

§ 122C-72. Definitions.

As used in this Part, unless the context clearly requires otherwise, the following terms have the meanings specified:

- (1) "Advance instruction for mental health treatment" or "advance instruction" means a written instrument, signed in the presence of two qualified witnesses who believe the principal to be of sound mind at the time of the signing, and acknowledged before a notary public, pursuant to which the principal makes a declaration of instructions, information, and preferences regarding the principal's mental health treatment and states that the principal is aware that the advance instruction authorizes a mental health treatment provider to act according to the instruction. It may also state the principal's instructions regarding, but not limited to, consent to or refusal of mental health treatment when the principal is incapable.
- (2) "Attending physician" means the physician who has primary responsibility for the care and treatment of the principal.
- (3) Repealed by Session Laws 1998-198, s. 2.
- (4) "Incapable" means that, in the opinion of a physician or eligible psychologist, the person currently lacks sufficient understanding or capacity to make and communicate mental health treatment decisions. As used in this Part, the term "eligible psychologist" has the meaning given in G.S. 122C-3(13d).
- (5) "Mental health treatment" means 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, but is not limited to, electroconvulsive treatment (ECT), commonly referred to as "shock treatment", treatment of mental illness with psychotropic medication, and admission to and retention in a facility for care or treatment of mental illness.
- (6) "Principal" means the person making the advance instruction.
- (7) "Qualified witness" means a witness who affirms that the principal is personally known to the witness, that the principal signed or acknowledged the principal's signature on the advance instruction in the presence of the witness, that the witness believes the principal to be of sound mind and not to be under duress, fraud, or undue influence, and that the witness is not:
 - a. The attending physician or mental health service provider or an employee of the physician or mental health treatment provider;
 - b. An owner, operator, or employee of an owner or operator of a health care facility in which the principal is a patient or resident; or
 - c. Related within the third degree to the principal or to the principal's spouse. (1997-442, s. 2; 1998-198, s. 2.)