

5 Things to know about the new law affecting Delaware's ADVANCE HEALTH CARE DIRECTIVE

1

Effective September 30, 2025

The Uniform Health-Care Decisions Act of 2023 (UHCDA) is a law that governs health care decisions and Advance Health Care Directives in Delaware, superseding the 1993 Act. Previously executed Advance Health Care Directives are still valid.



2

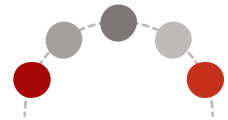
Revises the determination of incapacity

An Agent's authority to make health-care decisions only commences when the patient lacks capacity. The UHCDA modernizes guidelines for determining incapacity in healthcare decision-making, recognizing that capacity can vary by decision type and emphasizing functional abilities. The UHCDA does not authorize an Agent to agree to mercy killing, assisted suicide, or euthanasia.

3

Removes some administrative barriers

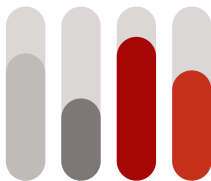
The UHCDA removes some of the administrative barriers, like signing formalities and acceptable witnesses, making the creation of a new Advance Health Care Directive less cumbersome.



4

Supports mental health care

The UHCDA authorizes the use of Advance Health Care Directives exclusively for mental health care. An institution providing mental health care must check if the individual has a mental health care directive, offer educational materials on directives, and assist those interested in creating a directive, or provide resources for doing so.



5

Modernizes default surrogates

If a patient lacks capacity and has not appointed a health care Agent, the UHCDA allows family members and certain other people to make decisions. These people are referred to as "surrogates." The new surrogacy list is still based on priority beginning with a spouse or domestic partner, and then children or parents, but now includes a patient's cohabitant and, in some cases, even an adult who has routinely assisted the patient in supported decision making.

