

Quick Summary of Health Care Decision-Making Changes Effected By Sections 59 through 81, and Section 87 of Public Act No. 06-195

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- Repeals Section 1-54a □ description of authority concerning health care decisions in statutory short form power of attorney
- Section 19a-570:
 - Alphabetizes definitions
 - Inserts new definitions:
 - □ advance health care directive or health care directive □ is living will or appointment of health care representative or both
 - □ health care representative □
 - □ appointment of health care representative □
 - removes definition of health care agent and replaces with health care representative
 - expands definition of living will to include any aspect of health care
 - retains the following definitions:
 - beneficial medical treatment
 - incapacitated
 - life support
 - next-of-kin
 - terminal condition
 - permanent unconsciousness
- Section 19a-571
 - does not change triggering conditions
 - adds reference to health care representative
- Section 19a-572 is retained □ failure to execute creates no presumption concerning wishes
- Section 19a-573 is retained □ comfort care and pain alleviation shall be provided in all cases
- Section 19a-574 is retained □ non-applicability to pregnant patient
- Section 19a-575 living will

- expands scope of living will to health care decisions other than life support
- retains "may be in substantially the following form"
- Section 19a-575a combined form
 - Subsection a: removes language limiting proxy authority to life support and measures for physical comfort and replaces it with language authorizing health care representative to make any and all health care decisions (for physical or mental condition); indicates that where wishes are unclear or condition has not been anticipated, health care representative is to make decision in best interests based on what is known of wishes
 - Subsection b: revocation of health care representative "in writing, signed by declarant and two witnesses
 - Subsection c "requires physician to make revocation of health care representative part of medical record
 - Subsection d "provides hold harmless for following advance directives in absence of knowledge of revocation of health care representative
 - Subsection e "establishes that revocation of appointment of health care representative does not, in itself, revoke living will
- Section 19a-576 "retains execution requirements for appointment of proxy, replacing reference to health care agent with health care representative; retains requirements for witnessing; retains limitations on who may serve as health care representative
- Section 19a-577 "appointment of health care representative (previously, appointment of health care agent)
 - Inserts new language in preamble about intent in appointing a proxy
 - Inserts language expanding scope of authority identical to combined form
 - Retains "may, but need not be, in substantially following form"
- Section 19a-578 "self-proving affidavit
 - replaces reference to "court of Probate" with "court of competent jurisdiction"
 - retains obligation of physicians to make living will, appointment of health care representative and oral communications concerning any aspect of health care part of medical record
- Section 19a-579 "when living will or appointment of health care representative becomes operative

- does not change standard under which become operative (furnished to attending physician and determined by attending physician to be incapacitated)
- at any time after appointment of health care representative, on request of health care representative, requires physician to provide written disclosure of determination of incapacity
- Section 19a-579a □ revocation
 - removes reference to appointment of health care agent
 - retains right to revoke living will at any time and in any manner without regard to mental or physical condition
- Section 19a-579b □ retains revocation of appointment of health care representative upon divorce, legal separation, annulment or dissolution, unless specified otherwise by principal
- Section 19a-580 □ notice to health care representative (replacing health care agent), next-of-kin, conservator, etc. prior to withholding or causing removal of life support
- Section 19a-580a □ retains requirement that if physician or health care provider is unwilling to comply, transfer must be arranged
- Section 19a-580b □ retains language prohibiting completion as condition of receiving treatment or health care benefits
- Section 19a-580c
 - Retains probate court jurisdiction over disputes and, with respect to communication of wishes other than by document, clear and convincing evidentiary standard
 - New subsection b gives probate court jurisdiction over disputes concerning capacity of health care representative or claims that health care representative would interfere with treatment
 - New subsection c gives individuals appointed as health care representatives standing to challenge the validity of revocation of that appointment
- Section 19a-580d □ retains DNR section
- Section 45a-650 (conservator) and Section 45a-654 (temporary conservator) □ replaces references to health care agent with references to health care representative in instructions to courts concerning whether or not to appoint a conservator

- **NEW**
 - Subsection a □ provides that except as authorized by court of competent jurisdiction, conservators shall comply with health care instructions and other wishes of ward made while ward had capacity, and may not revoke advance directives unless appointing court expressly so authorizes
 - Subsection b □ absent a court order to the contrary, decision of health care representative takes precedence over that of conservator except:
 - Persons subject to:
 - 17a-566 certain convicted persons subject to psychiatric exam
 - 17a-587 acquittees □ temporary leaves from hospitals or placement with DMR
 - 17a-588 acquittees □ conditional release
 - 54-56d competency exams of defendants
 - where conservator is appointed under 17a-543(e), which provides procedure governing medication, treatment, psycho-surgery or shock treatment for individuals with psychiatric disabilities - for duration of hospitalization
 - where conservator is appointed under 17a-543a □ administration of medication to criminal defendants in custody of DMHAS
 - **NEW** □ provides for ongoing validity of previously executed directives
 - **NEW** □ provides for comity
 - Health care provider may reply based on any of:
 - Order or decision of court of competent jurisdiction
 - Presentation of notarized statement from patient or person offering proxy that it is:
 - Valid under the law in which made; and
 - Not contrary to Connecticut public policy
- or
- provider's own good faith legal analysis

References:

17a-238 rights of persons under supervision of DMR
52-184d evidence