



Ohio Revised Code

Section 2135.06 Execution of declaration.

Effective: October 29, 2003

Legislation: House Bill NO72 - 125th General Assembly

(A) A declaration for mental health treatment is valid only if it is signed by the declarant, states the date of its execution, and is either witnessed by two adults or acknowledged before a notary public.

If a proxy, or a proxy and an alternate proxy, have been designated in the declaration, then each proxy also shall sign the declaration, and the signature of each proxy shall be either witnessed by two adults or acknowledged before a notary public, except that, notwithstanding these requirements, both of the following apply:

(1) No declaration shall be invalid or be held invalid because a proxy has not signed the declaration.

(2) If a proxy has not signed the declaration, or if the signature of a proxy named in a valid declaration is not either witnessed by two adults or acknowledged before a notary public, then the designation of the proxy is invalid, but the declaration is not invalid because of the absence of a witnessed or acknowledged signature of a proxy.

(B) If witnessed for purposes of this section, a declaration shall be witnessed by two individuals as described in this division in whose presence the declarant and each designated proxy signs the declaration. Each witness shall subscribe the witness' signature after the signature of the declarant and, by doing so, attest to the witness' belief that the declarant appears to be of sound mind and not under or subject to duress, fraud, or undue influence. The signatures of the declarant and any proxy under this section and of the witnesses under this division are not required to appear on the same page of the declaration.

(C) If acknowledged for purposes of this section, a declaration shall be acknowledged before a notary public, who shall make the certification described in section 147.53 of the Revised Code and also shall attest that the declarant and each designated proxy appear to be of sound mind and not under or subject to duress, fraud, or undue influence.



(D) The following may not serve as a witness to the signing of a declarant's declaration:

- (1) The declarant's mental health treatment provider or a relative or employee of the declarant's mental health treatment provider;
- (2) The owner, the operator, or a relative or employee of an owner or operator of a health care facility in which the declarant is a patient receiving its services or a resident;
- (3) A person related to the declarant by blood, marriage, or adoption;
- (4) A person named as a proxy in the declarant's declaration.