

MCSWINEY & WOOD LAW FIRM P.C. SPRING 2022 NEWSLETTER

The Firm's Spring 2022 Newsletter focuses on New Hampshire's new Advanced Directive law.

NEW HAMPSHIRE'S NEW ADVANCE DIRECTIVE LAW

On July 30, 2021, New Hampshire made significant changes to its state law regarding advance directives for health care decisions. The new law seeks to simplify and clarify the process by which a person may execute a health care advance directive by combining in one form what was once two state forms; the durable power of attorney for health care and a living will. Clients may want to consider the new Advance Directive form due to it being an improvement over the form that was used before 2021. Here are some of the notable changes to the law:

The New Law Defines What It Means to be an “Attending Practitioner”

The term Attending Physician, Physician Assistant (PA), or Advanced Practice Registered Nurse (APRN) was replaced with Attending Practitioner. Attending Practitioner means the physician, physician assistant, or advanced practice registered nurse, selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient. If more than one physician, physician assistant, or advanced practice registered nurse shares that responsibility, any one of those physicians, physician assistants, or advanced practice registered nurses may act as the attending practitioner.

The New Law Defines “POLST” (Physician Orders for Life-Sustaining Treatment)

“POLST” means a form that contains a set of emergency medical orders signed by an attending practitioner. This order set may contain DNR orders,

and, although it may be completed in any state under a similar title, the DNR and all other orders shall conform to New Hampshire law.

The New Law Reclassifies “Near Death” as “Actively Dying.”

The term “**Near Death**” was replaced with “**Actively Dying**”, which is an incurable condition caused by injury, disease, or illness that is such that death is imminent and the application of life-sustaining treatment would, to a reasonable degree of medical certainty, only postpone the moment of death to another imminent moment, as certified in the principal’s medical record by 2 physicians, or a physician and another attending practitioner who is not under the supervision of the certifying physician.

The New Law Clarifies and Expands the Role of a Surrogate

“Surrogate decision-maker” or “surrogate” means an adult individual who has health care decision-making capacity, is available upon reasonable inquiry, is willing to make healthcare decisions on behalf of a patient who lacks health care decision-making capacity and is identified by the attending practitioner in accordance with the provisions of this chapter as the person who is to make those decisions in accordance with the provisions of the chapter.

The New Law Redefines the Term “Advance Directive”

“**Advance directive**” means a directive document allowing a person to give directions and guidance about future medical care and/or to designate another person to make medical decisions if he or she, the principal, should lose the capacity to make health care decisions. The term “advance directives” shall include living wills and durable powers of attorney for health care and a living will.

Spring and Summer Hours and Updated Covid-19 Policy

Our hours for this Spring and Summer will be from 8 am to 4 pm. For meetings, clients can choose whether they want to wear a mask or not, but it is highly recommended that they continue to do so based on the highly contagious Omicron variant. Attorney Wood will continue to wear a mask unless the client prefers that he not do so for communication purposes. Other firm staff members will wear masks if they choose to do so. For those who want to wear a mask but forget one, we still have face masks available for use. We are still offering meetings via telephone or on Zoom.

Regards,

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