



CHAPTER 90

ARTICLE 23 - RIGHT TO NATURAL DEATH; BRAIN DEATH

N.C.G.S. § 90-322.

Procedures for natural death in the absence of a declaration.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2018-142, s. 35(b) — tenth act in the lineage	21 September 2026, 02:50 UTC	95bd3e020486f6882cbf0c34 - d0cd3a69cee3c2e65f929b8a - 41362f614decf026

§ 90-322(a)

If the attending physician determines, to a high degree of medical certainty, that a person lacks capacity to make or communicate health care decisions and the person will never regain that capacity, and:

(1) Repealed by Session Laws 2007-502, s. 12, effective October 1, 2007.

(1a) That the person:

a.Has an incurable or irreversible condition that will result in the person's death within a relatively short period of time; or

b.Is unconscious and, to a high degree of medical certainty, will never regain consciousness; and

(2) There is confirmation of the person's present condition as set out above in this subsection, in writing by a physician other than the attending physician; and

(3) A vital bodily function of the person could be restored or is being sustained by life-prolonging measures;

(4) Repealed by Session Laws 2007-502, s. 12, effective October 1, 2007.

then, life-prolonging measures may be withheld or discontinued in accordance with subsection (b) of this section.

§ 90-322(b)

If a person's condition has been determined to meet the conditions set forth in subsection (a) of this section and no instrument has been executed as provided in

G.S. 90-321, then life-prolonging measures may be withheld or discontinued upon the direction and under the supervision of the attending physician with the concurrence of the following persons, in the order indicated:

- (1) A guardian of the patient's person, or a general guardian with powers over the patient's person, appointed by a court of competent jurisdiction pursuant to Article 5 of Chapter 35A of the General Statutes; provided that, if the patient has a health care agent appointed pursuant to a valid health care power of attorney, the health care agent shall have the right to exercise the authority to the extent granted in the health care power of attorney and to the extent provided in G.S. 32A-19(b) unless the Clerk has suspended the authority of that health care agent in accordance with G.S. 35A-1208(a).
- (2) A health care agent appointed pursuant to a valid health care power of attorney, to the extent of the authority granted.
- (3) An agent, with powers to make health care decisions for the patient, appointed by the patient, to the extent of the authority granted.
- (4) The patient's spouse.
- (5) A majority of the patient's reasonably available parents and children who are at least 18 years of age.
- (6) A majority of the patient's reasonably available siblings who are at least 18 years of age.
- (7) An individual who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes.

If none of the above is reasonably available then at the discretion of the attending physician the life-prolonging measures may be withheld or discontinued upon the direction and under the supervision of the attending physician.

§ 90-322(c) Repealed by Session Laws 1979, c. 715, s. 2.

§ 90-322(d) The withholding or discontinuance of such life-prolonging measures shall not be considered the cause of death for any civil or criminal purpose nor shall it be considered unprofessional conduct. Any person, institution or facility against whom criminal or civil liability is asserted because of conduct in compliance with this section may interpose this section as a defense.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
10 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

1977	1998		2018
TICK HEIGHT = ACTS IN THAT YEAR DASHED = RECODIFICATION, NOT AMENDMENT			
Nº	YEAR	ACT	CHARACTER
01	1977	c. 815	ENACTED
02	1979	c. 715, s. 2	AMENDED
03	1981	c. 848, s. 5	AMENDED
04	1983	c. 313, ss. 2-4	AMENDED
05	1983	c. 768, s. 5.1	AMENDED
06	1991	c. 639, s. 4	AMENDED
07	1993	c. 553, s. 29	AMENDED
08	2007	S.L. 2007-502, s. 12	AMENDED
09	2017	S.L. 2017-153, s. 2.6	AMENDED
10	2018	S.L. 2018-142, s. 35(b)	AMENDED

APPARATUS II

3 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 90-321	(b)	<i>"has been executed as provided in"</i>
G.S. 32A-19(b)	(b)(1)	<i>"and to the extent provided in"</i>
G.S. 35A-1208(a)	(b)(1)	<i>"health care agent in accordance with"</i>

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 90-322 (2018).

PINPOINT

N.C. Gen. Stat. § 90-322(a) (2018).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

This document reproduces the text of one section of the General Statutes of North Carolina from a source file whose SHA-256 digest is printed on every page. The digest fixes the bytes this export was made from; if the State's file changes, the digest will not match.

The text of the section is unaltered. Subsection designators have been moved from the run of text into the margin. The amendment history and the table of authorities are derived from the section by mechanical extraction — they add no characterization of the law.

This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1977, c. 815; 1979, c. 715, s. 2; 1981, c. 848, s. 5; 1983, c. 313, ss. 2-4; c. 768, s. 5.1; 1991, c. 639, s. 4; 1993, c. 553, s. 29; 2007-502, s. 12; 2017-153, s. 2.6; 2018-142, s. 35(b).)

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