

**Noncompliance with Advance Directives\*  
September 2007**

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  * "Advance Directives" include Living Wills & Durable Powers of Attorney for Health Care.  <i>Note: "LST." refers to life-sustaining treatment</i>
<b>Alabama</b>  Code of Ala. § 22-8A-8 (2007)	x		x	x			x	x	Provider who refuses to comply shall promptly advise patient or decision maker, reasonably cooperate to assist in the timely transfer to provider who will comply. "During the time for the transfer, all life-sustaining treatments, including artificially provided nutrition and hydration, shall be properly maintained." § 22-8A-8 (a)  No nurse, physician, or other health care provider may be required by law or contract in any circumstances to participate in the withholding or withdrawal of life-sustaining treatment. § 22-8A-8 (b)
<b>Alaska</b>  Alaska Stat. § 13.52.060 (2007)	x	x	x			x	x		Provider may decline for reasons of conscience. Institution or facility may decline if contrary to policy that is expressly based on reasons of conscience if timely communicated. § 13.52.060 (e)  Provider, institution or facility may decline if requested care is "medically ineffective care" or contrary to generally accepted standards. "Medically ineffective

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									health care' means health care that according to reasonable medical judgment cannot cure the patient's illness, cannot diminish its progressive course, and cannot effectively alleviate severe discomfort and distress." § 13.52.060 (f)  Provider, institution or facility that declines shall promptly inform; provide continuing care until transfer; and cooperate and comply in transfer. § 13.52.060 (g)
<b>Arizona</b>  Ariz. Rev. Stat. § 36-3205 (2007)	x		x	x					Provider not subject to criminal or civil liability or professional discipline for failing to comply if it violates provider's conscience, if provider promptly makes unwillingness known and promptly transfers patient's care to willing provider. § 36-3205 (C) (1)
<b>Arkansas</b>  Ark. Stat. Ann. § 20-17-210 (2007)	x	x							"This subchapter does not require any physician or other health care provider to take any action contrary to reasonable medical standards." § 20-17-210 (f)
<b>California</b>  Cal. Prob. Code § 4734 § 4735 § 4736 (2007)	x	x	x	x		x	x		Provider may decline to comply for reasons of conscience. § 4734 (a)  Institution may decline if "contrary to policy of the institution that is expressly based on reasons of conscience and if the policy was

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									<p>timely communicated" to patient or decision maker. § 4734 (b)</p> <p>Provider or institution may decline if "medically ineffective health" care or care contrary to generally accepted health care standards applicable to the health care provider or institution. § 4735 <i>Note: "Medically ineffective health care" is not defined.</i></p> <p>After declining to comply, provider or institution shall: (a) Promptly inform patient or decision maker, and (b) Immediately make all reasonable efforts to assist in transfer to willing provider or institution, and (c) Provide continuing care until transfer accomplished or until it appears that transfer cannot be accomplished. § 4736</p>
<b>Colorado</b>  Col. Rev. Stat. § 15-14-507 § 15-18-113 (2006)	x	x	x	x			x		<p>Provider or facility shall provide notice of policies based on moral convictions or religious beliefs of provider or facility. Notice shall be provided when reasonably possible. § 15-14-507 (1)</p> <p>If based on 15-14-507 (1), provider or facility shall provide for prompt transfer. § 15-14-507 (2)</p>

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									If based on other reason, agent may transfer. § 15-14-507 (3)  Duty to provide for care and comfort pending transfer. § 15-14-507 (5)  Refusal to comply by physician who then fails to transfer care shall constitute unprofessional conduct. § 15-18-113 (5)
<b>Connecticut</b>  Conn. Gen. Stat. § 19a-580a (2007)	x			x					Physician or health care provider who is unwilling to comply shall promptly take all reasonable steps to transfer care. § 19a-580a
<b>Delaware</b>  Del. Code tit. 16 § 2501 § 2508 § 2510 (2007)	x	x	x	x		x	x		Provider may decline to comply for reasons of conscience. Institution may decline to comply if contrary to written policy which is based on reasons of conscience and was communicated to patient or decision maker. § 2508 (e)  Provider or institution may decline if treatment is "medically ineffective" or contrary to generally accepted health care standards applicable to the health care provider or institution. § 2508 (f)  "'Medically ineffective treatment' means that, to a reasonable degree of medical certainty, a medical procedure will not: (1) Prevent or reduce the

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									<p>deterioration of the health of an individual; or            (2) Prevent the impending death of an individual."            § 2501 (m)</p> <p>Provider or institution that declines shall:            (1) Promptly inform patient or decision maker, and            (2) Provide continuing care, including continuing life sustaining care until transfer, and            (3) Not impede transfer.            § 2508 (g)</p> <p>Provider or institution acting in good faith or in accord with generally accepted standards applicable to provider or institution is not subject to civil liability, criminal liability or discipline for unprofessional conduct if reason for declining is based on conscience or good faith medical judgment of provider or written policies of the institution.            § 2510 (a) (5)</p>
<b>District of Columbia</b>  D.C. Code § 7-627 (2007)	x			x					Physician who cannot comply with declaration shall transfer patient. Failure to effect transfer shall constitute unprofessional conduct. § 7-627 (b)
<b>Florida</b>  Fla. Stat. § 765.1105 (2007)	x	x	x	x	x				Provider or facility that refuses to comply shall make reasonable efforts to transfer. § 765.1105 (a) Does not require provider or facility to act contrary to moral or

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									ethical beliefs if patient has received written information upon admission informing patient of policies regarding such beliefs. 765.1105 (1) (b)  Provider or facility must within 7 days either: Transfer patient and pay costs for transporting § 765.1105 (2) (a) or If patient not transferred, carry out wishes unless decision challenged successfully under 765.105. § 765.1105 (2) (b)
<b>Georgia</b>  Georgia Code Ann. § 31-32-8 § 31-32-9 § 31-32-10 (effective 7/1/07)	x	x	x	x			x		Provider unwilling to comply shall promptly inform agent. Agent is responsible for arranging transfer. Provider shall provide reasonably necessary consultation and care in connection with transfer. § 31-32-8 (2)  Physician not complying shall promptly advise agent or other decision maker. § 31-32-9 (4) (d)  At decision maker's election, physician shall: Make good faith attempt to transfer § 31-32-9 (4) (d) (1) or Permit decision maker to obtain physician who will comply. § 31-32-9 (4) (d) (2) No civil liability, criminal liability or discipline as long as provider,

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									facility or other person promptly informs decision maker of refusal to comply. Provider who is unwilling to comply shall continue to provide reasonably necessary consultation and care in connection with pending transfer. § 31-32-10 (a) (2)  If actions are substantially in accord with reasonable medical standards and provider cooperates in transfer, provider shall not be subject to civil liability, criminal liability or discipline. § 31-32-10 (3)
<b>Hawaii</b>  Hawaii Rev. Stat. § 327E-7 (2007)	x	x	x	x		x	x		Provider or facility may decline to comply for reasons of conscience or institutional policy expressly based on conscience if policy timely communicated. § 327E-7 (e)  Provider or institution may decline if decision requires medically ineffective care or care contrary to generally accepted health care standards applicable to the provider or institution. § 327E-7 (f) <i>Note: "Medically ineffective care" is not defined.</i>  Provider or institution that declines shall: (1) Promptly inform. § 327E-7 (g) (1) (2) Provide continuing care until transfer.

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									§ 327E-7 (g) (2)  (3) Make all reasonable efforts to assist in transfer unless patient or decision maker refuses assistance. § 327E-7 (g) (3)
<b>Idaho</b>  Idaho Code § 39-4513 (2007)	x	x		x					Physician or other provider is incapable of or unwilling to comply, may withdraw without incurring civil or criminal liability if, before withdrawal of participation, makes good faith effort to assist patient to obtain services of willing physician or provider. § 39-4513 (2)
<b>Illinois</b>  755 ILCS 35/6 755 ILCS 35/8 755 ILCS 40/35 755 ILCS 45/4-7 755 ILCS 45/4-8 (2007)  <b>Note:</b> Health Care Rights of Conscience Act (745 ILCS 70/1 through 70/14) may also be applicable.	x	x	x	x			x		Physician shall notify patient or decision maker if unwilling to comply with declaration. 755 ILCS 35/6  Physician or other provider who willfully fails to notify or fails to comply with Sec. 6 is guilty of engaging in unethical and unprofessional conduct. 755 ILCS 35/8 (c)  If unable to comply due to beliefs or conscience, provider shall notify facility without delay. Provider shall assist in timely transfer to willing provider or to another facility designated by patient or decision maker. If facility policies preclude compliance, facility shall take all reasonable steps to assist in timely transfer. 755 ILCS 40/35



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									<p>If unwilling to comply with agent's decision, provider shall promptly inform agent who is responsible for arranging transfer. 755 ILCS 45/4-7 (b)</p> <p>Provider is not subject to liability or discipline for failure to comply with agent's directions, if compliance would violate provider's conscience rights as long as provider promptly informs agent who is responsible for arranging transfer. Provider to continue reasonably necessary consultation and care in connection with transfer. 755 ILCS 45/4-8 (b)</p> <p>If provider's failure to comply is in accord with reasonable medical standards and provider cooperates in transfer, provider not subject to liability or discipline. 755 ILCS 45/4-8 (c)</p>
<b>Indiana</b>  Burns Ind. Code Ann. § 16-36-4-13 § 30-5-7-4 § 30-5-9-10 (2007)	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>				<b>x</b>	<p>Physician who refuses to use, withhold or withdraw life-prolonging procedures shall transfer patient to physician who will comply. § 16-36-4-13 (e)</p> <p>Physician who cannot find a willing physician may refuse to withhold or withdraw procedures. § 16-36-4-13 (f)</p> <p>Provider that is unwilling to comply with agent's decisions shall notify agent and promptly take all</p>

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									steps to transfer patient. § 30-5-7-4 (b)  If actions of provider who fails to comply with direction or decision are substantially in accord with reasonable medical standards and provider promptly transfers patient, provider is not subject to liability or discipline for failure to comply. § 30-5-9-10 (2)
<b>Iowa</b>  Iowa Code § 144A.8 § 144B.9 (2006)	<b>x</b>	<b>x</b>		<b>x</b>				<b>x</b>	Physician unwilling to comply with declaration shall take all reasonable steps to transfer. § 144A.8 (1)  If policies of provider preclude compliance, provider shall take all reasonable steps to transfer. § 144A.8 (2)  In spite of contrary decision by agent, provider is not subject to prosecution, liability or discipline for failing to withhold or withdraw health care necessary to keep patient alive. Agent may make provisions to transfer. § 144B.9 (2)
<b>Kansas</b>  Kan. Stat. Ann. § 65-28,107 (2006)	<b>x</b>			<b>x</b>					Physician who refuses to comply shall effect transfer. Failure to effect transfer shall constitute unprofessional conduct. § 65-28,107 (a)
<b>Kentucky</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>					Physician or facility who refuses to comply shall immediately inform

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Ky. Rev. Stat. § 311.633 (2006)									<p>patient or decision maker. May not impede transfer. If requested, physician and provider shall supply information or assistance medically necessary for continued care of patient. § 311.633 (2)</p> <p>Health care personnel or employees who, in writing, state objection to complying with advance directive or decisions on moral, religious or professional grounds cannot be held liable for refusal if they notify and comply with patient transfer requirement. § 311.633 (3)</p> <p>Unlawful to impose penalties or discipline on non-complying provider who complies with notice and transfer. § 311.633 (4)</p>
<b>Louisiana</b>  La. Rev. Stat. § 40:1299.58.7 (2007)	x	x		x					<p>Physician who refuses to comply shall make reasonable effort to transfer. § 40:1299.58.7 (B)</p> <p>If policies of provider preclude compliance, provider shall take all reasonable steps to transfer. § 40:1299.58.7 (D)</p>
<b>Maine</b>  Me. Rev. Stat. tit. 18-A § 5-807 (2006)	x	x	x	x		x	x		<p>Provider may decline to comply for reasons of conscience. Institution may decline to comply if contrary to policy of institution that is expressly based on reasons of conscience and if institution timely communicated policy to</p>

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									<p>patient or decision maker. § 5-807 (E)</p> <p>Provider or institution may decline if decision requires "medically ineffective health care" or health care contrary to generally accepted standards applicable to the provider or institution. § 5-807 (F)</p> <p><i>Note: "Medically ineffective health care" is not defined.</i></p> <p>Provider or institution that declines shall:  (1) Promptly inform patient or decision maker;  (2) Provide continuing care until transfer or court resolves; and  (3) Make all reasonable efforts to assist in transfer.  § 5-807 (G)</p>
<b>Maryland</b>  Md. Code Ann. Health-General § 5-601 § 5-611 § 5-613 (2007)	x	x	x	x		x	x		<p>Except as provided in 5-613 (a) (3) physician is not required to provide treatment that physician considers ethically inappropriate. § 5-611 (a)</p> <p>Physician may withhold or withdraw "medically ineffective treatment" if physician informs patient or decision maker. § 5-611 (b)</p> <p>"'Medically ineffective treatment' means that, to a reasonable degree of medical certainty, a medical procedure will not:  (1) Prevent or reduce the</p>

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									deterioration of the health of an individual; or (2) Prevent the impending death of an individual." § 5-601 (n)  "Nothing in this subtitle authorizes any action with respect to medical treatment, if the health care provider is aware that the patient for whom the health care is provided has expressed disagreement with the action." § 5-611 (e)  Provider that intends not to comply shall inform, assist in transfer and comply pending transfer if non-compliance would likely result in death. § 5-613 (a)
<b>Massachusetts</b>  Ann. Laws of Mass. Gen. Laws ch. 201D § 14 § 15 (2007)	x	x	x	x					Physician is not required to honor agent's decision if contrary to physician's moral or religious views provided patient is transferred. If physician is unable to transfer, physician shall seek judicial relief or honor agent's decision. Physician's or other individual provider's refusal to comply because of moral or religious views is not grounds for dismissal, suspension, etc., nor can refusal be used in any way to detriment physician/provider if all responsibilities under sec. 14 and 15 are fulfilled. § 201D, 14

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									Private facility is not required to honor decision contrary to formally adopted policy expressly based on religious beliefs provided facility informs patient or agent prior to admission, if possible, and transfers patient. If unable to transfer, facility must seek judicial guidance or honor decision. § 201D, 15
<b>Michigan</b>  Mich. Comp. Laws § 700.5511 (2007)									Person providing care, custody, or medical or mental health treatment to a patient is bound by sound medical treatment and by patient advocate's instructions. § 700.5511 (3)
<b>Minnesota</b>  Minn. Stat. § 145B.06 § 145C.15 (2006)	x	x	x	x			x		Physician or other provider unwilling to comply with living will must promptly notify competent patient who may transfer self. If patient is not competent and was not notified while still competent, physician or provider must transfer. § 145B.06 (Subd. 1)  If proxy makes decision, same limitations and conditions as for living will apply. § 145B.06 (Subd. 2)  If proxy or agent directs provision of health care, nutrition, or hydration that, in reasonable medical judgment, has a significant possibility of sustaining life, provider shall take all reasonable steps to ensure

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									provision if capable or promptly transfer to provider that has capability. § 145C.15 (a)  Provider who is unwilling to provide directed health care may transfer patient to another provider but shall take all reasonable steps to ensure provision of directed health care until transfer. § 145C.15 (b)
<b>Mississippi</b>  Miss. Code Ann. § 41-41-215 § 41-41-221 (2007)	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>			<b>x</b>		Provider may decline to comply for reasons of conscience. Institution may decline if contrary to its policy which is expressly based on reasons of conscience and the policy was timely communicated. § 41-41-215 (6)  Provider or institution that declines shall: (1) Promptly inform; (2) Provide continuing care until transfer; and (3) Make all reasonable efforts to assist in transfer. § 41-41-215 (7)  Provider or institution that violates requirements is subject to liability for \$500 damages or actual damages plus reasonable attorney's fees. § 41-41-221 (1)
<b>Missouri</b>  Mo. Ann. Stat.	<b>x</b>	<b>x</b>		<b>x</b>					Physician is not required to honor agent's decision if contrary to religious beliefs or sincerely held

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§ 404.830 § 459.030 § 459.045 (2007)									moral convictions. § 404.830 (1)  Facility is not required to honor agent's decision if contrary to facility's institutional policy based on religious beliefs or sincerely held moral convictions unless facility received copy of durable power of attorney for health care prior to commencing series of treatments or current confinement. § 404.830 (2)  Provider or facility shall not impede transfer. § 404.830 (3)  Physician or health facility unwilling to comply with declaration shall take all reasonable steps to effect transfer. § 459.030  Refusal of physician or facility to comply with declaration without serious reason constitutes unprofessional conduct. § 459.045 (1)
<b>Montana</b>  Mont. Code Ann. § 50-9-203 (2005)	x	x		x					Physician or provider unwilling to comply shall take steps to transfer care. If policies of facility preclude compliance, facility shall take steps to transfer. § 50-9-203
<b>Nebraska</b>  Neb. Rev. Stat. Ann. § 30-3428	x	x	x	x					Provider is not obligated to honor decision by agent that is contrary to a formally adopted policy that is expressly based on religious



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(2007)									beliefs or sincerely held ethical or moral convictions central to operating principles of provider organization if organization has informed patient or agent. If agent is unable or unwilling to arrange transfer, provider organization may intervene to facilitate transfer. § 30-3428 (1)  Individual health care provider is not obligated to honor or cooperate with agent's decision if contrary to individual's religious beliefs or sincerely held moral or ethical convictions. Provider shall promptly inform agent and organization of refusal. Provider organization shall promptly assist in transfer. § 30-3428 (2)
<b>Nevada</b>  Nev. Rev. Stat. Ann. § 449.628 § 449.640 § 449.670 (2007)	<b>x</b>	<b>x</b>		<b>x</b>				<b>x</b>	Physician or other provider unwilling to comply shall take all reasonable steps to transfer. § 449.628  If patient has living will regarding LST physician must give weight to it but may also consider other factors. § 449.640 (1)  Facility, physician, or person working under direction of physician not subject to liability for failure to follow directions to withhold or withdraw LST § 449.640 (2)  Physician or other provider not

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									required to act contrary to reasonable medical standards. § 449.670 (1)
<b>New Hampshire</b>  N. H. Rev. Stat. Ann. § 137-J:3 § 137-J:7 (2007)	x	x	x	x			x	x	Facility that does not recognize DNRs or living wills shall post a specifically worded notice of at least specific minimum size at every place of admission. § 137-J:3 (III)  Provider unable to comply because of personal beliefs or conscience shall immediately inform. § 137-J:7 (I) (d)  Provider unable to comply shall make arrangements for patient's transfer and "shall not deny treatment, nutrition, or hydration which denial would, within a reasonable degree of medical certainty, result in or hasten the qualified patient's death against the express will of the qualified patient, the advance directive, or the agent." § 137-J:7 (II)  Medically administered nutrition and hydration and LST shall not be withdrawn or withheld unless there is clear expression of such intent in directive, the patient objects, or such treatment would have the unintended consequence of hastening death or causing irreparable harm. § 137-J:7 (III)  When agent or living will requires act or omission contrary to moral

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									or ethical principles or other standards, provider shall allow for patient's transfer and shall incur no liability for refusal to carry out terms, provided that. pending transfer, provider shall not deny treatment, nutrition, hydration or LST if such denial would result in hastening death against expressed will of patient, directive or agent. Provider shall inform agent of decision not to participate in such an act or omission. § 137-J:7 (IV)
<b>New Jersey</b>  N.J. Stat. § 26:2H-62 § 26:2H-65 (2007)	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>				<b>x</b>	Physician may decline to withhold or withdraw LST in accord with sincerely held personal or professional convictions. Physician must inform patient, agent and medical staff chief to effect timely transfer. § 26:2H-62 (b)  Nurse or other health care professional may decline to participate in withholding or withdrawal of LST in accord with sincerely held personal or professional convictions. Must inform patient, agent and head of staff and cooperate in transfer. 26:2H-62 (c)  Private, religiously-affiliated facility may develop policies and practices defining circumstances for declining to participate in withholding or withdrawal of specified measures used to sustain

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  <i>* "Advance Directives" include Living Wills &amp; Durable Powers of Attorney for Health Care.</i>  <i>Note: "LST." refers to life-sustaining treatment</i>
									life. Policies and practices must be in writing and communicated to patient, family and decision maker prior to or upon admission or as soon as possible. If policies and practices conflict with patient's rights to forego care, institution shall attempt to resolve conflict. If no resolution, institution shall take steps to transfer patient. § 26:2H-65 (b)
<b>New Mexico</b>  N.M. Stat. Ann. § 24-7A-7 § 24-7A-10 (2007)	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>		<b>x</b>	<b>x</b>		Provider may decline for reasons of conscience. Institution may decline if decision contrary to policy expressly based on reasons of conscience and policy is timely communicated. § 24-7A-7 (E)  Provider or institution may decline to provide "medically ineffective health care." "'Medically ineffective health care' means treatment that would not offer the patient any significant benefit as determined by a physician." § 24-7A-7 (F)  Provider or institution that declines shall promptly inform, provide continuing care until patient transferred and assist in transfer. § 24-7A-7 (G)  Provider or facility that intentionally violates Act is subject to damages of \$5000 or actual

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  * "Advance Directives" include Living Wills & Durable Powers of Attorney for Health Care.  <i>Note: "LST." refers to life-sustaining treatment</i>
									damages plus atty. fees. § 24-7A -10 (A)
<b>New York</b>  N.Y. Pub. Health Law § 2984 (2007)	x	x	x	x					Private hospital not required to honor decision if contrary to formally adopted policy expressly based on religious beliefs or sincerely held moral convictions central to facility's operating principles provided that the hospital informs prior to or upon admission, if possible; and patient is promptly transferred.  If no transfer, facility shall seek judicial relief or honor decision. § 2984 (3)  Individual provider is not required to honor decision contrary to religious beliefs or sincerely held moral convictions provided that provider promptly informs agent and facility.  Hospital shall transfer patient to another provider. § 2984 (4)
<b>North Carolina</b>  N.C. Gen. Stat. § 90-321 (k) effective 10/1/07	x	x	x					x	Physician may decline to honor decision to withhold or withdraw LST if violates physician's conscience or conscience-based policy of facility provided: physician must not interfere and must cooperate in substituting another physician or transfer pt. to facility that does not have policies prohibiting withholding or withdrawal of LST
<b>North Dakota</b>  N.D. Cent. Code	x	x	x	x			x	x	Provider may decline for reasons of conscience or other conflict. Shall take steps to transfer patient

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  <i>* "Advance Directives" include Living Wills &amp; Durable Powers of Attorney for Health Care.</i>  <i>Note: "LST." refers to life-sustaining treatment</i>
§ 23-06.5-09 § 23-06.5-12 (2007)								<b>see note about nutrition and hydration</b>	and provide continuing care until transfer. § 23-06.5-09 (2)  <i>Note: re Nutrition and Hydration:</i> "In absence of a direction to the contrary contained in a health care directive prepared under this chapter, nothing in this chapter requires a physician to withhold, withdraw or administer nutrition or hydration, or both from or to the principal. Nutrition or hydration, or both, must be withdrawn, withheld, or administered, if the principal for whom the administration of nutrition or hydration is considered, has directed in a health care directive the principal's desire that nutrition or hydration, or both, be withdrawn, withheld, or administered. If a health care directive prepared under this chapter does not indicate the principal's direction with respect to nutrition or hydration, or both, may be withdrawn or withheld if the attending physician has determined that the administration of nutrition or hydration is inappropriate because the nutrition or hydration cannot be physically assimilated by the principal or would be physically harmful or would cause unreasonable physical pain to the principal." § 23-06.5-09 (6)  Provider is not subject to liability

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  <i>* "Advance Directives" include Living Wills &amp; Durable Powers of Attorney for Health Care.</i>  <i>Note: "LST." refers to life-sustaining treatment</i>
									or discipline if took all reasonable steps to notify of unwillingness to comply and arranges to transfer to willing provider. § 23-06.5-12 (3)
<b>Ohio</b>  Ohio Rev. Code Ann. § 1337.16 § 2133.02 § 2133.10 (2007)	<b>x</b>	<b>x</b>	<b>x</b>				<b>x</b>		Physician or facility may refuse to comply with agent's decision on basis of conscience or another basis. § 1337.16 (B) (1)  Physician or facility not willing to comply with agent's decisions shall not prevent or delay transfer and shall use or continue LST until transfer. § 1337.16 (B) (2)  Physician or facility may refuse to comply with declaration on basis of conscience or other basis and shall promptly advise patient and not impede transfer. If declaration provides for use or continuation of LST, shall use or continue LST until transfer. § 2133.02 (D) and 2133.10 B
<b>Oklahoma</b>  Okla. Stat. tit. 63 § 3080.5 § 3101.9 (2007)	<b>x</b>	<b>x</b>		<b>x</b>			<b>x</b>	<b>x specific to nutrition and hydration</b>	"In spite of any other provision of law, no person and no health care facility shall be required to participate in or provide facilities for medical treatment or care of an incompetent patient who is to die as the result of dehydration or starvation." § 3080.5 (A)  Physician or other provider unwilling to comply with directive

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  <i>* "Advance Directives" include Living Wills &amp; Durable Powers of Attorney for Health Care.</i>  <i>Note: "LST." refers to life-sustaining treatment</i>
									shall promptly take steps to transfer care to another. Once physician-patient relationship established, provider or physician who refuses to comply must provide treatment pending transfer if refusal would result in the death of the patient. § 3101.9
<b>Oregon</b>  Or. Rev. Stat. § 127.625 § 127.654 (2005)	x	x	x	x					Provider unwilling to carry out instruction or agent's decision shall promptly notify agent who shall make effort to transfer patient. If no agent, provider shall discharge or make effort to transfer. § 127.625 (2) (a) and (c)  No facility, organization or provider required to act in a manner inconsistent with federal law or contrary to individual religious or philosophical beliefs. § 127.654 (1)
<b>Pennsylvania</b>  20 Pa. Cons. Stat. § 5608 § 5424 (2006)	x	x	x	x				x	<i>Note: Pennsylvania law permits a health care agent to be named under either the general powers of attorney statute or under the health care directives statute. Provider duties differ, depending upon which method is used.</i>  "Any person who is given instructions by an agent in accordance with the terms of a power of attorney shall comply with the instructions. Any person who without reasonable cause fails to comply with those instructions shall be subject to civil liability for



<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  * "Advance Directives" include Living Wills & Durable Powers of Attorney for Health Care.  <i>Note: "LST." refers to life-sustaining treatment</i>
									any damages resulting from noncompliance." § 5608 (a)  If physician or other provider cannot in good conscience comply with living will or agent's decision or if policies of provider preclude compliance, physician or provider shall inform and make reasonable efforts to assist in transfer. § 5424 (a) and (b)  If transfer impossible, provision of LST may not subject physician or provider to liability or sanction. § 5424 (d)
<b>Rhode Island</b>  R.I. Gen. Laws § 23-4.10-6 § 23-4.10-8 § 23-4.11-7 § 23-4.11-9 (2007)	<b>x</b>			<b>x</b>					Physician or health care provider who refuses to comply with the durable power of attorney of patient shall transfer patient to willing physician. § 23-4.10-6  Failure of physician to transfer patient shall constitute unprofessional conduct. § 23-4.10-8  Physician or health care provider who refuses to comply with living will shall transfer to willing physician. § 23-4.11-7  Failure of physician to transfer shall constitute unprofessional conduct. § 23-4.11-9
<b>South Carolina</b>	<b>x</b>	<b>x</b>		<b>x</b>				<b>x</b>	Physician or facility who for any

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  * <i>"Advance Directives" include Living Wills &amp; Durable Powers of Attorney for Health Care.</i>  <i>Note: "LST." refers to life-sustaining treatment</i>
S.C. Code Ann. § 44-77-100 (2006)									reason elects not to participate in withholding or withdrawal of LST in accord with a living will shall make reasonable efforts to transfer. Failure constitutes unprofessional conduct if physician fails or refuses to make reasonable efforts to transfer. § 44-77-100
<b>South Dakota</b>  S.D. Codified Laws § 34-12D-12 (2007)	x	x		x			x		"If declaration contains directive to provide treatment or artificial nutrition and hydration under any circumstances, any health care provider who has responsibility for the treatment and care of the individual must provide the directed treatment as long as technically feasible. Provider who objects may transfer but must continue to provide the treatment or care until the transfer is effectuated." § 34-12D-12
<b>Tennessee</b>  Tenn. Code Ann. § 32-11-108 § 68-11-1808 (2007)	x	x	x	x		*	x		* <i>The statute refers to "medically inappropriate health care" instead of "medically ineffective care."</i> <i>"Medically inappropriate health care" is not defined.</i>  Physician or other individual provider who in good conscience cannot comply with living will shall inform and assist in transfer. Provider who fails to make good faith reasonable efforts to inform and assist in transfer shall be civilly liable and subject to disciplinary action. Provider not subject to liability for medical care provided during

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  <i>* "Advance Directives" include Living Wills &amp; Durable Powers of Attorney for Health Care.</i>  <i>Note: "LST." refers to life-sustaining treatment</i>
									<p>interim period until transfer. § 32-11-108 (a)</p> <p>Provider may decline to comply for reasons of conscience. § 68-11-1808 (c)</p> <p>Institution may decline to comply if contrary to policy based on reasons of conscience and policy timely communicated. § 68-11-1808 (d)</p> <p>Provider or institution may decline decision that requires medically inappropriate health care. § 68-11-1808 (e)</p> <p>Provider or institution that declines shall:            (1) Promptly inform;            (2) Provide continuing care until transfer; and            (3) Assist in transfer.            If transfer cannot be effected, provider or institution not compelled to comply.            § 68-11-1808 (f)</p>
<b>Texas</b>  Tex. Health & Safety Code § 166.004 § 166.045 § 166.046 § 166.158 (2007)	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>x</b>	<b>*</b>	<p><i>* The statute refers to "inappropriate treatment" instead of "medically ineffective treatment." "Inappropriate treatment" is not defined.</i></p> <p>Provider (facility or institution) shall maintain written policies regarding implementation of advance directives. Policies must include clear and precise statement of procedures</p>

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	<b>Summary</b>  * "Advance Directives" include Living Wills & Durable Powers of Attorney for Health Care.  <i>Note: "LST." refers to life-sustaining treatment</i>
									<p>provider is unwilling to provide or withhold. § 166.004 (a)</p> <p>Shall provide written notice of policies at admission or when begins providing care. § 166.004 (b)</p> <p>Physician who is unwilling to comply and does not wish to follow procedures in 166.046 shall provide LST to patient until reasonable opportunity afforded for patient transfer. § 166.045</p> <p><i>166.046 procedures:</i> If physician refuses to comply, refusal shall be reviewed by ethics or medical committee. LST shall be given during review. 166.046 (a)</p> <p>Patient or decision maker: (1) May be given written description of committee review process and other policies and procedures; (2) Shall be informed of review process not less than 48 hours before meeting; (3) At the time of being informed, shall be provided with a copy of required statement set forth in 166.052 and shall be provided with copy of registry of providers and referral groups; (4) Is entitled to attend the meeting and receive a written explanation of the decision reached.</p>

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  * "Advance Directives" include Living Wills & Durable Powers of Attorney for Health Care.  <i>Note: "LST." refers to life-sustaining treatment</i>
									§ 166.046 (b)  If physician, patient or decision maker disagree with review process decision, physician shall make reasonable effort to transfer. § 166.046 (d)  If patient or decision maker is requesting LST that physician and review process have affirmed is inappropriate treatment, patient shall be given LST pending transfer. Patient responsible for transfer costs. Physician and facility obligated to provide LST for only 10 days following written review committee decision. § 166.046 (e)  Court may extend time only if it finds, by preponderance of evidence, that there is a reasonable expectation that physician or facility to honor request will be found. § 166.046 (g)  Provider who finds it impossible to follow agent's directive or an agent's decision shall inform. Procedures under 166.045 and 166.046 apply if agent's decision concerns LST. § 166.158.
<b>Utah</b>  Utah Code Ann.	<b>x</b>	<b>x</b>		<b>x</b>					Physician or other providers who fail to comply shall promptly effect a transfer.

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  <i>* "Advance Directives" include Living Wills &amp; Durable Powers of Attorney for Health Care.</i>  <i>Note: "LST." refers to life-sustaining treatment</i>
§ 75-2-1112 (2007)									Failure of physician or provider to comply or effect transfer constitutes unprofessional conduct. § 75-2-1112
<b>Vermont</b>  Vt. Stat. Ann., tit. 18 § 9707 § 9709 § 9714 (2007)	x	x	x	x			x		Providers and facilities must comply unless moral, ethical or other conflict. They shall promptly inform of conflict, assist in transfer and provide ongoing care until transfer. § 9707 (b) (3), (c) and (d).  Facilities shall develop written protocols to ensure that patient's advance directive is reviewed to determine whether facility would decline to follow and, if so, follow 9707 (b) and (c). The review of advance directive shall occur prior to admission or as soon as possible. § 9709 (b) (2)  Failure by provider or facility is subject to review and disciplinary action for failing to act in accordance with advance directive or instruction or with subsection 9707 (b). 9714 (a)
<b>Virginia</b>  Va. Code Ann. § 54.1-2987 § 54.1-2990 (2007)	x		x	x	x	*	x		<i>* The statute refers to "medically or ethically inappropriate," not "medically ineffective," but does not define "medically or ethically inappropriate."</i>  Physician who refuses to comply shall make reasonable effort to transfer.

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  <i>* "Advance Directives" include Living Wills &amp; Durable Powers of Attorney for Health Care.</i>  <i>Note: "LST." refers to life-sustaining treatment</i>
									<p>This section shall apply even if physician determines requested treatment to be medically or ethically inappropriate. 54.1-2987</p> <p>Nothing requires physician to participate in medically or ethically inappropriate treatment. If physician's determination is contrary to living will or agent's decision, physician shall inform patient or decision maker of reason for determination. If conflict is unresolved, physician shall make reasonable effort to transfer. Physician shall provide the patient or decision maker a reasonable time of not less than 14 days to effect the transfer. During this time period, physician shall continue LST § 54.1-2990 (A)</p>
<b>Washington</b>  Wash. Rev. Code § 70.122.060 (2007)	<b>x</b>	<b>x</b>	<b>x</b>					<b>x</b>	<p>Physician or facility shall inform patient or agent of any policy or practice that would preclude honoring directive at the time physician or facility becomes aware of directive. If patient chooses to retain physician or facility, physician or facility shall prepare written plan that sets forth physician's or facility's intended actions if directive becomes operative. Physician or facility has no obligation to honor directive if they have complied with written plan.</p>

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	Summary  * "Advance Directives" include Living Wills & Durable Powers of Attorney for Health Care.  <i>Note: "LST." refers to life-sustaining treatment</i>
									§ 70.122.060 (2)  No nurse, physician or other health care practitioner may be required by law or contract in any circumstances to participate in withholding or withdrawal of LST if such person objects to so doing. § 70.122.060 (4)
<b>West Virginia</b>  W. Va. Code § 16-30-12 (2007)	x	x	x	x					Facility not required to change published policy that is expressly based on religious beliefs or moral convictions central to facility's operating principles. 16-30-12 (a)  Individual health care provider not required to honor health care decision if contrary to provider's religious beliefs or moral convictions, and provider informs patient or decision maker. Provider shall cooperate in transfer. § 16-30-12 (b)
<b>Wisconsin</b>  Wis. Stat. Ann. § 154.07 § 155.50 (2006)	x	x		x					No physician or facility may be held liable or disciplined for failing to comply with declaration, except that failure by physician constitutes unprofessional conduct if physician refuses or fails to make a good faith attempt to transfer patient. § 154.07 (a)  No facility or provider may be charged with a crime, held liable or charged with unprofessional conduct for failing to comply with an agent's decision, except that



<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	<b>Summary</b>  * "Advance Directives" include Living Wills & Durable Powers of Attorney for Health Care.  <i>Note: "LST." refers to life-sustaining treatment</i>
									failure of physician constitutes unprofessional conduct if physician refuses to transfer or fails to make good faith attempt to transfer. § 155.50 (1) (b)
<b>Wyoming</b>  Wyo. Stat. § 35-22-408 § 35-22-410 § 35-22-411 (2007)	x	x	x	x		x	x		Provider may decline to comply for reasons of conscience. Institution may decline to comply if contrary to written policy of institution that is expressly based on reasons of conscience and if policy is timely communicated. § 35-22-408 (e)  Provider or institution may decline to comply if requires "medically ineffective health care." § 35-22-408 (f) <i>Note: "Medically ineffective health care" is not defined.</i>  Provider or institution that declines shall: (1) Promptly inform; (2) Provide continuing care, including LST until transfer; and (3) Immediately make all reasonable efforts to assist in transfer. § 35-22-408 (g)  Provider or institution not subject to liability or discipline for declining to comply if contrary to conscience or good faith medical judgment or written policies of institution.

<b>State Requirements</b>  <i>Note: Federal requirements for notification of patients regarding compliance with advance directives are discussed following this chart.</i>	Physician non-compliance permitted	Facility non-compliance permitted	Notice required	Transfer or assist in transfer	Time Limit	Medically ineffective treatment or care not required	Treat while awaiting transfer	Explicitly not required to participate in withholding or withdrawal of life sustaining treatment	<b>Summary</b>  * "Advance Directives" include Living Wills & Durable Powers of Attorney for Health Care.  <i>Note: "LST." refers to life-sustaining treatment</i>
									§ 35-22-410 (a) (v)  Provider or institution that violates act willfully or with reckless disregard of instruction or decision is subject to liability for damages of \$500 or actual damages plus attorney fees. § 35-22-411 (a)

### **Federal Laws and Regulations related to Advance Directives**

In 1990, Congress passed the Patient Self-Determination Act (PSDA).<sup>1</sup> It was intended to give patients' greater control over their own health care.

The PSDA mandated that health care organizations receiving Medicare or Medicaid funds (hospitals, critical access hospitals, skilled nursing facilities, nursing facilities, home health agencies, providers of home health care and, for Medicaid purposes, providers of personal care services) comply with certain record keeping and patient notification requirements related to advance directives. These requirements include:

- At the time of admission, provide a written summary of a patient's rights under state law to make health care decisions, including the right to have an advance directive.
- Ask all adults entering for treatment whether they have an existing advance directive.
- Document the existence of an advance directive in the patient's medical record.
- Make it clear that treatment and care cannot be conditioned on the existence or non-existence of an advance directive.

Implementing regulations require eligible organizations to comply with additional requirements pertaining to advance directives. For example, among these are requirements to:

- **Maintain written policies and procedures concerning advance directives with respect to all adult individuals receiving medical care.**
- **Provide written information to such individuals concerning:**
  - An individual's rights under State law regarding advance directives.
  - The written policies of the provider or organization respecting the implementation of such rights, including a clear and precise statement of limitation if the provider cannot implement an advance directive on the basis of conscience. At a minimum, a provider's statement of limitation should:

(A) Clarify any differences between institution-wide conscience objections and those that may be raised by individual physicians;

(B) Identify the state legal authority permitting such objection; and

(C) Describe the range of medical conditions or procedures affected by the conscience objection.

- **Ensure compliance with requirements of State law regarding advance directives and inform individuals that complaints concerning the advance directive requirements may be filed with the State survey and certification agency.**
- **In the case of a hospital or skilled nursing facility, the information specified above is to be provided at the time of admission. In other organizations, the information is to be furnished before care is provided.<sup>2</sup>**

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<sup>1</sup> Omnibus Budget Reconciliation Act of 1991, Pub. L. No. 101-508, §§ 4206 and 4751, 104 Stat. 1388, 1388-115 to 117, 1388-204 to 206 (codified respectively at 42 U.S.C. §§ 1395cc(f) (Medicare) and 1396a(w) (Medicaid)).

<sup>2</sup> See 42 CFR § 489.102 (a) and (b).