

2016 Decedents Estates

Skeleton Outline

Summary

An agent acting under a **durable health care power of attorney** is authorized to make health care decisions on behalf of the principal whenever the principal lacks the capacity to make a decision herself.

A **duly appointed agent** may make decisions on behalf of the principal without the concurrence of the principals relatives. The durable power lasts *unless rescinded* by the principal.

Health care durable powers statutes provide the agents acting in good faith are **immune from civil suit**.

The statute which precludes a distribution of a share of a decedent's estate to an individual who caused the decedent's death is called a **slayer statute**.

Intro

1st issue - 40%

All states have adopted statutes authorizing **advance directives** and durable health care powers. An advance directive(living will) specifies the patients non treatment preferences should sue become incapacitated.

Unless a durable power specifies otherwise a designated agent is empowered to make health care decisions for the principal whenever the principal lacks capacity.

In the absence of specific instructions, a designated agent shall make decisions for the principal "in accordance with the agents determination of the principals best interest"

If the patient did not execute a durable health care power than a majority of the siblings would have had to agree upon health care decisions for their mother.

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