

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: H3/24/99

# A Bill

Act 1448 of 1999  
HOUSE BILL 1331

5 By: Representative Courtway  
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7

## For An Act To Be Entitled

8 "DURABLE POWER OF ATTORNEY FOR HEALTH CARE ACT."

### Subtitle

9 "DURABLE POWER OF ATTORNEY FOR HEALTH  
10 CARE ACT."  
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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18 SECTION 1. This act shall be known and may be cited as the "Durable  
19 Power of Attorney for Health Care Act".  
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21 SECTION 2. The General Assembly recognizes the right of the individual  
22 to control all aspects of his or her personal care and medical treatment.  
23 However, if the individual becomes incapacitated, his or her right to control  
24 treatment may be denied unless the individual, as principal, can delegate the  
25 decision-making power to a trusted agent and be sure that the agent's power to  
26 make personal and health care decisions for the principal will be effective to  
27 the same extent as though made by the principal.  
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29 SECTION 3. (a) A person may execute a power of attorney for health  
30 care. Such power of attorney may be durable.

31 (b) The health care agency shall be:

32 (1) In writing;

33 (2) Signed by the principal, or by someone acting at the  
34 direction of the principal and in the principal's presence; and

35 (3) Attested to by, and subscribed in the presence of, two or  
36 more competent witnesses who are at least eighteen (18) years of age.

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2       SECTION 4. (a) For purposes of this act, the term "health care" means  
3 any care, treatment, service, or procedure to maintain, diagnose, treat, or  
4 provide for the patient's physical or mental health or personal care.

5       (b) The term "health care" shall not include decisions concerning life  
6 sustaining treatment set forth in Title 20, Chapter 17, Subchapter 2 of the  
7 Arkansas Code. However, a power of attorney for health care may contain the  
8 declaration set forth in Arkansas Code § 20-17-202 relating to such life  
9 sustaining treatments.

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11       SECTION 5. An agent appointed under a power of attorney for health care  
12 shall take precedence over any person listed in Arkansas Code § 20-9-602.

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14       SECTION 6. Nothing in this act shall be construed as authorizing or  
15 encouraging euthanasia, assisted-suicide, suicide, or any action or course of  
16 action that violates the criminal laws of this state or of the United States.

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18       SECTION 7. This act does not in any way affect or invalidate any health  
19 care agency executed or any act of an agent prior to July 1, 1999, or affect  
20 any claim, right, or remedy that accrued prior to July 1, 1999. Nothing  
21 contained herein shall be interpreted or construed to alter or amend any  
22 provision of the Arkansas Rights of the Terminally Ill and Permanently  
23 Unconscious Act, beginning at Arkansas Code § 20-17-201. The powers of a  
24 health care agent may be combined with a declaration made by a qualified  
25 patient under the foregoing act.

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27       SECTION 8. This act is wholly independent of the provisions of Title 28  
28 of the Arkansas Code, relating to wills, trusts, and fiduciary relationships,  
29 administration of estates, and nothing in this act shall be construed to  
30 affect in any way the provisions of said Title 28.

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32       SECTION 9. All provisions of this act of a general and permanent nature  
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
34 Revision Commission shall incorporate the same in the Code.

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36       SECTION 10. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect  
2 other provisions or applications of the act which can be given effect without  
3 the invalid provision or application, and to this end the provisions of this  
4 act are declared to be severable.

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6 SECTION 11. All laws and parts of laws in conflict with this act are  
7 hereby repealed.

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/s/ Courtway

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APPROVED: 4/15/1999

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