

HOUSE BILL NO. 197

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES HUDSON, Kerttula

Introduced: 3/19/01

Referred: Health, Education and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to directives for personal health care services and for medical**
2 **treatment."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 13.26.332 is amended to read:

5 **Sec. 13.26.332. Statutory form power of attorney.** A person who wishes to
6 designate another as attorney-in-fact or agent by a power of attorney may execute a
7 statutory power of attorney set out in substantially the following form:

8 **GENERAL POWER OF ATTORNEY**

9 **THE POWERS GRANTED FROM THE PRINCIPAL TO THE**
10 **AGENT OR AGENTS IN THE FOLLOWING DOCUMENT ARE**
11 **VERY BROAD. THEY MAY INCLUDE THE POWER TO**
12 **DISPOSE, SELL, CONVEY, AND ENCUMBER YOUR REAL AND**
13 **PERSONAL PROPERTY, AND THE POWER TO MAKE YOUR**
14 **HEALTH CARE DECISIONS. ACCORDINGLY, THE**

1 FOLLOWING DOCUMENT SHOULD ONLY BE USED AFTER
2 CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS
3 ABOUT THIS DOCUMENT, YOU SHOULD SEEK COMPETENT
4 ADVICE.

5 YOU MAY REVOKE THIS POWER OF ATTORNEY AT ANY
6 TIME.

7 Pursuant to AS 13.26.338 - 13.26.353, I, (Name of
8 principal) , of (Address of principal) , do hereby
9 appoint (Name and address of agent or agents) , my
10 attorney(s)-in-fact to act as I have checked below in my name, place,
11 and stead in any way which I myself could do, if I were personally
12 present, with respect to the following matters, as each of them is
13 defined in AS 13.26.344, to the full extent that I am permitted by law to
14 act through an agent:

15 THE AGENT OR AGENTS YOU HAVE APPOINTED WILL
16 HAVE ALL THE POWERS LISTED BELOW UNLESS YOU
17 DRAW A LINE THROUGH A CATEGORY; AND
18 INITIAL THE BOX OPPOSITE THAT CATEGORY

- 19 (A) real estate transactions
- 20 (B) transactions involving tangible personal property,
21 chattels, and goods
- 22 (C) bonds, shares, and commodities transactions
- 23 (D) banking transactions
- 24 (E) business operating transactions
- 25 (F) insurance transactions
- 26 (G) estate transactions
- 27 (H) gift transactions
- 28 (I) claims and litigation
- 29 (J) personal relationships and affairs
- 30 (K) benefits from government programs and military
31 service

- 1 (L) [HEALTH CARE SERVICES ()
- 2 (M)] records, reports, and statements ()
- 3 (M) [(N)] delegation ()
- 4 (N) [(O)] all other matters, including those specified
- 5 as follows: ()

9 IF YOU HAVE APPOINTED MORE THAN ONE AGENT,
 10 CHECK ONE OF THE FOLLOWING:

- 11 () Each agent may exercise the powers conferred separately, without
- 12 the consent of any other agent.
- 13 () All agents shall exercise the powers conferred jointly, with the
- 14 consent of all other agents.

15 TO INDICATE WHEN THIS DOCUMENT SHALL BECOME
 16 EFFECTIVE, CHECK ONE OF THE FOLLOWING:

- 17 () This document shall become effective upon the date of my
- 18 signature.
- 19 () This document shall become effective upon the date of my
- 20 disability and shall not otherwise be affected by my disability.

21 IF YOU HAVE INDICATED THAT THIS DOCUMENT SHALL
 22 BECOME EFFECTIVE ON THE DATE OF YOUR SIGNATURE,
 23 CHECK ONE OF THE FOLLOWING:

- 24 () This document shall not be affected by my subsequent disability.
- 25 () This document shall be revoked by my subsequent disability.

26 IF YOU HAVE INDICATED THAT THIS DOCUMENT SHALL
 27 BECOME EFFECTIVE UPON THE DATE OF YOUR SIGNATURE
 28 AND WANT TO LIMIT THE TERM OF THIS DOCUMENT,
 29 COMPLETE THE FOLLOWING:

30 This document shall only continue in effect for _____ ()
 31 years from the date of my signature.

1 NOTICE OF REVOCATION OF THE POWERS GRANTED IN
2 THIS DOCUMENT

3 You may revoke one or more of the powers granted in this
4 document. Unless otherwise provided in this document, you may
5 revoke a specific power granted in this power of attorney by
6 completing a special power of attorney that includes the specific power
7 in this document that you want to revoke. Unless otherwise provided in
8 this document, you may revoke all the powers granted in this power of
9 attorney by completing a subsequent power of attorney.

10 NOTICE TO THIRD PARTIES

11 A third party who relies on the reasonable representations of an
12 attorney-in-fact as to a matter relating to a power granted by a properly
13 executed statutory power of attorney does not incur any liability to the
14 principal or to the principal's heirs, assigns, or estate as a result of
15 permitting the attorney-in-fact to exercise the authority granted by the
16 power of attorney. A third party who fails to honor a properly executed
17 statutory form power of attorney may be liable to the principal, the
18 attorney-in-fact, the principal's heirs, assigns, or estate for a civil
19 penalty, plus damages, costs, and fees associated with the failure to
20 comply with the statutory form power of attorney. If the power of
21 attorney is one which becomes effective upon the disability of the
22 principal, the disability of the principal is established by an affidavit, as
23 required by law.

24 IN WITNESS WHEREOF, I have hereunto signed my name this
25 ____ day of _____, _____.

26 _____
27 Signature of Principal

28 Acknowledged before me at _____
29 _____ on _____.

30 _____
31 Signature of Officer or Notary

1 * **Sec. 2.** AS 18.12.100 is amended to read:

2 **Sec. 18.12.100. Definitions.** In AS 18.12.010 - 18.12.100 [THIS CHAPTER],

3 (1) "anatomical gift" means an anatomical gift under AS 13.50;

4 (2) "attending physician" means the physician selected by, or assigned
5 to, the patient who has primary responsibility for the treatment and care of the patient;

6 (3) "cardiopulmonary resuscitation" means cardiopulmonary
7 resuscitation or a component of cardiopulmonary resuscitation;

8 (4) "declaration" means a document executed in accordance with the
9 requirements of AS 18.12.010;

10 (5) "DNR identification" means identification substantially similar to
11 that approved under AS 18.12.037;

12 (6) "do not resuscitate order" means a directive from a licensed
13 physician that emergency cardiopulmonary resuscitation should not be administered to
14 a particular person;

15 (7) "do not resuscitate protocol" means the protocol developed under
16 AS 18.12.035(b);

17 (8) "health care provider" means a person who is licensed, certified, or
18 otherwise authorized by the law of this state to administer health care in the ordinary
19 course of business or practice of a profession;

20 (9) "life-sustaining procedure" means a medical procedure or
21 intervention that, when administered to a qualified patient, will serve only to prolong
22 the dying process;

23 (10) "physician" means a person licensed to practice medicine in this
24 state or an officer in the regular medical service of the armed services of the United
25 States or the United States Public Health Service while in the discharge of their
26 official duties, or while volunteering services without pay or other remuneration to a
27 hospital, clinic, medical office, or other medical facility in the state;

28 (11) "qualified patient" means a patient who has executed a declaration
29 in accordance with AS 18.12.010 - 18.12.100 [THIS CHAPTER] and who has been
30 determined by the attending physician to be in a terminal condition;

31 (12) "terminal condition" means a progressive incurable or irreversible

1 condition that, without the administration of life-sustaining procedures, will, in the
2 opinion of two physicians, when available, who have personally examined the patient,
3 one of whom must be the attending physician, result in death within a relatively short
4 time.

5 * **Sec. 3.** AS 18.12 is amended by adding new sections to read:

6 **Article 2. Health Care Services Directives.**

7 **Sec. 18.12.110. Statutory form power of attorney for health care services.**

8 A person who wishes to designate another as attorney-in-fact or agent by a power of
9 attorney for purposes of the provision of health care services may execute a statutory
10 power of attorney to indicate the identity of the person who is to serve as attorney or
11 agent. The following sets out a model of a power of attorney that may be used for that
12 purpose:

13 **POWER OF ATTORNEY FOR HEALTH CARE SERVICES**

14 If I am no longer able to make my own health care decisions, this
15 form names the person I choose to make these choices for me. This
16 person will be my Health Care Agent.

17 This person will make my health care choices if both of these
18 things happen:

19 My attending or treating doctor finds that I am no longer able to
20 make health care choices; and

21 Another health care professional agrees that this is true.

22 The person I choose as my Health Care Agent is:

23 _____

24 Name

25 _____

26 Phone number

27 _____

28 Address

29 _____

30 City, state, zip code

31 If this person

1 is not able or willing to make these choices for me;
2 is divorced or legally separated from me; or
3 has died,

4 then these people are my next choices:

5 _____
6 Second choice name

7 _____
8 Phone number

9 _____
10 Address

11 _____
12 City, state, zip code

13 _____
14 Third choice name

15 _____
16 Phone number

17 _____
18 Address

19 _____
20 City, state, zip code

21 I understand that my Health Care Agent can make health care
22 decisions for me. I want my agent to be able to do the following things
23 in the list below except the things I have drawn a line through or
24 crossed out and have initialed or signed:

25 Make choices for me about my medical care or services,
26 such as tests, medicine, or surgery. This care or service could
27 be to find out what my health problem is, or how to treat it. It
28 can also include care to keep me alive. If the treatment or care
29 has already started, my Health Care Agent can keep it going or
30 have it stopped.

31 Interpret any instructions I have given in this form or given

1 in other discussions, according to my Health Care Agent's
2 understanding of my wishes and values.

3 Arrange for admission to a hospital, hospice, or nursing
4 home for me. My Health Care Agent can hire any kind of
5 health care worker I may need to help me or take care of me.
6 My agent may also fire a health care worker, if needed.

7 Make the decision to request, take away, or not give
8 medical treatments, including artificially provided food and
9 water, and any other treatments to keep me alive.

10 See and approve release of my medical records and
11 personal files. If I need to sign my name to get any of these
12 files, my Health Care Agent can sign for me.

13 Move me to another state to carry out my wishes. My
14 Health Care Agent can also move me to another state for other
15 reasons.

16 Take any legal action needed to carry out my wishes as set
17 out in this section. Apply for Medicare, Medicaid, or other
18 programs or insurance benefits for me. My Health Care Agent
19 can see my personal files, such as bank records, to find out what
20 is needed to fill out these forms.

21 Listed below are any changes, additions, or other
22 limitations on my Health Care Agent's powers:

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If I change my mind about having a Health Care Agent, I will do the following:

- Destroy all copies of this power of attorney; or
- Write the word "Revoked" in large letters across the name of each agent whose authority I want to cancel and sign my name on that page; or
- Tell someone, such as my doctor or family, that I want to cancel or change my Health Care Agent.

IN WITNESS WHEREOF, I have signed my name this ____ day of _____, _____.

Signature

Acknowledged before me at _____ on _____, _____.

Notary Public in and for Alaska

or

Signatures of witnesses:

Printed names of witnesses:

Addresses of witnesses:

1 Phone numbers of witnesses:
 2 _____

3 **Sec. 18.12.120. Statutory form power of attorney for medical treatment.**

4 (a) A person who wishes to indicate to the person's health care agent how medical
 5 treatment is to be provided to the person may execute a statutory power of attorney to
 6 so indicate. The following sets out a model of a power of attorney that may be used
 7 for that purpose:

8 POWER OF ATTORNEY TO
 9 DESCRIBE MEDICAL TREATMENT

10 I believe that my life is precious and I deserve to be treated with
 11 dignity. When the time comes that I am very sick and am not able to
 12 speak for myself, I want the following wishes and any other
 13 instructions I have given to my Health Care Agent to be respected and
 14 followed.

15 The instructions that I am including in this section are to let my
 16 family, my doctors and other health care providers, my friends, and all
 17 others know the kind of medical treatment that I want or do not want.

18 (1) General Instructions

19 I do not want to be in pain. I want my doctor to give me
 20 enough medicine to relieve my pain even if that means that I
 21 will be drowsy or sleep more than I would otherwise.

22 I do not want anything done or omitted by my doctors or
 23 nurses with the intention of taking my life.

24 I want to be offered food and fluids by mouth, and kept
 25 clean and warm.

26 (2) Meaning of "Life-Support Treatment"

27 Life-support treatment means any medical procedure,
 28 device, or medication to keep me alive. Life-support treatment
 29 includes medical devices put in me to help me breathe, food and
 30 water supplied artificially by medical device (tube feeding),
 31 cardiopulmonary resuscitation (CPR), major surgery, blood

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transfusions, dialysis, and antibiotics.

Because I wish to limit the meaning of life-support treatment, I have set out this limitation in the space below:

(3) If I am close to death:

If my doctor and another health care professional both decide that I am likely to die within a short period of time and life-support treatment would only postpone the moment of my death, I am choosing one of the following:

- [] I want to have life-support treatment;
- [] I want to have life-support treatment if my doctor believes it could help, but I want my doctor to stop giving me life-support treatment if it is not helping my health condition or symptoms; or
- [] I do not want life-support treatment; if it has been started, I want it stopped.

(4) If I am in a coma and I am not expected to wake up or recover:

If my doctor and another health care professional both decide that I am in a coma from which I am not expected to wake up or recover and I have brain damage and life-support treatment would only postpone the moment of my death, I have chosen one of the following:

- [] I want to have life-support treatment;
- [] I want to have life-support treatment if my doctor believes it could be helpful, but I want my doctor to stop giving me life-support treatment if it is not helping my

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health condition or symptoms; or

[] I do not want life-support treatment; if it has been started, I want it stopped.

(5) If I have permanent and severe brain damage and I am not expected to recover:

If my doctor and another health care professional both decide that I have permanent and severe brain damage (for example, I can open my eyes, I cannot speak or understand) and I am not expected to recover and life-support treatment would only postpone the moment of my death, I have chosen one of the following:

- [] I want to have life-support treatment;
- [] I want to have life-support treatment if my doctor believes it could help, but I want my doctor to stop giving me life-support treatment if it is not helping my health condition or symptoms; or
- [] I do not want life-support treatment; if it has been started, I want it stopped.

(6) If I am in another condition under which I do not wish to be kept alive:

There are other conditions under which I do not wish to have life-support treatment that I describe below. In this condition, I believe that the costs and burdens of life-support treatment are too much and not worth the benefits to me. Therefore, in this condition, I do not want life-support treatment:

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IN WITNESS WHEREOF, I have signed my name this ____ day
of _____, _____.

Signature
Acknowledged before me at _____ on
_____, _____.

Notary Public in and for Alaska
or

Signatures of witnesses:

Printed names of witnesses:

Addresses of witnesses:

Phone numbers of witnesses:

(b) A person executing the form described in (a) of this section may also express or relate one or more of the following:

(1) A wish for how comfortable the person wants to be, including one of the following that the person has not crossed out:

I do not want to be in pain. I want my doctor to give me enough medicine to relieve my pain, even if that means that I will be drowsy or sleep more than I would otherwise.

If I show signs of depression, nausea, shortness of breath, or hallucinations, I want my caregivers to do whatever they can to help me.

I wish to have a cool moist cloth put on my head if I have a fever.

1 I want my lips and mouth kept moist to stop dryness.

2 I wish to have warm baths often. I wish to be kept fresh
3 and clean at all times.

4 I wish to be massaged with warm oils as often as I can be.

5 I wish to have my favorite music played when possible
6 until my time of death.

7 I wish to have personal care like shaving, nail clipping, hair
8 brushing, and teeth brushing as long as they do not cause me
9 pain or discomfort.

10 I wish to have religious readings and well loved poems read
11 aloud when I am near death.

12 (2) A wish for how the person wishes to be treated by others,
13 including all of the following that the person has not crossed
14 out:

15 I wish to have people with me when possible. I want
16 someone to be with me when it seems that death may come at
17 any time.

18 I wish to have my hand held and to be talked to when
19 possible, even if I don't seem to respond to the voice or touch of
20 others.

21 I wish to have others by my side praying for me when
22 possible.

23 I wish to have the members of my church or synagogue
24 told that I am sick and asked to pray for me and visit me.

25 I wish to be cared for with kindness and cheerfulness, and
26 not sadness.

27 I wish to have pictures of my loved ones in my room, near
28 my bed.

29 If I am not able to control my bowel or bladder functions, I
30 wish for my clothes and bed linens to be kept clean and for
31 them to be changed as soon as they can be if they have been

1 soiled.

2 I want to die in my home if that can be done.

3 and

4 (3) A wish for what the person wants loved ones to know, including
5 all of the following:

6 I wish to have my family members and loved ones know
7 that I love them.

8 I wish to be forgiven for the times I have hurt my family,
9 friends, and others.

10 I wish to have my family members and friends know that I
11 forgive them for what they may have done to me in my life.

12 I wish for my family members and loved ones to know that,
13 because of the faith I have, I do not fear death itself. I think it is
14 not the end, but a new beginning for me.

15 I wish for all of my family members to make peace with
16 each other before my death if they can.

17 I wish for my family and friends to think about what I was
18 like before I had a terminal illness. I want them to remember
19 me in this way after my death.

20 I wish for my family and friends to look at my dying as a
21 time of personal growth for everyone, including me. This will
22 help me live a meaningful life in my final days.

23 I wish for my family and friends to get counseling if they
24 have trouble with my death. I want memories of my life to give
25 them joy and not sorrow.

26 If anyone asks how I want to be remembered, please say the
27 following about me:

28 _____
29 _____
30 _____
31 _____

1 The following person knows my funeral wishes: _____

2 _____

3 If there is to be a memorial service for me, I wish for this service to
4 include the following (list music, songs, readings or other specific
5 requests that you have):

6 _____

7 _____

8 _____

9 _____

10 (c) In addition to the preceding, a person may set out the following further
11 instructions:

12 I want to be treated with dignity near the end of my life. To be
13 treated with dignity means that I would like people to do the things
14 written in (a) and (b) of this section when it can be done. I understand
15 that my family, my doctors, and other health care providers, my friends,
16 and others may not be able to do the things or are not required by law
17 to do the things written in this section. I do not expect my wishes in
18 this section to place new or added legal duties on my doctors or other
19 health care providers. I also do not expect the wishes expressed in (b)
20 of this section to excuse my doctor or other health care providers from
21 giving me the proper care asked for by law.

22 (d) The medical treatment form described in (a) of this section and the
23 additional expressions set out in (b) and (c) of this section may be combined with the
24 form described in AS 18.12.110.

25 **Sec. 18.12.130 Euthanasia not authorized.** The statutory form power of
26 attorney for health care services set out in AS 18.12.110 and the statutory form power
27 of attorney for medical treatment set out in AS 18.12.120 may not be used to authorize
28 or approve euthanasia or mercy killing.

29 * **Sec. 4.** AS 13.26.335(1) and 13.26.344(l) are repealed.

30 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 CONTINUING VALIDITY OF RESPONSIBILITY FOR HEALTH CARE
 2 SERVICES UNDER FORMER STATUTORY FORM POWER OF ATTORNEY UNTIL
 3 TERMINATION OR REVOCATION OF APPOINTMENT. Notwithstanding the repeal, in
 4 sec. 1 of this Act, of the authority to use the statutory form power of attorney prescribed by
 5 AS 13.26.332 for exercising powers relating to health care services and the repeal, in sec. 4 of
 6 this Act, of AS 13.26.335(1) and 13.26.344(l), a person who, by a statutory form power of
 7 attorney executed under AS 13.26.332 before the effective date of this Act, has been given
 8 powers to make health care decisions under and consistent with authority set out in the
 9 repealed provisions, may continue to exercise those powers under and consistent with the
 10 authority set out in the repealed provisions until the appointment made by the statutory form
 11 power of attorney with respect to health care services terminates or is revoked.

12 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
 13 read:

14 REVISOR'S INSTRUCTIONS. The revisor of statutes shall substitute "AS 18.12.010
 15 - 18.12.100" for "this chapter" in

- 16 (1) AS 18.12.010(d);
- 17 (2) AS 18.12.035(d);
- 18 (3) AS 18.12.037;
- 19 (4) AS 18.12.040(b);
- 20 (5) AS 18.12.050(b);
- 21 (6) AS 18.12.060;
- 22 (7) AS 18.12.080(a), (d), (e), and (f); and
- 23 (8) AS 18.12.090.