

15-14-506. Medical durable power of attorney

(1) The authority of an agent to act on behalf of the principal in consenting to or refusing medical treatment, including artificial nourishment and hydration, may be set forth in a medical durable power of attorney. A medical durable power of attorney may include any directive, condition, or limitation of an agent's authority.

(2) The agent shall act in accordance with the terms, directives, conditions, or limitations stated in the medical durable power of attorney, and in conformance with the principal's wishes that are known to the agent. If the medical durable power of attorney contains no directives, conditions, or limitations relating to the principal's medical condition, or if the principal's wishes are not otherwise known to the agent, the agent shall act in accordance with the best interests of the principal as determined by the agent.

(3) An agent appointed in a medical durable power of attorney may provide informed consent to or refusal of medical treatment on behalf of a principal who lacks decisional capacity and shall have the same power to make medical treatment decisions the principal would have if the principal did not lack such decisional capacity. An agent appointed in a medical durable power of attorney shall be considered a designated representative of the patient and shall have the same rights of access to the principal's medical records as the principal. In making medical treatment decisions on behalf of the principal, and subject to the terms of the medical durable power of attorney, the agent shall confer with the principal's attending physician concerning the principal's medical condition.

...

(4) (a) Nothing in this section or in a medical durable power of attorney shall be construed to abrogate or limit any rights of the principal, including the right to revoke an agent's authority or the right to consent to or refuse any proposed medical treatment, and no agent may consent to or refuse medical treatment for a principal over the principal's objection.

(b) Nothing in this article shall be construed to supersede any provision of article 1 of title 25, C.R.S., or article 10.5 or article 65 of title 27, C.R.S.

(5) (a) Nothing in this part 5 shall have the effect of modifying or changing the standards of the practice of medicine or medical ethics or protocols.

(b) Nothing in this part 5 or in a medical durable power of attorney shall be construed to compel or authorize a health care provider or health care facility to administer medical treatment that is otherwise illegal, medically inappropriate, or contrary to any federal or state law.

(c) Unless otherwise expressly provided in the medical durable power of attorney under which the principal appointed the principal's spouse as the agent, a subsequent divorce, dissolution of marriage, annulment of marriage, or legal separation between the principal and spouse appointed as agent automatically revokes such appointment. However, nothing in this paragraph (c) shall be construed to revoke any remaining provisions of the medical durable power of attorney.

(d) Unless otherwise specified in the medical durable power of attorney, if a principal revokes the appointment of an agent or the agent is unable or unwilling to serve, the appointment of the agent shall be revoked. However, nothing in this paragraph (d) shall be construed to revoke any remaining provisions of the medical durable power of attorney.

(6) (a) This part 5 shall apply to any medical durable power of attorney executed on or after July 1, 1992. Nothing in this part 5 shall be construed to modify or affect the terms of any durable power of attorney executed before such date and which grants medical treatment authority. Any such previously executed durable power of attorney may be amended to conform to the provisions of this part 5. In the event of a conflict between a medical durable power of attorney executed pursuant to this part 5 and a previously executed durable power of attorney, the provisions of the medical durable power of attorney executed pursuant to this part 5 shall prevail.

(b) Unless otherwise specified in a medical durable power of attorney, nothing in this part 5 shall be construed to modify or affect the terms of a declaration executed in accordance with the "Colorado Medical Treatment Decision Act", article 18 of this title.

15-14-507. Transfer of principal

(1) A health care provider or health care facility shall provide notice to a principal and an agent of any policies based on moral convictions or religious beliefs of the health care provider or health care facility relative to the withholding or withdrawal of medical treatment. Notice shall be provided, when reasonably possible, prior to the provision of medical treatment or prior to or upon the admission of the principal to the health care facility, or as soon as possible thereafter.

(2) A health care provider or health care facility shall provide for the prompt transfer of the principal to another health care provider or health care facility if such health care provider or health care facility wishes not to comply with an agent's medical treatment decision on the basis of policies based on moral convictions or religious beliefs.

(3) An agent may transfer the principal to the care of another health care provider or health care facility if an attending physician or health care facility does not wish to comply with an agent's decision for any reason other than those described in subsection (1) of this section.

(4) The transfer of a principal to another health care provider or health care facility in accordance with the provisions of this section shall not constitute a violation of Title XIX of the federal "Social Security Act", 42 U.S.C., sec. 1395dd, regarding the transfer of patients.

(5) Nothing in this section shall relieve or exonerate an attending physician or health care facility from the duty to provide for the care and comfort of the principal pending transfer pursuant to this section.

15-14-508. Immunities

(1) An agent or proxy-decision maker, as established in article 18.5 of this title, who acts in good faith in making medical treatment decisions on behalf of a principal pursuant to the terms of a medical durable power of attorney shall not be subject to civil or criminal liability therefor.

(2) Each health care provider and health care facility shall, in good faith, comply, in respective order, with the wishes of the principal, the terms of an advance medical directive, or the decision of an agent acting pursuant to an advance medical directive. A health care provider or health care facility which, in good faith, complies with the medical treatment decision of an agent acting in accordance with an advance medical directive shall not be subject to civil or criminal liability or regulatory sanction therefor.

(3) Good faith actions by any health care provider or health care facility in complying with a medical durable power of attorney or at the direction of a health care agent of the principal which result in the death of the principal following trauma caused by a criminal act or criminal conduct, shall not affect the criminal prosecution of any person charged with the commission of a criminal act or conduct.

(4) Neither a medical durable power of attorney nor the failure of a person to execute one shall affect, impair, or modify any contract of life or health insurance or annuity or be the basis for any delay in issuing or refusing to issue an annuity or policy of life or health insurance or any increase of a premium therefor.

HISTORY: Source: L. 92: Entire section added, p. 1979, § 2, effective June 4.