
HOUSE BILL 3112

State of Washington

55th Legislature

1998 Regular Session

By Representative Murray

Read first time 02/04/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to power of attorney for health care decisions; and
2 amending RCW 11.94.010.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 11.94.010 and 1995 c 297 s 9 are each amended to read
5 as follows:

6 (1) Whenever a principal designates another as his or her attorney
7 in fact or agent, by a power of attorney in writing, and the writing
8 contains the words "This power of attorney shall not be affected by
9 disability of the principal," or "This power of attorney shall become
10 effective upon the disability of the principal," or similar words
11 showing the intent of the principal that the authority conferred shall
12 be exercisable notwithstanding the principal's disability, the
13 authority of the attorney in fact or agent is exercisable on behalf of
14 the principal as provided notwithstanding later disability or
15 incapacity of the principal at law or later uncertainty as to whether
16 the principal is dead or alive. All acts done by the attorney in fact
17 or agent pursuant to the power during any period of disability or
18 incompetence or uncertainty as to whether the principal is dead or
19 alive have the same effect and inure to the benefit of and bind the

1 principal or the principal's guardian or heirs, devisees, and personal
2 representative as if the principal were alive, competent, and not
3 disabled. A principal may nominate, by a durable power of attorney,
4 the guardian or limited guardian of his or her estate or person for
5 consideration by the court if protective proceedings for the
6 principal's person or estate are thereafter commenced. The court shall
7 make its appointment in accordance with the principal's most recent
8 nomination in a durable power of attorney except for good cause or
9 disqualification. If a guardian thereafter is appointed for the
10 principal, the attorney in fact or agent, during the continuance of the
11 appointment, shall account to the guardian rather than the principal.
12 The guardian has the same power the principal would have had if the
13 principal were not disabled or incompetent, to revoke, suspend or
14 terminate all or any part of the power of attorney or agency.

15 (2) Persons shall place reasonable reliance on any determination of
16 disability or incompetence as provided in the instrument that specifies
17 the time and the circumstances under which the power of attorney
18 document becomes effective.

19 (3) A principal may authorize his or her attorney-in-fact to
20 provide informed consent for health care decisions on the principal's
21 behalf. Unless he or she is the spouse, or adult child or brother or
22 sister of the principal, or adult member of the principal's household,
23 none of the following persons may act as the attorney-in-fact for the
24 principal: Any of the principal's physicians, the physicians'
25 employees, or the owners, administrators, or employees of the health
26 care facility where the principal resides or receives care. This
27 authorization is subject to the same limitations as those that apply to
28 a guardian under RCW 11.92.043(5) (a) through (c).

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