WEST VIRGINIA CODE: §16-30-22

§16-30-22. Liability for failure to act in accordance with the directives of a living will or medical power of attorney or the directions of a medical power of attorney representative or health care surrogate.

(a) A health care provider or health care facility without actual knowledge of a living will or medical power of attorney completed by a person is not civilly or criminally liable for failing to act in accordance with the directives of a principal's living will or medical power of attorney.

(b) A health care provider or a health care facility is subject to review and disciplinary action by the appropriate licensing board for failing to act in accordance with a principal's directives in a living will or medical power of attorney, or the decisions of a medical power of attorney representative or health care surrogate: Provided, That the provider or facility had actual knowledge of the directives or decisions.

(c) Once a principal has been determined to be incapacitated in accordance with the provisions of this article and his or her living will or medical power of attorney has become effective, any health care provider or health care facility which refuses to follow the principal's directives in a living will or medical power of attorney or the decisions of a medical power of attorney representative or health care surrogate, because the principal has asked the health care provider or health care facility not to follow such directions or decisions, shall have two physicians, one of whom may be the attending physician, or one physician and a qualified psychologist, or one physician and an advanced nurse practitioner, certify that the principal has regained capacity to make the request. If such certification occurs, the provisions of the applicable living will or medical power of attorney, or the statute creating the authority of the health care surrogate shall not apply because the principal has regained decision-making capacity.

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