

Arkansas Statute

20-13-104. **Durable power of attorney for health care.**

(a) This section shall be known and may be cited as the "Durable Power of Attorney for Health Care Act".

(b) The General Assembly recognizes the right of the individual to control all aspects of his or her personal care and medical treatment. However, if the individual becomes incapacitated, his or her right to control treatment may be denied unless the individual, as principal, can delegate the decision-making power to a trusted agent and be sure that the agent's power to make personal and health care decisions for the principal will be effective to the same extent as though made by the principal.

(c) (1) As used in this section, "health care" means any care, treatment, service, or procedure to maintain, diagnose, treat, or provide for the patient's physical or mental health or personal care.

(2) "Health care" shall not include decisions concerning life-sustaining treatment set forth in the Arkansas Rights of the Terminally Ill or Permanently Unconscious Act, § 20-17-201 et seq. However, a power of attorney for health care may contain the declaration set forth in § 20-17-202 relating to such life-sustaining treatments.

(d) (1) A person may execute a power of attorney for health care. The power of attorney may be durable.

(2) The health care agency shall be:

(A) In writing;

(B) Signed by the principal or by someone acting at the direction of the principal and in the principal's presence; and

(C) Attested to by and subscribed in the presence of two (2) or more competent witnesses who are at least eighteen (18) years of age.

(3) An agent appointed under a power of attorney for health care shall take precedence over any person listed in § 20-9-602.

(e) This section does not in any way affect or invalidate any health care agency executed or any act of an agent prior to July 1, 1999, or affect any claim, right, or remedy that accrued prior to July 1, 1999. Nothing contained herein shall be interpreted or construed to alter or amend any provision of the Arkansas Rights of the Terminally Ill or Permanently Unconscious Act, § 20-17-201 et seq. The powers of a health care agent may be combined with a declaration made by a qualified patient under the Arkansas Rights of the Terminally Ill or Permanently Unconscious Act, § 20-17-201 et seq.

(f) This section is wholly independent of the provisions of the Probate Code, § 28-1-101 et seq., relating to wills, trusts, fiduciary relationships, and administration of estates, and nothing in this section shall be construed to affect in any way the provisions of the Probate Code, § 28-1-101 et seq.

(g) Nothing in this section shall be construed as authorizing or encouraging euthanasia, assisted suicide, suicide, or any action or course of action that violates the criminal laws of this state or of the United States.

History. Acts 1999, No. 1448, §§ 1-8.