

Advance Directives

Your Right To Choose

Your healthcare decisions/choices made in advance in the event of a life altering sickness or accident. Important documents that should be completed by everyone! Once completed they will ease the burdens of your loved ones responsible for making choices for you if you were unable to.

You choose or appoint someone to make your health care decisions if you are unable is known as Medical Power of Attorney; you choose if you want a physician to administer life support treatments or withdraw equipment if your condition is irreversible and this is commonly known as Directive to Physicians/ Family/Surrogates or referred to as a Living Will.

Make your choices known now!

Living Will

Medical Power of Attorney

DNR-Do Not Resuscitate

**Declaration of Mental
Health Treatment**



YOUR RIGHT TO CHOOSE

A personal guide to taking responsibility for our health care decisions

The law requires that patients be given enough information to make an informed choice regarding whether to consent (give permission) to medical care and treatment. By law, an adult has the right to consent to or refuse treatment and has a right to be informed of the possible medical outcomes of such refusal. Consent is not required to provide emergency care to an adult who is unconscious or unable to communicate and is suffering from an injury or illness that could result in immediate death. Problems sometimes arise when an adult patient needs medical treatment in a non-emergency situation but is unable to give informed consent or tell the doctor his or her desire for medical care.

When patients are unable to decide or communicate their wishes about their medical care, their right may be at risk. For this reason, a growing number of people are using advance directives to state their medical care wishes in writing.

Each of these advance directives is discussed in more detail in the following pages.

You are not required to complete these documents should you choose not to do so.

They are not required for buying health insurance or receiving medical care at a hospital, nursing home or home health care agency.

If, after reviewing this booklet, you would like to discuss your feelings or ask questions about these matters, you may contact your physician, your attorney, nurse, patient advocate, chaplain or a Social Services representative from the hospital.

What is an advance directive?

An advance directive is a form that either states your choices for medical treatment or names a person to make treatment choices for you. A signed advance directive will take effect only if you become mentally or physically unable to make medical care decisions or express your wishes. The four kinds of advance directives legally recognized in Texas are:

- Medical Power of Attorney (formerly known as a Durable Power of Attorney for Health Care)**
- Directive to Physicians and Family or Surrogates (commonly referred to as a Living Will)**
- Out-of-Hospital Do-Not-Resuscitate Order**
- Declaration for Mental Health Treatment**

This information is provided to comply with the State Advance Directives Act and the federal Patient Self-Determination Act. Complaints concerning the hospital's, nursing home's or home health agency's failure to follow federal and state advance directive requirements may be filed with Texas Department of Health, Health Facility Compli-

Should you require additional copies of advance directive forms, you may photocopy the forms in this booklet. You are not required to complete these forms as part of patient registration in a hospital, nursing home or home health care agency, or at any time in the future should you choose not to do so.

Medical Power of Attorney (formerly Durable Power of Attorney for Health Care)

What is it?

A **Medical Power of Attorney** is a form that allows you to appoint someone (your “agent”) to make health care decisions for you if you are no longer able to make decisions for yourself. These decisions can include (1) agreeing to or refusing medical treatment, (2) deciding not to continue medical treatment, or (3) making decisions to stop or not start life-sustaining treatment.

Points to remember:

- The person you choose as your agent makes decisions for you ***only*** if you cannot make decisions for yourself.
- Your agent may ***NOT*** make decisions regarding (1) voluntary inpatient mental health services; (2) convulsive treatment; (3) psychosurgery; (4) abortion; or (5) withholding treatment intended for comfort.
- Discuss this advance directive with the person you have chosen as your agent, your physician and/ or attorney before you sign it. Also, give these individuals copies of your signed **Medical Power of Attorney** form.
- You can change or cancel your **Medical Power of Attorney** at *any* time for *any* reason.
- The **Medical Power of Attorney** applies only to health care decisions. It does not apply to financial matters.

A **Medical Power of Attorney** form is included in this booklet for your use.

Directive to Physicians and Family or Surrogates (commonly referred to as a Living Will)

What is it?

A Directive to Physicians and Family or Surrogates is a form that allows you to instruct physicians to administer, withdraw or withhold life-sustaining treatment when it has been determined by your physician that you have an irreversible or terminal condition and you are not able to communicate. Life-sustaining treatment is a treatment or procedure that includes life-sustaining medications and artificial life support, such as mechanical breathing machines, kidney dialysis, and artificial nutrition and hydration, that is not expected to cure your condition or make you better, and is only

Points to remember:

- This advance directive allows you to tell doctors and those close to you what you wish to be done or not done should you need life-sustaining treatment.
- Discuss this document with your physician, family, clergy, friends or your attorney before you sign it.
- You can change or cancel your **Directive to Physicians and Family or Surrogates** at *any* time for *any* reason.
- This advance directive goes into effect *only* when you have a terminal or irreversible condition and are unable to make your own healthcare decisions.
- This advance directive applies only to health care decisions. It does not apply to financial matters.
- A copy of this signed advance directive should be provided to your physician, family members or significant others, the person chosen as your agent to make health care decisions and/ or your attorney.

A Directive to **Physicians and Family or Surrogates** form is included in this booklet for your use.

**Out-Of-Hospital
Do-Not-Resuscitate (DNR) Order**

What is it?

An **Out-of-Hospital DNR Order** is a form completed by an individual person and his/ her physician that allows the patient to refuse specific life-sustaining treatments outside of a hospital inpatient setting. An Out-of-Hospital DNR Order form or ID necklace or bracelet will tell health care providers, including emergency medical service personnel, not to use cardiopulmonary resuscitation (CPR) and other life-sustaining treatments.

Points to remember:

- Any adult person who is capable of making and communicating informed health care decisions can obtain and complete an **Out-of-Hospital DNR Order**.
- To show that you have an **Out-of-Hospital DNR Order**, you must have the original or a copy of your form with you or wear an approved ID necklace or bracelet.

Declaration for Mental Health Treatment

What is it?

The **Declaration for Mental Health Treatment** is a document that allows you to tell a hospital providing mental health services what kinds of mental health treatment you want, in the event you become mentally incapacitated. A **Declaration for Mental Health Treatment** form indicates the kinds of mental health services you do or do not agree to (including such options as psychoactive medications, convulsive treatment and preferences for emergency treatment such as restraint, seclusion or medication).

Points to remember:

- **You should consult a lawyer if you have questions about how the Declaration for Mental Health Treatment works and under what circumstances your decisions can be overridden.**
- For the **Declaration for Mental Health Treatment** to become effective, a judge must find that you are incapacitated because you lack: (1) the ability to understand the nature and consequences of a proposed treatment, including the benefits, risks and alternatives to the proposed treatment, and (2) the ability to make health care treatment decisions because of impairment. The law defines “incapacitated,” and the court determines “incapacitation” in one of only two ways: (1) in a guardianship proceeding, or (2) in a hearing to consider the forced administration of psychoactive medication.
- The **Declaration for Mental Health Treatment** is generally valid for only three years from the date it is signed.
- You may change or cancel your **Declaration for Mental Health Treatment** at any time as long as you are mentally competent.
- You may obtain forms for the **Declaration for Mental Health Treatment** from a psychiatrist, psychologist, licensed social worker, other mental health provider or an attorney.

**INFORMATION CONCERNING
(DISCLOSURE STATEMENT)**

THE MEDICAL POWER OF ATTORNEY

THIS IS AN IMPORTANT LEGAL DOCUMENT.
BEFORE SIGNING THIS DOCUMENT,
YOU SHOULD KNOW THESE IMPORTANT FACTS:

Except to the extent you state otherwise, this document gives the person you name as your agent, the authority to make any and all health care decisions for you in accordance with your wishes, including your religious and moral beliefs, when you are no longer capable of making them yourself. Because “health care” means any treatment, service, or procedure to maintain, diagnose, or treat your physical or mental condition, your agent has the power to make a broad range of health care decisions for you. Your agent may consent, refuse to consent, or withdraw consent to medical treatment and may make decisions about withdrawing or withholding life-sustaining treatment. Your agent may not consent to voluntary inpatient mental health services, convulsive treatment, psychosurgery, or abortion. A physician must comply with your agent’s instructions or allow you to be transferred to another physician.

Your agent’s authority begins when your doctor certifies that you lack the competence to make health care decisions.

Your agent is obligated to follow your instructions when making decisions on your behalf. Unless you state otherwise, your agent has the same authority to make decisions about your health care as you would have had.

It is important that you discuss this document with your physician or other health care provider before you sign it to make sure that you understand the nature and range of decisions that may be made on your behalf. If you do not have a physician, you should talk with someone else who is knowledgeable about these issues and can answer your questions. You do not need a lawyer’s assistance to complete this document, but if there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

The person you appoint as agent should be someone you know and trust. The person must be 18 years of age or older or a person under 18 years of age who has had the disabilities of minority removed. If you appoint your health or residential care provider (e.g., your physician or an employee of a home health agency, hospital, nursing home, or residential care home, other than a relative), that person has to choose between acting as your agent or as your health or residential care provider; the law does not permit a person to do both at the same time.

You should inform the person you appoint that you want the person to be your health care agent. You should discuss this document with your agent and your physician and give each a signed copy. You should indicate on the document itself the people and institutions who have signed copies. Your agent is not liable for health care decisions made in good faith on your behalf.

Even after you have signed this document, you have the right to make health care decisions for yourself as long as you are able to do so and treatment cannot be given to you or stopped over your objection. You have the right to revoke the authority granted to your agent by informing your agent or your health or residential care provider orally or in writing or by your execution of a subsequent medical power of attorney. Unless you state otherwise, your appointment of a spouse dissolves on divorce.

This document may not be changed or modified. If you want to make changes in the document, you must make an entirely new one.

You may wish to designate an alternate agent in the event that your agent is unwilling, unable, or ineligible to act as your agent. Any alternate agent you designate has the same authority to make health care decisions for you.

**THIS POWER OF ATTORNEY IS NOT VALID UNLESS
IT IS SIGNED IN THE PRESENCE OF TWO COMPETENT ADULT WITNESSES.
THE FOLLOWING PERSONS MAY NOT ACT AS ONE OF THE WITNESSES:**

1. The person you have designated as your agent;
2. A person related to you by blood or marriage;
3. A person entitled to any part of your estate after your death under a will or codicil executed by you or by operation of law;
4. Your attending physician;
5. An employee of your attending physician;
6. An employee of a health care facility in which you are a patient if the employee is providing direct patient care to you or is an officer, director, partner, or business office employee of the health care facility or any parent organization of the health care facility; or
7. A person who, at the time this power of attorney is executed, has a claim against any part of your estate after your death.

MEDICAL POWER OF ATTORNEY

DESIGNATION OF HEALTH CARE AGENT

I, _____ (insert your name) appoint:

Name: _____

Address: _____

Phone: _____

as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

LIMITATIONS ON THE DECISION-MAKING AUTHORITY OF MY AGENT ARE AS FOLLOWS:

DESIGNATION OF ALTERNATE AGENT

(You are not required to designate an alternate agent but you may do so. An alternate agent may make the same health care decisions as the designated agent if the agent is unable or unwilling to act as your agent. If the agent designated is your spouse, the designation is automatically revoked by law if your marriage is dissolved.)

If the person designated as my agent is unable or unwilling to make health care decisions for me, I designate the following persons to serve as my agent to make health care decisions for me as authorized by this document, who serve in the following order:

A. First Alternate Agent

Name: _____

A. Second Alternate Agent

Name: _____

Address: _____

Phone: _____

The original of this document is kept at: _____

The following individuals or institutions have signed copies:

Name: _____

Address: _____

Name: _____

Address: _____

DURATION:

I understand that this power of attorney exists indefinitely from the date I execute this document unless I establish a shorter time or revoke the power of attorney. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent continues to exist until the time I become able to make health care decisions for myself.

(IF APPLICABLE)

This power of attorney ends on the following date: _____

ACKNOWLEDGEMENT OF DISCLOSURE STATEMENT

I have been provided with a disclosure statement explaining the effect of this document. I have read and understand the information contained in the disclosure statement.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this medical power of attorney on the _____ day of _____
(month/year)

at _____
(City and State)

(Signature)

(Print Name)

STATEMENT OF FIRST WITNESS

I am not the person appointed as agent by this document. I am not related to the principal by blood or marriage. I would not be entitled to any portion of the principal's estate on the principal's death. I am not the attending physician of the principal or an employee of the attending physician. I have no claim against any portion of the principal's estate on the principal's death. Furthermore, if I am an employee of a health care facility in which the principal is a patient, I am not involved in providing direct patient care to the principal and am not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility.

Signature: _____

Print Name: _____ Date: _____

Address: _____

SIGNATURE OF SECOND WITNESS

Signature: _____

Print Name: _____ Date: _____

Address: _____

DIRECTIVE TO PHYSICIANS AND FAMILY OR SURROGATES

Instructions for completing this document:

This is an important legal document known as an Advance Directive. It is designed to help you communicate your wishes about medical treatment at some time in the future when you are unable to make your wishes known because of illness or injury. These wishes are usually based on personal values. In particular, you may want to consider what burdens or hardships of treatment you would be willing to accept for a particular amount of benefit obtained if you were seriously ill.

You are encouraged to discuss your values and wishes with your family or chosen spokesperson, as well as your physician. Your physician, other health care provider, or medical institution may provide you with various resources to assist you in completing your advance directive. Brief definitions are listed below and may aid you in your discussion and advance planning. Initial the treatment choices that best reflect your personal preferences. Provide a copy of your directive to your physician, usual hospital, and family or spokesperson. Consider a periodic review of this document. By periodic review, you can best assure that the directive reflects your preferences.

In addition to this advance directive, Texas law provides for two types of directives that can be important during a serious illness. These are the Medical Power of Attorney and the Out-of-Hospital Do-Not-Resuscitate Order. You may wish to discuss these with your physician, family, hospital representative, or other advisers. You may also wish to complete a directive related to the donation of organs and tissues.

DIRECTIVE

I, _____, recognize that the best health care is based upon a partnership of trust and communication with my physician. My physician and I will make health care decisions together as long as I am of sound mind and able to make my wishes known. If there comes a time that I am unable to make medical decisions about myself because of illness or injury, I direct that the following treatment preferences be honored:

If, in the judgement of my physician, I am suffering with a **terminal condition** from which I am expected to die within six months, even with available life-sustaining treatment provided in accordance with prevailing standards of medical care:

_____ I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible; OR

_____ I request that I be kept alive in this terminal condition using available life-sustaining treatment. (THIS SELECTION DOES NOT APPLY TO

If, in the judgement of my physician, I am suffering with an **irreversible condition** so that I cannot care for myself or make decisions for myself and am expected to die without life-sustaining treatment provided in accordance with prevailing standards of care:

_____ I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible; OR

_____ I request that I be kept alive in this irreversible condition using available life-sustaining treatment. (THIS SELECTION DOES NOT APPLY TO HOSPICE CARE)

Additional requests: (After discussion with your physician, you may wish to consider listing particular treatments in this space that you do or do not want in specific circumstances, such as artificial nutrition and fluids, intravenous, etc. Be sure to state whether you do or do not want the particular treatment.)

After signing this directive, if my representative or I elect hospice care, I understand and agree that only those treatments needed to keep me comfortable would be provided and I would not be given available life-sustaining treatments.

If I do not have a Medical Power of Attorney, and I am unable to make my wishes known, I designate the following person(s) to make treatment decisions with my physician compatible with my personal values:

1. _____
2. _____

(If a Medical Power of Attorney has been executed, then an agent already has been named and you should not list additional names in this document.)

has no effect if I have been diagnosed as pregnant. This directive will remain in effect until I revoke it. No other person may do so.

Signed _____ Date _____

City, County, State of Residence _____

Two competent adult witnesses must sign below, acknowledging the signature of the declarant. The witness designated as Witness 1 may not be a person designated to make a treatment decision for the patient and may not be related to the patient by blood or marriage. This witness may not be entitled to any part of the estate and may not have a claim against the estate of the patient. This witness may not be the attending physician or an employee of the attending physician. If this witness is an employee of a health care facility in which the patient is being care for, this witness may not be involved in providing direct patient care to the patient. This witness may not be an officer, director, partner, or business office employee of a health care facility in which the patient is being cared for or of any parent organization of the health care facility.

Witness 1

Witness 2

Definitions:

“Artificial nutrition and hydration” means the provision of nutrients or fluids by a tube inserted in a vein, under the skin in the subcutaneous tissues, or in the stomach (gastrointestinal tract).

“Irreversible condition” means a condition, injury, or illness:

- (1) that may be treated, but is never cured or eliminated
- (2) that leaves a person unable to care for or make decisions for the person’s own self; and
- (3) that, without life-sustaining treatment provided in accordance with the prevailing standard of medical care, is fatal.

Explanation: Many serious illnesses such as cancer, failure of major organs (kidney, heart, liver, or lung) and serious brain disease such as Alzheimer’s dementia may be considered irreversible early on. There is no cure, but the patient may be kept alive for prolonged periods of time if the patient considered terminal when, even with treatment, the patient is expected to die. You may wish to consider which burdens of treatment you would be willing to accept in an effort to achieve a particular outcome. This is a very personal decision that you may wish to discuss with your physician, family, or other important persons in your life.

“Life-sustaining treatment” means treatment that, based on reasonable medical

judgment, sustains the life of a patient and without which the patient will die. The term includes both life-sustaining medications and artificial life support such as mechanical breathing machines, kidney dialysis treatment, and artificial hydration and nutrition. The term does not include the administration of pain management medication, the performance of a medical procedure necessary to provide comfort care, or any other medical care provided to alleviate a patient's pain.

“Terminal condition” means an incurable condition caused by injury, disease, or illness that according to reasonable medical judgment will produce death within six months, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care.

Explanation: Many serious illnesses may be considered irreversible early in the course of the illness, but they may not be considered terminal until the disease is fairly advanced. In thinking about terminal illness and its treatment, you again may wish to consider the relative benefits and burdens of treatment and discuss your wishes with your physician, family, or other important persons in your life.