

LEGAL AUTHORITY FOR MEDICAL TREATMENT DECISIONS

Patient Autonomy	Informed consent	Prior approval required for all medical treatment; this is a fundamental right. <i>Cruzan v. Director, MDH</i> , 497 U.S. 261, 279 (1990); <i>Gorab v. Zook</i> , 943 P.2d 423, 427 (Colo. 1997) (“A physician must obtain informed consent, whether express or implied, from the patient.”). The standard is reasonableness. ¹
Professional Practice Acts	Colorado Medical Practice Act (1899)	Defines physician professional standards of care. CRS §§ 12-240-101 et seq.
	Nurse and Nurse Aide Practice Act (1957)	Defines nursing professional standards of care. CRS §§ 12-255-101 et seq.
	Mental Health Practice Act (1988)	Defines six professions’ standards of care. CRS §§ 12-45-101 et seq.
Personal Surrogacy Laws (Most Flexible)	Guardian (1887 ²)	Court-appointed decision maker; often used if there’s no one else. CRS § 15-14-301, Appointment and status of guardian.
	Health care agent (MDPOA) (1992)	Someone a person identifies to make treatment decisions for that person. CRS §§ 15-14-503 to -509, Patient Autonomy Act. Authorized by MDPOA, CRS § 15-14-506, Medical durable power of attorney.
	Proxy decision-maker (1992)	Flexible procedure that can generate a decision maker for a person if there has been no planning in advance by that person. CRS § 15-18.5-101.
	Designated beneficiary (2009)	Enacted before same-sex marriage was legalized to allow authorized decision makers from nontraditional roles; is less flexible when recorded with the County Clerk and Recorder. CRS §§ 15-22-101 et seq., Colorado Designated Beneficiary Agreement Act.
Personal Surrogacy Laws (Most Restrictive)	Living will (1985)	Document that states at what point to stop life-sustaining treatment. CRS §§ 15-18-101 et seq., Colorado Medical Treatment Decision Act.
	CPR directive (1992)	Directive not to restore cardiac function or to support breathing in the event of cardiac or respiratory arrest or malfunction. CRS §§ 15-18.6-101 to -108, Directive Relating to Cardiopulmonary Resuscitation.
	Medical jewelry and tattoos (1992)	A form of CPR directive through jewelry and tattoos, per 6 CCR 1015-2(3.1.2)(a), www.coloradosos.gov . The jewelry itself is available online without restriction.
	Medical orders for scope of treatment (MOST) (2010)	Medical orders that your provider uses to tell another provider what treatments you want. CRS §§ 15-18.7-101 to -110. In other states, this document type may be called an eMOST, MOLST, POLST, or TELP.
	Behavioral health orders for scope of treatment (BHOST) (2020)	Controls treatment decisions for the adult who provided the instruction; prohibits revocation without the approval of two witnesses who are strangers to the patient. ³ CRS §§ 15-18.7-201 to -207. Also called a “psychiatric advance directive.”
	Advance Directives Registry (2021)	A centralized online site to access medical plans. ⁴ CRS §§ 25-54-101 to -102.

NOTES

1. Colorado views patients and providers as cooperative allies in reaching informed consent, both acting according to norms. The standard is to “act consistently with the standards required of the medical profession in the community, while a specialist must treat the patient in accordance with the standard of a reasonable physician practicing in that specialty.” *In re PW*, 2016 CO 6, n.5 (2016). It is negligent failure to inform when a “reasonable person in the same or similar circumstances as the Plaintiff would not have consented . . . if given the information required for informed consent.” CJI-Civ. 15:10(3).
2. *Fillmore v. Wells*, 10 Colo. 228 (Colo. 1887) (The facts of this early case arose in 1875 over payment for services as a guardian, a year before Colorado was admitted to the United States).
3. Also known as a “Ulysses” contract, this type of advance directive effectively creates an irrevocable mandate to control mentally ill persons against their will.
4. The Colorado State Board of Health has announced that it will allow individuals to access the registry. It was not yet online as of this publication.