



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 349: Reqs HC POA/Adv Direct/IEP Nurse Choice.

2025-2026 General Assembly

Committee: Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate **Date:** June 17, 2026
Introduced by: Reps. Huneycutt, Potts, Cunningham, **Prepared by:** Debbie Griffiths
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Analysis of: Third Edition

OVERVIEW: House Bill 349 would do the following:

- Allow a Health Care Power of Attorney and an Advance Directive for a Natural Death to be signed in the presence of two qualified witnesses or be acknowledged before a notary public.
- The Secretary of State would be required to accept documents permitted to be filed in the Advance Health Care Directive Registry for registration in hard copy or electronic formats whether the document is notarized or not and to accept HIPAA waivers for registration and would be authorized to remove records of deceased registrants.
- Allow parent choice in nursing services for children with disabilities while in school, if certain conditions are met.
- Make various conforming changes.

PART I. HEALTH CARE POWERS OF ATTORNEY

CURRENT LAW:

A Health Care Power of Attorney must be signed in the presence of two qualified witnesses and be acknowledged before a notary public. Qualifications of a witness include not being related to the individual executing the form (the principal) and not inheriting from the principal by will or through intestate succession.

BILL ANALYSIS:

House Bill 349 would allow the principal to execute a Health Care Power of Attorney in the presence of two qualified witnesses or a notary public.

PART II. ADVANCE HEALTH CARE DIRECTIVES UNDER G.S. 90-321

CURRENT LAW:

An Advance Directive for a Natural Death (Living Will), must be signed in the presence of two witnesses who are not related to the individual signing the document (the declarant) and will not inherit from the declarant by will or intestate succession among other qualifications and who state that they believe the declarant to be of sound mind at the time of signing the Living Will.

BILL ANALYSIS:

House Bill 349 would allow the declarant to sign the Advance Directive in the presence of a notary public or two witnesses.

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PART III. ELECTRONIC FILING OF DOCUMENTS WITH THE ADVANCE HEALTH CARE DIRECTIVE REGISTRY IN THE SECRETARY OF STATE'S OFFICE

CURRENT LAW:

Documents permitted to be filed in the Advance Health Care Directive Registry in the Secretary of State's Office (the Registry) must be hard copies and must be notarized even when notarization is not required for the validity of the document. These documents include health care powers of attorney and declarations of desire for a natural death.

BILL ANALYSIS:

House Bill 349 would require the Secretary of State to accept hard copies or electronic copies of permitted documents for filing in the Registry, accept HIPAA waivers for filing in the Registry, and accept permitted documents for filing in the Registry whether they are notarized or not. It would also provide the Secretary of State the authority to remove documents of deceased registrants upon written notification of the registrant's death.

PART IV. PARENT CHOICE IN NURSING SERVICE PROVIDERS WHEN NURSING SERVICES ARE PROVIDED PURSUANT TO A CHILD'S INDIVIDUALIZED EDUCATION PROGRAM

CURRENT LAW: The federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, *et. seq.*, requires schools receiving funds under the act to provide a free appropriate public education (FAPE) to eligible children with disabilities, including any necessary special education and related services. Article 9 of Chapter 115C of the General Statutes enables the State Board of Education (SBE) and local education agencies (LEAs) to implement the IDEA in this State. G.S. 115C-111.2 allows LEAs to contract with private special education facilities or service providers to provide any of the special education or related services that the public providers are unable to furnish.

BILL ANALYSIS: House Bill 349 would require LEAs to contract with the parent's choice of nurse if the following five conditions are met:

- The child's IEP requires nursing services.
- The child received nursing services from the nurse (i) prior to the nursing services being required by the child's IEP or (ii) prior to the child enrolling at his or her current school.
- The parent's choice of nurse is employed by a nursing agency and willing to provide the nursing services required by the child's IEP.
- The nursing agency employing the parent's choice of nurse meets all standard contract terms required for any other nursing agency contracted by the local educational agency, including licensing and liability requirements.
- The contracted rate is equal to or less than the contracted rate of other nurses contracted by the local educational agency.

Nursing services would be defined as services that can only be provided by a nurse licensed in accordance with Article 9A of Chapter 90 of the General Statutes. House Bill 349 would not limit the LEA's responsibility to provide FAPE.

EFFECTIVE DATE: Parts I through III of this act would become effective October 1, 2025. Part IV of this act would become effective when it becomes law and apply beginning with the 2025-2026 school year. The remainder of the act would become effective when it becomes law.

*Brian Gwyn, Staff Attorney with the Legislative Analysis Division, substantially contributed to this summary.