

1-1 By: Wray, Guillen (Senate Sponsor - Rodríguez) H.B. No. 995  
1-2 (In the Senate - Received from the House May 10, 2017;  
1-3 May 10, 2017, read first time and referred to Committee on State  
1-4 Affairs; May 18, 2017, reported favorably by the following vote:  
1-5 Yeas 9, Nays 0; May 18, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Huffman	X		
1-9	Hughes	X		
1-10	Birdwell	X		
1-11	Creighton	X		
1-12	Estes	X		
1-13	Lucio	X		
1-14	Nelson	X		
1-15	Schwertner	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the form and revocation of medical powers of attorney.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. The heading to Section 166.155, Health and  
1-22 Safety Code, is amended to read as follows:

1-23 Sec. 166.155. REVOCATION; EFFECT OF TERMINATION OF  
1-24 MARRIAGE.

1-25 SECTION 2. Section 166.155, Health and Safety Code, is  
1-26 amended by amending Subsection (a) and adding Subsection (a-1) to  
1-27 read as follows:

1-28 (a) A medical power of attorney is revoked by:

1-29 (1) oral or written notification at any time by the  
1-30 principal to the agent or a licensed or certified health or  
1-31 residential care provider or by any other act evidencing a specific  
1-32 intent to revoke the power, without regard to whether the principal  
1-33 is competent or the principal's mental state; or

1-34 (2) execution by the principal of a subsequent medical  
1-35 power of attorney. [~~or~~]

1-36 (a-1) An agent's authority under a medical power of attorney  
1-37 is revoked if the agent's marriage to [(3) the divorce of] the  
1-38 principal is dissolved, annulled, or declared void [and spouse, if  
1-39 the spouse is the principal's agent,] unless the medical power of  
1-40 attorney provides otherwise.

1-41 SECTION 3. Section 166.164, Health and Safety Code, is  
1-42 amended to read as follows:

1-43 Sec. 166.164. FORM OF MEDICAL POWER OF ATTORNEY. The  
1-44 medical power of attorney must be in substantially the following  
1-45 form:

1-46 MEDICAL POWER OF ATTORNEY DESIGNATION OF HEALTH CARE AGENT.

1-47 I, \_\_\_\_\_ (insert your name) appoint:

1-48 Name: \_\_\_\_\_

1-49 Address: \_\_\_\_\_

1-50 Phone: \_\_\_\_\_

1-51 as my agent to make any and all health care decisions for me,  
1-52 except to the extent I state otherwise in this document. This  
1-53 medical power of attorney takes effect if I become unable to make my  
1-54 own health care decisions and this fact is certified in writing by  
1-55 my physician.

1-56 LIMITATIONS ON THE DECISION-MAKING AUTHORITY OF MY AGENT ARE  
1-57 AS FOLLOWS: \_\_\_\_\_

1-58 \_\_\_\_\_

1-59 DESIGNATION OF ALTERNATE AGENT.

1-60 (You are not required to designate an alternate agent but you  
1-61 may do so. An alternate agent may make the same health care

2-1 decisions as the designated agent if the designated agent is unable  
2-2 or unwilling to act as your agent. If the agent designated is your  
2-3 spouse, the designation is automatically revoked by law if your  
2-4 marriage is dissolved, annulled, or declared void unless this  
2-5 document provides otherwise.)

2-6 If the person designated as my agent is unable or unwilling to  
2-7 make health care decisions for me, I designate the following  
2-8 persons to serve as my agent to make health care decisions for me as  
2-9 authorized by this document, who serve in the following order:

2-10 A. First Alternate Agent

2-11 Name: \_\_\_\_\_

2-12 Address: \_\_\_\_\_

2-13 Phone \_\_\_\_\_

2-14 B. Second Alternate Agent

2-15 Name: \_\_\_\_\_

2-16 Address: \_\_\_\_\_

2-17 Phone \_\_\_\_\_

2-18 The original of this document is kept at:

2-19 \_\_\_\_\_

2-20 \_\_\_\_\_

2-21 The following individuals or institutions have signed  
2-22 copies:

2-23 Name: \_\_\_\_\_

2-24 Address: \_\_\_\_\_

2-25 \_\_\_\_\_

2-26 Name: \_\_\_\_\_

2-27 Address: \_\_\_\_\_

2-28 \_\_\_\_\_

2-29 DURATION.

2-30 I understand that this power of attorney exists indefinitely  
2-31 from the date I execute this document unless I establish a shorter  
2-32 time or revoke the power of attorney. If I am unable to make health  
2-33 care decisions for myself when this power of attorney expires, the  
2-34 authority I have granted my agent continues to exist until the time  
2-35 I become able to make health care decisions for myself.

2-36 (IF APPLICABLE) This power of attorney ends on the following  
2-37 date: \_\_\_\_\_

2-38 PRIOR DESIGNATIONS REVOKED.

2-39 I revoke any prior medical power of attorney.

2-40 ~~[ACKNOWLEDGMENT OF]~~ DISCLOSURE STATEMENT.

2-41 THIS MEDICAL POWER OF ATTORNEY IS AN IMPORTANT LEGAL  
2-42 DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE  
2-43 IMPORTANT FACTS:

2-44 Except to the extent you state otherwise, this document gives  
2-45 the person you name as your agent the authority to make any and all  
2-46 health care decisions for you in accordance with your wishes,  
2-47 including your religious and moral beliefs, when you are unable to  
2-48 make the decisions for yourself. Because "health care" means any  
2-49 treatment, service, or procedure to maintain, diagnose, or treat  
2-50 your physical or mental condition, your agent has the power to make  
2-51 a broad range of health care decisions for you. Your agent may  
2-52 consent, refuse to consent, or withdraw consent to medical  
2-53 treatment and may make decisions about withdrawing or withholding  
2-54 life-sustaining treatment. Your agent may not consent to voluntary  
2-55 inpatient mental health services, convulsive treatment,  
2-56 psychosurgery, or abortion. A physician must comply with your  
2-57 agent's instructions or allow you to be transferred to another  
2-58 physician.

2-59 Your agent's authority is effective when your doctor  
2-60 certifies that you lack the competence to make health care  
2-61 decisions.

2-62 Your agent is obligated to follow your instructions when  
2-63 making decisions on your behalf. Unless you state otherwise, your  
2-64 agent has the same authority to make decisions about your health  
2-65 care as you would have if you were able to make health care  
2-66 decisions for yourself.

2-67 It is important that you discuss this document with your  
2-68 physician or other health care provider before you sign the  
2-69

3-1 document to ensure that you understand the nature and range of  
3-2 decisions that may be made on your behalf. If you do not have a  
3-3 physician, you should talk with someone else who is knowledgeable  
3-4 about these issues and can answer your questions. You do not need a  
3-5 lawyer's assistance to complete this document, but if there is  
3-6 anything in this document that you do not understand, you should ask  
3-7 a lawyer to explain it to you.

3-8 The person you appoint as agent should be someone you know and  
3-9 trust. The person must be 18 years of age or older or a person under  
3-10 18 years of age who has had the disabilities of minority removed.  
3-11 If you appoint your health or residential care provider (e.g., your  
3-12 physician or an employee of a home health agency, hospital, nursing  
3-13 facility, or residential care facility, other than a relative),  
3-14 that person has to choose between acting as your agent or as your  
3-15 health or residential care provider; the law does not allow a person  
3-16 to serve as both at the same time.

3-17 You should inform the person you appoint that you want the  
3-18 person to be your health care agent. You should discuss this  
3-19 document with your agent and your physician and give each a signed  
3-20 copy. You should indicate on the document itself the people and  
3-21 institutions that you intend to have signed copies. Your agent is  
3-22 not liable for health care decisions made in good faith on your  
3-23 behalf.

3-24 Once you have signed this document, you have the right to make  
3-25 health care decisions for yourself as long as you are able to make  
3-26 those decisions, and treatment cannot be given to you or stopped  
3-27 over your objection. You have the right to revoke the authority  
3-28 granted to your agent by informing your agent or your health or  
3-29 residential care provider orally or in writing or by your execution  
3-30 of a subsequent medical power of attorney. Unless you state  
3-31 otherwise in this document, your appointment of a spouse is revoked  
3-32 if your marriage is dissolved, annulled, or declared void.

3-33 This document may not be changed or modified. If you want to  
3-34 make changes in this document, you must execute a new medical power  
3-35 of attorney.

3-36 You may wish to designate an alternate agent in the event that  
3-37 your agent is unwilling, unable, or ineligible to act as your agent.  
3-38 If you designate an alternate agent, the alternate agent has the  
3-39 same authority as the agent to make health care decisions for you.

3-40 THIS POWER OF ATTORNEY IS NOT VALID UNLESS:

3-41 (1) YOU SIGN IT AND HAVE YOUR SIGNATURE ACKNOWLEDGED  
3-42 BEFORE A NOTARY PUBLIC; OR

3-43 (2) YOU SIGN IT IN THE PRESENCE OF TWO COMPETENT ADULT  
3-44 WITNESSES.

3-45 THE FOLLOWING PERSONS MAY NOT ACT AS ONE OF THE WITNESSES:

3-46 (1) the person you have designated as your agent;  
3-47 (2) a person related to you by blood or marriage;  
3-48 (3) a person entitled to any part of your estate after  
3-49 your death under a will or codicil executed by you or by operation  
3-50 of law;

3-51 (4) your attending physician;  
3-52 (5) an employee of your attending physician;

3-53 (6) an employee of a health care facility in which you  
3-54 are a patient if the employee is providing direct patient care to  
3-55 you or is an officer, director, partner, or business office  
3-56 employee of the health care facility or of any parent organization  
3-57 of the health care facility; or

3-58 (7) a person who, at the time this medical power of  
3-59 attorney is executed, has a claim against any part of your estate  
3-60 after your death.

3-61 By signing below, I acknowledge that [I have been provided  
3-62 with a disclosure statement explaining the effect of this  
3-63 document.] I have read and understand the [that] information  
3-64 contained in the above disclosure statement.

3-65 (YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY. YOU MAY SIGN  
3-66 IT AND HAVE YOUR SIGNATURE ACKNOWLEDGED BEFORE A NOTARY PUBLIC OR  
3-67 YOU MAY SIGN IT IN THE PRESENCE OF TWO COMPETENT ADULT WITNESSES.)

3-68 SIGNATURE ACKNOWLEDGED BEFORE NOTARY

3-69 I sign my name to this medical power of attorney on \_\_\_\_\_

4-1 day of \_\_\_\_\_ (month, year) at  
4-2 \_\_\_\_\_  
4-3 (City and State)  
4-4 \_\_\_\_\_  
4-5 (Signature)  
4-6 \_\_\_\_\_  
4-7 (Print Name)

4-8 State of Texas  
4-9 County of \_\_\_\_\_  
4-10 This instrument was acknowledged before me on \_\_\_\_\_ (date) by  
4-11 \_\_\_\_\_ (name of person acknowledging).

4-12 \_\_\_\_\_  
4-13 NOTARY PUBLIC, State of Texas  
4-14 Notary's printed name:  
4-15 \_\_\_\_\_  
4-16 My commission expires:  
4-17 \_\_\_\_\_

4-18 OR  
4-19 SIGNATURE IN PRESENCE OF TWO COMPETENT ADULT WITNESSES  
4-20 I sign my name to this medical power of attorney on \_\_\_\_\_  
4-21 day of \_\_\_\_\_ (month, year) at  
4-22 \_\_\_\_\_  
4-23 (City and State)  
4-24 \_\_\_\_\_  
4-25 (Signature)  
4-26 \_\_\_\_\_  
4-27 (Print Name)

4-28 STATEMENT OF FIRST WITNESS.  
4-29 I am not the person appointed as agent by this document. I am  
4-30 not related to the principal by blood or marriage. I would not be  
4-31 entitled to any portion of the principal's estate on the principal's  
4-32 death. I am not the attending physician of the principal or an  
4-33 employee of the attending physician. I have no claim against any  
4-34 portion of the principal's estate on the principal's  
4-35 death. Furthermore, if I am an employee of a health care facility  
4-36 in which the principal is a patient, I am not involved in providing  
4-37 direct patient care to the principal and am not an officer,  
4-38 director, partner, or business office employee of the health care  
4-39 facility or of any parent organization of the health care facility.  
4-40 Signature: \_\_\_\_\_  
4-41 Print Name: \_\_\_\_\_ Date: \_\_\_\_\_  
4-42 Address: \_\_\_\_\_

4-43 SIGNATURE OF SECOND WITNESS.  
4-44 Signature: \_\_\_\_\_  
4-45 Print Name: \_\_\_\_\_ Date: \_\_\_\_\_  
4-46 Address: \_\_\_\_\_

4-47 SECTION 4. Sections 166.162 and 166.163, Health and Safety  
4-48 Code, are repealed.

4-49 SECTION 5. Not later than December 1, 2017, the executive  
4-50 commissioner of the Health and Human Services Commission shall  
4-51 adopt all rules necessary to implement this Act, including the form  
4-52 necessary to comply with the changes in law made by this Act to  
4-53 Section 166.164, Health and Safety Code.

4-54 SECTION 6. The change in law made by this Act to Section  
4-55 166.164, Health and Safety Code, does not affect the validity of a  
4-56 document executed under that section before January 1, 2018. A  
4-57 document executed before the effective date of this section is  
4-58 governed by the law in effect immediately before the effective date  
4-59 of this Act, and the former law continues in effect for that  
4-60 purpose.

4-61 SECTION 7. (a) Except as provided by Subsection (b) of this  
4-62 section, this Act takes effect September 1, 2017.

4-63 (b) Sections 1, 2, 3, 4, and 6 of this Act take effect  
4-64 January 1, 2018.

4-65 \* \* \* \* \*