

**SENATE BILL NO. 172**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY SENATORS DYSON, Davis, Coghill, McGuire, Olson, Giessel

Introduced: 1/20/12

Referred: Health and Social Services, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to health care decisions, including do not resuscitate orders."**

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

3 \* **Section 1.** AS 13.52.045 is amended by adding a new subsection to read:

4 (b) A health care institution or health care facility may not interpret the  
5 issuance of a do not resuscitate order for a patient as preventing the health care  
6 institution or health care facility from providing life-sustaining procedures to the  
7 patient.

8 \* **Sec. 2.** AS 13.52.060(e) is amended to read:

9 (e) A health care provider may decline to comply with an individual  
10 instruction or a health care decision for reasons of conscience, except **that a health**  
11 **care provider may not decline to comply with** [FOR] a do not resuscitate order **that**  
12 **is consistent with this chapter for reasons of conscience.** A health care institution or  
13 health care facility may decline to comply with an individual instruction or health care  
14 decision if the instruction or decision is contrary to a policy of the institution or  
15 facility that is expressly based on reasons of conscience and if the policy was timely

1 communicated to the patient or to a person then authorized to make health care  
 2 decisions for the patient. **Notwithstanding the other provisions of this subsection,**  
 3 **this subsection does not allow a health care provider, health care institution, or**  
 4 **health care facility to decline to comply with an individual instruction or a health**  
 5 **care decision that requests that cardiopulmonary resuscitation or other**  
 6 **resuscitative measures be provided.**

7 \* **Sec. 3.** AS 13.52.060(f) is amended to read:

8 (f) A health care provider, health care institution, or health care facility may  
 9 decline to comply with an individual instruction or a health care decision that requires  
 10 medically ineffective health care or health care contrary to generally accepted health  
 11 care standards applicable to the provider, institution, or facility, **except that this**  
 12 **subsection does not allow a health care provider, health care institution, or health**  
 13 **care facility to decline to comply with an advance health care directive or a**  
 14 **health care decision that requests that cardiopulmonary resuscitation or other**  
 15 **resuscitative measures be provided.** In this subsection, "medically ineffective health  
 16 care" means health care that according to reasonable medical judgment cannot cure the  
 17 patient's illness, cannot diminish its progressive course, and cannot effectively  
 18 alleviate severe discomfort and distress.

19 \* **Sec. 4.** AS 13.52.065(a) is amended to read:

20 (a) A physician may issue a do not resuscitate order for a patient of the  
 21 physician **only as provided in this section.** The physician shall document the grounds  
 22 for the order in the patient's medical file.

23 \* **Sec. 5.** AS 13.52.065(b) is amended to read:

24 (b) The department shall by regulation adopt a protocol, subject to the  
 25 approval of the State Medical Board, for do not resuscitate orders that sets out a  
 26 standardized method of procedure for the withholding of cardiopulmonary  
 27 resuscitation by health care providers and health care institutions. **The protocol**  
 28 **adopted by the department must comply with this section.**

29 \* **Sec. 6.** AS 13.52.065 is amended by adding new subsections to read:

30 (g) Except as provided in (h) of this section, a physician may not issue a do  
 31 not resuscitate order for a patient of the physician without the express consent of

1 (1) the patient, if the patient has capacity and is 18 years of age or  
2 older; under this paragraph, the consent may be provided by an advance health care  
3 directive; or

4 (2) a person authorized to make health care decisions for the patient.

5 (h) A physician may issue a do not resuscitate order for a patient of the  
6 physician without the express consent required by (g) of this section if the patient does  
7 not have capacity, no person is authorized to make health care decisions for the  
8 patient, and,

9 (1) if the patient has an advance health care directive, the directive  
10 indicates that the patient wants a do not resuscitate order; or

11 (2) if the patient has an advance health care directive, the directive is  
12 silent about the issuance of a do not resuscitate order and another physician concurs in  
13 the decision to issue a do not resuscitate order.

14 (i) A physician shall revoke a do not resuscitate order issued for a patient if

15 (1) the issuance of the do not resuscitate order violates (g) of this  
16 section;

17 (2) except as provided in (5) of this subsection, the patient has capacity  
18 and requests that the do not resuscitate order be revoked;

19 (3) the patient has an advance health care directive that indicates that  
20 the patient does not want a do not resuscitate order;

21 (4) the patient does not have capacity, the patient does not have an  
22 advance health care directive that indicates that the patient wants a do not resuscitate  
23 order, and a person authorized to make health care decisions for the patient requests or  
24 does not oppose the revocation of the do not resuscitate order; or

25 (5) the patient is under 18 years of age and the parent or guardian of  
26 the patient requests that the do not resuscitate order be revoked.

27 (j) A physician may revoke a do not resuscitate order issued by another  
28 physician for a patient, if the physician has a

29 (1) physician-patient relationship with the patient; or

30 (2) health care obligation to the patient arising out of the physician's

31 (A) individual relationship with the patient; or

1 (B) employment by the health care institution or health care  
2 facility where the patient is being treated.

3 \* **Sec. 7.** AS 13.52.080(a) is amended to read:

4 (a) A health care provider or health care institution that acts in good faith and  
5 in accordance with generally accepted health care standards applicable to the health  
6 care provider or institution is not subject to civil or criminal liability or to discipline  
7 for unprofessional conduct for

8 (1) providing health care information in good faith under  
9 AS 13.52.070;

10 (2) complying with a health care decision of a person based on a good  
11 faith belief that the person has authority to make a health care decision for a patient,  
12 including a decision to withhold or withdraw health care;

13 (3) declining to comply with a health care decision of a person based  
14 on a good faith belief that the person then lacked authority;

15 (4) complying with an advance health care directive and assuming in  
16 good faith that the directive was valid when made and has not been revoked or  
17 terminated;

18 (5) participating in the withholding or withdrawal of cardiopulmonary  
19 resuscitation under the direction or with the authorization of a physician or upon  
20 discovery of do not resuscitate identification upon an individual;

21 (6) causing or participating in providing cardiopulmonary resuscitation  
22 or other life-sustaining procedures

23 (A) under AS 13.52.065(e) when an individual has made an  
24 anatomical gift;

25 (B) because an individual has made a do not resuscitate order  
26 ineffective under **AS 13.52.065** [AS 13.52.065(f)] or another provision of this  
27 chapter; or

28 (C) because the patient is a woman of childbearing age and  
29 AS 13.52.055 applies; or

30 (7) acting in good faith under the terms of this chapter or the law of  
31 another state relating to anatomical gifts.

1 \* **Sec. 8.** AS 13.52.080(c) is amended to read:

2 (c) A health care provider, health care institution, or health care facility is not  
3 subject to civil or criminal liability, or to discipline for unprofessional conduct, if a do  
4 not resuscitate order prevents the health care provider, health care institution, or health  
5 care facility from attempting to resuscitate a patient who requires cardiopulmonary  
6 resuscitation or other resuscitative measures because of complications arising out of  
7 health care being administered to the patient by the health care provider, health care  
8 institution, or health care facility. This subsection does not apply if

9 (1) the complications suffered by the patient are caused by gross  
10 negligence or reckless or intentional actions on the part of the health care provider,  
11 health care institution, or health care facility; or

12 (2) the do not resuscitate order relied on by the health care  
13 provider, health care institution, or health care facility was issued in violation of  
14 AS 13.52.065.

15 \* **Sec. 9.** AS 13.52.120(b) is amended to read:

16 (b) Notwithstanding any other provision of law except (h) of this section,  
17 death resulting from the withholding or withdrawal of cardiopulmonary resuscitation  
18 or other life-sustaining procedures does not, for any purpose, constitute a suicide or  
19 homicide if the withholding or withdrawal is

20 (1) consistent with this chapter, except that a violation of  
21 AS 13.52.065(g) - (i), does not, for any purpose, constitute a homicide; and

22 (2) from an individual

23 (A) for whom a do not resuscitate order has not been issued;

24 (B) for whom a do not resuscitate order has been issued under

25 (i) the protocol for do not resuscitate orders established  
26 under AS 13.52.065; or

27 (ii) a do not resuscitate identification found on the  
28 individual.

29 \* **Sec. 10.** AS 13.52.120 is amended by adding a new subsection to read:

30 (h) The provisions of (b) of this section do not apply to a person who orders or  
31 causes the withholding or withdrawal of cardiopulmonary resuscitation or other life-

1 sustaining procedures if the person acts intentionally, recklessly, with criminal  
 2 negligence, or with gross negligence. In this subsection, "intentionally," "recklessly,"  
 3 and "criminal negligence" have the meanings given in AS 11.81.900.

4 \* **Sec. 11.** AS 13.52.300 is amended to read:

5 **Sec. 13.52.300. Optional form.** The following sample form may be used to  
 6 create an advance health care directive. The other sections of this chapter govern the  
 7 effect of this or any other writing used to create an advance health care directive. This  
 8 form may be duplicated. This form may be modified to suit the needs of the person, or  
 9 a different form that complies with this chapter may be used, including the mandatory  
 10 witnessing requirements:

### 11 ADVANCE HEALTH CARE DIRECTIVE

#### 12 Explanation

13 You have the right to give instructions about your own health care to  
 14 the extent allowed by law. You also have the right to name someone  
 15 else to make health care decisions for you to the extent allowed by law.  
 16 This form lets you do either or both of these things. It also lets you  
 17 express your wishes regarding the designation of your health care  
 18 provider. If you use this form, you may complete or modify all or any  
 19 part of it. You are free to use a different form if the form complies with  
 20 the requirements of AS 13.52.

21 Part 1 of this form is a durable power of attorney for health care. A  
 22 "durable power of attorney for health care" means the designation of an  
 23 agent to make health care decisions for you. Part 1 lets you name  
 24 another individual as an agent to make health care decisions for you if  
 25 you do not have the capacity to make your own decisions or if you  
 26 want someone else to make those decisions for you now even though  
 27 you still have the capacity to make those decisions. You may name an  
 28 alternate agent to act for you if your first choice is not willing, able, or  
 29 reasonably available to make decisions for you. Unless related to you,  
 30 your agent may not be an owner, operator, or employee of a health care  
 31 institution where you are receiving care.

1           Unless the form you sign limits the authority of your agent, your  
2 agent may make all health care decisions for you that you could legally  
3 make for yourself. This form has a place for you to limit the authority  
4 of your agent. You do not have to limit the authority of your agent if  
5 you wish to rely on your agent for all health care decisions that may  
6 have to be made. If you choose not to limit the authority of your agent,  
7 your agent will have the right, to the extent allowed by law, to

8           (a) consent or refuse consent to any care, treatment, service, or  
9 procedure to maintain, diagnose, or otherwise affect a physical or  
10 mental condition, including the administration or discontinuation of  
11 psychotropic medication;

12           (b) select or discharge health care providers and institutions;

13           (c) approve or disapprove proposed diagnostic tests, surgical  
14 procedures, and programs of medication;

15           (d) direct the provision, withholding, or withdrawal of artificial  
16 nutrition and hydration and all other forms of health care; and

17           (e) make an anatomical gift following your death.

18           Part 2 of this form lets you give specific instructions for any aspect  
19 of your health care to the extent allowed by law, except you may not  
20 authorize mercy killing, assisted suicide, or euthanasia. Choices are  
21 provided for you to express your wishes regarding the provision,  
22 withholding, or withdrawal of treatment to keep you alive, including  
23 the provision of artificial nutrition and hydration, as well as the  
24 provision of pain relief medication. Space is provided for you to add to  
25 the choices you have made or for you to write out any additional  
26 wishes.

27           Part 3 of this form lets you express an intention to make an  
28 anatomical gift following your death.

29           Part 4 of this form lets you make decisions in advance about certain  
30 types of mental health treatment.

31           Part 5 of this form lets you designate a physician to have primary

1 responsibility for your health care.

2 After completing this form, sign and date the form at the end and  
 3 have the form witnessed by one of the two alternative methods listed  
 4 below. Give a copy of the signed and completed form to your  
 5 physician, to any other health care providers you may have, to any  
 6 health care institution at which you are receiving care, and to any health  
 7 care agents you have named. You should talk to the person you have  
 8 named as your agent to make sure that the person understands your  
 9 wishes and is willing to take the responsibility.

10 You have the right to revoke this advance health care directive or  
 11 replace this form at any time, except that you may not revoke this  
 12 declaration when you are determined not to be competent by a court, by  
 13 two physicians, at least one of whom shall be a psychiatrist, or by both  
 14 a physician and a professional mental health clinician. In this advance  
 15 health care directive, "competent" means that you have the capacity

16 (1) to assimilate relevant facts and to appreciate and understand your  
 17 situation with regard to those facts; and

18 (2) to participate in treatment decisions by means of a rational  
 19 thought process.

20 PART 1

21 DURABLE POWER OF ATTORNEY FOR  
 22 HEALTH CARE DECISIONS

23 (1) DESIGNATION OF AGENT. I designate the following  
 24 individual as my agent to make health care decisions for me:

25 \_\_\_\_\_  
 26 (name of individual you choose as agent)

27 \_\_\_\_\_  
 28 (address) (city) (state) (zip code)

29 \_\_\_\_\_  
 30 (home telephone) (work telephone)

31 OPTIONAL: If I revoke my agent's authority or if my agent is not

1 willing, able, or reasonably available to make a health care decision for  
2 me, I designate as my first alternate agent

3 \_\_\_\_\_  
4 (name of individual you choose as first alternate agent)

5 \_\_\_\_\_  
6 (address) (city) (state) (zip code)

7 \_\_\_\_\_  
8 (home telephone) (work telephone)

9 OPTIONAL: If I revoke the authority of my agent and first alternate  
10 agent or if neither is willing, able, or reasonably available to make a  
11 health care decision for me, I designate as my second alternate agent

12 \_\_\_\_\_  
13 (name of individual you choose as second alternate agent)

14 \_\_\_\_\_  
15 (address) (city) (state) (zip code)

16 \_\_\_\_\_  
17 (home telephone) (work telephone)

18 (2) AGENT'S AUTHORITY. My agent is authorized and directed to  
19 follow my individual instructions and my other wishes to the extent  
20 known to the agent in making all health care decisions for me. If these  
21 are not known, my agent is authorized to make these decisions in  
22 accordance with my best interest, including decisions to provide,  
23 withhold, or withdraw artificial hydration and nutrition and other forms  
24 of health care to keep me alive, except as I state here:

25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 (Add additional sheets if needed.)

29 Under this authority, "best interest" means that the benefits to you  
30 resulting from a treatment outweigh the burdens to you resulting from  
31 that treatment after assessing

1 (A) the effect of the treatment on your physical, emotional, and  
2 cognitive functions;

3 (B) the degree of physical pain or discomfort caused to you by the  
4 treatment or the withholding or withdrawal of the treatment;

5 (C) the degree to which your medical condition, the treatment, or the  
6 withholding or withdrawal of treatment, results in a severe and  
7 continuing impairment;

8 (D) the effect of the treatment on your life expectancy;

9 (E) your prognosis for recovery, with and without the treatment;

10 (F) the risks, side effects, and benefits of the treatment or the  
11 withholding of treatment; and

12 (G) your religious beliefs and basic values, to the extent that these  
13 may assist in determining benefits and burdens.

14 (3) **WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE.**

15 Except in the case of mental illness, my agent's authority becomes  
16 effective when my primary physician determines that I am unable to  
17 make my own health care decisions unless I mark the following box. In  
18 the case of mental illness, unless I mark the following box, my agent's  
19 authority becomes effective when a court determines I am unable to  
20 make my own decisions, or, in an emergency, if my primary physician  
21 or another health care provider determines I am unable to make my  
22 own decisions. If I mark this box, my agent's authority to make health  
23 care decisions for me takes effect immediately.

24 (4) **AGENT'S OBLIGATION.** My agent shall make health care  
25 decisions for me in accordance with this durable power of attorney for  
26 health care, any instructions I give in Part 2 of this form, and my other  
27 wishes to the extent known to my agent. To the extent my wishes are  
28 unknown, my agent shall make health care decisions for me in  
29 accordance with what my agent determines to be in my best interest. In  
30 determining my best interest, my agent shall consider my personal  
31 values to the extent known to my agent.

1 (5) NOMINATION OF GUARDIAN. If a guardian of my person  
 2 needs to be appointed for me by a court, I nominate the agent  
 3 designated in this form. If that agent is not willing, able, or reasonably  
 4 available to act as guardian, I nominate the alternate agents whom I  
 5 have named under (1) above, in the order designated.

## 6 PART 2

### 7 INSTRUCTIONS FOR HEALTH CARE

8 If you are satisfied to allow your agent to determine what is best for  
 9 you in making health care decisions, you do not need to fill out this part  
 10 of the form. If you do fill out this part of the form, you may strike any  
 11 wording you do not want. There is a state protocol that governs the use  
 12 of do not resuscitate orders by physicians and other health care  
 13 providers. You may obtain a copy of the protocol from the Alaska  
 14 Department of Health and Social Services. A "do not resuscitate order"  
 15 means a directive from a licensed physician that emergency  
 16 cardiopulmonary resuscitation should not be administered to you.

17 (6) END-OF-LIFE DECISIONS. Except to the extent prohibited by  
 18 law, I direct that my health care providers and others involved in my  
 19 care provide, withhold, or withdraw treatment in accordance with the  
 20 choice I have marked below: (Check only one box.)

21 (A)  Choice To Prolong Life

22 I want my life to be prolonged as long as possible within the limits  
 23 of generally accepted health care standards; OR

24 (B)  Choice Not To Prolong Life

25 I want comfort care only and I do not want my life to be prolonged  
 26 with medical treatment if, in the judgment of my physician,

27 I have (check all choices that represent your wishes)

28  (i) a condition of permanent unconsciousness: a condition that,  
 29 to a high degree of medical certainty, will last permanently without  
 30 improvement; in which, to a high degree of medical certainty, thought,  
 31 sensation, purposeful action, social interaction, and awareness of

1 myself and the environment are absent; and for which, to a high degree  
 2 of medical certainty, initiating or continuing life-sustaining procedures  
 3 for me, in light of my medical outcome, will provide only minimal  
 4 medical benefit for me; or

5  (ii) a terminal condition: an incurable or irreversible illness or  
 6 injury that without the administration of life-sustaining procedures will  
 7 result in my death in a short period of time, for which there is no  
 8 reasonable prospect of cure or recovery, that imposes severe pain or  
 9 otherwise imposes an inhumane burden on me, and for which, in light  
 10 of my medical condition, initiating or continuing life-sustaining  
 11 procedures will provide only minimal medical benefit;

12  Additional instructions: \_\_\_\_\_  
 13 \_\_\_\_\_

14 (C) Artificial Nutrition and Hydration. If I am unable to safely take  
 15 nutrition, fluids, or nutrition and fluids (check your choices or write  
 16 your instructions),

17  I wish to receive artificial nutrition and hydration indefinitely;

18  I wish to receive artificial nutrition and hydration indefinitely,  
 19 unless it clearly increases my suffering and is no longer in my best  
 20 interest;

21  I wish to receive artificial nutrition and hydration on a limited  
 22 trial basis to see if I can improve;

23  In accordance with my choices in (6)(B) above, I do not wish to  
 24 receive artificial nutrition and hydration.

25  Other instructions: \_\_\_\_\_  
 26 \_\_\_\_\_

27 (D) Relief from Pain.

28  I direct that adequate treatment be provided at all times for the  
 29 sole purpose of the alleviation of pain or discomfort; or

30  I give these instructions:  
 31 \_\_\_\_\_

1 \_\_\_\_\_

2 (E) Life-Sustaining Procedures. "Life-sustaining procedures"

3 means any medical treatment, procedure, or intervention that may

4 keep you alive but will not remove your terminal condition or

5 remove permanent unconsciousness; "life-sustaining procedures"

6 includes assisted ventilation, renal dialysis, surgical procedures,

7 blood transfusions, and the administration of drugs, including

8 antibiotics, or artificial nutrition and hydration.

9  I wish to receive life-sustaining procedures.

10  I do not wish to receive life-sustaining procedures.

11 (F) Should I become unconscious and I am pregnant, I direct that

12 \_\_\_\_\_

13 \_\_\_\_\_

14 (7) OTHER WISHES. (If you do not agree with any of the optional

15 choices above and wish to write your own, or if you wish to add to the

16 instructions you have given above, you may do so here.) I direct that

17 \_\_\_\_\_

18 \_\_\_\_\_

19 Conditions or limitations: \_\_\_\_\_

20 \_\_\_\_\_

21 (Add additional sheets if needed.)

22 PART 3

23 ANATOMICAL GIFT AT DEATH

24 (OPTIONAL)

25 If you are satisfied to allow your agent to determine whether to

26 make an anatomical gift at your death, you do not need to fill out this

27 part of the form.

28 (8) Upon my death: (mark applicable box)

29 (A)  I give any needed organs, tissues, or other body parts, OR

30 (B)  I give the following organs, tissues, or other body parts only

31 \_\_\_\_\_

1  
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(C)  My gift is for the following purposes (mark any of the following you want):

(i) transplant;

(ii) therapy;

(iii) research;

(iv) education.

(D)  I refuse to make an anatomical gift.

PART 4

MENTAL HEALTH TREATMENT

This part of the declaration allows you to make decisions in advance about mental health treatment. The instructions that you include in this declaration will be followed only if a court, two physicians that include a psychiatrist, or a physician and a professional mental health clinician believe that you are not competent and cannot make treatment decisions. Otherwise, you will be considered to be competent and to have the capacity to give or withhold consent for the treatments.

If you are satisfied to allow your agent to determine what is best for you in making these mental health decisions, you do not need to fill out this part of the form. If you do fill out this part of the form, you may strike any wording you do not want.

(9) PSYCHOTROPIC MEDICATIONS. If I do not have the capacity to give or withhold informed consent for mental health treatment, my wishes regarding psychotropic medications are as follows:

\_\_\_\_\_ I consent to the administration of the following medications:

\_\_\_\_\_ I do not consent to the administration of the following medications:

Conditions or limitations: \_\_\_\_\_

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1 (10) ELECTROCONVULSIVE TREATMENT. If I do not have the  
2 capacity to give or withhold informed consent for mental health  
3 treatment, my wishes regarding electroconvulsive treatment are as  
4 follows:

5 \_\_\_\_\_ I consent to the administration of electroconvulsive  
6 treatment.

7 \_\_\_\_\_ I do not consent to the administration of electroconvulsive  
8 treatment.

9 Conditions or limitations: \_\_\_\_\_

10 \_\_\_\_\_ .

11 (11) ADMISSION TO AND RETENTION IN FACILITY. If I do  
12 not have the capacity to give or withhold informed consent for mental  
13 health treatment, my wishes regarding admission to and retention in a  
14 mental health facility for mental health treatment are as follows:

15 \_\_\_\_\_ I consent to being admitted to a mental health facility for  
16 mental health treatment for up to \_\_\_\_\_ days. (The number of days  
17 not to exceed 17.)

18 \_\_\_\_\_ I do not consent to being admitted to a mental health  
19 facility for mental health treatment.

20 Conditions or limitations: \_\_\_\_\_

21 \_\_\_\_\_ .

22 OTHER WISHES OR INSTRUCTIONS

23 \_\_\_\_\_

24 \_\_\_\_\_

25 \_\_\_\_\_

26 Conditions or limitations: \_\_\_\_\_

27 \_\_\_\_\_ .

28 PART 5

29 PRIMARY PHYSICIAN

30 (OPTIONAL)

1 (12) I designate the following physician as my primary physician:

2 \_\_\_\_\_

3 (name of physician)

4 \_\_\_\_\_

5 (address) (city) (state) (zip code)

6 \_\_\_\_\_

7 (telephone)

8 OPTIONAL: If the physician I have designated above is not willing,  
9 able, or reasonably available to act as my primary physician, I  
10 designate the following physician as my primary physician:

11 \_\_\_\_\_

12 (name of physician)

13 \_\_\_\_\_

14 (address) (city) (state) (zip code)

15 \_\_\_\_\_

16 (telephone)

17 (13) EFFECT OF COPY. A copy of this form has the same effect as  
18 the original.

19 (14) SIGNATURES. Sign and date the form here:

20 \_\_\_\_\_

21 (date) (sign your name)

22 \_\_\_\_\_

23 (print your name)

24 \_\_\_\_\_

25 (address) (city) (state) (zip code)

26 (15) WITNESSES. This advance care health directive will not be  
27 valid for making health care decisions unless it is

28 (A) signed by two qualified adult witnesses who are personally  
29 known to you and who are present when you sign or acknowledge your  
30 signature; the witnesses may not be a health care provider employed at  
31 the health care institution or health care facility where you are receiving

1 health care, an employee of the health care provider who is providing  
2 health care to you, an employee of the health care institution or health  
3 care facility where you are receiving health care, or the person  
4 appointed as your agent by this document; at least one of the two  
5 witnesses may not be related to you by blood, marriage, or adoption or  
6 entitled to a portion of your estate upon your death under your will or  
7 codicil; or

8 (B) acknowledged before a notary public in the state.

9 ALTERNATIVE NO. 1

10 Witness Who is Not Related to or a Devisee of the Principal

11 I swear under penalty of perjury under AS 11.56.200 that the  
12 principal is personally known to me, that the principal signed or  
13 acknowledged this durable power of attorney for health care in my  
14 presence, that the principal appears to be of sound mind and under no  
15 duress, fraud, or undue influence, and that I am not

16 (1) a health care provider employed at the health care institution or  
17 health care facility where the principal is receiving health care;

18 (2) an employee of the health care provider providing health care to  
19 the principal;

20 (3) an employee of the health care institution or health care facility  
21 where the principal is receiving health care;

22 (4) the person appointed as agent by this document;

23 (5) related to the principal by blood, marriage, or adoption; or

24 (6) entitled to a portion of the principal's estate upon the principal's  
25 death under a will or codicil.

26 \_\_\_\_\_  
27 (date) (signature of witness)

28 \_\_\_\_\_  
29 (printed name of witness)

30 \_\_\_\_\_  
31 (address) (city) (state) (zip code)

Witness Who May be Related to or a Devisee of the Principal

I swear under penalty of perjury under AS 11.56.200 that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney for health care in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, and that I am not

(1) a health care provider employed at the health care institution or health care facility where the principal is receiving health care;

(2) an employee of the health care provider who is providing health care to the principal;

(3) an employee of the health care institution or health care facility where the principal is receiving health care; or

(4) the person appointed as agent by this document.

\_\_\_\_\_  
(date) (signature of witness)

\_\_\_\_\_  
(printed name of witness)

\_\_\_\_\_  
(address) (city) (state) (zip code)

ALTERNATIVE NO. 2

State of Alaska  
\_\_\_\_\_ Judicial District

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, \_\_\_\_\_ (insert name of notary public) appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that the person executed it.

Notary Seal  
\_\_\_\_\_  
(signature of notary public)

1 \* **Sec. 12.** AS 13.52.390(17) is amended to read:

2 (17) "health care decision" means a decision made by an individual or  
3 the individual's agent, guardian, or surrogate regarding the individual's health care,  
4 including

5 (A) selection and discharge of health care providers and  
6 institutions;

7 (B) approval or disapproval of proposed diagnostic tests,  
8 surgical procedures, and programs of medication;

9 (C) direction to provide, withhold, or withdraw artificial  
10 nutrition and hydration if providing, withholding, or withdrawing artificial  
11 nutrition, artificial hydration, or artificial nutrition and hydration is in accord  
12 with generally accepted health care standards applicable to health care  
13 providers or institutions;

14 (D) the administration or withdrawal of psychotropic  
15 medications, the use of electroconvulsive treatment, and the admission to a  
16 mental health facility; [AND]

17 (E) making an anatomical gift at death; **and**

18 **(F) a direction relating to the provision of cardiopulmonary**  
19 **resuscitation or other resuscitative measures;**

20 \* **Sec. 13.** AS 13.52.065(f) is repealed.

21 \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 CONTINUING EFFECT OF DO NOT RESUSCITATE ORDERS. A do not  
24 resuscitate order made under AS 13.52 before the effective date of this Act continues in effect  
25 under AS 13.52, unless the do not resuscitate order is revoked under AS 13.52.065(i) or (j),  
26 added by sec. 6 of this Act, or made ineffective under another provision of AS 13.52, as  
27 amended by this Act.