

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10004-MG-23

Short Title: Limit Health Care Power of Attorney. (Public)

Sponsors: Representative Alexander.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT PROHIBITING HEALTH CARE AGENTS FROM AMENDING FUNERAL
3 ARRANGEMENTS SPECIFIED IN PRENEED FUNERAL CONTRACTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 32A-19 is amended by adding a new subsection to read:

6 "(g) A health care power of attorney does not authorize a health care agent to change the
7 funeral arrangements or performing funeral establishment specified in a preneed funeral contract
8 purchased by or on behalf of the principal."

9 **SECTION 2.** G.S. 90-210.63A is amended by adding a new subsection to read:

10 "(d) Notwithstanding any provision of this section, a person appointed as the preneed
11 contract beneficiary's health care agent, as defined in G.S. 32A-16, shall not change the
12 arrangements or performing funeral establishment specified in the preneed funeral contract. If
13 the performing funeral establishment designated in the preneed funeral contract is not in business
14 at the time of the contract beneficiary's death, a competent person designated in sub-subdivision
15 (a)(2)a. of G.S. 90-210.124, to be selected in the priority order listed in the statute, shall designate
16 a funeral establishment to perform the funeral services."

17 **SECTION 3.** G.S. 90-210.124 reads as rewritten:

18 "**§ 90-210.124. Authorizing agent.**

19 (a) The following person, in the priority list below, shall have the right to serve as an
20 "authorizing agent":

21 (1) An individual at least 18 years of age may authorize the type, place, and
22 method of disposition of the individual's own dead body by methods provided
23 under G.S. 130A-420(a). An individual may delegate ~~his or her~~ the right to
24 dispose of his or her own body to any person by one of the methods provided
25 under G.S. 130A-420(a1). When an individual has authorized his or her own
26 cremation and disposition in accordance with this subsection, the individual
27 or institution designated by that individual shall act as the authorizing agent
28 for that individual.

29 (2) If a decedent has left no written authorization for the cremation and
30 disposition of the decedent's body as permitted under subdivision (1) of this
31 subsection, the following competent persons in the order listed may authorize
32 the type, method, place, cremation, and disposition of the decedent's body:

- 33 a. The surviving spouse.
34 b. A majority of the surviving children who are at least 18 years of age
35 and can be located after reasonable efforts.
36 c. The surviving parents.



- 1 d. A majority of the surviving siblings who are at least 18 years of age
2 and can be located after reasonable efforts.
- 3 e. A majority of the persons in the classes of the next degrees of kinship,
4 in descending order, who, under State law, would inherit the
5 decedent's estate if the decedent died intestate who are at least 18 years
6 of age and can be located after reasonable efforts.
- 7 f. A person who has exhibited special care and concern for the decedent
8 and is willing and able to make decisions about the cremation and
9 disposition.
- 10 g. In the case of indigents or any other individuals whose final disposition
11 is the responsibility of the State or any of its instrumentalities, a public
12 administrator, medical examiner, coroner, State-appointed guardian,
13 or any other public official charged with arranging the final disposition
14 of the decedent may serve as the authorizing agent.
- 15 h. In the case of individuals who have donated their bodies to science or
16 whose death occurred in a nursing home or private institution and in
17 which the institution is charged with making arrangements for the final
18 disposition of the decedent, a representative of such institution may
19 serve as the authorizing agent in the absence of any of the above.
- 20 i. In the absence of any of the above, any person willing to assume
21 responsibility as authorizing agent, as specified in this act.

22 (a1) This subsection-Subsection (a) of this section does not grant to any person the right
23 to cancel any of the following rights:

- 24 (1) The right of any person to cancel a preneed funeral contract executed pursuant
25 to Article 13D of Chapter 90 of the General Statutes or to cause Statutes.
- 26 (2) The right of any person to cause or prohibit the substitution of a preneed
27 licensee as authorized under G.S. 90-210.63 or permit G.S. 90-210.63.
- 28 (3) The right of any person to permit modification of preneed contracts under
29 G.S. 90-210.63A.
- 30 (4) The right of a health care agent, as defined in G.S. 32A-16, to change the
31 funeral arrangements or performing funeral establishment specified in a
32 preneed contract purchased by or on behalf of the principal, as defined in
33 G.S. 32A-16.

34 (a2) If a person under this listed in subsection (a) of this section is incompetent at the time
35 of the decedent's death, the person shall be treated as if he or she predeceased the decedent. An
36 attending physician may certify the incompetence of a person and the certification shall apply to
37 the rights under this listed in subsection (a) of this section only. Any person under this listed in
38 subsection (a) of this section may waive his or her rights under this subsection (a) of this section
39 by any written statement notarized by a notary public or signed by two witnesses.

40 (b) A person who does not exercise his or her the right to dispose of the decedent's body
41 under subdivision (a)(2) of this section within five days of after notification or 10 days from the
42 date of death, whichever is earlier, shall be deemed to have waived his or her the right to authorize
43 disposition of the decedent's body or to contest disposition in accordance with this section.
44 Pursuant to G.S. 130A-415(c) or (j), upon such a waiver, and upon the Commissioner of
45 Anatomy declining or failing to request delivery of the dead body, the director of social services
46 having the duty to dispose of the human remains shall become vested with all interests and rights
47 to the dead body and shall authorize and arrange for disposition, including cremation.

48 (c) An individual at least 18 years of age may, in a writing signed by the individual,
49 authorize the cremation and disposition of one or more of the individual's body parts that has
50 been or will be removed. If the individual does not authorize the cremation and disposition, a

1 person listed in subdivision (a)(2) of this section may authorize the cremation and disposition as
2 if the individual were deceased.

3 (d) This section does not apply to the disposition of dead human bodies as anatomical
4 gifts under Part 3A of Article 16 of Chapter 130A of the General Statutes or the right to perform
5 autopsies under Part 2 of Article 16 of Chapter 130A of the General Statutes."

6 **SECTION 4.** This act becomes effective October 1, 2023.