclosure of this information.~~

29           ~~b. Employ and discharge my health care providers.~~

30           ~~c. Authorize my admission to, discharge from, and~~

~~transfer to any hospital, hospice, nursing home, personal  
care home or other health care related facility.~~

~~d. Consent to the provision, withholding or withdrawal  
of health care, including life sustaining procedures as  
provided in my living will, which is attached to this  
document.~~

~~3. The authority of my health care agent is subject to  
the following provisions and limitations:~~

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

~~4. My health care agent's authority becomes operative  
based on the option that I choose. I will initial the option  
that I choose.~~

~~a. ( ) When my primary physician and a second physician  
determine that I lack sufficient capacity to make or  
communicate health care decisions regarding my health care.~~

~~b. ( ) Immediately.~~

~~5. Agent's obligation: My agent is responsible for  
making health care decisions for me based on the health care  
instructions I give in this document and on my wishes as  
otherwise known to my health care agent. If my wishes are  
unknown or unclear, my agent is to 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 health  
care agent shall consider my personal values to the extent  
known to my agent and shall also consider the effect on me of  
a given treatment or course of treatment or from the  
withholding or withdrawal of a treatment or course of  
treatment.~~

~~6. I understand that regardless of my mental or physical~~



1 ~~capacity, I may countermand a health care decision made by my~~  
2 ~~agent at any time and in any manner by personally informing~~  
3 ~~my primary physician or health care provider, who will try to~~  
4 ~~promptly inform my health care agent of my countermand. My~~  
5 ~~countermand shall not affect the authority of my health care~~  
6 ~~agent to make other health care decisions in accordance with~~  
7 ~~my health care power of attorney.~~

8 ~~7. I understand that my health care agent shall not be~~  
9 ~~liable for the costs of health care based solely on this~~  
10 ~~authorization.~~

11 ~~8. If a guardian of my person needs to be appointed for~~  
12 ~~me by a court, I nominate the health care agent as provided~~  
13 ~~in this form for consideration by the court. If that agent is~~  
14 ~~not willing, able or reasonably available to act as guardian,~~  
15 ~~I nominate the alternate agents as provided in this form for~~  
16 ~~consideration by the court.~~

17 ~~9. I understand that while I am of sound mind I may~~  
18 ~~revoke my health care power of attorney either:~~

19 ~~a. by a writing which is dated, signed and witnessed in~~  
20 ~~the same manner as this health care power of attorney; or~~

21 ~~b. by personally informing my primary physician, health~~  
22 ~~care provider or health care agent that this health care~~  
23 ~~power of attorney is revoked.~~

24 ~~By signing below, I indicate that I am competent to make~~  
25 ~~this health care power of attorney and I understand its~~  
26 ~~purpose and effect.~~

27 ~~Date ..... Signature of Principal .....~~

28 ~~Address of Principal.....~~

29 ~~.....~~

30 ~~This health care power of attorney must be witnessed by~~

~~two individuals, each of whom is 18 years of age or older.~~

~~The principal signed or acknowledged signing the foregoing living will in my presence and based upon personal observation appears to be a competent individual.~~

~~Name and Address of Witness 1.....~~

~~.....~~

~~Date.....~~

~~Name and Address of Witness 2.....~~

~~.....~~

~~Date.....~~

~~REMINDER: Keep this document with your personal papers in a safe place, but not in a safe deposit box. Give signed copies to your doctors, family, close friends and health care agent, if one is designated. Make sure your doctor is willing to follow your wishes. This document should be part of your medical record at your physician's office and at the facility where you receive your care.~~

~~§ 5454. When health care power of attorney operative.~~

~~(a) When operative. Unless otherwise specified in the health care power of attorney, a health care power of attorney becomes operative when:~~

~~(1) a copy is provided to the primary physician; and~~

~~(2) the primary physician determines that the principal is unable to make or communicate health care decisions.~~

~~(b) When inoperative. Unless otherwise specified in the health care power of attorney, a health care power of attorney becomes inoperative during such time as, in the determination of the primary physician, the principal has the ability to make and communicate health care decisions.~~

~~(c) Invalidity of specific direction. If a specific~~

~~direction in the health care power of attorney is held to be invalid, the invalidity does not negate other directions in the health care power of attorney that can be effected without the invalid direction.~~

~~(d) Duration. Unless the health care power of attorney states a time of termination, it is valid until revoked by the principal or the principal's guardian of the person, notwithstanding the lapse of time since its execution.~~

~~(e) Court approval unnecessary. A health care decision made by a health care agent for a principal is effective without court approval.~~

~~§ 5455. Appointment of health care agents.~~

~~(a) Multiple and successor health care agents. A principal may appoint the following in a health care power of attorney:~~

~~(1) More than one health care agent who shall act jointly unless the health care power of attorney provides otherwise.~~

~~(2) One or more successor agents who shall serve in the order named in the health care power of attorney, unless the principal expressly directs to the contrary.~~

~~(b) Who may not be appointed health care agent. Unless related to the principal by blood, marriage or adoption, a health care agent of the principal may not be any of the following:~~

~~(1) The principal's primary physician or other health care provider.~~

~~(2) An owner, operator or employee of a health care provider in which the principal is receiving care.~~

~~§ 5456. Authority of health care agent.~~

~~(a) Extent of authority. Except as expressly provided~~

~~otherwise in a health care power of attorney and subject to subsection (b), a health care agent shall have the authority to make any health care decision and to exercise any right and power regarding the principal's care, custody and health care treatment that the principal could have made and exercised. The health care agent's authority may extend beyond the principal's death to make anatomical gifts, dispose of the remains and consent to autopsies.~~

~~(b) Life sustaining treatment decisions. A life sustaining treatment decision made by a health care agent is subject to this section and sections 5428 (relating to pregnancy), 5454 (relating to when health care power of attorney operative) and 5462(a) (relating to duties of primary physician and health care provider).~~

~~(c) Health care decisions. After consultation with health care providers and after consideration of the prognosis and acceptable medical alternatives regarding diagnosis, treatments and side effects, the health care agent shall make health care decisions in accordance with the health care agent's understanding and interpretation of the instructions given by the principal at a time when the principal had the capacity to make and communicate health care decisions. Instructions include a living will made by the principal and any clear written or verbal directions that cover the situation presented. In the absence of instructions, the health care agent shall make health care decisions conforming with the health care agent's assessment of the principal's preferences and values, including religious and moral beliefs. If the health care agent does not know enough about the principal's instructions, preferences and values to decide accordingly, the health care agent shall act in~~

~~accordance with the health care agent's assessment of the principal's best interests.~~

~~(d) Health care information.~~

~~(1) Unless specifically provided otherwise in a health care power of attorney, a health care agent has the same rights and limitations as the principal to request, examine, copy and consent or refuse to consent to the disclosure of medical or other health care information.~~

~~(2) Disclosure of medical or other health care information to a health care agent does not constitute a waiver of any evidentiary privilege or of a right to assert confidentiality. A health care provider that discloses such information to a health care agent in good faith shall not be liable for the disclosure. A health care agent may not disclose health care information regarding the principal except as is reasonably necessary to perform the agent's obligations to the principal or as otherwise required by law.~~

~~§ 5457. Countermand.~~

~~Regardless of the principal's mental or physical capacity, a principal may countermand a health care decision made by the principal's health care agent at any time and in any manner by personally informing the primary physician or health care provider. The primary physician or health care provider shall make reasonable efforts to promptly inform the health care agent of the countermand. A countermand shall not affect the authority of the health care agent to make other health care decisions in accordance with the health care power of attorney.~~

~~§ 5458. Amendment.~~

~~While of sound mind, a principal may amend a health care power of attorney by a writing executed in accordance with the~~

~~provisions of section 5452 (relating to execution). An amendment may include the revocation in part of the health care power of attorney or the designation of new or additional health care agents.~~

~~§ 5459. Effect of divorce.~~

~~If the spouse of a principal is designated as the principal's health care agent and thereafter either spouse files an action in divorce, the designation of the spouse as health care agent shall be revoked as of the time the action is filed unless it clearly appears from the health care power of attorney that the designation was intended to continue to be effective notwithstanding the filing of an action in divorce by either spouse.~~

~~§ 5460. Revocation.~~

~~(a) When health care power of attorney may be revoked. While of sound mind, a principal may revoke a health care power of attorney by a writing executed in accordance with the provisions of section 5452 (relating to execution) or by personally informing the primary physician, health care provider or health care agent that the health care power of attorney is revoked.~~

~~(b) Reliance on health care power of attorney. A health care provider may rely on the effectiveness of a health care power of attorney unless notified of its revocation.~~

~~(c) Subsequent action by agent. A health care agent, knowing of the revocation of the health care power of attorney, may not make or attempt to make health care decisions for the principal.~~

~~§ 5461. Relation of health care agent to court appointed guardian and other agents.~~

~~(a) Accountability of health care agent. If a principal who has executed a health care power of attorney is later adjudicated an incapacitated person and a guardian of the person to make health care decisions is appointed by a court, the health care agent is accountable to the guardian as well as to the principal. The guardian shall have the same power to revoke or amend the health care power of attorney that the principal would have if the principal were not incapacitated.~~

~~(b) Nomination of guardian of person. In a health care power of attorney, a principal may nominate a guardian of the person for the principal for consideration by a court if incapacity proceedings for the principal's person are thereafter commenced. If a court determines that the appointment of a guardian is necessary, the court shall appoint in accordance with the principal's most recent nomination except for good cause or disqualification.~~

~~(c) Reasonable expenses. In fulfilling the health care needs for a principal, a health care agent may incur reasonable expenses, including the purchase of health care insurance, to the extent the expenses are not otherwise covered by insurance or other similar benefits. Payment for the expenses or reimbursement to the health care agent for the expenses from the principal's funds shall be made by either of the following:~~

~~(1) A guardian of the estate of the principal.~~

~~(2) An agent acting on behalf of the principal under a power of attorney if the agent has the power to disburse the funds of the principal.~~

~~§ 5462. Duties of primary physician and health care provider.~~

~~(a) Duty to confirm terminal condition. Without delay after a diagnosis that a principal is in a terminal condition or in a~~

~~state of permanent unconsciousness, the primary physician shall  
certify in writing that the principal is in a terminal condition  
or in a state of permanent unconsciousness and arrange for the  
physical examination and confirmation of the terminal condition  
or state of permanent unconsciousness of the principal by a  
second physician.~~

~~(b) Communication of health care decision. Whenever  
possible before implementing a health care decision made by a  
health care agent, a primary physician or health care provider  
shall promptly communicate to the principal the decision and the  
identity of the person making the decision.~~

~~(c) Compliance with decisions of health care agent. Subject  
to any limitation specified in the health care power of  
attorney, a primary physician or health care provider shall  
comply with a health care decision made by a health care agent  
to the same extent as if the decision had been made by the  
principal. Health care necessary to preserve life shall be  
provided to an individual who is neither in a terminal condition  
nor permanently unconscious except if the individual is  
competent and objects to such care or a health care agent  
objects on behalf of the principal. In all circumstances, this  
subsection shall be construed so as to be consistent with the  
Americans with Disabilities Act of 1990 (Public Law 101-336, 104  
Stat. 327).~~

~~(d) Medical record.~~

~~(1) Any primary physician or health care provider who is  
given a health care power of attorney shall arrange for the  
health care power of attorney or a copy to be placed in the  
medical record of the principal.~~

~~(2) Any primary physician or health care provider to~~



~~whom an amendment or revocation of a health care power of attorney is communicated shall promptly enter the information in the medical record of the principal and maintain a copy if one is furnished.~~

~~(c) Record of determination. Any primary physician who determines that a principal is unable or has regained the ability to make and communicate health care decisions or makes a determination that affects the authority of a health care agent shall enter the determination in the medical record of the principal and, if possible, promptly inform the principal and any health care agent of the determination.~~

~~§ 5463. Effect on other State law.~~

~~(a) Mental health. This subchapter does not affect the requirements of other laws of this Commonwealth regarding consent to observation, diagnosis, treatment or hospitalization for a mental illness.~~

~~(b) Prohibited care. This subchapter does not authorize a health care agent to consent to any health care prohibited by the laws of this Commonwealth.~~

~~(c) Consent. This subchapter does not affect the laws of this Commonwealth regarding any of the following:~~

~~(1) The standard of care of a health care provider required in the administration of health care.~~

~~(2) When consent is required for health care.~~

~~(3) Informed consent for health care.~~

~~(4) Consent to health care in an emergency.~~

~~(d) Preservation of religious rights. This subchapter does not prevent a health care agent from consenting to health care administered in good faith pursuant to religious beliefs of the principal or from withholding consent to health care that is~~

~~contrary to religious beliefs of the principal.~~

~~(c) Rights of individuals. This subchapter does not affect the right of an individual to make health care decisions.~~

~~(f) Disclosure.~~

~~(1) The disclosure requirements of section 5456(d) (relating to authority of health care agent) supersede any provision in any other State statute or regulation that requires the principal to consent to disclosure or which otherwise conflicts with section 5456(d), including, but not limited to, the following:~~

~~(i) Section 8 of the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act.~~

~~(ii) Section 111 of the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act.~~

~~(iii) Section 15 of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act.~~

~~(iv) Section 41 of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985.~~

~~(v) Section 7 of the act of November 29, 1990 (P.L.585, No.148), known as the Confidentiality of HIV-Related Information Act.~~

~~(2) The disclosure requirements under section 5456(d) shall not apply to the extent that the disclosure would be prohibited by Federal laws and implementing regulations.~~

~~§ 5464. Conflicting health care powers of attorney.~~

~~If a provision of a health care power of attorney conflicts~~

~~with another provision of a health care power of attorney or  
with a provision of a living will, the provision of the  
instrument latest in date of execution shall prevail to the  
extent of the conflict.~~

~~§ 5465. Validity.~~

~~This subchapter does not limit the validity of a health care  
power of attorney executed prior to the effective date of this  
subchapter. A health care power of attorney executed in another  
state or jurisdiction and in conformity with the laws of that  
state or jurisdiction shall be considered valid in this  
Commonwealth, except to the extent that the health care power of  
attorney executed in another state or jurisdiction would allow a  
health care agent to make a health care decision inconsistent  
with the laws of this Commonwealth.~~

#### ~~SUBCHAPTER D~~

#### ~~OUT-OF-HOSPITAL NONRESUSCITATION~~

~~Sec.~~

~~5471. Short title of subchapter.~~

~~5472. Legislative findings and intent.~~

~~5473. Definitions.~~

~~5474. Orders, bracelets and necklaces.~~

~~5475. Revocation.~~

~~5476. Liability.~~

~~5477. Effect on suicide and life insurance.~~

~~5478. Order optional.~~

~~5479. Preservation of existing rights.~~

~~5480. Emergency medical services.~~

~~5481. Pregnancy.~~

~~5482. Penalties.~~

~~§ 5471. Short title of subchapter.~~

~~This subchapter shall be known and may be cited as the Out-  
of-Hospital Nonresuscitation Act.~~

~~§ 5472. Legislative findings and intent.~~

~~The General Assembly finds and declares as follows:~~

~~(1) Although cardiopulmonary resuscitation has saved the  
lives of individuals about to experience sudden, unexpected  
death, present medical data indicates that cardiopulmonary  
resuscitation rarely leads to prolonged survival in  
individuals with terminal illnesses in whom death is  
expected.~~

~~(2) In many circumstances, the performance of  
cardiopulmonary resuscitation may cause infliction of  
unwanted and unnecessary pain and suffering.~~

~~(3) Existing emergency medical services protocols may  
require emergency medical services personnel to proceed to  
cardiopulmonary resuscitation when an individual is found in  
a cardiac or respiratory arrest even if the individual has  
completed a living will or advance directive indicating that  
the individual does not wish to receive cardiopulmonary  
resuscitation.~~

~~(4) The administration of cardiopulmonary resuscitation  
by emergency medical services personnel to an individual with  
an out-of-hospital do not resuscitate order offends the  
dignity of the individual and conflicts with standards of  
accepted medical practice.~~

~~(5) This subchapter provides clear direction to  
emergency medical services personnel and other health care  
providers in regard to the performance of cardiopulmonary  
resuscitation.~~

~~(6) Nothing in this subchapter is intended to condone,~~

~~authorize or approve mercy killing, euthanasia or aided  
suicide or to permit any affirmative or deliberate act or  
omission to end life other than as defined in this  
subchapter.~~

~~§ 5473. Definitions.~~

~~The following words and phrases when used in this subchapter  
shall have the meanings given to them in this section unless the  
context clearly indicates otherwise:~~

~~"Bracelet." An out of hospital do not resuscitate bracelet.~~

~~"Cardiopulmonary resuscitation." Cardiac compression,  
invasive airway techniques, artificial ventilation,  
defibrillation and other related procedures.~~

~~"Department." The Department of Health of the Commonwealth.~~

~~"DNR." Do not resuscitate.~~

~~"Emergency medical services provider." A health care  
provider recognized under the act of July 3, 1985 (P.L.164,  
No.45), known as the Emergency Medical Services Act. The term  
includes those individuals recognized under 42 Pa.C.S. § 8331.2  
(relating to good Samaritan civil immunity for use of automated  
external defibrillator).~~

~~"EMS." Emergency medical services.~~

~~"Health care provider." A person who is licensed, certified  
or otherwise authorized by the laws of this Commonwealth to  
administer or provide health care in the ordinary course of  
business or practice of a profession. The term includes  
personnel recognized under the act of July 3, 1985 (P.L.164,  
No.45), known as the Emergency Medical Services Act, and those  
individuals recognized under 42 Pa.C.S. § 8331.2 (relating to  
good Samaritan civil immunity for use of automated external  
defibrillator).~~

~~"Invasive airway technique." Any advanced airway technique, including endotracheal intubation.~~

~~"Life sustaining treatment." Any medical procedure or intervention that, when administered to a patient, will serve only to prolong the process of dying or to maintain the patient in a state of permanent unconsciousness. The term includes nutrition and hydration administered by gastric tube or intravenously or any other artificial or invasive means if the order of the patient so specifically provides.~~

~~"Necklace." An out of hospital do not resuscitate necklace.~~

~~"Order." An out of hospital do not resuscitate order.~~

~~"Out of hospital do not resuscitate bracelet." A bracelet in the standard format set forth in section 5474 (relating to orders, bracelets and necklaces), supplied by the department and issued by the primary physician, which may be worn at the patient's option to notify emergency medical services providers of the presence of an order.~~

~~"Out of hospital do not resuscitate necklace." A necklace in the standard format set forth in section 5474 (relating to orders, bracelets and necklaces), supplied by the department and issued by the primary physician, which may be worn at the patient's option to notify emergency medical services providers of the presence of an order.~~

~~"Out of hospital do not resuscitate order." An order in the standard format set forth in section 5474 (relating to orders, bracelets and necklaces), supplied by the department and issued by the primary physician, directing emergency medical services providers to withhold cardiopulmonary resuscitation from the patient in the event of respiratory or cardiac arrest.~~

~~"Out of hospital do not resuscitate patient." Any of the~~

1 following:

2 ~~(1) An individual:~~

3 ~~(i) who is in a terminal condition; and~~

4 ~~(ii) who, pursuant to section 5474(a) (relating to~~  
5 ~~orders, bracelets and necklaces), possesses and in any~~  
6 ~~manner displays or causes to be displayed for emergency~~  
7 ~~medical services providers an apparently valid order,~~  
8 ~~bracelet or necklace.~~

9 ~~(2) A principal:~~

10 ~~(i) whose living will has become operative under~~  
11 ~~section 5444(a) (relating to when living will operative)~~  
12 ~~if the living will:~~

13 ~~(A) provides that no cardiopulmonary~~  
14 ~~resuscitation shall be provided in the event of the~~  
15 ~~patient's cardiac or respiratory arrest if principal~~  
16 ~~becomes permanently unconscious;~~

17 ~~(B) designates a surrogate to make that decision~~  
18 ~~under those circumstances; and~~

19 ~~(ii) who, pursuant to section 5474(a) (relating to~~  
20 ~~orders, bracelets and necklaces) possesses and in any~~  
21 ~~manner displays or causes to be displayed for emergency~~  
22 ~~medical services providers an apparently valid order,~~  
23 ~~bracelet or necklace.~~

24 ~~"Patient." One of the following:~~

25 ~~(1) An individual who is in a terminal condition.~~

26 ~~(2) A principal whose living will has become operative~~  
27 ~~under section 5444(a) (relating to when living will~~  
28 ~~operative) if the living will does one of the following:~~

29 ~~(i) Provides that no cardiopulmonary resuscitation~~  
30 ~~shall be provided in the event of the patient's cardiac~~

~~or respiratory arrest if the principal becomes permanently unconscious.~~

~~(ii) Designates a surrogate to make that decision under the circumstances set forth in subparagraph (i).~~

~~"Primary physician." A physician who has primary responsibility for the treatment and care of a patient.~~

~~§ 5474. Orders, bracelets and necklaces.~~

~~(a) Issuance. A primary physician, upon the request of a patient who is at least 18 years of age, has graduated from high school, has married or is an emancipated minor, or the patient's surrogate if the surrogate is so authorized, shall issue to the patient an order and may issue at the request of the patient or the patient's surrogate a bracelet or necklace supplied by the department. The patient may, at the patient's option, wear the bracelet or display the order or necklace to notify emergency medical services providers of the patient's do not resuscitate status.~~

~~(b) Format of order. The department shall, with the advice of the Pennsylvania Emergency Health Services Council and with the assistance of the regional emergency medical services councils, make available standard orders for issuance to patients by primary physicians of this Commonwealth. The form of the order shall contain, but not be limited to, the following:~~

~~PENNSYLVANIA OUT-OF-HOSPITAL~~

~~DO NOT RESUSCITATE ORDER~~

~~Patient's full legal name:~~

~~I, the undersigned, state that I am the primary physician of the patient named above. The above named patient or the patient's surrogate has requested this order, and I have made the determination that the patient~~



~~is eligible for an order and satisfies one of the following:~~

~~\_\_\_\_\_ is in a terminal condition.~~

~~\_\_\_\_\_ is permanently unconscious and has a living will directing that no cardiopulmonary resuscitation be provided to the patient in the event of the patient's cardiac or respiratory arrest.~~

~~\_\_\_\_\_ is permanently unconscious and has a living will authorizing \_\_\_\_\_ to request an out-of-hospital do not resuscitate order for the patient.~~

~~I direct any and all emergency medical services personnel, commencing on the effective date of this order, to withhold cardiopulmonary resuscitation (cardiac compression, invasive airway techniques, artificial ventilation, defibrillation and other related procedures) from the patient in the event of the patient's respiratory or cardiac arrest. I further direct such personnel to provide to the patient other medical interventions, such as intravenous fluids, oxygen or other therapies necessary to provide comfort care or to alleviate pain, unless directed otherwise by the patient or the emergency medical services provider's authorized medical command physician.~~

~~Signature of primary physician:~~

~~Printed name of primary physician:~~

~~Dated:~~

~~Primary physician's emergency telephone number:~~

~~Signature of patient (if capable of making informed decisions):~~

~~I, the undersigned, hereby direct that in the event~~

~~of my cardiac and/or respiratory arrest efforts at cardiopulmonary resuscitation not be initiated. I understand that I may revoke these directions at any time by giving verbal instructions to the emergency medical services providers, by physical cancellation or destruction of this form or my bracelet or necklace or by simply not displaying this form or the bracelet or necklace for my EMS caregivers.~~

~~Signature of surrogate (if patient is incapable of making informed decisions):~~

~~I, the undersigned, hereby certify that I am authorized to execute this order on the patient's behalf by virtue of having been designated as the patient's surrogate and/or by virtue of my relationship to the patient (specify relationship: \_\_\_\_\_). I hereby direct that in the event of the patient's cardiac and/or respiratory arrest efforts at cardiopulmonary resuscitation not be initiated.~~

~~(c) Format of bracelet. The department shall, with the advice of the Pennsylvania Emergency Health Services Council and with the assistance of the regional emergency medical services councils, make available standard bracelets for issuance to patients by primary physicians. The bracelets shall be uniform in design and shall, at a minimum, on the face clearly indicate OUT-OF-HOSPITAL DNR and the name of the patient and primary physician as well as the dated signature of the primary physician.~~

~~(d) Format of necklace. The department shall, with the advice of the Pennsylvania Emergency Health Services Council and with the assistance of the regional emergency medical services~~

~~councils, make available standard necklaces for issuance to patients by primary physicians. The necklaces shall be uniform in design and shall, at a minimum, on the face clearly indicate OUT-OF-HOSPITAL DNR and the name of the patient and primary physician as well as the dated signature of the primary physician.~~

~~§ 5475. Revocation.~~

~~(a) Patient. If a patient has obtained an order, only the patient may revoke the patient's DNR status.~~

~~(b) Surrogate. If a surrogate has obtained an order, the patient or the surrogate may revoke the patient's status.~~

~~(c) Manner. Revocation under this section may be done at any time without regard to the patient's physical or mental condition and in any manner, including verbally or by destroying or not displaying the order, bracelet or necklace.~~

~~§ 5476. Liability.~~

~~(a) General rule. No health care provider who, consistent with this subchapter, causes or participates in the initiating, continuing, withholding or withdrawal of life sustaining treatment or cardiopulmonary resuscitation from a patient shall, as a result of such action, be subject to criminal or civil liability or be found to have committed an act of unprofessional conduct if the primary physician, emergency medical services provider or health care provider has followed the patient's expressed wishes in the form of a living will, order or revocation executed pursuant to this subchapter.~~

~~(b) Absence of order, bracelet or necklace. The absence of an order, bracelet or necklace by a patient shall not give rise to any presumption as to the intent of the patient to consent to or to refuse the initiation, continuation or termination of~~

1 ~~life sustaining treatment.~~

2 ~~§ 5477. Effect on suicide and life insurance.~~

3 ~~(a) Criminal effect. The withholding or withdrawal of life~~  
4 ~~sustaining treatment from a patient resulting in death in~~  
5 ~~accordance with the provisions of this subchapter shall not, for~~  
6 ~~any purpose, constitute suicide or homicide.~~

7 ~~(b) Life insurance. The making of or failure to make an~~  
8 ~~order in accordance with this subchapter shall not affect in any~~  
9 ~~manner the sale, procurement or issuance of a policy of life~~  
10 ~~insurance nor shall it be deemed to modify the terms of an~~  
11 ~~existing policy of life insurance. No policy of life insurance~~  
12 ~~shall be legally impaired or invalidated in any manner by the~~  
13 ~~withholding or withdrawal of life sustaining treatment from an~~  
14 ~~insured patient, notwithstanding a term of the policy to the~~  
15 ~~contrary.~~

16 ~~§ 5478. Order optional.~~

17 ~~A health care provider, a health care service plan, a health~~  
18 ~~maintenance organization, an insurer issuing disability~~  
19 ~~insurance, a self-insured employee welfare benefit plan, a~~  
20 ~~nonprofit hospital plan and a Federal, State or local government~~  
21 ~~sponsored or operated program may not do the following:~~

22 ~~(1) Require any person to execute an order as a~~  
23 ~~condition for being insured for or receiving health care~~  
24 ~~services.~~

25 ~~(2) Charge an individual a different rate or fee whether~~  
26 ~~or not the individual executes or has executed an order.~~

27 ~~§ 5479. Preservation of existing rights.~~

28 ~~The provisions of this subchapter shall not impair or~~  
29 ~~supersede any existing rights or responsibilities not addressed~~  
30 ~~in this subchapter.~~

~~§ 5480. Emergency medical services.~~

~~(a) Medical command instructions. Notwithstanding the absence of an order, bracelet or necklace pursuant to this section, emergency medical services providers shall at all times comply with the instructions of an authorized medical command physician to withhold or discontinue resuscitation.~~

~~(b) Effect of order, bracelet or necklace.~~

~~(1) Emergency medical services providers are authorized to and shall comply with an order if made aware of the order by examining a bracelet, a necklace or the order itself.~~

~~(2) Emergency medical services providers shall provide other medical interventions necessary and appropriate to provide comfort and alleviate pain, including intravenous fluids, medications, oxygen and any other intervention appropriate to the level of the certification of the provider, unless otherwise directed by the patient or the emergency medical services provider's authorized medical command physician.~~

~~(3) As used in this subsection, the term "comply" means:~~

~~(i) to withhold cardiopulmonary resuscitation from the patient in the event of respiratory or cardiac arrest; or~~

~~(ii) to discontinue and cease cardiopulmonary resuscitation in the event the emergency medical services provider is presented with an order or discovers a necklace or bracelet after initiating cardiopulmonary resuscitation.~~

~~(c) Uncertainty regarding validity or applicability of order, bracelet or necklace.~~

~~(1) Emergency medical services providers who in good~~

~~faith are uncertain about the validity or applicability of an order, bracelet or necklace shall render care in accordance with their level of certification.~~

~~(2) Emergency medical services providers who act under paragraph (1) shall not be subject to civil or criminal liability or administrative sanction for failure to comply with an order under this section.~~

~~(d) Recognition of other states' orders. Emergency medical services or out of hospital DNR orders, bracelets or necklaces valid in states other than this Commonwealth shall be recognized in this Commonwealth to the extent that these orders, bracelets or necklaces are consistent with the laws of this Commonwealth. Emergency medical services providers shall act in accordance with the provisions of this section when encountering a patient with an apparently valid EMS or out of hospital DNR form, bracelet or necklace issued by another state. Emergency medical services providers acting in good faith under this section shall be entitled to the same immunities and protections that would otherwise be applicable.~~

~~§ 5481. Pregnancy.~~

~~(a) General rule. Notwithstanding the existence of an order or direction to the contrary, life sustaining treatment, cardiopulmonary resuscitation, nutrition and hydration shall be provided to a pregnant patient unless, to a reasonable degree of medical certainty as certified on the pregnant patient's medical record by the primary physician and an obstetrician who has examined the pregnant patient, life sustaining treatment, nutrition and hydration:~~

~~(1) will not maintain the pregnant patient in such a way as to permit the continuing development and live birth of the~~

1 ~~unborn child;~~

2 ~~(2) will be physically harmful to the pregnant patient;~~

3 ~~or~~

4 ~~(3) will cause pain to the pregnant patient which cannot~~  
5 ~~be alleviated by medication.~~

6 ~~(b) Pregnancy test. Nothing in this section shall require a~~  
7 ~~physician to perform a pregnancy test unless the physician has~~  
8 ~~reason to believe that the patient may be pregnant.~~

9 ~~(c) Payment of expenses by Commonwealth.~~

10 ~~(1) Notwithstanding the existence of an order or~~  
11 ~~direction to the contrary, if treatment, cardiopulmonary~~  
12 ~~resuscitation, nutrition or hydration are provided to a~~  
13 ~~pregnant patient, the Commonwealth shall pay all usual,~~  
14 ~~customary and reasonable expenses directly and indirectly~~  
15 ~~incurred by the pregnant patient to whom the treatment,~~  
16 ~~nutrition and hydration are provided.~~

17 ~~(2) The Commonwealth shall have the right of subrogation~~  
18 ~~against all moneys paid by any third party health insurer on~~  
19 ~~behalf of the pregnant patient.~~

20 ~~(3) The expenditures incurred on behalf of the pregnant~~  
21 ~~patient shall constitute a grant, and a lien shall not be~~  
22 ~~placed upon the property of the pregnant patient, her estate~~  
23 ~~or her heirs.~~

24 ~~§ 5482. Penalties.~~

25 ~~(a) Felonies of the third degree. A person commits a felony~~  
26 ~~of the third degree if that person:~~

27 ~~(1) conceals, cancels, defaces, obliterates or damages~~  
28 ~~the order, bracelet or necklace of another without the~~  
29 ~~consent of the patient;~~

30 ~~(2) causes a person to execute an order, bracelet or~~

~~necklace under this chapter by undue influence, fraud or duress; or~~

~~(3) falsifies or forges an order, bracelet or necklace, the result of which is a direct change in the health care provided to the patient.~~

~~(b) Prosecution for criminal homicide. A person shall be subject to prosecution for criminal homicide as provided in 18 Pa.C.S. Ch. 25 (relating to criminal homicide), if the person intends to cause the withholding or withdrawal of life sustaining treatment contrary to the wishes of a patient and, because of that action, directly causes life sustaining treatment to be withheld or withdrawn and death to be hastened and:~~

~~(1) falsifies or forges an order, bracelet or necklace of another individual; or~~

~~(2) willfully conceals or withholds personal knowledge of a revocation of an order, bracelet or necklace under this chapter.~~

~~Section 4. Chapter 54A of Title 20 is repealed.~~

~~Section 5. Sections 5602(a)(8) and (9) and 5603(h) of Title 20 are repealed.~~

~~Section 6. (a) The repeal of the form of the declaration in 20 Pa.C.S. § 5424(b) shall not affect the validity of any declaration executed, pursuant to that form, before, on or after the effective date of this act.~~

~~(b) The repeal of 20 Pa.C.S. §§ 5602(a)(8) and (9) and 5603(h) shall not affect the authority of an agent operating under any power of attorney relying on those provisions, executed before the effective date of the repeal of those provisions.~~



~~Section 7. Nothing in this act is intended to affect or supersede the holdings in In re Fiori, 543 Pa. 592, 673 A.2d 905 (1996).~~

~~Section 8. The interim regulations published at 32 Pennsylvania Bulletin 6117 on December 14, 2002, shall continue, except to the extent that they may be inconsistent with the provisions of this act in which case such regulations shall be amended by interim regulation to eliminate the inconsistency and any such interim regulations shall not be subject to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, or section 201 or 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law. The interim regulations shall expire February 18, 2004, or when final regulations are promulgated by the department, whichever occurs first. Final regulations shall be promulgated no later than February 19, 2004.~~

~~Section 9. Section 6 of the act of June 19, 2002 (P.L.409, No.59), entitled "An act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, further providing for advance directives for health care, for definitions and for emergency medical services; and providing for out of hospital nonresuscitation," is repealed.~~

~~Section 10. This act shall take effect as follows:~~

~~(1) The following provisions shall take effect immediately:~~

~~(i) The addition of 20 Pa.C.S. Ch. 54 Subch. D.~~

~~(ii) Sections 4, 8 and 9 of this act.~~

~~(iii) This section.~~

~~(2) The remainder of this act shall take effect in 60 days.~~

SECTION 1. SECTION 2713(E) OF TITLE 18 OF THE PENNSYLVANIA  
CONSOLIDATED STATUTES IS AMENDED TO READ:

§ 2713. NEGLECT OF CARE-DEPENDENT PERSON.

\* \* \*

(E) TREATMENT IN CONFORMANCE WITH CARE-DEPENDENT PERSON'S  
RIGHT TO ACCEPT OR REFUSE SERVICES.--A CARETAKER OR ANY OTHER  
INDIVIDUAL OR FACILITY MAY OFFER AN AFFIRMATIVE DEFENSE TO  
CHARGES FILED PURSUANT TO THIS SECTION IF THE CARETAKER,  
INDIVIDUAL OR FACILITY CAN DEMONSTRATE THROUGH A PREPONDERANCE  
OF THE EVIDENCE THAT THE ALLEGED VIOLATIONS RESULT DIRECTLY  
FROM:

(1) THE CARETAKER'S, INDIVIDUAL'S OR FACILITY'S LAWFUL  
COMPLIANCE WITH A CARE-DEPENDENT PERSON'S [ADVANCE DIRECTIVE  
FOR HEALTH CARE] LIVING WILL AS PROVIDED IN 20 PA.C.S. CH. 54  
(RELATING TO [ADVANCE DIRECTIVE FOR] HEALTH CARE);

(2) THE CARETAKER'S, INDIVIDUAL'S OR FACILITY'S LAWFUL  
COMPLIANCE WITH THE CARE-DEPENDENT PERSON'S WRITTEN, SIGNED  
AND WITNESSED INSTRUCTIONS, [COMPOSED] EXECUTED WHEN THE  
CARE-DEPENDENT PERSON IS COMPETENT AS TO THE TREATMENT HE  
WISHES TO RECEIVE;

(3) THE CARETAKER'S, INDIVIDUAL'S OR FACILITY'S LAWFUL  
COMPLIANCE WITH THE DIRECTION OF THE CARE-DEPENDENT PERSON'S  
[ATTORNEY-IN-FACT] AGENT ACTING PURSUANT TO A LAWFUL DURABLE  
POWER OF ATTORNEY; [OR]

(4) THE CARETAKER'S, INDIVIDUAL'S OR FACILITY'S LAWFUL  
COMPLIANCE WITH A "DO NOT RESUSCITATE" ORDER WRITTEN AND  
SIGNED BY THE CARE-DEPENDENT PERSON'S ATTENDING PHYSICIAN[.];  
OR

(5) THE CARETAKER'S, INDIVIDUAL'S OR FACILITY'S LAWFUL  
COMPLIANCE WITH THE DIRECTION OF THE CARE-DEPENDENT PERSON'S

1     HEALTH CARE AGENT ACTING PURSUANT TO A LAWFUL HEALTH CARE  
2     POWER OF ATTORNEY.

3     \* \* \*

4     SECTION 2.   SECTION 711(22) OF TITLE 20 IS AMENDED TO READ:

5     § 711.   MANDATORY EXERCISE OF JURISDICTION THROUGH ORPHANS'  
6             COURT DIVISION IN GENERAL.

7     EXCEPT AS PROVIDED IN SECTION 712 (RELATING TO NONMANDATORY  
8     EXERCISE OF JURISDICTION THROUGH THE ORPHANS' COURT DIVISION)  
9     AND SECTION 713 (RELATING TO SPECIAL PROVISIONS FOR PHILADELPHIA  
10    COUNTY), THE JURISDICTION OF THE COURT OF COMMON PLEAS OVER THE  
11    FOLLOWING SHALL BE EXERCISED THROUGH ITS ORPHANS' COURT  
12    DIVISION:

13     \* \* \*

14     (22)   AGENTS.--ALL MATTERS PERTAINING TO THE EXERCISE OF  
15     POWERS BY AGENTS ACTING UNDER POWERS OF ATTORNEY AS PROVIDED  
16     IN SUBCHAPTER C OF CHAPTER 54 (RELATING TO HEALTH CARE AGENTS  
17     AND REPRESENTATIVES) OR IN CHAPTER 56 (RELATING TO POWERS OF  
18     ATTORNEY).

19     SECTION 3.   CHAPTER 54 OF TITLE 20 IS REPEALED.

20     SECTION 4.   TITLE 20 IS AMENDED BY ADDING A CHAPTER TO READ:

21                     CHAPTER 54

22                     HEALTH CARE

23    SUBCHAPTER

24     A.   GENERAL PROVISIONS

25     B.   LIVING WILLS

26     C.   HEALTH CARE AGENTS AND REPRESENTATIVES

27     D.   COMBINED FORM

28     E.   OUT-OF-HOSPITAL NONRESUSCITATION

29                     SUBCHAPTER A

30                     GENERAL PROVISIONS

1 SEC.  
2 5421. APPLICABILITY.  
3 5422. DEFINITIONS.  
4 5423. LEGISLATIVE FINDINGS AND INTENT.  
5 5424. COMPLIANCE.  
6 5425. CONFLICTING ADVANCE HEALTH CARE DIRECTIVES.  
7 5426. DEATH NOT SUICIDE OR HOMICIDE.  
8 5427. LIFE INSURANCE.  
9 5428. HEALTH CARE INSTRUMENTS OPTIONAL.  
10 5429. PREGNANCY.  
11 5430. EFFECT OF DIVORCE.  
12 5431. LIABILITY.  
13 5432. CRIMINAL PENALTIES.  
14 5433. FORMS.

15 § 5421. APPLICABILITY.

16 (A) GENERAL RULE.--THIS CHAPTER APPLIES TO ADVANCE HEALTH  
17 CARE DIRECTIVES AND OUT-OF-HOSPITAL NONRESUSCITATION ORDERS.

18 (B) PRESERVATION OF EXISTING RIGHTS.--THE PROVISIONS OF THIS  
19 CHAPTER SHALL NOT IMPAIR OR SUPERSEDE ANY EXISTING RIGHTS OR  
20 RESPONSIBILITIES NOT ADDRESSED IN THIS CHAPTER.

21 § 5422. DEFINITIONS.

22 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
23 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
24 CONTEXT CLEARLY INDICATES OTHERWISE:

25 "ADVANCE HEALTH CARE DIRECTIVE." A HEALTH CARE POWER OF  
26 ATTORNEY, LIVING WILL OR A WRITTEN COMBINATION OF A HEALTH CARE  
27 POWER OF ATTORNEY AND LIVING WILL.

28 "ATTENDING PHYSICIAN." THE PHYSICIAN WHO HAS PRIMARY  
29 RESPONSIBILITY FOR THE HEALTH CARE OF A PRINCIPAL OR PATIENT.

30 "BRACELET." AN OUT-OF-HOSPITAL DNR BRACELET.

"CARDIOPULMONARY RESUSCITATION." ANY OF THE FOLLOWING  
PROCEDURES:

- (1) CARDIAC COMPRESSION.
- (2) INVASIVE AIRWAY TECHNIQUE.
- (3) ARTIFICIAL VENTILATION.
- (4) DEFIBRILLATION.
- (5) ANY OTHER PROCEDURE RELATED TO THOSE SET FORTH IN  
PARAGRAPHS (1) THROUGH (4).

"DNR." DO NOT RESUSCITATE.

"HEALTH CARE." ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO  
MAINTAIN, DIAGNOSE, TREAT OR PROVIDE FOR PHYSICAL OR MENTAL  
HEALTH, CUSTODIAL OR PERSONAL CARE, INCLUDING ANY MEDICATION  
PROGRAM, THERAPEUTICAL AND SURGICAL PROCEDURE AND LIFE-  
SUSTAINING TREATMENT.

"HEALTH CARE AGENT." AN INDIVIDUAL DESIGNATED BY A PRINCIPAL  
IN AN ADVANCE HEALTH CARE DIRECTIVE.

"HEALTH CARE DECISION." A DECISION REGARDING AN INDIVIDUAL'S  
HEALTH CARE, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

- (1) SELECTION AND DISCHARGE OF A HEALTH CARE PROVIDER.
- (2) APPROVAL OR DISAPPROVAL OF A DIAGNOSTIC TEST,  
SURGICAL PROCEDURE OR PROGRAM OF MEDICATION.
- (3) DIRECTIONS TO INITIATE, CONTINUE, WITHHOLD OR  
WITHDRAW ALL FORMS OF LIFE-SUSTAINING TREATMENT, INCLUDING  
INSTRUCTIONS NOT TO RESUSCITATE.

"HEALTH CARE POWER OF ATTORNEY." A WRITING MADE BY A  
PRINCIPAL DESIGNATING AN INDIVIDUAL TO MAKE HEALTH CARE  
DECISIONS FOR THE PRINCIPAL.

"HEALTH CARE PROVIDER." A PERSON WHO IS LICENSED, CERTIFIED  
OR OTHERWISE AUTHORIZED BY THE LAWS OF THIS COMMONWEALTH TO  
ADMINISTER OR PROVIDE HEALTH CARE IN THE ORDINARY COURSE OF

1 BUSINESS OR PRACTICE OF A PROFESSION. THE TERM INCLUDES  
2 PERSONNEL RECOGNIZED UNDER THE ACT OF JULY 3, 1985 (P.L.164,  
3 NO.45), KNOWN AS THE EMERGENCY MEDICAL SERVICES ACT.

4 "HEALTH CARE REPRESENTATIVE." AN INDIVIDUAL AUTHORIZED UNDER  
5 SECTION 5461 (RELATING TO DECISIONS BY HEALTH CARE  
6 REPRESENTATIVE) TO MAKE HEALTH CARE DECISIONS FOR A PRINCIPAL.

7 "INCOMPETENT." UNABLE TO UNDERSTAND THE SIGNIFICANT  
8 BENEFITS, RISKS AND ALTERNATIVES TO PROPOSED HEALTH CARE AND TO  
9 MAKE AND COMMUNICATE A HEALTH CARE DECISION.

10 "INVASIVE AIRWAY TECHNIQUE." ANY ADVANCED AIRWAY TECHNIQUE,  
11 INCLUDING ENDOTRACHEAL INTUBATION.

12 "LIFE-SUSTAINING TREATMENT." ANY MEDICAL PROCEDURE OR  
13 INTERVENTION THAT, WHEN ADMINISTERED TO A PATIENT OR PRINCIPAL  
14 WHO HAS BEEN DETERMINED TO BE IN A TERMINAL CONDITION OR  
15 PERMANENTLY UNCONSCIOUS, WILL SERVE ONLY TO PROLONG THE PROCESS  
16 OF DYING OR MAINTAIN THE INDIVIDUAL IN A STATE OF PERMANENT  
17 UNCONSCIOUSNESS. THE TERM INCLUDES NUTRITION AND HYDRATION  
18 ADMINISTERED BY GASTRIC TUBE OR INTRAVENOUSLY OR ANY OTHER  
19 ARTIFICIAL OR INVASIVE MEANS IF THE ADVANCE HEALTH CARE  
20 DIRECTIVE OR ORDER SO SPECIFICALLY PROVIDES.

21 "LIVING WILL." A WRITING MADE IN ACCORDANCE WITH THIS  
22 CHAPTER THAT EXPRESSES A PRINCIPAL'S WISHES AND INSTRUCTIONS FOR  
23 HEALTH CARE AND HEALTH CARE DIRECTIONS WHEN THE PRINCIPAL IS  
24 DETERMINED TO BE INCOMPETENT AND IN A TERMINAL CONDITION OR IN A  
25 STATE OF PERMANENT UNCONSCIOUSNESS.

26 "MEDICAL COMMAND PHYSICIAN." A LICENSED PHYSICIAN WHO IS  
27 AUTHORIZED TO GIVE MEDICAL COMMAND UNDER THE ACT OF JULY 3, 1985  
28 (P.L.164, NO.45), KNOWN AS THE EMERGENCY MEDICAL SERVICES ACT.

29 "NECKLACE." AN OUT-OF-HOSPITAL DO-NOT-RESUSCITATE NECKLACE.

30 "ORDER." AN OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDER.

1 "PATIENT." AN OUT-OF-HOSPITAL DO-NOT-RESUSCITATE PATIENT.

2 "PERMANENTLY UNCONSCIOUS." A MEDICAL CONDITION THAT HAS BEEN  
3 DIAGNOSED IN ACCORDANCE WITH CURRENTLY ACCEPTED MEDICAL  
4 STANDARDS AND WITH REASONABLE MEDICAL CERTAINTY AS TOTAL AND  
5 IRREVERSIBLE LOSS OF CONSCIOUSNESS AND CAPACITY FOR INTERACTION  
6 WITH THE ENVIRONMENT. THE TERM INCLUDES, WITHOUT LIMITATION, AN  
7 IRREVERSIBLE VEGETATIVE STATE OR IRREVERSIBLE COMA.

8 "PERSON." ANY INDIVIDUAL, CORPORATION, PARTNERSHIP,  
9 ASSOCIATION OR OTHER SIMILAR ENTITY, OR ANY FEDERAL, STATE OR  
10 LOCAL GOVERNMENT OR GOVERNMENTAL AGENCY.

11 "PRINCIPAL." AN INDIVIDUAL WHO EXECUTES AN ADVANCE HEALTH  
12 CARE DIRECTIVE, DESIGNATES AN INDIVIDUAL TO ACT OR DISQUALIFIES  
13 AN INDIVIDUAL FROM ACTING AS A HEALTH CARE REPRESENTATIVE OR AN  
14 INDIVIDUAL FOR WHOM A HEALTH CARE REPRESENTATIVE ACTS IN  
15 ACCORDANCE WITH THIS CHAPTER.

16 "REASONABLY AVAILABLE." READILY ABLE TO BE CONTACTED WITHOUT  
17 UNDUE EFFORT AND WILLING AND ABLE TO ACT IN A TIMELY MANNER  
18 CONSIDERING THE URGENCY OF THE INDIVIDUAL'S HEALTH CARE NEEDS.

19 "TERMINAL CONDITION." AN INCURABLE AND IRREVERSIBLE MEDICAL  
20 CONDITION IN AN ADVANCED STATE CAUSED BY INJURY, DISEASE OR  
21 PHYSICAL ILLNESS THAT WILL, IN THE OPINION OF THE ATTENDING  
22 PHYSICIAN TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, RESULT IN  
23 DEATH REGARDLESS OF THE CONTINUED APPLICATION OF LIFE-SUSTAINING  
24 TREATMENT.

25 § 5423. LEGISLATIVE FINDINGS AND INTENT.

26 (A) INTENT.--THIS CHAPTER PROVIDES A STATUTORY MEANS FOR  
27 COMPETENT ADULTS TO CONTROL THEIR HEALTH CARE THROUGH  
28 INSTRUCTIONS WRITTEN IN ADVANCE OR BY HEALTH CARE AGENTS OR  
29 HEALTH CARE REPRESENTATIVES AND REQUESTED ORDERS. NOTHING IN  
30 THIS CHAPTER IS INTENDED TO:

1 (1) CONDONE, AUTHORIZE OR APPROVE MERCY KILLING,  
2 EUTHANASIA OR AIDED SUICIDE; OR

3 (2) PERMIT ANY AFFIRMATIVE OR DELIBERATE ACT OR OMISSION  
4 TO END LIFE OTHER THAN AS DEFINED IN THIS CHAPTER.

5 (B) PRESUMPTION NOT CREATED.--THIS CHAPTER DOES NOT CREATE  
6 ANY PRESUMPTION REGARDING THE INTENT OF AN INDIVIDUAL WHO HAS  
7 NOT EXECUTED AN ADVANCE HEALTH CARE DIRECTIVE TO CONSENT TO THE  
8 USE OR WITHHOLDING OF LIFE-SUSTAINING TREATMENT IN THE EVENT OF  
9 A TERMINAL CONDITION OR STATE OF PERMANENT UNCONSCIOUSNESS.

10 (C) FINDINGS IN GENERAL.--THE GENERAL ASSEMBLY FINDS THAT  
11 INDIVIDUALS HAVE A QUALIFIED RIGHT TO MAKE DECISIONS RELATING TO  
12 THEIR OWN HEALTH CARE. THIS RIGHT IS SUBJECT TO CERTAIN  
13 INTERESTS OF SOCIETY, SUCH AS THE MAINTENANCE OF ETHICAL  
14 STANDARDS IN THE MEDICAL PROFESSION AND THE PRESERVATION AND  
15 PROTECTION OF HUMAN LIFE. MODERN MEDICAL TECHNOLOGICAL  
16 PROCEDURES MAKE POSSIBLE THE PROLONGATION OF HUMAN LIFE BEYOND  
17 NATURAL LIMITS. THE APPLICATION OF SOME PROCEDURES TO AN  
18 INDIVIDUAL SUFFERING A DIFFICULT AND UNCOMFORTABLE PROCESS OF  
19 DYING MAY CAUSE LOSS OF DIGNITY AND SECURE ONLY CONTINUATION OF  
20 A PRECARIOUS AND BURDENSOME PROLONGATION OF LIFE.

21 § 5424. COMPLIANCE.

22 (A) NOTIFICATION BY ATTENDING PHYSICIAN OR HEALTH CARE  
23 PROVIDER.--IF AN ATTENDING PHYSICIAN OR OTHER HEALTH CARE  
24 PROVIDER CANNOT IN GOOD CONSCIENCE COMPLY WITH A LIVING WILL OR  
25 HEALTH CARE DECISION OF A HEALTH CARE AGENT OR HEALTH CARE  
26 REPRESENTATIVE OR IF THE POLICIES OF A HEALTH CARE PROVIDER  
27 PRECLUDE COMPLIANCE WITH A LIVING WILL OR HEALTH CARE DECISION  
28 OF A HEALTH CARE AGENT OR HEALTH CARE REPRESENTATIVE, THE  
29 ATTENDING PHYSICIAN OR HEALTH CARE PROVIDER SHALL SO INFORM THE  
30 FOLLOWING:



1 (1) THE PRINCIPAL, IF THE PRINCIPAL IS COMPETENT.

2 (2) THE FAMILY, GUARDIAN OR OTHER REPRESENTATIVE OF THE  
3 PRINCIPAL, IF THE PRINCIPAL IS INCOMPETENT AND A HEALTH CARE  
4 AGENT IS NOT NAMED IN THE ADVANCE HEALTH CARE DIRECTIVE.

5 (3) THE HEALTH CARE AGENT OF THE PRINCIPAL.

6 (4) THE HEALTH CARE REPRESENTATIVE.

7 (B) TRANSFER.--THE ATTENDING PHYSICIAN OR HEALTH CARE  
8 PROVIDER UNDER SUBSECTION (A) SHALL MAKE EVERY REASONABLE EFFORT  
9 TO ASSIST IN THE TRANSFER OF THE PRINCIPAL TO ANOTHER PHYSICIAN  
10 OR HEALTH CARE PROVIDER WHO WILL COMPLY WITH THE LIVING WILL OR  
11 HEALTH CARE DECISION OF THE HEALTH CARE AGENT OR HEALTH CARE  
12 REPRESENTATIVE.

13 (C) EMPLOYEE OR STAFF MEMBER OF HEALTH CARE PROVIDER.--

14 (1) AN EMPLOYEE OR A STAFF MEMBER OF A HEALTH CARE  
15 PROVIDER MAY NOT BE REQUIRED TO PARTICIPATE IN THE  
16 WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING TREATMENT.

17 (2) A HEALTH CARE PROVIDER THAT IS AN EMPLOYER MAY NOT  
18 DISCHARGE OR IN ANY OTHER MANNER DISCRIMINATE AGAINST ITS  
19 EMPLOYEE OR STAFF MEMBER WHO INFORMS THE EMPLOYER OF A WISH  
20 NOT TO PARTICIPATE IN THE WITHHOLDING OR WITHDRAWAL OF LIFE-  
21 SUSTAINING TREATMENT.

22 (3) A HEALTH CARE PROVIDER THAT IS AN EMPLOYER MAY  
23 REQUIRE ITS EMPLOYEE OR STAFF MEMBER TO EXPRESS IN WRITING  
24 THE WISHES OR UNWILLINGNESS OF THE EMPLOYEE OR STAFF MEMBER  
25 AS SET FORTH IN THIS SUBSECTION.

26 (D) LIABILITY.--IF TRANSFER UNDER SUBSECTION (B) IS  
27 IMPOSSIBLE, THE PROVISION OF LIFE-SUSTAINING TREATMENT TO A  
28 PRINCIPAL MAY NOT SUBJECT AN ATTENDING PHYSICIAN OR A HEALTH  
29 CARE PROVIDER TO CRIMINAL OR CIVIL LIABILITY OR ADMINISTRATIVE  
30 SANCTION FOR FAILURE TO CARRY OUT EITHER THE PROVISIONS OF A

1 LIVING WILL OR A HEALTH CARE DECISION OF A HEALTH CARE AGENT OR  
2 HEALTH CARE REPRESENTATIVE.

3 § 5425. CONFLICTING ADVANCE HEALTH CARE DIRECTIVES.

4 IF A PROVISION OF AN ADVANCE HEALTH CARE DIRECTIVE CONFLICTS  
5 WITH A PROVISION OF ANOTHER ADVANCE HEALTH CARE DIRECTIVE, THE  
6 PROVISION OF THE INSTRUMENT LATEST IN DATE OF EXECUTION SHALL  
7 PREVAIL TO THE EXTENT OF THE CONFLICT UNLESS THE INSTRUMENTS  
8 EXPRESSLY PROVIDE OTHERWISE.

9 § 5426. DEATH NOT SUICIDE OR HOMICIDE.

10 THE WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING TREATMENT  
11 FROM A PRINCIPAL OR PATIENT RESULTING IN DEATH, IN ACCORDANCE  
12 WITH THE PROVISIONS OF THIS CHAPTER, SHALL NOT, FOR ANY PURPOSE,  
13 CONSTITUTE SUICIDE OR HOMICIDE.

14 § 5427. LIFE INSURANCE.

15 THE MAKING OF OR FAILURE TO MAKE AN ADVANCE HEALTH CARE  
16 DIRECTIVE, TO REQUEST AN ORDER OR TO DESIGNATE OR DISQUALIFY A  
17 HEALTH CARE REPRESENTATIVE IN ACCORDANCE WITH THIS CHAPTER SHALL  
18 NOT AFFECT IN ANY MANNER THE SALE, PROCUREMENT OR ISSUANCE OF A  
19 POLICY OF LIFE INSURANCE NOR SHALL IT BE DEEMED TO MODIFY THE  
20 TERMS OF AN EXISTING POLICY OF LIFE INSURANCE. NO POLICY OF LIFE  
21 INSURANCE SHALL BE LEGALLY IMPAIRED OR INVALIDATED IN ANY MANNER  
22 BY THE WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING TREATMENT  
23 FROM AN INSURED INDIVIDUAL, NOTWITHSTANDING A TERM OF THE POLICY  
24 TO THE CONTRARY.

25 § 5428. HEALTH CARE INSTRUMENTS OPTIONAL.

26 A HEALTH CARE PROVIDER, A HEALTH CARE SERVICE PLAN, A HEALTH  
27 MAINTENANCE ORGANIZATION, AN INSURER ISSUING DISABILITY  
28 INSURANCE, A SELF-INSURED EMPLOYEE WELFARE BENEFIT PLAN, A  
29 NONPROFIT HOSPITAL PLAN AND A FEDERAL, STATE OR LOCAL GOVERNMENT  
30 SPONSORED OR OPERATED PROGRAM MAY NOT:

1           (1) REQUIRE AN INDIVIDUAL TO EXECUTE AN ADVANCE HEALTH  
2 CARE DIRECTIVE OR ORDER OR TO DESIGNATE OR DISQUALIFY A  
3 HEALTH CARE REPRESENTATIVE AS A CONDITION FOR BEING INSURED  
4 FOR OR RECEIVING HEALTH CARE SERVICES.

5           (2) CHARGE AN INDIVIDUAL A DIFFERENT RATE OR FEE WHETHER  
6 OR NOT THE INDIVIDUAL EXECUTES OR HAS EXECUTED AN ADVANCE  
7 HEALTH CARE DIRECTIVE OR ORDER OR DESIGNATED OR DISQUALIFIED  
8 A HEALTH CARE REPRESENTATIVE.

9 § 5429. PREGNANCY.

10       (A) LIVING WILLS AND HEALTH CARE DECISIONS.--NOTWITHSTANDING  
11 THE EXISTENCE OF A LIVING WILL, A HEALTH CARE DECISION BY A  
12 HEALTH CARE REPRESENTATIVE OR HEALTH CARE AGENT OR ANY OTHER  
13 DIRECTION TO THE CONTRARY, LIFE-SUSTAINING TREATMENT, NUTRITION  
14 AND HYDRATION SHALL BE PROVIDED TO A PREGNANT WOMAN WHO IS  
15 INCOMPETENT AND HAS A TERMINAL CONDITION OR WHO IS PERMANENTLY  
16 UNCONSCIOUS UNLESS, TO A REASONABLE DEGREE OF MEDICAL CERTAINTY  
17 AS CERTIFIED ON THE PREGNANT WOMAN'S MEDICAL RECORD BY THE  
18 PREGNANT WOMAN'S ATTENDING PHYSICIAN AND AN OBSTETRICIAN WHO HAS  
19 EXAMINED THE PREGNANT WOMAN, LIFE-SUSTAINING TREATMENT,  
20 NUTRITION AND HYDRATION:

21           (1) WILL NOT MAINTAIN THE PREGNANT WOMAN IN SUCH A WAY  
22 AS TO PERMIT THE CONTINUING DEVELOPMENT AND LIVE BIRTH OF THE  
23 UNBORN CHILD;

24           (2) WILL BE PHYSICALLY HARMFUL TO THE PREGNANT WOMAN; OR

25           (3) WILL CAUSE PAIN TO THE PREGNANT WOMAN THAT CANNOT BE  
26 ALLEVIATED BY MEDICATION.

27       (B) RULE FOR ORDERS.--NOTWITHSTANDING THE EXISTENCE OF AN  
28 ORDER OR DIRECTION TO THE CONTRARY, LIFE-SUSTAINING TREATMENT,  
29 CARDIOPULMONARY RESUSCITATION, NUTRITION AND HYDRATION SHALL BE  
30 PROVIDED TO A PREGNANT PATIENT UNLESS, TO A REASONABLE DEGREE OF

1 MEDICAL CERTAINTY AS CERTIFIED ON THE PREGNANT PATIENT'S MEDICAL  
2 RECORD BY THE ATTENDING PHYSICIAN AND AN OBSTETRICIAN WHO HAS  
3 EXAMINED THE PREGNANT PATIENT, LIFE-SUSTAINING TREATMENT,  
4 NUTRITION AND HYDRATION:

5 (1) WILL NOT MAINTAIN THE PREGNANT PATIENT IN SUCH A WAY  
6 AS TO PERMIT THE CONTINUING DEVELOPMENT AND LIVE BIRTH OF THE  
7 UNBORN CHILD;

8 (2) WILL BE PHYSICALLY HARMFUL TO THE PREGNANT PATIENT;  
9 OR

10 (3) WOULD CAUSE PAIN TO THE PREGNANT PATIENT THAT CANNOT  
11 BE ALLEVIATED BY MEDICATION.

12 (C) PREGNANCY TEST.--NOTHING IN THIS CHAPTER SHALL REQUIRE A  
13 PHYSICIAN TO PERFORM A PREGNANCY TEST UNLESS THE PHYSICIAN HAS  
14 REASON TO BELIEVE THAT THE WOMAN MAY BE PREGNANT.

15 (D) PAYMENT OF EXPENSES BY COMMONWEALTH.--

16 (1) IN THE EVENT THAT TREATMENT, CARDIOPULMONARY  
17 RESUSCITATION, NUTRITION AND HYDRATION ARE PROVIDED TO A  
18 PREGNANT WOMAN, NOTWITHSTANDING THE EXISTENCE OF A LIVING  
19 WILL, HEALTH CARE DECISION BY A HEALTH CARE REPRESENTATIVE OR  
20 HEALTH CARE AGENT, ORDER OR DIRECTION TO THE CONTRARY, THE  
21 COMMONWEALTH SHALL PAY ALL USUAL, CUSTOMARY AND REASONABLE  
22 EXPENSES DIRECTLY, INDIRECTLY AND ACTUALLY INCURRED BY THE  
23 PREGNANT WOMAN TO WHOM SUCH TREATMENT, CARDIOPULMONARY  
24 RESUSCITATION, NUTRITION AND HYDRATION ARE PROVIDED.

25 (2) THE COMMONWEALTH SHALL HAVE THE RIGHT OF SUBROGATION  
26 AGAINST ALL MONEYS PAID BY ANY THIRD-PARTY HEALTH INSURER ON  
27 BEHALF OF THE PREGNANT WOMAN.

28 (3) THE EXPENDITURES INCURRED ON BEHALF OF THE PREGNANT  
29 WOMAN CONSTITUTE A GRANT, AND A LIEN MAY NOT BE PLACED UPON  
30 THE PROPERTY OF THE PREGNANT WOMAN, HER ESTATE OR HER HEIRS.

1 § 5430. EFFECT OF DIVORCE.

2 (A) GENERAL RULE.--IF THE SPOUSE OF A PRINCIPAL IS  
3 DESIGNATED AS THE PRINCIPAL'S HEALTH CARE AGENT AND THEREAFTER  
4 EITHER SPOUSE FILES AN ACTION IN DIVORCE, THE DESIGNATION OF THE  
5 SPOUSE AS HEALTH CARE AGENT SHALL BE REVOKED AS OF THE TIME THE  
6 ACTION IS FILED UNLESS IT CLEARLY APPEARS FROM THE ADVANCE  
7 HEALTH CARE DIRECTIVE THAT THE DESIGNATION WAS INTENDED TO  
8 CONTINUE TO BE EFFECTIVE NOTWITHSTANDING THE FILING OF AN ACTION  
9 IN DIVORCE BY EITHER SPOUSE.

10 (B) CONSTRUCTION.--A REVOCATION UNDER THIS SECTION SHALL NOT  
11 BE CONSTRUED TO INVALIDATE AN ADVANCE HEALTH CARE DIRECTIVE  
12 UNLESS ITS TERMS EXPRESSLY DIRECT OTHERWISE.

13 § 5431. LIABILITY.

14 (A) GENERAL RULE.--A HEALTH CARE PROVIDER OR ANOTHER PERSON  
15 THAT ACTS IN GOOD FAITH AND CONSISTENT WITH THIS CHAPTER MAY NOT  
16 BE SUBJECT TO CRIMINAL OR CIVIL LIABILITY, DISCIPLINE FOR  
17 UNPROFESSIONAL CONDUCT OR ADMINISTRATIVE SANCTIONS AND MAY NOT  
18 BE FOUND TO HAVE COMMITTED AN ACT OF UNPROFESSIONAL CONDUCT AS A  
19 RESULT OF ANY OF THE FOLLOWING:

20 (1) CAUSING OR PARTICIPATING IN THE INITIATING,  
21 CONTINUING, WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING  
22 TREATMENT OR CARDIOPULMONARY RESUSCITATION FROM A PATIENT OR  
23 PRINCIPAL, IF THE PATIENT'S OR PRINCIPAL'S HEALTH CARE  
24 PROVIDER HAS FOLLOWED THE PATIENT'S OR PRINCIPAL'S WISHES AS  
25 EXPRESSED IN A LIVING WILL, ORDER OR REVOCATION MADE UNDER  
26 THIS CHAPTER.

27 (2) COMPLYING WITH A DIRECTION OR DECISION OF AN  
28 INDIVIDUAL WHO THE HEALTH CARE PROVIDER BELIEVES IN GOOD  
29 FAITH HAS AUTHORITY TO ACT AS A PRINCIPAL'S HEALTH CARE AGENT  
30 OR HEALTH CARE REPRESENTATIVE SO LONG AS THE DIRECTION OR

1 DECISION IS NOT CLEARLY CONTRARY TO THE TERMS OF THE HEALTH  
2 CARE POWER OF ATTORNEY.

3 (3) REFUSING TO COMPLY WITH A DIRECTION OR DECISION OF  
4 AN INDIVIDUAL BASED ON A GOOD FAITH BELIEF THAT THE  
5 INDIVIDUAL LACKS AUTHORITY TO ACT AS A PRINCIPAL'S HEALTH  
6 CARE AGENT.

7 (4) COMPLYING WITH A HEALTH CARE POWER OF ATTORNEY UNDER  
8 THE ASSUMPTION THAT IT WAS VALID WHEN MADE AND THE PERSON  
9 REASONABLY BELIEVES THAT IT HAS NOT BEEN AMENDED OR REVOKED.

10 (5) DISCLOSING HEALTH CARE INFORMATION TO ANOTHER PERSON  
11 BASED UPON A GOOD FAITH BELIEF THAT THE DISCLOSURE IS  
12 AUTHORIZED, PERMITTED OR REQUIRED BY THIS CHAPTER.

13 (B) SAME EFFECT AS IF DEALING WITH PRINCIPAL.--ANY HEALTH  
14 CARE PROVIDER AND OTHER PERSON ACTING UNDER SUBSECTION (A) IS  
15 PROTECTED AND RELEASED TO THE SAME EXTENT AS IF DEALING DIRECTLY  
16 WITH A COMPETENT PRINCIPAL.

17 (C) HEALTH CARE AGENT.--NO HEALTH CARE AGENT ACTING  
18 ACCORDING TO THE TERMS OF A HEALTH CARE POWER OF ATTORNEY SHALL  
19 BE SUBJECT TO CIVIL OR CRIMINAL LIABILITY FOR ACTING IN GOOD  
20 FAITH FOR A PRINCIPAL OR FAILING IN GOOD FAITH TO ACT FOR A  
21 PRINCIPAL.

22 (D) HEALTH CARE REPRESENTATIVE.--NO HEALTH CARE  
23 REPRESENTATIVE WHO IN GOOD FAITH ACTS OR FAILS IN GOOD FAITH TO  
24 ACT FOR THE PRINCIPAL SHALL BE SUBJECT TO CIVIL OR CRIMINAL  
25 LIABILITY FOR THE ACTION OR FAILURE TO ACT.

26 § 5432. CRIMINAL PENALTIES.

27 (A) CRIMINAL HOMICIDE.--A PERSON SHALL BE SUBJECT TO  
28 PROSECUTION FOR CRIMINAL HOMICIDE AS PROVIDED IN 18 PA.C.S. CH.  
29 25 (RELATING TO CRIMINAL HOMICIDE), IF THE PERSON INTENDS TO  
30 CAUSE THE WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING TREATMENT

1 CONTRARY TO THE WISHES OF THE PRINCIPAL OR PATIENT AND, BECAUSE  
2 OF THAT ACTION, DIRECTLY CAUSES LIFE-SUSTAINING TREATMENT TO BE  
3 WITHHELD OR WITHDRAWN AND DEATH TO BE HASTENED AND:

4 (1) FALSIFIES OR FORGES THE ADVANCE HEALTH CARE  
5 DIRECTIVE, ORDER, BRACELET OR NECKLACE OF THAT PRINCIPAL OR  
6 PATIENT; OR

7 (2) WILLFULLY CONCEALS OR WITHHOLDS PERSONAL KNOWLEDGE  
8 OF A REVOCATION OF AN ADVANCE HEALTH CARE DIRECTIVE OR DNR  
9 STATUS.

10 (B) INTERFERENCE WITH HEALTH CARE DIRECTIVE.--A PERSON  
11 COMMITS A FELONY OF THE THIRD DEGREE IF THAT PERSON WILLFULLY:

12 (1) CONCEALS, CANCELS, ALTERS, DEFACES, OBLITERATES OR  
13 DAMAGES AN ADVANCE HEALTH CARE DIRECTIVE, ORDER, BRACELET OR  
14 NECKLACE WITHOUT THE CONSENT OF THE PRINCIPAL OR PATIENT;

15 (2) CAUSES A PERSON TO EXECUTE AN ADVANCE HEALTH CARE  
16 DIRECTIVE OR ORDER OR WEAR A BRACELET OR NECKLACE BY UNDUE  
17 INFLUENCE, FRAUD OR DURESS; OR

18 (3) FALSIFIES OR FORGES AN ADVANCE HEALTH CARE  
19 DIRECTIVE, ORDER, BRACELET OR NECKLACE OR ANY AMENDMENT OR  
20 REVOCATION THEREOF, THE RESULT OF WHICH IS A DIRECT CHANGE IN  
21 THE HEALTH CARE PROVIDED TO THE PRINCIPAL OR PATIENT.

22 § 5433. FORMS.

23 (A) SUBSTANCE OF FORMS.--

24 (1) AN ADVANCE HEALTH CARE DIRECTIVE MAY BE IN THE FORM  
25 PROVIDED UNDER SUBCHAPTER D (RELATING TO COMBINED FORM) OR IN  
26 ANY OTHER WRITTEN FORM THAT CONTAINS THE INFORMATION REQUIRED  
27 UNDER SUBCHAPTERS B (RELATING TO LIVING WILLS) AND C  
28 (RELATING TO HEALTH CARE AGENTS AND REPRESENTATIVES).

29 (2) A COMMONWEALTH AGENCY THAT LICENSES HEALTH CARE  
30 PROVIDERS OR REGULATES HEALTH CARE MAY NOT PRESCRIBE A

MANDATORY FORM OF AN ADVANCE HEALTH CARE DIRECTIVE.

(B) COMBINING FORMS.--A LIVING WILL AND HEALTH CARE POWER OF ATTORNEY MAY BE COMBINED INTO ONE DOCUMENT.

## SUBCHAPTER B

### LIVING WILLS

SEC.

5441. SHORT TITLE OF SUBCHAPTER.

5442. EXECUTION.

5443. WHEN LIVING WILL OPERATIVE.

5444. REVOCATION.

5445. EMERGENCY MEDICAL SERVICES.

5446. VALIDITY.

5447. FORM.

§ 5441. SHORT TITLE OF SUBCHAPTER.

THIS SUBCHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE LIVING WILL ACT.

§ 5442. EXECUTION.

(A) WHO MAY MAKE.--AN INDIVIDUAL OF SOUND MIND MAY MAKE A LIVING WILL GOVERNING THE INITIATION, CONTINUATION, WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING TREATMENT IF THE INDIVIDUAL:

(1) IS 18 YEARS OF AGE OR OLDER;

(2) HAS GRADUATED FROM HIGH SCHOOL; OR

(3) HAS MARRIED.

(B) REQUIREMENTS.--A LIVING WILL SHALL BE:

(1) DATED AND SIGNED BY THE PRINCIPAL BY SIGNATURE OR MARK OR BY ANOTHER INDIVIDUAL ON BEHALF OF AND AT THE DIRECTION OF THE PRINCIPAL IF THE PRINCIPAL IS UNABLE TO SIGN, BUT SPECIFICALLY DIRECTS ANOTHER INDIVIDUAL TO SIGN THE LIVING WILL; AND

(2) WITNESSED BY TWO INDIVIDUALS, EACH OF WHOM IS 18



1 YEARS OF AGE OR OLDER.

2 (C) WITNESSES.--

3 (1) AN INDIVIDUAL WHO SIGNS A LIVING WILL ON BEHALF OF  
4 AND AT THE DIRECTION OF A PRINCIPAL MAY NOT WITNESS THE  
5 LIVING WILL.

6 (2) A HEALTH CARE PROVIDER AND ITS AGENT MAY NOT SIGN A  
7 LIVING WILL ON BEHALF OF AND AT THE DIRECTION OF A PRINCIPAL  
8 IF THE HEALTH CARE PROVIDER OR AGENT PROVIDES HEALTH CARE  
9 SERVICES TO THE PRINCIPAL.

10 § 5443. WHEN LIVING WILL OPERATIVE.

11 (A) WHEN OPERATIVE.--A LIVING WILL BECOMES OPERATIVE WHEN:

12 (1) A COPY IS PROVIDED TO THE ATTENDING PHYSICIAN; AND

13 (2) THE PRINCIPAL IS DETERMINED BY THE ATTENDING  
14 PHYSICIAN TO BE INCOMPETENT AND IN A TERMINAL CONDITION OR IN  
15 A STATE OF PERMANENT UNCONSCIOUSNESS.

16 (B) COMPLIANCE.--WHEN A LIVING WILL BECOMES OPERATIVE, THE  
17 ATTENDING PHYSICIAN AND OTHER HEALTH CARE PROVIDERS SHALL ACT IN  
18 ACCORDANCE WITH ITS PROVISIONS OR COMPLY WITH THE TRANSFER  
19 PROVISIONS OF SECTION 5424 (RELATING TO COMPLIANCE).

20 (C) INVALIDITY OF SPECIFIC DIRECTION.--IF A SPECIFIC  
21 DIRECTION IN A LIVING WILL IS HELD TO BE INVALID, THE INVALIDITY  
22 DOES NOT NEGATE OTHER DIRECTIONS IN THE LIVING WILL THAT CAN BE  
23 EFFECTED WITHOUT THE INVALID DIRECTION.

24 (D) MEDICAL RECORD.--ANY HEALTH CARE PROVIDER TO WHOM A COPY  
25 OF A LIVING WILL IS FURNISHED SHALL MAKE IT A PART OF THE  
26 MEDICAL RECORD OF THE PRINCIPAL AND, IF UNWILLING TO COMPLY WITH  
27 THE LIVING WILL, PROMPTLY SO ADVISE THE PRINCIPAL.

28 (E) DURATION.--UNLESS A LIVING WILL STATES A TIME OF  
29 TERMINATION, IT IS VALID UNTIL REVOKED BY THE PRINCIPAL,  
30 NOTWITHSTANDING THE LAPSE OF TIME SINCE ITS EXECUTION.

(F) ABSENCE OF LIVING WILL.--IF AN INDIVIDUAL DOES NOT MAKE A LIVING WILL, A PRESUMPTION DOES NOT ARISE REGARDING THE INTENT OF THE INDIVIDUAL TO CONSENT TO OR TO REFUSE THE INITIATION, CONTINUATION, WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING TREATMENT.

(G) DUTY OF PHYSICIAN TO CERTIFY TERMINAL CONDITION.-- WITHOUT DELAY AFTER A DIAGNOSIS THAT THE PRINCIPAL IS IN A TERMINAL CONDITION OR IN A STATE OF PERMANENT UNCONSCIOUSNESS, THE ATTENDING PHYSICIAN SHALL CERTIFY IN WRITING THAT THE PRINCIPAL IS IN A TERMINAL CONDITION OR IN A STATE OF PERMANENT UNCONSCIOUSNESS.

§ 5444. REVOCATION.

(A) WHEN LIVING WILL MAY BE REVOKED.--A LIVING WILL MAY BE REVOKED AT ANY TIME AND IN ANY MANNER BY THE PRINCIPAL REGARDLESS OF THE MENTAL OR PHYSICAL CONDITION OF THE PRINCIPAL.

(B) EFFECT OF REVOCATION.--A REVOCATION IS EFFECTIVE UPON COMMUNICATION TO THE ATTENDING PHYSICIAN OR OTHER HEALTH CARE PROVIDER BY THE PRINCIPAL OR A WITNESS TO THE REVOCATION.

(C) MEDICAL RECORD.--THE ATTENDING PHYSICIAN OR OTHER HEALTH CARE PROVIDER SHALL MAKE THE REVOCATION PART OF THE MEDICAL RECORD OF THE PRINCIPAL.

§ 5445. EMERGENCY MEDICAL SERVICES.

(A) GENERAL RULE.--AN EMERGENCY MEDICAL SERVICES PROVIDER SHALL, IN THE COURSE OF PROVIDING CARE TO A PRINCIPAL, AT ALL TIMES COMPLY WITH THE INSTRUCTIONS OF AN AUTHORIZED MEDICAL COMMAND PHYSICIAN TO WITHHOLD OR DISCONTINUE CARDIOPULMONARY RESUSCITATION FOR A PRINCIPAL WHOSE LIVING WILL HAS BECOME OPERATIVE UNDER SECTION 5443(A) (RELATING TO WHEN LIVING WILL OPERATIVE).

(B) APPLICABILITY.--THIS SECTION IS APPLICABLE ONLY IN THOSE

1 INSTANCES WHERE AN OUT-OF-HOSPITAL DNR ORDER IS NOT IN EFFECT  
2 UNDER SECTION 5474 (RELATING TO ORDERS, BRACELETS AND  
3 NECKLACES).

4 § 5446. VALIDITY.

5 (A) LIVING WILL EXECUTED PRIOR TO EFFECTIVE DATE OF  
6 SUBCHAPTER.--THIS SUBCHAPTER DOES NOT LIMIT THE VALIDITY OF A  
7 LIVING WILL EXECUTED PRIOR TO THE EFFECTIVE DATE OF THIS  
8 SUBCHAPTER.

9 (B) LIVING WILL EXECUTED IN ANOTHER STATE OR JURISDICTION.--  
10 A LIVING WILL EXECUTED IN ANOTHER STATE OR JURISDICTION AND IN  
11 CONFORMITY WITH THE LAWS OF THAT STATE OR JURISDICTION SHALL BE  
12 CONSIDERED VALID IN THIS COMMONWEALTH, EXCEPT TO THE EXTENT THAT  
13 THE LIVING WILL EXECUTED IN ANOTHER STATE OR JURISDICTION WOULD  
14 ALLOW A PRINCIPAL TO DIRECT PROCEDURES INCONSISTENT WITH THE  
15 LAWS OF THIS COMMONWEALTH.

16 § 5447. FORM.

17 A LIVING WILL MAY BE IN ANY WRITTEN FORM EXPRESSING THE  
18 WISHES OF A PRINCIPAL REGARDING THE INITIATION, CONTINUATION,  
19 WITHHOLDING OR WITHDRAWAL OF LIFE-SUSTAINING TREATMENT AND MAY  
20 INCLUDE OTHER SPECIFIC DIRECTIONS, INCLUDING, BUT NOT LIMITED  
21 TO, DESIGNATION OF A HEALTH CARE AGENT TO MAKE HEALTH CARE  
22 DECISIONS FOR THE PRINCIPAL IF THE PRINCIPAL IS INCOMPETENT AND  
23 DETERMINED TO BE EITHER IN A TERMINAL CONDITION OR PERMANENTLY  
24 UNCONSCIOUS. AN EXAMPLE OF A LIVING WILL APPEARS IN THE COMBINED  
25 FORM SET FORTH IN SUBCHAPTER D (RELATING TO COMBINED FORM).

26 SUBCHAPTER C

27 HEALTH CARE AGENTS AND REPRESENTATIVES

28 SEC.

29 5451. SHORT TITLE OF SUBCHAPTER.

30 5452. EXECUTION.

1 5453. REQUIREMENTS AND OPTIONS.  
2 5454. WHEN HEALTH CARE POWER OF ATTORNEY OPERATIVE.  
3 5455. APPOINTMENT OF HEALTH CARE AGENTS.  
4 5456. AUTHORITY OF HEALTH CARE AGENT.  
5 5457. COUNTERMAND.  
6 5458. AMENDMENT.  
7 5459. REVOCATION.  
8 5460. RELATION OF HEALTH CARE AGENT TO COURT-APPOINTED  
9 GUARDIAN AND OTHER AGENTS.  
10 5461. DECISIONS BY HEALTH CARE REPRESENTATIVE.  
11 5462. DUTIES OF ATTENDING PHYSICIAN AND HEALTH CARE PROVIDER.  
12 5463. EFFECT ON OTHER STATE LAW.  
13 5464. VALIDITY.  
14 5465. FORM.

15 § 5451. SHORT TITLE OF SUBCHAPTER.

16 THIS SUBCHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE HEALTH  
17 CARE AGENTS AND REPRESENTATIVES ACT.

18 § 5452. EXECUTION.

19 (A) WHO MAY MAKE.--AN INDIVIDUAL OF SOUND MIND MAY MAKE A  
20 HEALTH CARE POWER OF ATTORNEY IF THE INDIVIDUAL:

- 21 (1) IS 18 YEARS OF AGE OR OLDER;  
22 (2) HAS GRADUATED FROM HIGH SCHOOL; OR  
23 (3) HAS MARRIED.

24 (B) REQUIREMENTS.--A HEALTH CARE POWER OF ATTORNEY MUST BE:

- 25 (1) DATED AND SIGNED BY THE PRINCIPAL BY SIGNATURE OR  
26 MARK OR BY ANOTHER INDIVIDUAL ON BEHALF OF AND AT THE  
27 DIRECTION OF THE PRINCIPAL IF THE PRINCIPAL IS UNABLE TO  
28 SIGN, BUT SPECIFICALLY DIRECTS ANOTHER INDIVIDUAL TO SIGN THE  
29 HEALTH CARE POWER OF ATTORNEY; AND

- 30 (2) WITNESSED BY TWO INDIVIDUALS, EACH OF WHOM IS 18

1 YEARS OF AGE OR OLDER.

2 (C) WITNESSES.--

3 (1) AN INDIVIDUAL WHO SIGNS A HEALTH CARE POWER OF  
4 ATTORNEY ON BEHALF OF AND AT THE DIRECTION OF A PRINCIPAL MAY  
5 NOT WITNESS THE HEALTH CARE POWER OF ATTORNEY.

6 (2) A HEALTH CARE PROVIDER AND ITS AGENT MAY NOT SIGN A  
7 HEALTH CARE POWER OF ATTORNEY ON BEHALF OF AND AT THE  
8 DIRECTION OF A PRINCIPAL IF THE HEALTH CARE PROVIDER OR AGENT  
9 PROVIDES HEALTH CARE SERVICES TO THE PRINCIPAL.

10 § 5453. REQUIREMENTS AND OPTIONS.

11 (A) GENERAL RULE.--A HEALTH CARE POWER OF ATTORNEY SHALL:

12 (1) IDENTIFY THE PRINCIPAL AND APPOINT THE HEALTH CARE  
13 AGENT.

14 (2) DECLARE THAT THE PRINCIPAL AUTHORIZES THE HEALTH  
15 CARE AGENT TO MAKE HEALTH CARE DECISIONS ON BEHALF OF THE  
16 PRINCIPAL.

17 (B) OPTIONAL PROVISIONS.--A HEALTH CARE POWER OF ATTORNEY  
18 MAY, BUT NEED NOT:

19 (1) DESCRIBE ANY LIMITATIONS THAT THE PRINCIPAL IMPOSES  
20 UPON THE AUTHORITY OF THE HEALTH CARE AGENT.

21 (2) INDICATE THE INTENT OF THE PRINCIPAL REGARDING THE  
22 INITIATION, CONTINUATION, WITHHOLDING OR WITHDRAWAL OF LIFE-  
23 SUSTAINING TREATMENT.

24 (3) INDICATE WHETHER THE PRINCIPAL WANTS TUBE FEEDING OR  
25 ANY OTHER ARTIFICIAL OR INVASIVE FORM OF NUTRITION OR  
26 HYDRATION.

27 (4) DISQUALIFY AN INDIVIDUAL FROM ACTING AS A HEALTH  
28 CARE REPRESENTATIVE, PROHIBIT THE APPOINTMENT OF A HEALTH  
29 CARE REPRESENTATIVE OR PROVIDE FOR AN ORDER OF PRIORITY OF  
30 APPOINTMENT OF A HEALTH CARE REPRESENTATIVE PURSUANT TO

1 SECTION 5461(D) (RELATING TO DECISIONS BY HEALTH CARE  
2 REPRESENTATIVE).

3 (5) NOMINATE A GUARDIAN OF THE PERSON OF THE PRINCIPAL  
4 AS PROVIDED IN SECTION 5460 (RELATING TO RELATION OF HEALTH  
5 CARE AGENT TO COURT-APPOINTED GUARDIAN AND OTHER AGENTS).

6 (6) CONTAIN OTHER PROVISIONS AS THE PRINCIPAL MAY  
7 SPECIFY REGARDING THE IMPLEMENTATION OF HEALTH CARE DECISIONS  
8 AND RELATED ACTIONS BY THE HEALTH CARE AGENT OR HEALTH CARE  
9 REPRESENTATIVE.

10 (7) REQUEST THAT THE HEALTH CARE AGENT OR HEALTH CARE  
11 REPRESENTATIVE EXERCISE HIS SOLE AND ABSOLUTE DISCRETION TO  
12 CONSULT THE PRINCIPAL'S RELATIVE, CLERIC OR PHYSICIAN SHOULD  
13 THE HEALTH CARE AGENT OR HEALTH CARE REPRESENTATIVE BE  
14 UNCERTAIN OF THE PRINCIPAL'S WISHES OR BEST INTERESTS.

15 § 5454. WHEN HEALTH CARE POWER OF ATTORNEY OPERATIVE.

16 (A) WHEN OPERATIVE.--UNLESS OTHERWISE SPECIFIED IN THE  
17 HEALTH CARE POWER OF ATTORNEY, A HEALTH CARE POWER OF ATTORNEY  
18 BECOMES OPERATIVE WHEN:

19 (1) A COPY IS PROVIDED TO THE ATTENDING PHYSICIAN; AND

20 (2) THE ATTENDING PHYSICIAN DETERMINES THAT THE  
21 PRINCIPAL IS UNABLE TO MAKE OR COMMUNICATE HEALTH CARE  
22 DECISIONS.

23 (B) WHEN INOPERATIVE.--UNLESS OTHERWISE SPECIFIED IN THE  
24 HEALTH CARE POWER OF ATTORNEY, A HEALTH CARE POWER OF ATTORNEY  
25 BECOMES INOPERATIVE DURING SUCH TIME AS, IN THE DETERMINATION OF  
26 THE ATTENDING PHYSICIAN, THE PRINCIPAL HAS THE ABILITY TO MAKE  
27 AND COMMUNICATE HEALTH CARE DECISIONS.

28 (C) INVALIDITY OF SPECIFIC DIRECTION.--IF A SPECIFIC  
29 DIRECTION IN THE HEALTH CARE POWER OF ATTORNEY IS HELD TO BE  
30 INVALID, THE INVALIDITY DOES NOT NEGATE OTHER DIRECTIONS IN THE

1 HEALTH CARE POWER OF ATTORNEY THAT CAN BE EFFECTED WITHOUT THE  
2 INVALID DIRECTION.

3 (D) DURATION.--UNLESS THE HEALTH CARE POWER OF ATTORNEY  
4 STATES A TIME OF TERMINATION, IT IS VALID UNTIL REVOKED BY THE  
5 PRINCIPAL OR THE PRINCIPAL'S GUARDIAN OF THE PERSON,  
6 NOTWITHSTANDING THE LAPSE OF TIME SINCE ITS EXECUTION.

7 (E) COURT APPROVAL UNNECESSARY.--A HEALTH CARE DECISION MADE  
8 BY A HEALTH CARE AGENT FOR A PRINCIPAL IS EFFECTIVE WITHOUT  
9 COURT APPROVAL.

10 § 5455. APPOINTMENT OF HEALTH CARE AGENTS.

11 (A) MULTIPLE AND SUCCESSOR HEALTH CARE AGENTS.--A PRINCIPAL  
12 MAY APPOINT THE FOLLOWING IN A HEALTH CARE POWER OF ATTORNEY:

13 (1) MORE THAN ONE HEALTH CARE AGENT WHO SHALL ACT  
14 JOINTLY UNLESS THE HEALTH CARE POWER OF ATTORNEY EXPRESSLY  
15 PROVIDES OTHERWISE.

16 (2) ONE OR MORE SUCCESSOR AGENTS WHO SHALL SERVE IN THE  
17 ORDER NAMED IN THE HEALTH CARE POWER OF ATTORNEY, UNLESS THE  
18 PRINCIPAL EXPRESSLY DIRECTS TO THE CONTRARY.

19 (B) WHO MAY NOT BE APPOINTED HEALTH CARE AGENT.--UNLESS  
20 RELATED TO THE PRINCIPAL BY BLOOD, MARRIAGE OR ADOPTION, A  
21 HEALTH CARE AGENT OF THE PRINCIPAL MAY NOT BE ANY OF THE  
22 FOLLOWING:

23 (1) THE PRINCIPAL'S ATTENDING PHYSICIAN OR OTHER HEALTH  
24 CARE PROVIDER.

25 (2) AN OWNER, OPERATOR OR EMPLOYEE OF A HEALTH CARE  
26 PROVIDER IN WHICH THE PRINCIPAL IS RECEIVING CARE.

27 § 5456. AUTHORITY OF HEALTH CARE AGENT.

28 (A) EXTENT OF AUTHORITY.--EXCEPT AS EXPRESSLY PROVIDED  
29 OTHERWISE IN A HEALTH CARE POWER OF ATTORNEY AND SUBJECT TO  
30 SUBSECTION (B) AND SECTION 5460 (RELATING TO RELATION OF HEALTH

1 CARE AGENT TO COURT-APPOINTED GUARDIAN AND OTHER AGENTS), A  
2 HEALTH CARE AGENT SHALL HAVE THE AUTHORITY TO MAKE ANY HEALTH  
3 CARE DECISION AND TO EXERCISE ANY RIGHT AND POWER REGARDING THE  
4 PRINCIPAL'S CARE, CUSTODY AND HEALTH CARE TREATMENT THAT THE  
5 PRINCIPAL COULD HAVE MADE AND EXERCISED. THE HEALTH CARE AGENT'S  
6 AUTHORITY MAY EXTEND BEYOND THE PRINCIPAL'S DEATH TO MAKE  
7 ANATOMICAL GIFTS, DISPOSE OF THE REMAINS AND CONSENT TO  
8 AUTOPSIES.

9 (B) LIFE-SUSTAINING TREATMENT DECISIONS.--A LIFE-SUSTAINING  
10 TREATMENT DECISION MADE BY A HEALTH CARE AGENT IS SUBJECT TO  
11 THIS SECTION AND SECTIONS 5429 (RELATING TO PREGNANCY), 5454  
12 (RELATING TO WHEN HEALTH CARE POWER OF ATTORNEY OPERATIVE) AND  
13 5462(A) (RELATING TO DUTIES OF ATTENDING PHYSICIAN AND HEALTH  
14 CARE PROVIDER).

15 (C) HEALTH CARE DECISIONS.--AFTER CONSULTATION WITH HEALTH  
16 CARE PROVIDERS AND AFTER CONSIDERATION OF THE PROGNOSIS AND  
17 ACCEPTABLE MEDICAL ALTERNATIVES REGARDING DIAGNOSIS, TREATMENTS  
18 AND SIDE EFFECTS, THE HEALTH CARE AGENT SHALL MAKE HEALTH CARE  
19 DECISIONS IN ACCORDANCE WITH THE HEALTH CARE AGENT'S  
20 UNDERSTANDING AND INTERPRETATION OF THE INSTRUCTIONS GIVEN BY  
21 THE PRINCIPAL AT A TIME WHEN THE PRINCIPAL HAD THE CAPACITY TO  
22 MAKE AND COMMUNICATE HEALTH CARE DECISIONS. INSTRUCTIONS INCLUDE  
23 AN ADVANCE HEALTH CARE DIRECTIVE MADE BY THE PRINCIPAL AND ANY  
24 CLEAR WRITTEN OR VERBAL DIRECTIONS THAT COVER THE SITUATION  
25 PRESENTED. IN THE ABSENCE OF INSTRUCTIONS, THE HEALTH CARE AGENT  
26 SHALL MAKE HEALTH CARE DECISIONS CONFORMING WITH THE HEALTH CARE  
27 AGENT'S ASSESSMENT OF THE PRINCIPAL'S PREFERENCES AND VALUES,  
28 INCLUDING RELIGIOUS AND MORAL BELIEFS. IF THE HEALTH CARE AGENT  
29 DOES NOT KNOW ENOUGH ABOUT THE PRINCIPAL'S INSTRUCTIONS,  
30 PREFERENCES AND VALUES TO DECIDE ACCORDINGLY, THE HEALTH CARE



1 AGENT SHALL ACT IN ACCORDANCE WITH THE HEALTH CARE AGENT'S  
2 ASSESSMENT OF THE PRINCIPAL'S BEST INTERESTS.

3 (D) HEALTH CARE INFORMATION.--

4 (1) UNLESS SPECIFICALLY PROVIDED OTHERWISE IN A HEALTH  
5 CARE POWER OF ATTORNEY, A HEALTH CARE AGENT HAS THE SAME  
6 RIGHTS AND LIMITATIONS AS THE PRINCIPAL TO REQUEST, EXAMINE,  
7 COPY AND CONSENT OR REFUSE TO CONSENT TO THE DISCLOSURE OF  
8 MEDICAL OR OTHER HEALTH CARE INFORMATION.

9 (2) DISCLOSURE OF MEDICAL OR OTHER HEALTH CARE  
10 INFORMATION TO A HEALTH CARE AGENT DOES NOT CONSTITUTE A  
11 WAIVER OF ANY EVIDENTIARY PRIVILEGE OR OF A RIGHT TO ASSERT  
12 CONFIDENTIALITY. A HEALTH CARE PROVIDER THAT DISCLOSES SUCH  
13 INFORMATION TO A HEALTH CARE AGENT IN GOOD FAITH SHALL NOT BE  
14 LIABLE FOR THE DISCLOSURE. A HEALTH CARE AGENT MAY NOT  
15 DISCLOSE HEALTH CARE INFORMATION REGARDING THE PRINCIPAL  
16 EXCEPT AS IS REASONABLY NECESSARY TO PERFORM THE AGENT'S  
17 OBLIGATIONS TO THE PRINCIPAL OR AS OTHERWISE REQUIRED BY LAW.

18 § 5457. COUNTERMAND.

19 (A) COMPETENT PRINCIPAL.--A PRINCIPAL OF SOUND MIND MAY  
20 COUNTERMAND ANY HEALTH CARE DECISION MADE BY THE PRINCIPAL'S  
21 HEALTH CARE AGENT AT ANY TIME AND IN ANY MANNER BY PERSONALLY  
22 INFORMING THE ATTENDING PHYSICIAN OR HEALTH CARE PROVIDER.

23 (B) INCOMPETENT PRINCIPAL.--REGARDLESS OF THE PRINCIPAL'S  
24 MENTAL OR PHYSICAL CAPACITY, A PRINCIPAL MAY COUNTERMAND A  
25 HEALTH CARE DECISION MADE BY THE PRINCIPAL'S HEALTH CARE AGENT  
26 THAT WOULD WITHHOLD OR WITHDRAW LIFE-SUSTAINING TREATMENT AT ANY  
27 TIME AND IN ANY MANNER BY PERSONALLY INFORMING THE ATTENDING  
28 PHYSICIAN.

29 (C) ATTENDING PHYSICIAN.--THE ATTENDING PHYSICIAN OR HEALTH  
30 CARE PROVIDER SHALL MAKE REASONABLE EFFORTS TO PROMPTLY INFORM

1 THE HEALTH CARE AGENT OF A COUNTERMAND UNDER THIS SECTION.

2 (D) HEALTH CARE AGENT.--A COUNTERMAND EXERCISED UNDER THIS  
3 SECTION SHALL NOT AFFECT THE AUTHORITY OF A HEALTH CARE AGENT TO  
4 MAKE OTHER HEALTH CARE DECISIONS IN ACCORDANCE WITH THE HEALTH  
5 CARE POWER OF ATTORNEY.

6 § 5458. AMENDMENT.

7 WHILE OF SOUND MIND, A PRINCIPAL MAY AMEND A HEALTH CARE  
8 POWER OF ATTORNEY BY A WRITING EXECUTED IN ACCORDANCE WITH THE  
9 PROVISIONS OF SECTION 5452 (RELATING TO EXECUTION). AN AMENDMENT  
10 MAY INCLUDE THE REVOCATION IN PART OF THE HEALTH CARE POWER OF  
11 ATTORNEY OR THE DESIGNATION OF NEW OR ADDITIONAL HEALTH CARE  
12 AGENTS.

13 § 5459. REVOCATION.

14 (A) WHEN HEALTH CARE POWER OF ATTORNEY MAY BE REVOKED.--  
15 WHILE OF SOUND MIND, A PRINCIPAL MAY REVOKE A HEALTH CARE POWER  
16 OF ATTORNEY BY A WRITING EXECUTED IN ACCORDANCE WITH THE  
17 PROVISIONS OF SECTION 5452 (RELATING TO EXECUTION) OR BY  
18 PERSONALLY INFORMING THE ATTENDING PHYSICIAN, HEALTH CARE  
19 PROVIDER OR HEALTH CARE AGENT THAT THE HEALTH CARE POWER OF  
20 ATTORNEY IS REVOKED.

21 (B) RELIANCE ON HEALTH CARE POWER OF ATTORNEY.--A HEALTH  
22 CARE PROVIDER MAY RELY ON THE EFFECTIVENESS OF A HEALTH CARE  
23 POWER OF ATTORNEY UNLESS NOTIFIED OF ITS REVOCATION.

24 (C) SUBSEQUENT ACTION BY AGENT.--A HEALTH CARE AGENT,  
25 KNOWING OF THE REVOCATION OF THE HEALTH CARE POWER OF ATTORNEY,  
26 MAY NOT MAKE OR ATTEMPT TO MAKE HEALTH CARE DECISIONS FOR THE  
27 PRINCIPAL.

28 § 5460. RELATION OF HEALTH CARE AGENT TO COURT-APPOINTED  
29 GUARDIAN AND OTHER AGENTS.

30 (A) ACCOUNTABILITY OF HEALTH CARE AGENT.--IF A PRINCIPAL WHO

1 HAS EXECUTED A HEALTH CARE POWER OF ATTORNEY IS LATER  
2 ADJUDICATED AN INCAPACITATED PERSON AND A GUARDIAN OF THE PERSON  
3 TO MAKE HEALTH CARE DECISIONS IS APPOINTED BY A COURT, THE  
4 HEALTH CARE AGENT IS ACCOUNTABLE TO THE GUARDIAN AS WELL AS TO  
5 THE PRINCIPAL. THE GUARDIAN SHALL HAVE THE SAME POWER TO REVOKE  
6 OR AMEND THE APPOINTMENT OF A HEALTH CARE AGENT THAT THE  
7 PRINCIPAL WOULD HAVE IF THE PRINCIPAL WERE NOT INCAPACITATED BUT  
8 MAY NOT REVOKE OR AMEND OTHER INSTRUCTIONS IN AN ADVANCE HEALTH  
9 DIRECTIVE ABSENT JUDICIAL AUTHORIZATION.

10 (B) NOMINATION OF GUARDIAN OF PERSON.--IN A HEALTH CARE  
11 POWER OF ATTORNEY, A PRINCIPAL MAY NOMINATE A GUARDIAN OF THE  
12 PERSON FOR THE PRINCIPAL FOR CONSIDERATION BY A COURT IF  
13 INCAPACITY PROCEEDINGS FOR THE PRINCIPAL'S PERSON ARE THEREAFTER  
14 COMMENCED. IF A COURT DETERMINES THAT THE APPOINTMENT OF A  
15 GUARDIAN IS NECESSARY, THE COURT SHALL APPOINT IN ACCORDANCE  
16 WITH THE PRINCIPAL'S MOST RECENT NOMINATION EXCEPT FOR GOOD  
17 CAUSE OR DISQUALIFICATION.

18 (C) REASONABLE EXPENSES.--IN FULFILLING THE HEALTH CARE  
19 NEEDS FOR A PRINCIPAL, A HEALTH CARE AGENT MAY INCUR REASONABLE  
20 EXPENSES, INCLUDING THE PURCHASE OF HEALTH CARE INSURANCE, TO  
21 THE EXTENT THE EXPENSES ARE NOT OTHERWISE COVERED BY INSURANCE  
22 OR OTHER SIMILAR BENEFITS. PAYMENT FOR THE EXPENSES OR  
23 REIMBURSEMENT TO THE HEALTH CARE AGENT FOR THE EXPENSES FROM THE  
24 PRINCIPAL'S FUNDS SHALL BE MADE BY EITHER OF THE FOLLOWING:

25 (1) A GUARDIAN OF THE ESTATE OF THE PRINCIPAL.

26 (2) AN AGENT ACTING ON BEHALF OF THE PRINCIPAL UNDER A  
27 POWER OF ATTORNEY IF THE AGENT HAS THE POWER TO DISBURSE THE  
28 FUNDS OF THE PRINCIPAL.

29 § 5461. DECISIONS BY HEALTH CARE REPRESENTATIVE.

30 (A) GENERAL RULE.--A HEALTH CARE REPRESENTATIVE MAY MAKE A

1 HEALTH CARE DECISION FOR AN INDIVIDUAL WHOSE ATTENDING PHYSICIAN  
2 HAS DETERMINED THAT THE INDIVIDUAL LACKS THE ABILITY TO MAKE OR  
3 COMMUNICATE HEALTH CARE DECISIONS IF:

4 (1) THE INDIVIDUAL IS AT LEAST 18 YEARS OF AGE, HAS  
5 GRADUATED FROM HIGH SCHOOL OR HAS MARRIED;

6 (2) (I) THE INDIVIDUAL DOES NOT HAVE A HEALTH CARE  
7 POWER OF ATTORNEY; OR

8 (II) THE INDIVIDUAL'S HEALTH CARE AGENT IS NOT  
9 REASONABLY AVAILABLE OR HAS INDICATED AN UNWILLINGNESS TO  
10 ACT AND NO ALTERNATE HEALTH CARE AGENT IS REASONABLY  
11 AVAILABLE; AND

12 (3) A GUARDIAN OF THE PERSON TO MAKE HEALTH CARE  
13 DECISIONS HAS NOT BEEN APPOINTED FOR THE INDIVIDUAL.

14 (B) EXCEPTION.--THIS SECTION SHALL NOT APPLY TO DECISIONS  
15 REGARDING TREATMENT, CARE, GOODS OR SERVICES THAT A CARETAKER IS  
16 OBLIGATED TO PROVIDE TO A CARE-DEPENDENT PERSON PURSUANT TO 18  
17 PA.C.S. § 2713 (RELATING TO NEGLECT OF CARE-DEPENDENT PERSON).

18 (C) EXTENT OF AUTHORITY OF HEALTH CARE REPRESENTATIVE.--THE  
19 AUTHORITY OF A HEALTH CARE REPRESENTATIVE SHALL BE THE SAME AS  
20 PROVIDED FOR A HEALTH CARE AGENT IN SECTION 5456 (RELATING TO  
21 AUTHORITY OF HEALTH CARE AGENT) AND 5460(C) (RELATING TO  
22 RELATION OF HEALTH CARE AGENT TO COURT-APPOINTED GUARDIAN AND  
23 OTHER AGENTS).

24 (D) WHO MAY ACT AS HEALTH CARE REPRESENTATIVE.--

25 (1) AN INDIVIDUAL OF SOUND MIND MAY, BY A SIGNED WRITING  
26 OR BY PERSONALLY INFORMING THE ATTENDING PHYSICIAN OR THE  
27 HEALTH CARE PROVIDER, DESIGNATE ONE OR MORE INDIVIDUALS TO  
28 ACT AS HEALTH CARE REPRESENTATIVE. IN THE ABSENCE OF A  
29 DESIGNATION OR IF NO DESIGNEE IS REASONABLY AVAILABLE ANY  
30 MEMBER OF THE FOLLOWING CLASSES, IN DESCENDING ORDER OF

PRIORITY, WHO IS REASONABLY AVAILABLE, MAY ACT AS HEALTH CARE REPRESENTATIVE:

(I) THE SPOUSE UNLESS AN ACTION FOR DIVORCE IS PENDING.

(II) AN ADULT CHILD.

(III) A PARENT.

(IV) AN ADULT BROTHER OR SISTER.

(V) AN ADULT GRANDCHILD.

(VI) AN ADULT WHO HAS EXHIBITED SPECIAL CARE AND CONCERN FOR THE PRINCIPAL AND WHO IS FAMILIAR WITH THE PRINCIPAL'S PERSONAL VALUES.

(2) AN INDIVIDUAL MAY BY SIGNED WRITING, INCLUDING A HEALTH CARE POWER OF ATTORNEY, PROVIDE FOR A DIFFERENT ORDER OF PRIORITY.

(3) AN INDIVIDUAL WITH A HIGHER PRIORITY WHO IS WILLING TO ACT AS A HEALTH CARE REPRESENTATIVE MAY ASSUME THE AUTHORITY TO ACT NOTWITHSTANDING THE FACT THAT ANOTHER INDIVIDUAL HAS PREVIOUSLY ASSUMED THAT AUTHORITY.

(E) DISQUALIFICATION.--AN INDIVIDUAL OF SOUND MIND MAY DISQUALIFY ONE OR MORE INDIVIDUALS FROM ACTING AS HEALTH CARE REPRESENTATIVE IN THE SAME MANNER AS SPECIFIED UNDER SUBSECTION (D) FOR THE DESIGNATION OF A HEALTH CARE REPRESENTATIVE. AN INDIVIDUAL MAY ALSO DISQUALIFY ONE OR MORE INDIVIDUALS FROM ACTING AS HEALTH CARE REPRESENTATIVE BY A HEALTH CARE POWER OF ATTORNEY. UPON THE PETITION OF ANY MEMBER OF THE CLASSES SET FORTH IN SUBSECTION (D), THE COURT MAY DISQUALIFY FOR CAUSE SHOWN AN INDIVIDUAL OTHERWISE ELIGIBLE TO SERVE AS A HEALTH CARE REPRESENTATIVE.

(F) LIMITATION ON DESIGNATION OF HEALTH CARE REPRESENTATIVE.--UNLESS RELATED BY BLOOD, MARRIAGE OR ADOPTION,

1 A HEALTH CARE REPRESENTATIVE MAY NOT BE THE PRINCIPAL'S  
2 ATTENDING PHYSICIAN OR OTHER HEALTH CARE PROVIDER, NOR AN OWNER,  
3 OPERATOR OR EMPLOYEE OF A HEALTH CARE PROVIDER IN WHICH THE  
4 PRINCIPAL RECEIVES CARE.

5 (G) DECISION OF HEALTH CARE REPRESENTATIVE.--

6 (1) IF MORE THAN ONE MEMBER OF A CLASS ASSUMES AUTHORITY  
7 TO ACT AS A HEALTH CARE REPRESENTATIVE, THE MEMBERS DO NOT  
8 AGREE ON A HEALTH CARE DECISION AND THE ATTENDING PHYSICIAN  
9 OR HEALTH CARE PROVIDER IS SO INFORMED, THE ATTENDING  
10 PHYSICIAN OR HEALTH CARE PROVIDER MAY RELY ON THE DECISION OF  
11 A MAJORITY OF THE MEMBERS OF THAT CLASS WHO HAVE COMMUNICATED  
12 THEIR VIEWS TO THE ATTENDING PHYSICIAN OR HEALTH CARE  
13 PROVIDER.

14 (2) IF THE MEMBERS OF THE CLASS OF HEALTH CARE  
15 REPRESENTATIVES ARE EVENLY DIVIDED CONCERNING THE HEALTH CARE  
16 DECISION AND THE ATTENDING PHYSICIAN OR HEALTH CARE PROVIDER  
17 IS SO INFORMED, AN INDIVIDUAL HAVING A LOWER PRIORITY MAY NOT  
18 ACT AS A HEALTH CARE REPRESENTATIVE. SO LONG AS THE CLASS  
19 REMAINS EVENLY DIVIDED, NO DECISION SHALL BE DEEMED MADE  
20 UNTIL SUCH TIME AS THE PARTIES RESOLVE THEIR DISAGREEMENT.  
21 NOTWITHSTANDING SUCH DISAGREEMENT, NOTHING IN THIS SUBSECTION  
22 SHALL BE CONSTRUED TO PRECLUDE THE ADMINISTRATION OF HEALTH  
23 CARE TREATMENT IN ACCORDANCE WITH ACCEPTED STANDARDS OF  
24 MEDICAL PRACTICE.

25 (H) DUTY OF HEALTH CARE REPRESENTATIVE.--IMMEDIATELY UPON  
26 ASSUMING AUTHORITY TO ACT, A HEALTH CARE REPRESENTATIVE SHALL  
27 COMMUNICATE THE ASSUMPTION OF AUTHORITY TO THE MEMBERS OF THE  
28 PRINCIPAL'S FAMILY SPECIFIED IN SUBSECTION (D) WHO CAN BE  
29 READILY CONTACTED.

30 (I) COUNTERMAND OF HEALTH CARE DECISION.--

(1) A PRINCIPAL OF SOUND MIND MAY COUNTERMAND ANY HEALTH CARE DECISION MADE BY THE PRINCIPAL'S HEALTH CARE REPRESENTATIVE AT ANY TIME AND IN ANY MANNER BY PERSONALLY INFORMING THE ATTENDING PHYSICIAN OR HEALTH CARE PROVIDER.

(2) REGARDLESS OF THE PRINCIPAL'S MENTAL OR PHYSICAL CAPACITY, A PRINCIPAL MAY COUNTERMAND A HEALTH CARE DECISION MADE BY THE PRINCIPAL'S HEALTH CARE REPRESENTATIVE THAT WOULD WITHHOLD OR WITHDRAW LIFE-SUSTAINING TREATMENT AT ANY TIME AND IN ANY MANNER BY PERSONALLY INFORMING THE ATTENDING PHYSICIAN.

(3) THE ATTENDING PHYSICIAN OR HEALTH CARE PROVIDER SHALL MAKE REASONABLE EFFORTS TO PROMPTLY INFORM THE HEALTH CARE REPRESENTATIVE OF A COUNTERMAND EXERCISED UNDER THIS SECTION.

(4) A COUNTERMAND EXERCISED UNDER THIS SECTION SHALL NOT AFFECT THE AUTHORITY OF THE HEALTH CARE REPRESENTATIVE TO MAKE OTHER HEALTH CARE DECISIONS.

(J) COURT APPROVAL UNNECESSARY.--A HEALTH CARE DECISION MADE BY A HEALTH CARE REPRESENTATIVE FOR A PRINCIPAL SHALL BE EFFECTIVE WITHOUT COURT APPROVAL.

(K) WRITTEN DECLARATION OF HEALTH CARE REPRESENTATIVE.--AN ATTENDING PHYSICIAN OR HEALTH CARE PROVIDER MAY REQUIRE A PERSON CLAIMING THE RIGHT TO ACT AS HEALTH CARE REPRESENTATIVE FOR A PRINCIPAL TO PROVIDE A WRITTEN DECLARATION MADE UNDER PENALTY OF PERJURY STATING FACTS AND CIRCUMSTANCES REASONABLY SUFFICIENT TO ESTABLISH THE CLAIMED AUTHORITY.

§ 5462. DUTIES OF ATTENDING PHYSICIAN AND HEALTH CARE PROVIDER.

(A) DUTY TO CERTIFY TERMINAL CONDITION.--WITHOUT DELAY AFTER A DIAGNOSIS THAT A PRINCIPAL IS IN A TERMINAL CONDITION OR IN A STATE OF PERMANENT UNCONSCIOUSNESS, THE ATTENDING PHYSICIAN

1 SHALL CERTIFY IN WRITING THAT THE PRINCIPAL IS IN A TERMINAL  
2 CONDITION OR IN A STATE OF PERMANENT UNCONSCIOUSNESS.

3 (B) COMMUNICATION OF HEALTH CARE DECISION.--WHENEVER  
4 POSSIBLE BEFORE IMPLEMENTING A HEALTH CARE DECISION MADE BY A  
5 HEALTH CARE REPRESENTATIVE OR HEALTH CARE AGENT, AN ATTENDING  
6 PHYSICIAN OR HEALTH CARE PROVIDER SHALL PROMPTLY COMMUNICATE TO  
7 THE PRINCIPAL THE DECISION AND THE IDENTITY OF THE PERSON MAKING  
8 THE DECISION.

9 (C) COMPLIANCE WITH DECISIONS OF HEALTH CARE AGENT AND  
10 HEALTH CARE REPRESENTATIVE.--

11 (1) SUBJECT TO ANY LIMITATION SPECIFIED IN THE HEALTH  
12 CARE POWER OF ATTORNEY, AN ATTENDING PHYSICIAN OR HEALTH CARE  
13 PROVIDER SHALL COMPLY WITH A HEALTH CARE DECISION MADE BY A  
14 HEALTH CARE AGENT OR HEALTH CARE REPRESENTATIVE TO THE SAME  
15 EXTENT AS IF THE DECISION HAD BEEN MADE BY THE PRINCIPAL.  
16 HEALTH CARE NECESSARY TO PRESERVE LIFE SHALL BE PROVIDED TO  
17 AN INDIVIDUAL WHO IS NEITHER IN A TERMINAL CONDITION NOR  
18 PERMANENTLY UNCONSCIOUS EXCEPT IF THE INDIVIDUAL IS COMPETENT  
19 AND OBJECTS TO SUCH CARE OR A HEALTH CARE AGENT OBJECTS ON  
20 BEHALF OF THE PRINCIPAL.

21 (2) IN ALL CIRCUMSTANCES, THIS SUBSECTION SHALL BE  
22 CONSTRUED SO AS TO BE CONSISTENT WITH THE AMERICANS WITH  
23 DISABILITIES ACT OF 1990 (PUBLIC LAW 101-336, 104 STAT. 327).

24 (D) MEDICAL RECORD.--

25 (1) AN ATTENDING PHYSICIAN OR HEALTH CARE PROVIDER WHO  
26 IS GIVEN A HEALTH CARE POWER OF ATTORNEY SHALL ARRANGE FOR  
27 THE HEALTH CARE POWER OF ATTORNEY OR A COPY TO BE PLACED IN  
28 THE MEDICAL RECORD OF THE PRINCIPAL.

29 (2) AN ATTENDING PHYSICIAN OR HEALTH CARE PROVIDER TO  
30 WHOM AN AMENDMENT OR REVOCATION OF A HEALTH CARE POWER OF



1 ATTORNEY IS COMMUNICATED SHALL PROMPTLY ENTER THE INFORMATION  
2 IN THE MEDICAL RECORD OF THE PRINCIPAL AND MAINTAIN A COPY IF  
3 ONE IS FURNISHED.

4 (E) RECORD OF DETERMINATION.--AN ATTENDING PHYSICIAN WHO  
5 DETERMINES THAT A PRINCIPAL IS UNABLE OR HAS REGAINED THE  
6 ABILITY TO MAKE AND COMMUNICATE HEALTH CARE DECISIONS OR MAKES A  
7 DETERMINATION THAT AFFECTS THE AUTHORITY OF A HEALTH CARE AGENT  
8 SHALL ENTER THE DETERMINATION IN THE MEDICAL RECORD OF THE  
9 PRINCIPAL AND, IF POSSIBLE, PROMPTLY INFORM THE PRINCIPAL AND  
10 ANY HEALTH CARE AGENT OF THE DETERMINATION.

11 § 5463. EFFECT ON OTHER STATE LAW.

12 (A) MENTAL HEALTH.--THIS SUBCHAPTER DOES NOT AFFECT THE  
13 REQUIREMENTS OF OTHER LAWS OF THIS COMMONWEALTH REGARDING  
14 CONSENT TO OBSERVATION, DIAGNOSIS, TREATMENT OR HOSPITALIZATION  
15 FOR A MENTAL ILLNESS.

16 (B) PROHIBITED CARE.--THIS SUBCHAPTER DOES NOT AUTHORIZE A  
17 HEALTH CARE AGENT TO CONSENT TO ANY HEALTH CARE PROHIBITED BY  
18 THE LAWS OF THIS COMMONWEALTH.

19 (C) CONSENT.--THIS SUBCHAPTER DOES NOT AFFECT THE LAWS OF  
20 THIS COMMONWEALTH REGARDING ANY OF THE FOLLOWING:

21 (1) THE STANDARD OF CARE OF A HEALTH CARE PROVIDER  
22 REQUIRED IN THE ADMINISTRATION OF HEALTH CARE.

23 (2) WHEN CONSENT IS REQUIRED FOR HEALTH CARE.

24 (3) INFORMED CONSENT FOR HEALTH CARE.

25 (4) CONSENT TO HEALTH CARE IN AN EMERGENCY.

26 (D) PRESERVATION OF RELIGIOUS RIGHTS.--THIS SUBCHAPTER DOES  
27 NOT PREVENT A HEALTH CARE AGENT OR HEALTH CARE REPRESENTATIVE  
28 FROM CONSENTING TO HEALTH CARE ADMINISTERED IN GOOD FAITH  
29 PURSUANT TO RELIGIOUS BELIEFS OF THE PRINCIPAL OR FROM  
30 WITHHOLDING CONSENT TO HEALTH CARE THAT IS CONTRARY TO RELIGIOUS

1 BELIEFS OF THE PRINCIPAL.

2 (E) RIGHTS OF INDIVIDUALS.--THIS SUBCHAPTER DOES NOT AFFECT  
3 THE RIGHT OF AN INDIVIDUAL TO MAKE HEALTH CARE DECISIONS.

4 (F) DISCLOSURE.--THE DISCLOSURE REQUIREMENTS OF SECTION  
5 5456(D) (RELATING TO AUTHORITY OF HEALTH CARE AGENT) SUPERSEDE  
6 ANY PROVISION IN ANY OTHER STATE STATUTE OR REGULATION THAT  
7 REQUIRES THE PRINCIPAL TO CONSENT TO DISCLOSURE OR WHICH  
8 OTHERWISE CONFLICTS WITH SECTION 5456(D), INCLUDING, BUT NOT  
9 LIMITED TO, THE FOLLOWING:

10 (1) SECTION 8 OF THE ACT OF APRIL 14, 1972 (P.L.221,  
11 NO.63), KNOWN AS THE PENNSYLVANIA DRUG AND ALCOHOL ABUSE  
12 CONTROL ACT.

13 (2) SECTION 111 OF THE ACT OF JULY 9, 1976 (P.L.817,  
14 NO.143), KNOWN AS THE MENTAL HEALTH PROCEDURES ACT.

15 (3) SECTION 15 OF THE ACT OF OCTOBER 5, 1978 (P.L.1109,  
16 NO.261), KNOWN AS THE OSTEOPATHIC MEDICAL PRACTICE ACT.

17 (4) SECTION 41 OF THE ACT OF DECEMBER 20, 1985 (P.L.457,  
18 NO.112), KNOWN AS THE MEDICAL PRACTICE ACT OF 1985.

19 (5) SECTION 7 OF THE ACT OF NOVEMBER 29, 1990 (P.L.585,  
20 NO.148), KNOWN AS THE CONFIDENTIALITY OF HIV-RELATED  
21 INFORMATION ACT.

22 § 5464. VALIDITY.

23 THIS SUBCHAPTER DOES NOT LIMIT THE VALIDITY OF A HEALTH CARE  
24 POWER OF ATTORNEY EXECUTED PRIOR TO THE EFFECTIVE DATE OF THIS  
25 SUBCHAPTER. A HEALTH CARE POWER OF ATTORNEY EXECUTED IN ANOTHER  
26 STATE OR JURISDICTION AND IN CONFORMITY WITH THE LAWS OF THAT  
27 STATE OR JURISDICTION SHALL BE CONSIDERED VALID IN THIS  
28 COMMONWEALTH, EXCEPT TO THE EXTENT THAT THE HEALTH CARE POWER OF  
29 ATTORNEY EXECUTED IN ANOTHER STATE OR JURISDICTION WOULD ALLOW A  
30 HEALTH CARE AGENT TO MAKE A HEALTH CARE DECISION INCONSISTENT

1 WITH THE LAWS OF THIS COMMONWEALTH.

2 § 5465. FORM.

3 A HEALTH CARE POWER OF ATTORNEY MAY BE IN ANY WRITTEN FORM  
4 IDENTIFYING THE PRINCIPAL, APPOINTING A HEALTH CARE AGENT AND  
5 DECLARING THAT THE PRINCIPAL AUTHORIZES THE HEALTH CARE AGENT TO  
6 MAKE HEALTH CARE DECISIONS ON BEHALF OF THE PRINCIPAL. AN  
7 EXAMPLE OF A HEALTH CARE POWER OF ATTORNEY APPEARS IN THE  
8 COMBINED FORM SET FORTH IN SUBCHAPTER D (RELATING TO COMBINED  
9 FORM).

10 SUBCHAPTER D

11 COMBINED FORM

12 SEC.

13 5471. EXAMPLE.

14 § 5471. EXAMPLE.

15 THE FOLLOWING IS AN EXAMPLE OF A DOCUMENT THAT COMBINES A  
16 LIVING WILL AND HEALTH CARE POWER OF ATTORNEY:

17 DURABLE HEALTH CARE POWER OF ATTORNEY  
18 AND HEALTH CARE TREATMENT INSTRUCTIONS

19 (LIVING WILL)

20 PART I

21 INTRODUCTORY REMARKS ON  
22 HEALTH CARE DECISION MAKING

23 YOU HAVE THE RIGHT TO DECIDE THE TYPE OF HEALTH CARE YOU  
24 WANT.

25 SHOULD YOU BECOME UNABLE TO MAKE OR COMMUNICATE DECISIONS  
26 ABOUT MEDICAL CARE, YOUR WISHES FOR MEDICAL TREATMENT ARE  
27 MOST LIKELY TO BE FOLLOWED IF YOU EXPRESS THOSE WISHES IN  
28 ADVANCE BY:

- 29 (1) NAMING AN AGENT TO DECIDE TREATMENT FOR YOU; AND  
30 (2) GIVING HEALTH CARE TREATMENT INSTRUCTIONS TO

1           YOUR AGENT OR HEALTH CARE PROVIDER.

2           AN ADVANCE HEALTH CARE DIRECTIVE IS A WRITTEN SET OF  
3   INSTRUCTIONS EXPRESSING YOUR WISHES FOR MEDICAL TREATMENT. IT  
4   MAY CONTAIN A HEALTH CARE POWER OF ATTORNEY, WHERE YOU NAME A  
5   PERSON CALLED AN "AGENT" TO DECIDE TREATMENT FOR YOU, AND A  
6   LIVING WILL, WHERE YOU TELL YOUR AGENT AND HEALTH CARE  
7   PROVIDERS TO LIMIT HEALTH CARE TREATMENTS IF YOU ARE  
8   TERMINALLY ILL OR PERMANENTLY UNCONSCIOUS.

9           YOU MAY LIMIT YOUR AGENT'S INVOLVEMENT IN DECIDING YOUR  
10   MEDICAL TREATMENT SO THAT YOUR AGENT WILL SPEAK FOR YOU ONLY  
11   WHEN YOU ARE UNABLE TO SPEAK FOR YOURSELF. YOU, AND NOT YOUR  
12   AGENT, REMAIN RESPONSIBLE FOR THE COST OF YOUR MEDICAL CARE.

13          IF YOU DO NOT WRITE DOWN YOUR WISHES ABOUT YOUR HEALTH  
14   CARE IN ADVANCE, AND IF LATER YOU BECOME UNABLE TO MAKE OR  
15   COMMUNICATE THESE DECISIONS, THOSE WISHES MAY NOT BE HONORED  
16   BECAUSE THEY MAY REMAIN UNKNOWN TO OTHERS.

17          A HEALTH CARE PROVIDER WHO REFUSES TO HONOR YOUR WISHES  
18   ABOUT HEALTH CARE MUST TELL YOU OF ITS REFUSAL AND HELP TO  
19   TRANSFER YOU TO A HEALTH CARE PROVIDER WHO WILL HONOR YOUR  
20   WISHES.

21          YOU SHOULD GIVE A COPY OF YOUR ADVANCE HEALTH CARE  
22   DIRECTIVE TO YOUR AGENT, YOUR PHYSICIAN AND OTHERS WHOM YOU  
23   EXPECT WOULD LIKELY ATTEND TO YOUR NEEDS IF YOU BECOME UNABLE  
24   TO MAKE OR COMMUNICATE DECISIONS ABOUT MEDICAL CARE. IF YOUR  
25   HEALTH CARE WISHES CHANGE, TELL YOUR PHYSICIAN AND WRITE A  
26   NEW ADVANCE HEALTH CARE DIRECTIVE TO REPLACE YOUR OLD ONE.

27          YOU MAY WISH TO CONSULT WITH KNOWLEDGEABLE, TRUSTED  
28   INDIVIDUALS SUCH AS FAMILY MEMBERS, YOUR PHYSICIAN OR CLERGY  
29   WHEN CONSIDERING AN EXPRESSION OF YOUR VALUES AND HEALTH CARE  
30   WISHES. YOU ARE FREE TO CREATE YOUR OWN ADVANCE HEALTH CARE

1 DIRECTIVE TO CONVEY YOUR WISHES REGARDING MEDICAL TREATMENT.  
2 THE FOLLOWING FORM IS AN EXAMPLE OF AN ADVANCE HEALTH CARE  
3 DIRECTIVE THAT COMBINES A HEALTH CARE POWER OF ATTORNEY WITH  
4 A LIVING WILL.

5 NOTES ABOUT THE USE OF THIS FORM

6 IF YOU DECIDE TO USE THIS FORM OR CREATE YOUR OWN ADVANCE  
7 HEALTH CARE DIRECTIVE, YOU SHOULD CONSULT WITH YOUR PHYSICIAN  
8 AND YOUR ATTORNEY TO MAKE SURE THAT YOUR WISHES ARE CLEARLY  
9 EXPRESSED AND COMPLY WITH THE LAW.

10 IF YOU DECIDE TO USE THIS FORM BUT DISAGREE WITH ANY OF  
11 ITS STATEMENTS, YOU MAY CROSS OUT THOSE STATEMENTS.

12 YOU MAY ADD COMMENTS TO THIS FORM OR YOUR OWN FORM TO  
13 HELP YOUR PHYSICIAN OR AGENT DECIDE YOUR MEDICAL CARE.

14 THIS FORM IS DESIGNED TO GIVE YOUR AGENT BROAD POWERS TO  
15 MAKE HEALTH CARE DECISIONS FOR YOU WHENEVER YOU CANNOT MAKE  
16 THEM FOR YOURSELF. IT IS ALSO DESIGNED TO EXPRESS A DESIRE TO  
17 LIMIT CARE IF YOU SUFFER FROM A TERMINAL CONDITION OR ARE  
18 PERMANENTLY UNCONSCIOUS. IF YOU DO NOT DESIRE TO GIVE YOUR  
19 AGENT BROAD POWERS, OR YOU DO NOT WISH TO LIMIT YOUR CARE IF  
20 YOU ARE TERMINALLY ILL OR PERMANENTLY UNCONSCIOUS, YOU MAY  
21 WISH TO USE A DIFFERENT FORM OR CREATE YOUR OWN. YOU SHOULD  
22 ALSO USE A DIFFERENT FORM IF YOU WISH TO EXPRESS YOUR  
23 PREFERENCES IN MORE DETAIL THAN THIS FORM ALLOWS. IN THESE  
24 SITUATIONS, IT IS PARTICULARLY IMPORTANT THAT YOU CONSULT  
25 WITH YOUR ATTORNEY AND PHYSICIAN TO MAKE SURE THAT YOUR  
26 WISHES ARE CLEARLY EXPRESSED.

27 THIS FORM ALLOWS YOU TO TELL YOUR AGENT YOUR GOALS IF YOU  
28 SUFFER FROM A TERMINAL ILLNESS OR OTHER EXTREME AND  
29 IRREVERSIBLE MEDICAL CONDITION, SUCH AS ADVANCED ALZHEIMER'S  
30 DISEASE. DO YOU WANT MEDICAL CARE APPLIED AGGRESSIVELY IN

1 THESE SITUATIONS OR WOULD YOU CONSIDER SUCH AGGRESSIVE  
2 MEDICAL CARE BURDENSOME AND UNDESIRABLE?

3 YOU MAY CHOOSE WHETHER YOU WANT YOUR AGENT TO BE BOUND BY  
4 YOUR INSTRUCTIONS OR WHETHER YOU WANT YOUR AGENT TO BE ABLE  
5 TO DECIDE AT THE TIME WHAT COURSE OF TREATMENT THE AGENT  
6 THINKS MOST FULLY REFLECTS YOUR WISHES AND VALUES.

7 PENNSYLVANIA LAW PROTECTS YOUR AGENT AND HEALTH CARE  
8 PROVIDERS FROM ANY LEGAL LIABILITY FOR FOLLOWING IN GOOD  
9 FAITH YOUR WISHES AS EXPRESSED IN THE FORM OR BY YOUR AGENT'S  
10 DIRECTION. IT DOES NOT OTHERWISE CHANGE PROFESSIONAL  
11 STANDARDS OR EXCUSE NEGLIGENCE IN THE WAY YOUR WISHES ARE  
12 CARRIED OUT. IF YOU HAVE ANY QUESTIONS ABOUT THE LAW, CONSULT  
13 AN ATTORNEY FOR GUIDANCE.

14 THIS FORM AND EXPLANATION IS NOT INTENDED TO TAKE THE  
15 PLACE OF SPECIFIC LEGAL OR MEDICAL ADVICE FOR WHICH YOU  
16 SHOULD RELY UPON YOUR OWN ATTORNEY AND PHYSICIAN.

17 PART II

18 DURABLE HEALTH CARE POWER OF ATTORNEY

19 I, ....., OF.....  
20 COUNTY, PENNSYLVANIA, APPOINT THE PERSON NAMED BELOW TO BE MY  
21 AGENT TO MAKE HEALTH AND PERSONAL CARE DECISIONS FOR ME.

22 EFFECTIVE IMMEDIATELY AND CONTINUOUSLY UNTIL MY DEATH OR  
23 REVOCATION BY A WRITING SIGNED BY ME OR SOMEONE AUTHORIZED TO  
24 MAKE HEALTH CARE TREATMENT DECISIONS FOR ME, I AUTHORIZE ALL  
25 HEALTH CARE PROVIDERS OR OTHER COVERED ENTITIES TO DISCLOSE  
26 TO MY AGENT, UPON MY AGENT'S REQUEST, ANY INFORMATION, ORAL  
27 OR WRITTEN, REGARDING MY PHYSICAL OR MENTAL HEALTH,  
28 INCLUDING, BUT NOT LIMITED TO, MEDICAL AND HOSPITAL RECORDS  
29 AND WHAT IS OTHERWISE PRIVATE, PRIVILEGED, PROTECTED OR  
30 PERSONAL HEALTH INFORMATION, SUCH AS HEALTH INFORMATION AS

1       DEFINED AND DESCRIBED IN THE HEALTH INSURANCE PORTABILITY AND  
2       ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-191, 110 STAT.  
3       2024), THE REGULATIONS PROMULGATED THEREUNDER AND ANY OTHER  
4       STATE OR LOCAL LAWS AND RULES. INFORMATION DISCLOSED BY A  
5       HEALTH CARE PROVIDER OR OTHER COVERED ENTITY MAY BE  
6       REDISCLOSED AND MAY NO LONGER BE SUBJECT TO THE PRIVACY RULES  
7       PROVIDED BY 45 C.F.R. PT. 164.

8       THE REMAINDER OF THIS DOCUMENT WILL TAKE EFFECT WHEN AND  
9       ONLY WHEN I LACK SUFFICIENT CAPACITY TO MAKE OR COMMUNICATE A  
10      CHOICE REGARDING A HEALTH OR PERSONAL CARE DECISION AS  
11      VERIFIED BY MY ATTENDING PHYSICIAN. MY AGENT MAY NOT DELEGATE  
12      THE AUTHORITY TO MAKE DECISIONS.

13      MY AGENT HAS ALL OF THE FOLLOWING POWERS SUBJECT TO THE  
14      HEALTH CARE TREATMENT INSTRUCTIONS THAT FOLLOW IN PART III  
15      (CROSS OUT ANY POWERS YOU DO NOT WANT TO GIVE YOUR AGENT):

16      1. TO AUTHORIZE, WITHHOLD OR WITHDRAW MEDICAL CARE AND  
17      SURGICAL PROCEDURES.

18      2. TO AUTHORIZE, WITHHOLD OR WITHDRAW NUTRITION (FOOD)  
19      OR HYDRATION (WATER) MEDICALLY SUPPLIED BY TUBE THROUGH MY  
20      NOSE, STOMACH, INTESTINES OR VEINS.

21      3. TO AUTHORIZE MY ADMISSION TO OR DISCHARGE FROM A  
22      MEDICAL, NURSING, RESIDENTIAL OR SIMILAR FACILITY AND TO MAKE  
23      AGREEMENTS FOR MY CARE AND HEALTH INSURANCE FOR MY CARE,  
24      INCLUDING HOSPICE AND/OR PALLIATIVE CARE.

25      4. TO HIRE AND FIRE MEDICAL, SOCIAL SERVICE AND OTHER  
26      SUPPORT PERSONNEL RESPONSIBLE FOR MY CARE.

27      5. TO TAKE ANY LEGAL ACTION NECESSARY TO DO WHAT I HAVE  
28      DIRECTED.

29      6. TO REQUEST THAT A PHYSICIAN RESPONSIBLE FOR MY CARE  
30      ISSUE A DO-NOT-RESUSCITATE (DNR) ORDER, INCLUDING AN OUT-OF-

1 HOSPITAL DNR ORDER, AND SIGN ANY REQUIRED DOCUMENTS AND  
2 CONSENTS.

3 APPOINTMENT OF AGENT

4 I APPOINT THE FOLLOWING AGENT:

5 AGENT:.....

6 (NAME AND RELATIONSHIP)

7 ADDRESS:.....

8 .....

9 TELEPHONE NUMBER: HOME..... WORK.....

10 YOU ARE NOT REQUIRED TO APPOINT AN AGENT. IF YOU DO NOT WISH  
11 TO APPOINT AN AGENT, WRITE "NONE" IN THE ABOVE SPACE. IF YOU  
12 DO NOT NAME AN AGENT, HEALTH CARE PROVIDERS WILL ASK YOUR  
13 FAMILY FOR HELP IN DETERMINING YOUR WISHES FOR TREATMENT.  
14 NOTE THAT YOU MAY NOT APPOINT YOUR DOCTOR OR OTHER HEALTH  
15 CARE PROVIDER AS YOUR AGENT UNLESS RELATED TO YOU BY BLOOD,  
16 MARRIAGE OR ADOPTION.

17 IF MY AGENT IS NOT READILY AVAILABLE OR IF MY AGENT IS MY  
18 SPOUSE AND AN ACTION FOR DIVORCE IS FILED BY EITHER OF US  
19 AFTER THE DATE OF THIS DOCUMENT, I APPOINT THE PERSON OR  
20 PERSONS NAMED BELOW IN THE ORDER NAMED. (IT IS HELPFUL, BUT  
21 NOT REQUIRED, TO NAME ALTERNATIVE AGENTS.)

22 FIRST ALTERNATIVE AGENT:.....

23 (NAME AND RELATIONSHIP)

24 ADDRESS:.....

25 .....

26 TELEPHONE NUMBER: HOME..... WORK.....

27 SECOND ALTERNATIVE AGENT:.....

28 (NAME AND RELATIONSHIP)

29 ADDRESS:.....

30 .....





TO MAKE OR COMMUNICATE MY TREATMENT DECISIONS:

IF I SUFFER FROM A TERMINAL CONDITION OR A STATE OF  
PERMANENT UNCONSCIOUSNESS SUCH AS AN IRREVERSIBLE COMA OR AN  
IRREVERSIBLE VEGETATIVE STATE AND THERE IS NO REALISTIC HOPE  
OF SIGNIFICANT RECOVERY, ALL OF THE FOLLOWING APPLY (CROSS  
OUT ANY TREATMENT INSTRUCTIONS WITH WHICH YOU DO NOT AGREE):

1. I DIRECT THAT I BE GIVEN HEALTH CARE TREATMENT TO  
RELIEVE PAIN OR PROVIDE COMFORT EVEN IF SUCH TREATMENT MIGHT  
SHORTEN MY LIFE, SUPPRESS MY APPETITE OR MY BREATHING, OR BE  
HABIT FORMING.

2. I DIRECT THAT ALL LIFE PROLONGING PROCEDURES BE  
WITHHELD OR WITHDRAWN.

3. I SPECIFICALLY DO NOT WANT ANY OF THE FOLLOWING AS  
LIFE PROLONGING PROCEDURES: (IF YOU WISH TO RECEIVE ANY OF  
THESE TREATMENTS, WRITE "I DO WANT" AFTER THE TREATMENT)

HEART-LUNG RESUSCITATION (CPR).....  
MECHANICAL VENTILATOR (BREATHING MACHINE).....  
DIALYSIS (KIDNEY MACHINE).....  
SURGERY.....  
CHEMOTHERAPY.....  
RADIATION TREATMENT .....

ANTIBIOTICS.....

PLEASE INDICATE WHETHER YOU WANT NUTRITION (FOOD) OR  
HYDRATION (WATER) MEDICALLY SUPPLIED BY A TUBE INTO YOUR  
NOSE, STOMACH, INTESTINE OR VEINS IF YOU SUFFER FROM A  
TERMINAL CONDITION OR A STATE OF PERMANENT UNCONSCIOUSNESS  
AND THERE IS NO REALISTIC HOPE OF SIGNIFICANT RECOVERY.

(INITIAL ONLY ONE STATEMENT.)

TUBE FEEDINGS

.....I WANT TUBE FEEDINGS TO BE GIVEN

1 OR  
2 NO TUBE FEEDINGS  
3 .....I DO NOT WANT TUBE FEEDINGS TO BE GIVEN.  
4 AGENT'S USE OF INSTRUCTIONS (INITIAL ONE OPTION ONLY).  
5 .....MY AGENT MUST FOLLOW THESE INSTRUCTIONS.  
6 OR  
7 .....THESE INSTRUCTIONS ARE ONLY GUIDANCE.  
8 MY AGENT SHALL HAVE FINAL SAY AND MAY OVERRIDE  
9 ANY OF MY INSTRUCTIONS. (INDICATE ANY  
10 EXCEPTIONS).....  
11 .....  
12 IF I DID NOT APPOINT AN AGENT, THESE INSTRUCTIONS SHALL  
13 BE FOLLOWED.  
14 LEGAL PROTECTION  
15 PENNSYLVANIA LAW PROTECTS MY AGENT AND HEALTH CARE  
16 PROVIDERS FROM ANY LEGAL LIABILITY FOR THEIR GOOD FAITH  
17 ACTIONS IN FOLLOWING MY WISHES AS EXPRESSED IN THIS FORM OR  
18 IN COMPLYING WITH MY AGENT'S DIRECTION. ON BEHALF OF MYSELF,  
19 MY EXECUTORS AND HEIRS, I FURTHER HOLD MY AGENTS AND MY  
20 HEALTH CARE PROVIDERS HARMLESS AND INDEMNIFY THEM AGAINST ANY  
21 CLAIM FOR THEIR GOOD FAITH ACTIONS IN RECOGNIZING MY AGENT'S  
22 AUTHORITY OR IN FOLLOWING MY TREATMENT INSTRUCTIONS.  
23 ORGAN DONATION (INITIAL ONE OPTION ONLY.)  
24 .....I CONSENT TO DONATE MY ORGANS AND TISSUES AT THE  
25 TIME OF MY DEATH FOR THE PURPOSE OF TRANSPLANT,  
26 MEDICAL STUDY OR EDUCATION. (INSERT ANY  
27 LIMITATIONS YOU DESIRE ON DONATION OF SPECIFIC  
28 ORGANS OR TISSUES OR USES FOR DONATION OF ORGANS  
29 AND TISSUES.).....  
30 .....

1 OR  
2 .....I DO NOT CONSENT TO DONATE MY ORGANS OR TISSUES  
3 AT THE TIME OF MY DEATH.

4 SIGNATURE

5 HAVING CAREFULLY READ THIS DOCUMENT, I HAVE SIGNED IT  
6 THIS.....DAY OF....., 200..., REVOKING ALL PREVIOUS  
7 HEALTH CARE POWERS OF ATTORNEY AND MEDICAL TREATMENT  
8 INSTRUCTIONS.

9 .....

10 (SIGN FULL NAME HERE FOR HEALTH CARE POWER OF ATTORNEY AND  
11 HEALTH CARE TREATMENT INSTRUCTIONS)

12 WITNESS:.....

13 WITNESS:.....

14 TWO WITNESSES AT LEAST 18 YEARS OF AGE ARE REQUIRED BY  
15 PENNSYLVANIA LAW AND SHOULD WITNESS YOUR SIGNATURE IN EACH  
16 OTHER'S PRESENCE. A PERSON WHO SIGNS THIS DOCUMENT ON BEHALF  
17 OF AND AT THE DIRECTION OF A PRINCIPAL MAY NOT BE A WITNESS.  
18 (IT IS PREFERABLE IF THE WITNESSES ARE NOT YOUR HEIRS, NOR  
19 YOUR CREDITORS, NOR EMPLOYED BY ANY OF YOUR HEALTH CARE  
20 PROVIDERS.)

21 NOTARIZATION (OPTIONAL)

22 (NOTARIZATION OF DOCUMENT IS NOT REQUIRED BY PENNSYLVANIA  
23 LAW, BUT IF THE DOCUMENT IS BOTH WITNESSED AND NOTARIZED, IT  
24 IS MORE LIKELY TO BE HONORED BY THE LAWS OF SOME OTHER  
25 STATES.)

26 ON THIS.....DAY OF ....., 200..., BEFORE  
27 ME PERSONALLY APPEARED THE AFORESAID DECLARANT, TO ME KNOWN  
28 TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING  
29 INSTRUMENT AND ACKNOWLEDGED THAT HE/SHE EXECUTED THE SAME AS  
30 HIS/HER FREE ACT AND DEED.

1           IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND  
2       AFFIXED MY OFFICIAL SEAL IN THE COUNTY OF....., STATE  
3       OF..... THE DAY AND YEAR FIRST ABOVE WRITTEN.  
4       .....

5                       NOTARY PUBLIC                       MY COMMISSION EXPIRES

6                                       SUBCHAPTER E

7                                       OUT-OF-HOSPITAL NONRESUSCITATION

8       SEC.

9       5481.   SHORT TITLE OF SUBCHAPTER.

10      5482.   LEGISLATIVE FINDINGS AND INTENT.

11      5483.   DEFINITIONS.

12      5484.   ORDERS, BRACELETS AND NECKLACES.

13      5485.   REVOCATION.

14      5486.   ABSENCE OF ORDER, BRACELET OR NECKLACE.

15      5487.   EMERGENCY MEDICAL SERVICES.

16      5488.   ADVISORY COMMITTEE.

17      § 5481.   SHORT TITLE OF SUBCHAPTER.

18           THIS SUBCHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE OUT-  
19   OF-HOSPITAL NONRESUSCITATION ACT.

20      § 5482.   LEGISLATIVE FINDINGS AND INTENT.

21           THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

22               (1)   ALTHOUGH CARDIOPULMONARY RESUSCITATION HAS SAVED THE  
23       LIVES OF INDIVIDUALS ABOUT TO EXPERIENCE SUDDEN, UNEXPECTED  
24       DEATH, PRESENT MEDICAL DATA INDICATES THAT CARDIOPULMONARY  
25       RESUSCITATION RARELY LEADS TO PROLONGED SURVIVAL IN  
26       INDIVIDUALS WITH TERMINAL ILLNESSES IN WHOM DEATH IS  
27       EXPECTED.

28               (2)   IN MANY CIRCUMSTANCES, THE PERFORMANCE OF  
29       CARDIOPULMONARY RESUSCITATION MAY INFLICT UNWANTED AND  
30       UNNECESSARY PAIN AND SUFFERING.

1           (3) EXISTING EMERGENCY MEDICAL SERVICES PROTOCOLS MAY  
2       REQUIRE EMERGENCY MEDICAL SERVICES PERSONNEL TO PROCEED TO  
3       CARDIOPULMONARY RESUSCITATION WHEN AN INDIVIDUAL IS FOUND IN  
4       A CARDIAC OR RESPIRATORY ARREST EVEN IF THE INDIVIDUAL HAS  
5       COMPLETED AN ADVANCE HEALTH CARE DIRECTIVE INDICATING THAT  
6       THE INDIVIDUAL DOES NOT WISH TO RECEIVE CARDIOPULMONARY  
7       RESUSCITATION.

8           (4) THE ADMINISTRATION OF CARDIOPULMONARY RESUSCITATION  
9       BY EMERGENCY MEDICAL SERVICES PERSONNEL TO AN INDIVIDUAL WITH  
10      AN OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDER OFFENDS THE  
11      DIGNITY OF THE INDIVIDUAL AND CONFLICTS WITH STANDARDS OF  
12      ACCEPTED MEDICAL PRACTICE.

13          (5) THIS SUBCHAPTER PROVIDES CLEAR DIRECTION TO  
14      EMERGENCY MEDICAL SERVICES PERSONNEL AND OTHER HEALTH CARE  
15      PROVIDERS IN REGARD TO THE PERFORMANCE OF CARDIOPULMONARY  
16      RESUSCITATION.

17   § 5483. DEFINITIONS.

18      THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER  
19      SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
20      CONTEXT CLEARLY INDICATES OTHERWISE:

21      "DEPARTMENT." THE DEPARTMENT OF HEALTH OF THE COMMONWEALTH.

22      "EMERGENCY MEDICAL SERVICES PROVIDER." A HEALTH CARE  
23      PROVIDER RECOGNIZED UNDER THE ACT OF JULY 3, 1985 (P.L.164,  
24      NO.45), KNOWN AS THE EMERGENCY MEDICAL SERVICES ACT. THE TERM  
25      INCLUDES THOSE INDIVIDUALS RECOGNIZED UNDER 42 PA.C.S. § 8331.2  
26      (RELATING TO GOOD SAMARITAN CIVIL IMMUNITY FOR USE OF AUTOMATED  
27      EXTERNAL DEFIBRILLATOR).

28      "EMS." EMERGENCY MEDICAL SERVICES.

29      "HEALTH CARE PROVIDER." A PERSON WHO IS LICENSED, CERTIFIED  
30      OR OTHERWISE AUTHORIZED BY THE LAWS OF THIS COMMONWEALTH TO

1 ADMINISTER OR PROVIDE HEALTH CARE IN THE ORDINARY COURSE OF  
2 BUSINESS OR PRACTICE OF A PROFESSION. THE TERM INCLUDES  
3 PERSONNEL RECOGNIZED UNDER THE ACT OF JULY 3, 1985 (P.L.164,  
4 NO.45), KNOWN AS THE EMERGENCY MEDICAL SERVICES ACT, AND THOSE  
5 INDIVIDUALS RECOGNIZED UNDER 42 PA.C.S. § 8331.2 (RELATING TO  
6 GOOD SAMARITAN CIVIL IMMUNITY FOR USE OF AUTOMATED EXTERNAL  
7 DEFIBRILLATOR).

8 "OUT-OF-HOSPITAL DO-NOT-RESUSCITATE BRACELET." A BRACELET IN  
9 THE STANDARD FORMAT SET FORTH IN SECTION 5484 (RELATING TO  
10 ORDERS, BRACELETS AND NECKLACES), SUPPLIED BY THE DEPARTMENT AND  
11 ISSUED BY THE ATTENDING PHYSICIAN, WHICH MAY BE WORN AT THE  
12 PATIENT'S OPTION TO NOTIFY EMERGENCY MEDICAL SERVICES PROVIDERS  
13 OF THE PRESENCE OF AN ORDER.

14 "OUT-OF-HOSPITAL DO-NOT-RESUSCITATE NECKLACE." A NECKLACE IN  
15 THE STANDARD FORMAT SET FORTH IN SECTION 5484 (RELATING TO  
16 ORDERS, BRACELETS AND NECKLACES), SUPPLIED BY THE DEPARTMENT AND  
17 ISSUED BY THE ATTENDING PHYSICIAN, WHICH MAY BE WORN AT THE  
18 PATIENT'S OPTION TO NOTIFY EMERGENCY MEDICAL SERVICES PROVIDERS  
19 OF THE PRESENCE OF AN ORDER.

20 "OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDER." AN ORDER IN THE  
21 STANDARD FORMAT SET FORTH IN SECTION 5484 (RELATING TO ORDERS,  
22 BRACELETS AND NECKLACES), SUPPLIED BY THE DEPARTMENT AND ISSUED  
23 BY THE ATTENDING PHYSICIAN, DIRECTING EMERGENCY MEDICAL SERVICES  
24 PROVIDERS TO WITHHOLD CARDIOPULMONARY RESUSCITATION FROM THE  
25 PATIENT IN THE EVENT OF RESPIRATORY OR CARDIAC ARREST.

26 "OUT-OF-HOSPITAL DO-NOT-RESUSCITATE PATIENT." ANY OF THE  
27 FOLLOWING:

28 (1) AN INDIVIDUAL:

29 (I) WHO IS IN A TERMINAL CONDITION; AND

30 (II) WHO, PURSUANT TO SECTION 5484(A) (RELATING TO

ORDERS, BRACELETS AND NECKLACES), POSSESSES AND IN ANY  
MANNER DISPLAYS OR CAUSES TO BE DISPLAYED FOR EMERGENCY  
MEDICAL SERVICES PROVIDERS AN APPARENTLY VALID ORDER,  
BRACELET OR NECKLACE.

(2) A PRINCIPAL:

(I) WHOSE LIVING WILL HAS BECOME OPERATIVE UNDER  
SECTION 5443(A) (RELATING TO WHEN LIVING WILL OPERATIVE)  
IF THE LIVING WILL:

(A) PROVIDES THAT NO CARDIOPULMONARY  
RESUSCITATION SHALL BE PROVIDED IN THE EVENT OF THE  
PATIENT'S CARDIAC OR RESPIRATORY ARREST IF PRINCIPAL  
BECOMES PERMANENTLY UNCONSCIOUS;

(B) DESIGNATES A SURROGATE TO MAKE THAT DECISION  
UNDER THOSE CIRCUMSTANCES; AND

(II) WHO, PURSUANT TO SECTION 5484(A) (RELATING TO  
ORDERS, BRACELETS AND NECKLACES) POSSESSES AND IN ANY  
MANNER DISPLAYS OR CAUSES TO BE DISPLAYED FOR EMERGENCY  
MEDICAL SERVICES PROVIDERS AN APPARENTLY VALID ORDER,  
BRACELET OR NECKLACE.

"SURROGATE." A HEALTH CARE AGENT OR A HEALTH CARE  
REPRESENTATIVE.

§ 5484. ORDERS, BRACELETS AND NECKLACES.

(A) ISSUANCE.--AN ATTENDING PHYSICIAN, UPON THE REQUEST OF A  
PATIENT WHO IS AT LEAST 18 YEARS OF AGE, HAS GRADUATED FROM HIGH  
SCHOOL, HAS MARRIED OR IS AN EMANCIPATED MINOR, OR THE PATIENT'S  
SURROGATE IF THE SURROGATE IS SO AUTHORIZED, SHALL ISSUE TO THE  
PATIENT AN ORDER AND MAY ISSUE AT THE REQUEST OF THE PATIENT OR  
THE PATIENT'S SURROGATE A BRACELET OR NECKLACE SUPPLIED BY THE  
DEPARTMENT. THE PATIENT MAY, AT THE PATIENT'S OPTION, WEAR THE  
BRACELET OR DISPLAY THE ORDER OR NECKLACE TO NOTIFY EMERGENCY



1 MEDICAL SERVICES PROVIDERS OF THE PATIENT'S DNR STATUS.

2 (B) FORMAT OF ORDER.--THE DEPARTMENT SHALL, WITH THE ADVICE  
3 OF THE PENNSYLVANIA EMERGENCY HEALTH SERVICES COUNCIL AND WITH  
4 THE ASSISTANCE OF THE REGIONAL EMERGENCY MEDICAL SERVICES  
5 COUNCILS, MAKE AVAILABLE STANDARD ORDERS FOR ISSUANCE TO  
6 PATIENTS BY ATTENDING PHYSICIANS OF THIS COMMONWEALTH. THE FORM  
7 OF THE ORDER SHALL CONTAIN, BUT NOT BE LIMITED TO, THE  
8 FOLLOWING:

9 PENNSYLVANIA OUT-OF-HOSPITAL

10 DO-NOT-RESUSCITATE ORDER

11 PATIENT'S FULL LEGAL NAME:

12 I, THE UNDERSIGNED, STATE THAT I AM THE ATTENDING  
13 PHYSICIAN OF THE PATIENT NAMED ABOVE. THE ABOVE-NAMED  
14 PATIENT OR THE PATIENT'S SURROGATE HAS REQUESTED THIS  
15 ORDER, AND I HAVE MADE THE DETERMINATION THAT THE PATIENT  
16 IS ELIGIBLE FOR AN ORDER AND SATISFIES ONE OF THE  
17 FOLLOWING:

18 ..... IS IN A TERMINAL CONDITION.

19 ..... IS PERMANENTLY UNCONSCIOUS AND HAS A  
20 LIVING WILL DIRECTING THAT NO CARDIOPULMONARY  
21 RESUSCITATION BE PROVIDED TO THE PATIENT IN THE EVENT OF  
22 THE PATIENT'S CARDIAC OR RESPIRATORY ARREST.

23 ..... IS PERMANENTLY UNCONSCIOUS AND HAS A  
24 LIVING WILL AUTHORIZING ..... TO REQUEST AN OUT-OF-  
25 HOSPITAL DO-NOT-RESUSCITATE ORDER FOR THE PATIENT.

26 I DIRECT ANY AND ALL EMERGENCY MEDICAL SERVICES  
27 PERSONNEL, COMMENCING ON THE EFFECTIVE DATE OF THIS  
28 ORDER, TO WITHHOLD CARDIOPULMONARY RESUSCITATION (CARDIAC  
29 COMPRESSION, INVASIVE AIRWAY TECHNIQUES, ARTIFICIAL  
30 VENTILATION, DEFIBRILLATION AND OTHER RELATED PROCEDURES)

FROM THE PATIENT IN THE EVENT OF THE PATIENT'S  
RESPIRATORY OR CARDIAC ARREST. I FURTHER DIRECT SUCH  
PERSONNEL TO PROVIDE TO THE PATIENT OTHER MEDICAL  
INTERVENTIONS, SUCH AS INTRAVENOUS FLUIDS, OXYGEN OR  
OTHER THERAPIES NECESSARY TO PROVIDE COMFORT CARE OR TO  
ALLEVIATE PAIN, UNLESS DIRECTED OTHERWISE BY THE PATIENT  
OR THE EMERGENCY MEDICAL SERVICES PROVIDER'S AUTHORIZED  
MEDICAL COMMAND PHYSICIAN.

SIGNATURE OF ATTENDING PHYSICIAN:

PRINTED NAME OF ATTENDING PHYSICIAN:

DATED:

ATTENDING PHYSICIAN'S EMERGENCY TELEPHONE NUMBER:

SIGNATURE OF PATIENT (IF CAPABLE OF MAKING INFORMED  
DECISIONS):

I, THE UNDERSIGNED, HEREBY DIRECT THAT IN THE EVENT  
OF MY CARDIAC AND/OR RESPIRATORY ARREST EFFORTS AT  
CARDIOPULMONARY RESUSCITATION NOT BE INITIATED. I  
UNDERSTAND THAT I MAY REVOKE THESE DIRECTIONS AT ANY TIME  
BY GIVING VERBAL INSTRUCTIONS TO THE EMERGENCY MEDICAL  
SERVICES PROVIDERS, BY PHYSICAL CANCELLATION OR  
DESTRUCTION OF THIS FORM OR MY BRACELET OR NECKLACE OR BY  
SIMPLY NOT DISPLAYING THIS FORM OR THE BRACELET OR  
NECKLACE FOR MY EMS CAREGIVERS.

SIGNATURE OF SURROGATE (IF PATIENT IS INCAPABLE OF  
MAKING INFORMED DECISIONS):

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM  
AUTHORIZED TO EXECUTE THIS ORDER ON THE PATIENT'S BEHALF  
BY VIRTUE OF HAVING BEEN DESIGNATED AS THE PATIENT'S  
SURROGATE AND/OR BY VIRTUE OF MY RELATIONSHIP TO THE  
PATIENT (SPECIFY RELATIONSHIP: .....). I

1           HEREBY DIRECT THAT IN THE EVENT OF THE PATIENT'S CARDIAC  
2           AND/OR RESPIRATORY ARREST EFFORTS AT CARDIOPULMONARY  
3           RESUSCITATION NOT BE INITIATED.

4           (C)    FORMAT OF BRACELET.--THE DEPARTMENT SHALL, WITH THE  
5   ADVICE OF THE PENNSYLVANIA EMERGENCY HEALTH SERVICES COUNCIL AND  
6   WITH THE ASSISTANCE OF THE REGIONAL EMERGENCY MEDICAL SERVICES  
7   COUNCILS, MAKE AVAILABLE STANDARD BRACELETS FOR ISSUANCE TO  
8   PATIENTS BY ATTENDING PHYSICIANS. THE BRACELETS SHALL BE UNIFORM  
9   IN DESIGN AND SHALL, AT A MINIMUM, ON THE FACE CLEARLY INDICATE  
10  OUT-OF-HOSPITAL DNR AND THE NAME OF THE PATIENT AND ATTENDING  
11  PHYSICIAN AS WELL AS THE DATED SIGNATURE OF THE ATTENDING  
12  PHYSICIAN.

13          (D)    FORMAT OF NECKLACE.--THE DEPARTMENT SHALL, WITH THE  
14  ADVICE OF THE PENNSYLVANIA EMERGENCY HEALTH SERVICES COUNCIL AND  
15  WITH THE ASSISTANCE OF THE REGIONAL EMERGENCY MEDICAL SERVICES  
16  COUNCILS, MAKE AVAILABLE STANDARD NECKLACES FOR ISSUANCE TO  
17  PATIENTS BY ATTENDING PHYSICIANS. THE NECKLACES SHALL BE UNIFORM  
18  IN DESIGN AND SHALL, AT A MINIMUM, ON THE FACE CLEARLY INDICATE  
19  OUT-OF-HOSPITAL DNR AND THE NAME OF THE PATIENT AND ATTENDING  
20  PHYSICIAN AS WELL AS THE DATED SIGNATURE OF THE ATTENDING  
21  PHYSICIAN.

22  § 5485.   REVOCATION.

23          (A)    PATIENT.--IF A PATIENT HAS OBTAINED AN ORDER, ONLY THE  
24  PATIENT MAY REVOKE THE PATIENT'S DNR STATUS.

25          (B)    SURROGATE.--IF A SURROGATE HAS OBTAINED AN ORDER, THE  
26  PATIENT OR THE SURROGATE MAY REVOKE THE PATIENT'S STATUS.

27          (C)    MANNER.--REVOCATION UNDER THIS SECTION MAY BE DONE AT  
28  ANY TIME WITHOUT REGARD TO THE PATIENT'S PHYSICAL OR MENTAL  
29  CONDITION AND IN ANY MANNER, INCLUDING VERBALLY OR BY DESTROYING  
30  OR NOT DISPLAYING THE ORDER, BRACELET OR NECKLACE.

1 § 5486. ABSENCE OF ORDER, BRACELET OR NECKLACE.

2 IF AN ORDER HAS NOT BEEN ISSUED BY AN ATTENDING PHYSICIAN, A  
3 PRESUMPTION DOES NOT ARISE AS TO THE INTENT OF THE PATIENT TO  
4 CONSENT TO OR TO REFUSE THE INITIATION, CONTINUATION OR  
5 TERMINATION OF LIFE-SUSTAINING TREATMENT.

6 § 5487. EMERGENCY MEDICAL SERVICES.

7 (A) MEDICAL COMMAND INSTRUCTIONS.--NOTWITHSTANDING THE  
8 ABSENCE OF AN ORDER, BRACELET OR NECKLACE PURSUANT TO THIS  
9 SECTION, EMERGENCY MEDICAL SERVICES PROVIDERS SHALL AT ALL TIMES  
10 COMPLY WITH THE INSTRUCTIONS OF AN AUTHORIZED MEDICAL COMMAND  
11 PHYSICIAN TO WITHHOLD OR DISCONTINUE RESUSCITATION.

12 (B) EFFECT OF ORDER, BRACELET OR NECKLACE.--

13 (1) EMERGENCY MEDICAL SERVICES PROVIDERS ARE AUTHORIZED  
14 TO AND SHALL COMPLY WITH AN ORDER IF MADE AWARE OF THE ORDER  
15 BY EXAMINING A BRACELET, A NECKLACE OR THE ORDER ITSELF.

16 (2) EMERGENCY MEDICAL SERVICES PROVIDERS SHALL PROVIDE  
17 OTHER MEDICAL INTERVENTIONS NECESSARY AND APPROPRIATE TO  
18 PROVIDE COMFORT AND ALLEVIATE PAIN, INCLUDING INTRAVENOUS  
19 FLUIDS, MEDICATIONS, OXYGEN AND ANY OTHER INTERVENTION  
20 APPROPRIATE TO THE LEVEL OF THE CERTIFICATION OF THE  
21 PROVIDER, UNLESS OTHERWISE DIRECTED BY THE PATIENT OR THE  
22 EMERGENCY MEDICAL SERVICES PROVIDER'S AUTHORIZED MEDICAL  
23 COMMAND PHYSICIAN.

24 (3) AS USED IN THIS SUBSECTION, THE TERM "COMPLY" MEANS:

25 (I) TO WITHHOLD CARDIOPULMONARY RESUSCITATION FROM  
26 THE PATIENT IN THE EVENT OF RESPIRATORY OR CARDIAC  
27 ARREST; OR

28 (II) TO DISCONTINUE AND CEASE CARDIOPULMONARY  
29 RESUSCITATION IN THE EVENT THE EMERGENCY MEDICAL SERVICES  
30 PROVIDER IS PRESENTED WITH AN ORDER OR DISCOVERS A

1 NECKLACE OR BRACELET AFTER INITIATING CARDIOPULMONARY  
2 RESUSCITATION.

3 (C) UNCERTAINTY REGARDING VALIDITY OR APPLICABILITY OF  
4 ORDER, BRACELET OR NECKLACE.--

5 (1) EMERGENCY MEDICAL SERVICES PROVIDERS WHO IN GOOD  
6 FAITH ARE UNCERTAIN ABOUT THE VALIDITY OR APPLICABILITY OF AN  
7 ORDER, BRACELET OR NECKLACE SHALL RENDER CARE IN ACCORDANCE  
8 WITH THEIR LEVEL OF CERTIFICATION.

9 (2) EMERGENCY MEDICAL SERVICES PROVIDERS WHO ACT UNDER  
10 PARAGRAPH (1) SHALL NOT BE SUBJECT TO CIVIL OR CRIMINAL  
11 LIABILITY OR ADMINISTRATIVE SANCTION FOR FAILURE TO COMPLY  
12 WITH AN ORDER UNDER THIS SECTION.

13 (D) RECOGNITION OF OTHER STATES' ORDERS.--EMERGENCY MEDICAL  
14 SERVICES OR OUT-OF-HOSPITAL DNR ORDERS, BRACELETS OR NECKLACES  
15 VALID IN STATES OTHER THAN THIS COMMONWEALTH SHALL BE RECOGNIZED  
16 IN THIS COMMONWEALTH TO THE EXTENT THAT THESE ORDERS, BRACELETS  
17 OR NECKLACES ARE CONSISTENT WITH THE LAWS OF THIS COMMONWEALTH.  
18 EMERGENCY MEDICAL SERVICES PROVIDERS SHALL ACT IN ACCORDANCE  
19 WITH THE PROVISIONS OF THIS SECTION WHEN ENCOUNTERING A PATIENT  
20 WITH AN APPARENTLY VALID EMS OR OUT-OF-HOSPITAL DNR FORM,  
21 BRACELET OR NECKLACE ISSUED BY ANOTHER STATE. EMERGENCY MEDICAL  
22 SERVICES PROVIDERS ACTING IN GOOD FAITH UNDER THIS SECTION SHALL  
23 BE ENTITLED TO THE SAME IMMUNITIES AND PROTECTIONS THAT WOULD  
24 OTHERWISE BE APPLICABLE.

25 § 5488. ADVISORY COMMITTEE.

26 (A) ESTABLISHMENT.--WITHIN 60 DAYS OF THE EFFECTIVE DATE OF  
27 THIS SECTION, THE DEPARTMENT SHALL ESTABLISH A COMMITTEE TO  
28 ADVISE IT ON REGULATING THE MANDATORY USE OF A STANDARDIZED FORM  
29 CONTAINING ORDERS BY QUALIFIED PHYSICIANS THAT DETAIL THE SCOPE  
30 OF MEDICAL TREATMENT FOR PATIENTS' LIFE-SUSTAINING WISHES. BY

1 REGULATION, THE DEPARTMENT MAY REQUIRE THAT THIS FORM ACCOMPANY  
2 PATIENTS WHO ARE TRANSFERRED FROM ONE REGULATED FACILITY TO  
3 ANOTHER AND MAY ALLOW ATTENDING PHYSICIANS TO AMEND, CONTINUE OR  
4 VOID THE ISSUING PHYSICIAN'S ORDER OR ORDERS CONTAINED IN THE  
5 FORM TO ASSURE ITS CONFORMITY WITH THE WISHES OF THE PATIENT OR  
6 DECISIONS OF THE HEALTH CARE AGENT OR HEALTH CARE  
7 REPRESENTATIVE.

8 (B) MEMBERSHIP.--THE COMMITTEE SHALL INCLUDE REPRESENTATIVES  
9 FROM THE PENNSYLVANIA MEDICAL SOCIETY, THE JOINT STATE  
10 GOVERNMENT COMMISSION'S ADVISORY COMMITTEE ON DECEDENTS' ESTATES  
11 LAWS AND THE PENNSYLVANIA BAR ASSOCIATION AND OTHER INTERESTED  
12 PERSONS AT THE DEPARTMENT'S DISCRETION.

13 SECTION 5. CHAPTER 54A OF TITLE 20 IS REPEALED.

14 SECTION 6. THE REPEAL OF THE FORM OF THE DECLARATION IN 20  
15 PA.C.S. § 5424(B) SHALL NOT AFFECT THE VALIDITY OF ANY  
16 DECLARATION EXECUTED, PURSUANT TO THAT FORM, BEFORE, ON OR AFTER  
17 THE EFFECTIVE DATE OF THIS ACT.

18 SECTION 7. NOTHING IN THIS ACT IS INTENDED TO AFFECT OR  
19 SUPERSEDE THE HOLDINGS OF IN RE FIORI, 543 PA. 592, 673 A.2D 905  
20 (1996).

21 SECTION 8. THE INTERIM REGULATIONS PUBLISHED AT 32  
22 PENNSYLVANIA BULLETIN 6117 ON DECEMBER 14, 2002, SHALL CONTINUE,  
23 EXCEPT TO THE EXTENT THAT THEY MAY BE INCONSISTENT WITH THE  
24 PROVISIONS OF THIS ACT IN WHICH CASE SUCH REGULATIONS SHALL BE  
25 AMENDED BY INTERIM REGULATION TO ELIMINATE THE INCONSISTENCY AND  
26 ANY SUCH INTERIM REGULATIONS SHALL NOT BE SUBJECT TO THE ACT OF  
27 JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS THE REGULATORY REVIEW  
28 ACT, OR SECTION 201 OR 205 OF THE ACT OF JULY 31, 1968 (P.L.769,  
29 NO.240), REFERRED TO AS THE COMMONWEALTH DOCUMENTS LAW. THE  
30 INTERIM REGULATIONS SHALL EXPIRE FEBRUARY 18, 2005, OR WHEN

1 FINAL REGULATIONS ARE PROMULGATED BY THE DEPARTMENT, WHICHEVER  
2 OCCURS FIRST. FINAL REGULATIONS SHALL BE PROMULGATED NO LATER  
3 THAN FEBRUARY 19, 2005.

4 SECTION 9. SECTION 6 OF THE ACT OF JUNE 19, 2002 (P.L.409,  
5 NO.59), ENTITLED "AN ACT AMENDING TITLE 20 (DECEDENTS, ESTATES  
6 AND FIDUCIARIES) OF THE PENNSYLVANIA CONSOLIDATED STATUTES,  
7 FURTHER PROVIDING FOR ADVANCE DIRECTIVES FOR HEALTH CARE, FOR  
8 DEFINITIONS AND FOR EMERGENCY MEDICAL SERVICES; AND PROVIDING  
9 FOR OUT-OF-HOSPITAL NONRESUSCITATION," IS REPEALED.

10 SECTION 10. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

11 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT  
12 IMMEDIATELY:

13 (I) SECTIONS 2, 6 AND 7 OF THIS ACT.

14 (II) THIS SECTION.

15 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60  
16 DAYS.