

§ 32A-16. Definitions.

The following definitions apply in this Article:

- (1) Disposition of remains. – The decision to bury or cremate human remains, as human remains are defined in G.S. 90-210.121, and, subject to G.S. 32A-19(b), arrangements relating to burial or cremation.
- (1a) Health care. – Any care, treatment, service, or procedure to maintain, diagnose, treat, or provide for the principal's physical or mental health or personal care and comfort including life-prolonging measures. "Health care" includes mental health treatment as defined in subdivision (8) of this section.
- (2) Health care agent. – The person appointed as a health care attorney-in-fact.
- (3) Health care power of attorney. – Except as provided in G.S. 32A-16.1, a written instrument that substantially meets the requirements of this Article, that is signed in the presence of two qualified witnesses, and acknowledged before a notary public, pursuant to which an attorney-in-fact or agent is appointed to act for the principal in matters relating to the health care of the principal. The notary who takes the acknowledgement may but is not required to be a paid employee of the attending physician or mental health treatment provider, a paid employee of a health facility in which the principal is a patient, or a paid employee of a nursing home or any adult care home in which the principal resides.
- (4) Life-prolonging measures. – Medical procedures or interventions which in the judgment of the attending physician would serve only to postpone artificially the moment of death by sustaining, restoring, or supplanting a vital function, including mechanical ventilation, dialysis, antibiotics, artificial nutrition and hydration, and similar forms of treatment. Life-prolonging measures do not include care necessary to provide comfort or to alleviate pain.
- (5) Principal. – The person making the health care power of attorney.
- (6) Qualified witness. – Except as provided in G.S. 32A-16.1, a witness in whose presence the principal has executed the health care power of attorney, who believes the principal to be of sound mind, and who states that he or she (i) is not related within the third degree to the principal nor to the principal's spouse, (ii) does not know nor have a reasonable expectation that he or she would be entitled to any portion of the estate of the principal upon the principal's death under any existing will or codicil of the principal or under the Intestate Succession Act as it then provides, (iii) is not the attending physician or mental health treatment provider of the principal, nor a licensed health care provider who is a paid employee of the attending physician or mental health treatment provider, nor a paid employee of a health facility in which the principal is a patient, nor a paid employee of a nursing home or any adult care home in which the principal resides, and (iv) does not have a claim against any portion of the estate of the principal at the time of the principal's execution of the health care power of attorney.
- (7) Advance instruction for mental health treatment or advance instruction. – As defined in G.S. 122C-72(1).
- (8) Mental health treatment. – The process of providing for the physical, emotional, psychological, and social needs of the principal for the principal's mental illness. "Mental health treatment" includes electroconvulsive treatment, treatment of mental illness with psychotropic medication, and admission to and retention in a facility for care or treatment of mental illness.

(1991, c. 639, s. 1; 1998-198, s. 1; 1998-217, s. 53; 2005-351, s. 1; 2006-226, s. 32; 2007-502, s. 2; 2020-3, s. 4.10(a).)