



# SENATE BILL 666: Update Reqs./Advance Health Care Directives.

2021-2022 General Assembly

<b>Committee:</b>	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	April 27, 2021
<b>Introduced by:</b>	Sens. Krawiec, Burgin, Perry	<b>Prepared by:</b>	Kristen L. Harris*
<b>Analysis of:</b>	First Edition		Committee Co-Counsel

**OVERVIEW:** *Senate Bill 666 would amend the witness requirements for a health care power of attorney and an advance health care directive and would allow for the electronic filing of both with the Secretary of State.*

**CURRENT LAW:** Under G.S. 32A-16(3), a health care power of attorney must be signed in the presence of two witnesses and acknowledged before a notary public. Under G.S. 90-321(c), a declaration must be signed by the declarant in the presence of two witnesses and proved before a clerk of court or a notary public who certifies the statutory requirements have been met.

## BILL ANALYSIS:

### Part I. Health Care Powers of Attorney

The requirements for a health care power of attorney would be changed to require the written instrument to be either: signed in the presence of two qualified witnesses or acknowledged before a notary public.

Conforming changes would be made to the definition of health care power of attorney and the statutory form for health care power of attorney. The weblink to the Advance Health Care Directive Registry would be deleted.

### Part II: Advance Health Care Directives

The requirements for a written declaration would be changed to require the written document to be either: signed in the presence of a notary public or two witnesses or proved before a clerk of superior court or a notary public who would certify the statutory requirements have been met.

Conforming changes would be made to the definition of declaration and the statutory form for advance directive for a natural death. The weblink to the Advance Health Care Directive Registry would be deleted.

### Part III: Electronic Filing of Health Care Powers of Attorney and Advance Health Directives with the North Carolina Secretary of State.

Specified documents and revocations would be allowed to be submitted in electronic or hard copy format for filing in the Advance Health Care Directive Registry. A Health Insurance Portability and Accountability Act (HIPAA) Waiver would be added to the list of documents allowable for electronic or hard copy filing.

Documents submitted to the Advance Health Care Directive Registry would no longer be required to be notarized.

Documents received in electronic format would be entered into the registry database, and the Secretary of State would send a wallet-sized card containing the document's file number and password to the person

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who submitted the document. Clarifying changes would be made to existing procedures for the receipt and return of hard copy documents.

It would allow the Secretary of State to remove documents of deceased registrants from the registry upon notification of death in writing.

**EFFECTIVE DATE:** This act would be effective October 1, 2021.

*\*Jessica Boney, Legislative Analysis Division, substantially contributed to this summary.*