

Committee Report

REGULAR CALENDAR

May 20, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Health, Human Services and Elderly Affairs to which was referred SB 74,

AN ACT relative to advance directives for health care decisions. Having considered the same, report the same with the recommendation that the bill OUGHT TO PASS.

Rep. William Marsh

FOR THE MAJORITY OF THE COMMITTEE

MAJORITY COMMITTEE REPORT

| | |
|-------------------|------------------------------------------------------------------|
| Committee: | Health, Human Services and Elderly Affairs |
| Bill Number: | SB 74 |
| Title: | relative to advance directives for health care decisions. |
| Date: | May 20, 2021 |
| Consent Calendar: | REGULAR |
| Recommendation: | OUGHT TO PASS |

STATEMENT OF INTENT

The entire bill is the product of a diverse group of stakeholders, including the Roman Catholic Diocese, who came to consensus about measures to make NH law about advanced directives more accessible to the general public (and therefore more likely to be completed before it becomes necessary) while still retaining the ability of individuals to specify their wishes. A key element is the bill strengthens RSA 137-J:6 "Requirement to Act in Accordance With Principals Wishes and Best Interests" and adds to existing law the requirement for agents and surrogates to act in accordance with this when making decisions. By adding the Physicians Orders for Life-Sustaining Treatment (POLST) to NH law, as the POLST is a signed medical order, we significantly increase the likelihood a person's wishes will be respected. A closer reading of the bill, especially in tandem with reading the existing law, makes it clear that concerns about aspects of the bill that were later raised, had, in fact have been anticipated and addressed by the stakeholder group that suggested the bill's language.

Vote 16-5.

Rep. William Marsh
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Health, Human Services and Elderly Affairs

SB 74, relative to advance directives for health care decisions. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William Marsh for the **Majority** of Health, Human Services and Elderly Affairs. The entire bill is the product of a diverse group of stakeholders, including the Roman Catholic Diocese, who came to consensus about measures to make NH law about advanced directives more accessible to the general public (and therefore more likely to be completed before it becomes necessary) while still retaining the ability of individuals to specify their wishes. A key element is the bill strengthens RSA 137-J:6 "Requirement to Act in Accordance With Principals Wishes and Best Interests" and adds to existing law the requirement for agents and surrogates to act in accordance with this when making decisions. By adding the Physicians Orders for Life-Sustaining Treatment (POLST) to NH law, as the POLST is a signed medical order, we significantly increase the likelihood a person's wishes will be respected. A closer reading of the bill, especially in tandem with reading the existing law, makes it clear that concerns about aspects of the bill that were later raised, had, in fact have been anticipated and addressed by the stakeholder group that suggested the bill's language. **Vote 16-5.**

Original: House Clerk

Cc: Committee Bill File

REGULAR CALENDAR

May 20, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Health, Human Services and Elderly Affairs to which was referred SB 74,

AN ACT relative to advance directives for health care decisions. Having considered the same, and being unable to agree with the Majority, report with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Leah Cushman

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

| | |
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| Committee: | Health, Human Services and Elderly Affairs |
| Bill Number: | SB 74 |
| Title: | relative to advance directives for health care decisions. |
| Date: | May 20, 2021 |
| Consent Calendar: | REGULAR |
| Recommendation: | INEXPEDIENT TO LEGISLATE |

STATEMENT OF INTENT

This bill changes the advance directive and durable power of attorney (DPOA) form to a more confusing, less transparent version that will result in many people misunderstanding what options they have. It removes the requirement for the advance directive form to have an explicit statement that the signer's wishes can be overridden and makes it the default. It allows DPOAs to enroll patients in clinical trials for conditions that are not life-threatening. The disclosure statement explains that the default position is that the DPOA can consent to enrolling you in clinical trials unless you write otherwise on the form. Furthermore, the bill strikes language that requires the signer to confirm that they have read and understand the disclosure form. It also removes a section on the current form to write "specific types of treatment that are inconsistent with your religious beliefs or are unacceptable to you for any other reason." Lastly, it removes the ability of a common law spouse to be considered when choosing a surrogate decision-maker.

Rep. Leah Cushman
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Health, Human Services and Elderly Affairs

SB 74, relative to advance directives for health care decisions. **INEXPEDIENT TO LEGISLATE.**

Rep. Leah Cushman for the **Minority** of Health, Human Services and Elderly Affairs. This bill changes the advance directive and durable power of attorney (DPOA) form to a more confusing, less transparent version that will result in many people misunderstanding what options they have. It removes the requirement for the advance directive form to have an explicit statement that the signer's wishes can be overridden and makes it the default. It allows DPOAs to enroll patients in clinical trials for conditions that are not life-threatening. The disclosure statement explains that the default position is that the DPOA can consent to enrolling you in clinical trials unless you write otherwise on the form. Furthermore, the bill strikes language that requires the signer to confirm that they have read and understand the disclosure form. It also removes a section on the current form to write "specific types of treatment that are inconsistent with your religious beliefs or are unacceptable to you for any other reason." Lastly, it removes the ability of a common law spouse to be considered when choosing a surrogate decision-maker.

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Voting Sheets

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/22/2021 10:06:45 AM
Roll Call Committee Registers
Report

2021 SESSION

Health, Human Services and Elderly Affairs

Bill #: SB74 Motion: OTP AM #: _____ Exec Session Date: 5/17/2021

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|---------------------------------|-------------|-------------|-----------|
| Pearson, Mark A. Chairman | 16 | | |
| Marsh, William M. Vice Chairman | 1 | | |
| McMahon, Charles E. | 2 | | |
| Nelson, Bill G. | 3 | | |
| Acton, Dennis F. | 4 | | |
| Gay, Betty I. | | 1 | |
| Cushman, Leah P. | | 2 | |
| Folsom, Beth A. Clerk | 5 | | |
| Kelsey, Niki | | 3 | |
| King, Bill C. | | 4 | |
| Kofalt, Jim | | 5 | |
| Weber, Lucy M. | 6 | | |
| MacKay, James R. | 7 | | |
| Snow, Kendall A. | 8 | | |
| Knirk, Jerry L. | 9 | | |
| Salloway, Jeffrey C. | 10 | | |
| Cannon, Gerri D. | 11 | | |
| Nutter-Upham, Frances E. | 12 | | |
| Schapiro, Joe | 13 | | |
| Woods, Gary L. | 14 | | |

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/22/2021 10:06:45 AM
Roll Call Committee Registers
Report

2021 SESSION

Health, Human Services and Elderly Affairs

| | | | |
|--------------------|-------------|-------|------------------------------|
| Bill #: SB74 | Motion: OTP | AM #: | Exec Session Date: 5/17/2021 |
| Query, | | | 15 |
| TOTAL VOTE: | | | 16 |
| | | | 5 |
| | | | 0 |

Public Hearing

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING on Bill # SB 74

BILL TITLE: An Act relative to advance directives for health care decisions.

DATE: May 3, 2021

ROOM: LOB 306-8

Time Public Hearing Called to Order: 10:27 am

Time Adjourned: 1:08 pm

Committee Members: Reps. M. Pearson, Marsh, Folsom, McMahon, Nelson, Acton, Gay, Cushman, Kelsey, B. King, Kofalt, Weber, MacKay, Query, Knirk, Salloway, Cannon, Nutter-Upham, Schapiro, Woods and Merchant

TESTIMONY

Jenny Horgan, aide to Sen. Sherman read a statement into the record.

Paula Minnehan - A coalition worked on this bill.

Peter Ames

Quality improvement, helping patients and caregivers a greater understanding of options and procedures.

Concern - pg 23, line 30 can a person's wishes be overturned once they are incapacitated?

Dr.. Lauson -

POLST - Provider Ordered Life Sustaining Treatment prepared in advanced provides overall guidance stated by patient when coherent.

A DNR is a physician order, discussed with a patient or surrogate when necessary.

Without a POLST/DNR EMS would have to perform life saving efforts

If an individual signs a DNR it cannot be revoked except in rare circumstances when another physician or ethics board reviews. This may happen when a prognosis is changed or a new treatment is found. Normally it is a group discussion with physician, patient, family, and or surrogate.

A patient can temporarily suspend the DNR in community or facility where a better outcome could be elevated.

Robert Dunn - Catholic Diocese

Each human is made in God's image and is priceless, supports SB 74 in its balancing of the burdens in decisions. This bill does not change their stance on life sustaining treatment for those who are temporarily or permanently unconscious - No assisted suicide.

Rep. Erica Layon - opposed to language in parts of the bill; experimental therapies, sterilization, incapacity and Alzheimer's, over simplified form. Has provided more detail in a written testimony.

Gina Balkus - surrogate/agent - a surrogate become an agent when there is no advanced directive.

One way a dr. can not follow a DNR is to transfer care to another physician.

Matthew Houd, Dartmouth Hitchcock - updated for allows coverage for them when using experimental treatments in situations like a pandemic. Patients seen during COVID could not be treated with experimental therapies until Emergency orders lifted that prohibition.

Do people have to go through the process of POLST with an attorney? No

Robert Wells, practitioner worked with committee on bill language. Old document had limitations where the new document allows for communication with the agent to evolve over time. The agent must be an advocate for patient.

Benjamin Hillman, NH Academy of Elder Law

Bill changes certain defaults that led to contradictory statements

Virtual witnessing, oral directives.

Surrogate decisions in care can extend to 180 days before a court appointed guardianship petition is required. This extension can help alleviate an overwhelmed court.

Pg. 16 - limits to when agent can overrule patient

The Surrogate is only chosen to be an agent when the patient is incapacitated. If there is a challenge, it can be taken to court.

Dr. Lawson - "please review the disclosure statement" phrase is to draw attention to further information to make sure the patient understand the POLST

Ascertaining the wishes based on previous conversations.

Various on line strategies to express their wishes.

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House Remote Testify

Health, Human Services and Elderly Affairs Committee Testify List for Bill SB74 on 2021-05-03

Support: 27 Oppose: 3 Neutral: 0 Total to Testify: 8

Export to Excel

| <u>Name</u> | <u>City, State</u> <u>Email Address</u> | <u>Title</u> | <u>Representing</u> | <u>Position</u> | <u>Testifying</u> | <u>Non-Germane</u> | <u>Signed Up</u> |
|----------------------------|--------------------------------------------------|------------------------|-------------------------------------------------|-----------------|-------------------|--------------------|--------------------|
| Siracusa Hillman, Benjamin | Exeter, NH bsiracusahillman@shaheengordon.com | A Member of the Public | Myself & NH Elder Law Attorneys | Support | Yes (5m) | No | 4/26/2021 10:52 AM |
| Minnehan, Paula | Concord, NH pminnehan@nhha.org | A Lobbyist | NH Hospital Association | Support | Yes (5m) | No | 4/30/2021 4:27 PM |
| Lawson, Philip | Littleton, NH philiplawson14@gmail.com | A Member of the Public | Myself and The Health Care Decisions Coalition | Support | Yes (3m) | No | 4/30/2021 4:34 PM |
| Balkus, Gina | Concord, NH gbalkus@homecarenh.org | A Lobbyist | Granite State Home Health & Hospice Association | Support | Yes (3m) | No | 4/27/2021 5:05 PM |
| Ames, Peter | Litchfield, NH pames@healthynh.org | A Member of the Public | Foundation for Healthy Communities | Support | Yes (3m) | No | 5/3/2021 5:33 AM |
| Layon, Erica | Derry, NH erica.layon@leg.state.nh.us | An Elected Official | Myself | Oppose | Yes (0m) | No | 5/3/2021 6:21 AM |
| Wells, Robert | Manchester, NH bob.wells@mclane.com | A Member of the Public | Myself | Support | Yes (0m) | No | 4/27/2021 10:50 AM |
| souza, kathleen | manchester, NH irishsouza@netscape.com | A Member of the Public | Myself | Oppose | Yes (0m) | No | 4/29/2021 10:22 AM |
| Bradley, Jeb | Concord, NH jeb.bradley@leg.state.nh.us | An Elected Official | SD3 | Support | No | No | 4/20/2021 1:13 PM |
| Watters, Senator David | Dover, NH david.watters@leg.state.nh.us | An Elected Official | Myself (SD 4) | Support | No | No | 4/23/2021 8:50 AM |
| Rosenwald, Cindy | Nashua, NH cindy.rosenwald@leg.state.nh.us | An Elected Official | SD13 | Support | No | No | 4/23/2021 2:31 PM |
| Tobin, Laura | Hopkinton, NH let@fstlaw.com | A Member of the Public | Myself | Support | No | No | 4/30/2021 4:37 PM |
| Horgan, Kate | Concord, NH khorgan@dupontgroup.com | A Lobbyist | NH Association of Counties | Support | No | No | 4/30/2021 11:30 AM |

| | | | | | | | |
|----------------------|-----------------------------------------------|------------------------|-------------------------------------------------|---------|----|----|--------------------|
| Sheehan, Virginia | Concord, NH vss@fstlaw.com | A Member of the Public | Myself | Support | No | No | 4/26/2021 6:33 PM |
| Abert, Susan | Stoddard, NH sra@nortonabertlaw.com | A Member of the Public | Myself | Support | No | No | 4/26/2021 8:35 PM |
| Anderson, Christine | Manchester, NH canderson@ansellpa.com | A Member of the Public | Myself | Support | No | No | 4/27/2021 8:41 AM |
| Flood, Ann | Hopkinton, NH amf@fstlaw.com | A Member of the Public | Myself | Support | No | No | 4/27/2021 6:11 AM |
| Arruda, Michelle | Contoocook, NH marruda@devinemillimet.com | A Member of the Public | Myself | Support | No | No | 4/27/2021 7:27 AM |
| Riddell, Joy | Nottingham, NH jriddell@riddelllawnh.com | A Member of the Public | Myself | Support | No | No | 4/27/2021 7:55 AM |
| Hillis, Joyce | Hollis, NH jhillis@devinemillimet.com | A Member of the Public | Myself | Support | No | No | 4/27/2021 10:01 AM |
| Myskowski, Jan | Warner, NH jan@mmlawnh.com | A Member of the Public | Myself | Support | No | No | 4/27/2021 9:19 AM |
| Paul, Christopher | Amherst, NH newhampshirechris@gmail.com | A Member of the Public | Myself | Support | No | No | 4/30/2021 4:45 PM |
| Bailin, Deborah | LONDONDERRY, NH dmbailin@aol.com | A Member of the Public | Myself | Support | No | No | 4/30/2021 5:33 PM |
| Kroll, Heidi | Concord, NH kroll@gcglaw.com | A Lobbyist | National Academy of Elder Law Attorneys (NAELA) | Support | No | No | 5/2/2021 11:43 PM |
| Thomas, Nicholas | Manchester, NH nicholas.w.thomas@uconn.edu | A Member of the Public | Myself | Support | No | No | 5/3/2021 12:57 AM |
| Hobson, Deborah | East Kingston, NH deborahlhobson@gmail.com | An Elected Official | Myself | Oppose | No | No | 5/3/2021 8:17 AM |
| Sherman, Senator Tom | SD24, NH jennifer.horgan@leg.state.nh.us | An Elected Official | SD24 | Support | No | No | 5/3/2021 8:27 AM |
| Lucas, Janet | Campton, NH janluca1953@gmail.com | A Member of the Public | Myself | Support | No | No | 5/3/2021 9:22 AM |
| Donnelly, Ryan | Hudson, NH rdonnelly@gsil.org | A Lobbyist | Granite State Independent Living | Support | No | No | 5/1/2021 5:33 PM |
| Houde, Matthew | Lebanon, NH matthew.s.houde@hitchcock.org | A Lobbyist | Dartmouth-Hitchcock | Support | No | No | 5/3/2021 8:57 AM |

Testimony

Archived: Thursday, June 3, 2021 8:45:47 AM
From: [Jeanette. Dufour](#)
Sent: Sunday, May 16, 2021 4:24:31 PM
To: ~House Health Human Services and Elderly Affairs
Subject: SN74
Importance: Normal

Vote no on this bill.

Sent from my iPhone

Archived: Thursday, June 3, 2021 8:45:47 AM
From: [Carol LeBlanc](#)
Sent: Sunday, May 16, 2021 7:53:51 PM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: HB 74
Importance: Normal

Please vote NO on HB74
Carol LeBlanc

Archived: Thursday, June 3, 2021 8:45:46 AM
From: Bobby Schindler
Sent: Saturday, May 15, 2021 2:24:18 PM
To: ~House Health Human Services and Elderly Affairs
Subject: In Opposition to S.B. 74
Importance: Normal
Attachments:
[Schindler _ NH SB 74 _ 5 14 21.pdf](#) 

Dear Chairman Pearson and Committee Members,
I would respectfully like to submit the attached letter in opposition to S.B. 74.

Please let me know if there are any questions.

Sincerely,
Bobby Schindler
[Terri Schiavo Life & Hope Network](#)
[Join our Sustaining Allies, supporting our National Crisis Lifeline](#)

We pay great lip service in this country to disability rights, but as the degree of a person's disability increases, the level of legal protection that person receives decreases. – Bob Schindler, Terri Schiavo's father

Archived: Wednesday, June 2, 2021 3:35:34 PM
From: [John Kelley](#)
Sent: Monday, May 17, 2021 8:58:42 AM
To: ~House Health Human Services and Elderly Affairs
Subject: SB 74
Importance: Normal

Dear Committee Members,

Please vote NO on SB 74, Relative to Advance Directives for Health Care Decisions.

It is too complicated and reduces end of life rules and procedures. Please vote NO and rewrite the bill.

Sincerely,
John Kelley
Hampstead, NH

Archived: Wednesday, June 2, 2021 3:35:34 PM
From: [Daniel Connell](#)
Sent: Sunday, May 16, 2021 4:51:43 PM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: SB 74
Importance: Normal

People, this is a bad bill. Vote NO on it. Aren't our medical institutions killing enough folks already?

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Archived: Wednesday, June 2, 2021 3:35:34 PM
From: Marilyn
Sent: Monday, May 17, 2021 6:34:15 PM
To: ~House Health Human Services and Elderly Affairs
Subject: SB 74
Importance: Normal

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Marilyn Suszek

Sent from [Mail](#) for Windows 10

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Archived: Wednesday, June 2, 2021 3:35:34 PM
From: [Harriet E. Cady](#)
Sent: Sunday, May 16, 2021 5:34:26 PM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: Please vote ITL on SB 74
Importance: Normal

Unless my understanding of a right to life is wrong then no one should be able to decide who dies except God.

Certainly no medical personnel would have personal knowledge of the patient and without that only a designated person should have any say in a patient's life. I took care of my husband for 5 years after his strokes and knew him best and even I knew he wanted to live.

Harriet E. Cady
Deerfield, N.H. 03037

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Harriet E. Cady
Deerfield, N.H. 03037

Archived: Wednesday, June 2, 2021 3:15:01 PM
From: Freda.muldoon@comcast.net
Sent: Sunday, May 16, 2021 10:27:13 PM
To: ~House Health Human Services and Elderly Affairs
Subject: Advance Directives for Healthcare - SB74
Importance: Normal

Dear Committe members, Please vote “no” (or Itl) on SB74. As one of the many people who moved to New Hampshire because I heard it was a nice place to live in retirement — I did not move here to have my end-of-life decisions deliberately made by strangers, nor by an accidental mis-designation on a complex health care proxy form. SB74 is far too complex and bureaucratic to give meaningful assistance in such difficult decisions and far too “loose” to protect the patient’s rights. Please be aware that what may be described as “merciful” by some - legislation hastening the death of elderly residents - will not be perceived as merciful to many considering a move here. The prospect of an early death will not draw many new house buyers nor taxpayers to the State.

Freda Muldoon
59 Ridgewood Drive,
Atkinson, NH

Archived: Wednesday, June 2, 2021 3:14:58 PM

From: [suelecl](#)

Sent: Monday, May 17, 2021 9:13:33 AM

To: ~House Health Human Services and Elderly Affairs

Subject: Advance Directives SB74

Importance: Normal

Please vote ITL on SB74 "advance directives for health care decisions".

Sent from Samsung Galaxy smartphone.

Archived: Wednesday, June 2, 2021 3:14:58 PM

From: [suelecl](#)

Sent: Monday, May 17, 2021 9:13:33 AM

To: ~House Health Human Services and Elderly Affairs

Subject: Advance Directives SB74

Importance: Normal

Please vote ITL on SB74 "advance directives for health care decisions".

Sent from Samsung Galaxy smartphone.

Archived: Wednesday, June 2, 2021 3:15:01 PM

From: [Renee Turner](#)

Sent: Sunday, May 16, 2021 10:14:01 PM

To: [~House Health Human Services and Elderly Affairs](#)

Subject: Bill

Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decision".

Renee Turner PhD

Archived: Wednesday, June 2, 2021 3:15:01 PM

From: [Renee Turner](#)

Sent: Sunday, May 16, 2021 10:14:01 PM

To: [~House Health Human Services and Elderly Affairs](#)

Subject: Bill

Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decision".

Renee Turner PhD

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: [Kristal Tanguay](#)
Sent: Monday, May 17, 2021 8:02:21 AM
To: ~House Health Human Services and Elderly Affairs
Subject: ITL on SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

This bill is far too complex and excessively loosens end-of-life decision-making rules. It also inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them.

Most scarily it broadens the new rules' applicability from opt-in by those who signed documents, to ALL patients, and lacks any clear opt-out provision. Meaning people won't even realize they have given their rights away!

I urge you, please vote ITL or NO on SB74!

Sincerely,
Kristal Tanguay

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: [Kristal Tanguay](#)
Sent: Monday, May 17, 2021 8:02:21 AM
To: ~House Health Human Services and Elderly Affairs
Subject: ITL on SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

This bill is far too complex and excessively loosens end-of-life decision-making rules. It also inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them.

Most scarily it broadens the new rules' applicability from opt-in by those who signed documents, to ALL patients, and lacks any clear opt-out provision. Meaning people won't even realize they have given their rights away!

I urge you, please vote ITL or NO on SB74!

Sincerely,
Kristal Tanguay

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: Jason Hennessey
Sent: Sunday, May 16, 2021 10:52:16 PM
To: ~House Health Human Services and Elderly Affairs
Cc: board@nhrtl.org
Subject: NHRTL urges ITL on SB74
Importance: Normal

Dear Hon. House HHSEA members,

On behalf of New Hampshire Right to Life, I urge you to vote ITL on SB74.

We believe that the bill would require substantial revision to be viable. In particular, we are concerned that patient protections are weakened, as it:

- Allows a "remote" witness. Since the quality of video calls can vary widely (as we've all seen through the pandemic), a virtual witness (who is attesting that a person signing an end of life document is "of sound mind and free or duress" and is signing "freely and voluntarily") would be significantly weaker protection over the current law which requires a physical witness.
- Expands the end of life legislation unnecessarily, from applying to those who sign the appropriate documents to EVERYONE.
- Expands the list of those who may declare any one us incompetent
- Removes other protections from current law. For example, a person would no longer be able to make an advanced directive with instructions that say "if I am incapacitated and object to treatment, treatment may be given to me." This would protect someone not thinking clearly or under medication from a rash decision.

Respectfully submitted,

Jason Hennessey, PhD
Amherst, NH
President, New Hampshire Right to Life

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: Jason Hennessey
Sent: Sunday, May 16, 2021 10:52:16 PM
To: ~House Health Human Services and Elderly Affairs
Cc: board@nhrtl.org
Subject: NHRTL urges ITL on SB74
Importance: Normal

Dear Hon. House HHSEA members,

On behalf of New Hampshire Right to Life, I urge you to vote ITL on SB74.

We believe that the bill would require substantial revision to be viable. In particular, we are concerned that patient protections are weakened, as it:

- Allows a "remote" witness. Since the quality of video calls can vary widely (as we've all seen through the pandemic), a virtual witness (who is attesting that a person signing an end of life document is "of sound mind and free or duress" and is signing "freely and voluntarily") would be significantly weaker protection over the current law which requires a physical witness.
- Expands the end of life legislation unnecessarily, from applying to those who sign the appropriate documents to EVERYONE.
- Expands the list of those who may declare any one us incompetent
- Removes other protections from current law. For example, a person would no longer be able to make an advanced directive with instructions that say "if I am incapacitated and object to treatment, treatment may be given to me." This would protect someone not thinking clearly or under medication from a rash decision.

Respectfully submitted,

Jason Hennessey, PhD
Amherst, NH
President, New Hampshire Right to Life

Archived: Wednesday, June 2, 2021 3:14:59 PM
From: Lily MacKenzie
Sent: Monday, May 17, 2021 12:29:49 AM
To: ~House Health Human Services and Elderly Affairs
Subject: NO ON SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Thank You,

Liliana Mackenzie

Salem, NH

Archived: Wednesday, June 2, 2021 3:14:59 PM
From: Lily MacKenzie
Sent: Monday, May 17, 2021 12:29:49 AM
To: ~House Health Human Services and Elderly Affairs
Subject: NO ON SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Thank You,

Liliana Mackenzie

Salem, NH

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: [claudia wells](#)
Sent: Monday, May 17, 2021 8:51:59 AM
To: ~House Health Human Services and Elderly Affairs
Subject: NO SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Claudia Wells
Chester, NH
Sent from my iPhone

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: [claudia wells](#)
Sent: Monday, May 17, 2021 8:51:59 AM
To: ~House Health Human Services and Elderly Affairs
Subject: NO SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Claudia Wells
Chester, NH
Sent from my iPhone

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: ns@reagan.com
Sent: Sunday, May 16, 2021 11:18:27 PM
To: ~House Health Human Services and Elderly Affairs
Subject: NO, on SB74 "advance directives for health care decisions"
Importance: Normal

Dear Honorable Members of the Committee -

Please - ITL or Vote NO on SB74 on Advance Directives for Health Care Decisions -

We need laws that protect patients, not complicated laws that place too much authority with people who may not know a patient or their wishes.
This would not be a good law -

Thank you, for your time-
Nancy Sirois
Rochester, NH

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: ns@reagan.com
Sent: Sunday, May 16, 2021 11:18:27 PM
To: ~House Health Human Services and Elderly Affairs
Subject: NO, on SB74 "advance directives for health care decisions"
Importance: Normal

Dear Honorable Members of the Committee -

Please - ITL or Vote NO on SB74 on Advance Directives for Health Care Decisions -

We need laws that protect patients, not complicated laws that place too much authority with people who may not know a patient or their wishes.
This would not be a good law -

Thank you, for your time-
Nancy Sirois
Rochester, NH

Archived: Wednesday, June 2, 2021 3:14:59 PM
From: [Diane Kelley](#)
Sent: Monday, May 17, 2021 5:04:40 AM
To: ~House Health Human Services and Elderly Affairs
Subject: Please ITL SB74
Importance: Normal

Hello,

I am writing to request that you PLEASE vote ITL on Sb74. It is absolutely dangerous and seems to favor death over living.

Thank you,

Rep. Diane Kelley
District 25

Archived: Wednesday, June 2, 2021 3:14:59 PM
From: [Diane Kelley](#)
Sent: Monday, May 17, 2021 5:04:40 AM
To: ~House Health Human Services and Elderly Affairs
Subject: Please ITL SB74
Importance: Normal

Hello,

I am writing to request that you PLEASE vote ITL on Sb74. It is absolutely dangerous and seems to favor death over living.

Thank you,

Rep. Diane Kelley
District 25

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: mhardt@posteo.net
Sent: Monday, May 17, 2021 10:12:26 AM
To: ~House Health Human Services and Elderly Affairs
Subject: Please vote against proceeding with SB74
Importance: Normal

I hope you will oppose the bill concerning "advance directives for health care decisions." I'm old enough to have experienced end-of-life decisions with family and friends, and I'm aware of how much pressure a decision-maker can feel from the medical professionals, from insurance, from caretakers, and even from family. This bill would complicate things further, inviting more parties into the process, and making it more likely that we would make decisions that we would come to regret. Please vote against it.

Sincerely,

Michael Hardt
281 River Rd.
Canaan, NH 03741
603-523-4583

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: mhardt@posteo.net
Sent: Monday, May 17, 2021 10:12:26 AM
To: ~House Health Human Services and Elderly Affairs
Subject: Please vote against proceeding with SB74
Importance: Normal

I hope you will oppose the bill concerning "advance directives for health care decisions." I'm old enough to have experienced end-of-life decisions with family and friends, and I'm aware of how much pressure a decision-maker can feel from the medical professionals, from insurance, from caretakers, and even from family. This bill would complicate things further, inviting more parties into the process, and making it more likely that we would make decisions that we would come to regret. Please vote against it.

Sincerely,

Michael Hardt
281 River Rd.
Canaan, NH 03741
603-523-4583

Archived: Wednesday, June 2, 2021 3:14:57 PM

From: [Susan Gendron](#)

Sent: Monday, May 17, 2021 10:31:17 AM

To: [~House Health Human Services and Elderly Affairs](#)

Subject: Please vote ITL (Inexpedient To Legislate) or NO, on SB74 "advance directives for health care decisions".

Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes people, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Thank You,

Susan Gendron

Londonderry

Archived: Wednesday, June 2, 2021 3:14:56 PM

From: [Susan Gendron](#)

Sent: Monday, May 17, 2021 10:31:17 AM

To: [~House Health Human Services and Elderly Affairs](#)

Subject: Please vote ITL (Inexpedient To Legislate) or NO, on SB74 "advance directives for health care decisions".

Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes people, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Thank You,

Susan Gendron

Londonderry

Archived: Wednesday, June 2, 2021 3:14:59 PM

From: [Brian Morin](#)

Sent: Monday, May 17, 2021 4:41:45 AM

To: [~House Health Human Services and Elderly Affairs](#)

Subject: Please vote ITL or NO on bill on SB74

Importance: Normal

Sent from Samsung Galaxy smartphone.

Archived: Wednesday, June 2, 2021 3:14:59 PM

From: [Brian Morin](#)

Sent: Monday, May 17, 2021 4:41:45 AM

To: [~House Health Human Services and Elderly Affairs](#)

Subject: Please vote ITL or NO on bill on SB74

Importance: Normal

Sent from Samsung Galaxy smartphone.

Archived: Wednesday, June 2, 2021 3:14:59 PM

From: PMG

Sent: Monday, May 17, 2021 5:40:16 AM

To: ~House Health Human Services and Elderly Affairs

Subject: Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I ask you, please vote ITL or NO on SB74.

Thank You In Advance,

Peter Glendinning
Concord, NH

Archived: Wednesday, June 2, 2021 3:14:59 PM

From: PMG

Sent: Monday, May 17, 2021 5:40:16 AM

To: ~House Health Human Services and Elderly Affairs

Subject: Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I ask you, please vote ITL or NO on SB74.

Thank You In Advance,

Peter Glendinning
Concord, NH

Archived: Wednesday, June 2, 2021 3:14:59 PM
From: Jeffrey and Clara Wilder
Sent: Sunday, May 16, 2021 11:39:34 PM
To: ~House Health Human Services and Elderly Affairs
Subject: Please vote ITL or NO on SB74
Importance: Normal

Dear committee members,

I am writing to ask that you please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Thank you,

Jeffrey Wilder

Milford, NH

Archived: Wednesday, June 2, 2021 3:14:59 PM
From: Jeffrey and Clara Wilder
Sent: Sunday, May 16, 2021 11:39:34 PM
To: ~House Health Human Services and Elderly Affairs
Subject: Please vote ITL or NO on SB74
Importance: Normal

Dear committee members,

I am writing to ask that you please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Thank you,

Jeffrey Wilder

Milford, NH

Archived: Wednesday, June 2, 2021 3:14:56 PM
From: [Kruger Homeschool](#)
Sent: Monday, May 17, 2021 11:01:52 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: please vote ITL or NO on SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Thank You In Advance,

Eleanore Kruger

Nashua, NH

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: [Kat Peters](#)
Sent: Monday, May 17, 2021 10:03:08 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: Please vote NO on SB74 "advance directives for health care decisions"
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

It is:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, please vote ITL or NO on SB74 !

Thank You In Advance!

Mrs. Kathryn Peterson

5 Cortez Drive

Nashua, NH 03062

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: [Kat Peters](#)
Sent: Monday, May 17, 2021 10:03:08 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: Please vote NO on SB74 "advance directives for health care decisions"
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

It is:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, please vote ITL or NO on SB74 !

Thank You In Advance!

Mrs. Kathryn Peterson

5 Cortez Drive

Nashua, NH 03062

Archived: Wednesday, June 2, 2021 3:14:57 PM

From: [tedciesielski](#)

Sent: Monday, May 17, 2021 10:23:26 AM

To: ~House Health Human Services and Elderly Affairs

Subject: Please vote NO on SB74

Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Thanks,

Ted Ciesielski

Nashua, NH

Archived: Wednesday, June 2, 2021 3:14:57 PM

From: [tedciesielski](#)

Sent: Monday, May 17, 2021 10:23:26 AM

To: ~House Health Human Services and Elderly Affairs

Subject: Please vote NO on SB74

Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Thanks,

Ted Ciesielski

Nashua, NH

Archived: Wednesday, June 2, 2021 3:14:56 PM
From: [Ree Suarez](#)
Sent: Monday, May 17, 2021 2:17:32 PM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: Protect our elders of the community
Importance: Normal

Dear Committee Members,

I just turned 25 and care very deeply about my own grandparents...Please protect the vulnerable adults of our community by voting ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Thank you for representing us,

Ree

Archived: Wednesday, June 2, 2021 3:14:56 PM
From: pasha@swissmail.org
Sent: Monday, May 17, 2021 6:48:29 PM
To: ~House Health Human Services and Elderly Affairs
Subject: SB 74 Please vote ITL or NO on this Bill
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions". The opportunity for overreach seems irresponsible because of its overall complexity.

In addition it,

- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, please vote ITL or NO on SB74 !

Thank you in advance,

Lucinda Williams

Manchester

Archived: Wednesday, June 2, 2021 3:14:56 PM

From: [Gerald Easson](#)

Sent: Monday, May 17, 2021 3:34:57 PM

To: [~House Health Human Services and Elderly Affairs](#)

Subject: SB74

Importance: Normal

I oppose SB74!

Gerald Easson
147 Central street
Farmington, NH 03835

Archived: Wednesday, June 2, 2021 3:14:56 PM
From: [Jess Fraioli](#)
Sent: Monday, May 17, 2021 12:49:36 PM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

I'm am asking you to vote "no" on SB 74.

Jessica Fillmore Fraioli

Wilmot Resident

[Sent from Yahoo Mail on Android](#)

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: fredfraser02@gmail.com
Sent: Monday, May 17, 2021 10:24:23 AM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Dear Committee Members,

My family and I live in Nashua, and are regularly dependent on the NH healthcare system.

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Sincerely,
Fred Fraser

Sent from [Mail](#) for Windows 10

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: fredfraser02@gmail.com
Sent: Monday, May 17, 2021 10:24:23 AM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Dear Committee Members,

My family and I live in Nashua, and are regularly dependent on the NH healthcare system.

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Sincerely,
Fred Fraser

Sent from [Mail](#) for Windows 10

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: [Susan](#)
Sent: Monday, May 17, 2021 8:46:32 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: SB74
Importance: Normal

Please vote no on SB74. It loosens end of life decision making and does not serve families well.

Susan Patton
Stratham

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: [Susan](#)
Sent: Monday, May 17, 2021 8:46:32 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: SB74
Importance: Normal

Please vote no on SB74. It loosens end of life decision making and does not serve families well.

Susan Patton
Stratham

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: [Nancy Sartori](#)
Sent: Monday, May 17, 2021 7:07:50 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: SB74
Importance: Normal

Please.... No!

Nancy

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: [Nancy Sartori](#)
Sent: Monday, May 17, 2021 7:07:50 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: SB74
Importance: Normal

Please.... No!

Nancy

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: june.a.brotherston@gmail.com
Sent: Monday, May 17, 2021 6:58:47 AM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Please vote no on SB74. Thank you. Sincerely June Brotherston

Sent from my iPhone

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: june.a.brotherston@gmail.com
Sent: Monday, May 17, 2021 6:58:47 AM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Please vote no on SB74. Thank you. Sincerely June Brotherston

Sent from my iPhone

Archived: Wednesday, June 2, 2021 3:14:59 PM
From: [Lucille Fortin](#)
Sent: Monday, May 17, 2021 5:46:15 AM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Dear Committee Members,
Please vote NO or ITL on SB74.
The bill is too complex in our estimation, and the elderly in NH deserve to be supported in a dignified manner--not disposed of.
Thank you!
Lucille & Donald Fortin
Allentown, NH

Archived: Wednesday, June 2, 2021 3:14:59 PM
From: [Lucille Fortin](#)
Sent: Monday, May 17, 2021 5:46:15 AM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Dear Committee Members,
Please vote NO or ITL on SB74.
The bill is too complex in our estimation, and the elderly in NH deserve to be supported in a dignified manner--not disposed of.
Thank you!
Lucille & Donald Fortin
Allenstown, NH

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: [Colleen McCormick](#)
Sent: Sunday, May 16, 2021 10:52:43 PM
To: ~House Health Human Services and Elderly Affairs
Subject: RE: SB74
Importance: Normal

Dear Committee Members:

It is my sincere request that you cast a vote of “No” or “ITL” regarding this bill coming before you for consideration tomorrow.

The bill was purportedly drafted in response to a request by Gov. Sununu that his expiring executive mandate be perpetuated in legislative action. That mandate allowed patients in extremes from Covid-19 infection to partake in research protocols as a last ditch effort to save their lives, with permission of their DPOA/Health Care Proxy/surrogate. Indeed, it is even late in the game for that endeavor.

SB74, as it reads today, addresses a whole lot more than was bargained for. While advertised as a measure to save lives, at every turn, the bill mitigates in favor of patient demise. There is the one exception in the case of access to research protocols, and that mention is a minor detail within the text.

Furthermore, the design of the associated “Living Will” in the document is devised to be so cumbersome, the average lay person could hardly sort the language out. In order to receive life maintaining care one has to insert a double negative statement. The presumption in the language is that care will be withheld as the automatic response unless demanded. Most patients and their families assume care will be provided unless refused, as that has been the historical social contract for millennia.

The bill provides that the autonomous decisions laid out in an advance directive may be overridden by an appointed surrogate, and that said surrogate will be appointed by the same practitioner who is making the recommendations regarding outcome. This makes an easy escape for a practitioner who has provided less than optimal care. Dead patients tell no tales.

Really, a bill of this magnitude is just too much, especially at a time when the public cannot really engage in providing testimony and address their representatives face to face. I sincerely ask you to withhold consent.

Respectfully submitted.

Colleen McCormick, APRN, CRNA, MABioethics

Sent from [Mail](#) for Windows 10

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: [Colleen McCormick](#)
Sent: Sunday, May 16, 2021 10:52:43 PM
To: ~House Health Human Services and Elderly Affairs
Subject: RE: SB74
Importance: Normal

Dear Committee Members:

It is my sincere request that you cast a vote of “No” or “ITL” regarding this bill coming before you for consideration tomorrow.

The bill was purportedly drafted in response to a request by Gov. Sununu that his expiring executive mandate be perpetuated in legislative action. That mandate allowed patients in extremes from Covid-19 infection to partake in research protocols as a last ditch effort to save their lives, with permission of their DPOA/Health Care Proxy/surrogate. Indeed, it is even late in the game for that endeavor.

SB74, as it reads today, addresses a whole lot more than was bargained for. While advertised as a measure to save lives, at every turn, the bill mitigates in favor of patient demise. There is the one exception in the case of access to research protocols, and that mention is a minor detail within the text.

Furthermore, the design of the associated “Living Will” in the document is devised to be so cumbersome, the average lay person could hardly sort the language out. In order to receive life maintaining care one has to insert a double negative statement. The presumption in the language is that care will be withheld as the automatic response unless demanded. Most patients and their families assume care will be provided unless refused, as that has been the historical social contract for millennia.

The bill provides that the autonomous decisions laid out in an advance directive may be overridden by an appointed surrogate, and that said surrogate will be appointed by the same practitioner who is making the recommendations regarding outcome. This makes an easy escape for a practitioner who has provided less than optimal care. Dead patients tell no tales.

Really, a bill of this magnitude is just too much, especially at a time when the public cannot really engage in providing testimony and address their representatives face to face. I sincerely ask you to withhold consent.

Respectfully submitted.

Colleen McCormick, APRN, CRNA, MABioethics

Sent from [Mail](#) for Windows 10

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: [Shannon Corpron](#)
Sent: Sunday, May 16, 2021 10:37:06 PM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Thank you,
Shannon Corpron
13 Mill Rd, Durham 03824

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: [Shannon Corpron](#)
Sent: Sunday, May 16, 2021 10:37:06 PM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Thank you,
Shannon Corpron
13 Mill Rd, Durham 03824

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: [Amiee LeDoux](#)
Sent: Sunday, May 16, 2021 10:32:38 PM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Thank You In Advance,

Amiee Le Doux

Hollis, NH

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: [Amiee LeDoux](#)
Sent: Sunday, May 16, 2021 10:32:38 PM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Thank You In Advance,

Amiee Le Doux

Hollis, NH

Archived: Wednesday, June 2, 2021 3:15:01 PM
From: [Chris Ray](#)
Sent: Sunday, May 16, 2021 10:28:25 PM
To: ~House Health Human Services and Elderly Affairs
Subject: SB74
Importance: Normal

Please vote NO on SB74.
The Rays
GILFORD, NH
Sent from my iPhone

Archived: Wednesday, June 2, 2021 3:15:01 PM
From: [Chris Ray](#)
Sent: Sunday, May 16, 2021 10:28:25 PM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: SB74
Importance: Normal

Please vote NO on SB74.
The Rays
GILFORD, NH
Sent from my iPhone

Archived: Wednesday, June 2, 2021 3:15:01 PM
From: [Richard and Gloria Fixler](#)
Sent: Sunday, May 16, 2021 10:14:26 PM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: SB74
Importance: Normal

Dear Committee Members,

We are asking you to vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

There are many issues with this bill, including:

- complexity,
- dangerously loosens end-of-life decision-making rules,
- allows persons who may not know a patient's wishes to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Please vote ITL or NO on SB74. This bill is very dangerous to the current family control over end of life decisions.

Thank you,

Richard & Gloria Fixler

Archived: Wednesday, June 2, 2021 3:15:01 PM
From: [Richard and Gloria Fixler](#)
Sent: Sunday, May 16, 2021 10:14:26 PM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: SB74
Importance: Normal

Dear Committee Members,

We are asking you to vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

There are many issues with this bill, including:

- complexity,
- dangerously loosens end-of-life decision-making rules,
- allows persons who may not know a patient's wishes to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Please vote ITL or NO on SB74. This bill is very dangerous to the current family control over end of life decisions.

Thank you,

Richard & Gloria Fixler

Archived: Wednesday, June 2, 2021 3:14:56 PM

From: [Ed Parent](#)

Sent: Monday, May 17, 2021 7:31:38 PM

To: [~House Health Human Services and Elderly Affairs](#)

Subject: SB74

Importance: Normal

I VOICE MY OPPOSITION TO THIS BILL, REGARDING END OF LIFE DECISIONS.

Archived: Wednesday, June 2, 2021 3:14:56 PM

From: [Joan Espinola](#)

Sent: Monday, May 17, 2021 7:03:58 PM

To: ~House Health Human Services and Elderly Affairs

Subject: Vote ITL on SB74

Importance: Normal

Dear Members of HHSEA,
SB74 isn't solving problems, it's making more for the poor person who doesn't know about it and is in the process of dying.

It gives outsiders, who don't know the patient or have their wishes, life or death decisions to make.

It's too cumbersome for people to fully grasp who are not familiar with it.

Please vote against this bill SB74.

Thank you,

Mrs. Joan Espinola

1 Morrison Dr.

Londonderry, NH 03053

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: [Patrick Kiefer](#)
Sent: Sunday, May 16, 2021 11:02:01 PM
To: ~House Health Human Services and Elderly Affairs
Subject: Vote ITL.NO on SB74
Importance: Normal

Dear Committee Members,

I'm asking you to vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

There are a number of issues concerning this bill:

- It excessively loosens end-of-life decision-making rules,
- It inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- It broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients
- It lacks any clear opt-out provision.

Respectfully, I ask that you vote ITL or NO on SB74 !

Thank you,

Patrick Kiefer

Laconia, NH 03246

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: Patrick Kiefer
Sent: Sunday, May 16, 2021 11:02:01 PM
To: ~House Health Human Services and Elderly Affairs
Subject: Vote ITL.NO on SB74
Importance: Normal

Dear Committee Members,

I'm asking you to vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

There are a number of issues concerning this bill:

- It excessively loosens end-of-life decision-making rules,
- It inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- It broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients
- It lacks any clear opt-out provision.

Respectfully, I ask that you vote ITL or NO on SB74 !

Thank you,

Patrick Kiefer

Laconia, NH 03246

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: [Ted ciesielski](#)
Sent: Monday, May 17, 2021 10:20:34 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: Vote NO on SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Again, please vote ITL or NO on SB74 !

Thank,

Ted Ciesielski
Nashua, NH

Sent from [Mail](#) for Windows 10

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: [Ted ciesielski](#)
Sent: Monday, May 17, 2021 10:20:34 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: Vote NO on SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Again, please vote ITL or NO on SB74 !

Thank,

Ted Ciesielski
Nashua, NH

Sent from [Mail](#) for Windows 10

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: [Chris Conard](#)
Sent: Monday, May 17, 2021 9:23:13 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: VOTE NO ON SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Thank You In Advance,

Chris Conard - Salem NH

Archived: Wednesday, June 2, 2021 3:14:58 PM
From: [Chris Conard](#)
Sent: Monday, May 17, 2021 9:23:13 AM
To: ~House Health Human Services and Elderly Affairs
Subject: VOTE NO ON SB74
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !

Thank You In Advance,

Chris Conard - Salem NH

Archived: Wednesday, June 2, 2021 3:14:56 PM

From: [Anita Low](#)

Sent: Monday, May 17, 2021 1:56:43 PM

To: [~House Health Human Services and Elderly Affairs](#)

Subject: Vote NO on SB74

Importance: Normal

Dear committee members,

Please vote ITL (Inexpedient To Legislate) or NO, on SB74 "advance directives for health care decisions".

Sincerely,
David & Anita Low
Hampstead

Sent from my iPhone

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: [Sister Esther Marie](#)
Sent: Monday, May 17, 2021 9:42:15 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: Vote no or ITL
Importance: Normal

Dear Committee Members,

I beg you to vote ITL or NO on SB74
"Relative to advance directives for
health care decisions".

This bill:

- does not protect patient rights

- will corrupt the integrity of our
healthcare system

- healthcare should be focused on
strengthening patient-medical
relationships with the intent of helping
patients get better, which should and
may even require great lengths/costs

- SB74 confuses end-of-life decisions,
which places patients at risk of an
untimely, un-natural, and unwarranted
early death

- inappropriately authorizes new players,
who may not know a patient's wishes, to
make life-or-death decisions for them

- broadens the new rules' applicability,
from opt-in by those who signed
documents, to ALL patients, and

- lacks any clear opt-out provision.

Again, vote ITL or NO on SB74 !

Thank you for your consideration,

Sister Esther Marie Massad

Manchester, NH

--

In the Heart of Mary!

Sister Esther Marie, DMML

Archived: Wednesday, June 2, 2021 3:14:57 PM
From: [Sister Esther Marie](#)
Sent: Monday, May 17, 2021 9:42:15 AM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: Vote no or ITL
Importance: Normal

Dear Committee Members,

I beg you to vote ITL or NO on SB74
"Relative to advance directives for
health care decisions".

This bill:

- does not protect patient rights

- will corrupt the integrity of our
healthcare system

- healthcare should be focused on
strengthening patient-medical
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patients get better, which should and
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- SB74 confuses end-of-life decisions,
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untimely, un-natural, and unwarranted
early death

- inappropriately authorizes new players,
who may not know a patient's wishes, to
make life-or-death decisions for them

- broadens the new rules' applicability,
from opt-in by those who signed
documents, to ALL patients, and

- lacks any clear opt-out provision.

Again, vote ITL or NO on SB74 !

Thank you for your consideration,

Sister Esther Marie Massad

Manchester,NH

--

In the Heart of Mary!

Sister Esther Marie, DMML

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: [Diana Pham](#)
Sent: Sunday, May 16, 2021 10:35:05 PM
To: ~House Health Human Services and Elderly Affairs
Subject: Vote No to SB74!
Importance: Normal

Dear Committee Members,

I beg you to vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

This bill:

- does not protect patient rights

- will corrupt the integrity of our healthcare system

- healthcare should be focused on strengthening patient-medical relationships with the intent of helping patients get better, which should and may even require great lengths/costs

- SB74 confuses end-of-life decisions, which places patients at risk of an untimely, un-natural, and unwarranted early death

- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them

- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and

- lacks any clear opt-out provision.

Again, vote ITL or NO on SB74 !

Thank you for your consideration,

Diana Pham

Rochester, NH

Archived: Wednesday, June 2, 2021 3:15:00 PM
From: [Diana Pham](#)
Sent: Sunday, May 16, 2021 10:35:05 PM
To: ~House Health Human Services and Elderly Affairs
Subject: Vote No to SB74!
Importance: Normal

Dear Committee Members,

I beg you to vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

This bill:

- does not protect patient rights

- will corrupt the integrity of our healthcare system

- healthcare should be focused on strengthening patient-medical relationships with the intent of helping patients get better, which should and may even require great lengths/costs

- SB74 confuses end-of-life decisions, which places patients at risk of an untimely, un-natural, and unwarranted early death

- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them

- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and

- lacks any clear opt-out provision.

Again, vote ITL or NO on SB74 !

Thank you for your consideration,

Diana Pham

Rochester, NH

Archived: Wednesday, June 2, 2021 3:14:57 PM

From: [Albert Raymond](#)

Sent: Monday, May 17, 2021 10:04:17 AM

To: [~House Health Human Services and Elderly Affairs](#)

Importance: Normal

No on "SB74"

[Sent from the all new AOL app for Android](#)

Archived: Wednesday, June 2, 2021 3:14:57 PM

From: [Albert Raymond](#)

Sent: Monday, May 17, 2021 10:04:17 AM

To: [~House Health Human Services and Elderly Affairs](#)

Importance: Normal

No on "SB74"

[Sent from the all new AOL app for Android](#)

Archived: Wednesday, June 2, 2021 3:14:59 PM
From: [Stacey Polizotti](#)
Sent: Monday, May 17, 2021 6:22:55 AM
To: [~House Health Human Services and Elderly Affairs](#)
Importance: Normal

Please vote no on SB74.

Thank you.
Stacey

[Sent from Yahoo Mail on Android](#)

Archived: Wednesday, June 2, 2021 3:14:59 PM
From: [Stacey Polizotti](#)
Sent: Monday, May 17, 2021 6:22:55 AM
To: [~House Health Human Services and Elderly Affairs](#)
Importance: Normal

Please vote no on SB74.

Thank you.
Stacey

[Sent from Yahoo Mail on Android](#)

Archived: Wednesday, June 2, 2021 3:14:56 PM
From: [jim Quinn](#)
Sent: Monday, May 17, 2021 11:18:56 AM
To: [~House Health Human Services and Elderly Affairs](#)
Importance: Normal

Dear Committee Members,

Please vote ITL or NO on SB74 "Relative to advance directives for health care decisions".

Among the many issues with this bill, it:

- is far too complex,
- excessively loosens end-of-life decision-making rules,
- inappropriately authorizes new players, who may not know a patient's wishes, to make life-or-death decisions for them,
- broadens the new rules' applicability, from opt-in by those who signed documents, to ALL patients, and
- lacks any clear opt-out provision.

Again, I implore you, please vote ITL or NO on SB74 !Thank You In Advance,

Jim Quinn

Salem , NH

Archived: Wednesday, June 2, 2021 3:15:01 PM
From: Freda.muldoon@comcast.net
Sent: Sunday, May 16, 2021 10:27:13 PM
To: ~House Health Human Services and Elderly Affairs
Subject: Advance Directives for Healthcare - SB74
Importance: Normal

Dear Committe members, Please vote “no” (or Itl) on SB74. As one of the many people who moved to New Hampshire because I heard it was a nice place to live in retirement — I did not move here to have my end-of-life decisions deliberately made by strangers, nor by an accidental mis-designation on a complex health care proxy form. SB74 is far too complex and bureaucratic to give meaningful assistance in such difficult decisions and far too “loose” to protect the patient’s rights. Please be aware that what may be described as “merciful” by some - legislation hastening the death of elderly residents - will not be perceived as merciful to many considering a move here. The prospect of an early death will not draw many new house buyers nor taxpayers to the State.

Freda Muldoon
59 Ridgewood Drive,
Atkinson, NH

Letter from Bobby Schindler

**President
Terri Schiavo Life & Hope Network**

**Health, Human Services and Elderly Committee
May 17, 2021**

New Hampshire House of Representatives

In Opposition to S.B. 74

Dear Chairman Pearson and Committee Members:

I write in opposition of S.B. 74 and respectfully request that you deem this bill inexpedient to legislate, or at the very least, consider retaining this bill in committee in order to make changes to the language before it proceeds for a full committee hearing.

The Terri Schiavo Life & Hope Network serves as a voice for persons with disabilities, established in response to the death of my sister, Terri Schiavo, a cognitively disabled woman who was intentionally dehydrated to death by court order against the wishes of her family. The Life & Hope Network has advocated for thousands of patients who are facing the prospect of the denial or the withdrawal of care.

There are a host of issues with this piece of legislation, but namely, it boils down to whether the legislation respects the rights of individual persons to make decisions related to their own health care as stated in the legislative purpose and for those rights to be honored should such a person becomes incapacitated.

It does not. Nor does it “simplify and clarify the process by which a person may execute a health care advance directive” but rather contains conflicting language and provisions which ultimately could end up harming the person who initially ceded their rights in such a document.

I am primarily concerned about provisions regarding food and hydration. As I mentioned previously, my sister’s feeding tube and hydration were stopped by court order. She died an agonizing death after almost two weeks; death was not imminent. She was disabled but not “actively dying” as the legislation defines, and she merely needed the feeding tube to provide nutrition and hydration, as she could not swallow on her own due to her brain injury.

In my nonprofit work as a patient advocate for over fifteen years, we receive regular calls from families in crisis who are confronted with exactly these types of scenarios. Sadly, it has become alarmingly evident that our health care system is now incentivized to impose

death upon vulnerable patients, and the powers of law and medicine have become weapons rather than shields.

Of concern to this point, is that this proposed law appears to make it easier for a patient to be declared incapacitated—therefore having care placed into the hands of an agent or surrogate, if there had been no directive—but then more difficult to regain capacity, should the person improve. Recent studies point to brain-injured patients regaining their independence.

For example, *JAMA Neurology* published their latest findings that patients who experience a moderate or severe traumatic brain injury (TBI) and lose consciousness —nearly half regain functional independence. Robert G. Kowalski, MD, MS, Department of Neurology, University of Colorado School of Medicine, remarked about the significance of this study and urged “caution” when deciding to “withdraw or hold care” to those with serious brain injuries.

Similarly, a new national study published by the University of Kentucky on hyperbaric oxygen therapy (HBO) shows that this treatment exhibits significant promise for the brain injured. This is important for many reasons, but primarily because there are no current FDA-approved treatments for TBI. If HBO can be FDA approved, it could afford a much-needed therapy for brain injury than is currently unavailable.

It is the promise of brain injury research that underscores the concerns opponents have about these types of laws that undermine the dignity and the rights of medically vulnerable patients to receive care, especially in situations in which they may recover.

Although there are aspects of the bill that have merit, I am concerned about some aspects of the bill, as I briefly outlined above. I hope that if this bill is not deemed inexpedient to legislate then the bill can be retained in committee to allow more time for it to be improved. Thank you for the opportunity to provide a letter in opposition to this legislation.

Sincerely,



Bobby Schindler

GRANITE STATE HOME HEALTH & HOSPICE ASSOCIATION

**Testimony in Support of SB 74,
relative to advance directives for health care decisions
May 4, 2021**

Good afternoon, Mr. Chairman and members of the Committee. I'm Gina Balkus, CEO of the Granite State Home Health & Hospice Association. We advocate on issues that affect home care, hospice and palliative care providers and the patients they serve. Our Association members care for individuals from birth through end of life, primarily in patients' homes. We are part of the Healthcare Decisions Coalition that carefully considered the NH's existing advance directive statute and worked with stakeholders to draft improvements. The Association strongly supports Senate Bill 74.

Medicine has changed much during the past 30+ years since NH enacted advance directive laws. What has not changed is the respect for individual's right to choose medical treatment they want and decline medical treatment they do not want. Assuring that an individual's wishes are honored at end of life – when the person may be unable to articulate their wishes – is the core of the legislation that the late Senator Susan McLane championed in the late 80s and early 90s, and it remains the core of SB 74 that was passed by the Senate.

NH's current law is clunky and often difficult to understand. SB 74 improves NH's advance directives law by clarifying definitions and simplifying much of the "legalese" in the existing form. It will also make it easier for health care providers to honor patient wishes without having to seek legal counsel or judicial orders. And it will allow for smoother handoffs between providers, allowing medical orders to follow the patient across the continuum of care.

One major improvement is on page 15 of the bill. The Disclosure Statement which must accompany the Advance Directive document has been revised from lengthy legal jargon to concise, simple language. It covers all the same points in the current law that an individual should know prior to signing an advance directive.

Another improvement relates to surrogacy. In the existing law, there is confusion as to whether the surrogate has the same authority as an appointed agent. Some legal counsels have advised that a surrogate – such as a wife, husband, or adult child – may not be able to consent to withholding or withdrawal of life-sustaining treatment because NH's existing law only allows an agent to do that with express written permission in an advance directive. The "catch-22" is this. A person becomes a surrogate because there is no written advance directive. SB 74 eliminates the requirement that an individual expressly permit in writing the withholding or withdrawal life-sustaining treatment. This has been a cause of great confusion for agents, providers and especially for family members who are surrogate decision-makers. It has also been problematic when providers encounter an out-of-state advance directive that do not have this requirement.



SB 74 recognizes DNR orders, POLSTs and their counterparts from other states. This means that practitioner orders for life-sustaining treatment can accompany a patient in whatever setting they may be – a hospital, a nursing home, or at home with a home care or hospice provider. This is so important to honoring an individual's wishes across the continuum of care.

Lastly, we strongly support the provision on page 26, lines 24-29, that extends the authority for a surrogate decision-maker from 90 to 180 days. This is important for hospice patients. It makes it less likely that families will need to go through the guardianship process in their loved one's final days.

On behalf of NH's home care, hospice and palliative care providers and the patients they serve, I ask that you recommend SB 74 as ought to pass.

NEW HAMPSHIRE ADVANCE DIRECTIVE AS WRITTEN IN CURRENT LAW

NOTE: This form has two sections.
You may complete both sections, or only one section.

I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE

I, _____, hereby appoint _____ of _____. *(Please choose only one person. If you choose more than one agent, they will have authority in priority of the order their names are listed, unless you indicate another form of decision making.)* as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this directive or as prohibited by law. This durable power of attorney for health care shall take effect in the event I lack the capacity to make my own health care decisions.

In the event the person I appoint above is unable, unwilling or unavailable, or ineligible to act as my health care agent, I hereby appoint _____ of _____ as alternate agent. *(Please choose only one person. If you choose more than one alternate agent, they will have authority in priority of the order their names are listed.)*

STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS REGARDING HEALTH CARE DECISIONS.

For your convenience in expressing your wishes, some general statements concerning the withholding or removal of life-sustaining treatment are set forth below. (Life-sustaining treatment is defined as procedures without which a person would die, such as but not limited to the following: mechanical respiration, kidney dialysis or the use of other external mechanical and technological devices, drugs to maintain blood pressure, blood transfusions, and antibiotics.) There is also a section which allows you to set forth specific directions for these or other matters. If you wish, you may indicate your agreement or disagreement with any of the following statements and give your agent power to act in those specific circumstances.

A. LIFE-SUSTAINING TREATMENT.

1. If I am near death and lack the capacity to make health care decisions, I authorize my agent to direct that: *(Initial beside your choice of (a) or (b).)*

___ (a) life-sustaining treatment not be started, or if started, be discontinued.

-or-

___ (b) life-sustaining treatment continue to be given to me.

2. Whether near death or not, if I become permanently unconscious and life-sustaining treatment has no reasonable hope of benefit, I authorize my agent to direct that: *(Initial beside your choice of (a) or (b).)*

___ (a) life-sustaining treatment not be started, or if started, be discontinued.

-or-

___ (b) life-sustaining treatment continue to be given to me.

**NEW HAMPSHIRE ADVANCE DIRECTIVE
AS WRITTEN IN CURRENT LAW**

B. ADDITIONAL INSTRUCTIONS.

Here you may include any specific desires or limitations you deem appropriate, such as your preferences concerning medically administered nutrition and hydration, when or what life-sustaining treatment you would want used or withheld, or instructions about refusing any specific types of treatment that are inconsistent with your religious beliefs or are unacceptable to you for any other reason. You may leave this question blank if you desire.

I hereby acknowledge that I have been provided with a disclosure statement explaining the effect of this directive. I have read and understand the information contained in the disclosure statement.

The original of this directive will be kept at _____ and the following persons and institutions will have signed copies:

Signed this ___ day of _____, 20__

Principal's Signature: _____

[If you are physically unable to sign, this directive may be signed by someone else writing your name, in your presence and at your express direction.]

THIS POWER OF ATTORNEY DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.

We declare that the principal appears to be of sound mind and free from duress at the time the durable power of attorney for health care is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness: _____ Address: _____

Witness: _____ Address: _____

STATE OF NEW HAMPSHIRE COUNTY OF _____

The foregoing durable power of attorney for health care was acknowledged before me this ___ day of _____, 20__, by _____ ("the Principal").

Notary Public/Justice of the Peace

My commission expires:

**NEW HAMPSHIRE ADVANCE DIRECTIVE
AS WRITTEN IN CURRENT LAW**

II. LIVING WILL

Declaration made this ___ day of _____, 20__.

I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness and I am certified to be near death or in a permanently unconscious condition by 2 physicians or a physician and an APRN or PA, and 2 physicians or a physician and an APRN or PA have determined that my death is imminent whether or not life-sustaining treatment is utilized and where the application of life-sustaining treatment would serve only to artificially prolong the dying process, or that I will remain in a permanently unconscious condition, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, the natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide me with comfort care. I realize that situations could arise in which the only way to allow me to die would be to discontinue medically administered nutrition and hydration.

(Initial below if it is your choice)

In carrying out any instruction I have given under this section, I authorize that even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me. _____

In the absence of my ability to give directions regarding the use of such life-sustaining treatment, it is my intention that this declaration shall be honored by my family and health care providers as the final expression of my right to refuse medical or surgical treatment and accept the consequences of such refusal.

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Signed this ___ day of _____, 20__

Principal's Signature: _____

[If you are physically unable to sign, this directive may be signed by someone else writing your name, in your presence and at your express direction.]

LIVING WILL DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.

We declare that the principal appears to be of sound mind and free from duress at the time the durable power of attorney for health care is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness: _____ Address: _____

Witness: _____ Address: _____

STATE OF NEW HAMPSHIRE COUNTY OF _____

The foregoing durable power of attorney for health care was acknowledged before me this ___ day of _____, 20__, by _____ ("the Principal").

Notary Public/Justice of the Peace

My commission expires:

**NEW HAMPSHIRE ADVANCE DIRECTIVE FORM
AS CREATED BY SB74**

Name (Principal's Name): _____

DOB: _____

Address: _____

I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE

The durable power of attorney for healthcare form names your agent(s) and, if you wish, sets limits on what your agent can decide.

I choose the following person(s) as agent(s) if I have lost capacity to make health care decisions (cannot make health care decisions for myself).

(If you choose more than one person, they will become your agent in the order written, unless you indicate otherwise.)

A. Choosing Your Agent:

Agent: I appoint _____, of _____, and whose phone number is _____ to be my agent to make health care decisions for me.

Alternate Agent: If the person above is not able, willing, or available, I appoint _____, of _____, and whose phone number is _____ to be my alternate agent.

If no one listed above can make decisions for you, a surrogate will be assigned in the order written in law (spouse, adult child, parent, sibling, etc.), and will have the same powers as an agent. If there is no surrogate, a court appointed guardian may be assigned.

B. Limiting Your Agent's Authority or Providing Additional Instructions

When you can no longer make your own health care decisions, your agent will be able to make decisions for you. Please review the Disclosure Statement that is attached to this advance directive for examples of how you may want to advise your agent. You may write in limits or additional instructions for your agent below.

II. LIVING WILL

If you would like to provide written guidance to your agent, surrogate, and/or medical practitioners in making decisions about life sustaining medical treatment if you cannot make your own decisions, you may complete the options below.

CHOOSE ITEM A OR B. Initial your choice:

If I suffer from an advanced life-limiting, incurable and progressive condition:

_____ A. I wish to have all attempts at life-sustaining treatment (within the limits of generally accepted health care standards) to try to extend my life as long as possible, no matter what burdens, costs or complications may occur.

OR

_____ B. I do NOT wish to have any life-sustaining treatment attempted that I would consider to be excessively burdensome or that would not have a reasonable hope of benefit for me. I wish to receive only those forms of life-sustaining treatment that I would not consider to be excessively burdensome AND that have a reasonable hope of benefit for me. The following are situations that I would consider excessively burdensome: (Cross out and initial any of the below statements # 1-4 if you disagree.)

**NEW HAMPSHIRE ADVANCE DIRECTIVE FORM
AS CREATED BY SB74**

1. I do not wish to have life-sustaining treatment attempted if I am actively dying (medical treatment will only prolong my dying).
2. I do not wish to have life-sustaining treatment attempted if I become permanently unconscious with no reasonable hope of recovery.
3. I do not wish to have life-sustaining treatment attempted if I suffer from an advanced life-limiting, incurable and progressive condition and if the likely risks and burdens of treatment would outweigh the expected benefits.
4. Other situations that I would consider excessively burdensome if I suffer from an advanced life-limiting, incurable and progressive condition:

In these situations, I wish for comfort care only. I understand that stopping or starting treatments to achieve my comfort, including stopping medically-administered nutrition and hydration, may be a way to allow me to die when the treatments would be excessively burdensome for me.

III. SIGNATURE

I have received the disclosure statement, and I have completed the durable power of attorney for health care and/or living will consistent with my wishes.

Signed this ___ day of _____, 20__

Principal's Signature: _____

(If you are physically unable to sign, this advance directive may be signed by someone else writing your name in your physical presence at your direction.)

THIS ADVANCE DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE. IF VIRTUAL PRESENCE IS USED, THE PAGES SIGNED BY THE WITNESSES MUST BE ATTACHED TO THE ADVANCE DIRECTIVE SIGNED BY YOU OR THE ADVANCE DIRECTIVE WILL NOT BE VALID.

We declare that the principal appears to be of sound mind and free from duress at the time the durable power of attorney for health care is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness: _____ Address: _____

Witness: _____ Address: _____

STATE OF NEW HAMPSHIRE COUNTY OF _____

The foregoing durable power of attorney for health care was acknowledged before me this ___ day of _____, 20__, by _____ ("the Principal").

Notary Public/Justice of the Peace
My commission expires:

**Required Disclosure for Durable Power of Attorney, NH RSA 137-J:19
AS PROPOSED BY SB74**

AN ADVANCE DIRECTIVE IS A LEGAL DOCUMENT. YOU SHOULD KNOW THESE FACTS BEFORE SIGNING IT.

- This form allows you to choose who you want to make decisions about your health care when you cannot make decisions for yourself. This person is called your “agent”. You should consider choosing an alternate in case your agent is unable to act.
- Agents must be 18 years old or older. They should be someone you know and trust. They cannot be anyone who is caring for you in a health care or residential care setting.
- This form is an “advance directive” that defines a way to make medical decisions in the future, when you are not able to make decisions for yourself. It is not a medical order (e.g., it is not in and of itself a DNR (do not resuscitate order or (POLST))).
- You will always make your own decisions until your medical practitioner examines you and certifies that you can no longer understand or make a decision for yourself. At that point, your “agent” becomes the person who can make decisions for you. If you get better, you will make your own healthcare decisions again.
- With few exceptions(*), when you are unable to make your own medical decisions, your agent will make them for you, unless you limit your agent's authority in Part I.B of the durable power of attorney form. Your agent can agree to start or stop medical treatment, including near the end of your life. Some people do not want to allow their agent to make some decisions. Examples of what you might write in include: “I do NOT want my agent . . .
 - to ask for or agree to stop life-sustaining treatment (such as breathing machines, medically-administered nutrition and hydration (tube feeding), kidney dialysis, other mechanical devices, blood transfusions, and certain drugs).”
 - to ask for or to agree to a Do Not Resuscitate Order (DNR order).”
 - to agree to treatment even if I object to it in the moment, after I have lost the ability to make health care decisions for myself.”

The law allows your agent to put you in a clinical trial (medical study) or to agree to new or experimental treatment that is meant to benefit you if you have a disease or condition that is immediately life-threatening or if untreated, may cause a serious disability or impairment (for example new treatment for a pandemic infection that is not yet proven). You may change this by writing in the durable power of attorney for health care form:

“I want my agent to be able to agree to medical studies or experimental treatment in any situation.” or
“I don’t want to participate in medical studies or experimental treatment even if the treatment may help me or I will likely die without it.”

- Your agent must try to make the best decisions for you, based on what you have said or written in the past. Tell your agent that you have appointed them as your healthcare decision maker. Talk to your agent about your wishes.
- In the "living will" section of the form, you can write down wishes, values, or goals as guidance for your agent, surrogate, and/or medical practitioners in making decisions about your medical treatment.
- You do not need a lawyer to complete this form, but feel free to talk to a lawyer if you have questions about it.
- You must sign this form in the physical or virtual presence of 2 witnesses or a notary or justice of the peace for it to be valid. The witnesses cannot be your agent, spouse, heir, or anyone named in your will, trust or who may otherwise receive your property at your death, or your attending medical practitioner or anyone who works directly under them. Only one witness can be employed by your health or residential care provider.
- Give copies of the completed form to your agent, your medical providers, and your lawyer.

* Exceptions: Your agent may not stop you from eating or drinking as you want. They also cannot agree to voluntary admission to a state institution; voluntary sterilization; withholding life-sustaining treatment if you are pregnant, unless it will severely harm you; or psychosurgery.

Required Disclosure for Durable Power of Attorney, NH RSA 137-J:19

INFORMATION CONCERNING THE DURABLE POWER OF ATTORNEY FOR HEALTH CARE

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING IT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

Except if you say otherwise in the directive, this directive gives the person you name as your health care agent the power to make any and all health care decisions for you when you lack the capacity to make health care decisions for yourself (in other words, you no longer have the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care). "Health care" means any treatment, service or procedure to maintain, diagnose or treat your physical or mental condition. Your health care agent, therefore, will have the power to make a wide range of health care decisions for you.

Your health care agent may consent (in other words, give permission), refuse to consent, or withdraw consent to medical treatment, and may make decisions about withdrawing or withholding life-sustaining treatment. Your health care agent cannot consent to or direct any of the following: commitment to a state institution, sterilization, or termination of treatment if you are pregnant and if the withdrawal of that treatment is deemed likely to terminate the pregnancy, unless the treatment will be physically harmful to you or prolong severe pain which cannot be alleviated by medication.

You may state in this directive any treatment you do not want, or any treatment you want to be sure you receive. Your health care agent's power will begin when your doctor certifies that you lack the capacity to make health care decisions (in other words, that you are not able to make health care decisions). If for moral or religious reasons you do not want to be treated by a doctor or to be examined by a doctor to certify that you lack capacity, you must say so in the directive and you must name someone who can certify your lack of capacity. That person cannot be your health care agent or alternate health care agent or any person who is not eligible to be your health care agent. You may attach additional pages to the document if you need more space to complete your statement.

Under no conditions will your health care agent be able to direct the withholding of food and drink that you are able to eat and drink normally.

Your agent shall be directed by your written instructions in this document when making decisions on your behalf, and as further guided by your medical condition or prognosis. Unless you state otherwise in the directive, your agent will have the same power to make decisions about your health care as you would have made, if those decisions by your health care agent are made consistent with state law.

It is important that you discuss this directive with your doctor or other health care providers before you sign it, to make sure that you understand the nature and range of decisions which could be made for you by your health care agent. If you do not have a health care provider, you should talk with someone else who is knowledgeable about these issues and can answer your questions. Check with your community hospital or hospice for trained staff. You do not need a lawyer's assistance to complete this directive, but if there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

The person you choose as your health care agent should be someone you know and trust, and he or she must be at least 18 years old. If you choose your health or residential care provider (such as your doctor, advanced practice registered nurse, or an employee of a hospital, nursing home, home health agency, or residential care home, other than a relative), that person will have to choose between acting as your health care agent or as your health or residential care provider, because the law does not allow a person to do

Required Disclosure for Durable Power of Attorney, NH RSA 137-J:19

both at the same time.

You should consider choosing an alternate health care agent, in case your health care agent is unwilling, unable, unavailable or not eligible to act as your health care agent. Any alternate health care agent you choose will then have the same authority to make health care decisions for you.

You should tell the person you choose that you want him or her to be your health care agent. You should talk about this directive with your health care agent and your doctor or advanced practice registered nurse and give each one a signed copy. You should write on the directive itself the people and institutions who will have signed copies. Your health care agent will not be liable for health care decisions made in good faith on your behalf.

EVEN AFTER YOU HAVE SIGNED THIS DIRECTIVE, YOU HAVE THE RIGHT TO MAKE HEALTH CARE DECISIONS FOR YOURSELF AS LONG AS YOU ARE ABLE TO DO SO, AND TREATMENT CANNOT BE GIVEN TO YOU OR STOPPED OVER YOUR CLEAR OBJECTION. You have the right to revoke the power given to your health care agent by telling him or her, or by telling your health care provider, orally or in writing, that you no longer want that person to be your health care agent.

YOU HAVE THE RIGHT TO EXCLUDE OR STRIKE REFERENCES TO APRNS IN YOUR ADVANCE DIRECTIVE AND IF YOU DO SO, YOUR ADVANCE DIRECTIVE SHALL STILL BE VALID AND ENFORCEABLE.

Once this directive is executed it cannot be changed or modified. If you want to make changes, you must make an entirely new directive.

THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR JUSTICE OF THE PEACE OR TWO (2) OR MORE QUALIFIED WITNESSES, WHO MUST BOTH BE PRESENT WHEN YOU SIGN AND WHO WILL ACKNOWLEDGE YOUR SIGNATURE ON THE DOCUMENT. THE FOLLOWING PERSONS MAY NOT ACT AS WITNESSES:

___ The person you have designated as your health care agent;

___ Your spouse or heir at law;

___ Your attending physician, PA, or APRN, or person acting under the direction or control of the attending physician, PA, or APRN;

ONLY ONE OF THE TWO WITNESSES MAY BE YOUR HEALTH OR RESIDENTIAL CARE PROVIDER OR ONE OF YOUR PROVIDER'S EMPLOYEES.



State of New Hampshire

SENATOR TOM SHERMAN
DISTRICT 24

May 3, 2021

To the honorable members of the House Committee on Health Human Services and Elderly Affairs:

For the record, my name is Senator Tom Sherman, representing Senate District 24 which includes 11 towns on the NH Seacoast. I apologize for not being able to be there in person, but I am scheduled to be working at the hospital in endoscopy today. I have asked my Legislative Aide, Jenny Horgan, to read this introduction of my bill, SB 74 Relative to Advance Directives for Health Care Decisions.

This bill was brought to me by a coalition of people who work in healthcare, the legal profession and patient advocacy. The goal of the bill is to update New Hampshire statute relative to advance directives, surrogacy, living wills, POLST, and other processes that ensure that New Hampshire residents' healthcare directives are documented in the event that they are no longer able to make their own healthcare decisions. There are several people here today with a great deal of expertise on these issues who will be testifying before your Committee today. They should be able to answer any questions you may have.

While the bill does make several adjustments in terminology and some processes, the only significant policy change is in access to potentially lifesaving research studies. This represents one of the lessons learned through the COVID pandemic. Representatives of Dartmouth Hitchcock are prepared to answer any questions you may have on this component of the bill.

I would like to take this opportunity to express my profound gratitude to the many stakeholders who spent more than twenty hours meeting and wordsmithing this bill to address every concern raised. This included representatives of the hospitals, hospices, palliative care providers, elder law attorneys, the Catholic Diocese and many other provider and advocacy groups. Having worked with patients for more than 35 years as a doctor, and having helped so many of them and their families work through these difficult and often painful decisions, I know first-hand how important this process is to ensuring that we respect patients' wishes. I believe this bill is essential to making that process as clear as possible for patients, their families and their providers.

Finally, I would like to thank the Committee for hearing and considering the bill. I am available if you have any questions that remain unanswered after today's testimony.

Respectfully submitted,

A handwritten signature in black ink that reads "Senator Tom Sherman".

Senator Tom Sherman
District 24

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603-271-3096
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HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

May 3, 2021

SB 74 – Relative to Advance Directives for Health Care Decisions

Testimony

Good morning, Mr. Chairman, and members of the committee. My name is Paula Minnehan, Senior VP, State Government Relations with the New Hampshire Hospital Association (NHHA), representing all 26 of the state's community hospitals as well as all specialty hospitals.

The NHHA is in strong support of SB 74. We want to thank Senator Sherman for agreeing to sponsor this important piece of legislation. We also want to thank the co-sponsors, including Representatives Marsh and Woods. I will provide you with a bit of background on the work of the NH Health Care Decisions Coalition and why they believe RSA 137-J needed to be amended. The bill before you today is the result of many months of thoughtful work by the members of the coalition, some of whom are with us today and will be testifying on this bill. They are experts in their various professions of palliative care medicine, health care law and caring for patients. I also have with me today my colleague, Peter Ames, Executive Director, Foundation for Healthy Communities (FHC, an affiliate of NHHA), whose staff is responsible for overseeing the NH Health Care Decisions Coalition. I will have Peter speak in a minute to explain the focus of the Coalition and its work.

Before that, though, I would like the Committee to understand that the Coalition worked over the summer to draft some modifications to the statute to achieve several goals:

- Make the language of the various forms (Living Will, Durable Power of Attorney for Health Care (DPOHC)) clearer and use consumer-friendly language.
- Remove the time constraint on surrogacy and add surrogate in addition to agent throughout the statute.
- Substitute "practitioner" in place of listing the types of health care providers currently in statute.
- Include POLST or other sets of physician orders as allowable forms of portable DNR orders.
- Clarify that a Living Will is a guidance document that clarifies individuals wishes. The DPOHC is the overriding, legal document.
- Establish 18 years old as the minimum age for surrogacy and being an agent.
- Updates terminology to reflect what is currently used in medical settings.

In addition, Senator Sherman asked that the statute use gender neutral terminology, so those changes were incorporated into this draft.

After the bill was heard in the Senate HHS Committee, Senator Sherman brought together many interested stakeholders, some that will be testifying today, to work on the original bill. We had several extensive discussions, and all stakeholder group input was encouraged and considered. The final product of the work of the stakeholder group, which spanned almost two months of work, is the bill before you today. The amended bill passed out of the Senate HHS Committee 5-0 and then subsequently passed on a unanimous vote of 24-0 in the Senate on April 1, 2021.

I do want to make clear, though, that we did not attempt to change long standing policy relative to this statute and, as Senator Sherman indicated when he agreed to sponsor the bill, he does not want to weaken the statute. We just want to make it easier for patients and their loved ones to understand the forms and to complete them to properly express their wishes and for the providers that care for these patients to follow their wishes.

NHHA is in strong support of SB 74 and we ask that you support the bill. Thank you for the opportunity to provide our comments.

Now, if you would oblige, I would like to ask my colleague, Peter Ames, to speak with the committee.

Archived: Thursday, June 3, 2021 8:45:47 AM
From: [carol miller](#)
Sent: Sunday, May 16, 2021 5:19:19 PM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: legislation
Importance: Normal

PLEASE VOTE "NO" on this.

thank you
carol miller - Lebanon

Archived: Thursday, June 3, 2021 8:45:47 AM
From: [Jacqueline Mary Kazanowski, S](#)
Sent: Monday, May 17, 2021 7:29:07 AM
To: ~House Health Human Services and Elderly Affairs
Subject: PLEASE FOR NO
Importance: Normal

Dear NH representatives,
Please vote NO today on the bill which would make it easier to "pull the plug" without the full consent of a patient/medical decision maker. Thank you for considering my request.

Jacqueline Kazanowski

Sent from my iPad

Archived: Thursday, June 3, 2021 8:45:47 AM
From: [Harriet E. Cady](#)
Sent: Sunday, May 16, 2021 5:34:26 PM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: Please vote ITL on SB 74
Importance: Normal

Unless my understanding of a right to life is wrong then no one should be able to decide who dies except God.

Certainly no medical personnel would have personal knowledge of the patient and without that only a designated person should have any say in a patient's life. I took care of my husband for 5 years after his strokes and knew him best and even I knew he wanted to live.

Harriet E. Cady
Deerfield, N.H. 03037

Archived: Thursday, June 3, 2021 8:45:47 AM
From: [John Kelley](#)
Sent: Monday, May 17, 2021 8:58:42 AM
To: ~House Health Human Services and Elderly Affairs
Subject: SB 74
Importance: Normal

Dear Committee Members,

Please vote NO on SB 74, Relative to Advance Directives for Health Care Decisions.

It is too complicated and reduces end of life rules and procedures. Please vote NO and rewrite the bill.

Sincerely,
John Kelley
Hampstead, NH

Archived: Thursday, June 3, 2021 8:45:47 AM
From: Marilyn
Sent: Monday, May 17, 2021 6:34:15 PM
To: ~House Health Human Services and Elderly Affairs
Subject: SB 74
Importance: Normal

Please vote ITL on SB 74
It needs to be studied more and refined

Marilyn Suszek

Sent from [Mail](#) for Windows 10

Archived: Thursday, June 3, 2021 8:45:47 AM
From: [Daniel Connell](#)
Sent: Sunday, May 16, 2021 4:51:43 PM
To: [~House Health Human Services and Elderly Affairs](#)
Subject: SB 74
Importance: Normal

People, this is a bad bill. Vote NO on it. Aren't our medical institutions killing enough folks already?

Bill as
Introduced

SB 74 - AS AMENDED BY THE SENATE

04/01/2021 1022s

2021 SESSION

21-0857

08/06

SENATE BILL **74**

AN ACT relative to advance directives for health care decisions.

SPONSORS: Sen. Sherman, Dist 24; Sen. Bradley, Dist 3; Sen. Rosenwald, Dist 13; Sen. Whitley, Dist 15; Sen. Prentiss, Dist 5; Sen. Watters, Dist 4; Rep. Marsh, Carr. 8; Rep. Woods, Merr. 23

COMMITTEE: Health and Human Services

ANALYSIS

This bill:

- I. Defines "attending practitioner" and "POLST."
- II. Redefines "near death" as "actively dying."
- III. Further defines the role of a surrogate.
- IV. Repeals the applicability of certain advanced directives.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to advance directives for health care decisions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Advance Health Care Directives. Amend RSA 137-J:1-3 to read as follows:

2 137-J:1 Purpose and Policy.

3 I. The state of New Hampshire recognizes that ~~[a person has]~~ **individual persons have**
 4 **the** ~~[a]~~ right, founded in the autonomy and sanctity of ~~[the]~~ **a** person, to control the decisions
 5 relating to the rendering of ~~[his or her]~~ **their** own medical care. In order that the rights of persons
 6 may be respected even after such persons lack the capacity to make health care decisions for
 7 themselves, and to encourage communication between patients and their attending ~~[physicians, PAs,~~
 8 ~~or APRNs]~~ **practitioners**, the general court declares that the laws of this state shall recognize the
 9 right of a competent person to make a written directive:

10 (a) Delegating to an agent **in the durable power of attorney for health care** the
 11 authority to make health care decisions on the person's behalf, in the event such person is unable to
 12 make those decisions ~~[for himself or herself]~~ **independently**, either due to permanent or temporary
 13 lack of capacity to make health care decisions;

14 (b) **Stating the person's wishes in the living will about end of life care and**
 15 **providing guidance to the person's agent, surrogate, and/or** ~~[Instructing his or her]~~ attending
 16 **practitioner** physician, PA, or APRN to provide, withhold, or withdraw life-sustaining treatment, in
 17 the event such person is near death or is permanently unconscious] .

18 II. All persons have a right to make health care decisions **and to refuse health care**
 19 **treatments**, including the right to refuse cardiopulmonary resuscitation. It is the purpose of the
 20 "Do Not Resuscitate" provisions of this chapter to ensure that the right of a person to self-
 21 determination relating to cardiopulmonary resuscitation is protected, and to give direction to
 22 emergency services personnel and other health care providers in regard to the performance of
 23 cardiopulmonary resuscitation.

24 III. While all persons have a right to make a written directive, not all take advantage of that
 25 right, and it is the purpose of the surrogacy provisions of this chapter to ensure that health care
 26 decisions can be made in a timely manner by a person's next of kin or loved one without involving
 27 court action. This chapter specifies a process to establish a surrogate decision-maker when there is
 28 no ~~[valid advance directive]~~ **agent appointed under a durable power of attorney for health**
 29 **care** or a guardian, as defined in RSA 464-A, to make health care decisions.

30 **IV. This chapter seeks to simplify and clarify the process by which a person may**
 31 **execute a health care advance directive by combining in one form the durable power of**

1 *attorney for health care document and the living will, either of which (or both) may be*
 2 *executed by the person. The law recognizes that it is preferable for a person to choose an*
 3 *agent under a durable power of attorney for health care document who can make decisions*
 4 *in real time and under then existing circumstances regarding health care decisions that*
 5 *best reflect the person's values, as articulated orally or in writing by the person. The law*
 6 *also recognizes that a person may wish to execute a living will that sets forth their wishes*
 7 *about end of life care that would be used by an agent or surrogate as guidance in*
 8 *implementing the person's wishes.*

9 137-J:2 Definitions. In this chapter:

10 I. *“Actively dying” means an incurable condition caused by injury, disease, or*
 11 *illness which is such that death is imminent and the application of life-sustaining*
 12 *treatment would, to a reasonable degree of medical certainty only postpone the moment of*
 13 *death to another imminent moment, as certified in the principal's medical record by 2*
 14 *physicians, or a physician and another attending practitioner who is not under the*
 15 *supervision of the certifying physician.*

16 ~~[I.]~~ II. "Advance directive" means a ~~[directive]~~ **document** allowing a person to give
 17 directions **and guidance** about future medical care ~~[or]~~ **and** to designate another person to make
 18 medical decisions if ~~[he or she]~~ **the principal** should lose the capacity to make health care decisions.
 19 The term "advance ~~[directives]~~ **directive**" shall include ~~[living wills and]~~ **a durable ~~[powers]~~ power**
 20 of attorney for health care **and a living will.**

21 ~~[H.]~~ III. "Advanced practice registered nurse" or "APRN" means a registered nurse who is
 22 licensed in good standing in the state of New Hampshire as having specialized clinical qualifications.

23 ~~[HH.]~~ IV. "Agent" means an adult to whom authority to make health care decisions is
 24 delegated under~~[an advance directive]~~ **a durable power of attorney for health care.**

25 ~~[IV.]~~ V. "Attending ~~[physician, PA, or APRN]~~ **practitioner**" means the physician, physician
 26 assistant, or advanced practice registered nurse, selected by or assigned to a patient, who has
 27 primary responsibility for the treatment and care of the patient. If more than one physician,
 28 physician assistant, or advanced practice registered nurse shares that responsibility, any one of
 29 those physicians, physician assistants, or advanced practice registered nurses may act as the
 30 attending ~~[physician, PA, or APRN]~~ **practitioner** under the provisions of this chapter.

31 ~~[V.]~~ VI. "Capacity to make health care decisions" means the ability to understand and
 32 appreciate generally the nature and consequences of a health care decision, including the significant
 33 benefits and harms of and reasonable alternatives to any proposed health care. The fact that a
 34 person has been diagnosed with mental illness, brain injury, or intellectual disability shall not mean
 35 that the person necessarily lacks the capacity to make health care decisions.

36 ~~[VI.]~~ VII. "Cardiopulmonary resuscitation" means those measures used to restore or support
 37 cardiac or respiratory function in the event of a cardiac or respiratory arrest.

1 **VIII. "Certified in the principal's medical record" means the making of a statement**
 2 **in the medical record, whether such record is written or electronic.**

3 ~~[VI-a.]~~ **IX.** "Close friend" means any person ~~[21]~~ 18 years of age or older who presents an
 4 affidavit to the attending physician stating that ~~[he or she]~~ **the individual** is a close friend of the
 5 patient, is willing and able to become involved in the patient's health care, and has maintained such
 6 regular contact with the patient as to be familiar with the patient's activities, health, and religious
 7 and moral beliefs. The affidavit shall also state facts and circumstances that demonstrate such
 8 familiarity with the patient.

9 ~~[VII.]~~ **X.** "Do not resuscitate identification" means a standardized identification necklace,
 10 bracelet, card, **pink portable Do Not Resuscitate Order, POLST, or other** written medical order
 11 that signifies that a "Do Not Resuscitate Order" has been issued for the principal.

12 ~~[VIII.]~~ **XI.** "Do not resuscitate order" or "DNR order" (also known as "Do not attempt
 13 resuscitation order" or "DNAR order") means an order that, in the event of an actual or imminent
 14 cardiac or respiratory arrest, chest compression and ~~[ventricular]~~ defibrillation will not be
 15 performed, the patient will not be intubated or manually ventilated, and there will be no
 16 administration of resuscitation drugs.

17 ~~[IX.]~~ **XII.** "Durable power of attorney for health care" means a document delegating to an
 18 agent the authority to make health care decisions executed in accordance with the provisions of this
 19 chapter. It shall not mean forms routinely required by health and residential care providers for
 20 admissions and consent to treatment.

21 ~~[X.]~~ **XIII.** "Emergency services personnel" means paid or volunteer firefighters, law-
 22 enforcement officers, emergency medical technicians, paramedics or other emergency services
 23 personnel, providers, or entities acting within the usual course of their professions.

24 ~~[XI.]~~ **XIV.** "Health care decision" means informed consent, refusal to give informed consent,
 25 or withdrawal of informed consent to any type of health care, treatment, admission to a health care
 26 facility, any service or procedure to maintain, diagnose, or treat an individual's physical or mental
 27 condition except as prohibited in this chapter or otherwise by law.

28 ~~[XII.]~~ **XV.** "Health care provider" means ~~[an individual or]~~ a facility licensed, certified, or
 29 otherwise authorized or permitted by law to administer health care, for profit or otherwise, in the
 30 ordinary course of business or professional practice.

31 ~~[XIII.]~~ **XVI.** "Life-sustaining treatment" means any medical procedures or interventions
 32 which utilize mechanical or other medically administered means to sustain, restore, or supplant a
 33 vital function ~~[which, in the written judgment of the attending physician, PA, or APRN, would serve~~
 34 ~~only to artificially postpone the moment of death, and where the person is near death or is~~
 35 ~~permanently unconscious].~~ "Life-sustaining treatment" includes, but is not limited to, the following:
 36 medically administered nutrition and hydration, mechanical respiration, kidney dialysis, or the use
 37 of other external mechanical or technological devices. Life sustaining treatment may include drugs

1 to maintain blood pressure, blood transfusions, and antibiotics. "Life-sustaining treatment" shall
 2 not include the administration of medication, natural ingestion of food or fluids by eating and
 3 drinking, or the performance of any medical procedure deemed necessary to provide comfort or to
 4 alleviate pain.

5 ~~[XIV.] XVII.~~ "Living will" means a ~~[directive]~~ **written statement of guidance that** ~~[which,~~
 6 ~~when duly executed, contains]~~ **sets forth** the express ~~[direction]~~ **wishes of the principal** that
 7 **attempts at life sustaining treatment shall be continued or that certain** ~~[no]~~ life-sustaining
 8 treatment **shall not** be ~~[given]~~ **attempted** when the ~~[person executing said directive]~~ **principal** has
 9 been diagnosed and certified in ~~[writing]~~ **the principal's medical record** by ~~[the]~~ **2** attending
 10 ~~[physician, PA, or APRN]~~ **physicians or a physician and another attending practitioner who**
 11 **is not under the supervision of the certifying physician** to ~~[be near death or permanently~~
 12 ~~unconscious, without hope of recovery from such condition and is unable to actively participate in the~~
 13 ~~decision-making process.]~~ **have lost capacity to make health care decisions and to be**
 14 **permanently unconscious or to suffer from an advanced life-limiting, incurable and**
 15 **progressive condition for which treatment has become excessively burdensome or**
 16 **ineffective for the principal.**

17 ~~[XV.] XVIII.~~ "Medically administered nutrition and hydration" means invasive procedures
 18 such as, but not limited to the following: Nasogastric tubes; gastrostomy tubes; intravenous feeding
 19 or hydration; and hyperalimentation. It shall not include the natural ingestion of food or fluids by
 20 eating and drinking.

21 ~~[XVI.]~~ "Near death" means ~~an incurable condition caused by injury, disease, or illness which~~
 22 ~~is such that death is imminent and the application of life-sustaining treatment would, to a~~
 23 ~~reasonable degree of medical certainty, as determined by 2 physicians, or a physician and a PA, or a~~
 24 ~~physician and an APRN, only postpone the moment of death.]~~

25 ~~[XVII.] XIX.~~ "Permanently unconscious" means a lasting condition, indefinitely without
 26 improvement, in which thought, awareness of self and environment, and other indicators of
 27 consciousness are absent as determined by an appropriate neurological assessment by a physician in
 28 consultation with the attending physician or an appropriate neurological assessment by a physician
 29 in consultation with an APRN or PA.

30 ~~[XVIII.] XX.~~ "Physician" means a medical doctor licensed in good standing to practice in the
 31 state of New Hampshire pursuant to RSA 329.

32 ~~[XVIII-a.] XXI.~~ "Physician assistant" or "PA" means a physician assistant licensed in good
 33 standing to practice in the state of New Hampshire pursuant to RSA 328-D.

34 **XXII. "POLST" means a form that contains a set of emergency medical orders**
 35 **signed by an attending practitioner. This order set may contain DNR orders, and,**
 36 **although it may be completed in any state under similar title, the DNR and all other orders**
 37 **shall conform to New Hampshire law.**

1 ~~[XIX.]~~ **XXIII.** "Principal" means a person 18 years of age or older who has executed an
 2 advance directive pursuant to the provisions of this chapter **or a qualified patient who has not**
 3 **executed an advance directive and whose health care decisions are made by a surrogate**
 4 **appointed pursuant to the provisions of this chapter.**

5 ~~[XX.]~~ **XXIV.** "Qualified patient" means ~~[a]~~ **any** patient who ~~[has executed an advance~~
 6 ~~directive in accordance with this chapter and who]~~ has been certified in ~~[writing]~~ **the patient's**
 7 **medical record** by the attending ~~[physician, PA, or APRN]~~ **practitioner** to lack the capacity to
 8 make health care decisions.

9 ~~[XXI.]~~ **XXV.** "Reasonable degree of medical certainty" means a medical judgment that is
 10 made by ~~[a physician, PA, or APRN]~~ **the attending practitioner** who is knowledgeable about the
 11 case and the treatment possibilities with respect to the medical conditions involved.

12 ~~[XXII.]~~ **XXVI.** "Residential care provider" means a "facility" as defined in RSA 161-F:11, IV,
 13 a "nursing home" as defined in RSA 151-A:1, IV, or any individual or facility licensed, certified, or
 14 otherwise authorized or permitted by law to operate, for profit or otherwise, a residential care
 15 facility for adults, including but not limited to those operating pursuant to RSA 420-D.

16 ~~[XXII-a.]~~ **XXVII.** "Surrogate decision-maker" or "surrogate" means an adult individual who
 17 has health care decision-making capacity, is available upon reasonable inquiry, is willing to make
 18 health care decisions on behalf of a patient who lacks health care decision-making capacity, and is
 19 identified by the attending ~~[physician, PA, or APRN]~~ **practitioner** in accordance with the provisions
 20 of this chapter as the person who is to make those decisions in accordance with the provisions of this
 21 chapter.

22 **XXVIII. "Virtual presence" means the use of an electronic device or process through**
 23 **which all participating individuals can communicate simultaneously by sight and sound.**

24 ~~[XXIII.]~~ **XXIX.** "Witness" means a competent person 18 years or older who is ~~[present]~~ **in**
 25 **the physical or virtual presence of the principal** when the principal signs an advance directive.

26 137-J:3 Freedom From Influence; Notice Required.

27 I. No health care provider or residential care provider, and no health care service plan,
 28 insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital
 29 service plan shall charge a person a different rate because of the existence or non-existence of an
 30 advance directive, ~~[or]~~ do not resuscitate order, **or POLST**, or require any person to execute an
 31 advance directive or require the issuance of a do not resuscitate order as a condition of admission to
 32 a hospital, nursing home, or residential care home, or as a condition of being insured for, or
 33 receiving, health or residential care services. Health or residential care services shall not be refused
 34 because a person is known to have executed an advance directive or have a do not resuscitate order.

35 II. The execution of an advance directive **or POLST** pursuant to this chapter shall not affect
 36 in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be
 37 deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be

1 legally impaired, modified or invalidated in any manner by the withholding or withdrawal of life-
 2 sustaining treatment from an insured person notwithstanding any term of the policy to the contrary.

3 ~~[III. Any health care provider or residential care provider which does not recognize DNR's or~~
 4 ~~living wills shall post at every place of admission, a notice which shall be a minimum size of 8 1/2' x~~
 5 ~~11' stating the following in legible print: "This hospital/facility does not honor Do Not Resuscitate~~
 6 ~~(DNR) or Living Will documents."]~~

7 2 Advance Directives. Amend RSA 137-J:5-11 to read as follows:

8 137-J:5 Scope and Duration of Agent's *and Surrogate's* Authority.

9 I. Subject to the provisions of this chapter and any express limitations set forth by the
 10 principal in ~~[an advance directive]~~ a ***durable power of attorney for health care***, the agent ***or***
 11 ***surrogate*** shall have the authority to make any and all health care decisions on the principal's
 12 behalf that the principal could make.

13 II. An agent's ~~[or surrogate's]~~ authority under ~~[an advance directive]~~ a ***durable power of***
 14 ***attorney for health care or a surrogate's authority*** shall be in effect only when the principal
 15 lacks capacity to make health care decisions, as certified in ~~[writing]~~ ***the principal's medical***
 16 ***record*** by the principal's attending ~~[physician, PA, or APRN]~~ ***practitioner***. ~~[and filed with]~~ The
 17 name of the agent or surrogate ***shall be indicated*** in the principal's medical record. When and if
 18 the principal regains capacity to make health care decisions, such event shall be certified in ~~[writing]~~
 19 ***the principal's medical record*** by the principal's attending ~~[physician, PA, or APRN]~~
 20 ***practitioner***~~[, noted in the principal's medical record]~~, the agent's or surrogate's authority shall
 21 terminate, and the authority to make health care decisions shall revert to the principal.

22 III. If the principal has no attending ~~[physician, PA, or APRN]~~ ***practitioner*** for reasons
 23 based on the principal's religious or moral beliefs as specified in ~~[his or her]~~ ***the principal's***
 24 advance directive, the advance directive may include a provision that a person designated by the
 25 principal in the advance directive may certify in writing, acknowledged before a notary or justice of
 26 the peace, as to the ***principal's*** lack of ~~[decisional]~~ capacity ***to make health care decisions*** ~~[of the~~
 27 ~~principal]~~. The person so designated by the principal shall not be the agent, or a person ineligible to
 28 be the agent.

29 IV. The principal's attending ~~[physician, PA, or APRN]~~ ***practitioner*** shall make reasonable
 30 efforts to inform the principal, ***even if the principal has lost capacity***, of any proposed treatment,
 31 or of any proposal to withdraw or withhold treatment. ***When the principal has lost capacity to***
 32 ***make health care decisions and an agent or surrogate is acting on the principal's behalf,***
 33 ***and the agent or surrogate consents to treatment or withholding of treatment from the***
 34 ***principal, such treatment may be given or withheld even over the principal's objection,***
 35 ***unless the principal's durable power of attorney for health care provides otherwise.***
 36 ~~[Notwithstanding that an advance directive or a surrogaey is in effect and irrespective of the~~
 37 ~~principal's lack of capacity to make health care decisions at the time, treatment may not be given to~~

1 ~~or withheld from the principal over the principal's objection unless the principal's advance directive~~
2 ~~includes the following statement initialed by the principal, "Even if I am incapacitated and I object~~
3 ~~to treatment, treatment may be given to me against my objection."]~~

4 *IV-a. Consent to clinical trials or experimental treatments. Agents and surrogates*
5 *shall have the authority to consent to clinical trials or experimental treatments pursuant*
6 *to the following:*

7 *(a) The clinical trial or experimental treatment must be authorized by an*
8 *institutional review board and be consistent with the relevant state and federal*
9 *regulations, including 45 CFR part 46, subpart A (the "Common Rule"), and 21 CFR parts*
10 *50 and 56, as applicable.*

11 *(b) An agent or surrogate may only give consent that is consistent with*
12 *authority granted in a durable power of attorney for health care. If the durable power of*
13 *attorney for health care does not address authority to give consent to a clinical trial or*
14 *experimental treatment, the agent or surrogate may only give consent that is consistent*
15 *with the authority provided in subparagraph (c).*

16 *(c) Absent a limitation in a durable power of attorney for health care, an agent*
17 *or surrogate may give consent to clinical trials or experimental treatment as follows:*

18 *(1) For purposes of this subsection, "immediately life-threatening diseases or*
19 *conditions" are diseases or conditions that are likely to cause death if treatment is not*
20 *provided promptly. When there is an immediately life-threatening disease or condition,*
21 *consent may be given if:*

22 *(A) There is no alternate method of approved or generally recognized*
23 *therapy available that provides an equal or greater likelihood of saving the life of the*
24 *patient or preventing a permanent or extended impairment of function that is likely to*
25 *substantially limit one or more major life activities, or*

26 *(B) The clinical trial or experimental treatment is not intended to save*
27 *the life of the patient but rather is intended to be beneficial to the patient in terms of*
28 *increasing mobility or reducing pain, distress, or discomfort.*

29 *(2) For purposes of this subsection, "serious diseases or conditions" are*
30 *diseases or conditions that, if left untreated, are likely to result in a permanent or extended*
31 *impairment of function that is likely to substantially limit one or more major life activities.*
32 *When there is a serious disease or condition, consent may be given if:*

33 *(A) There is no alternate method of approved or generally recognized*
34 *therapy that is available, and*

35 *(B) The clinical trial or experimental treatment is intended to prevent or*
36 *diminish a permanent or extended impairment of function that is likely to substantially*
37 *limit one or more major life activities, and such impairment is likely to occur if not treated*

1 *promptly, or be beneficial to the patient in terms of increasing mobility or reducing pain,*
2 *distress, or discomfort that is likely to substantially limit a major life activity.*

3 V. Nothing in this chapter shall be construed to give an agent or surrogate authority to:

4 (a) Consent to voluntary admission to any state institution;

5 (b) Consent to a voluntary sterilization;

6 (c) Consent to withholding life-sustaining treatment from a pregnant principal, unless,
7 to a reasonable degree of medical certainty, as certified ~~on~~ **in** the principal's medical record by the
8 attending ~~[physician, PA, or APRN]~~ **practitioner** and an obstetrician who has examined the
9 principal, such treatment or procedures will not maintain the principal in such a way as to permit
10 the continuing development and live birth of the fetus or will be physically harmful to the principal
11 or prolong severe pain which cannot be alleviated by medication; or

12 (d) Consent to psychosurgery~~;~~ **or** electro-convulsive shock therapy ~~[-sterilization, or an~~
13 ~~experimental treatment of any kind].~~

14 ~~[(e) Notwithstanding the prohibition in subparagraph V(d), for any patient experiencing~~
15 ~~severe, advanced COVID-19 symptoms or COVID-19 complications who does not have the capacity to~~
16 ~~consent himself or herself to an experimental treatment, an agent or surrogate shall have the~~
17 ~~authority to consent to experimental treatments, authorized by an institutional review board, on the~~
18 ~~patient for COVID-19 symptoms or complications.~~

19 ~~(1) For an agent or surrogate to approve the use of an experimental treatment,~~
20 ~~approved by an institutional review board, the agent or surrogate must be informed of all risks and~~
21 ~~side effects and follow all institutional review board instructions regarding consent as if the agent or~~
22 ~~surrogate were the individual receiving the treatment, including the completion of all consent~~
23 ~~documentation required by the Food and Drug Administration. An agent or surrogate shall not~~
24 ~~consent unless the following factors exist:~~

25 ~~(A) The patient is confronted by a life-threatening situation necessitating the use~~
26 ~~of the experimental treatment; and~~

27 ~~(B) Informed consent cannot be obtained from the patient because of an inability~~
28 ~~to communicate with, or obtain legally effective consent from, the patient; and~~

29 ~~(C) There is no alternate method of approved or generally recognized therapy~~
30 ~~available that provides an equal or greater likelihood of saving the life of the patient.~~

31 ~~(2) If a patient has a living will, the agent shall follow the directions of the living~~
32 ~~will. In addition, if the agent or surrogate has actual knowledge that the patient wished to decline~~
33 ~~the experimental treatment, the agent or surrogate shall not have the authority to consent to~~
34 ~~treatment.]~~

35 137-J:6 Requirement to Act in Accordance With Principal's Wishes and Best Interests. After
36 consultation with the attending ~~[physician, PA, or APRN]~~ **practitioner** and other health care
37 providers, the agent or surrogate shall make health care decisions in accordance with the agent's or

1 surrogate's knowledge of the principal's wishes and religious or moral beliefs, as stated orally, *in*
2 *writing, including but not limited to in the durable power of attorney for health care and*
3 *the living will*, or otherwise communicated by the principal, or, if the principal's wishes are
4 unknown, in accordance with the agent's or surrogate's assessment of the principal's best interests
5 and in accordance with accepted medical practice.

6 137-J:7 [~~Physician, PA, or APRN,~~] *Attending Practitioner* and *Heath Care* Provider's
7 Responsibilities.

8 I. A qualified patient's attending [~~physician, PA, or APRN~~] *practitioner*, or a qualified
9 patient's health care provider or residential care provider, and employees thereof, [~~having knowledge~~
10 ~~of the qualified patient's advance directive~~] shall [~~be bound to~~] follow, as applicable, [~~the dictates of~~
11 ~~the qualified patient's living will and/or~~] the directives of a qualified patient's designated agent *or*
12 *surrogate* to the extent they are consistent with this chapter and [~~the advance directive, and to the~~
13 ~~extent they are within the bounds of responsible~~] *with accepted* medical practice.

14 (a) An attending [~~physician, PA, or APRN~~] *practitioner*, or other health care provider
15 or residential care provider, who is requested to do so by the principal shall make the principal's
16 advance directive or a copy of such document a part of the principal's medical record.

17 (b) Any person [~~having in his or her possession~~] *who possesses* a duly executed advance
18 directive or a revocation thereof, if it becomes known to that person that the principal executing the
19 same is in such circumstances that the terms of the advance directive might become applicable (such
20 as when the principal becomes a "qualified patient"), shall forthwith deliver an original or copy of the
21 same to the health care provider or residential care provider with which the principal is a patient.

22 (c) The principal's attending [~~physician, PA, or APRN~~] *practitioner*, or any other
23 physician, PA, or APRN, [~~who is aware of the principal's execution of an advance directive~~] shall,
24 without delay, take the necessary steps to provide for written verification of the principal's lack of
25 capacity to make health care decisions (in other words, to certify *in the principal's medical*
26 *record* that the principal is a "qualified patient"), [~~and/or the principal's near death or permanently~~
27 ~~unconscious condition, as defined in this chapter and as appropriate to the principal's medical~~
28 ~~condition,~~] so that the attending [~~physician, PA, or APRN~~] *practitioner* and the principal's agent *or*
29 *surrogate* may be authorized to act pursuant to this chapter.

30 [(d) If a physician, PA, or an APRN, because of his or her personal beliefs or conscience,
31 is unable to comply with the terms of the advance directive or surrogate's decision, he or she shall
32 immediately inform the qualified patient, the qualified patient's family, or the qualified patient's
33 agent. The qualified patient, or the qualified patient's agent or family, may then request that the
34 case be referred to another physician, PA, or APRN.]

35 II. An attending [~~physician, PA, or APRN~~] *practitioner* who, because of personal beliefs or
36 conscience, is unable to comply with *a POLST*, the [~~advance directive~~] *principal's living will*
37 *and/or the agent's* or the surrogate's decision pursuant to this chapter shall, without delay, make

1 the necessary arrangements to effect the transfer of a qualified patient and the appropriate medical
 2 records that document the qualified patient's lack of capacity to make health care decisions to
 3 another ~~[physician, PA, or APRN]~~ **practitioner** who has been chosen by the qualified ~~[patient, by~~
 4 ~~the qualified]~~ patient's agent or surrogate~~[- or by the qualified patient's family;]~~ provided, that
 5 pending the completion of the transfer, the attending ~~[physician, PA, or APRN]~~ **practitioner** shall
 6 not deny health care treatment~~[- nutrition, or hydration]~~ which denial would, within a reasonable
 7 degree of medical certainty, result in or hasten the qualified patient's death against the express will
 8 of the qualified patient, the **qualified patient's** advance directive, or the agent or surrogate.

9 III. ~~[Medically administered nutrition and hydration and life sustaining treatment shall not~~
 10 ~~be withdrawn or withheld under this chapter unless:~~

11 ~~(a) There is a clear expression of such intent in the directive;~~

12 ~~(b) The principal objects pursuant to RSA 137-J:5, IV; or~~

13 ~~(c) Such treatment would have the unintended consequence of hastening death or~~
 14 ~~causing irreparable harm as certified by an attending physician and a physician knowledgeable~~
 15 ~~about the patient's condition.~~

16 IV. ~~When the direction of an agent or instruction under a living will]~~ **When an agent's or a**
 17 **surrogate's decision pursuant to this chapter, or the principal's living will or POLST**
 18 requires an act or omission contrary to the moral or ethical principles or other standards of a health
 19 care provider or residential care provider of which the principal is a patient or resident, the health
 20 care provider shall allow for the transfer of the principal and the appropriate medical records to
 21 another health care provider chosen by ~~[the principal or by]~~ the agent **or surrogate** and shall incur
 22 no liability for its refusal to carry out the terms of the direction by the agent **or surrogate**; provided,
 23 that, pending the completion of the transfer, the health care provider or residential care provider
 24 shall not deny health care treatment, ~~[nutrition, hydration, or life sustaining treatment]~~ which
 25 denial would ~~[with]~~ **within** a reasonable degree of medical certainty result in or hasten the
 26 principal's death against the expressed will of the principal, the principal's advance directive, or the
 27 agent **or surrogate**; and further provided, that, the health care provider or residential care provider
 28 shall inform the agent **or surrogate** of its decision not to participate in such an act or omission.

29 137-J:8 Restrictions on Who May Act as Agent or Surrogate. A person may not exercise the
 30 authority of an agent or a surrogate while serving in one of the following capacities:

31 I. The principal's ~~[health care provider]~~ **attending practitioner** or ~~[residential care~~
 32 ~~provider]~~ **a person acting under the direct authority of the attending practitioner.**

33 II. A nonrelative of the principal who is an employee of the principal's health care provider
 34 or residential care provider.

35 137-J:9 Confidentiality and Access to Protected Health Information.

36 I. Health care providers, residential care providers, and persons acting for such providers or
 37 under their control, shall be authorized to;

1 (a) Communicate to an agent *or surrogate* any medical information about the principal,
2 if the principal lacks the capacity to make health care decisions, necessary for the purpose of
3 assisting the agent *or surrogate* in making health care decisions on the principal's behalf.

4 (b) Provide copies of the principal's advance [~~directives~~] *directive* as necessary to
5 facilitate treatment of the principal.

6 II. Subject to any limitations set forth in the [~~advance directive~~] *durable power of*
7 *attorney for health care* by the principal, an agent *or surrogate* whose authority is in effect shall
8 be authorized, for the purpose of making health care decisions, to:

9 (a) Request, review, and receive any information, oral or written, regarding the
10 principal's physical or mental health, including, but not limited to, medical and hospital records.

11 (b) Execute any releases or other documents which may be required in order to obtain
12 such medical information.

13 (c) Consent to the disclosure of such medical information *to a third party*.

14 137-J:10 [~~Withholding or Withdrawal of Life Sustaining Treatment~~] *Criminal Act Not*
15 *Construed or Authorized*.

16 I. [~~In the event a health care decision to withhold or withdraw life sustaining treatment,~~
17 ~~including medically administered nutrition and hydration, is to be made by an agent or surrogate,~~
18 ~~and the principal has not executed the "living will" of the advance directive, the following additional~~
19 ~~conditions shall apply:~~

20 (a) ~~The principal's attending physician, PA, or APRN shall certify in writing that the~~
21 ~~principal lacks the capacity to make health care decisions.~~

22 (b) ~~Two physicians or a physician and an APRN or PA shall certify in writing that the~~
23 ~~principal is near death or is permanently unconscious.~~

24 (c) ~~Notwithstanding the capacity of an agent or surrogate to act, the agent or surrogate~~
25 ~~shall make a good faith effort to explore all avenues reasonably available to discern the desires of the~~
26 ~~principal including, but not limited to, the principal's advance directive, the principal's written or~~
27 ~~spoken expressions of wishes, and the principal's known religious or moral beliefs.~~

28 H. ~~Notwithstanding paragraph I, medically administered nutrition and hydration and life-~~
29 ~~sustaining treatment shall not be withdrawn or withheld under an advance directive unless:~~

30 (a) ~~There is a clear expression of such intent in the directive;~~

31 (b) ~~The principal objects pursuant to RSA 137-J:5, IV; or~~

32 (c) ~~Such treatment would have the unintended consequence of hastening death or~~
33 ~~causing irreparable harm as certified by an attending physician and a physician knowledgeable~~
34 ~~about the patient's condition.~~

35 III.] The withholding or withdrawal of life-sustaining treatment pursuant to the provisions
36 of this chapter shall at no time be construed as a suicide or murder for any legal purpose. Nothing in
37 this chapter shall be construed to *legalize*, constitute, condone, authorize, or approve suicide,

1 assisted suicide, mercy killing, or euthanasia, or permit any affirmative or deliberate act or omission
 2 to end one's own life or to end the life of another other than ~~[either]~~ to permit the natural process of
 3 dying ~~[of a patient near death actively dying or the removal of life-sustaining treatment from a~~
 4 ~~patient in a permanently unconscious condition as provided in this chapter]~~. The withholding or
 5 withdrawal of life-sustaining treatment in accordance with the provisions of this chapter, however,
 6 shall not relieve any individual of responsibility for any criminal acts that may have caused the
 7 principal's condition.

8 ~~[IV.]~~ **II.** Nothing in this chapter shall be construed to condone, authorize, or approve:

9 (a) The consent to withhold or withdraw life-sustaining treatment from a pregnant
 10 principal, unless, to a reasonable degree of medical certainty, as certified ~~[on]~~ **in** the principal's
 11 medical record by the attending ~~[physician, PA, or APRN]~~ **practitioner** and an obstetrician who has
 12 examined the principal, such treatment or procedures will not maintain the principal in such a way
 13 as to permit the continuing development and live birth of the fetus or will be physically harmful to
 14 the principal or prolong severe pain which cannot be alleviated by medication.

15 (b) The withholding or withdrawing of medically administered nutrition and hydration
 16 or life-sustaining treatment from a mentally incompetent or developmentally disabled person, unless
 17 such person has a validly executed advance directive or such action is authorized by an existing
 18 guardianship or other court order, or, in the absence of such directive, authorization, or order, such
 19 action is taken in accordance with the ~~[standard]~~ **written** protocol of a health care facility licensed
 20 under RSA 151 as applicable to its general patient population.

21 ~~[V.]~~ **III.** Nothing in this chapter shall impair or supersede any other legal right or
 22 responsibility which any person may have to effect life-sustaining treatment in any lawful manner;
 23 provided, that this paragraph shall not be construed to authorize any violation of RSA 137-J:7~~[-[II or~~
 24 ~~III]~~.

25 ~~[VI.]~~ **IV.** Nothing in this chapter shall be construed to revoke or adversely affect the
 26 privileges or immunities of health care providers or residential care providers and others to provide
 27 treatment to persons in need thereof in an emergency, as provided for under New Hampshire law.

28 ~~[VII.]~~ **V.** Nothing in this chapter shall be construed to create a presumption that in the
 29 absence of an advance directive, a person wants life-sustaining treatment to be either ~~[taken]~~
 30 **provided** or withdrawn. This chapter shall also not be construed to supplant any existing rights
 31 and responsibilities under the law of this state governing the conduct of ~~[physicians, PAs, or APRNs]~~
 32 **attending practitioners** in consultation with patients, ~~[or their families]~~ **their surrogates**, or
 33 legal guardians in the absence of an advance directive.

34 137-J:11 Liability for Health Care Costs. Liability for the cost of health care provided pursuant
 35 to the agent's **or surrogate's** decision shall be the same as if the health care were provided
 36 pursuant to the principal's decision.

37 3 Advance Health Care Directives. Amend RSA 137-J:12 to read as follows:

1 137-J:12 Immunity.

2 I. No person acting as agent pursuant to an advance directive or **acting** as a surrogate shall
3 be subjected to criminal or civil liability for making a health care decision on behalf of the principal
4 in good faith pursuant to the provisions of this chapter and the terms of the advance directive, **if any**
5 if such person [~~exercised~~] **made** such [~~power~~] **decision** in a manner consistent with the
6 requirements of this chapter and New Hampshire law.

7 II. No health care provider or residential care provider, or any other person acting for the
8 provider or under the provider's control, shall be subjected to civil or criminal liability or be deemed
9 to have engaged in unprofessional conduct for:

10 (a) Any act or intentional failure to act, if the act or intentional failure to act is done
11 pursuant to the dictates of an advance directive, the directives of the principal's agent or surrogate,
12 and/or the provisions of this chapter, and said act or intentional failure to act is done in good faith
13 and in keeping with reasonable medical standards pursuant to the advance directive or a surrogacy
14 and in accordance with this chapter; or

15 (b) Failure to follow the directive of an agent or surrogate if the health care provider or
16 residential care provider or other such person believes in good faith and in keeping with reasonable
17 medical standards that such directive exceeds the scope of or conflicts with the authority of the agent
18 or surrogate under this chapter or the contents of the principal's advance directive; provided, that
19 this subparagraph shall not be construed to authorize any violation of RSA 137-J:7[~~, II or III~~].

20 III. Nothing in this section shall be construed to establish immunity for the failure to
21 exercise due care in the provision of services or for actions contrary to the requirements of this
22 chapter or other laws of the state of New Hampshire.

23 IV. For purposes of this section, "good faith" means honesty in fact in the conduct of the
24 transaction concerned.

25 4 Advance Health Care Directives; Use of Statutory Forms. Amend RSA 137-J:13, I to read as
26 follows:

27 I. Every person wishing to execute an advance directive shall be provided with a disclosure
28 statement substantially in the form set forth in RSA 137-J:19 prior to execution. [~~The principal shall~~
29 ~~be required to sign a statement acknowledging that he or she has received the its contents.~~]

30 5 Advance Health Care Directives; Execution and Witnesses; Revocability. Amend RSA 137-
31 J:14-15 to read as follows:

32 137-J:14 Execution and Witnesses.

33 I. The advance directive shall be signed by the principal in the **physical or virtual**
34 presence of either of the following:

35 (a) Two or more subscribing witnesses, neither of whom shall, at the time of execution,
36 be the agent **or surrogate**, the principal's spouse or heir at law, or a person entitled to any part of
37 the estate of the principal upon death of the principal under a will, trust, or other testamentary

1 instrument or deed in existence or by operation of law, or attending [~~physician, PA, or APRN~~
 2 **practitioner**, or person acting under the direction or control of the attending [~~physician, PA, or~~
 3 ~~APRN~~] **practitioner**. No more than one such witness may be the principal's health or residential
 4 care provider or such provider's employee. The witnesses shall affirm that the principal appeared to
 5 be of sound mind and free from duress at the time the advance directive was signed and that the
 6 principal affirmed [~~that he or she was aware~~] **awareness** of the nature of the document and signed
 7 it freely and voluntarily. **Witnesses who sign in the virtual presence of the principal may sign**
 8 **in one or more counterparts, and the counterparts must be attached to the advance**
 9 **directive signed by the principal;** or

10 (b) A notary public or justice of the peace, who shall acknowledge the principal's
 11 signature pursuant to the provisions of RSA 456 or RSA 456-A.

12 II. If the principal is physically unable to sign, the advance directive may be signed by
 13 **another person who signs** the principal's name [~~written by some other person~~] in the principal's
 14 **physical** presence and at the principal's express direction.

15 [~~III. A principal's decision to exclude or strike references to PAs or APRNs and the powers~~
 16 ~~granted to PAs or APRNs in his or her advance directive shall be honored.]~~

17 137-J:15 Revocation.

18 I. An advance directive [~~or surrogacy~~] consistent with the provisions of this chapter shall be
 19 revoked:

20 (a) By written revocation delivered to the agent or surrogate or to a health care provider
 21 or residential care provider expressing the principal's intent to revoke, signed and dated by the
 22 principal; by oral revocation in the **physical or virtual** presence of 2 or more witnesses, none of
 23 whom shall be [~~the principal's spouse or heir at law~~] **a person disqualified from acting as a**
 24 **witness under RSA 137-J:14, I(a)**; or by any other act evidencing a specific intent to revoke the
 25 power, such as by burning, tearing, or obliterating the same or causing the same to be done by some
 26 other person at the principal's direction and in the principal's **physical** presence;

27 (b) By execution by the principal of a subsequent advance directive; or

28 (c) By the filing of an action for divorce, legal separation, annulment or protective order,
 29 where both the agent **and/or the surrogate**, and the principal are parties to such action, except
 30 when there is an alternate agent designated, in which case the designation of the primary agent
 31 shall be revoked and the alternate designation shall become effective. Re-execution or written re-
 32 affirmation of the advance directive following a filing of an action for divorce, legal separation,
 33 annulment, or protective order shall make effective the original designation of the primary agent
 34 under the advance directive.

35 (d) [Repealed.]

36 II. A principal's health or residential care provider who is informed of or provided with a
 37 revocation of an advance directive or surrogacy shall immediately record the revocation, and the

1 time and date when ~~[he or she received the revocation]~~ **the revocation was received**, in the
 2 principal's medical record and notify the agent, the attending ~~[physician, PA, or APRN]~~
 3 **practitioner**, and staff responsible for the principal's care of the revocation. An agent~~[or surrogate]~~
 4 who becomes aware of such revocation shall inform the principal's health or residential care provider
 5 of such revocation. Revocation shall become effective upon communication to the attending
 6 ~~[physician, PA, or APRN]~~ **practitioner**.

7 6 Advance Health Care Directives; Reciprocity. Amend RSA 137-J:17 to read as follows:

8 137-J:17 Reciprocity. **A DNR, POLST, durable power of attorney for health care**, ~~[An~~
 9 ~~advance directive,~~] living will, or similar document executed in another state, and valid according to
 10 the laws of the state where it was executed, shall be as effective in this state as it would have been if
 11 executed according to the laws of this **state provided, that this paragraph shall not be**
 12 **construed to authorize any violation of this chapter**.

13 7 Advance Health Care Directives. RSA 137-J:19-20 are repealed and reenacted to read as
 14 follows:

15 137-J:19 Advance Directive; Disclosure Statement.

16 The disclosure statement which must accompany an advance directive shall be in substantially the
 17 following form:

18 AN ADVANCE DIRECTIVE IS A LEGAL DOCUMENT. YOU SHOULD KNOW THESE FACTS
 19 BEFORE SIGNING IT.

- 20 • This form allows you to choose who you want to make decisions about your health care when you
 21 cannot make decisions for yourself. This person is called your “agent”. You should consider choosing
 22 an alternate in case your agent is unable to act.
- 23 • Agents must be 18 years old or older. They should be someone you know and trust. They cannot
 24 be anyone who is caring for you in a health care or residential care setting.
- 25 • This form is an “advance directive” that defines a way to make medical decisions in the future,
 26 when you are not able to make decisions for yourself. It is not a medical order (e.g., it is not in and of
 27 itself a DNR (do not resuscitate order or (POLST)).
- 28 • You will always make your own decisions until your medical practitioner examines you and
 29 certifies that you can no longer understand or make a decision for yourself. At that point, your
 30 “agent” becomes the person who can make decisions for you. If you get better, you will make your
 31 own healthcare decisions again.
- 32 • With few exceptions(*), when you are unable to make your own medical decisions, your agent
 33 will make them for you, unless you limit your agent's authority in Part I.B of the durable power of
 34 attorney form. Your agent can agree to start or stop medical treatment, including near the end of
 35 your life. Some people do not want to allow their agent to make some decisions. Examples of what
 36 you might write in include: “I do NOT want my agent . . .

1 - to ask for or agree to stop life-sustaining treatment (such as breathing machines,
2 medically-administered nutrition and hydration (tube feeding), kidney dialysis, other mechanical
3 devices, blood transfusions, and certain drugs).”

4 - to ask for or to agree to a Do Not Resuscitate Order (DNR order).”

5 - to agree to treatment even if I object to it in the moment, after I have lost the ability to
6 make health care decisions for myself.”

7 - The law allows your agent to put you in a clinical trial (medical study) or to agree to new or
8 experimental treatment that is meant to benefit you if you have a disease or condition that is
9 immediately life-threatening or if untreated, may cause a serious disability or impairment (for
10 example new treatment for a pandemic infection that is not yet proven). You may change this by
11 writing in the durable power of attorney for health care form:

12 o “I want my agent to be able to agree to medical studies or experimental treatment in any
13 situation.” or

14 o “I don’t want to participate in medical studies or experimental treatment even if the treatment
15 may help me or I will likely die without it.”

16 • Your agent must try to make the best decisions for you, based on what you have said or written
17 in the past. Tell your agent that you have appointed them as your healthcare decision maker. Talk
18 to your agent about your wishes.

19 • In the "living will" section of the form, you can write down wishes, values, or goals as guidance
20 for your agent, surrogate, and/or medical practitioners in making decisions about your medical
21 treatment.

22 • You do not need a lawyer to complete this form, but feel free to talk to a lawyer if you have
23 questions about it.

24 • You must sign this form in the physical or virtual presence of 2 witnesses or a notary or justice of
25 the peace for it to be valid. The witnesses cannot be your agent, spouse, heir, or anyone named in
26 your will, trust or who may otherwise receive your property at your death, or your attending medical
27 practitioner or anyone who works directly under them. Only one witness can be employed by your
28 health or residential care provider.

29 • Give copies of the completed form to your agent, your medical providers, and your lawyer.

30 * Exceptions: Your agent may not stop you from eating or drinking as you want. They also cannot
31 agree to voluntary admission to a state institution; voluntary sterilization; withholding life-
32 sustaining treatment if you are pregnant, unless it will severely harm you; or psychosurgery.

33 137-J:20 Advance Directive; Durable Power of Attorney and Living Will Forms. An advance
34 directive in its individual "Durable Power of Attorney for Health Care" and "Living Will" components
35 shall be in substantially the following form:

1 Name (Principal's Name): _____

2 DOB: _____

3 Address: _____

4

5 **I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE**

6 The durable power of attorney for healthcare form names your agent(s) and, if you wish, sets limits
7 on what your agent can decide.

8 I choose the following person(s) as agent(s) if I have lost capacity to make health care decisions
9 (cannot make health care decisions for myself).

10 (If you choose more than one person, they will become your agent in the order written, unless you
11 indicate otherwise.)

12 **A. Choosing Your Agent:**

13 Agent: I appoint _____, of _____, and whose phone number is _____ to be my
14 agent to make health care decisions for me.

15 Alternate Agent: If the person above is not able, willing, or available, I appoint _____, of
16 _____, and whose phone number is _____ to be my alternate agent.

17 If no one listed above can make decisions for you, a surrogate will be assigned in the order written in
18 law (spouse, adult child, parent, sibling, etc.), and will have the same powers as an agent. If there is
19 no surrogate, a court appointed guardian may be assigned.

20 **B. Limiting Your Agent's Authority or Providing Additional Instructions**

21 When you can no longer make your own health care decisions, your agent will be able to make
22 decisions for you. Please review the Disclosure Statement that is attached to this advance directive
23 for examples of how you may want to advise your agent. You may write in limits or additional
24 instructions for your agent below.

25 _____

26 _____

27

28 **II. LIVING WILL**

29 If you would like to provide written guidance to your agent, surrogate, and/or medical practitioners
30 in making decisions about life sustaining medical treatment if you cannot make your own decisions,
31 you may complete the options below.

32 **CHOOSE ITEM A OR B. Initial your choice:**

33 If I suffer from an advanced life-limiting, incurable and progressive condition:

34 _____ A. I wish to have all attempts at life-sustaining treatment (within the limits of generally
35 accepted health care standards) to try to extend my life as long as possible, no matter what burdens,
36 costs or complications may occur.

37 **OR**

1 _____ B. I do NOT wish to have any life-sustaining treatment attempted that I would consider to
2 be excessively burdensome or that would not have a reasonable hope of benefit for me. I wish to
3 receive only those forms of life-sustaining treatment that I would not consider to be excessively
4 burdensome AND that have a reasonable hope of benefit for me. The following are situations that I
5 would consider excessively burdensome: (Cross out and initial any of the below statements # 1-4 if
6 you **disagree**.)

7 1. I do not wish to have life-sustaining treatment attempted if I am actively dying (medical
8 treatment will only prolong my dying).

9 2. I do not wish to have life-sustaining treatment attempted if I become permanently unconscious
10 with no reasonable hope of recovery.

11 3. I do not wish to have life-sustaining treatment attempted if I suffer from an advanced life-
12 limiting, incurable and progressive condition and if the likely risks and burdens of treatment would
13 outweigh the expected benefits.

14 4. Other situations that I would consider excessively burdensome if I suffer from an advanced life-
15 limiting, incurable and progressive condition:

16 _____
17 _____

18 In these situations, I wish for comfort care only. I understand that stopping or starting treatments
19 to achieve my comfort, including stopping medically-administered nutrition and hydration, may be a
20 way to allow me to die when the treatments would be excessively burdensome for me.

21

22 **III. SIGNATURE**

23 I have received the disclosure statement, and I have completed the durable power of attorney for
24 health care and/or living will consistent with my wishes.

25 Signed this ___ day of _____, 20__

26 Principal's Signature: _____

27 (If you are physically unable to sign, this advance directive may be signed by someone else writing
28 your name in your physical presence at your direction.)

29 **THIS ADVANCE DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC**
30 **OR A JUSTICE OF THE PEACE. IF VIRTUAL PRESENCE IS USED, THE PAGES SIGNED BY**
31 **THE WITNESSES MUST BE ATTACHED TO THE ADVANCE DIRECTIVE SIGNED BY YOU OR**
32 **THE ADVANCE DIRECTIVE WILL NOT BE VALID.**

33 We declare that the principal appears to be of sound mind and free from duress at the time this
34 advance directive is signed and that the principal affirms that the principal is aware of the nature of
35 the directive and is signing it freely and voluntarily.

36 Witness: _____ Address (city/state): _____

37 Witness: _____ Address (city/state): _____

1 STATE OF NEW HAMPSHIRE
2 COUNTY OF _____

3 The foregoing advance directive was acknowledged before me this ___ day of _____, 20___, by
4 _____ (the "Principal").

5 _____
6 Notary Public/Justice of the Peace

7 My commission expires:

8 8 Advance Health Care Directives; Civil Action. Amend RSA 137-J:22 to read as follows:
9 137-J:22 Civil Action.

10 I. The principal or any person who is a near relative of the principal, or who is a responsible
11 adult who is directly interested in the principal by personal knowledge and acquaintance, including,
12 but not limited to a guardian, social worker, physician, or member of the clergy, may file an action in
13 the probate court of the county where the principal is located at the time:

14 (a) Requesting that [~~the authority granted to an agent by~~] an advance directive be
15 revoked on the grounds that the principal was not of sound mind or was under duress, fraud, or
16 undue influence when the advance directive was executed, and shall have all the rights and
17 remedies provided by RSA 564-E:116 which shall apply to directives executed under this chapter and
18 persons acting pursuant to this chapter.

19 (b) Challenging the right of any agent **or surrogate** who is acting or who proposes to act
20 as such pursuant to this chapter and naming another person, who agrees to so act, to be appointed
21 guardian over the person of the principal for the sole purpose of making health care decisions, as
22 provided for in RSA 464-A.

23 II. A copy of any such action shall be given in hand to the principal's attending [~~physician,~~
24 ~~PA, or APRN~~] **practitioner** and, as applicable, to the principal's health care provider or residential
25 care provider. To the extent they are not irreversibly implemented, health care decisions made by a
26 challenged agent **or surrogate** shall not thereafter be implemented without an order of the probate
27 court or a withdrawal or dismissal of the court action; provided, that this paragraph shall not be
28 construed to authorize any violation of RSA 137-J:7[~~-II or III~~].

29 III. The probate court in which such a petition is filed shall hold a hearing as expeditiously
30 as possible.

31 9 Advance Health Care Directives. Amend RSA 137-J:25-29 to read as follows:

32 137-J:25 Presumed Consent to Cardiopulmonary Resuscitation; Health Care Providers and
33 Residential Care Providers Not Required to Expand to Provide Cardiopulmonary Resuscitation.

34 I. Every person shall be presumed to consent to the administration of cardiopulmonary
35 resuscitation in the event of cardiac or respiratory arrest, unless one or more of the following
36 conditions, of which the health care provider or residential care provider has actual knowledge,
37 apply:

1 (a) A do not resuscitate order in accordance with the provisions of this chapter has been
2 issued for that person;

3 (b) A completed advance directive for that person is in effect, pursuant to the provisions
4 of this chapter, in which the person indicated~~[-that he or she does not wish]~~ **a wish not** to receive
5 cardiopulmonary resuscitation, or ~~[his or her]~~ **the principal's agent or surrogate** has determined
6 that the person would not wish to receive cardiopulmonary resuscitation;

7 (c) A person who lacks capacity to make health care decisions is ~~[near death]~~ **actively**
8 **dying** and admitted to a health care facility, and the person's agent **or surrogate** is not available
9 and the facility has made diligent efforts to contact the agent **or surrogate** without success, or the
10 person's agent **or surrogate** is not legally capable of making health care decisions for the person,
11 and the attending ~~[physician, PA, or APRN]~~ **practitioner** and a physician knowledgeable about the
12 patient's condition, have determined that the provision of cardiopulmonary resuscitation would be
13 contrary to accepted medical standards and would cause unnecessary harm to the person, and the
14 attending ~~[physician, PA, or APRN]~~ **practitioner** has completed a do not resuscitate order; or

15 (d) A person is under treatment solely by spiritual means through prayer in accordance
16 with the tenets and practices of a recognized church or religious denomination by a duly accredited
17 practitioner thereof.

18 (e) **The application of cardiopulmonary resuscitation would clearly be**
19 **medically futile based on accepted medical standards.**

20 II. Nothing in this section shall be construed to revoke any statute, regulation, or law
21 otherwise requiring or exempting a health care provider or residential care provider from instituting
22 or maintaining the ability to provide cardiopulmonary resuscitation or expanding its existing
23 equipment, facilities, or personnel to provide cardiopulmonary resuscitation.

24 137-J:26 Issuance of a Do Not Resuscitate Order; Order to be Written by the Attending
25 ~~[Physician, PA, or APRN]~~ **Practitioner.**

26 I. An attending ~~[physician, PA, or APRN]~~ **practitioner** may issue a do not resuscitate order
27 for a person if the person, or the person's agent **or surrogate**, has consented to the order. A do not
28 resuscitate order shall be issued in writing in the form as described in this section for a person not
29 present or residing in a health care facility. For persons present in health care facilities, a do not
30 resuscitate order shall be issued in accordance with the policies and procedures of the health care
31 facility and in accordance with the provisions of this chapter.

32 II. A person ~~[may request that his or her]~~ **may request that their** attending ~~[physician, PA,~~
33 ~~or APRN]~~ **practitioner** issue a do not resuscitate order for the person.

34 III. ~~[An agent may consent to a do not resuscitate order for a person who lacks the capacity~~
35 ~~to make health care decisions if the advance directive signed by the principal grants such authority.]~~
36 A do not resuscitate order written by the attending ~~[physician, PA, or APRN]~~ **practitioner** for such

1 a person with the consent of the agent **or surrogate** is valid and shall be respected by health care
2 providers and residential care providers.

3 IV. If an agent **or surrogate** is not reasonably available and the facility has made diligent
4 efforts to contact the agent **or surrogate** without success, or the agent **or surrogate** is not legally
5 capable of making a decision regarding a do not resuscitate order, an attending [~~physician, PA, or~~
6 ~~APRN~~] **practitioner** may issue a do not resuscitate order for a person who lacks capacity to make
7 health care decisions, who is [~~near death~~] **actively dying**, and who is admitted to a health care
8 facility if a second [~~physician~~] **practitioner** who has personally examined the person concurs in the
9 opinion of the attending [~~physician, PA, or APRN~~] **practitioner** that the provision of
10 cardiopulmonary resuscitation would be contrary to accepted medical standards and would cause
11 unnecessary harm to the person.

12 V. [~~For persons not present or residing in a health care facility, the do not resuscitate order~~
13 ~~shall be noted on a medical orders form or in substantially the following form on a card suitable for~~
14 ~~carrying on the person:~~

15 Do Not Resuscitate Order

16 As attending physician, PA, or APRN of _____ and as a licensed physician, physician assistant
17 or advanced practice registered nurse, I order that this person SHALL NOT BE RESUSCITATED in
18 the event of cardiac or respiratory arrest.

19 This order has been discussed with _____ (or, if applicable, with his/ her agent,) _____,
20 who has given consent as evidenced by his/her signature below. Attending physician, PA, or APRN

21 Name

22 Attending physician, PA, or APRN Signature

23 Address

24 Person Signature

25 Address

26 Agent Signature (if applicable)

27 _____

28 Address _____] **The do not resuscitate order shall be reflected in at least one**
29 **of the following forms:**

30 (a) **Forms issued in accordance with the policies and procedures of the health**
31 **care facility in compliance with this chapter if applicable;**

32 (b) **A portable DNR (P-DNR); medical orders form documenting the patient's**
33 **name and signed by an attending practitioner and that clearly documents the DNR order;**
34 **DNR bracelet or necklace worn by a patient, and inscribed with the patient's name, date of**
35 **birth (in numerical form), and "NH DNR" or "NH Do not resuscitate"; and POLST**
36 **constitutes a DNR if it states "This will constitute a DNR Order, and no separate DNR**
37 **Order will be required."**

1 VI. ~~[For persons residing in a health care facility, the do not resuscitate order shall be~~
2 ~~reflected in at least one of the following forms:~~

3 ~~(a) Forms required by the policies and procedures of the health care facility in~~
4 ~~compliance with this chapter;~~

5 ~~(b) The do not resuscitate card as set forth in paragraph V; [or~~

6 ~~(c)] The medical orders form in compliance with this chapter.] **Portable DNR and**
7 **POLST (that indicates Do Not Resuscitate) forms are transferable, valid medical orders**
8 **throughout this state.**~~

9 137-J:27 Compliance With a Do Not Resuscitate Order.

10 I. Health care providers and residential care providers shall comply with the do not
11 resuscitate order when presented with one of the following:

12 (a) A do not resuscitate order **or POLST that indicates Do Not Resuscitate**
13 completed by the attending ~~[physician, PA, or APRN]~~ **practitioner** on a form as specified in RSA
14 137-J:26;

15 (b) A do not resuscitate order **or POLST indicating Do Not Resuscitate** for a person
16 present or residing in a health care facility issued in accordance with the health care facility's
17 policies and procedures in compliance with the chapter; or

18 (c) A medical orders **or POLST** form on which the attending ~~[physician, PA, or APRN]~~
19 **practitioner** has documented a do not resuscitate order in compliance with this chapter.

20 (d) Do not resuscitate identification as set forth in RSA 137-J:33.

21 II. Pursuant to this chapter, health care providers shall respect do not resuscitate orders for
22 persons in health care facilities, ambulances, homes, and communities within this state.

23 137-J:28 Protection of Persons Carrying Out in Good Faith a Do Not Resuscitate Order;
24 Notification of Agent **or Surrogate** by Attending ~~[Physician, PA, or APRN]~~ **Practitioner** Refusing
25 to Comply With Do Not Resuscitate **or POLST** Order.

26 I. No health care provider or residential care provider, or any other person acting for the
27 provider or under the provider's control, shall be subjected to criminal or civil liability, or be deemed
28 to have engaged in unprofessional conduct, for carrying out in good faith a do not resuscitate **or**
29 **POLST** order authorized by this chapter on behalf of a person as instructed by the person, or the
30 person's agent **or surrogate**, or for those actions taken in compliance with the standards and
31 procedures set forth in this chapter.

32 II. No health care provider or residential care provider, or any other person acting for the
33 provider or under the provider's control, or other individual who witnesses a cardiac or respiratory
34 arrest shall be subjected to criminal or civil liability for providing cardiopulmonary resuscitation to a
35 person for whom a do not resuscitate order has been issued; provided, that such provider or
36 individual:

1 (a) Reasonably and in good faith is unaware of the issuance of a do not resuscitate order;
 2 or

3 (b) Reasonably and in good faith believed that consent to the do not resuscitate order has
 4 been revoked or canceled.

5 III.(a) Any attending [~~physician, PA, or APRN~~] **practitioner** who, because of personal
 6 beliefs or conscience, refuses to issue a do not resuscitate order at a person's request or to comply
 7 with a do not resuscitate **or POLST** order issued pursuant to this chapter shall take reasonable
 8 steps to advise promptly the person or agent **or surrogate** of the person that such attending
 9 [~~physician or APRN~~] **practitioner** is unwilling to effectuate the order. The attending [~~physician,~~
 10 ~~PA, or APRN~~] **practitioner** shall thereafter at the election of the person or agent **or surrogate**
 11 permit the person or agent **or surrogate** to obtain another attending [~~physician, PA, or APRN~~]
 12 **practitioner**.

13 (b) If [~~a physician, PA, or APRN~~] **an attending practitioner**, because of [~~his or her~~]
 14 **the practitioner's** personal beliefs or conscience, is unable to comply with the terms of a do not
 15 resuscitate **or POLST** order, [~~he or she~~] **the practitioner** shall immediately inform the person, the
 16 person's agent **or surrogate**.^[7] **The person** or the person's [~~family. The person, the person's~~]
 17 agent^[5] **or surrogate**~~[or the person's family]~~ may then request that the case be referred to another
 18 [~~physician, PA, or APRN~~] **practitioner**, as set forth in RSA 137-J:7~~[, II and III]~~.

19 137-J:29 Revocation **or Suspension** of Do Not Resuscitate **or POLST** Order.

20 I. At any time a [~~person in a~~] **principal admitted as an inpatient or outpatient to a**
 21 health care facility may revoke [~~his or her previous request for or consent to~~] a do not resuscitate **or**
 22 **POLST** order by making either a written, oral, or other act of communication to the attending
 23 [~~physician, PA, or APRN~~] **practitioner** or other professional staff of the health care facility.

24 II. At any time a [~~person~~] **principal** residing [~~at home~~] **outside a health care facility**
 25 may revoke [~~his or her~~] **the principal's** do not resuscitate **or POLST** order by destroying such
 26 order and removing do not resuscitate identification on~~[his or her]~~ **the principal's** person **or by**
 27 **making either a written, oral, or other act of communication to a healthcare provider that**
 28 **is present with the principal**. [~~The person is responsible for notifying his or her attending~~
 29 ~~physician, PA, or APRN of the revocation.~~]

30 III. At any time, **in accordance with RSA 137-J:6**, an agent **or surrogate** may revoke [~~his~~
 31 ~~or her consent to~~] a do not resuscitate **or POLST** order for a [~~person~~] **principal** who lacks capacity
 32 to make health care decisions who is admitted to a health care facility by **making either a written,**
 33 **oral, or other act of communication to the attending practitioner or other professional**
 34 **staff at the health care facility** [~~notifying the attending physician, PA, or APRN or other~~
 35 ~~professional staff of the health care facility of the revocation of consent in writing, or by orally~~
 36 ~~notifying the attending physician, PA, or APRN in the presence of a witness 18 years of age or older]~~.

1 IV. At any time, *in accordance with RSA 137-J:6*, an agent *or surrogate* may revoke ~~his~~
 2 ~~or her consent~~ *a do not resuscitate or POLST order for* a ~~person~~ *principal* who lacks capacity
 3 to make health care decisions who is residing ~~at home~~ *outside a health care facility* by
 4 destroying such order and removing do not resuscitate identification from the ~~person~~ *principal's*
 5 *person, or by making either written, oral, or other act of communication to a healthcare*
 6 *provider that is present with the principal*. The agent is responsible for notifying the person's
 7 attending ~~physician, PA, or APRN~~ *practitioner* of the revocation.

8 V. The attending ~~physician, PA, or APRN~~ *practitioner* who is informed of or provided
 9 with a revocation of consent pursuant to this section shall immediately cancel *or suspend* the do not
 10 resuscitate *or POLST order in the principal's medical record* if the ~~person~~ *principal* is in a
 11 health care facility and notify the professional staff of the health care facility responsible for the
 12 ~~person's~~ *principal's* care of the revocation, *suspension, or* ~~and~~ cancellation. Any professional
 13 staff of the health care facility who is informed of or provided with a revocation of consent pursuant
 14 to this section shall immediately notify the attending ~~physician, PA, or APRN~~ *practitioner* of such
 15 revocation.

16 ~~[VI. Only a physician, physician assistant, or advanced practice registered nurse may cancel~~
 17 ~~the issuance of a do not resuscitate order.]~~

18 10 Not Suicide or Murder. Amend RSA 137-J:30 to read as follows:

19 137-J:30 Not Suicide or Murder. The withholding of cardiopulmonary resuscitation from a
 20 person in accordance with the provisions of this chapter shall not, for any purpose, constitute suicide
 21 or murder. The withholding of cardiopulmonary resuscitation from a person in accordance with the
 22 provisions of this chapter, however, shall not relieve any individual of responsibility for any criminal
 23 acts that may have caused the person's condition. Nothing in this chapter shall be construed to
 24 legalize, *constitute*, condone, authorize, or approve *suicide, assisted suicide*, mercy killing, or
 25 ~~assisted suicide~~ *euthanasia*.

26 11 Advance Health Care Directives; Preservation of Existing Rights. Amend RSA 137-J:32, I to
 27 read as follows:

28 I. Nothing in this chapter shall impair or supersede any legal right or legal responsibility
 29 which any person may have to effect the withholding of cardiopulmonary resuscitation in any lawful
 30 manner. In such respect, the provisions of this chapter are cumulative; provided, that this
 31 paragraph shall not be construed to authorize any violation of RSA 137-J:7 ~~[II or III]~~.

32 12 Advance Health Care Directives; Surrogate Decision Making. Amend RSA 137-J:35 to read
 33 as follows:

34 137-J:35 Surrogate Decision-making.

35 I. When a patient lacks capacity to make health care decisions, the ~~physician, PA, or APRN~~
 36 *attending practitioner* shall make a reasonable inquiry pursuant to 137-J:7 as to whether the
 37 patient has a valid ~~advance directive~~ *durable power of attorney for health care* and, to the

1 extent that the patient has designated an agent, whether such agent is available, willing and able to
2 act. When no health care agent is authorized and available, the health care provider shall make a
3 reasonable inquiry as to the availability of possible surrogates listed under this paragraph. A
4 surrogate decision-maker may make medical decisions on behalf of a patient without court order or
5 judicial involvement in the following order of priority:

6 (a) The patient's spouse, or civil union partner~~[-or common-law spouse as defined by RSA~~
7 ~~457:39]~~, unless there is a divorce proceeding, separation agreement, or restraining order limiting
8 that person's relationship with the patient.

9 (b) Any adult son or daughter of the patient.

10 (c) Either parent of the patient.

11 (d) Any adult brother or sister of the patient.

12 (e) Any adult grandchild of the patient.

13 (f) Any grandparent of the patient.

14 (g) Any adult aunt, uncle, niece, or nephew of the patient.

15 (h) A close friend of the patient.

16 (i) The agent with financial power of attorney or a conservator appointed in accordance
17 with RSA 464-A.

18 (j) The guardian of the patient's estate.

19 II. The ~~[physician, PA, or APRN]~~ **attending practitioner** may identify a surrogate from
20 the list in paragraph I if the ~~[physician, PA, or APRN]~~ **attending practitioner** determines ~~[he or~~
21 ~~she]~~ **the surrogate** is able and willing to act, and determines after reasonable inquiry that neither a
22 legal guardian, health care agent under a durable power of attorney for health care, nor a surrogate
23 of higher priority is available and able and willing to act. The surrogate decision-maker, as
24 identified by the attending ~~[physician, PA, or APRN]~~ **practitioner**, may make health care decisions
25 for the patient, **in accordance with RSA 137-J:6**. The surrogacy provisions of this chapter shall
26 take effect when the decision-maker names are recorded in the medical record. The ~~[physician, PA,~~
27 ~~or APRN]~~ **attending practitioner** shall have the right to rely on any of the above surrogates if the
28 ~~[physician, PA, or APRN]~~ **attending practitioner** believes after reasonable inquiry that neither a
29 health care agent under a durable power of attorney for health care or a surrogate of higher priority
30 is available or able and willing to act.

31 13 Advance Health Care Directives. Amend RSA 137-J:36, I to read as follows:

32 I. Where there are multiple surrogate decision-makers at the same priority level in the
33 hierarchy, it shall be the responsibility of those surrogates to make reasonable efforts to reach a
34 consensus as to their decision on behalf of the patient regarding any health care decision. If 2 or
35 more surrogates who are in the same category and have equal priority indicate to the attending
36 ~~[physician, PA, or APRN]~~ **practitioner** that they disagree about the health care decision at issue, a
37 majority of the available persons in that category shall control, unless the minority or any other

1 interested party initiates guardianship proceedings in accordance with RSA 464-A. There shall not
2 be a recognized surrogate when a guardianship proceeding has been initiated and a decision is
3 pending. The person initiating the petition for guardianship shall immediately provide written
4 notice of the initiation of the guardianship proceeding to the health care facility where the patient is
5 being treated. This process shall not preempt the care of the patient. No health care provider or
6 other person shall be required to seek appointment of a guardian.

7 14 Advance Health Care Directives; Limitations on Surrogacy. Amend RSA 137-J:37 to read as
8 follows:

9 137-J:37 Limitations of Surrogacy.

10 I. A surrogate shall not be identified over the express objection of the patient, and a
11 surrogacy shall terminate if at any time a patient for whom a surrogate has been appointed
12 expresses objection to the continuation of the surrogacy.

13 II. No ~~[physician, PA, or APRN]~~ **attending practitioner** shall be required to identify a
14 surrogate, and may, in the event a surrogate has been identified, revoke the surrogacy if the
15 surrogate is unwilling or unable to act.

16 III. ~~[A physician, PA, or APRN]~~ **An attending practitioner** may, but shall not be required
17 to, initiate guardianship proceedings or encourage a family member or friend to seek guardianship in
18 the event a patient is determined to lack capacity to make health care decisions and no guardian,
19 agent under a health care power of attorney, or surrogate has been appointed or named.

20 IV. Nothing in this chapter shall be construed to require ~~[a physician, PA, or APRN]~~ **an**
21 **attending practitioner** to treat a patient who the ~~[physician, PA, or APRN]~~ **practitioner**
22 reasonably believes lacks health care decision-making capacity and for whom no guardian, agent, or
23 surrogate has been appointed.

24 V. The surrogate may make health care decisions for a principal to **the** same extent as an
25 agent under a durable power of attorney for health care for up to ~~[90]~~ **180** days after being identified
26 in RSA 137-J:35, I, ~~[unless]~~. **The authority of the surrogate shall terminate if** the principal
27 regains **the capacity to make** health care ~~[decision-making capacity]~~ **decisions** or a guardian is
28 appointed ~~[or patient is determined to be near death, as defined in RSA 137-J:2, XVI]~~. The authority
29 of the surrogate shall terminate after ~~[90]~~ **180** days, **unless the patient is determined to be**
30 **actively dying**.

31 15 Repeal. RSA 137-J:34, relative to applicability of certain advance directives, is repealed.

32 16 Effective Date.

33 I. Section RSA 137-J:5 IV-a as inserted by section 2 of this act shall take effect July 1, 2021.

34 II. The remainder of this act shall take effect upon its passage.

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