

Colorado Revised Statutes 2016

TITLE 15

PROBATE, TRUSTS, AND FIDUCIARIES

FIDUCIARY

ARTICLE 1

Fiduciary

PART 1

GENERAL PROVISIONS

15-1-101. Short title. This part 1 shall be known and may be cited as the "Uniform Fiduciaries Law".

15-1-102. Legislative declaration. This part 1 shall be interpreted and construed so as to effectuate its general purpose to make uniform the law of those states which enact it.

15-1-103. Definitions. As used in this part 1, unless the context otherwise requires:

(1) "Bank" includes any person or association of persons, whether incorporated or not, carrying on the business of banking.

(2) "Fiduciary" includes a trustee under any trust, expressed, implied, resulting, or constructive, executor, administrator, personal representative, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer, or any other person acting in a fiduciary capacity for any person, trust, or estate.

(3) "Person" includes a corporation, partnership, or other association, or two or more persons having a joint or common interest.

(4) "Principal" includes any person to whom a fiduciary as such owes an obligation.

Directives Concerning Medical Orders
for Scope of Treatment

15-18.7-101. Legislative declaration. (1) The general assembly hereby finds that:

(a) Colorado law has traditionally recognized the right of an adult or his or her authorized surrogate decision-maker to accept or reject medical treatment and artificial nutrition or hydration;

(b) Each adult has the right to establish, in advance of the need for medical treatment, directives and instructions for the administration of medical treatment in the event the adult later lacks the decisional capacity to provide informed consent to, withdraw from, or refuse medical treatment;

(c) Current instruments for making advance medical directives are often underutilized, hampered by certain institutional barriers, and inconsistently interpreted and implemented; and

(d) The frail elderly, chronically or terminally ill, and nursing home resident population is in particular need of a consistent method for identifying and communicating critical treatment preferences that each sector of the health care community will recognize and follow.

(2) The general assembly therefore concludes that it is in the best interests of the people of Colorado to adopt statutes providing for medical orders for scope of treatment. Consistent with the goal of enhancing patient-centered, compassionate care through methods to enhance continuity across health care settings, medical orders for scope of treatment will provide a process for timely discussion between individuals and their health care providers about choices to accept, withdraw, or refuse life-sustaining treatment and, through the use of standardized forms, will ensure those preferences are clearly and unequivocally documented.

15-18.7-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Adult" means a person eighteen years of age or older.

(2) "Advance medical directive" means a written instruction concerning medical treatment decisions to be made on behalf of the adult who provided the instruction in the event that he or she becomes incapacitated. An advance medical directive includes, but need not be limited to:

(a) A medical durable power of attorney executed pursuant to section 15-14-506;

(b) A declaration executed pursuant to the "Colorado Medical Treatment Decision Act", article 18 of this title;

(c) A power of attorney granting medical treatment authority executed prior to July 1, 1992, pursuant to section 15-14-501, as it existed prior to that date; or

(d) A CPR directive or declaration executed pursuant to article 18.6 of this title.

(3) "Artificial nutrition or hydration" means:

- (a) Nutrition or hydration supplied through a tube inserted into the stomach or intestines; or
- (b) Nutrients or fluids injected intravenously into the bloodstream.

(4) "Authorized surrogate decision-maker" means a guardian appointed pursuant to article 14 of this title, an agent appointed pursuant to a medical durable power of attorney, a proxy decision-maker for medical treatment decisions appointed pursuant to article 18.5 of this title, or a similarly authorized surrogate, as defined by the laws of another state, who is authorized to make medical decisions for an individual who lacks decisional capacity.

(5) "Cardiopulmonary resuscitation" or "CPR" shall have the same meaning as set forth in section 15-18.6-101 (1).

(6) "CPR directive" shall have the same meaning as set forth in section 15-18.6-101 (2).

(7) "Decisional capacity" means the ability to provide informed consent to or refusal of medical treatment or the ability to make an informed health care benefit decision.

(8) "Emergency medical service personnel" means an emergency medical service provider who is certified or licensed by the department of public health and environment, created and existing under section 25-1-102, C.R.S., or a first responder certified by the department of public health and environment or the division of fire prevention and control in the department of public safety, in accordance with part 12 of article 33.5 of title 24, C.R.S.

(9) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed, certified, or otherwise authorized or permitted by law to provide medical treatment.

(10) "Health care provider" means:

(a) A physician or other individual who provides medical treatment to an adult and who is licensed, certified, or otherwise authorized or permitted by law to provide medical treatment or who is employed by or acting for such an authorized person; or

(b) A health maintenance organization licensed and conducting business in this state.

(11) "Medical treatment" means the provision, withholding, or withdrawal of any:

(a) Health care;

(b) Medical procedure, including but not limited to surgery, CPR, and artificial nutrition or hydration; or

(c) Service to maintain, diagnose, treat, or provide for a patient's physical or mental health care.

15-18.7-103. Medical orders for scope of treatment forms - form contents. (1) A medical orders for scope of treatment form shall include the following information concerning the adult whose medical treatment is the subject of the medical orders for scope of treatment form:

(a) The adult's name, date of birth, and sex;

(b) The adult's eye and hair color;

(c) The adult's race or ethnic background;

(d) If applicable, the name of the hospice program in which the adult is enrolled;

- (e) The name, address, and telephone number of the adult's physician, advanced practice nurse, or physician assistant;
- (f) The adult's signature or mark or, if applicable, the signature of the adult's authorized surrogate decision-maker;
- (g) The date upon which the medical orders for scope of treatment form was signed;
- (h) The adult's instructions concerning:
 - (I) The administration of CPR;
 - (II) Other medical interventions, including but not limited to consent to comfort measures only, transfer to a hospital, limited intervention, or full treatment; and
 - (III) Other treatment options;
- (i) The signature of the adult's physician, advanced practice nurse, or, if under the supervision or authority of the physician, physician assistant.

15-18.7-104. Duty to comply with medical orders for scope of treatment form - immunity - effect on criminal charges against another person - transferability. (1) (a) Except as provided in sections 15-18.7-105 and 15-18.7-107 (1), emergency medical service personnel, a health care provider, or a health care facility shall comply with an adult's executed medical orders for scope of treatment form that:

- (I) Has been executed in this state or another state;
- (II) Is apparent and immediately available; and
- (III) Reasonably satisfies the requirements of a medical orders for scope of treatment form specified in section 15-18.7-103.

(b) The fact that the physician, advanced practice nurse, or physician assistant who signed an adult's medical orders for scope of treatment form does not have admitting privileges at the hospital or health care facility where the adult is being treated does not remove the duty of emergency medical service personnel, a health care provider, or a health care facility to comply with the medical orders for scope of treatment form as required by paragraph (a) of this subsection (1).

(2) Emergency medical service personnel, a health care provider, a health care facility, or any other person who complies with a legally executed medical orders for scope of treatment form that is apparent and immediately available and that he or she believes to be the most current version of the form shall not be subject to civil or criminal liability or regulatory sanction for such compliance.

(3) Compliance by emergency medical service personnel, a health care provider, or a health care facility with an executed medical orders for scope of treatment form shall not affect the criminal prosecution of a person otherwise charged with the commission of a criminal act.

(4) In the absence of an executed medical orders for scope of treatment form declining CPR or a CPR directive, an adult's consent to CPR shall be presumed.

(5) An adult's physician, advanced practice nurse, or, if under the supervision of the physician, physician assistant may provide an oral confirmation to a health care provider who shall annotate on the medical orders for scope of treatment form the time and date of the oral confirmation and the name and license number of the physician, advanced practice nurse, or physician assistant. The physician, advanced practice nurse, or physician assistant shall countersign the annotation of the

oral confirmation on the medical orders for scope of treatment form within a time period that satisfies any applicable state law or within thirty days, whichever period is less, after providing the oral confirmation. The signature of the physician, advanced practice nurse, or physician assistant may be provided by photocopy, fax, or electronic means. A medical orders for scope of treatment form with annotated oral confirmation, and a photocopy, fax, or other electronic reproduction thereof, shall be given the same force and effect as the original form signed by the physician, advanced practice nurse, or physician assistant.

(6) (a) Nothing in this article shall be construed to modify or alter any generally accepted ethics, standards, protocols, or laws for the practice of medicine or nursing, including the provisions in section 15-18.6-108 concerning euthanasia and mercy killing.

(b) A medical orders for scope of treatment form shall not be construed to compel or authorize a health care provider or health care facility to administer medical treatment that is medically inappropriate or prohibited by state or federal law.

(7) If an adult who is known to have properly executed and signed a medical orders for scope of treatment form is transferred from one health care facility or health care provider to another, the transferring health care facility or health care provider shall communicate the existence of the form to the receiving health care facility or health care provider before the transfer. The transferring health care facility or health care provider shall ensure that the form or a copy of the form accompanies the adult upon admission to or discharge from a health care facility.

15-18.7-105. Moral convictions and religious beliefs - notice required - transfer of a patient. (1) A health care provider or health care facility that provides care to an adult whom the health care provider or health care facility knows to have executed a medical orders for scope of treatment form shall provide notice to the adult or, if appropriate, to the authorized surrogate decision-maker of the adult, of any policies based on moral convictions or religious beliefs of the health care provider or health care facility relative to the withholding or withdrawal of medical treatment. The health care provider or health care facility shall provide the notice, when reasonably possible, prior to providing medical treatment or prior to or upon the admission of the adult to the health care facility, or as soon as possible thereafter.

(2) A health care provider or health care facility shall provide for the prompt transfer of an adult who has executed a medical orders for scope of treatment form to another health care provider or health care facility if the transferring health care provider or health care facility chooses not to comply with the provisions of the form on the basis of policies based on moral convictions or religious beliefs.

(3) Nothing in this section shall relieve or exonerate an attending physician or health care facility from the duty to provide for the care and comfort of an adult pending transfer pursuant to this section.

15-18.7-106. Medical orders for scope of treatment form - who may consent. (1) An adult who has decisional capacity may execute a medical orders for scope of treatment form.

(2) Except as provided in section 15-18.7-110 (3), the authorized surrogate decision-maker

for an adult who lacks decisional capacity may execute a medical orders for scope of treatment form for said adult.

15-18.7-107. Revision and revocation of a medical orders for scope of treatment form - duty to inform. (1) (a) A health care provider may revise the provisions of an adult's executed medical orders for scope of treatment form only if:

(I) (A) The adult's medical condition has changed since the adult or the adult's authorized surrogate decision-maker executed the form; or

(B) The provisions of the form are not, in the provider's independent medical judgment, medically appropriate;

(II) The provider consults with the adult or, if the adult lacks decisional capacity, the adult's authorized surrogate decision-maker concerning the revision of the form; and

(III) The adult or, if the adult lacks decisional capacity, the adult's authorized surrogate decision-maker consents to the revision of the provisions of the form.

(b) If a health care provider revises an adult's executed medical orders for scope of treatment form pursuant to paragraph (a) of this subsection (1):

(I) The provider shall record the revisions on the form; and

(II) The provider and the adult or, if the adult lacks decisional capacity, the adult's authorized surrogate decision-maker, shall sign and date the form.

(2) An adult who has decisional capacity and has executed a medical orders for scope of treatment form may revoke his or her consent to all or part of the form at any time and in any manner that clearly communicates an intent to revoke all or part of the form.

(3) Except as provided in section 15-18.7-110 (3), the authorized surrogate decision-maker for an adult who lacks decisional capacity may revoke the adult's previously executed medical orders for scope of treatment form.

(4) Emergency medical service personnel, a health care provider, or an authorized surrogate decision-maker who becomes aware of the revocation of a medical orders for scope of treatment form shall promptly communicate the fact of the revocation to a physician, advanced practice nurse, or physician assistant who is providing care to the adult who is the subject of the form.

15-18.7-108. Medical orders for scope of treatment form not required for treatment. A health care facility shall not require a person to have executed a medical orders for scope of treatment form as a condition of being admitted to, or receiving medical treatment from, the health care facility.

15-18.7-109. Effect of a medical orders for scope of treatment form on life or health insurance. Neither a medical orders for scope of treatment form nor the failure of an adult to execute a medical orders for scope of treatment form shall affect, impair, or modify a contract of life or health insurance or an annuity or be the basis for a delay in issuing or refusal to issue an annuity or policy of life or health insurance or for any increase of a premium therefor.

15-18.7-110. Effect of article on existing advance medical directives. (1) In executing a medical orders for scope of treatment form, an adult, or the adult's authorized surrogate decision-maker, and the physician, advanced practice nurse, or physician assistant who signs the form shall make a good-faith effort to locate and incorporate, as appropriate and desired, treatment preferences documented in the adult's previously executed advance medical directives, if any.

(2) Except as otherwise provided in paragraph (a) of subsection (3) of this section, in case of a conflict between a medical orders for scope of treatment form and an adult's advance medical directives, the document most recently executed shall take precedence for the medical decision or treatment preference at issue. Medical decisions and treatment preferences documented in an adult's advance medical directives or asserted by an authorized surrogate decision-maker on the adult's behalf, but not specifically addressed in a more recently executed medical orders for scope of treatment form, shall not be affected by the medical orders for scope of treatment form.

(3) Notwithstanding the provisions of subsection (1) of this section:

(a) An authorized surrogate decision-maker or a physician, advanced practice nurse, or physician assistant may not revoke or alter an adult's previously executed advance medical directive regarding provision of artificial nutrition or hydration if the directive is documented in a declaration executed by the adult pursuant to the "Colorado Medical Treatment Decision Act", article 18 of this title.

(b) An authorized surrogate decision-maker may not revoke a preexisting CPR directive unless it was originally executed by an authorized surrogate decision-maker.

(c) An authorized surrogate decision-maker who is a proxy decision-maker pursuant to article 18.5 of this title may authorize the withdrawal of artificial nutrition or hydration only in accordance with section 15-18.5-103 (6).

LAST REMAINS

ARTICLE 19

Disposition of Last Remains

15-19-101. Short title. This article shall be known and may be cited as the "Disposition of Last Remains Act".

15-19-102. Legislative declaration - construction. (1) The general assembly finds and declares that:

(a) A competent adult individual has the right and power to direct the disposition of his or