

11.2 Terminology Used in this Chapter

“Advance instruction for mental health treatment” or “advance instruction” is “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.” N.C. GEN. STAT. § 122C-72(1) (hereinafter G.S.).

“Health care” is “[a]ny care, treatment, service, or procedure to maintain, diagnose, treat, or provide for the principal’s physical or mental health or personal care and comfort including life-prolonging measures. ‘Health care’ includes mental health treatment as defined in [G.S. 32A-16(8)].” G.S. 32A-16(1a).

“Health care agent” is “[t]he person appointed as a health care attorney-in-fact.” G.S. 32A-16(2).

“Health care power of attorney” is “[a] written instrument that substantially meets the requirements of this Article, that is signed in the presence of two qualified witnesses, and acknowledged before a notary public, pursuant to which an attorney-in-fact or agent is appointed to act for the principal in matters relating to the health care of the principal.” G.S. 32A-16(3).

“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.” G.S. 122C-72(4).

“Mental health treatment” is “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 . . . , treatment of mental illness with psychotropic medication, and admission to and retention in a facility for care or treatment of mental illness.” G.S. 122C-72(5). A nearly identical definition for “mental health treatment” is found in G.S. 32A-16(8).

“Principal” is “[t]he person making the health care power of attorney” (G.S. 32A-16(5)) or “the person making the advance instruction.” G.S. 122C-72(6).