

TEXAS
Advance Directive
Planning for Important Healthcare Decisions

Caring Connections
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www.caringinfo.org
800/658-8898

Caring Connections, a program of the National Hospice and Palliative Care Organization (NHPCO), is a national consumer engagement initiative to improve care at the end of life, supported by a grant from The Robert Wood Johnson Foundation.

Caring Connections tracks and monitors all state and federal legislation and significant court cases related to end-of-life care to ensure that our advance directives are up to date.

It's About How You LIVE

It's About How You LIVE is a national community engagement campaign encouraging individuals to make informed decisions about end-of-life care and services. The campaign encourages people to:

- L**earn about options for end-of-life services and care
- I**mplement plans to ensure wishes are honored
- V**oice decisions to family, friends and health care providers
- E**ngage in personal or community efforts to improve end-of-life care

Please call the HelpLine at 800/658-8898 to learn more about the LIVE campaign, obtain free resources, or join the effort to improve community, state and national end-of-life care.

If you would like to make a contribution to help support our work, please visit www.nationalhospicefoundation.org/donate. Contributions to national hospice programs can also be made through the Combined Health Charities or the Combined Federal Campaign by choosing #0544.

**Support for this program is provided by a grant from
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Your Advance Care Planning Packet

Using these Materials	3
Summary of the HIPAA Privacy Rule	4
Introduction to Your State Advance Directive	6
Instructions for Completing Texas Medical Power of Attorney	7
Instructions for Completing Texas Directive	9
You Have Filled Out Your Advance Directive, Now What?	11
Texas Medical Power of Attorney	12
Texas Directive to Physicians and Family or Surrogates	18
Glossary of Terms about End-of-Life Decision-making	Appendix A
Legal & End-Of-Life Care Resources Pertaining to Health Care Advance Directives	Appendix B

Using These Materials

BEFORE YOU BEGIN

1. Check to be sure that you have the materials for each state in which you could receive health care.
2. These materials include:
 - Instructions for preparing your advance directive.
 - Your state-specific advance directive forms, which are the pages with the gray instruction bar on the left side.

PREPARING TO COMPLETE YOUR ADVANCE DIRECTIVE

3. Read the HIPAA Privacy Rule Summary on page 4.
4. Read all the instructions, on pages 7 through 10, as they will give you specific information about the requirements in your state.
5. Refer to the Glossary of Terms About End-of-Life Decision-making if any of the terms are unclear, located in Appendix A.

ACTION STEPS

6. You may want to photocopy these forms before you start so you will have a clean copy if you need to start over.
7. When you begin to fill out the forms, refer to the gray instruction bars - they will guide you through the process.
8. Talk with your family, friends, and physicians about your advance directive. Be sure the person you appoint to make decisions on your behalf understands your wishes.
9. Once the form is completed and signed, photocopy the form and give it to the person you have appointed to make decisions on your behalf, your family, friends, health care providers and/or faith leaders so that the form is available in the event of an emergency.

If you have questions or need guidance in preparing your advance directive or about what you should do with it after you have completed it, please refer to the list of state-specific contacts for Legal Assistance for Questions Pertaining to Health Care Advance Directives located in Appendix B.

Summary of the HIPAA Privacy Rule

HIPAA is a federal law that gives you rights over your health information and sets rules and limits on who can look at and receive your health information.

Your Rights

You have the right to:

- Ask to see and get a copy of your health records.
- Have corrections added to your health information.
- Receive a notice that tells you how your health information may be used and shared.
- Decide if you want to give your permission before your health information can be used or shared for certain purposes, such as marketing.
- Get a report on when and why your health information was shared for certain purposes.
- If you believe your rights are being denied or your health information isn't being protected, you can
 - File a complaint with your provider or health insurer
 - File a complaint with the U.S. Government

You also have the right to ask your provider or health insurer questions about your rights. You also can learn more about your rights, including how to file a complaint from the Web site at www.hhs.gov/ocr/hipaa/ or by calling 1-866-627-7748.

Who Must Follow this Law?

- Doctors, nurses, pharmacies, hospitals, clinics, nursing homes, and many other health care providers.
- Health insurance companies, HMOs, most employer group health plans.
- Certain government programs that pay for health care, such as Medicare and Medicaid.

What Information is Protected?

- Information your doctors, nurses, and other health care providers put in your medical record.
- Conversations your doctor has about your care or treatment with nurses and others.
- Information about you in your health insurer's computer system.
- Billing information about you by your clinic / health care provider.
- Most other health information about you held by those who must follow this law.

Summary of the HIPAA Privacy Rule (continued)

Providers and health insurers who are required to follow this law must keep your information private by:

- Teaching the people who work for them how your information may and may not be used and shared.
- Taking appropriate and reasonable steps to keep your health information secure.

To make sure that your information is protected in a way that does not interfere with your health care, your information can be used and shared:

- For your treatment and care coordination.
- To pay doctors and hospitals for your health care and help run their businesses.
- With your family, relatives, friends or others you identify who are involved with your health care or your health care bills, unless you object.
- To make sure doctors give good care and nursing homes are clean and safe.
- To protect the public's health, such as by reporting when the flu is in your area.
- To make required reports to the police, such as reporting gunshot wounds.

Your health information cannot be used or shared without your written permission unless this law allows it. For example, without your authorization, your provider generally cannot:

- Give your information to your employer.
- Use or share your information for marketing or advertising purposes.
- Share private notes about your mental health counseling sessions.

INTRODUCTION TO YOUR TEXAS ADVANCE DIRECTIVES

This packet contains two legal documents that protect your right to refuse medical treatment you do not want, or to request treatment you do want, in the event you lose the ability to make decisions yourself:

1. The **Texas Medical Power of Attorney** lets you name someone to make decisions about your medical care—including decisions about life support—if you can no longer speak for yourself. Your attending physician must certify in writing that you are unable to make health care decisions and file the certification in your medical record. The Medical Power of Attorney is especially useful because it appoints someone to speak for you any time you are unable to make your own medical decisions, not only at the end of life.
2. The **Texas Directive to Physicians and Family or Surrogates** is your state's living will. It lets you state your wishes about medical care in the event that you develop a terminal or irreversible condition and can no longer make your own medical decisions. The Directive becomes effective when your attending physician certifies in writing that you are in a terminal or irreversible condition.

Caring Connections recommends that you complete both of these documents to best ensure that you receive the medical care you want when you can no longer speak for yourself.

Note: These documents will be legally binding only if the person completing them is a competent adult, 18 years or older or a person under 18 years of age who has had the disabilities of minority removed.

COMPLETING YOUR TEXAS MEDICAL POWER OF ATTORNEY

Whom should I appoint as my agent?

Your agent is the person you appoint to make decisions about your medical care if you become unable to make those decisions yourself. Your agent may be a family member or a close friend whom you trust to make serious decisions. The person you name as your agent should clearly understand your wishes and be willing to accept the responsibility of making medical decisions for you. (An agent may also be called an "attorney-in-fact" or "proxy.")

The person you appoint as your agent **cannot** be:

- your doctor or other treating health care provider,
- an employee of your treating health care provider, unless he or she is related to you,
- your residential care provider, or
- an employee of your residential care provider, unless he or she is related to you.

You can appoint a second and third person as your alternate agent. The alternate will step in if the first person you name as agent is unable, unwilling or unavailable to act for you.

How do I make my Texas Medical Power of Attorney legal?

The law requires that you sign your Medical Power of Attorney, or direct another to sign it, in the presence of two witnesses, who must also sign the document.

At least one witness **cannot** be:

- the person you name as your agent,
- related to you by blood or marriage,
- your doctor or an employee of your doctor,
- an employee of a health care facility in which you are a patient (if he or she is involved in your care),
- an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility,
- a person entitled to any part of your estate upon your death either by will or operation of law, or
- any other person who has a claim against your estate at the time you sign the Medical Power of Attorney.

Note: You do not need to notarize your Texas Medical Power of Attorney.

COMPLETING YOUR TEXAS MEDICAL POWER OF ATTORNEY (CONTINUED)

Should I add personal instructions to my Texas Medical Power of Attorney?

Caring Connections advises you not to add instructions to this document. One of the strongest reasons for naming an agent is to have someone who can respond flexibly as your medical condition changes and deal with situations that you did not foresee. If you add instructions to this document, you might unintentionally restrict your agent's power to act in your best interest.

Instead, we urge you to talk with your agent about your future medical care and describe what you consider to be an acceptable "quality of life." If you want to record your wishes about specific treatments or conditions, you should use your Texas Directive to Physicians and Family or Surrogates.

What if I change my mind?

You may revoke your Texas Medical Power of Attorney at any time by:

- notifying your agent, doctor or residential care provider of your revocation (this may be done orally, in writing or by any other act which demonstrates your intent to revoke your agent's power); or
- executing another medical power of attorney.

If you appoint your spouse as your agent, and your marriage is dissolved or annulled, your agent's authority is automatically revoked, unless your Texas Medical Power of Attorney provides otherwise.

COMPLETING YOUR TEXAS DIRECTIVE

How do I make my Texas Directive legal?

In order to make your Directive legally binding, you must sign it, or direct another to sign it, in the presence of two witnesses who must also sign the document. At least one witness **cannot** be:

- designated by you to make a treatment decision,
- related to you by blood or marriage,
- entitled to any part of your estate after your death under a will or by operation of law,
- your doctor or an employee of your doctor,
- an employee of a health care facility in which you are a patient, if he or she is directly involved in your care,
- an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility, or
- a person who, at the time you sign the Directive, has a claim against your estate after your death.

Note: You do not need to notarize your Texas Directive to Physicians.

Can I add personal instructions to my Directive?

Yes. You can add personal instructions in the part of the document called "Additional Requests." You may want to refuse specific treatments by a statement such as, "I especially do not want cardiopulmonary resuscitation, a respirator, artificial feeding or antibiotics," or to emphasize pain control by adding instructions such as, "I want to receive as much pain medication as necessary to ensure my comfort, even if it may hasten my death."

If you have appointed an agent through a medical power of attorney, it is a good idea to write a statement such as, "Any questions about how to interpret or when to apply my Directive are to be decided by my agent."

It is important to learn about the kinds of life-sustaining treatment you might receive. Consult your doctor or order the Caring Connections booklet, "Advance Directives and End-of-Life Decisions."

COMPLETING YOUR TEXAS DIRECTIVE (CONTINUED)

What if I change my mind?

You may revoke your Texas Directive at any time by:

- canceling, defacing, obliterating, burning, tearing or otherwise destroying the directive,
- signing and dating a written revocation,
or
- orally stating your intent to revoke the directive.

You or someone acting on your behalf must notify your doctor of the revocation.

What other important facts should I know?

A pregnant patient's Texas Directive will not be honored due to restrictions in the state law.

If you have questions about filling out your advance directive, please consult the list of state-based resources located in Appendix B.

YOU HAVE FILLED OUT YOUR ADVANCE DIRECTIVE, NOW WHAT?

Your Texas Medical Power of Attorney and Texas Directive are important legal documents. Keep the original signed documents in a secure but accessible place. Do not put the original documents in a safe deposit box or any other security box that would keep others from having access to them.

1. Give photocopies of the signed originals to your agent and alternate agent(s), doctor(s), family, close friends, clergy and anyone else who might become involved in your health care. If you enter a nursing home or hospital, have photocopies of your documents placed in your medical records.
2. Be sure to talk to your agent and alternate agent(s), doctor(s), clergy, and family and friends about your wishes concerning medical treatment. Discuss your wishes with them often, particularly if your medical condition changes.
3. If you want to make changes to your documents after they have been signed and witnessed, you must complete new documents.
4. Remember, you can always revoke one or both of your Texas documents.
5. Be aware that your Texas documents will not be effective in the event of a medical emergency. Ambulance personnel are required to provide cardiopulmonary resuscitation (CPR) unless they are given a separate order that states otherwise. These orders, commonly called "non-hospital do-not-resuscitate orders," are designed for people whose poor health gives them little chance of benefiting from CPR. **Caring Connections does not distribute these forms.**

These orders must be signed by your physician and instruct ambulance personnel not to attempt CPR if your heart or breathing should stop. Currently not all states have laws authorizing non-hospital do-not-resuscitate orders. **Caring Connections does not distribute these forms.** We suggest you speak to your physician.

If you would like more information about this topic contact Caring Connections or consult the Caring Connections booklet "Cardiopulmonary Resuscitation, Do-Not-Resuscitate Orders and End-Of-Life Decisions."

TEXAS MEDICAL POWER OF ATTORNEY
PAGE 1 OF 6

INFORMATION CONCERNING 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.

TEXAS MEDICAL POWER OF ATTORNEY – PAGE 2 OF 6

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 your 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 of 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.

INSTRUCTIONS

TEXAS MEDICAL POWER OF ATTORNEY – PAGE 3 OF 6

TEXAS MEDICAL POWER OF ATTORNEY

DESIGNATION OF HEALTH CARE AGENT.

PRINT YOUR NAME

I, _____,
appoint:

(name)

(name of agent)

(address)

(work telephone number) (home telephone number)

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.

STATE LIMITATIONS ON YOUR AGENT'S POWER (IF ANY)

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

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PRINT THE NAME,
ADDRESS AND
HOME AND WORK
TELEPHONE
NUMBERS OF YOUR
FIRST AND
SECOND
ALTERNATE
AGENTS

FIRST
ALTERNATE

SECOND
ALTERNATE

LOCATION OF
ORIGINAL

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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 designated 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 of first alternate agent)

(home address)

(work telephone number)

(home telephone number)

B. Second Alternate Agent

(name of second alternate agent)

(home address)

(work telephone number)

(home telephone number)

The original of this document is kept at: _____

TEXAS MEDICAL POWER OF ATTORNEY — PAGE 5 OF 6

LOCATION OF COPIES

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.

EXPIRATION DATE (IF ANY)

(IF APPLICABLE) This power of attorney ends on the following date:

PRIOR DESIGNATIONS REVOKED.

I revoke any prior medical power of attorney.

ACKNOWLEDGMENT OF DISCLOSURE STATEMENT.

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

PRINT THE DATE
PRINT YOUR
LOCATION

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this medical power of attorney on _____
(date)

day of _____, at _____.
(month) (year) (city and state)

SIGN THE
DOCUMENT AND
PRINT YOUR NAME

(signature)

(print name)

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TEXAS MEDICAL POWER OF ATTORNEY — PAGE 6 OF 6

WITNESSING
PROCEDURE

YOUR TWO
WITNESSES MUST
SIGN AND DATE
YOUR DOCUMENT
BELOW THEY MUST
ALSO PRINT
THEIR NAMES AND
ADDRESSES

WITNESS #1

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 of any parent organization of the health care facility.

SIGNATURE OF FIRST WITNESS

Signature: _____

Print Name: _____ Date: _____

Address:

WITNESS #2

SIGNATURE OF SECOND WITNESS

Witness Signature: _____

Print Name: _____ Date: _____

Address: _____

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*Courtesy of Caring Connections
1700 Diagonal Road, Suite 625, Alexandria, VA 22314
www.caringinfo.org, 800/658-8898*

**TEXAS DIRECTIVE
TO PHYSICIANS AND FAMILY OR SURROGATES – PAGE 1 OF 5**

INSTRUCTIONS

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 discussions 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 other 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:

PRINT YOUR
NAME

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**TEXAS DIRECTIVE
TO PHYSICIANS AND FAMILY OR SURROGATES – PAGE 2 OF 5**

TERMINAL
CONDITION

If, in the judgment 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:

INITIAL THE
STATEMENT
THAT REFLECTS
YOUR WISHES

_____ 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 HOSPICE CARE)

IRREVERSIBLE
CONDITION

If, in the judgment 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:

INITIAL THE
STATEMENT
THAT REFLECTS
YOUR WISHES

_____ 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)

STATE SPECIFIC
TREATMENT
REQUESTS
(IF ANY)

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 antibiotics, etc. Be sure to state whether you do or do not want the particular treatment.)*

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**TEXAS DIRECTIVE
TO PHYSICIANS AND FAMILY OR SURROGATES – PAGE 3 OF 5**

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.

DESIGNATION OF A SPOKESPERSON

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:

IF YOU HAVE COMPLETED A MEDICAL POWER OF ATTORNEY DO NOT COMPLETE THIS SECTION

1. _____
(name of person)

2. _____
(name of second person)

(IF A MEDICAL POWER OF ATTORNEY HAS BEEN EXECUTED, THEN AN AGENT HAS BEEN NAMED AND YOU SHOULD NOT LIST ADDITIONAL NAMES IN THIS DOCUMENT.)

If the above persons are not available, or if I have not designated a spokesperson, I understand that the spokesperson will be chosen for me following standards specified in the laws of Texas. If, in the judgment of my physician, my death is imminent within minutes to hours, even with the use of all available medical treatment provided within the prevailing standard of care, I acknowledge that all treatments may be withheld or removed except those needed to maintain my comfort. I understand that under Texas law this directive 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.

SIGN THE DOCUMENT AND PRINT YOUR PLACE OF RESIDENCE

SIGNED _____ DATE _____
(your name) (date)

CITY, COUNTY, STATE OF RESIDENCE

_____' _____'
(city) (county) (State)

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**TEXAS DIRECTIVE
TO PHYSICIANS AND FAMILY OR SURROGATES – PAGE 4 OF 5**

WITNESSING
PROCEDURE

TWO WITNESSES
MUST SIGN YOUR
DOCUMENT

WITNESS #1

WITNESS #2

DEFINITIONS OF
IMPORTANT TERMS

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WITNESSES

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 cared 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.

**TEXAS DIRECTIVE
TO PHYSICIANS AND FAMILY OR SURROGATES – PAGE 5 OF 5**

DEFINITIONS OF
IMPORTANT
TERMS
(CONTINUED)

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 receives life-sustaining treatments. Late in the course of the same illness, the disease may be 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.

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*Courtesy of Caring Connections
1700 Diagonal Road, Suite 625, Alexandria, VA 22314
www.caringinfo.org, 800/658-8898*

Appendix A

Glossary of Terms About End-of-life Decision Making

Advance directive - A general term that describes two kinds of legal documents, living wills and medical powers of attorney. These documents allow a person to give instructions about future medical care should he or she be unable to participate in medical decisions due to serious illness or incapacity. Each state regulates the use of advance directives differently.

Artificial nutrition and hydration – Artificial nutrition and hydration (or tube feeding) supplements or replaces ordinary eating and drinking by giving a chemically balanced mix of nutrients and fluids through a tube placed directly into the stomach, the upper intestine or a vein.

Assisted Suicide - Providing someone the means to commit suicide, such as a supply of drugs or a weapon, knowing the person will use these to end his or her life.

Best Interest - In the context of refusal of medical treatment or end-of-life court opinions, a standard for making health care decisions based on what others believe to be "best" for a patient by weighing the benefits and the burdens of continuing, withholding or withdrawing treatment.

Brain Death -The irreversible loss of all brain function. Most states legally define death to include brain death.

Capacity - In relation to end-of-life decision-making, a patient has medical decision making capacity if he or she has the ability to understand the medical problem and the risks and benefits of the available treatment options. The patient's ability to understand other unrelated concepts is not relevant. The term is frequently used interchangeably with competency but is not the same. Competency is a legal status imposed by the court.

Cardiopulmonary Resuscitation - Cardiopulmonary resuscitation (CPR) is a group of treatments used when someone's heart and/or breathing stops. CPR is used in an attempt to restart the heart and breathing. It may consist only of mouth-to-mouth breathing or it can include pressing on the chest to mimic the heart's function and cause blood to circulate. Electric shock and drugs also are used frequently to stimulate the heart.

Do-Not-Resuscitate (DNR) order - A DNR order is a physician's written order instructing health care providers not to attempt cardiopulmonary resuscitation (CPR) in case of cardiac or respiratory arrest. A person with a valid DNR order will not be given CPR under these circumstances. Although the DNR order is written at the request of a person or his or her family, it must be signed by a physician to be valid. A non-hospital DNR order is written for individuals who are at home and do not want to receive CPR.

Emergency Medical Services (EMS): A group of governmental and private agencies that provide emergency care, usually to persons outside of health care facilities; EMS personnel generally include paramedics, first responders and other ambulance crew.

Euthanasia - The term traditionally has been used to refer to the hastening of a suffering person's death or "mercy killing". Voluntary active euthanasia involves an intervention requested by a competent individual that is administered to that person to cause death, for example, if a physician gives a lethal injection with the patient's full informed consent. Involuntary or non-voluntary active euthanasia involves a physician engaging in an act to end a patient's life without that patient's full informed consent. See also Physician-hastened Death (sometimes referred to as Physician-assisted Suicide).

Guardian ad litem - Someone appointed by the court to represent the interests of a minor or incompetent person in a legal proceeding.

Healthcare Agent: The person named in an advance directive or as permitted under state law to make healthcare decisions on behalf of a person who is no longer able to make medical decisions.

Hospice care - A program model for delivering palliative care to individuals who are in the final stages of terminal illness. In addition to providing palliative care and personal support to the patient, hospice includes support for the patient's family while the patient is dying, as well as support to the family during their bereavement.

Incapacity - A lack of physical or mental abilities that results in a person's inability to manage his or her own personal care, property or finances; a lack of ability to understand one's actions when making a will or other legal document.

Incompetent – Referring to a person who is not able to manage his/her affairs due to mental deficiency (lack of I.Q., deterioration, illness or psychosis) or sometimes physical disability. Being incompetent can be the basis for appointment of a guardian or conservator.

Intubation- Refers to "endotracheal intubation" the insertion of a tube through the mouth or nose into the trachea (windpipe) to create and maintain an open airway to assist breathing.

Life-Sustaining Treatment - Treatments (medical procedures) that replace or support an essential bodily function (may also be called life support treatments). Life-sustaining treatments include cardiopulmonary resuscitation, mechanical ventilation, artificial nutrition and hydration, dialysis, and certain other treatments.

Living Will - A type of advance directive in which an individual documents his or her wishes about medical treatment should he or she be at the end of life and unable to communicate. It may also be called a "directive to physicians", "health care declaration," or "medical directive." The purpose of a living will is to guide family members and doctors in deciding how aggressively to use medical treatments to delay death.

Mechanical ventilation - Mechanical ventilation is used to support or replace the function of the lungs. A machine called a ventilator (or respirator) forces air into the lungs. The ventilator is attached to a tube inserted in the nose or mouth and down into the windpipe (or trachea). Mechanical ventilation often is used to assist a person through a short-term problem or for prolonged periods in which irreversible respiratory failure exists due to injuries to the upper spinal cord or a progressive neurological disease.

Medical power of attorney - A document that allows an individual to appoint someone else to make decisions about his or her medical care if he or she is unable to communicate. This type of advance directive may also be called a health care proxy, durable power of attorney for health care or appointment of a health care agent. The person appointed may be called a health care agent, surrogate, attorney-in-fact or proxy.

Palliative care - A comprehensive approach to treating serious illness that focuses on the physical, psychological, spiritual, and existential needs of the patient. Its goal is to achieve the best quality of life available to the patient by relieving suffering, by controlling pain and symptoms, and by enabling the patient to achieve maximum functional capacity. Respect for the patient's culture, beliefs, and values are an essential component. Palliative care is sometimes called "comfort care" or "hospice type care."

Power of Attorney – A legal document allowing one person to act in a legal matter on another's behalf pursuant to financial or real estate transactions.

Respiratory Arrest: The cessation of breathing - an event in which an individual stops breathing. If breathing is not restored, an individual's heart eventually will stop beating, resulting in cardiac arrest.

Surrogate Decision-Making - Surrogate decision-making laws allow an individual or group of individuals (usually family members) to make decisions about medical treatments for a patient who has lost decision-making capacity and did not prepare an advance directive. A majority of states have passed statutes that permit surrogate decision making for patients without advance directives.

Ventilator – A Ventilator, also known as a respirator, is a machine that pushes air into the lungs through a tube placed in the trachea (breathing tube). Ventilators are used when a person cannot breathe on his or her own or cannot breathe effectively enough to provide adequate oxygen to the cells of the body or rid the body of carbon dioxide.

Withholding or withdrawing treatment - Forgoing life-sustaining measures or discontinuing them after they have been used for a certain period of time.

Appendix B

Legal & End-Of-Life Care Resources Pertaining to Health Care Advance Directives

LEGAL SERVICES

Texans with low income levels and in need of legal information and advice can contact The State Bar of Texas Lawyer Referral Information Service.

The State Bar of Texas Lawyer Referral Information Service assists individuals 18 and older with legal information and advice about most issues, including:

- Advance Directives
 - Living Wills and Trusts
 - Power of Attorney
 - Medicare and Medicaid
 - Civil issues and more
- Must be over 18
 - Free to individuals with low to moderate incomes

For more information call: 1-800-252-9690 or 1-877-9TEXBAR, Mon.- Fri. from 8 am to 5 pm

OR

Visit their website for more information and referrals:

http://www.texasbar.com/Content/NavigationMenu/Additional_Information_For_The_Public/Selecting_a_Lawyer/Lawyer_Referral_Information_Service/Lawyer_Referral_Information_Service.htm

END-OF-LIFE SERVICES

The Texas Department on Aging and Disability can connect people over the age of 60 with an Area Agency on Aging (AAA) in their region that can assist them with services and programs.

AAA resources and services include, but are not limited to:

- Housing
 - Legal Referrals
 - Respite
 - Transportation
 - Home Health Care
 - Community programs and more
- Must be over 60
 - Free to individuals with low to moderate incomes

For more information about locations and services visit their website:

http://www.dads.state.tx.us/contact/aaa_directory.html

OR

Call toll free: 1-800-252-9240